

# Indian Polity and Governance

## - Indian Polity - Constitution, Political System

### Chapter 1

#### Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

**This chapter contains:**

- **Constitutional Development of India**
- **Framing of the Indian Constitution**
- **Features of Indian Constitution**
- **National Symbols**
- **Preamble**
- **Union and its Territories**
- **Citizenship**
- **Fundamental Rights**

## Contents

1 Indian Polity and Governance – Constitution, Political System etc.	
Constitutional Development of India .....	1
1.1 Regulating Act of 1773.....	1
1.2 Pitt’s India Act of 1784.....	1
1.3 Charter Act of 1813 .....	1
1.4 Charter Act of 1833 .....	2
1.5 Charter Act of 1853 .....	2
1.6 Government of India Act, 1858.....	2
1.7 Indian Councils Act, 1861.....	3
1.8 Indian Council Act, 1892 .....	3
1.9 Indian Councils Act, 1909.....	3
1.10 Government of India Act, 1919.....	4
1.11 August Offer, 1940 .....	5
1.12 Cripps Mission, 1942.....	5
1.13 Shimla Conference, 1945 .....	5
1.14 Cabinet Mission (1946) .....	5
1.15 Government of India Act, 1935.....	6
1.16 Mountbatten Plan (3 June, 1947) .....	6
1.17 Indian Independence Act, 1947 .....	8
2 Framing of the Indian Constitution .....	8
3 Features of Indian Constitution .....	1
3.1 India is an indestructible Union of destructible States.....	2
4 National Symbols .....	3
4.1.1 National Flag .....	3
4.2 National Emblem .....	3
4.3 National Anthem .....	3
4.4 National Song .....	3
4.5 National Animal.....	3
4.6 National Calendar .....	4
4.7 National Bird.....	4

4.8	National Flower .....	4
4.9	National Tree .....	4
4.10	National Fruit.....	4
4.11	National River .....	4
4.12	National Aquatic Animal .....	4
4.13	National Currency.....	4
5	Preamble .....	1
5.1.1	Sovereign .....	2
5.2	Significant Words of Preamble.....	2
5.2.1	Socialist .....	2
5.2.2	Secular.....	2
5.2.3	Democratic.....	2
5.2.4	Republic.....	2
5.2.5	Liberty .....	3
5.2.6	Equality .....	3
5.2.7	Fraternity .....	3
6	Union and its Territories .....	1
7	Citizenship .....	7
7.1	Constitutional Provisions related to Citizenship.....	8
7.1.1	Article 5 .....	9
7.1.2	Article 6 .....	9
7.1.3	Article 7 .....	9
7.1.4	Article 8 .....	9
7.1.5	Article 9 .....	9
7.1.6	Article 10.....	9
7.1.7	Article 11 .....	9
7.2	Amendments in Citizenship Act 1955 .....	11
7.2.1	By Birth.....	11
7.2.2	By Descent.....	11
7.2.3	By Registration .....	11
7.2.4	By Naturalisation.....	11
7.2.5	By Incorporation of Territory .....	11
7.3	Features of Citizenship Amendment Act.....	11

8	Fundamental Rights.....	1
---	-------------------------	---

# **1 Indian Polity and Governance – Constitution, Political System etc.**

## **Constitutional Development of India**

- Indian Constitution is the lengthiest written constitution in the world. The development of the Constitution in its present form has its roots in British rule.
- A **Constituent Assembly** was formed in **1946** as suggested by **M.N. Ray** in **1934**

### **1.1 Regulating Act of 1773**

- It was the first step taken by British Government to control and regulate the affairs of East India Company in India.
- It made Governor of Bengal as Governor-General of Bengal and an Executive Council (comprising of four members) was created for providing assistance to Governor-General.
- Lord Warren Hastings became first Governor-General of Bengal. The act also laid the provisions for the establishment of Supreme Court at Calcutta with one Chief Justice and three other judges. It was established in 1774 with Sir Elijah Impey appointed as the Chief Justice.

### **1.2 Pitt's India Act of 1784**

- Pitt's India Act, 1784 was passed to rectify the defects of Regulating Act of 1773.
- This act separated the commercial functions of the company from political functions. Court of Directors were allotted commercial functions and a Board of Control consisting of 6 members was appointed for handling political affairs.

### **1.3 Charter Act of 1813**

- It deprived the East India Company of its monopoly of trade with India except for tea and trade with China.
- The act regulated the company's territorial revenue and commercial profits. It was asked to keep its territorial and commercial accounts separate.
- Christian missionaries were allowed to work in India.
- A provision was made that company should invest Rs 1 Lakh/year on the education of Indians.

## **1.4 Charter Act of 1833**

- It was passed by the British Parliament to renew the charter of East India Company.
- East India Company was no more a commercial body, all its commercial functions been taken away making it an administrative body working on behalf of the British Government.
- Governor-General of Bengal became the Governor-General of India. Lord William Bentick became the first Governor-General of India in 1833. It deprived the governor of Bombay and Madras of their legislative power.
- All the legislative powers of British India went in the hands of Governor General.
- The number of members of the Governor General's council was again fixed to four. A law member was added in Governor General Council. Lord Macaulay was designated as the fourth member.

## **1.5 Charter Act of 1853**

- This act introduced open competition for Indians in Civil Services.
- This act also empowered the Court of Directors either to constitute a new Presidency to appoint a lieutenant Governor. Strength of court of directors was reduced to 18 from 24.
- Six new members were added as legislative councillors. Out of these 6 members, 4 were appointed by provincial governments.

## **1.6 Government of India Act, 1858**

- The revolt of 1857 by Indians resulted in the end of East India Company rule, with all the powers of administration of Indian territory been taken by the British crown in its hands. Major provisions of the Act were :
- It changed the designation of Governor-General to that of Viceroy. Viceroy was representative of the British crown.
- Lord Canning became first Viceroy of India, under the Act.
- It provided the Secretary of State with a 15 member council to assist him, responsible for Indian administration. He was a British Cabinet member, who was responsible to the British Parliament.

### **1.7 Indian Councils Act, 1861**

- The Act restored the legislative powers of Madras and Bombay which were taken from them by Charter Act of 1833.
- Governor General was given the right to exercise absolute veto power and issue ordinances which could remain in force for 6 months.
- Viceroy was given the power to make rules and orders for convenient transaction of business in council. Under this, Lord Canning introduced Portfolio System which laid the foundation of Cabinet system in India.
- A Law member was added in the executive council of Governor-General.

### **1.8 Indian Council Act, 1892**

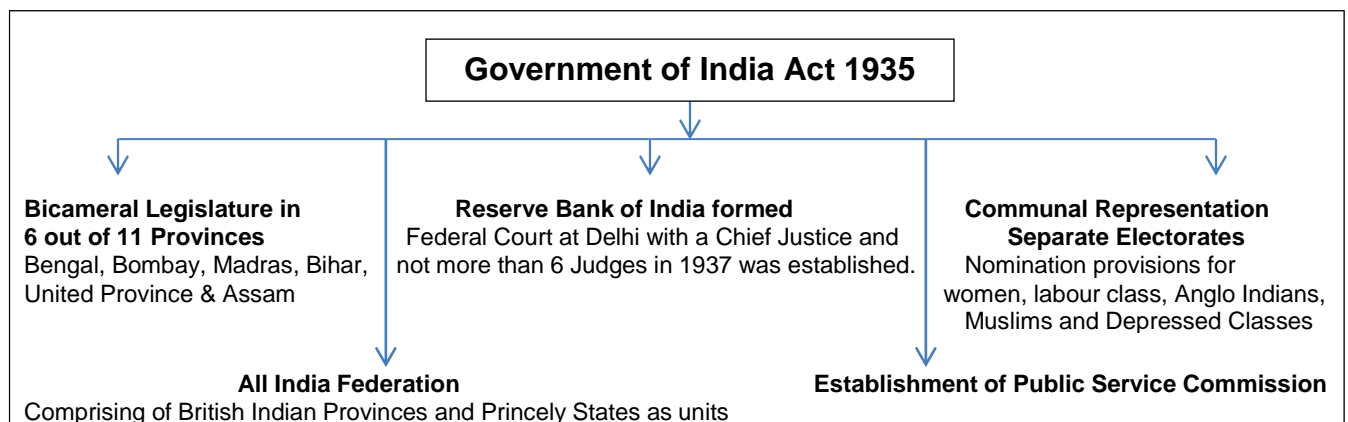
- This Act enlarged the Governor General's council by adding more non-official members. Though official majority was maintained, 2/5 of new members were non-officials.
- The principle of Indirect elections was introduced but the word Election was not used. It gave the power of discussing the budget.

### **1.9 Indian Councils Act, 1909**

- Lord Morely was the then Secretary of State for India and Lord Minto was the Viceroy. Hence, the act came to be known as Morley-Minto Reforms.
- The size of Legislative Councils at centre and provinces was significantly increased. The members of Governor-general's council were increased from 16 to 60.
- Separate electorate was introduced for Muslims, introducing the communal representation.
- Elections were introduced in India for the first time, Indians were allowed in executive council of Viceroy.
- Satyendra Prasad Sinha became the first Indian member to join Viceroy's Executive Council.
- Councils were given the right to discuss any matter, move resolutions on budget and ask questions with supplementary questions but they did not have the right to vote.

## 1.10 Government of India Act, 1919

- Dyarchy was introduced at provincial levels i.e. the rule of two, Executive Councillors and Ministers.
- Government of provinces was accountable to legislative council of state for transferred subjects but not for reserved subjects. All the functions of government were divided into centre and state (provinces). Provinces were given more autonomy and they could legislate on all subjects related to provinces.
- Bicameral legislature was introduced at the Centre consisting Council of state (Upper House) and Centre legislative council (Lower House).
- It required three out of the six members in Viceroy's executive council to be Indians except commander-in-chief.
- For the first time direct elections were introduced in India.
- Separate electorate system was continued for Muslims and it was also extended to Sikhs, Christians, Europeans and Anglo-Indians.
- This Act provided for elected, nominated officials and nominated non-officials members.
- Limited franchise was introduced in India for the first time on the basis of property, education and tax.
- The Act also provided for a Central Public Service Commission which was established in 1926.
- The persistent demand of administrative reforms led the British Government to appoint a Statutory Commission in 1927, popularly known as Simon.





### 1.11 August Offer, 1940

- Viceroy Linlithgow issued a statement on behalf of the British government on 8 August, 1940 called as August Offer.
- Lord Linlithgow promised that after the end of second World War II, a completely responsible government on dominion model would be established in India.
- It recognised the rights of Indians to make their constitution for the first time as it stated that a constitution making body would be created.

### 1.12 Cripps Mission, 1942

- During the course of World War II, the coalition government in England send Sir Stafford Cripps (a member of the Cabinet) in March 1942, with a Draft Declaration which were to be adopted while framing a Constitution acceptable to the two major parties in India- Congress and Muslim League.
- The proposal provided for an Indian Union comprising of all British provinces in India and the princely states and a Dominion status to India as a participant to the British Commonwealth of Nations.

**Dominion status concept is dead as door nail – J.L. Nehru**

#### **Clement Attlee's Announcement**

Lord Clement Attlee made a historical announcement on 15 March, 1946 that Britain was ready to provide freedom to India, after transferring power into responsible hands not later than June 1948. All minorities interest will be secured. It announced that Cabinet mission was to visit India to assist Indians to determine a suitable form of government.

### 1.13 Shimla Conference, 1945

- All Party met on 25<sup>th</sup> June, 1945 at Shimla where 22 representatives participated under Abul Kalam Azad.

### 1.14 Cabinet Mission (1946)

- The main objective of the Cabinet Mission plan was to find out ways and means for the peaceful transfer of power in India and to suggest measures taken for the formation of a constitution making machinery and the issue of interim government. Commission to enquire into and report on the working of Government of India Act, 1919 which

submitted its report in 1930. The report was considered by a series of Round Table Conferences held at London between 1930-1932 and a the White Paper on constitutional reform was prepared as a result of the Conference which was passed as Government of India Act, 1935.

- Cabinet Mission comprising Lord Pethick Lawrence, Sir Stafford Cripps and Mr. Alexander arrived in India on 24<sup>th</sup> March, 1946.

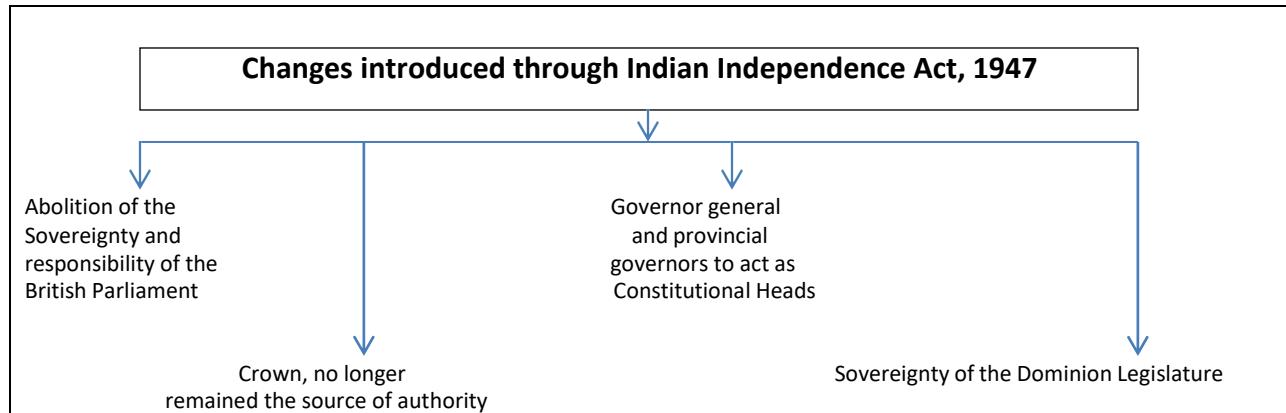
### **1.15 Government of India Act, 1935**

- This act abolished dyarchy at provinces and established dyarchy at the centre. Federal subjects were divided into transferred and reserved subjects. Reserved subjects were in the hands of Viceroy who worked with councillors and was not responsible to the legislature. Transferred subjects were administered by Viceroy on the advice of Council of Ministers responsible to the legislature. Although it never came into effect.
- A union of India comprising British India and princely states thus advocating an undivided India was conceptualized.
- A Constituent Assembly was to be elected and an interim government to be formed with the support of major parties.
- It also provided that all members of the interim cabinet would be Indians and there would be minimum interference by the Viceroy.
- It also proposed that Constituent assembly was to consist of 292 members from British India and 93 from Indian states.
- All state subjects along with residuary powers should be vested in provinces.
- The proposal of Cabinet Mission were accepted and Constituent Assembly Elections were held in July, 1946.

### **1.16 Mountbatten Plan (3 June, 1947)**

- Lord Mountbatten came up with a partition plan known as Lord Mountbatten Plan (3 June, 1947) due to the Muslim league agitation for separate country.
- On 20<sup>th</sup> February, 1947, Clement Attlee declared that British rule in India would end by 30<sup>th</sup> June, 1948. But after Mountbatten Plan which put forward a plan for a United Hindustan and Pakistan which was accepted by Congress and Muslim League. Immediate effect was given to Mountbatten plan by enacting the Indian

Independence Act, 1947.

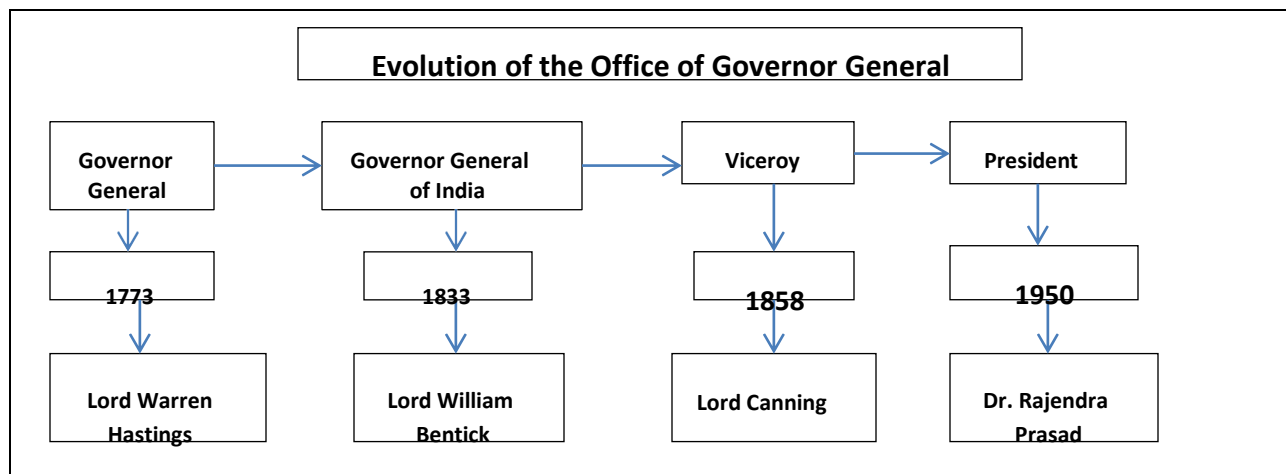


### 1.17 Indian Independence Act, 1947

- On the 15<sup>th</sup> August, 1947 (at midnight) British rule came to end and two new dominions took powers in their hands for their respective territories.
- Lord Mountbatten became first governor-general of dominion of India with J.L. Nehru as the first PM.

## 2 Framing of the Indian Constitution

- There were total 389 members out of which 292 were to be elected by provinces and 93 seats were allotted to princely states, 4 for Chief Commissioners provinces. Seats in the provinces were to be distributed among three communities i.e. Muslims, Sikhs and General in proportion to their populations.
- Finally, suggestions of Cabinet Mission (1946) were accepted and elections for the Assembly conducted in July-August, 1946.



Constituent Assembly elected according to Cabinet Mission Plan for undivided India met on 9<sup>th</sup> December, 1946 with Dr. Sachchidanand Sinha as its interim President. After two days i.e. on 11<sup>th</sup> December, 1946, Dr. Rajendra Prasad was elected President of Constituent Assembly. On 13<sup>th</sup> December, 1946 Objective Resolution was passed in constituent assembly which was introduced by Pt. Jawahar Lal Nehru.

B.N. Rau was appointed as the Constitutional adviser.

Mountbatten Plan paved the way for two nations and a separate Constituent Assembly was formed for Pakistan. Hence, the areas which went in Pakistan i.e. East Bengal, North-West Frontier Provinces (NWFP), West Punjab, Baluchistan, Sindh and Sylhet district of Assam were no more representative in Indian Constituent Assembly. There were fresh elections in new provinces of West Bengal and East Punjab. Sylhet and NWFP decided to join Pakistan through referendum. So, when Constituent Assembly re-assembled its strength came down to 299 from 389 with 299 Indian provinces' members and 70 princely states members.

- Constituent Assembly re-assembled on 14<sup>th</sup> August, 1947 as Sovereign Constituent Assembly.

<b>Committees on the Constituent Assembly</b>	
The Constituent Assembly appointed 22 Committees to deal with different tasks of Constitution making.	
<b>Major Committees</b>	<b>Chairman</b>
• Drafting Committee	B.R. Ambedkar
• Union Powers Committee	Pt. Jawahar Lal Nehru
• Provincial Constitution Committee	Sardar Vallabh Bhai Patel
• Steering Committee	Dr. Rajendra Prasad
• Committee on Fundamental Rights and Minorities	Sardar Vallabh Bhai Patel
• Union Constitution Committee	Pt. Jawahar Lal Nehru
• States Committee	Pt. Jawahar Lal Nehru
• Finance & Staff Committee	Dr. Rajendra Prasad

- Constituent Assembly appointed a drafting committee of 7 members on 29 August, 1947 with Dr. B.R. Ambedkar as its Chairman. Other members were:
- N. Gopalswami Ayyangar, Alladi Krishnaswami Ayyar, Dr. K.M. Munshi, Mohammed Sadullah, B.L. Mitter (earlier N. Madhav Rao), D.P. Khaitan (died and replaced by T.T. Krishnamachari).
- The Assembly performed two separate functions. One, making a Constitution for free India and two enacting of ordinary laws for the country.
- On 24 January, 1950, the Constituent Assembly held its final session. However, it

continued as Provisional Parliament till 1952.

<b>Some Other Minor Committee</b>	
<b>Committees</b>	<b>Chairman</b>
• Ad-hoc Committee on National Flag	Dr. Rajendra Prasad
• Order of Business Committee	Dr. K.M. Munshi
• Committee on the functions on the Constituent Assembly	G.V. Mavalankar

- The Constituent Assembly adopted National Flag on 22<sup>nd</sup> July, 1947 while the National Anthem and the National Song were adopted on 24<sup>th</sup> January, 1950.
- The Constituent Assembly took 2 years, 11 months and 18 days to frame the Constitution and finally it was last assembled on 26<sup>th</sup> November, 1949 when Constituent Assembly signed the constitution. 284 members signed the constitution.

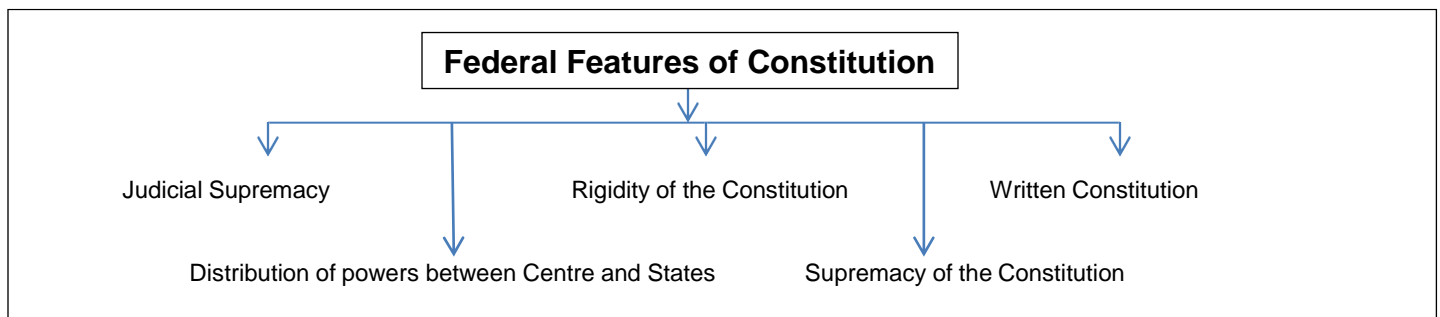
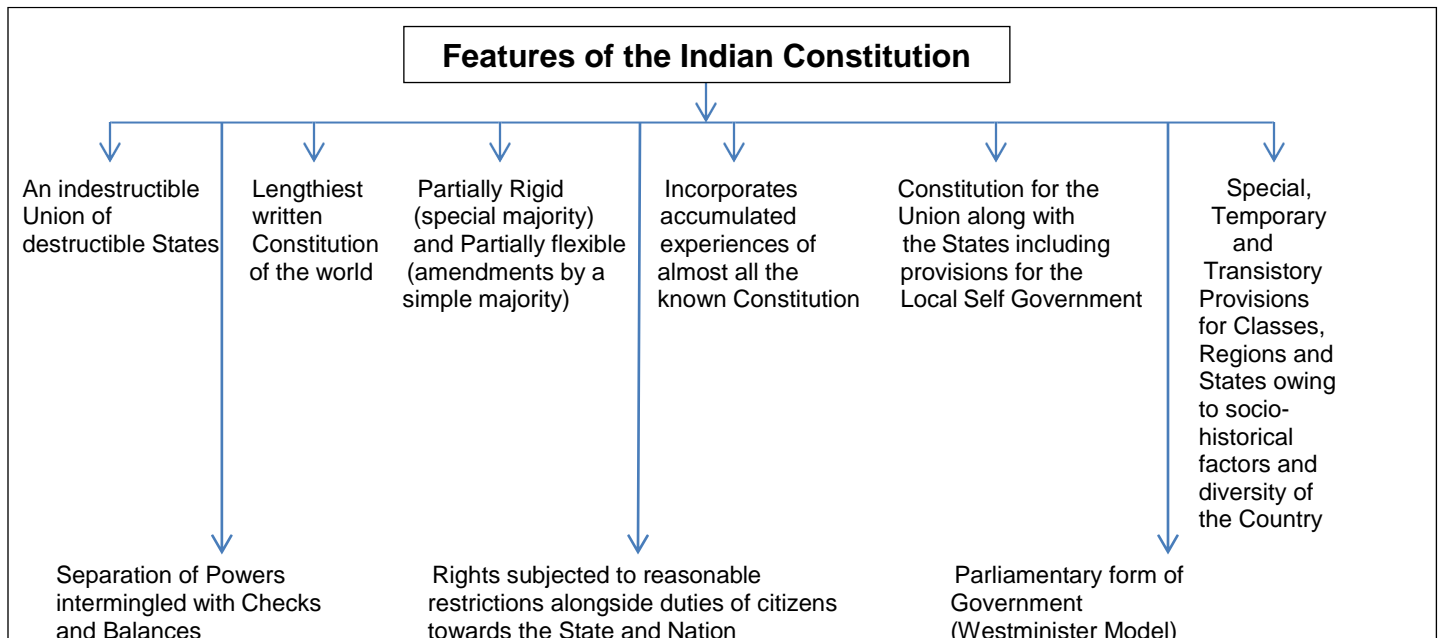
26<sup>th</sup> January was chosen as a date for commencement of constitution because 26<sup>th</sup> January was observed as Independence day by people after, Congress session at Lahore on 31<sup>st</sup> December, 1929 passed a resolution of complete Independence (Purna Swaraj) and declared 26<sup>th</sup> January as day of Independence.

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

\*Source : COSMOS PUBLICATION, DELHI

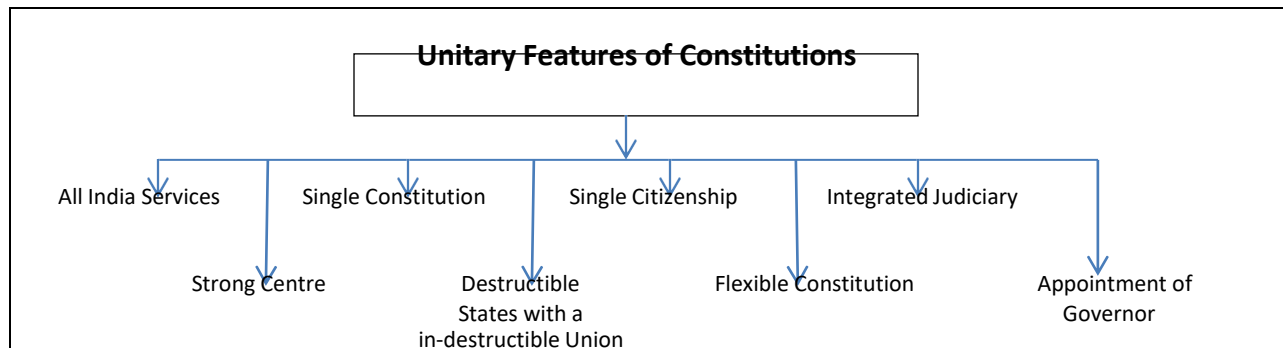
### 3 Features of Indian Constitution

- A major part of the Indian Constitution (almost 70% was derived from Government of India Act, 1935 owing to the familiarity with the political and administrative mechanism as envisaged under the Act.



- In a federal government subjects of governance are divided between federal and state governments. States enjoy much independence in their sphere.
- Indian constitution has clearly demarcated powers between the Union and State governments. State governments have their rights on state subjects mentioned in List-II of seventh schedule.
- States can also legislate over concurrent subjects unless they are not in direct conflict with central government's legislation.

- Under Article 368, no amendments in the status of the powers of centre and states can be made without participation of the States. So, Indian constitution is not as easy to amend as the British Constitution but definitely it's not as tough as the US Constitution.



- In the federal countries like USA and Australia, States have their own constitution. But, India has a single constitution for both Union and States. Both centre and states function under a single constitution.
- When there is any conflict between a law of State and center for any concurrent matter then Centre's provisions prevail. Centre also enjoys residuary powers.
- Union enjoys a legislative control over 100 subjects stated under List – I of the seventh schedule as against 61 subjects enlisted under List-II (State list). Also, the Union enjoys overriding power over state on matters enlisted in the Concurrent list. The Residuary power (over subjects finding no mention in either of the lists) also lies with the Union.

### 3.1 India is an indestructible Union of destructible States.

- Governors of the states are appointed by President on the advice of Council of Ministers of central government. Hence, Governor acts like an agent of Centre in State. This increases the centre's control on states.
- Indian Parliament can alter the boundaries, names of the states even without the consent of states. Hence, Parliament enjoys powers to form a new State, merge the states etc. to the extent it seems right.



## 4 National Symbols

### 4.1.1 National Flag

- On August 7, 1906 at Parsi Bagan Square, Calcutta the first national flag of India was hoisted by Surendranath Banerjee. Madam Bhikaji Cama on 22<sup>nd</sup> August, 1907 hoisted the flag at Stuttgart, Germany.
- The National Flag of India (designed by Pingali Venkayya in 1916) was adopted by the Constituent Assembly on July 22, 1947. It is horizontal tricolor of deep saffron (kesari) at the top, white in the middle and dark green at the bottom in equal proportions. In the centre of the white band is a navy blue wheel representing the Chakra, a symbol of progress and of movement. The ratio of the length of the flag to its width is 3:2.

### 4.2 National Emblem

- The National Emblem is an adaptation from the Sarnath Lion Capital. 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.

### 4.3 National Anthem

- Jana-gana-mana, composed originally in Bengali by Rabindranath 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.

### 4.4 National Song

- The song Vande Mataram was composed in Sanskrit by Bankimchandra Chattopadhyay from Anandamatha. It was first sung in 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.

### 4.5 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.

#### **4.6 National Calendar**

- The national calendar 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 Gregorina calendar. 1 Chaitra falls on 22 March normally and on 21 March in leap year. The calendar was introduced by the Calendar Reform Committee in 1957.

#### **4.7 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.

#### **4.8 National Flower**

- Lotus, botanically known as the *Nelumbo Nucifera Gaertn* is the national flower of India. It symbolizes divinity, fertility, wealth, knowledge and enlightenment.

#### **4.9 National Tree**

- The Banyan tree (*Ficus benghalensis*) is the National Tree of India.

#### **4.10 National Fruit**

- Mango (*Manigifera Indica*) is the National Fruit of India.

#### **4.11 National River**

- Former P.M. Monmohan Singh declared Ganga as The National River of India on February, 20, 2009.

#### **4.12 National Aquatic Animal**

- To save dolphins (*Planista gangetica*) from extinction, the Union government has declared them as the national aquatic animal on October 5, 2009.

#### **4.13 National Currency**

- The Indian Rupee sign 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 to sign.
- The Indian Rupee sign was adopted by the Government of India on 15<sup>th</sup> July, 2010.

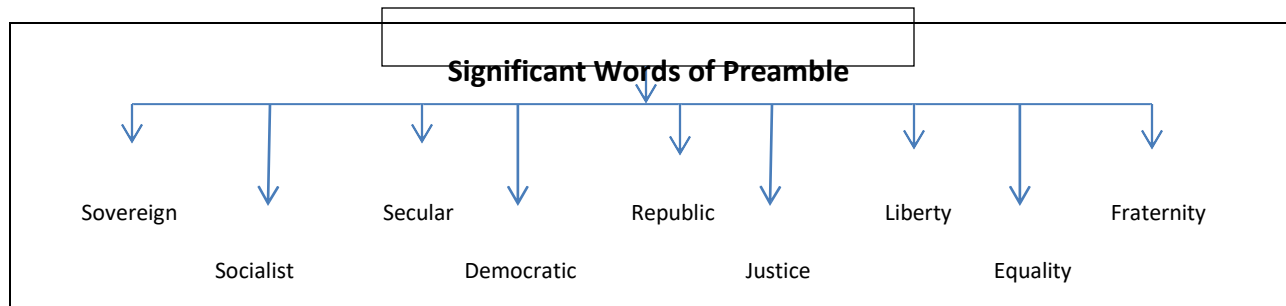
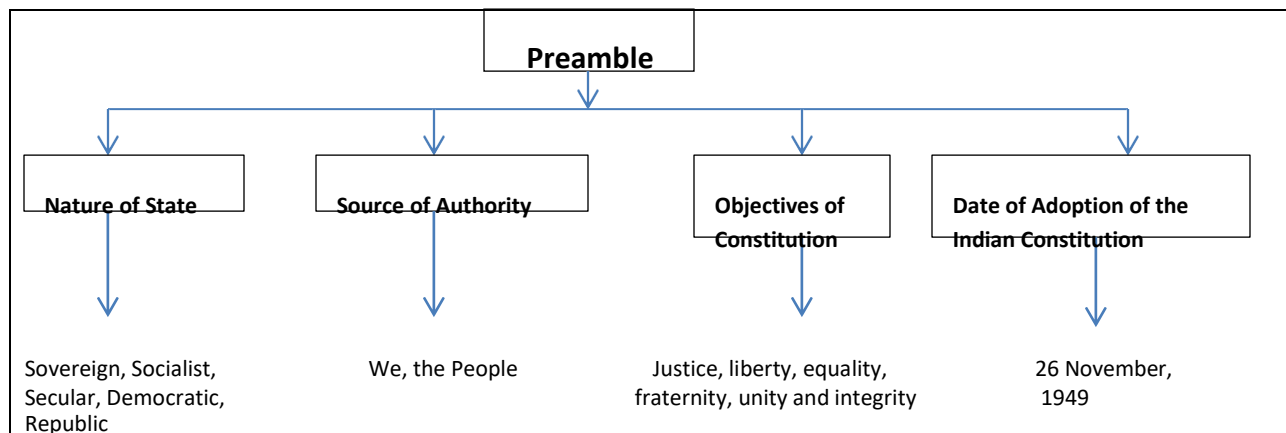
Important Sources of the Indian Constitution					
Source/Country	Provisions borrowed	Source/Country	Provisions borrowed	Source/Country	Provisions borrowed
<b>Government of India Act, 1935</b>	Office of Governor, Federalism, Emergency, Judiciary, Public Service Commissions, Administrative, Details.	<b>USA Constitution</b>	Judiciary's Independence, Fundamental Rights, Judicial Review, Impeachment of President and removal of Judges of Supreme Court and High Court, Preamble.	<b>South African Constitution</b>	Amendment of Constitution, Rajya Sabha Elections.
<b>Ireland (Irish Constitution)</b>	Method of election of President, Directive Principles of State Policy & Nomination of Rajya Sabha Members.	<b>British Constitution</b>	Law making procedure, single citizenship, parliamentary government, cabinet system, bicameralism, Rule of Law.	<b>French Constitution</b>	Republic, Ideals of Liberty, equality and fraternity in the Preamble.
<b>Canadian Constitution</b>	Residuary Power to centre, Federation with strong centre, Appointment of governor, Advisory Jurisdiction of Supreme Court	<b>Soviet Constitution</b>	Fundamental Duties, Planning, (socioeconomic and political) Ideals of Justice in Preamble.	<b>Australian Constitution</b>	Concurrent list, Joint sitting, Freedom of trade, Commerce and inter; course
				<b>Japanese Constitution</b>	Procedure established by Law.

\* Source : COSMOS PUBLICATION, DELHI

## 5 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, 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.**

Sources of Preamble	
Country	Sources
American Constitution	Preamble
USSR	Ideals of Justice
French Constitution	Republic and the ideals of Liberty, equality and fraternity



## **5.2 Significant Words of Preamble**

### **5.1.1 Sovereign**

- Sovereignty refers to the independent authority of the State. It means that state has the power to legislate on any subject which is not subject to the control of any other state or external power.

### **5.2.1 Socialist**

- The word Socialist was added to the Preamble by 42<sup>nd</sup> Constitutional Amendment, 1976.
- Socialism does not mean the resisting private sector, instead it emphasizes that wealth should not be concentrated in few hands and inequality of income should be abolished.

### **5.2.2 Secular**

- The term secular was inserted by 42<sup>nd</sup> Constitutional Amendment Act, 1976.
- It explained that State does not recognise any religion as a state religion and it treats all religions equally and with equal respect, without, interfering with their individual rights of religion, faith or worship.

### **5.2.3 Democratic**

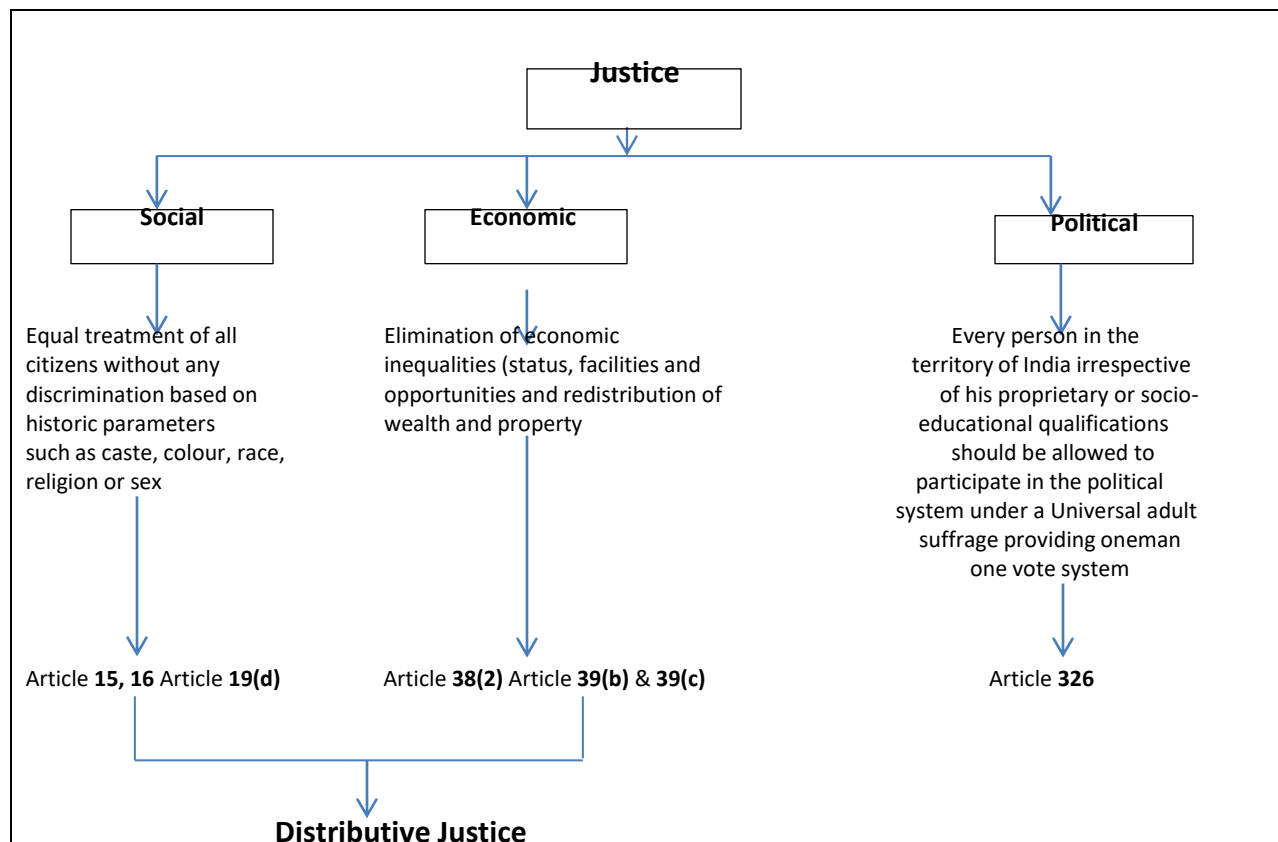
- Democracy is defined as that form of government in the administration of which the adult population has some direct or indirect share.
- Our democracy is a representative democracy which means people have no direct control such as referendum or initiative. People exercise their power through elected representatives in Parliament at Centre and State legislatures at the state level.
- Democratic republic stands for welfare of all the people of India which embodies the concept of welfare state, laid down in Directive Principles of State Policy.

### **5.2.4 Republic**

- Republic means a form of government in which Head of the State is an elected person and not a hereditary monarch like a King or the Queen as in Great Britain.
- President is the Head of Republic of India who is indirectly elected by the people for a fixed period of 5 years. He can also be removed from office by Impeachment (Article 61).

### 5.2.5 Liberty

- Preamble mentions liberty of thought, expression, belief, faith and worship. These freedoms have been provided in our constitution under Fundamental Rights (Article 19, 25-28) and are enforceable by court of law (through Article 32 and 226).

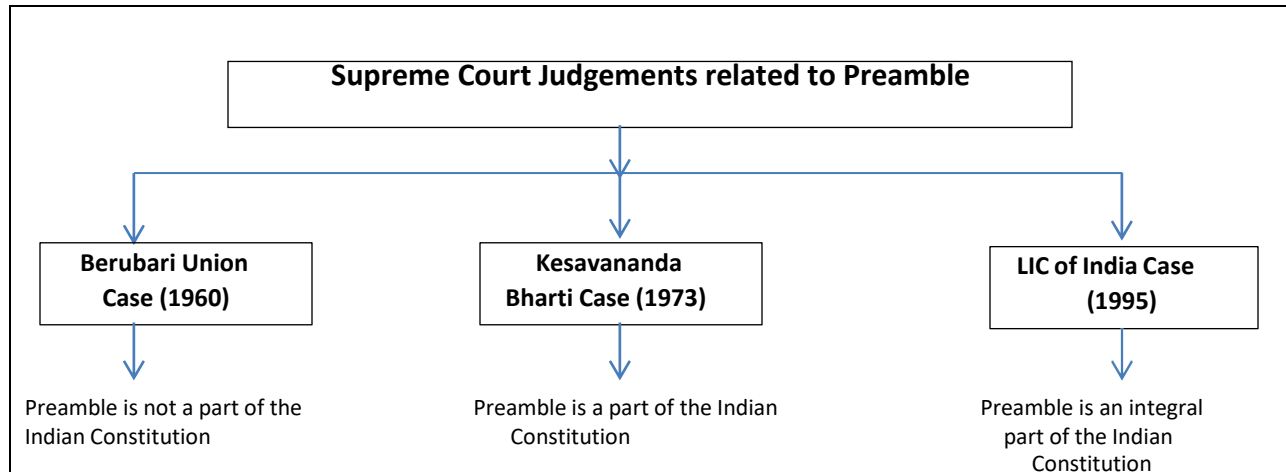


### 5.2.6 Equality

- Equality of opportunity and status is given in Preamble which is ensured by Article 14-18 and Article 325-326.
- This means that every person shall have equal rights of opportunity for any job, work and nobody can be discriminated or treated as lower than anyone else only on the grounds of religion, race, caste, sex etc.
- Equality of status and opportunity for all is the basis for ultimately establishing an egalitarian society.

### 5.2.7 Fraternity

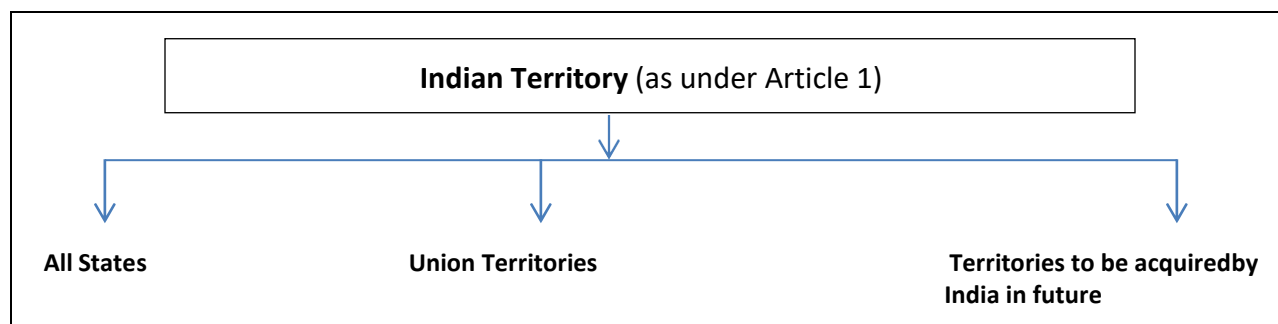
- It refers to the spirit of brotherhood, a feeling that all people are children of same soil, the same motherland. Fraternity ensures the Unity and Integrity of India.



\*Source : COSMOS PUBLICATION, DELHI

## 6 Union and its Territories

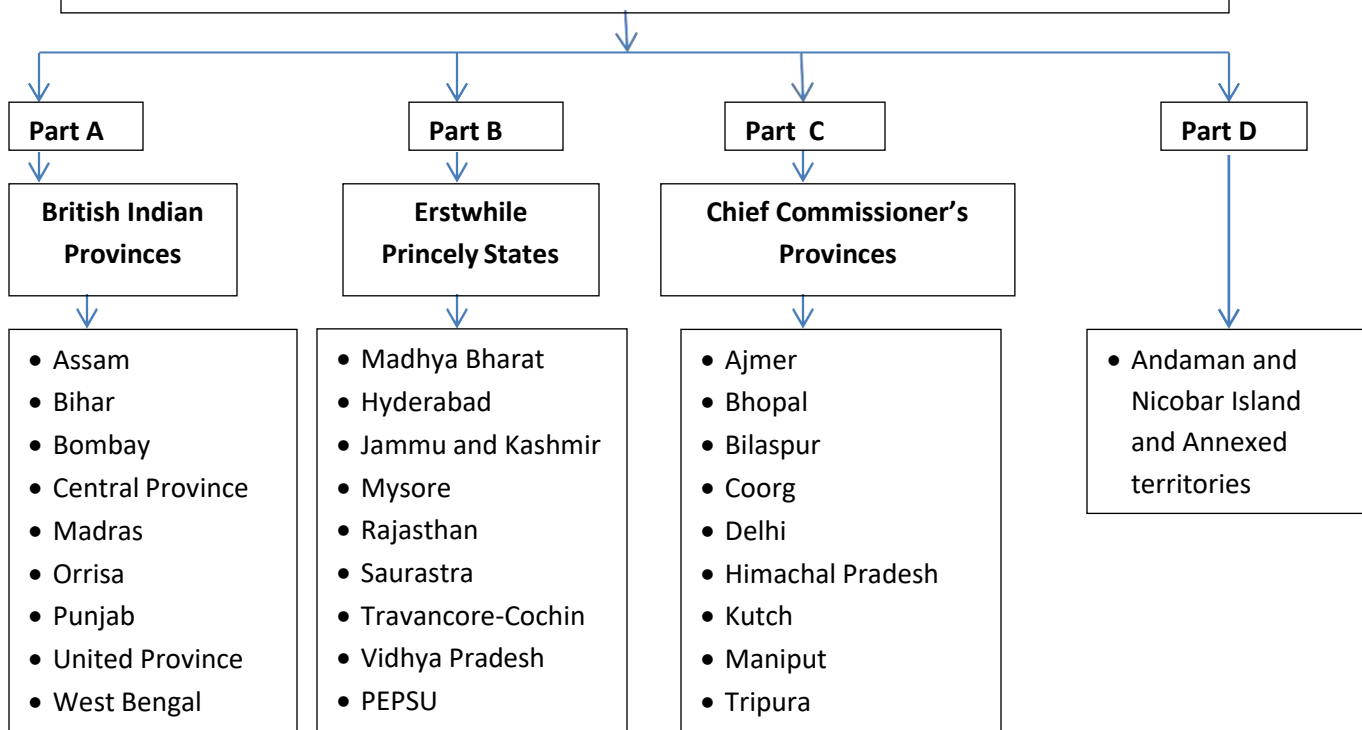
- Part I of the Indian Constitution include Article 1 to 4 related to Union and its territory. Article of the Constitution says India, that is Bharat, shall be a Union of states. This tells us the nature of Indian Political system.
- The expression Union of states establishes :
  - (a) India is not the result of an agreement between States.
  - (b) States have no right to secede from the Indian Union. Thus, India preferred the term Union instead of Federation.
- The term Union of India includes all States but territory of India include entire territory i.e. states, and any other territory that may be acquired by India in future.
- The Territory of India is a wider expression and includes all territory over which sovereignty of India extends.



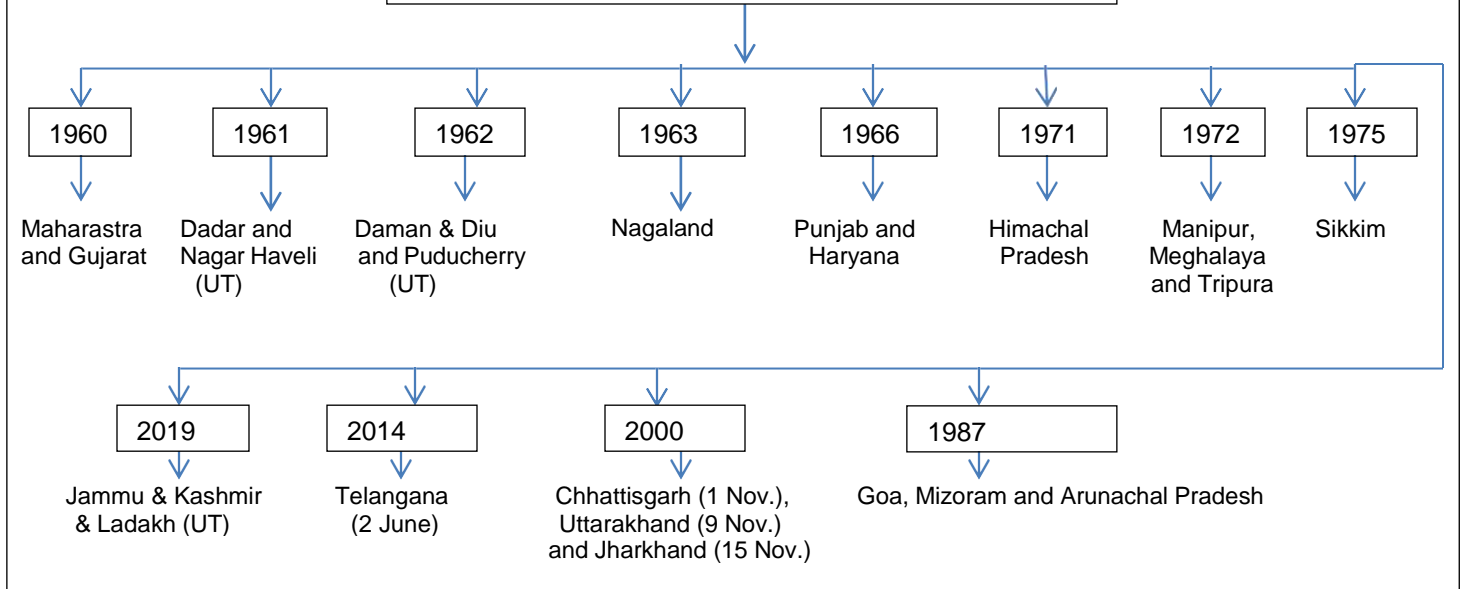
Part I (Article 1-4)	
• <b>Article 1</b>	Name and territory of the Union
• <b>Article 2</b>	Establishment or Admission of new states
• <b>Article 3</b>	Formation of new states and alternation of areas, boundaries or name of existing states.
• <b>Article 4</b>	Laws made under Article 2 and 3 to provide for the amendment of the First and Fourth Schedules and supplemental, incidental and consequential matters.



## Types of States on Commencement of Constitution



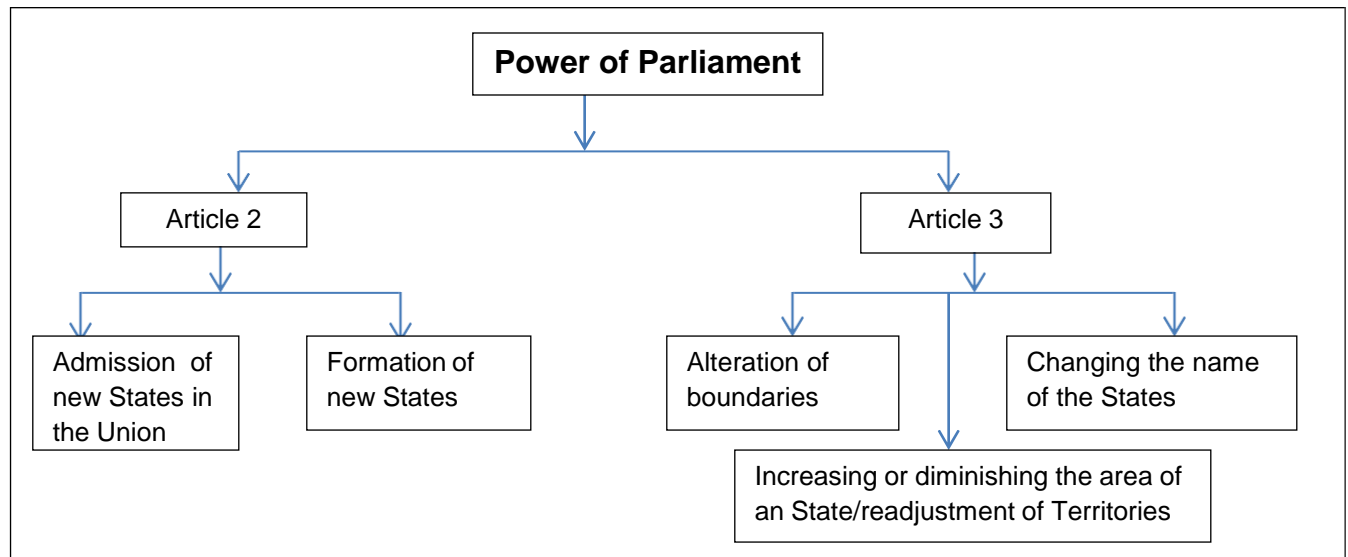
### Chronology of States Formation



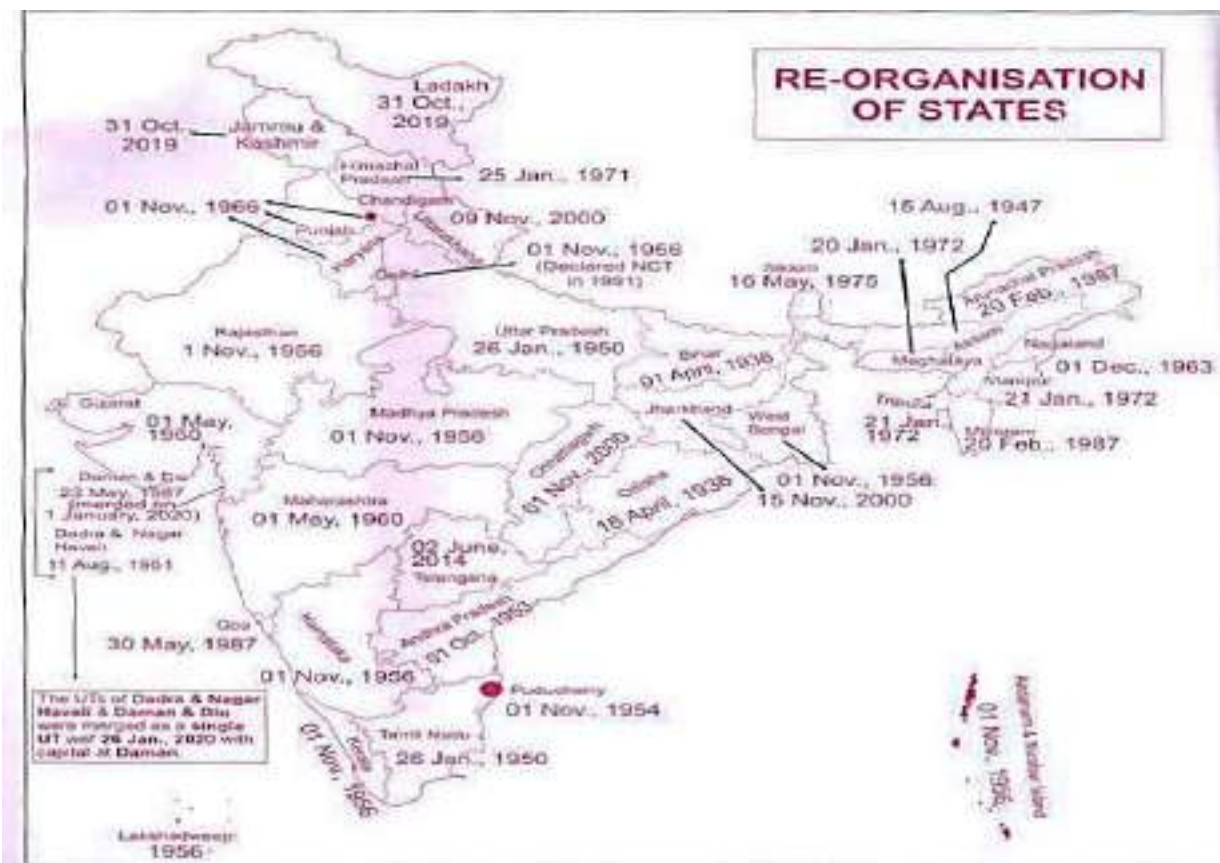
### Formation of New States/Union Territories and Alteration of Names

- Assam became a British protectorate in 1826, it was separated from Bengal in 1874 and was reformed as Assam in 1912. It got full statehood on 26 January, 1950.
- Andhra Pradesh was formed in 1953 by taking out some territory from the State of Madras.
- Maharashtra and Gujarat were two states created by Bombay Reorganisation Act, 1960. Thus, creating Marathi and Gujarati Speaking states respectively.
- Bihar was formed by the British on 22<sup>nd</sup> March, 1912 (carving out of Bengal) and got statehood on 26<sup>th</sup> January, 1950.
- Orissa was made a separate province on 1<sup>st</sup> April, 1936 and gained statehood in 1950.
- Madras Presidency was reorganised as a state in 1950 and renamed Tamil Nadu in 1969.

- Former states of Travancore, Cochin and Malabar were merged to form the state of Kerala in 1956.
- Mysore state was formed on 1<sup>st</sup> November, 1956 by bringing together Kannada speaking regions.
- In 1963, Nagaland was created as a state out of Assam separating Naga Hills Area and Tuensang Area by State of Nagaland Act, 1962.
- Punjab Reorganisation Act, 1966 created state of Haryana and Chandigarh as Union Territory out of Punjab.
- Himachal Pradesh was created with the merger of 30 princely states in 1950, was declared a Union Territory in 1956 and gained statehood on 25 January, 1971.
- The two Union Territories of Manipur and Tripura were made states which were earlier union Territories. The sub-state of Meghalaya gained statehood. In 1987, Mizoram and Arunachal Pradesh became 23<sup>rd</sup> and 24<sup>th</sup> Indian states.
- Sikkim became a full-fledged State by 36<sup>th</sup> Constitutional Amendment Act, 1976. Initially, Sikkim was a protectorate of India and in 1974 by 35<sup>th</sup> Constitutional Amendment Act, 1975. Sikkim became an Associate State.
- The Union Territory of Mizoram gained statehood by State of Mizoram Act, 1986.
- The Union Territory of Arunachal Pradesh was given statehood in 1986 by Arunachal Pradesh Act, 1986.
- State of Jammu & Kashmir was bifurcated into Union Territories of Jammu & Kashmir and Ladakh on 31<sup>st</sup> October, 2019.
- Union Territories of Dadra and Nagar Haveli and Daman and Diu were merged on 26<sup>th</sup> January, 2020 with capital at Daman.



- Parliament has the power to form such states or alter the name or boundaries of States even without the consent of states i.e. by simple majority. Parliament can do such changes or make new states.
- India is an indestructible Union of destructible States. Reorganisation of states can be based on linguistic, geographic administrative or ethnic factors.



<b>Zonal Councils</b>			
<b>1. Northern Zonal Council (Delhi)</b>		Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh	
<b>2. Central (Prayagraj)</b>	<b>Zonal</b>	<b>Council</b>	Chhattisgarh, Uttarakhand, Uttar Pradesh, and Madhya Pradesh
<b>3. Eastern (Kolkata)</b>	<b>Zonal</b>	<b>Council</b>	Bihar, Jharkhand, Orissa, Sikkim, West Bengal and Kolkata
<b>4. Western (Mumbai)</b>	<b>Zonal</b>	<b>Council</b>	Goa, Gujarat, Maharashtra and Dadra & Nagar Haveli, Daman & Diu
<b>5. Southern (Chennai)</b>	<b>Zonal</b>	<b>Council</b>	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union Territory of Puducherry
<b>6. North Eastern Zonal Council (Shillong)</b>		Assam, Arunachal Pradesh, Manipur, Tripura, Mizoram, Meghalaya and Nagaland	

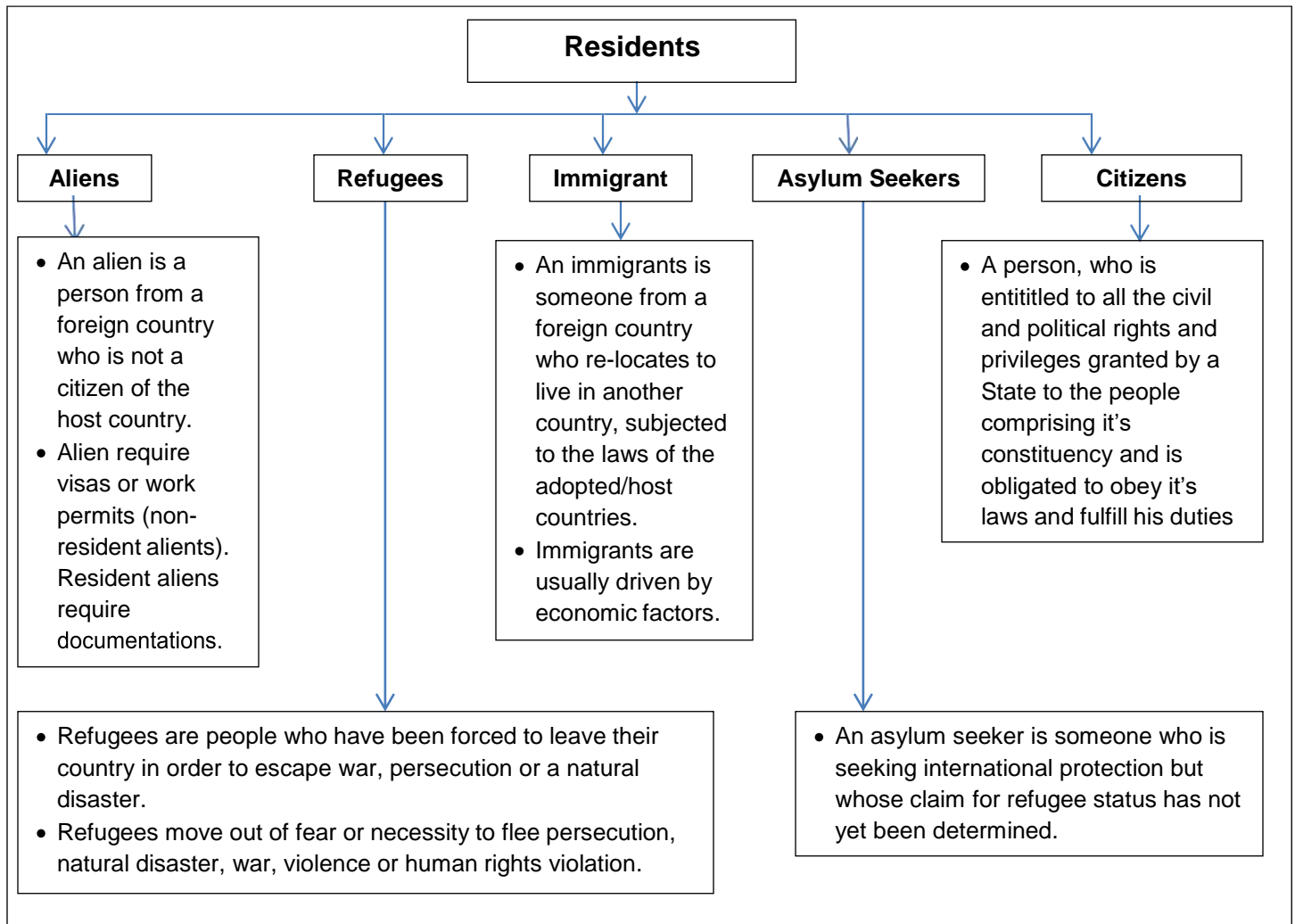
<b>Union Territories (Present)</b>			
<b>Union Territories</b>	<b>Capital</b>	<b>Districts</b>	<b>Area (km<sup>2</sup>)</b>
1. Andaman & Nicobar	Port Blair	3	8,249
2. Chandigarh	Chandigarh	1	114
3. Dadra & Nagar Haveli and Daman & Diu	Daman	3	603
4. Delhi	New Delhi	11	1,483
5. Lakshadweep	Karavati	1	32
6. Puducherry	Puducherry	4	492
7. Jammu & Kashmir	Srinagar	22	55,538
8. Ladakh	Leh	2	1,74,852

<b>Article 239A and 239AA Special Provisions related to UTs</b>
<p>In 1962, Article 239A (amended by 37<sup>th</sup> Amendment Act, 1974) was introduced in the Constitution to empower Parliament to create a Legislature (or a Council of Ministers) for some of the Union Territories under which Article 239A (for Puducherry) and Article 239AA (by 69<sup>th</sup> Amendment Act, 1992) provided special provisions for the Union Territory of Delhi re-naming it as National Capital Territory of Delhi. It also provided for a Legislative Assembly to make laws enumerated in the State list or the Concurrent list in limited jurisdiction (with an overriding Parliamentary Jurisdiction). Hence, Puducherry (1963) and (NCT) of Delhi (1991) along with recently carved Union Territory of Jammu and Kashmir (2019) are the only three Union Territories with State Legislative Assemblies and seats allotted in the Council of States under Schedule 4 of the Constitution. Delhi State government has been demanding complete statehood owing to the administrative ambiguity and complexity of the 3 tier administrative structure.</p>

The States Of India					
Sl.No.	State	Capital	District	Area (km <sup>2</sup> )	(% of total area)
1.	Rajasthan	Jaipur	33	3,42,239	10.41
2.	Madhya Pradesh	Bhopal	52	3,08,245	9.37
3.	Maharashtra	Mumbai	36	3,07,713	9.36
4.	Uttar Pradesh	Lucknow	75	2,36,286	7.18
5.	Gujarat	Gandhinagar	33	1,96,024	5.96
6.	Karnataka	Bengaluru	30	1,91,791	5.83
7.	Andhra Pradesh	Hyderabad	13	1,60,205	4.87
8.	Odisha	Bhubaneswar	30	1,55,707	4.73
9.	Chhattisgarh	Raipur	27	1,35,191	4.11
10.	Tamil Nadu	Chennai	37	1,30,058	3.95
11.	Bihar	Patna	38	94,163	2.86
12.	West Bengal	Kolkata	23	88,752	2.69
13.	Arunachal Pradesh	Itanagar	25	83,743	2.54
14.	Jharkhand	Ranchi	24	79,714	2.42
15.	Assam	Dispur	33	78,438	2.38
16.	Himachal Pradesh	Shimla/ Dharamshala	12	55,673	1.69
17.	Uttarakhand	Dehradun	13	55,483	1.62
18.	Punjab	Chandigarh	22	50,362	1.53
19.	Haryana	Chandigarh	22	44,212	1.34
20.	Kerala	Thiruvananthapuram	14	38,863	1.18
21.	Meghalaya	Shillong	11	22,429	0.68
22.	Manipur	Imphal	16	22,327	0.67
23.	Mizoram	Aizwal	8	21,081	0.64
24.	Nagaland	Kohima	11	16,579	0.50
25.	Tripura	Agartala	8	10,491	0.31
26.	Sikkim	Gangtok	4	7,096	0.21
27.	Goa	Panaji	2	3,702	0.11
28.	Telangana	Hyderabad	33	1,12,077	3.40

\*Source :  
COSMOS  
PUBLICATION,  
DELHI

## 7 Citizenship



- Part II of Indian Constitution (Article 5 to Article 11) deals with the Citizenship of India during the commencement of the Constitution.

**Part 2 (Article 5-11) relating to Citizenship, came into force on November 26, 1949 itself.**

- The Constitution describes who would be considered the citizens of India from the commencement date of constitution i.e. from 26<sup>th</sup> January, 1950.

## 7.1 Constitutional Provisions related to Citizenship

#### **7.1.1 Article 5**

- Article 5 refers to the citizenship on January 26, 1950.

#### **7.1.2 Article 6**

- This Article provides citizenship to those persons who have migrated to India from Pakistan.

#### **7.1.3 Article 7**

- Right of citizenship of certain migrants to Pakistan who returned back to India with intention to live permanently.

#### **7.1.4 Article 8**

- This Article provides the rights of citizenship of certain persons of Indian origin residing outside India.

#### **7.1.5 Article 9**

- No person who has voluntarily acquired the citizenship of any foreign state shall be a citizen of India or deemed to be a citizen of India.

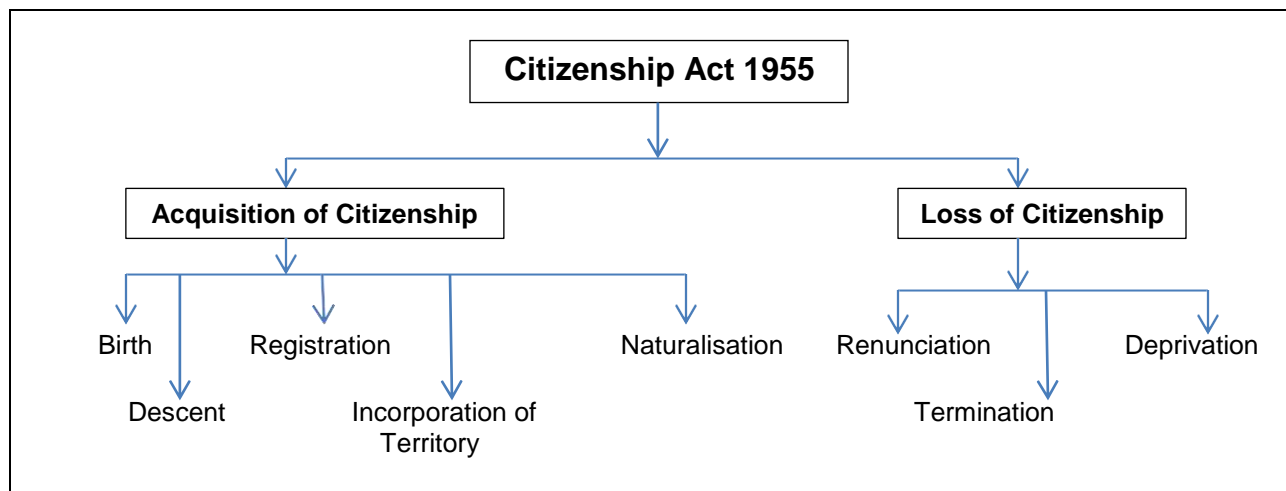
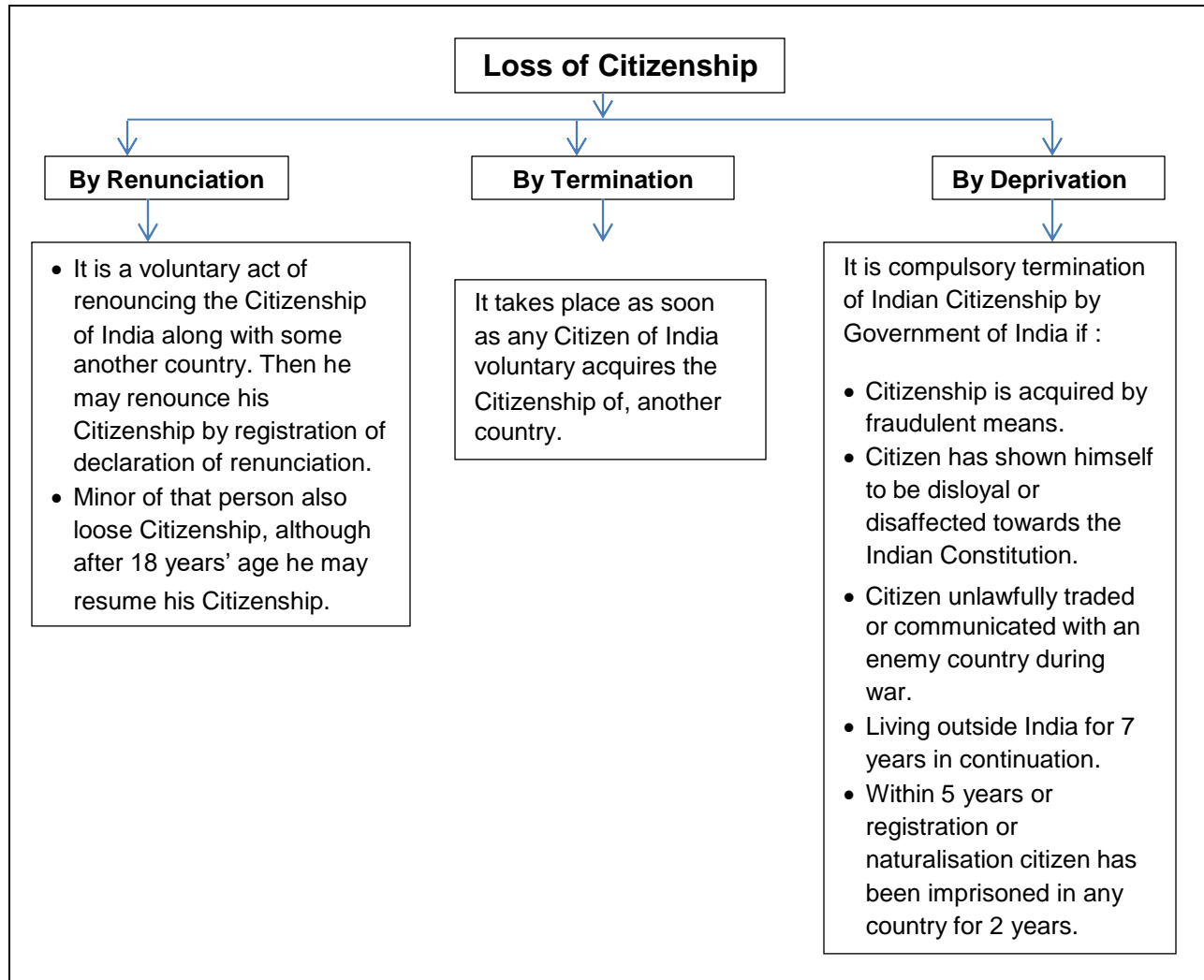
#### **7.1.6 Article 10**

- Every person who is or is deemed to be a citizen of India shall continue to be such citizens, subject to the provisions of any law made by the Parliament.

#### **7.1.7 Article 11**

- 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.





## **7.2 Amendments in Citizenship Act 1955**

- The Citizenship Act, 1955 has been amended four times so far by the following Acts :

1. The Citizenship (Amendment) Act, 1986
2. The Citizenship (Amendment) Act, 1992
3. The Citizenship (Amendment) Act, 2003
4. The Citizenship (Amendment) Act, 2005

### **7.2.1 By Birth**

- A person born on or after January 26, 1950 but before 1<sup>st</sup> July, 1987, irrespective of nationality of his parents.

### **7.2.2 By Descent**

- A person born outside India on or after January 26, 1950 but before 10 December, 1992, is a citizen of India if his father was a citizen of India at the time of his birth or if after 10 December, 1992 either of his parents were Indian citizens.

### **7.2.3 By Registration**

- Any person can acquire citizenship by registering before prescribed authority.

### **7.2.4 By Naturalisation**

- A foreigner not being an illegal migrant can acquire Indian Citizenship, on application for naturalisation from the Government of India.

### **7.2.5 By Incorporation of Territory**

- If a new territory becomes a part of India, the Government of India shall specify the persons of that territory who shall be the Citizens of India.

## **7.3 Features of Citizenship Amendment Act**

- The Act makes religiously persecuted minorities (i.e. Hindus, Sikhs, Buddhists, Jains, Parsis, Christians) from Afghanistan, Bangladesh and Pakistan eligible for Indian Citizenship.
- The Act reduces the requirement of 11 years of continuous stay in India to 6 years to obtain citizenship by naturalisation for these communities belonging to these nations.
- Overseas Citizenship of India (OCI) can be cancelled in case of violation of law.

### **Census v/s National Population Register (NPR)**

- The recent exercise of NPR is related to Census 2021. Census is a macro exercise conducted in every decade and is not intended to identify the individual identify details, while NPR is designed to collect identity details of individuals.
- The government decided to update the National Population Register along with houselisting phase of Census 2021 during April-September 2020 in all States/UT's except Assam (since it recently completed NRC)
- While registering with NPR is mandatory, furnishing additional data as PAN, Aadhar, Voter ID is voluntary. NPR will form the base for a nationwide National Register of Citizens. NPR is not a citizenship enumeration drive since it will include all usual residents (even foreigners staying for more than 6 months)
- Since NRC in Assam was prepared on a similar note, it is expected that after a list of residents is created (NPR), a nationwide NRC could go for verifying citizens from that list.

### **National Register of Citizens (NRC)**

- The National Register of Citizens is the register containing names of Indian citizens.
- It was prepared in 1951 after conducting the census of 1951 and was published only once in 1951.
- The NRC will be updated to include the names of those persons (or their descendents) who appear in NRC – 1951, or in any of the electoral rolls up to the midnight of 24th March, 1971 or in any one of the other admissible documents issued up to midnight of 24th March, 1971, which would prove their presence in Assam or in any part of India on or before 24th March, 1971.
- All the names appearing in the NRC, 1951 or any of the electoral rolls up to the midnight of 24th March, 1971 together are called Legacy Data.
- There are 2 requirement for inclusion into updated NRC :
  - ➔ Existence of person's name in pre 1971 period.
  - ➔ Providing linkage with that person.

\*Source : COSMOS PUBLICATION, DELHI

## 8 Fundamental Rights

- The idea of Bill Rights, in Indian Polity first emerged in Nehru report. Framers of the Indian constitution were later inspired from Bill of Rights in US constitution and included a full chapter on fundamental rights, regarded as the Magna Carta of India.
- Part III of Indian Constitution consisting of Articles 12 to 35 deals with Fundamental Rights. These rights are fundamental since they are guaranteed by Fundamental law of country i.e. by Constitution itself.
- Fundamental rights are guaranteed by Fundamental law of land i.e. by Constitution & hence, any action done by state in violation of these rights is null or void.
- For the violation of fundamental rights a person can move to Supreme Court and the right to move to Supreme Court is guaranteed by Fundamental Rights itself (under Article 32).

**Right to property was put under Article 300 A in Part XII of Constitution and Article 31 and Article 19 (f) were omitted from Part III.**

Fundamental rights can be suspended by President during national emergency (except Article 20-21) as under Article 358 and 359.



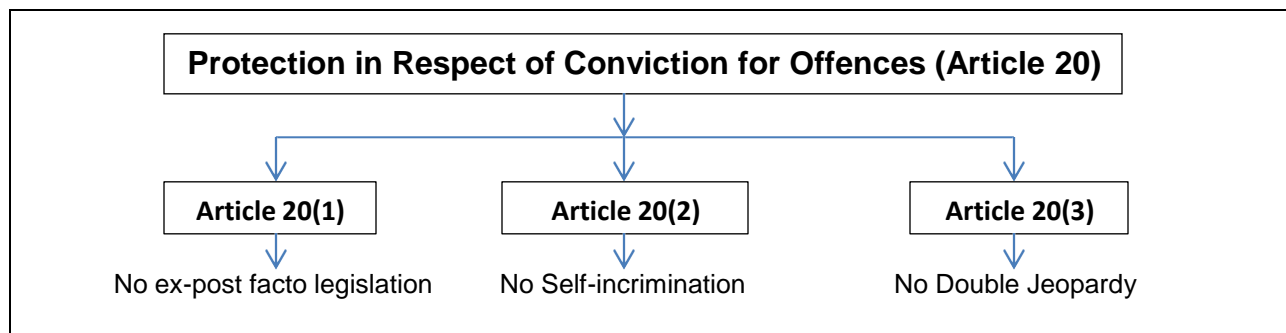
Article 13 provides for judicial Review of all legislations. The notion of Judicial Review is taken from the Constitution of USA.

- Article 14 provides for Equality before law where no man is above law and Equal protection of law, where unequals treated unequally.

- Article 15 contains prohibition of discrimination by state and individual as well against any citizen of India on specified grounds.
- Under Article 15(3) State has powers to make special provisions for women and children under Article 15(3), 16(2), 16(4).
- Article 17 abolished Untouchability under which parliament framed Protection of Civil Rights Act, 1955. The word Untouchability is not defined in the Constitution.

Article 19(1)(f) – Right to Property was removed by the 44<sup>th</sup> Constitutional Amendment Act, 1978 and made a Constitutional Right under Article 300A.

Right to form Cooperative Societies [19(1)(c)] became a fundamental right through 97<sup>th</sup> Constitutional Amendment Act, 2011.



## Fundamental Rights

Right to Equality  
(Article 14 – 18)

Equality before law  
**(Article 14)**  
Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth  
**(Article 15)**  
Equality of opportunity in matter of public employment  
**(Article 16)**  
Abolition of untouchability  
**(Article 17)**  
Abolition of titles  
**(Article 18)**

Right to Freedom  
(Article 19 – 22)

Freedom of speech and expression  
**(Article 19)**  
Protection of life and personal liberty  
**(Article 21)**  
education  
**(Article 21A)**  
Protection against arrest and detention in certain cases  
**(Article 22)**

Right against Exploitation  
(Article 23 – 24)

Prohibition of traffic in human being and forced labour  
**(Article 23)**  
Prohibition of employment of children in factories, etc  
**(Article 24)**

Right to Freedom of Religion  
(Article 25 – 28)

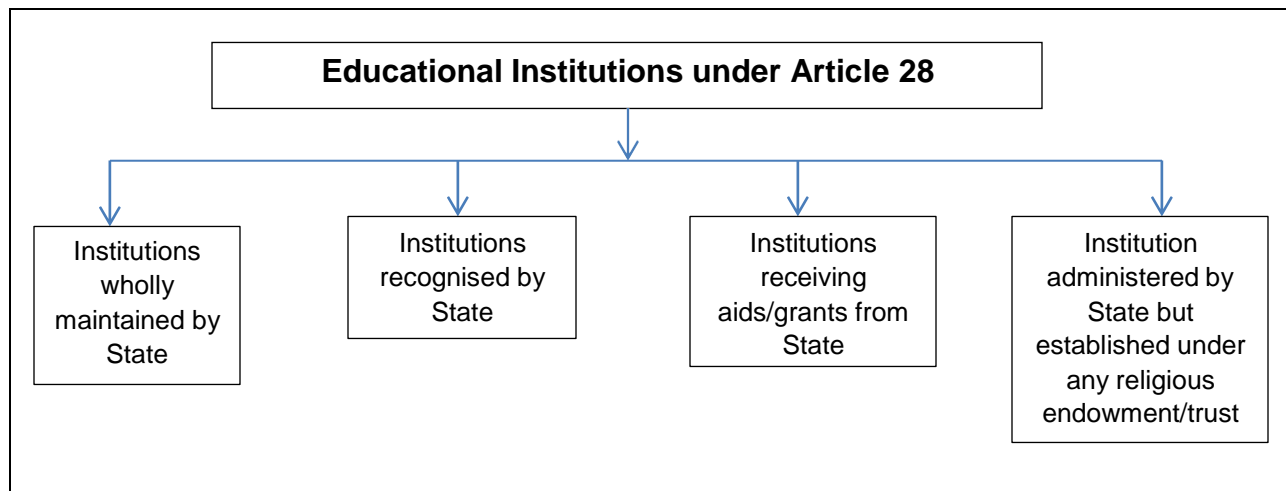
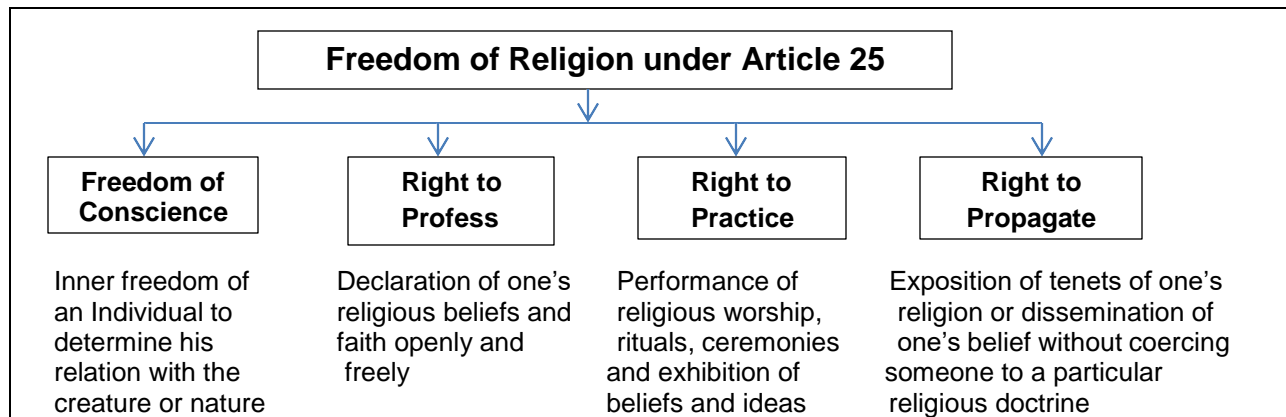
Freedom of conscience and free profession, of religion  
**(Article 25)**  
Freedom to manage religious affairs  
**(Article 26)**  
Freedom from payment of taxes for promotion of any religion  
**(Article 27)**  
Freedom from attending any religious instructions or worship in certain educational institutions  
**(Article 28)**

Cultural and Educational Rights  
(Article 29 – 30)

Protection of interests of minorities  
**(Article 29)**  
Rights of minorities to establish and administer educational institutions  
**(Article 30)**

Right to Constitutional Remedies  
(Article 32)

Remedies for enforcement of fundamental rights conferred by this part  
**(Article 32)**



Exceptions of Fundamental Rights	
<b>Article 31A</b>	A law for agrarian reform or for acquisition of estates, etc. cannot be invalidated if it contravenes Article 14 and 19.
<b>Article 31B</b>	This articles provides complete exception to fundamental rights i.e. Law put under 9 <sup>th</sup> Schedule which is read with Article 31B cannot be invalidated on the ground of violation of fundamental rights.
<b>Article 31C</b>	Laws made for giving effect to certain directive principles cannot be invalidated on ground on contravention of Article 14 and Article 19.

<b>Prerogative Writes</b>	
<b>Habeas Corpus</b>	
<ul style="list-style-type: none"> <li>• Habeas Corpus literally means to have the body</li> <li>• In this writ court orders to a person who has detained another to produce the body of detained person before it.</li> </ul>	
<b>Mandamus</b>	
<ul style="list-style-type: none"> <li>• It literally means we command. This is issued against executive and inferior judicial bodies to perform their duties which they have failed to perform.</li> </ul>	
<b>Prohibition</b>	
<ul style="list-style-type: none"> <li>• Prohibition literally means to forbid (inactivity).</li> <li>• This writ is issued against judicial and quasi-judicial bodies only to stop them from going beyond their jurisdiction.</li> </ul>	
<b>Certiorari</b>	
<ul style="list-style-type: none"> <li>• This writ is issued against any judicial or quasi-judicial body by a higher court to quash the order of a inferior judicial body or to transfer any case to itself from a lower court.</li> </ul>	
<b>Quo Warranto</b>	
<ul style="list-style-type: none"> <li>• It literally means by what authority.</li> <li>• It is issued to ensure the legality of the qualification of the person holding an office.</li> </ul>	

\*Source: COSMOS PUBLICATION, DELHI



# Indian Polity and Governance – Indian Polity –Constitution, Political System Chapter 2

## Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

**This chapter contains:**

- **Directive Principles of State Policy**
- **Fundamental Duties**
- **Parliament**
- **Budgetary Process**
- **President**
- **Vice President**
- **Prime Minister and Union Council of Ministers**

## Contents

1	Directive Principles of State Policy .....	1
2	Fundamental Duties .....	1
3	Parliament.....	2
3.1	Houses of Parliament.....	4
3.3	Powers and Functions of Lok Sabha and Rajya Sabha.....	7
3.4	Powers/Functions of Rajya Sabha .....	8
4	Budgetary Process.....	8
4.1.1	Question Hour.....	13
4.1.2	Starred Questions .....	13
4.1.3	Unstarred Questions .....	13
4.1.4	Short Notice Questions .....	14
4.1.5	Zero Hour .....	14
4.1.6	Calling Attention Motion .....	14
4.1.7	Censure Motion .....	14
4.1.8	No-confidence Motion .....	14
4.1.9	Confidence Motion .....	14
4.1.10	Adjournment Motion.....	14
4.1.11	Motion of Thanks .....	15
5	President and Vice President .....	1
5.1	Election of the President .....	1
5.2	Qualification for Election of President.....	2
6	Important Facts Related to President .....	8
7	Vice President.....	9
7.1	Qualifications for Vice-President .....	10
8	Prime Minister and Union Council of Ministers .....	1
8.1	Council of Ministers.....	2
8.2	Prime Minister's Office .....	2
8.3	Salary and Allowances.....	2
8.3.1	Micellaneous functions of Prime Minister .....	3
8.4	Cabinet .....	1

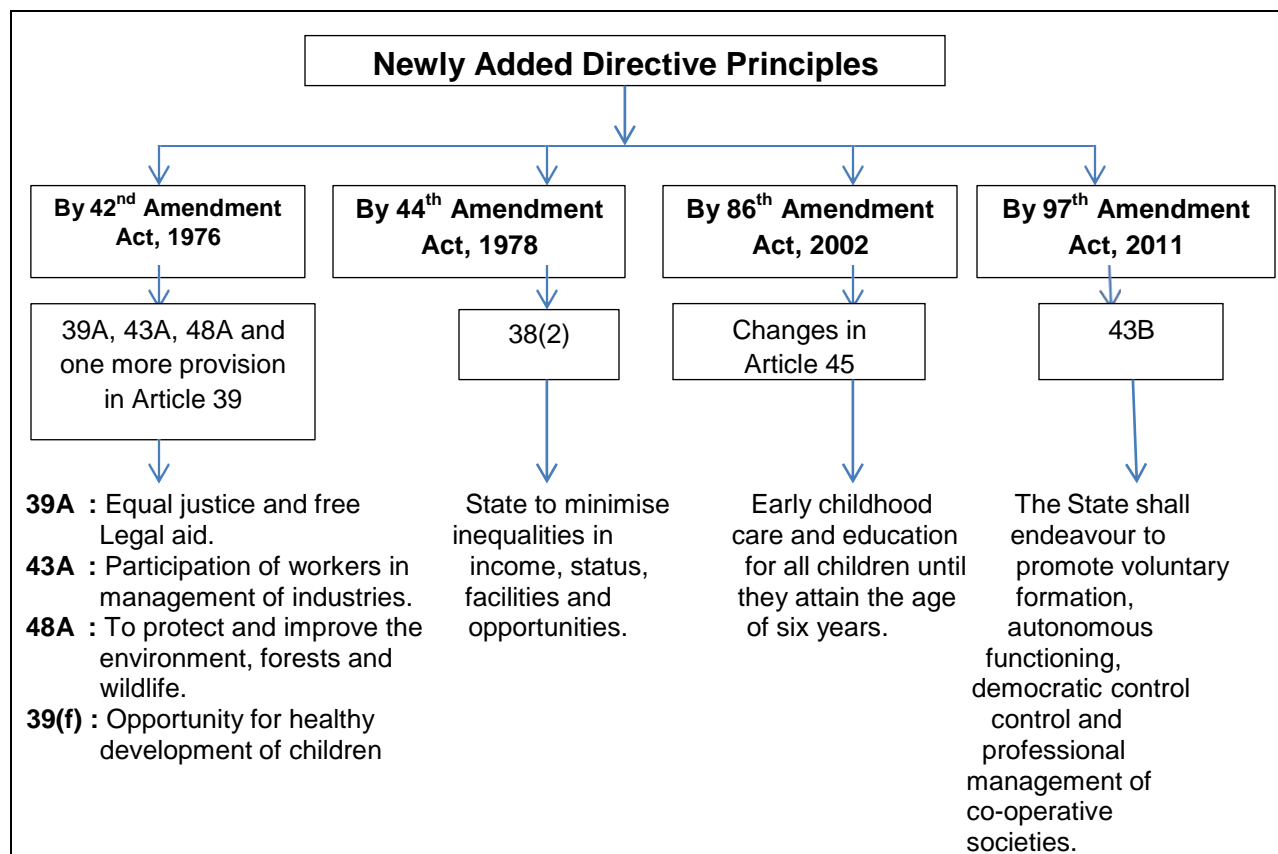
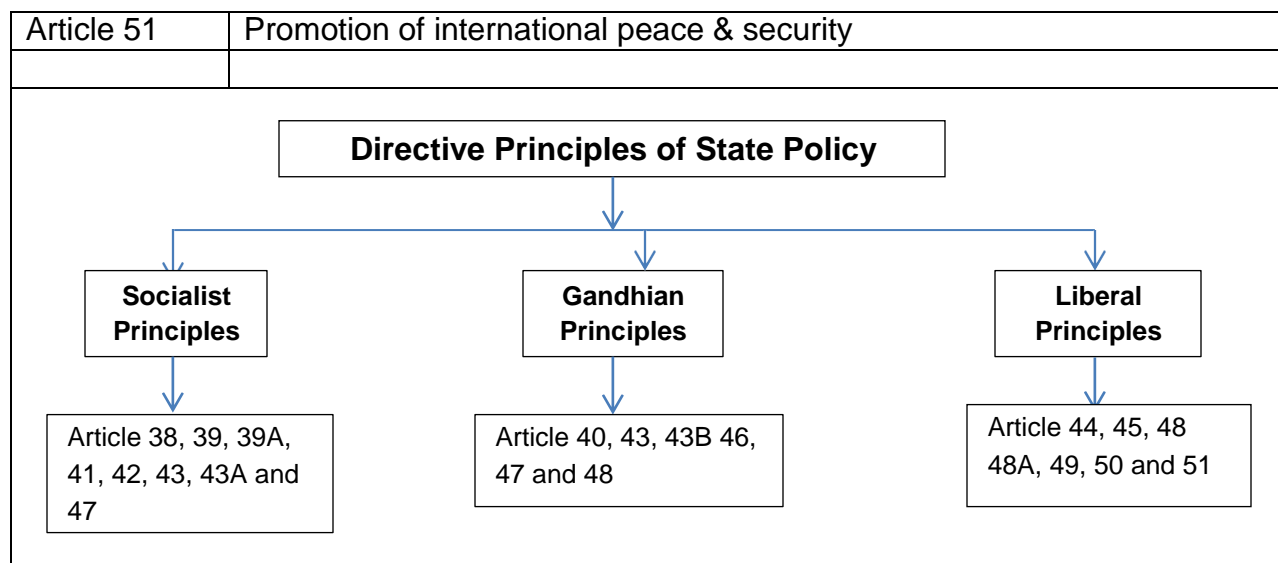
## 1 Directive Principles of State Policy

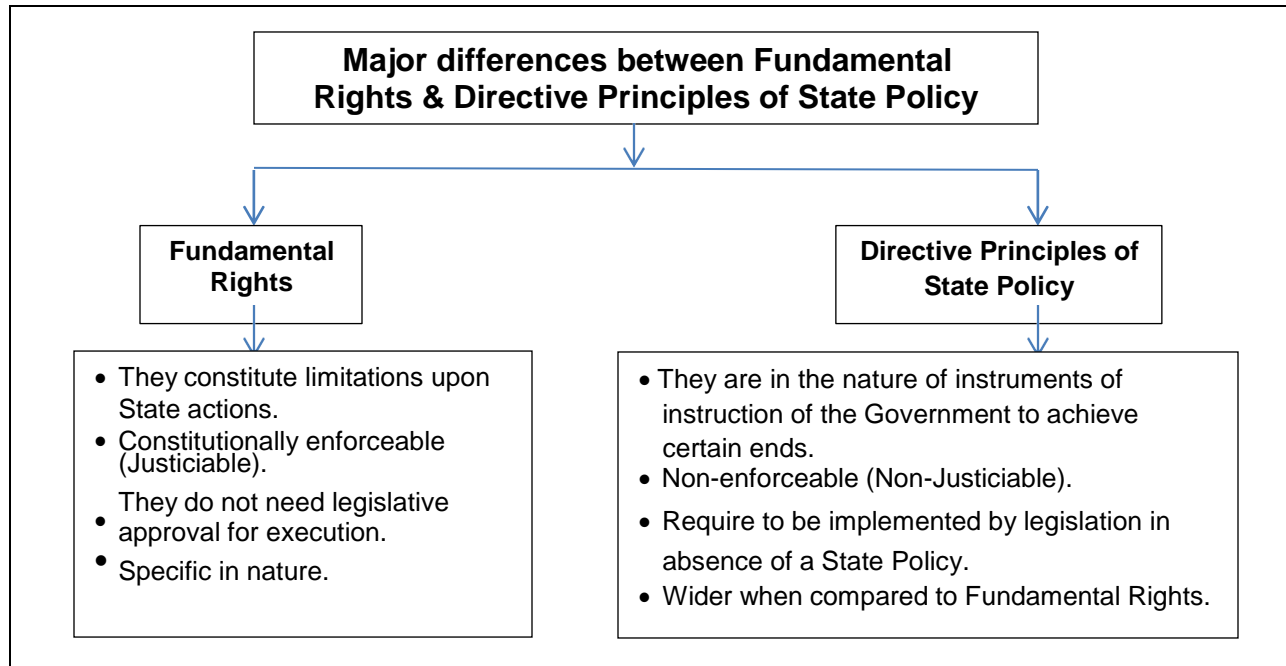
- Directive Principles of State Policy (DPSPs) are the principles or guidelines for law making to Indian State.
- Directive Principles contained in Part IV (Article 36 – 51) of the Constitution have been borrowed from Irish Constitution.
- These principles aim to establish social and economic democracy through a welfare State.
- Directive Principles are like the Instrument of Instructions given in Government of India Act, 1935.

At present under Article 31(c), a law can be protected if it implements Article 39(b) or (c) and not all Directive Principles.

- DPSP are non-justiciable in nature and were incorporated in the Constitution as Directives to the Union to draft future policies to ensure socio-economic democracy.

Directives Principles of State Policy Part IV (Article 36 – 51)	
Article 36	Definition of State
Article 37	Application of principles contained in this part
Article 38	State to secure a social order for the promotion of welfare of the people
Article 39	Certain principles of policy to be followed by the state
Article 39A	Equal justice and free legal aid
Article 40	Organisation of village panchayats
Article 41	Right to work, to education and to public assistance in certain cases
Article 42	Provision for just and humane conditions of work and maternity relief
Article 43	Living wage, etc, for workers
Article 43A	Participation of workers in management of industries
Article 44	Uniform Civil Code the citizens
Article 45	Provision for early childhood care and free and compulsory education for children
Article 46	Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections
Article 47	Duty of the state to raise the level of nutrition and the standard of living and to improve the public health
Article 48	Organisation of agriculture and animal husbandry
Article 48A	Protection and improvement of environment and safeguarding of forests and wildlife
Article 49	Protection of monuments, places and objects of national importance
Article 50	Separation of judiciary from executive





\*Source : COSMOS PUBLICATION, DELHI

## 2 Fundamental Duties

- Fundamental Duties are expected by the citizens of India like Directive Principles of State Policy (DPSP) are expected to be implemented by State.
- In 1976, the Congress Party set up Swaran Singh Committee to make recommendation about Fundamental Duties whose need was felt during emergency.
- Fundamental Duties were not the part of original Constitution instead added in 1976 by 42<sup>nd</sup> Amendment Act on the recommendation of Sardar Swaran Singh Committee.
- Ten Fundamental Duties were added initially in the Constitution by 42<sup>nd</sup> Amendment Act, 1976.
- This Amendment added Part IVA (Article 51A) in the Indian Constitution.
- One more duty was added in 2002 by 86<sup>th</sup> Constitutional Amendment Act raising the total number of Fundamental Duties to 11.

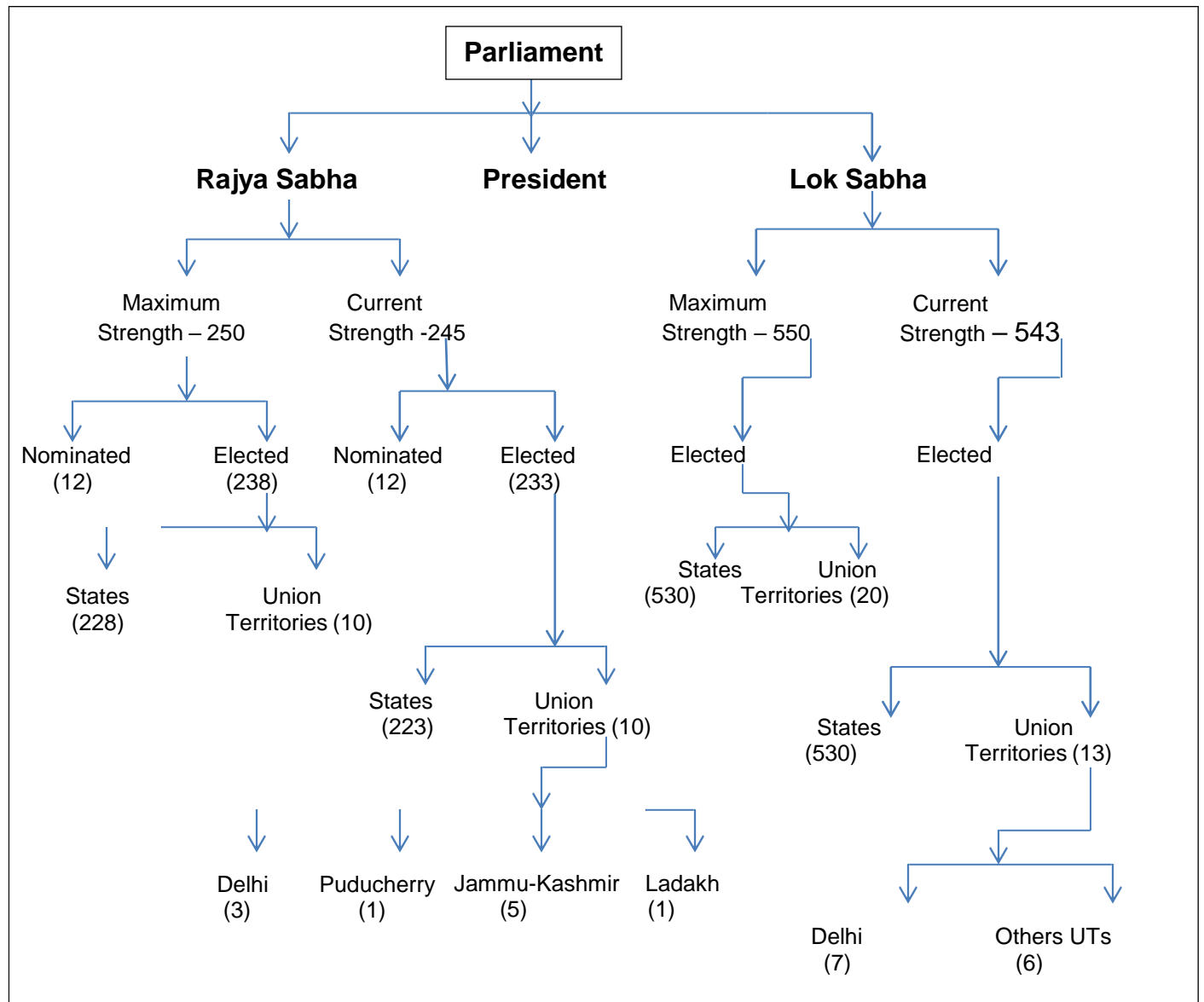
Fundamental Duties
<ul style="list-style-type: none"><li>• Part IVA (Article 51A) of the Constitution says that, it shall be the duty of every citizen of India :</li></ul>
<ul style="list-style-type: none"><li>(a) To abide by Constitution and respect its ideals and institutions, the National Flag and National Anthem;</li><li>(b) To cherish and follow the noble ideans that inspired the national struggle for freedom;</li><li>(c) To uphold and protect the sovereignty, unity and integrity of India;</li><li>(d) To defend the country and render national service when required;</li><li>(e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women;</li><li>(f) To value and preserve the rich heritage of our composite culture;</li><li>(g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;</li><li>(h) To value the scientific temper, humanism and the spirit of inquiry and reform;</li><li>(i) To safeguard public property and to abjure violence;</li><li>(j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;</li><li>(k) A parent or guardian to provide opportunities for education to his child or ward, as the case may be, between the age of six to fourteen years (86<sup>th</sup> Amendment Act, 2002).</li></ul>

- Fundamental Duties have references from USSR's and Japanese Constitution. Japanese Constitution is the only democratic constitution in the world which contains duties of citizens.

\*Source : COSMOS PUBLICATION, DELHI

### **3 Parliament**

- Parliament is the legislative wing of the Central Government in India. It is responsible for making laws.
- The Parliamentary form of government is adopted from Britain (westminster model).
- Part V (Article 79 – 123) of Indian Constitution gives the details of composition of both the Houses, sessions of Parliament, Annual financial statement, Bills, Money bill, Role of Speaker and Chairman and their election, powers, privileges of Houses and its members.
- Lok Sabha is also called House of people or Lower House, Rajya Sabha is also called as Upper House or Council of states. Lok Sabha represents people of India as whole and Rajya Sabha represents the States and Union territories.
- After Rajya Sabha passes such resolution with absolute majority then resolution has to be passed by Lok Sabha also (Article 67).



- Rajya Sabha has the special power to pass a resolution for creation of any All India Services or All India Judicial Services if Rajya Sabha considers it in national interest. If Rajya Sabha passes such resolution with special majority then only Parliament can legislate on this. (Article 312).
- If Rajya Sabha thinks that it is important or in the national interest to legislate on any State subject by Parliament then it can pass a resolution for that by 2/3 majority. Such a resolution can be initiated only in Rajya Sabha (Article 249).
- Legislation passed under Article 249 on state subject shall remain in force for one year.



- Rajya Sabha has equal powers with Lok Sabha in the process of impeachment of President, removal of judges of Supreme Court, High Court, Chief Election Commissioner and CAG.

### 3.1 Houses of Parliament

#### 3.2

#### Lok Sabha i.e. House of People

- Maximum strength of the House is 550 members of which 530 are representative of States, 20 are representative of UT's.
- To contest election of Lok Sabha the Constitution provided that :
  - (a) A person must be a citizen of India.
  - (b) Must have completed 25 years of age and should not hold Office of profit.
- Normal term of House is 5 years. Although, House can be dissolved by President at any time even before 5 years. Term of Lok Sabha can be extended during national emergency for 1 year at a time.
- Extension of the term of Lok Sabha cannot continue beyond 6 months after cease of emergency.
- Members are elected directly by people on the basis of adult franchise as prescribed in Article 326.

#### Rajya Sabha i.e. Council of States

- Total strength of House is 250 members, of which 238 are state representatives and 12 are nominated by President from fields of Arts, Science, Literature and Social service.
- At present, there are 245 members. 229 representing states, 4 for UTs and 12 nominated.
- Qualification to contest election of Rajya Sabha:
  - (a) A person must be a citizen of India.
  - (b) He must have completed 30 years of age. He should not hold any Office of profit.
- It is a permanent House as it cannot be dissolved. 1/3 members retire after every two years. Term of members of Rajya Sabha is fix for 6 years.
- Retiring members replaced with new elected members.
- Indirectly elected and can be re-elected any number times.
- Members of the Rajya Sabha are elected by the elected members of the Assemblies of States and two Union Territories of Delhi and Puducherry in accordance with the system of Proportional representation by means of single transferrable vote.

## 1.1 Disqualification of Members of Parliament

### Constitutional Provisions (Article 102)

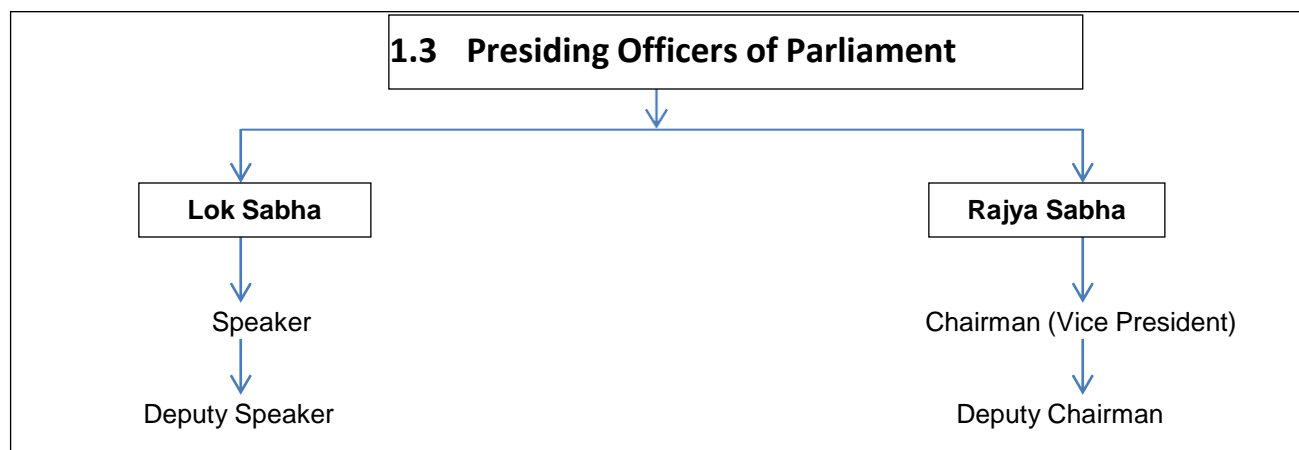
- If he holds any office of profit under Government of India or State Government (but not a minister for union or state).
- If he is of unsound mind and stands so declared by a competent court.
- If he is an undischarged insolvent.
- If he is not a citizen of India or he has voluntarily given up Indian citizenship or acquired foreign citizenship.
- If he is so disqualified by or under any law made by Parliament.
- On the question of disqualification of any member decision of President in consultation with Election Commission is final.

### Representation of People's Act, 1951

- A person who have been convicted for any offence resulting in imprisonment for 2 or more years.
- If a person has been found guilty of certain electoral offences or corrupt practices.
- If person has been dismissed from government service for corruption.
- If a person is engaged in spreading enmity between groups.
- If he is holding office of profit in government services.
- Failed to lodge election expenses on time.

### Grounds of Defection under 52<sup>nd</sup> Amendment Act 1985 (Schedule – 10)

- He gives up membership of a party on whose ticket he was elected.
- He defects or joins another party.
- He votes against whip or party or abstains from voting against party will.
- He is a nominated member and joins any political party after 6 months.
- A member elected as an independent candidate shall be disqualified if he joins any political party after his election.



- Speaker is the Presiding officer of Lok Sabha. He presides over the meetings of the House of people, maintains the order of the house and the interprets the rules of procedure for the proceedings of house.
- Speaker chairs the Joint session of both the houses and is the sole authority to decide if a bill is Money bill or not.

<b>Constitutional Provisions related to Parliament : Part V, Chapter II</b>	
<b>Article 79</b>	Constitution of Parliament
<b>Article 80</b>	Composition of the Council of States/Rajya Sabha
<b>Article 81</b>	Composition of the House of People/Lok Sabha
<b>Article 83</b>	Duration of Houses of Parliament
<b>Article 84</b>	Qualification for membership of Parliament
<b>Article 85</b>	Sessions, Prorogation and Dissolution
<b>Article 89</b>	Chairman and Deputy Chairman of Council of States
<b>Article 93</b>	Speaker and Deputy Speaker of the House of People
<b>Article 102</b>	Disqualification for membership
<b>Article 105</b>	Powers and Privileges of the Houses of Parliament
<b>Article 108</b>	Joint Sitting of the House
<b>Article 110</b>	Definition of Money Bills
<b>Article 111</b>	Assent to Bills
<b>Article 112</b>	Annual Financial Statement
<b>Article 114</b>	Appropriation Bills
<b>Article 116</b>	Votes on account
<b>Article 117</b>	Finance Bills
<b>Article 120</b>	Language used in Parliament
<b>Article 122</b>	Courts not to inquire into Parliamentary proceedings
<b>Article 123</b>	Ordinance making Power of President

- Speaker and Deputy Speaker are elected by the house from its members by a simple majority of members present and voting.
- He can be removed by a resolution of the House by absolute majority. He should be given a 14 day notice before such a resolution. Resolution must have 50 members support in order to be introduced.
- Vice-President of India is the ex-officio Chairman of Council of States (Article 64). He presides over Rajya Sabha as its Chairman and remains in office as long as he functions as Vice-President of India.
- He is removed from office only as Vice-President of India.
- Vice-President can be removed from the office if Rajya Sabha passes a resolution by an absolute majority and Lok Sabha approves the resolution by a simple majority.

#### **Leader of Opposition**

- The post Leader of Opposition existed earlier also but got statutory recognition in the Salaries and Allowance of Leader of Opposition in the Parliament Act, 1977.
- Each house has a leader of opposition who is leader of the largest opposition party that has not less than one-tenth of the total strength of the house.

### **3.3 Powers and Functions of Lok Sabha and Rajya Sabha**

- Lok Sabha has special powers with regard to Money Bills. Money Bills can be introduced only in Lok Sabha. After passage of Money Bill in Lok Sabha it is sent to Rajya Sabha.
- Rajya Sabha has to return the bill to Lok Sabha within 14 days with or without any recommendations. If Rajya Sabha does not return the Money bill within 14 days then Bill is considered to be passed and if Rajya Sabha returns the Bill with amendments then too it is up to Lok Sabha whether to accept the changes or not.
- Any constitutional amendment bill can be introduced in either house like ordinary bill. Whether it is Ordinary Bill or Constitutional amendment bill it must be passed by both the house of Parliament.
- In case of disagreement on ordinary bill, there is a provision for joint sitting of both houses (Article 108) where, deadlocks are resolved by majority both the members of the house present and voting.

- Joint sitting is presided by Speaker of the Lok Sabha or in his absence the Deputy Speaker of the Lok Sabha or in his absence Deputy Chairman of the Rajya Sabha.

Joint-Sitting (Article 108) cannot take place for Constitutional Amendment Bill (Article 368) or the Money Bill.

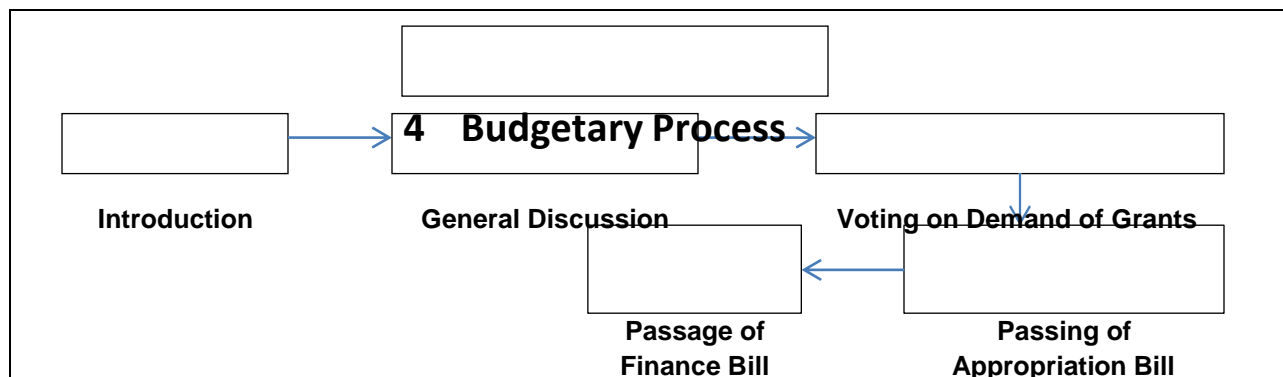
Voting on demand for grants can take place only in Lok Sabha.

### 3.4 Powers/Functions of Rajya Sabha

- A resolution of remove the Vice-President can be introduced in Rajya Sabha only.

Sessions of Parliament				
February – May	Recess	July – September	Recess	November - December
Budget Session		Monsoon Session		Winter Session

Adjournment, Prorogation and Dissolution of the House		
Adjournment	Prorogation	Dissolution
This is the suspension of proceedings of house for hours, days or weeks. This is under a session.	This is the termination of the session of the house. This can be done even when the house is adjourned.	This ends the tenure of Lok Sabha. General elections must be held for the new house of people after dissolution.
This is done by the presiding officer of a House.	This is done by President on the recommendation of Council of Ministers.	President dissolves the Council of Ministers recommend (in case of end of tenure) or when Council of Minister loses majority in the House of People.



Voting on demand is an exclusive privilege of the Lok Sabha.

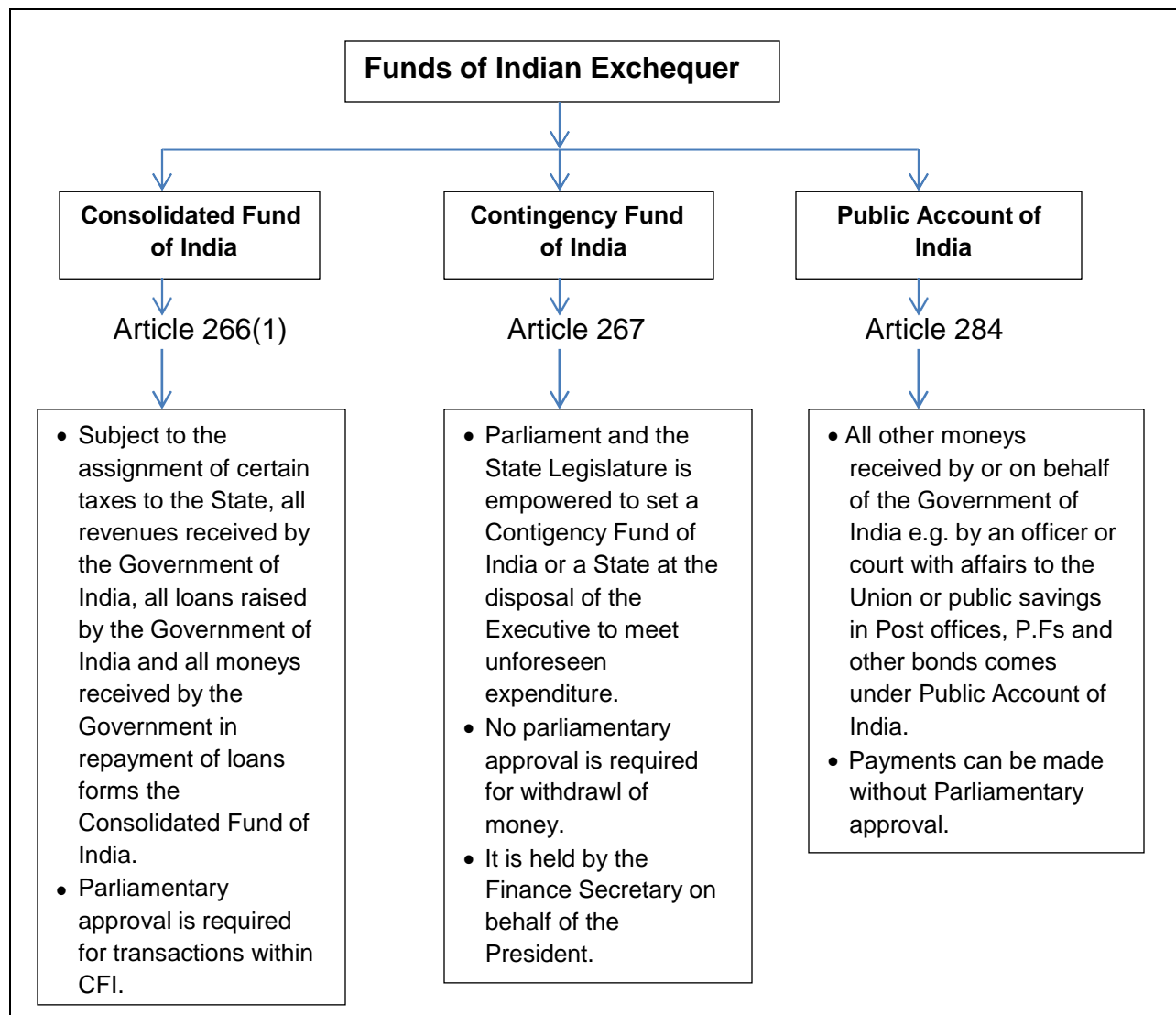
Appropriation Bill is passed as a Money Bill, under the condition that no amendment is proposed at this stage, changing/altering the amount of any grant made earlier.

#### **Important facts related to Budget**

- First Budget was introduced by East India Company on April 6, 1860.
- RK Shanmukham Chetty was the first Finance Minister who presented Independent India's first Union Budget on November 26, 1947.
- Morarji Desai has presented the most number of Budgets at ten, followed by P. Chidambaram's nine and Pranab Mukherjee's eight. Yashwant Sinha, Yashwantrao Chavan and CD Deshmukh have presented seven budgets each and Manmohan singh and TT Krishnamachari six each.
- Union Budget was announced at 5pm on the last working day of February until 1999, a practice inherited from the British era.
- Finance Minister Arun Jaitley stated presenting the Union Budget on February 1 from 2017. Rail budget was merged with Union Budget in 2017.

#### **Expenditure Charged upon the Consolidated Fund of India/Non-Voted Part [(Article 112(3))]**

- Emolument and allowances of the President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha.
- Debt Charges of Government of India.
- Salaries, allowances and pensions of Supreme Court Judges and CAG.
- Pension of High Court Judges.
- Sums satisfying any Judgement, decree or award of any court or arbitral tribunal.



#### 1.4 Imported Provisions related to

##### Public Bill

- Introduced by a Minister in either of the House.
- It's introduction requires 7 day's notice.
- It can be detained for a maximum period of 6 months by the house other than the one, where the bill originated.
- In case of a deadlock, a provision of joint sitting between both the houses is provided, which is summoned by the President and presided by the speaker.
- President can apply suspensive Veto or Pocket Veto.

##### Private Member Bill

- Introduced by a member of either of the House, other than a minister.
- It's introduction requires one month notice.
- President can apply Absolute Veto.

##### Money Bill

- Can be introduced only by a Minister, only in Lok Sabha.
- It can be introduced only on the recommendation of the President and requires the certification of the Speaker, when transmitted to Rajya Sabha.
- It can be detained by Rajya Sabha for a maximum duration of 14 days.
- There is no provision of joint sitting.
- It's defeat in the Lok Sabha leads to the resignation of the Government.

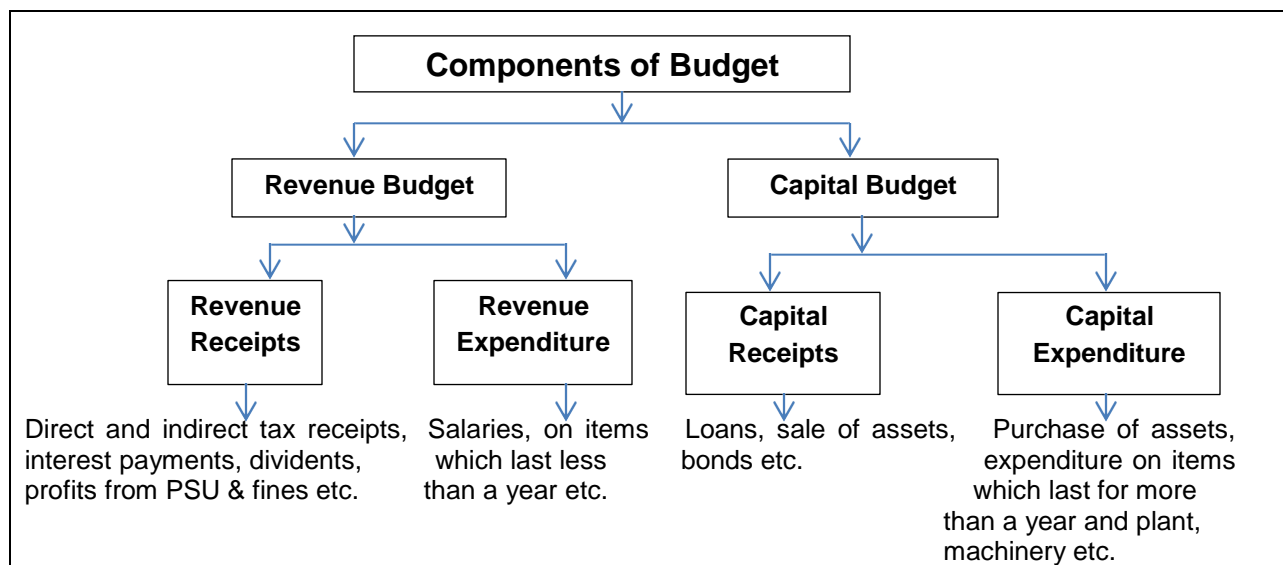
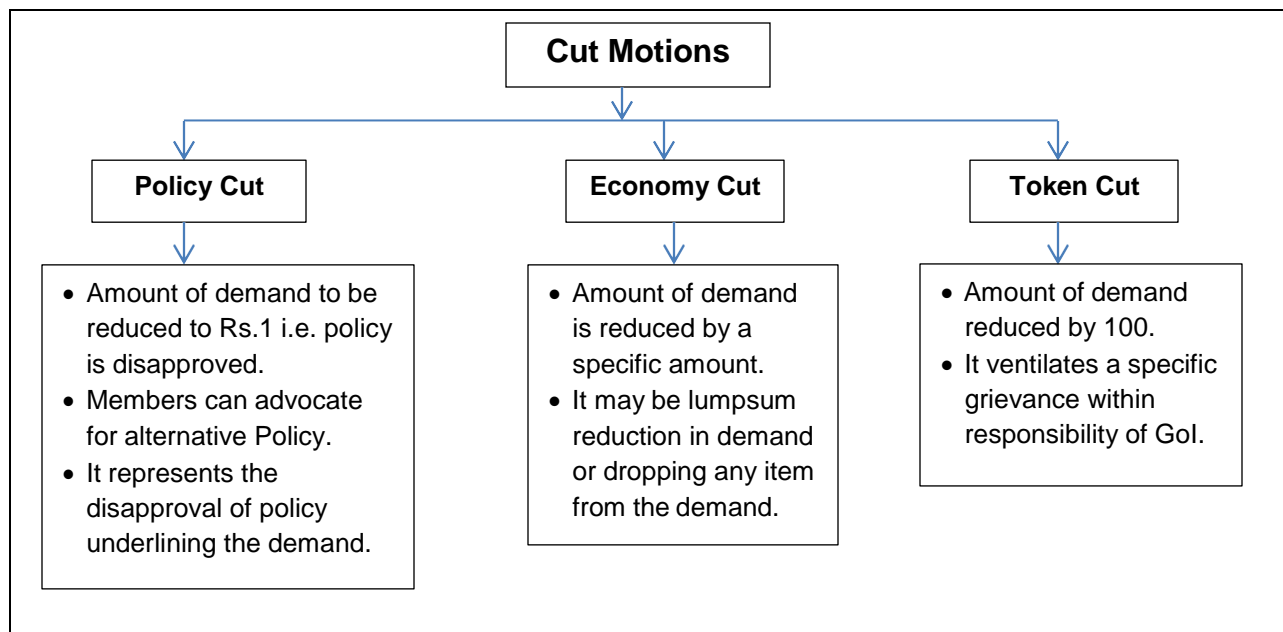
##### Finance Bills Type – I & II

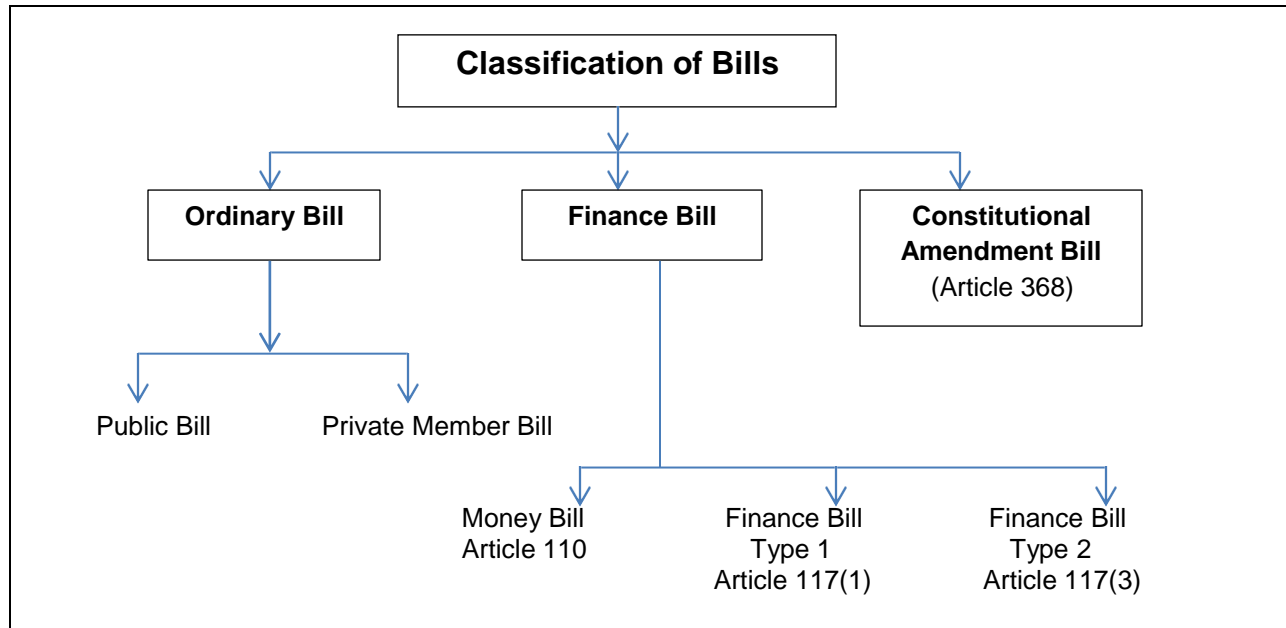
- Finance Bill Type – I can be introduced only in Lok Sabha on the prior approval of the President.
- There is a provision of joint sitting in case of a deadlock.
- Finance Bill Type – 2 is treated like an ordinary bill with similar provisions.

##### Constitutional Amendment Bill

- Can be introduced in either of the House.
- There is no provision of joint sitting, since the bill needs to be passed by both the houses by a special majority.
- In case of bills dealing with the federal structure, the bill needs to be ratified by half of the State legislatures by a simple majority.







- Bills can be Public Bills (introduced by a minister) or it can be Private Bill (introduced by a member of House who is not a minister).
- 7 days notice is required for Public Bill while one month notice and leave of the house for introduction of Bill should be taken in private members' Bill.

If Bill is passed by a simple majority of members present and voting in joint sitting then it is considered to be passed by both the houses.

#### 4.1.1 Question Hour

- This is first hour of Parliament sitting. Members of Parliament ask questions to ministers, who have to reply for those questions.

#### 4.1.2 Starred Questions

- These are the questions on which ministers give oral reply and if member is not satisfied by the answer then he can ask supplementary questions with permission of speaker.
- These have star mark with questions.

#### 4.1.3 Unstarred Questions

- These are the questions whose reply is given in written form.
- These questions are not labelled with stars and hence called unstarred questions.

#### **4.1.4 Short Notice Questions**

- These are the questions of public importance and can be asked with a short notice of less than 10 days. These are answered orally.
- These are answered after starred questions are replies.
- Date for the answer is fixed as suggested by minister.

#### **4.1.5 Zero Hour**

- During this time after Question hour when members raise questions on different issues without prior notice.

<b>It is not mentioned in rules of procedure.</b>
---

#### **4.1.6 Calling Attention Motion**

- This is the motion moved by a member to raise the matter of public importance. It is mentioned in rules of Procedure.

#### **4.1.7 Censure Motion**

- This is the motion moved for censuring the specific policy and actions against any minister or council of ministers.

<b>Censure motion can be introduced only in Lok Sabha.</b>
--

#### **4.1.8 No-confidence Motion**

- This motion is for showing that government has lost its majority and if this motion is passed then Council of ministers has to resign.

#### **4.1.9 Confidence Motion**

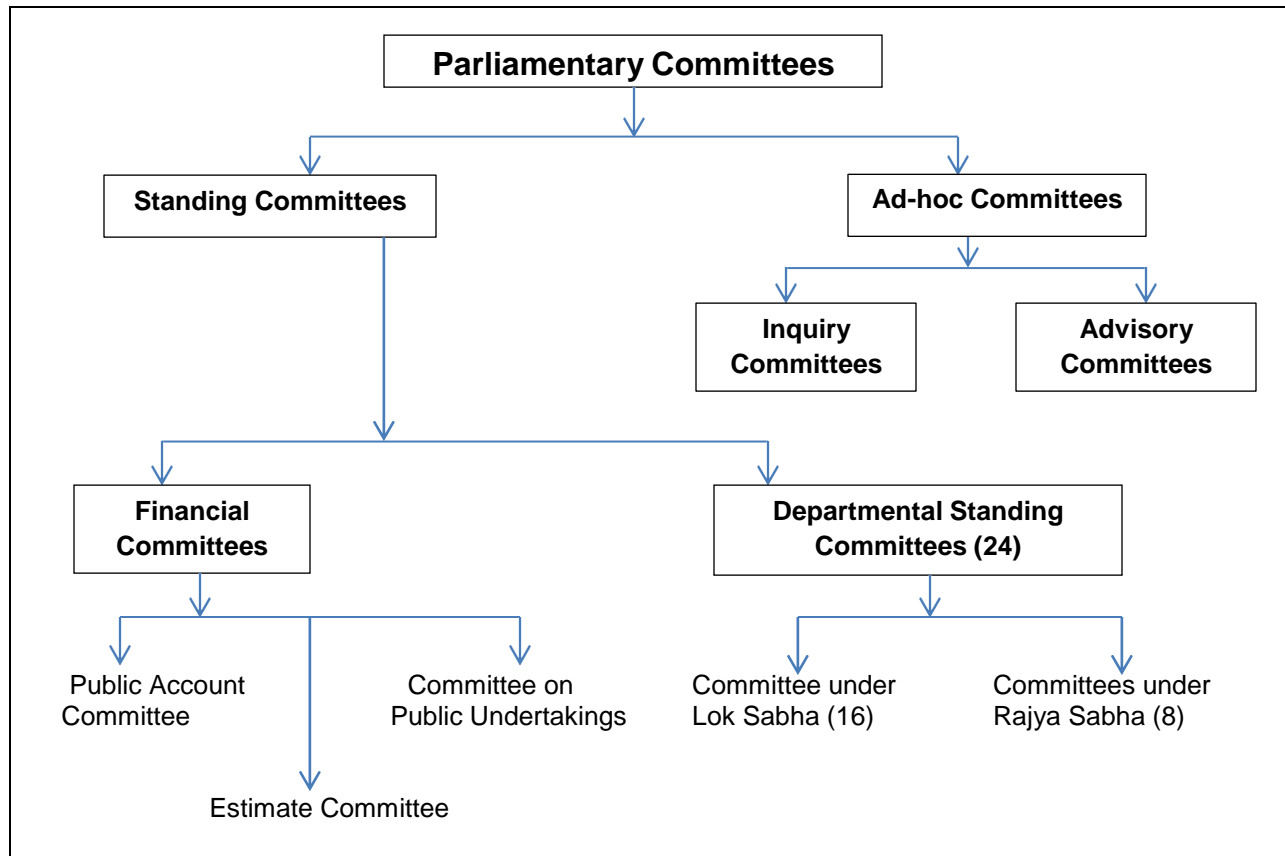
- This motion is introduced by ruling government to prove confidence or support of majority in Lok Sabha.

#### **4.1.10 Adjournment Motion**

- This motion is introduced to draw attention of the house towards a recent matter of urgent public importance.

#### 4.1.11 Motion of Thanks

Every first session of the year and first session after general election is addressed by the President. If this motion is not passed then ministry has to resign from office.



\*Source : COSMOS PUBLICATION, DELHI

## **5 President and Vice President**

- India adopted the parliamentary system of government under which President is the Head of the State but he is a nominal head (de-jure). The real power lies in the hands of Prime Minister (Head of the Government) who is de-facto ruler.
- Part V of Indian Constitution deals with the Union Executive (Articles 52 to 78). Union Executive comprises of the President, the Vice President, the Prime Minister, the Council of Ministers and the Attorney General of India.
- Under Chapter I of Part V, provisions regarding qualification, election, impeachment etc. of the President of India are provided (Article 52 to 62).
- President is an integral part of the Parliament. All the executive powers of the Union are vested in the President which shall be exercised by him directly or through officer subordinate to him (Article 53).

### **5.1 Election of the President**

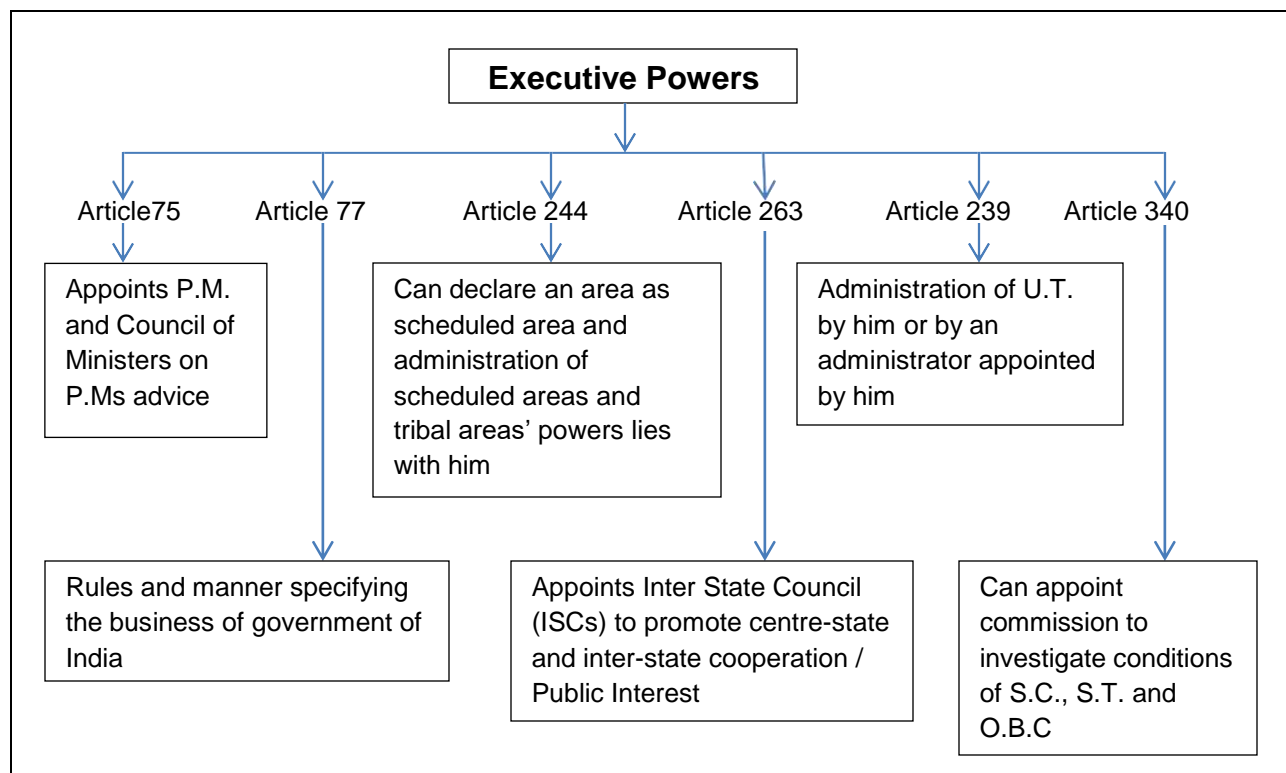
- President of India is elected by Indirect election i.e. by an electoral college in accordance with the system of proportional representation by means of single transferrable vote.
- Electoral college consists of – elected members of both the Houses of Parliament, elected members of Legislative assembly of the States and elected members of Union Territories of Delhi and Puducherry.
- Method of Election of President is taken from the Irish Constitution. Any doubts and disputes related to election of President can be challenged only in the Supreme Court of India, which is final.
- When a permanent vacancy occurs in the office of President due to death, resignation or removal, the Vice President acts as President and discharges the functions of office of the President until the new president enters upon his office [Article 65(1)]. Parliament enacted President (Discharge of functions) Act 1969, under which CJI and in his absence seniormost judge of SC can act as President in case of vacancy.
- The Constitution also provides that the election to fill the vacancy should be conducted within six months of vacancy.

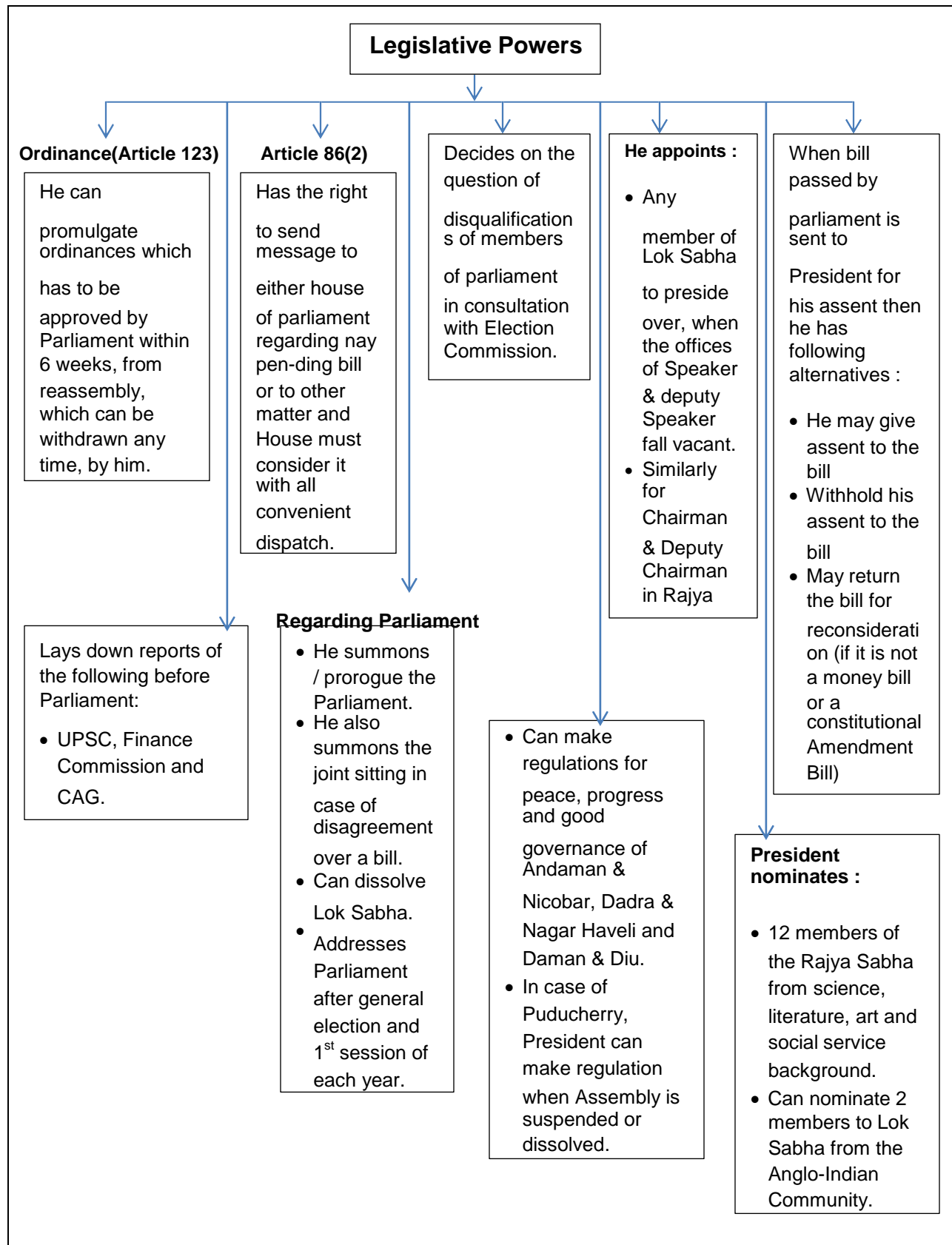
## 5.2 Qualification for Election of President

- A person must : be a citizen of India, have completed 35 years or age, be qualified for election as member of House of People (Lok Sabha).
- President takes an oath administered by Chief Justice of India and in his absence by senior most judge of the Supreme Court.
- An acting President, who is temporarily discharging the functions of the President shall also be administered oath before entering the office.
- The term of President office is 5 years from the date on which he enters upon his office and he is eligible for re-election (Article 56-57).
- He may resign before the term of 5 years by giving resignation to the Vice-President.
- He can be impeached from his office for the violation of Constitution (Article 61). But the term violation of Constitution is not mentioned in the constitution.
- For President's impeachment, a resolution signed by not less than 1/4<sup>th</sup> of the total members of the house could be initiated in either house, after 14 days' prior notice to President in writing.
- The Resolution should be passed by a majority of the house not less than two-third of the total membership of the house in which the resolution originates.
- The other house investigates the charge and the resolution passed by not less than two-third of the majority of membership of that house, the President stands removed.
- The nominated members of either House of the Parliament can take part in the impeachment process, but the elected members of State Assemblies and UT of Delhi and Puducherry do not take part in the impeachment.
- The current salary of the President is 5 Lakh/month since the Union Budget, 2018-19.

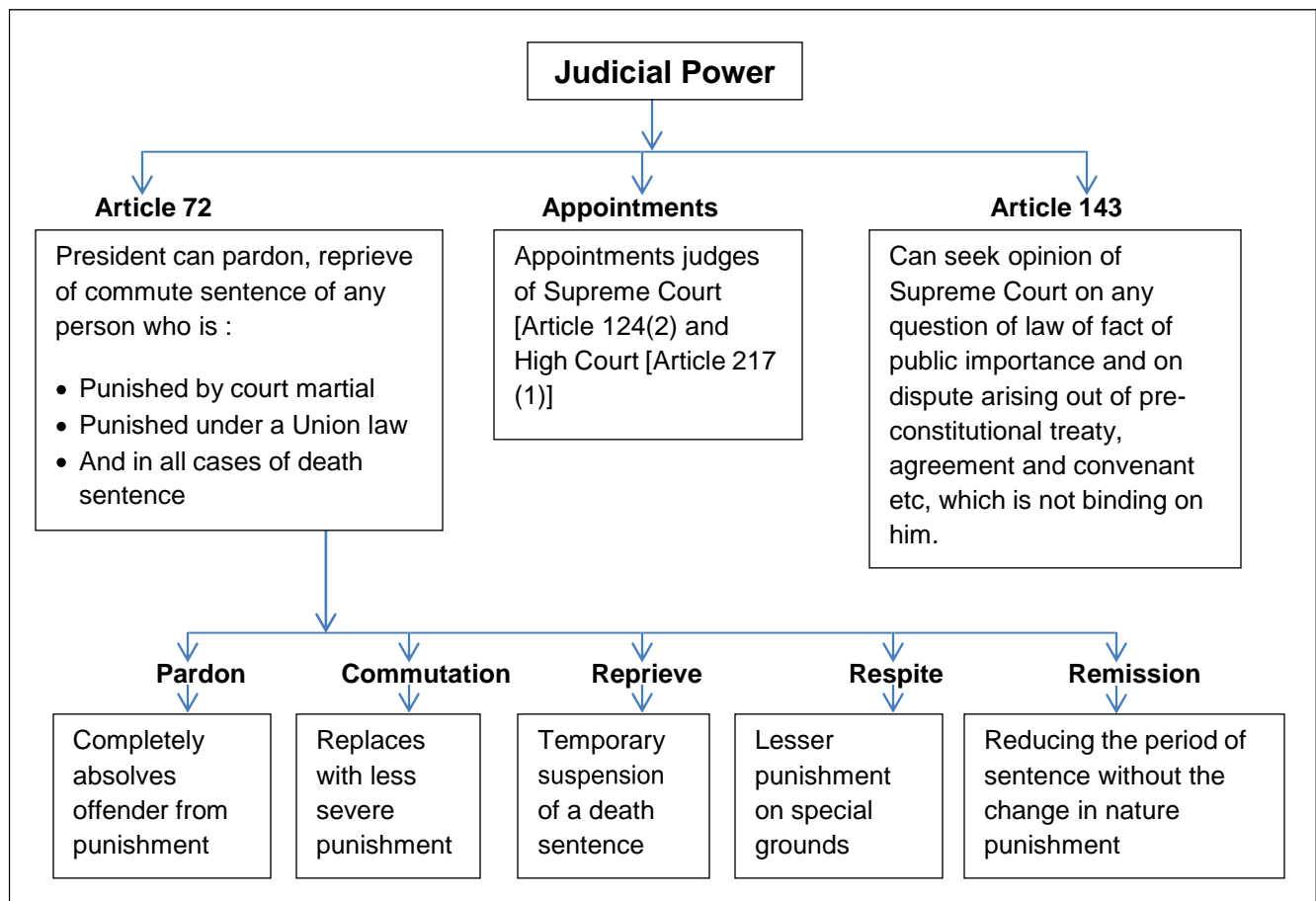
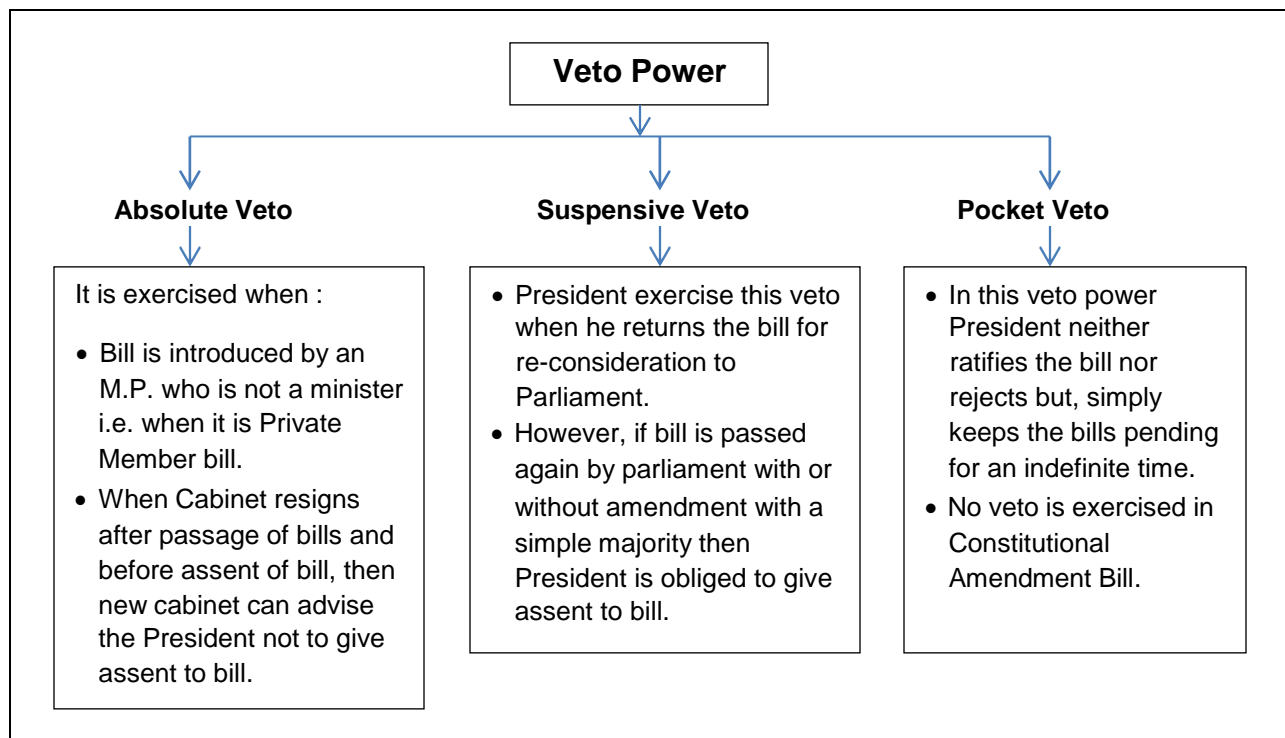
### Appointments by President

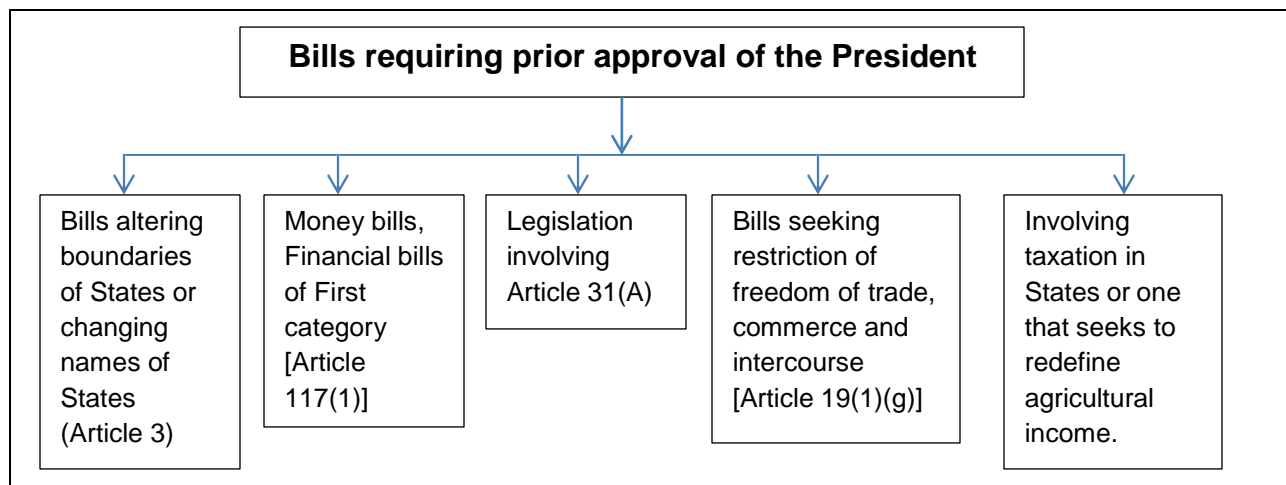
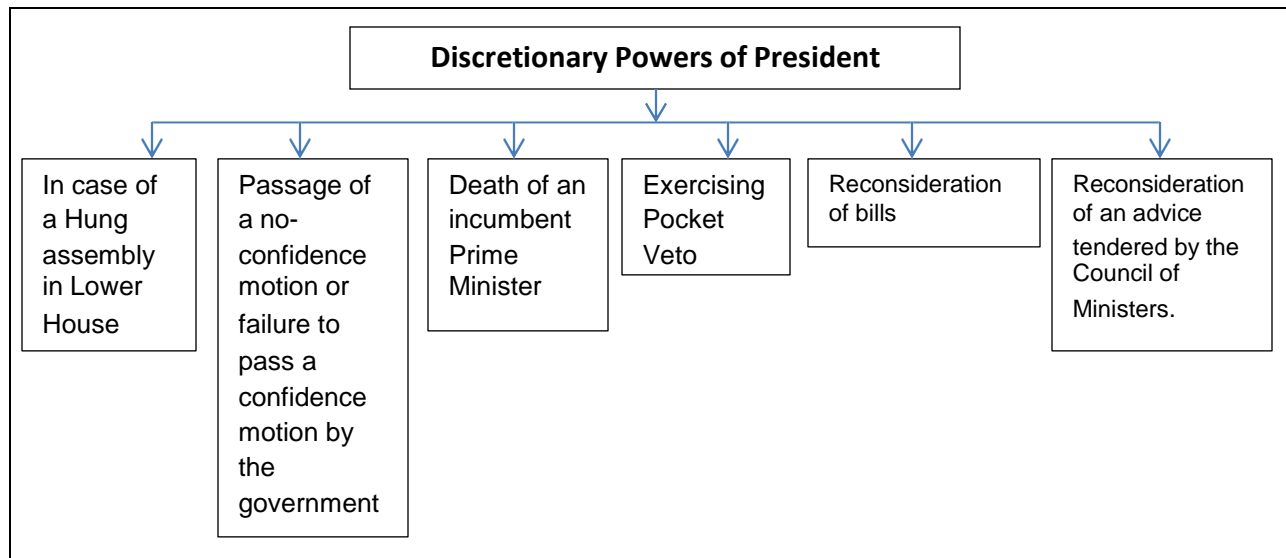
- Prime Minister and Council of Ministers on the advice of Prime Minister (Article 75).
- Attorney General of India (Article 76).
- Comptroller and Auditor General (Article 148)
- Supreme Court and High Court Judges
- Chief Election Commission (Article 324)
- Finance Commission (Article 280)
- UPSC and JPSC members (Article 316)
- Special officer for S.C./S.T.
- Official Language Commission (Article 344)
- Governor (Article 155)
- Special officer for linguistic minorities [(Article 350(B))]

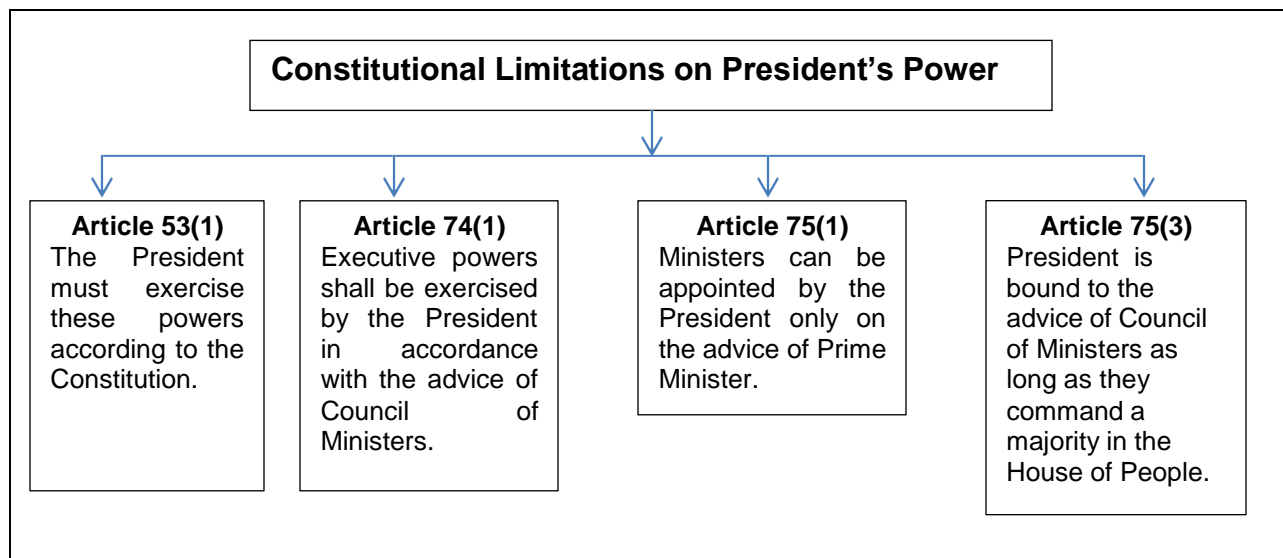
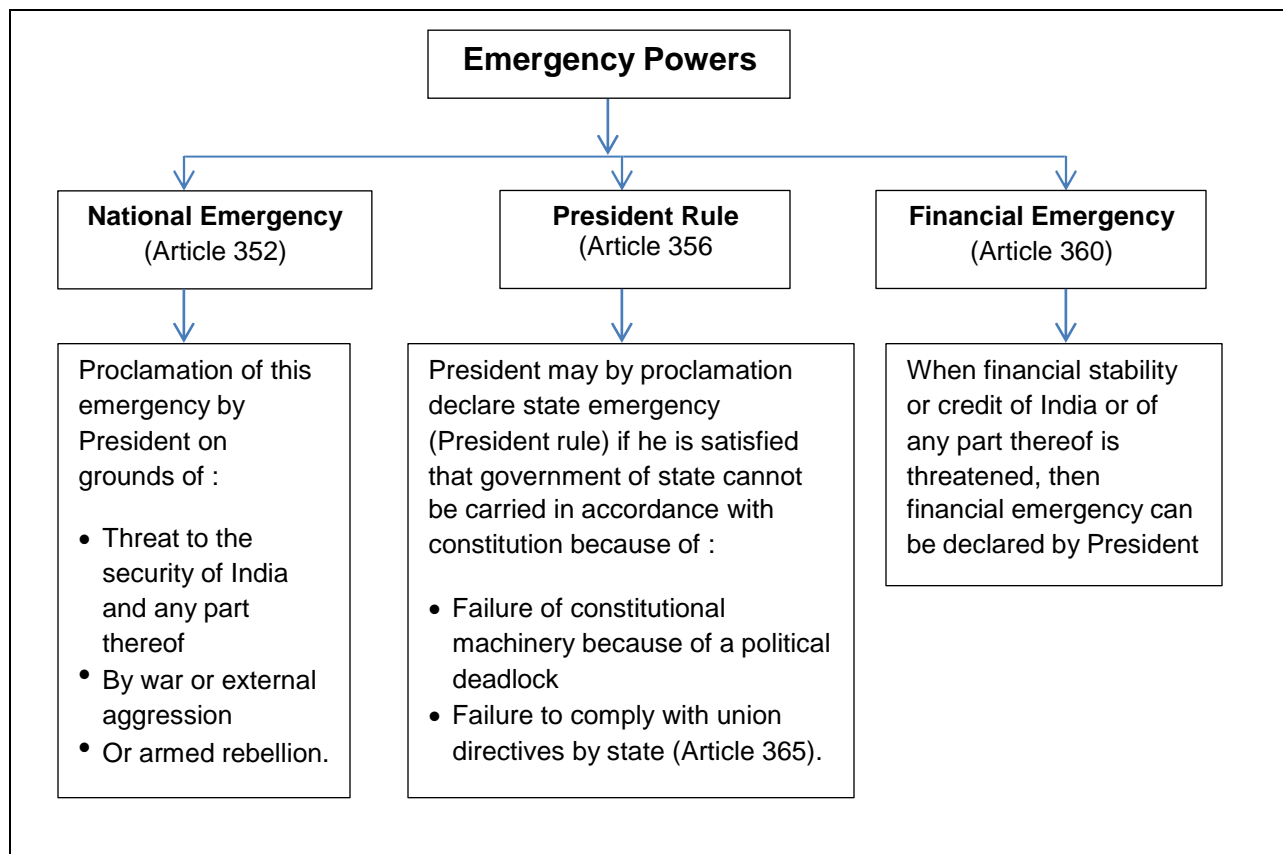












## 6 Important Facts Related to President

- Impeachment process of President is taken from the U.S. Constitution.
- Second Schedule of the constitution is related to emoluments, allowances and privileges of President.
- Governor may reserve any State bill for consideration of the President, if he thinks that bill is of national importance (Article 201). Although, in case of the bill affecting High Court's powers it's compulsory to keep the bill for President's consideration.
- In the last sitting of Constituent Assembly, Dr. Rajendra Prasad was elected Interim President unanimously (14 Jan 1950). He was the 1<sup>st</sup> President of India and also the longest serving.
- Dr. Sarvapalli Radhakrishnan was 1<sup>st</sup> Vice-President and 2<sup>nd</sup> President of India. Teacher's Day is celebrated on his birthday (5 September).
- Zakir Hussain was 1<sup>st</sup> Muslim President and 3<sup>rd</sup> in row. He was shortest serving President.
- Fakruddin Ali Ahmed and Zakir Hussain were the only two Presidents who died in office.
- Varahgiri Venkata Giri was the first who became acting President of India. He was the only one, who won during second round of counting of votes with a narrow margin.
- There have been 3 interim Presidents and 14 full-time Presidents till date. Varahagiri, Mohamad Hidayatullah and B.D. Jatti were Interim Presidents.
- Giani Zail Singh was the 1<sup>st</sup> Sikh President. Operation Bluestar and anti Sikh riots happened during his tenure.
- Kocheril Raman Narayan was the 1<sup>st</sup> Dalit President and the oldest President of India.
- Dr. APJ Abdul Kalam was popularly known as People's President.
- V.V. Giri was the only President to resign from acting President to contest election of President.
- M. Hidaytullah was the 1<sup>st</sup> CJI to be appointed as an acting president.
- APJ Abdul Kalam and V.V. Giri were the President who received Bharat Ratna.

- Pratibha Patil was the 1<sup>st</sup> woman President of India. She was 12<sup>th</sup> in row.
- Neelam Sanjiva Reddy was the only President who won unopposed election. He was also the youngest President at the age of 64.
- Ramnath Kovind is the 14<sup>th</sup> President of India.

List of Presidents		
1.	Dr. Rajendra Prasad	January, 1950 - May 1962
2.	Dr. S. Radhakrishnan	May, 1962 – May 1967
3.	Dr. Zakir Hussain	May, 1967 – May 1969
•	V.V. Giri	May, 1969 – July, 1969
•	Mohammad Hidayatullah	July, 1969 – August 1969
4.	V.V. Giri	August, 1969 – August 1974
5.	Fakhrudding Ali Ahmed	August, 1974 – February, 1977
•	B.D. Jatti	February, 1977 – July, 1977
6.	N. Sanjeeva Reddy	July, 1977 – July, 1982
7.	Giani Zail Singh	July, 1982 – July, 1987
8.	R. Venkataraman	July, 1987 – July, 1992
9.	Dr. Shankar Dayal Sharma	July 1992 – July, 1997
10.	K. R. Narayanan	July, 1997 – July, 2002
11.	Dr. A.P.J. Abdul Kalam	July, 2002 – July, 2007
12.	Ms. Pratibha Patil	July, 2007 – July, 2012
13.	Pranab Mukherjee	July, 2012 – July, 2017
14.	Ram Nath Kovind	July, 2017 – till recent

## 7 Vice President

- Vice-President performs the duties of President only in his absence, illness, death, removal, resignation or otherwise.
- When the vacancy of President falls vacant permanently due to resignation, death, removal, then election have to be conducted within 6 months and till then Vice-President assumes the office as an acting President.
- Vice President is the ex-officio Chairman of the Rajya Sabha.
- The office of Vice President is taken from the American Constitution.

- When President is unable to discharge his duties due to illness, absence or any other reason, then Vice-President holds office of President until he resumes office.
- When Vice-President functions as President he gets salary, allowances, privileges and emoluments of office of President of India.

## **7.1 Qualifications for Vice-President**

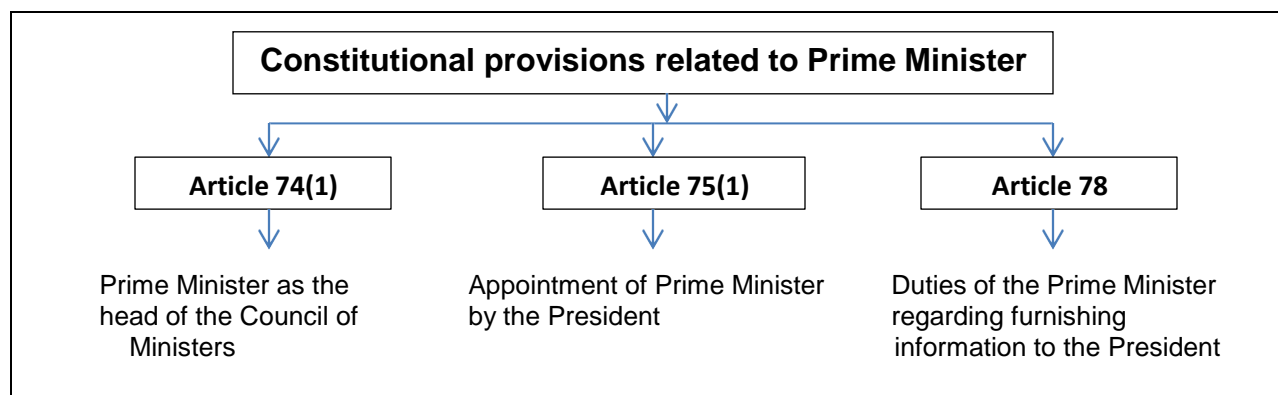
- To contest the election of the Vice-President a person must be : A citizen of India, above age of 35 years, must not hold office of profit, must be qualified for election of a member of Council of States (Rajya Sabha) and he shall not be a member of either House or Parliament.
- Vice-President is elected by both the houses of Parliament. It is an indirect election by system of proportional representation with single transferrable vote system, by Secret Ballot.
- In the election of Vice-President, both elected and nominated members of Houses of Parliament participate.
- Vice-President's hold office for a term of 5 years from the date he assumes office. He can resign before the expiry of his term by giving his resignation to the President. He can also be removed from his office by a resolution passed in Rajya Sabha and supported by Lok Sabha.
- Dr. Sarvapalli Radhakrishnan (1952-62) and Hamid Ansari (2007-2017), were the two Vice Presidents with the longest serving tenure of 10 years (2 terms).
- This oath is administered to Vice-President by President of India or a person appointed by him on his behalf.
- Vice-President gets salary, emoluments, allowances etc. as Chairman of Rajya Sabha. Since the Budget of 2018, Vice-President gets 4 Lakh salary per month.

<b>List of Vice Presidents</b>		
1.	Dr. S. Radhakrishnan	1952
2.	Dr. S. Radhakrishnan	1957
3.	Dr. Zakir Hussain	1962
4.	V.V. Giri	1967
5.	G.S. Pathak	1969
6.	B.D. Jatti	1974
7.	M. Hidayatullah	1979
8.	R. Venkataraman	1984
9.	Dr. Shankar Dayal Sharma	1987
10.	K.R. Narayanan	1992
11.	Krishna Kant	1997
12.	B.S. Shekhawat	2002
13.	Mohd. Hamid Ansari	2007
14.	Mohd. Hamid Ansari	2012
15.	Venkaiah Naidu	2017

\*Source : COSMOS PUBLICATION, DELHI

## 8 Prime Minister and Union Council of Ministers

- Prime Minister is the Head of the Government and real executive authority.



- Dr. B.R. Ambedkar said that if any functionary under our Constitution is to be compared with the US President, he is the Prime Minister and not the President of India.
- Prime Minister is appointed by the President. Article 75(1) states that Prime Minister shall be appointed by the President and other ministers shall be appointed by President on the advice of Prime Minister.
- President appoints the Prime Minister who is the leader of the party which won majority seats in the Lok Sabha elections.
- President appoints the leader of largest party as Prime Minister and asks him to prove majority or seek a vote of confidence within a month in case of lack of majority.
- By convention, Prime Minister generally belongs to Lok Sabha. But, in our Parliamentary history there have been Prime Minister's from Rajya Sabha [e.g. I.K. Gujral (1997), Indira Gandhi (1966), Dr. Manmohan Singh (2004)].



## 8.1 Council of Ministers

- India has adopted a Parliamentary system of Government in which Council of Ministers headed by Prime Minister is the real executive authority.

Council of Ministers		
Cabinet Ministers	Ministers of State	Deputy Ministers
<ul style="list-style-type: none"><li>These Ministers handle the most important portfolios of Government. e.g. Home Ministry, Finance, Defences, External Affairs etc.</li></ul>	<ul style="list-style-type: none"><li>These Ministers are either given independent charge of any ministry, department or attached to the Cabinet Ministers.</li></ul>	<ul style="list-style-type: none"><li>These Ministers are generally attached the with Cabinet Ministers or Ministers of State.</li></ul>
<ul style="list-style-type: none"><li>These are Cabinet Members and play important roles in making policies of government.</li></ul>	<ul style="list-style-type: none"><li>When they are attached with Cabinet Ministers, they may get charge of particular department or particular task of work in that ministry.</li></ul>	<ul style="list-style-type: none"><li>They are not given independent charge &amp; usually assist Ministers and Ministries in functioning.</li></ul>
<ul style="list-style-type: none"><li>Entire Government machinery revolves around them.</li></ul>	<ul style="list-style-type: none"><li>They are not cabinet members and do not attend it's meetings unless invited on any matter related to their ministry or department.</li></ul>	<ul style="list-style-type: none"><li>They do not attend meetings of the Cabinet.</li></ul>

## 8.2 Prime Minister's Office

- Prime Minister's Secretariat came into being on August 15, 1947. Since June 1977, it has been known as Prime Minister's Office. PMO is headed by the Secretary to the Prime Minister now designated as Principal Secretary to the Prime Minister.

## 8.3 Salary and Allowances

- Prime Minister gets the same salary and allowances which are paid to the members of Parliament.
- In addition to that he gets sumptuary allowance, free accommodations, travelling allowance, medical facilities etc. Salary and allowances of Prime Minister are determined by Parliament from time to time.
- Currently the PM draws a monthly salary of 1.6 lakhs.

### 8.3.1 Miscellaneous functions of Prime Minister

- He does Overall supervision of Union Government.
- He is the leader of Party in majority.
- He is the Chairman of various commissions and councils like National Defense Committee, Inter State Council, National Integration Council, CSIR.
- He is the chief spokesperson of Government. So, he announces Principal Government Policies.
- He is the manager in Chief of the Government's business.
- He is the political head of services.
- He has special role in defense, foreign affairs, home and finance departments of country.
- Central Cabinet Secretariat is directly under the Prime Minister. Though, it's administrative head is Cabinet Secretary who is ex-officio chairman of Civil Service Board.

Prime Ministers of India		
Sl.No.	Name	Tenure
1.	Pt. Jawaharlal Nehru (INC)	1947 – 1964
2.	Gulzarilal Nanda (INC)	1964 – 1964
3.	Lal Bahadur Shastri (INC)	1964 – 1966
4.	Gulzarilal Nanda (INC)	1966 – 1966
5.	Indira Gandhi (Congress – I)	1966 – 1977
6.	Morarji Desai (Janta Party)	1977 – 1979
7.	Chaudhari Charan Singh (Janata Party)	1979 – 1980
8.	Indira Gandhi (Congress – I)	1980 – 1984
9.	Rajiv Gandhi (Congress – I)	1984 – 1989
10.	Vishwanath Pratap Singh	1989 – 1990
11.	Chandra Shekar (SJP)	1990 – 1991
12.	PV Narsimha Rao (Congress – I)	1991 – 1996
13.	Atal Bihari Vajpayee (BJP) (16 days)	1996 – 1996
14.	H.D. Deve Gowda (Janta Dal)	1996 – 1997
15.	I. K. Gujral (Janta Dal)	1997 – 1998
16.	Atal Bihari Vajpayee (BJP)	1998 – 1999
17.	Atal Bihari Vajpayee (BJP)	1999 – 2004
18.	Manmohan Singh (Congress – I)	2004 – 2009

19.	Manmohan Singh (Congress – I)	2009-2014
20.	Narendra Modi (BJP)	2014 till date

- 42<sup>nd</sup> Constitutional Amendment Act, 1976 during Indira Gandhi Government made the advice tendered by Council of Ministers binding on President.

## 8.4 Cabinet

- The word Cabinet was inserted in Article 352 of the Constitution by 44<sup>th</sup> Amendment Act (1978). It does not find mention in the original Constitution.
- Cabinet is a smaller body of Council of Ministers and Cabinet Ministers are the Ministers of most important departments of Union Government e.g. Defense Ministry, finance, home, foreign affairs.

\*Source : COSMOS PUBLICATION, DELHI

# Indian Polity and Governance – Indian Polity –Constitution, Political System Chapter 3

## Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

**This chapter contains:**

- **Governor**
- **State Legislature and State Council of Ministers Parliament**
- **Relations between Centre and States President**
- **Local Self – Government**
- **Supreme Court**
- **High Courts**
- **Subordinate Courts**

## Contents

1	Governor.....	1
1.1	Qualifications .....	1
1.2	Appointment.....	1
1.3	Executive Powers of Governor .....	3
1.5	Immunities .....	4
1.6	Judicial Powers.....	5
1.7	Discretionary Powers .....	5
1	State Legislature and State Council of Ministers .....	1
1.1	Composition of Legislative Council.....	1
1.2	Composition of Legislative Assembly .....	1
1.3	Qualification for Membership of State Legislature .....	2
1.4	Disqualifications for Membership .....	2
2	Relations between Centre and States .....	1
3	Local Self –Government.....	1
3.1	Evolution of Panchayati Raj in India, Post Independence.....	1
3.2	73 <sup>rd</sup> Constitutional Amendment Act .....	1
3.3	Provisions of 73 <sup>rd</sup> Amendment Act .....	2
3.4	Election of Member and Chairpersons .....	2
3.5	Reservation of Seats (Article 243D) .....	2
3.6	Duration of Panchayats (Article 243E).....	3
3.7	Disqualification (Article 243 F).....	3
3.8	Powers and Functions of Panchayats .....	3
3.9	PESA (Panchayat Extension of Scheduled Areas) Act, 1996 .....	5
3.10	Composition (Article 243R) .....	5
3.11	Ward Committees (Article 243S).....	5
3.12	Reservation (Article 243T) .....	6
3.13	Duration of Municipalities (Article 243U).....	6
3.14	District Planning Committee (Article 243ZD) .....	7
4	Supreme Court.....	1
5	High Courts.....	1
6	Subordinate Courts .....	9

# 1 Governor

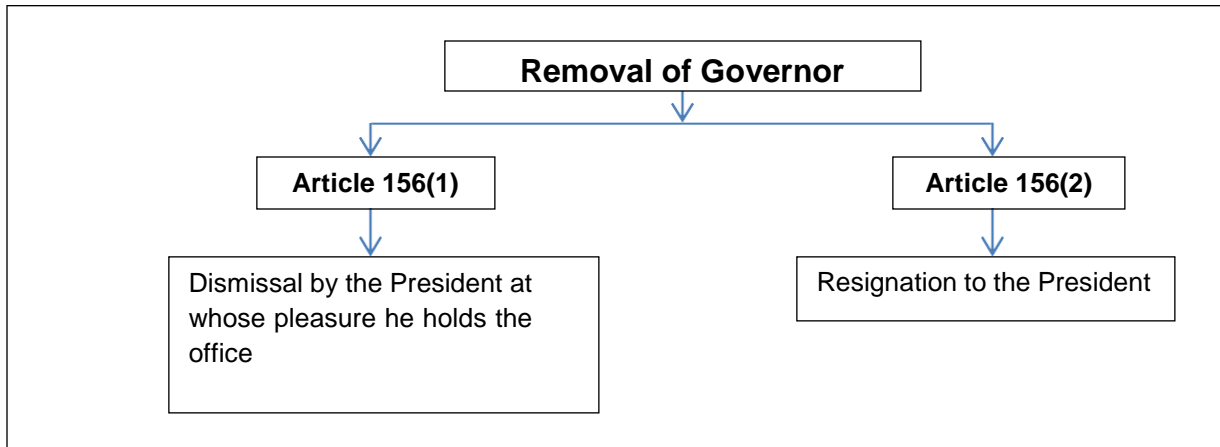
- ❓ Article 153 of the Indian Constitution provides for the office of Governor in every States.
- ❓ All the executive functions of the State are carried out in the name of Governor.
- ❓ Governor discharges his duties on the advice of Council of ministers headed by the Chief Minister. So, Governor's position in the State is similar to the President in Centre.
- ❓ Generally, every state has a Governor but 7<sup>th</sup> Constitutional Amendment Act, 1956 laid the provision that same person can be appointed as Governor of two or more states.

## 1.1 Qualifications

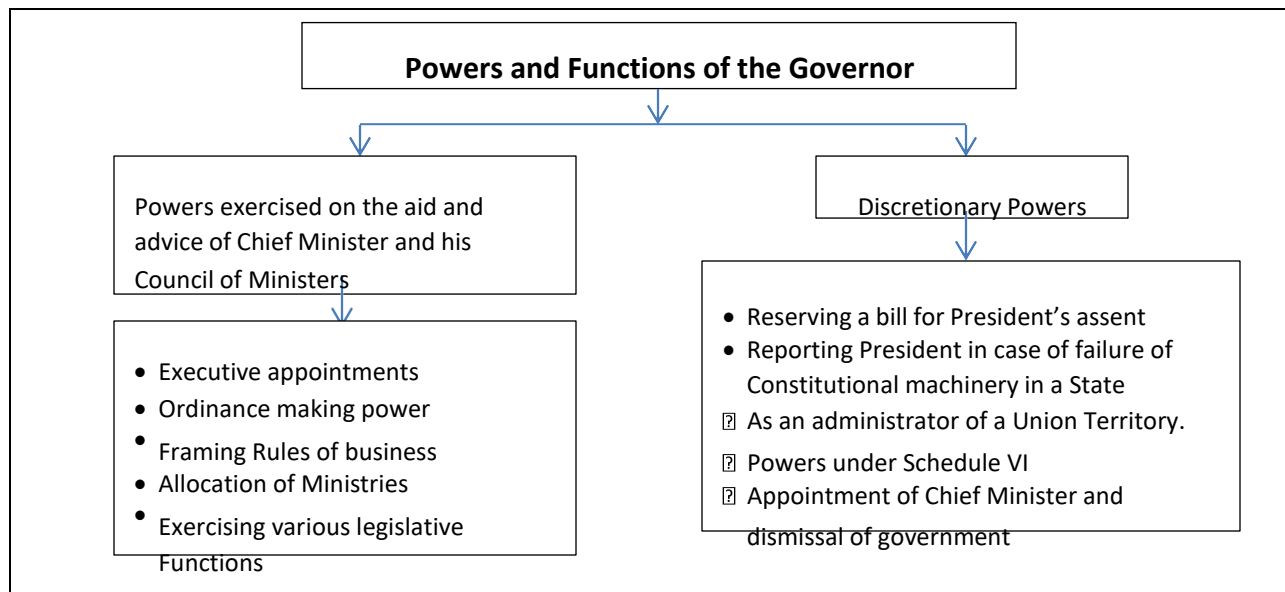
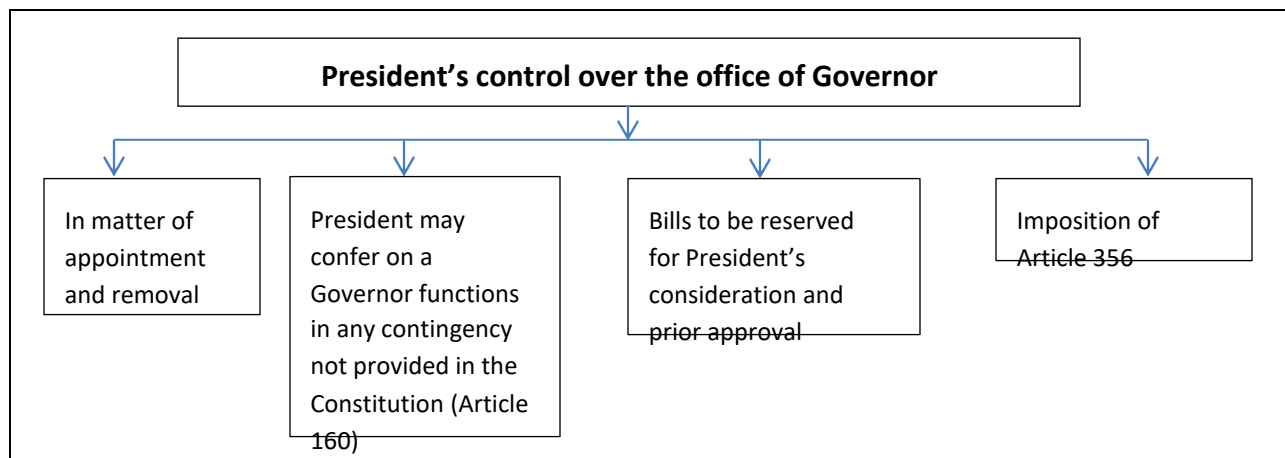
- ❓ A person must have the following qualifications to be appointed as Governor of a state:
  - He should be a citizen of India.
  - He should be of 35 years' of age at least.
  - He should not hold any office of profit.
  - Other than above mentioned qualifications a person to become Governor must not be a member of either house of Parliament or State Legislature.

## 1.2 Appointment

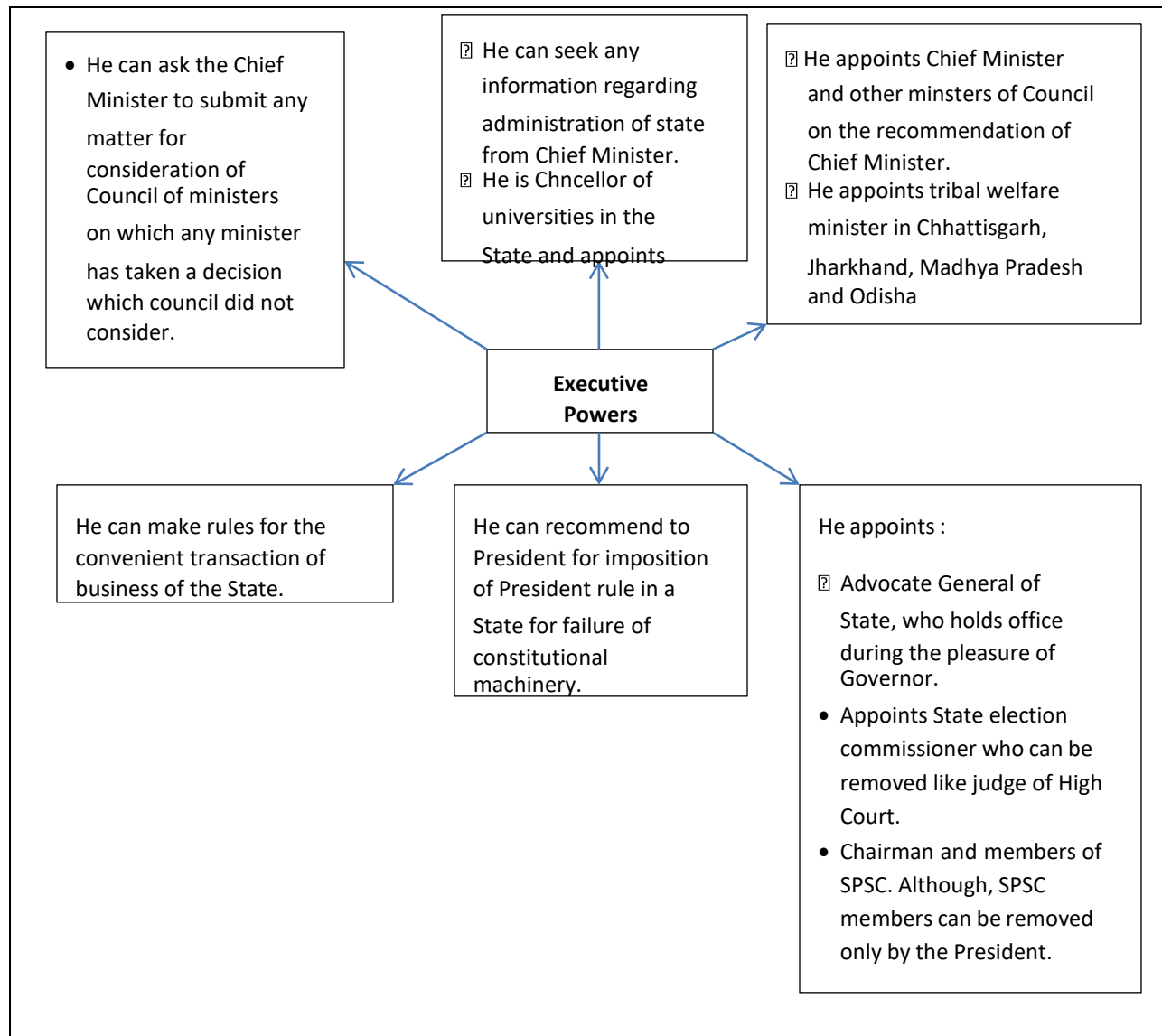
- ❓ Governor of a state is appointed by President of India on the recommendation of Union Council of Ministers.
- ❓ Term of the office of Governor as prescribed in Article 156(3) is 5 years. Though, he holds office at the pleasure of President.
- ❓ He is eligible for re-appointment. He can be transferred from one state to another and President can ask his resignation anytime without giving reasons. He can resign himself also.
- ❓ The grounds upon which a Governor may be removed by the President are not laid down in the Constitution.



- ❑ Governor takes oath administered by Chief Justice of High Court of concerned state or by senior most judge in his absence.



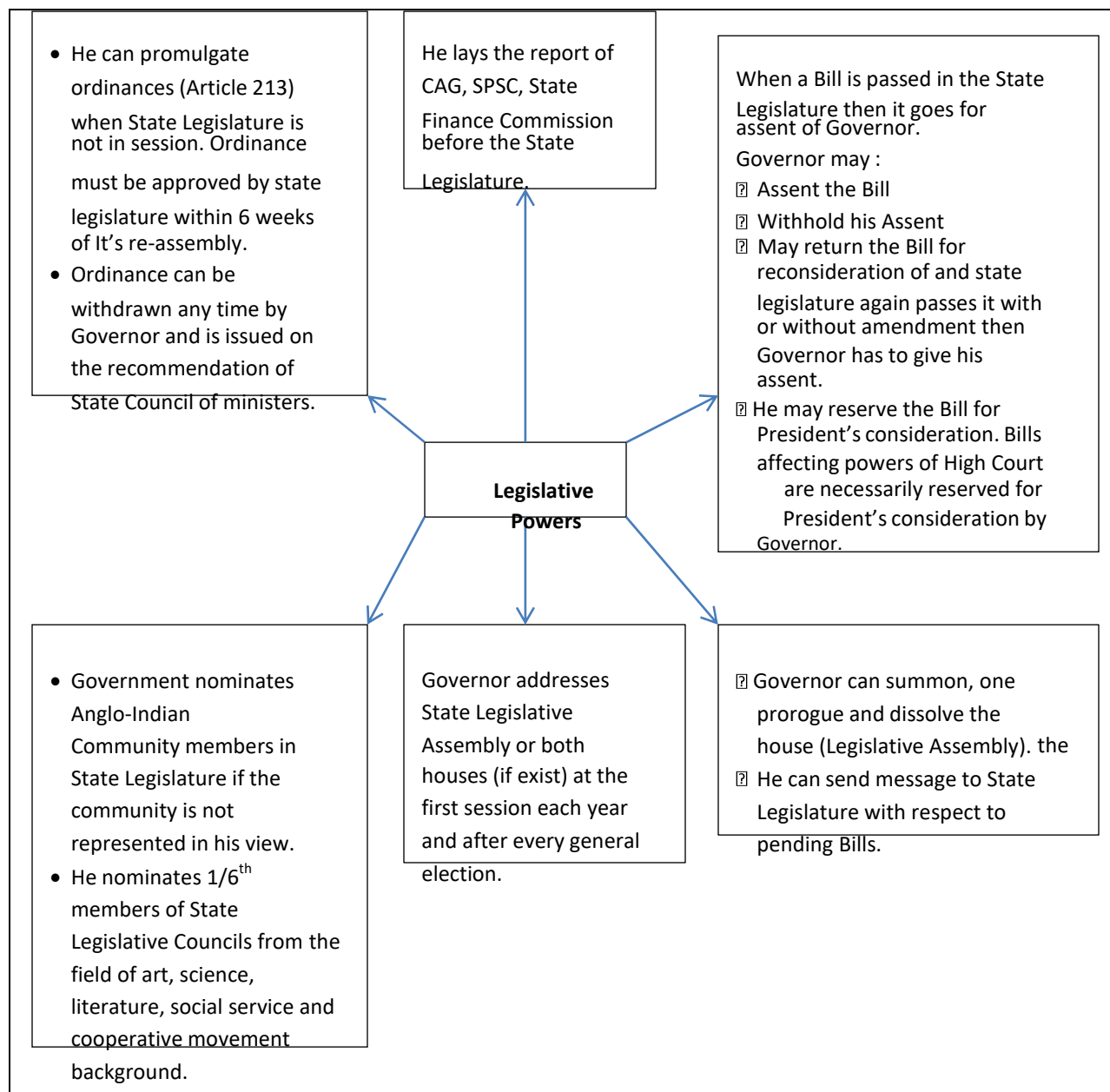
### 1.3 Executive Powers of Governor





## Legislative Powers of Governor

### 1.4



### 1.5 Immunities

- ☐ No criminal proceedings can be initiated against a Governor during his office term. Although, civil proceedings can be initiated against him provided two months prior notice is given to him.

- ❑ He cannot be arrested while in office he is not answerable to any court for his performance of duties in office.

## 1.6 Judicial Powers

- ❑ President consults the Governor of the concerned State while appointing judges of High Court.'
- ❑ Governor can pardon, commute, respite, remit or suspend, remit and commute the sentence of any offence of any person convicted of any offence under any law related to matters to which executive power of State extends.
- ❑ There is a difference between pardon granted by the President under Article 72 and by the Governor under Article 161. The President has an exclusive power to grant pardon in cases of death sentence or sentence inflicted by court martial. The Governor has no such powers.
- ❑ He appoints district judges in consultation with High court. He appoints persons to judicial services (other than district judges) of state after consulting with State Public Service Commission (SPSC) and High Court.

## 1.7 Discretionary Powers

- ❑ Veto powers over the bills
- ❑ In case of Hung Assembly
- ❑ Can reserve the bill for President consideration
- ❑ Proposal for President's rule under Article 356

\*Source : COSMOS PUBLICATION, DELHI

# 1 State Legislature and State Council of Ministers

- ❑ The Constitution provides for the establishment of a Legislature in every state.
- ❑ Some states are unicameral, with only a single house while some (six states) are bicameral i.e. they have two houses.
- ❑ States of Bihar, Andhra Pradesh, Maharashtra, Telangana, Karnataka and Uttar Pradesh consists of bicameral Legislature. 22 out of 28 states have unicameral Legislature (Article 168).
- ❑ The Constitution has provided a specific procedure for creation or abolition of second chamber (State Legislative Council) under Article 169.

## 1.1 Composition of Legislative Council

- ❑ The Constitution has fixed the number of members of Legislative Council maximum up to  $\frac{1}{3}^{\text{rd}}$  of the total strength of the Legislative Assembly of State and the minimum strength is fixed at 40.
- ❑  $\frac{5}{6}^{\text{th}}$  members of State Legislative Council are elected indirectly and  $\frac{1}{6}^{\text{th}}$  members are nominated by the Governor of the concerned state from among distinguished persons in the field of art, science, literature, social service and cooperative movement.
- ❑  $\frac{5}{6}^{\text{th}}$  members of State Legislative Council members comprise of :
  - I.  $\frac{1}{3}^{\text{rd}}$  members of the council are elected by electorates consisting of members of local bodies, such as municipalities, district boards and Panchayats.
  - II.  $\frac{1}{12}^{\text{th}}$  are elected by electorates consisting of three years standing residing in that state.
  - III.  $\frac{1}{12}^{\text{th}}$  are elected by electorates consisting of persons engaged for at least three years in teaching in educational institutions within the State, not lower in standard than secondary schools.
  - IV.  $\frac{1}{3}^{\text{rd}}$  are elected by members of the Legislative Assembly from amongst persons who are not members of the Assembly.

## 1.2 Composition of Legislative Assembly

- ❑ The Members of Legislative Assembly are elected directly by people on the basis of adult suffrage for a term of five years, unless the house is dissolved by Governor.
- ❑ Normal Tenure of 5 years of State Legislative Assembly may be extended in case of a proclamation of emergency by the President.

- ❓ Article 170 states that State Legislative Assembly can have maximum 500 members and minimum 60 members, However, President has the power to alter these maximum and minimum strength of the Legislature. For Sikkim, Goa and Arunachal Pradesh minimum number is fixed at 30 and for Mizoram and Nagaland it is 40 and 46 respectively.
- ❓ While there is a provision of joint sitting between the two houses of Parliament in case of a deadlock, there is no such provision in the State Legislature, since in case of a disagreement over proposed amendments, the will of the Legislative Assembly prevails over the State Legislative Council. The State Legislative Council can merely delay the passage of ordinary bills by 4 months.

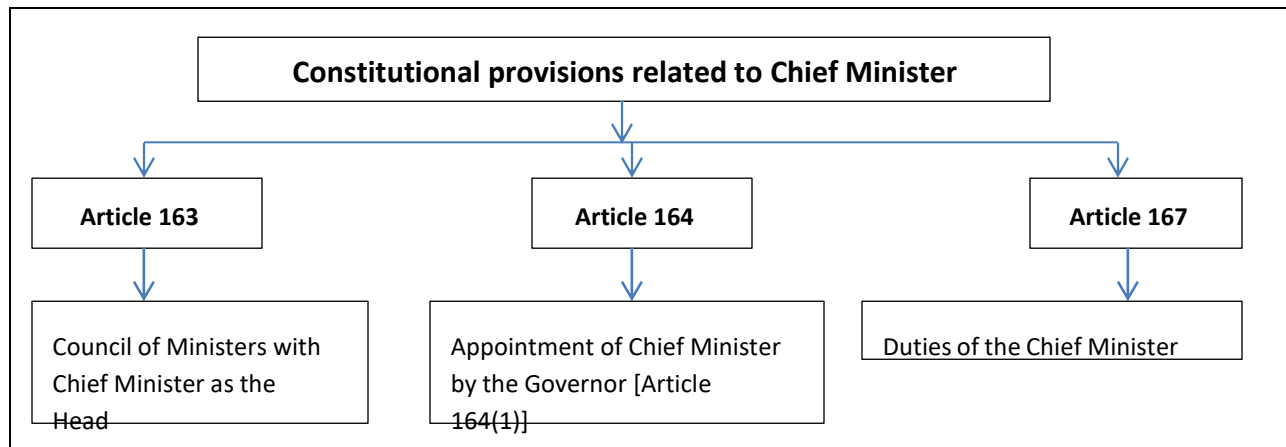
### 1.3 Qualification for Membership of State Legislature

- ❓ Article 173 states that a person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he :
  - (a) is a citizen of India;
  - (b) makes and subscribes an oath or affirmation before a person authorised in that behalf by the Election Commission according to the form set out for the purpose in third schedule;
  - (c) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age, and
  - (d) possesses such other qualifications as may be prescribed in that behalf by or under any law made by the Parliament.

### 1.4 Disqualifications for Membership

- ❓ A person shall be disqualified for being as, and for being a member of the Legislative Assembly of a state if he :
  - (a) holds any office of profit under the Government of India or the Government of any State, other than that of a minister for Indian Union or for a State or an office declared by a law of the State not to disqualify its holder;
  - (b) is of unsound mind as declared by a competent court;
  - (c) is an undischarged insolvent;
  - (d) is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance or adherence to a foreign State;
  - (e) is so disqualified by or under any law made by Parliament.
- ❓ There is no provision of joint sitting at State level in case of deadlock or disagreement between two houses. Although at Central level, there is a provision of joint sitting of Lok Sabha and Rajya Sabha to resolve their deadlock on ordinary bills (presided by Speaker of Lok Sabha).

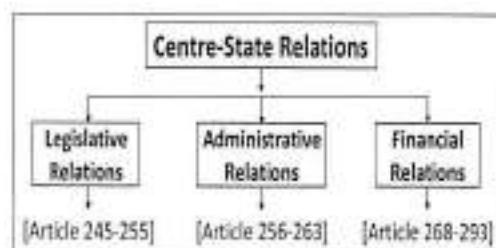
❓ Position of Chief Minister at State level is similar to the Prime Minister at centre.



❓ Chief Minister is appointed by the Governor of concerned State under Article 164.

\*Source : COSMOS PUBLICATION, DELHI

## 2 Relations between Centre and States



Indian Constitution followed **Canadian precedent**, opting for a **strong Union/Centre**.

Under **Article 253**, Parliament has power to make any law for the whole or any part of the territory of India for **implementing treaties and international agreements and conventions**.

Under **Article 246**, all the subjects are divided into Union, State and concurrent List.

**State Legislature** can pass certain **bills** regarding the imposition of reasonable restrictions on the **freedom of trade commerce and intercourse** within the **State** in **Public Interest** with previous consent of **President**.

Part XI-Chapter I (Article 245 to 255)	
Legislative Relations	
• <b>Article 245</b>	Extent of laws made by Parliament and by the legislatures of the States
• <b>Article 246</b>	Subject matter of laws made by Parliament and by the legislatures of the States
• <b>Article 247</b>	Power of Parliament to provide for the establishment of certain additional courts
• <b>Article 248</b>	Residuary powers of legislation
• <b>Article 249</b>	Power of Parliament to legislate with respect to a matter in the state list in the national interest
• <b>Article 250</b>	Power of Parliament to legislate with respect to any matter in the state list if a Proclamation of Emergency is in operation
• <b>Article 251</b>	Inconsistency between laws made by Parliament under Article 249 and 250 and laws made by the legislatures of States.
• <b>Article 252</b>	Power of Parliament to legislate for two or more states by consent and adoption of such legislation by any other State
• <b>Article 253</b>	Legislation for giving effect to international agreements
• <b>Article 254</b>	Inconsistency between laws made by Parliament and laws made by the legislatures of the State
• <b>Article 255</b>	Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

- In case of **conflict** between **Central law** and **State law** on a subject of **concurrent list**, **Central law** prevails except when, **State law** has been reserved for **President's consent** and received his consent.
- In case of **any overlapping** between jurisdiction **Union list** and **State list** or **Concurrent list**, **Union list** prevails and between **concurrent list** and **state list**, **concurrent list** prevails.

Special Conditions			
<b>Article 249</b>	If <b>Rajya Sabha</b> passes a <b>resolution</b> supported by not less than <b>2/3<sup>rd</sup></b> of its members present and voting that in the <b>national interest</b> , Parliament should make laws on subjects enumerated in the <b>State list</b> . The resolution remains in force for <b>one year</b> , though it can be renewed any number of times. The law remains in force till the <b>expiration of six months</b> after resolution ceases to be in force.		if the legislature of <b>two or more states</b> adopt a resolution that it is lawful of <b>Parliament</b> to make laws on any state subject applicable to them.
<b>Article 250</b>	Parliament can legislate on <b>State subjects</b> during <b>proclamation of emergency</b> . However, such laws will cease to exist on the expiration period of <b>six months</b> after the proclamation has ceased to operate.	<b>Article 253</b>	The Parliament can make law for the whole or any part of the territory of India for implementing any treaty, international agreement or convention with any other country.
<b>Article 252</b>	Parliament can legislate on <b>State subjects</b>	<b>Article 356</b>	The President can also authorise the Parliament to exercise the powers of the State legislature during the proclamation of <b>President Rule</b> . All such laws remain in force even after <b>President Rule</b> ends. Though, such laws can be amended or repealed by <b>State legislature</b> after <b>President Rule</b> ends.

Chapter II (Part XI)			
Administrative Relations (Article 256 to 263)			
• <b>Article 256</b>	Obligation of States and the Union	• <b>Article 260</b>	Jurisdiction of the Union in relation to territories outside India
• <b>Article 257</b>	Control of the Union over States in certain cases	• <b>Article 261</b>	Public acts, records and judicial proceedings
• <b>Article 258</b>	Power of the Union to confer powers, etc on states in certain cases	• <b>Article 262</b>	Adjudication of disputes relating to waters of interstate rivers or river valleys
• <b>Article 258A</b>	Power of the States to entrust functions to the Union	• <b>Article 263</b>	Provisions with respect to an Inter-State Council



## Seventh Schedule

### Union List

- Comprises of 100 subjects (earlier 97)
- Parliament has exclusive power to frame laws over these subjects
- Some important subjects include : Defence, Arms and ammunitions, Citizenship, Railways, Banking and Finance Corporations, Stock Exchanges and any other matter not mentioned in List II or III (residuary powers)

### State List

- Comprises of 61 subjects (earlier 66)
- Under normal circumstances, State alone can make laws over the subjects mentioned in the list
- Some important subjects include : Police, Public health and sanitation, Land revenue, Taxes on consumption or sale of electricity, Taxes on luxuries etc

### Concurrent List

- Comprises of 52 subjects (earlier 47)
- Both the Parliament and State Legislature can make laws over the subjects mentioned in Concurrent list.
- Some important subjects include : criminal law, marriage and divorce, prevention of cruelty to animals, forests, protection of wild animals, economic and social planning, trade unions etc

## Directives given by the Union to the States

To maintain means of communication like Railways, Ports

To ensure welfare of scheduled tribes in the States

To secure instructions in mother tongue at primary stage of education

To ensure compliance of States to constitutional provisions

To ensure development of Hindi

## Comparative Analysis

### Article 355

- It is the duty of the Union to protect States against external aggression and internal disturbance

Imposition of Article 352

- It is also the duty of the Union to ensure, that the Government of each State is carried on in accordance with the provisions of the Constitution

### Article 365

- If the States fail to comply with or to give effect to any directions given by the Union, the President can hold the opinion that the Government of the State is not carried on in accordance to the provisions of the Constitution

Imposition of Article 356/ President Rule

The centre can direct the state government to ensure the development of Hindi to secure instructions in mother tongue at primary stage of education and to ensure the welfare of scheduled tribes in the State.

## Part XII (Article 268 to 293)

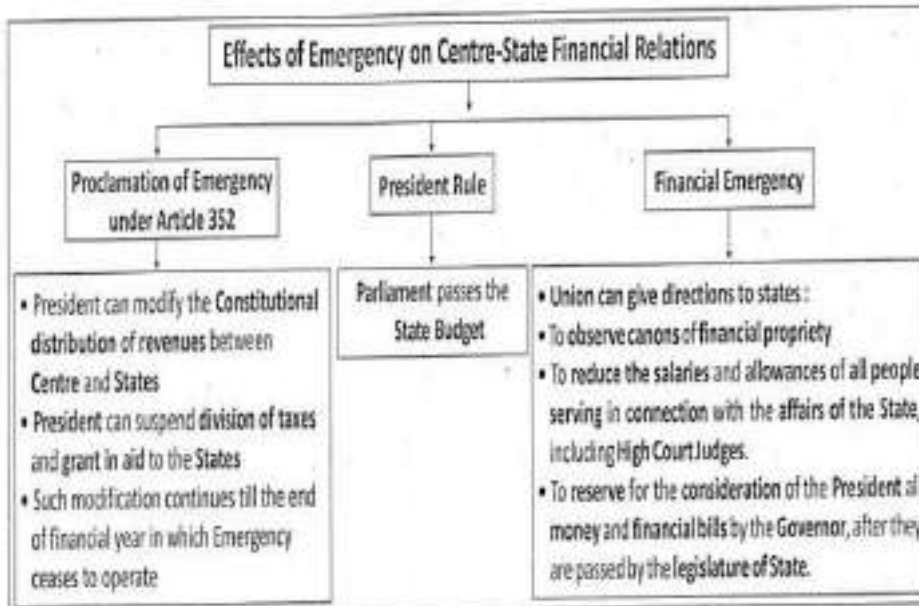
### Finance, Property Contracts and Suits

#### Distribution of Revenue between the Union and the States

• Article 268	Duties levied by the Union but collected and appropriated by the States	• Article 277	Savings	• Article 286	Restrictions as to imposition of tax on the sale or purchase of goods
• Article 269	Taxes levied and Collected by the Union but assigned to the States	• Article 279	Calculation of net proceeds, etc	• Article 287	Exemption from taxes on electricity
• Article 270	Taxes levied and distributed between the Union and the States	• Article 280	Finance Commission	• Article 288	Exemption from taxation by States in respect of water or electricity in certain cases
• Article 271	Surcharge on certain duties and taxes purposes of the Union	• Article 281	Recommendations of the Finance Commission	• Article 289	Exemption of property and income of a State from Union taxation
• Article 273	Grants in lieu of export duty on jute and jute products	• Article 282	Expenditure defrayable by the Union or a State out of it's revenues	• Article 290	Adjustment in respect of certain expenses and pensions
• Article 274	Prior recommendation of President required to bills effecting taxation in which States are interested	• Article 283	Custody, etc of Consolidated Funds, Contingency Funds and money credited to the Public Accounts	• Article 290A	Annual payment to certain Devaswom funds
• Article 275	Grants from the Union to certain states	• Article 284	Custody of suitors' deposits and other moneys received by public servants and courts	• Article 292	Borrowings by the Government of India
• Article 276	Taxes on professions, trades, callings and employments	• Article 285	Exemption of property of the Union from State taxation	• Article 293	Borrowings by States

## Goods and Services Tax (GST)

- **101<sup>st</sup> Constitutional Amendment Act, 2016 (GST Act)** paved the way for the **Government** to **reconstruct** the **presently distributed indirect tax law regime** into a **unified tax structure** through the **Goods and Services Act**.
- **GST** involved a **huge financial interest** of the **Centre** and the **State Governments** and the **distribution of revenue between** them, such a **tax reform** needed **suitable amendments** to the **Constitution**.



### Commissions & Committees on Centre State Relations

- **Rajmanner Committee (1969)** – **Dr. P. V. Mannar**
- **Sarkaria Commission (1983)** – **Ranjit Singh Sarkaria**
- **Administrative Reforms Commission (1996)** – **Morarji Desai**
- **Setalvad Committee (1996)** – **M.C. Setalvad**
- **Punchi Commission (2007)** – **Madan Mohan Punchhi**

### Commissions & Committees on Centre State Relations

- **Rajmanner Committee (1969)** – **Dr. P. V. Mannar**
- **Sarkaria Commission (1983)** – **Ranjit Singh Sarkaria**
- **Administrative Reforms Commission (1996)** – **Morarji Desai**
- **Setalvad Committee (1996)** – **M.C. Setalvad**
- **Punchi Commission (2007)** – **Madan Mohan Punchhi**



Major Subjects of the Lists		
Union List (total 100)	State List (Total 61)	Concurrent List (total 52)
• Defence, Naval military and air forces	• Public order and police	• Criminal law and criminal procedure
• Arms, firearms, ammunition and explosives	• Local self government	• Marriage and divorce
• Atomic energy and mineral resources	• Public health and sanitation	• Transfer of Property other than agricultural land
• Central Bureau of Intelligence and investigation	• Pilgrimages inside India	• Bankruptcy and insolvency
• Preventive detention	• Fisheries	• Prevention of cruelty to animals
• Foreign Affairs	• Libraries and museums	• Forests
• United Nations Organization	• Markets and fairs	• Goods
• Citizenship, naturalization and Aliens	• Prevention of animal diseases and veterinary training	• Newspapers, books and printing presses
• Railway	• Agricultural income	• Economic and social planning
• Pilgrimage in places outside India	• Betting and gambling	• Population control and family planning
• Shipping and navigation on inland waterways	• Relief of the disabled and unemployable	• Trade unions
• Post and Telegraph	• Land revenue	• Social security and social insurance
• Currency coinage and legal tender	• Taxes on lands and buildings	• Education
• Inter state trade and Commerce	• Taxes on advertisements	• Legal, Medical and other professions
• Banking and Insurance Stock exchanges and future markets	• Taxes on consumption and sale of electricity	• Charities and charitable institutions
• Census	• Tolls	• Price control
• Survey of India	• Capitation taxes	• Weights and measurements
• Corporation tax	• Entertainment tax	• Factories
• Interstate migration	• Gas and gas works	• Boilers
• Corporation tax	• Entertainment tax	• Factories
• Interstate migration	• Gas and gas works	• Boilers
• Stock exchanges and future markets	• Taxes on luxury items etc.	• Goods and Services tax

\*Source: COSMOS PUBLICATION, DELHI

### 3 Local Self –Government

The present structure of Local Self Government Institutions took shape in 1687, when in **1687**, when British established a **Municipal Corporation** at **Madras** followed by creation of similar bodies at **Bombay** and **Calcutta** (1726).

- The **Minto-Morley Reforms 1909** and **Montague Chelmsford Reforms 1919** made **Local Self Government** a **transferred subject** widening the participation of people in the governing process and by **1924-25**, **district boards** has a preponderance of elected representatives and a **non-official chairman**, an arrangement that continued till 1950's.
- In **1872**, **Lord Mayo** introduced **elected representatives** for these municipalities and was further developed by his **successor Lord Ripon** in **1882**. **Decentralization of power** was started by **Mayo's Resolution** (1870) for **financial decentralization** and **Lord Ripon's Resolution** in **1882** laid foundations of **Local Self Government**. **Lord Ripon** is said to be the **Father of Local Government**.

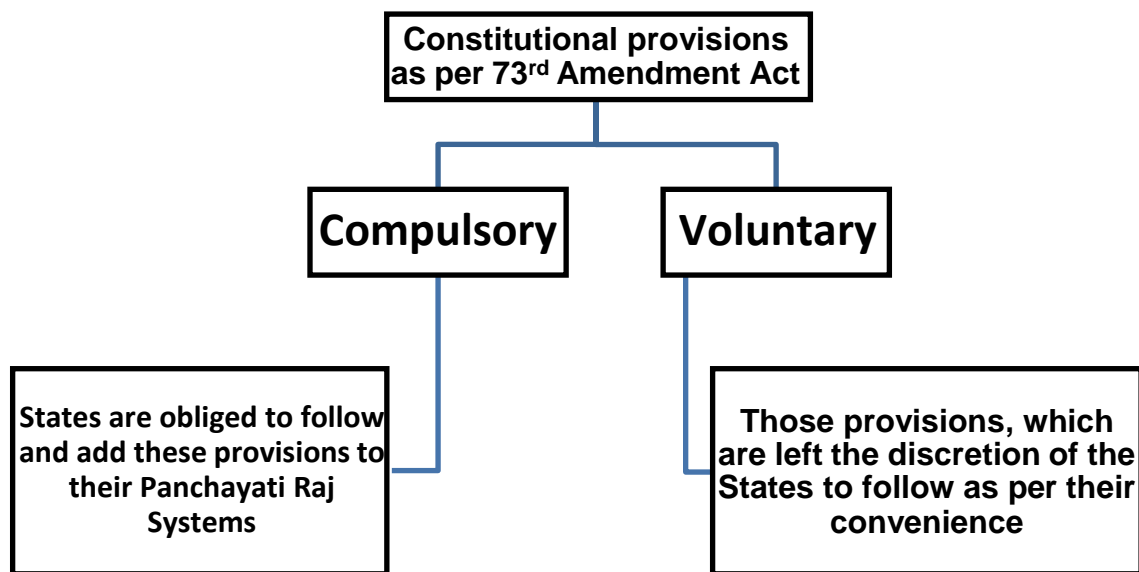
#### 3.1 Evolution of Panchayati Raj in India, Post Independence

**Community Development Programme (1952)** ☐ **National Extension Service (1953)** ☐ **Balwant Rai Mehta Committee (1957)** ☐ **Ashok Mehta Committee (1977)**  
☐ **G.V.K. Rao Committee (1985)** ☐ **L.M. Singhvi Committee (1986)** ☐ **73<sup>rd</sup> /74<sup>th</sup> Constitutional Amendment Act**

**73<sup>rd</sup> Constitutional Amendment Act, 1992** inserted the provisions related to **Panchayati Raj** in **Constitution**. Similarly, **74<sup>th</sup> Constitutional Amendment Act, 1992** gave **powers of Local Government** at the **urban level**.

#### 3.2 73<sup>rd</sup> Constitutional Amendment Act

- This Act implements **Article 40** of Constitution providing a constitutional status to **Panchayati Raj Institutions (PRI)**.



### 3.3 Provisions of 73<sup>rd</sup> Amendment Act

- This act provides for a **three tier system** in all the States i.e. **Panchayats** at **village, intermediate** and **district level** [Article 243B(1)].
- **Gram Shaba** (Article 243A) is the **body** consisting of **all registered voters** in a village.

### 3.4 Election of Member and Chairpersons

- All the members at all three levels i.e. Panchaytas at village, intermediate and district level will be elected directly by people.

### 3.5 Reservation of Seats (Article 243D)

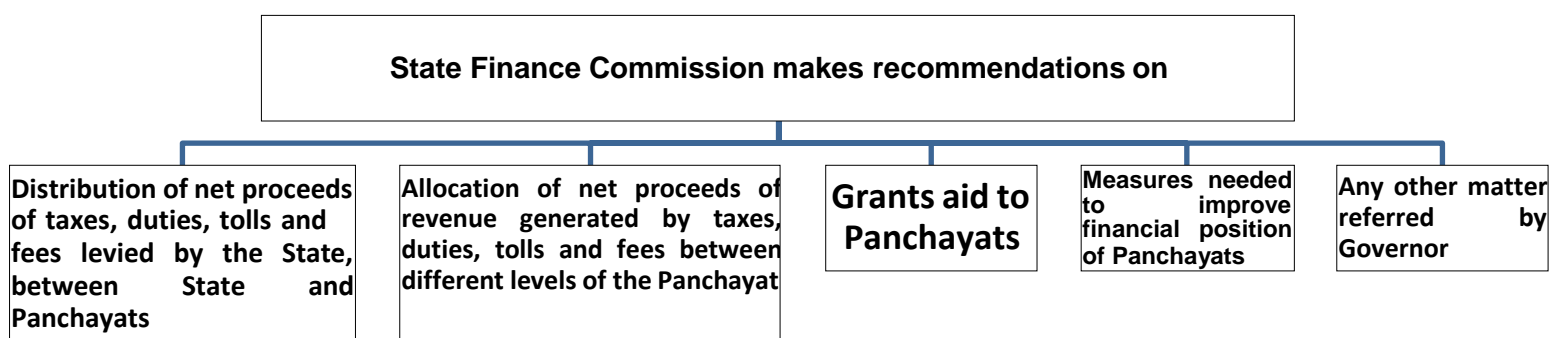
- The Act provides for the reservation of seats for the SC/ST community according to the proportion of their population to the total population in the Panchayat area.

### 3.6 Duration of Panchayats (Article 243E)

- Tenure of Panchayats is kept **5 years** at all three levels by this Act. Election must be completed for the next Panchayat before the expiry of **5 years**. If Panchayat is dissolved earlier then, fresh elections must be completed before the expiry of **six months** from its dissolution.

### 3.7 Disqualification (Article 243 F)

- No person who is below age of 21 years can become a member of Panchayats.
- Local Government including Self-Government institutions in both urban and rural areas is an exclusive state subject under **Entry 5 of List II of the 7<sup>th</sup> Schedule**, so the Union cannot enact any law to create rights and liabilities relating to these subjects.



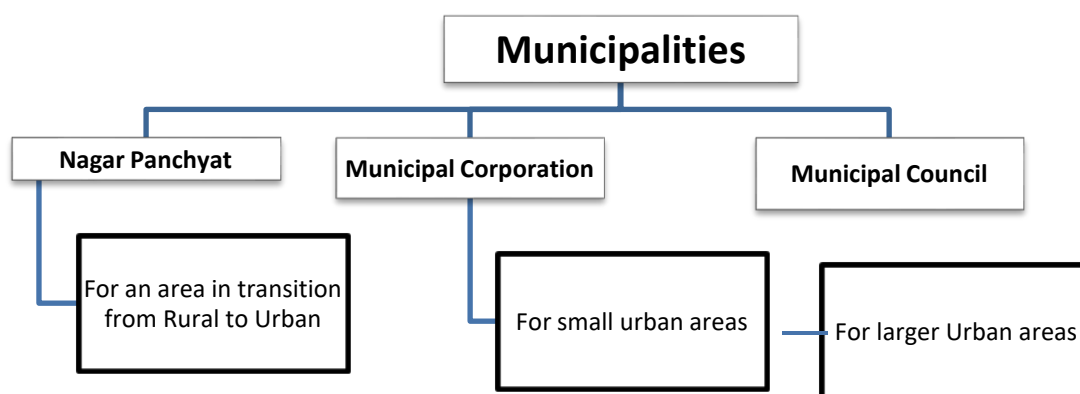
### 3.8 Powers and Functions of Panchayats

- Preparing plans for economic development and social justice.
- Implementing schemes for economic development and social justice.
- In regard to matters listed in the Eleventh Schedule comprising of 29 subjects.

<b>Eleventh Schedule</b>	
➤ This schedule inserted 73 <sup>rd</sup> Constitutional Amendments Act 1992 contains 29 items placed within the purview of Panchayats:	
1	<b>Agriculture</b> , including agricultural extension
2	<b>Land improvement</b> , implementation of land reforms, land consolidation and soil conservation
3	<b>Minor irrigation</b> , water management and watershed development
4	Animal Husbandry, Dairying and poultry
5	Fisheries
6	Social forestry and farm forestry
7	Minor forest produce
8	Small scale industries, including food processing industry
9	Khadi, village and cottage industries
10	Rural housing
11	Drinking water
12	Fuel and fodder
13	Road, culverts, bridges, ferries, waterways and other means of communication
14	Rural electrification, including distribution of electricity
15	Non-conventional energy sources
16	Poverty Alleviation Programmes
17	Education including primary and secondary schools
18	Technical training and vocational education
19	Adult and non-formal education
20	Libraries
21	Cultural Activities
22	Markets and fairs
23	Health and sanitation, including hospitals, primary health centres and dispensaries
24	Family welfare
25	Women and child development
26	Social welfare, including welfare of the handicapped and mentally retarded
27	Welfare of the weaker sections, and in particular, of schedule castes and schedule tribes
28	Public distribution system
29	Maintenance of community assets

### 3.9 PESA (Panchayat Extension of Scheduled Areas) Act, 1996

- 73<sup>rd</sup> Constitutional Amendment was not applied on Scheduled Areas and Tribal Areas (Article 244) so PESA Act was brought to extend the provisions of 73<sup>rd</sup> Amendment Act to Schedule V areas with such modification as required to maintain their cultural and social identity.
- Schedule V contains areas of 10 states i.e. Andhra Pradesh, Himachal Pradesh, Jharkhand, Telangana, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan and Odisha.
- This Act Provides the self-rule for tribal population and Gram Sabha has been granted special powers like:
  - Approve development plans
  - Manage minor water bodies
  - Ownership of Minor Forest Produce (MFP)
  - Control of mineral lease
  - Regulation of selling of intoxicants
  - Prevention of land alienation
  - Beneficiary selection for various schemes
  - Consultation on land acquisition

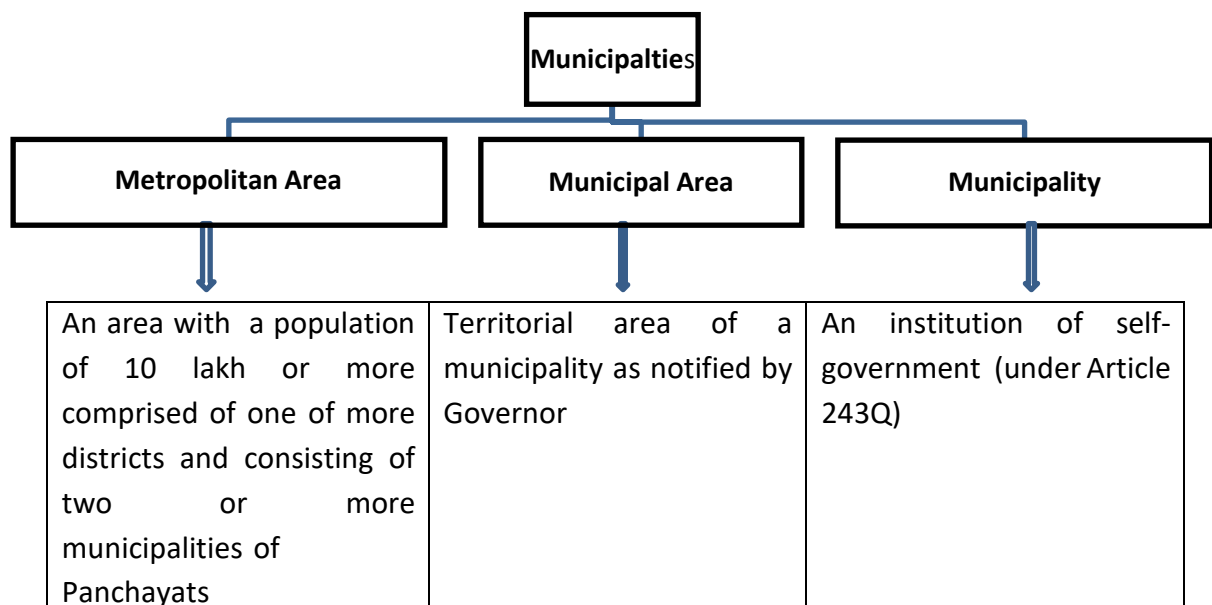


### 3.10 Composition (Article 243R)

- ❓ All the members of municipality will be elected by people directly; while State government may by law decided the manner in which chairpersons of municipalities will be elected. For the purpose of elections, Municipal area will be divided into wards.

### 3.11 Ward Committees (Article 243S)

- It provides for the constitution of ward committee consisting one or more wards within territorial area of a municipality having population of three lakhs or more.



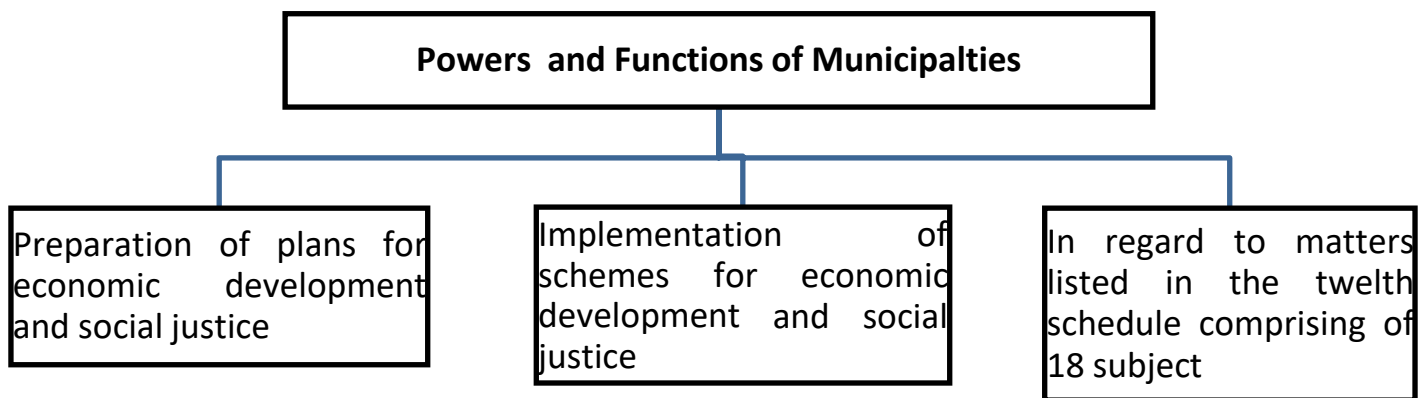
### 3.12 Reservation (Article 243T)

- This Act provides the provisions for reservation of seats for SC/STs and women in urban local bodies.

### 3.13 Duration of Municipalities (Article 243U)

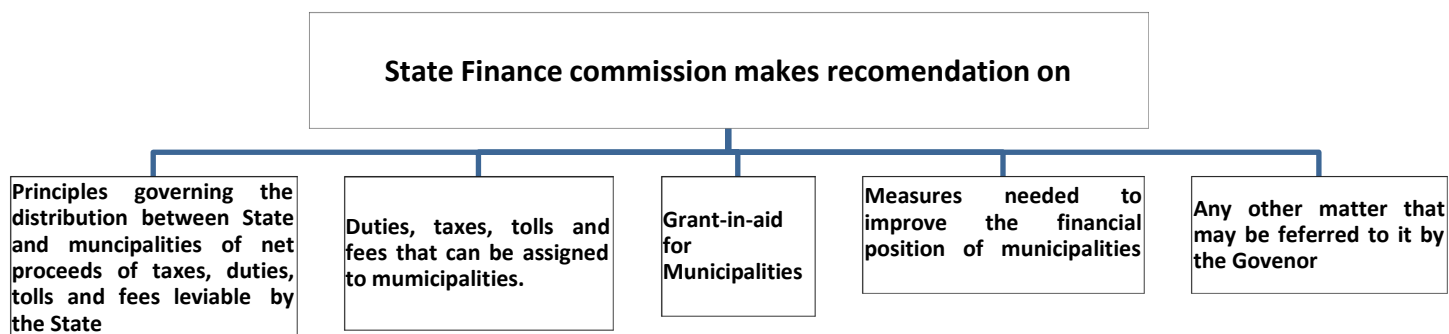
- Tenure of municipalities is fixed as 5 years. But, if municipalities are dissolved before 5 years then elections must be completed within 6 months and newly elected municipality shall continue for the time period for which dissolved municipality would have continued had it not been dissolved.

A person must have the age of 21 years or above to contest in election. No one will be disqualified on the ground that he is below age of 25 years like for state legislative assembly where the required age is 25 years.



### 3.14 District Planning Committee (Article 243ZD)

- Under this (74<sup>th</sup> Constitutional Amendment Act) Act every **State** has to constitute a **District Planning Committee** which will **consolidate the plans** prepared by **Panchayats** and **Municipalities** of the **district** and will prepare a **draft plan** for the **whole district**.

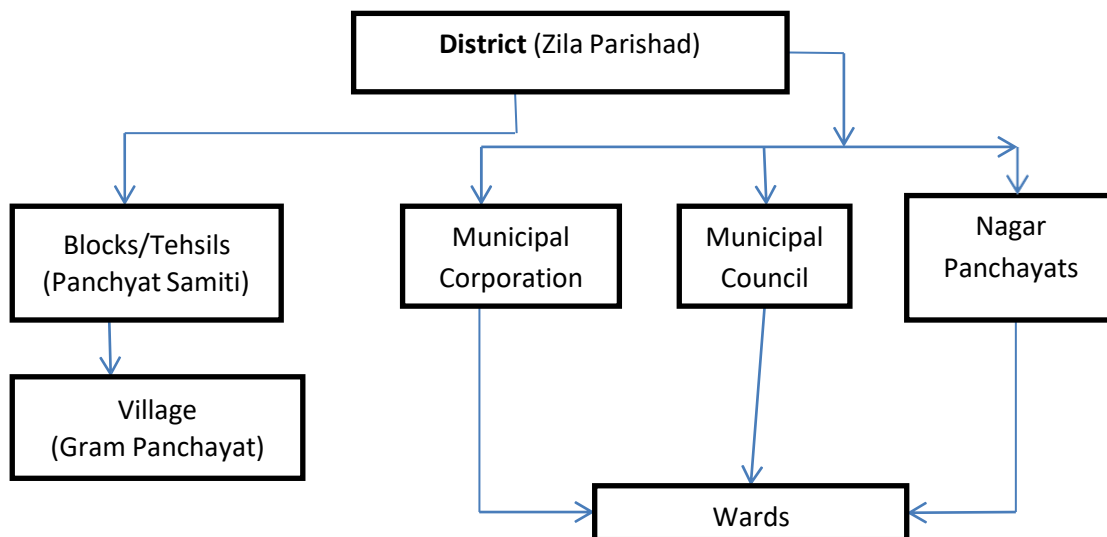


Twelfth Schedule	
It consists of 18 <b>items</b> within purview of Municipalities:	
1.	Urban planning including town planning.
2.	Regulation of land-use and construction of buildings.
3.	Planning for economic and social development.
4.	Roads and bridges.
5.	Water supply for domestic, industrial and commercial purposes.



6.	Public health, sanitation conservancy and solid waste management.
7.	Fire services.
8.	Urban forestry, Protection of the environment and promotion of ecological aspects.
9.	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10.	Slum improvement and upgradation.
11.	Urban poverty alleviation.
12.	Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13.	Promotion of cultural, educational and aesthetic aspects.
14.	Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15.	Cattle pounds; prevention of cruelty to animals.
16.	Vital statistics including registration of births and deaths.
17.	Public amenities including street lighting, parking lots, bus stops and public conveniences.
18.	Regulation of slaughter houses and tanneries.

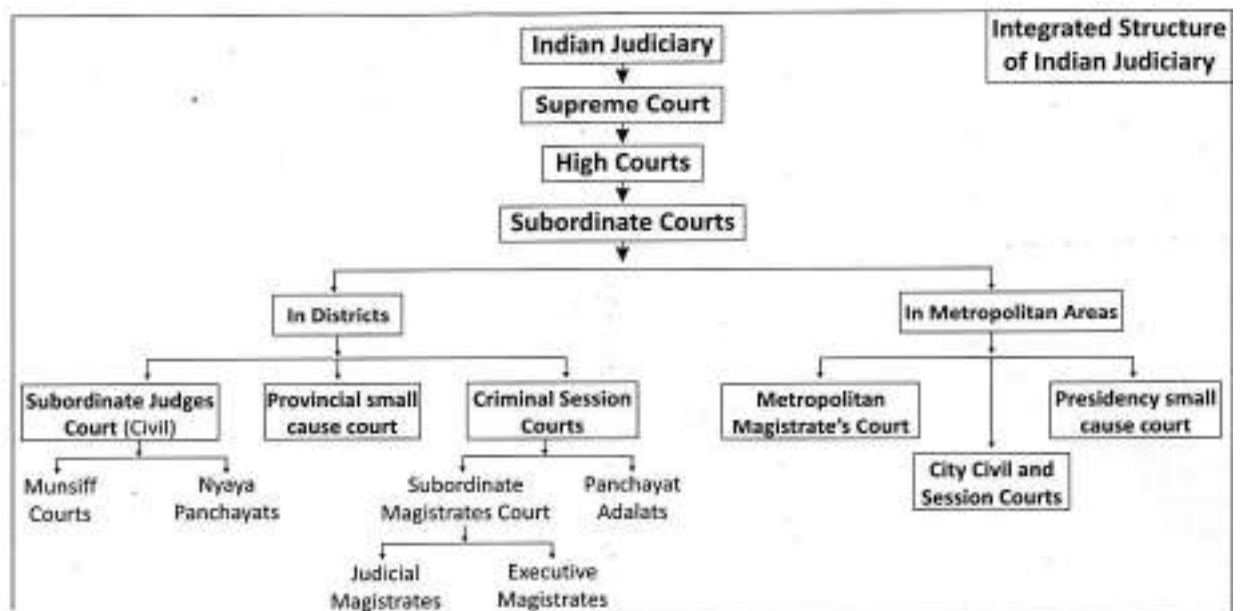
Types of Urban Bodies (8)	
?	Municipal Corporation
?	Municipality
?	Notified Area Committee
?	Town Area Committee
?	Cantonment Board
?	Township
?	Port Trust
?	Special Purpose Agency



\*Source: COSMOS PUBLICATION, DELHI

## 4 Supreme Court

- ❑ Supreme Court is the successor of Federal Court of India which was established under Government of India Act, 1955.
- ❑ Federal Court was an intermediate appellant between High Courts and Privy Council.
- ❑ Post Independence, Supreme Court became the highest appellate authority, making it the Supreme judicial body in independent India.
- ❑ Justice N.V. Ramana in April 2021 sworn in as the 48<sup>th</sup> Chief Justice of India, Succeeding CJI S.A. Bobde. He will hold the office till August 26, 2022.
- ❑ Supreme Court came into existence on 28<sup>th</sup> January, 1950
- ❑ Till 1993 the Supreme Court Judges were appointed by President on the recommendation of CJI but now 5 senior most judges committee recommends the names to the law ministry and after scrutinizing send the paper to the President.



## Composition

- Supreme Court consists of a Chief Justice of India and maximum 33 other judges at present. Originally, there was strength of 8 judges (one CJI and seven other judges) in Supreme Court which was later increased to 10 in 1956, 13 in 1960, 17 in 1977 and 25 in 1986. The provision is provided under Article 124(A1).
- In 2009, this strength was increased to thirty one. Supreme Court (number of judges) Bill of 2019 has added four Judges to strength. It increased the judicial strength from 31 to 34, including the Chief Justice of India.

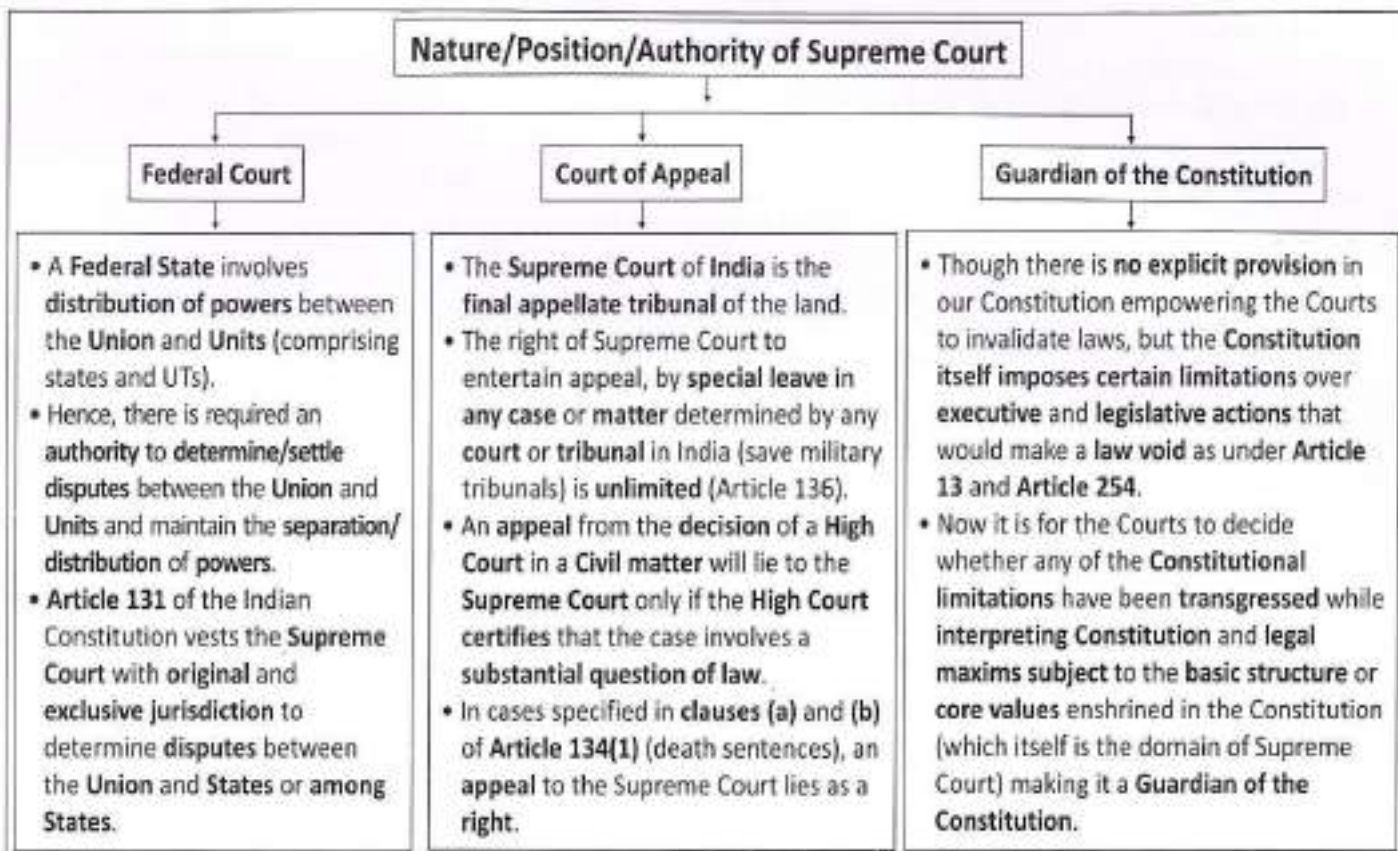
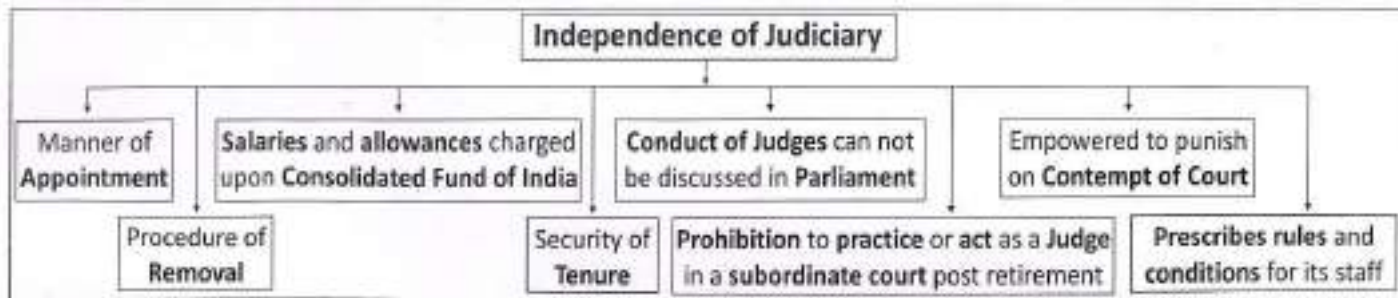
## Appointment

- Chief Justice of India is appointed by the President after consultation with such Judges of Supreme Court and High Court as he considers necessary.
- In the Second Judge Case (1993) Supreme Court held that senior most judge of the Supreme Court could alone be appointed as Chief Justice of India.
- In Third Judge Case (1998), Supreme Court ruled that Chief Justice has to consult four senior most judges before tendering his advice to President on the appointment of judges, thus expanded the collegium system.

## Qualification of Judges

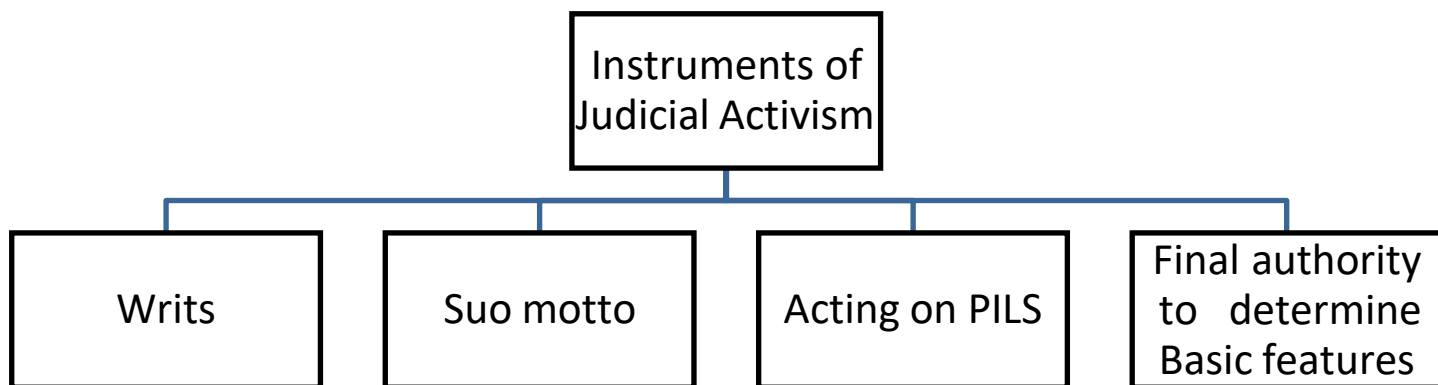
- He must be a citizen of India.
  - He should have been the judge of High Court (or High courts) for at least 5 years in succession.
- or
- He should be an advocate of High court (or High Court) for 10 years in succession
- or
- He should be a distinguished jurist in view of the President.

- No minimum age is prescribed for the appointment as a judge of the Supreme Court.



## Judicial Activism

- Judicial intervention in legislative functioning of the State through writs, suo mottos and declaring legislative initiatives null and void as opposed to theory of Separation of Powers.



**Contempt of Court** refers to the offence of showing disrespect to the dignity or authority of a court. Supreme court and High Courts derive their contempt powers from the Constitution. The **Contempt of Court Act, 1971**, outlines the procedure in relation to **investigation** and **punishment** for contempt. The Act divides contempt into civil and criminal contempt. Civil contempt refers to the **willful disobedience** of an order of any court. Criminal contempt includes any act or **publication** which: **Scandalises the court, Prejudices any judicial proceeding, Interferes** with the administration of justice in any other manner.

### Tenure

- Constitution does not lay and fix time period for judges of Supreme Court. Though it provides that a judge of Supreme Court continues to hold office until he attains the age of 65 years.
- A judge of Supreme Court can resign by tendering his resignation to President.
- He can be removed by President's order on recommendation of Parliament on the grounds of proved misbehavior or incapacity.
- President can remove a judge of Supreme Court only after the removal motion is passed by both Houses of Parliament with a special majority.
- The only grounds upon which removal of a judge through a parliamentary resolution is carried out are – proved misbehavior and incapacity [(Article 124(4))].
- The procedure for the removal of judges through parliamentary resolution is same for the judges of Supreme Court and High court.

### Acting Chief Justice (Article 126)

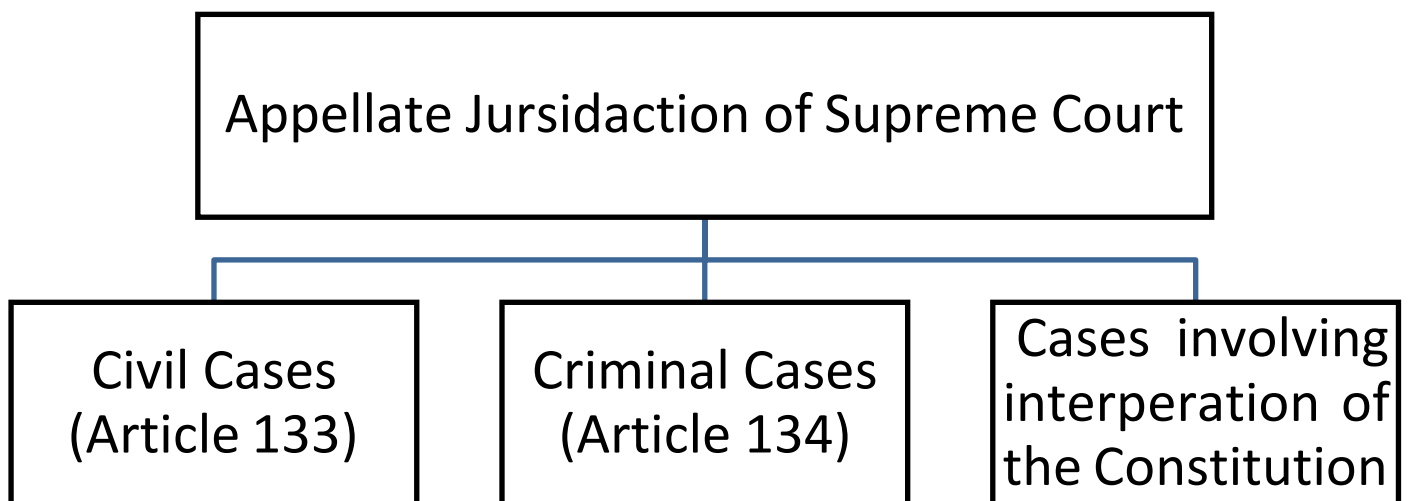
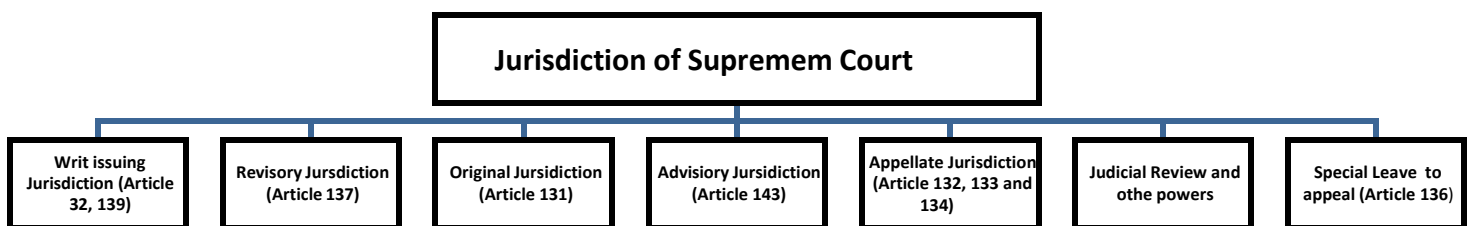
- President can appoint a judge of Supreme court as Acting Chief Justice when:
- Chief Justice is absent or unable to perform his duties.
- Office of CJI is vacant

### Ad-hoc Judges (Article 127)

Chief Justice of India with the previous consent of President can appoint a judge of High court as ad-hoc judge of Supreme court. In doing so, chief Justice has to consult the Chief Justice of concerned High Court and the judge who is to be appointed must be qualified to be a judge of supreme Court. Ad-hoc judges are appointed when there is a lack of quorum of permanent judges in Supreme Court to conduct the business of court.

?

Any discussion on the conduct of a judge of the Supreme Court or a High Court is forbidden in Parliament as under Article 121 except upon a motion for an address to the President for the removal of the judge.



Supreme Court is empowered to hear Review Petition under Revisory jurisdiction (Article 137).

### **Reasons for Judicial Activism**

- Amending the Preamble
- Amending provisions related to Fundamental Rights
- Extending powers of the Parliament to amend the Constitution without a judicial scrutiny through Article 368
- Frequent misuse of Article 356
- Ordinances as an extra legislative measure for executive functioning of the State
- Curtailing rights of citizens through legislations
- To fill for the Legislative vacuum

\*Source: COSMOS PUBLICATION, DELHI



## 5 High Courts

- The charter of High Court of Calcutta was ordered in May 1862 and that of Bombay and Madras were on June 1862. Thereby making the **Calcutta High Court** the **first court of the country**.

**Article 214 of the Constitution provides that there shall be a High Court for each State.**

**Part VI (Article 214 to 231) of the Indian Constitution deals with High Courts and related provisions.**

7<sup>th</sup> Constitutional Amendment Act, 1956 provided that there can be a common High Court for two or more States or for two or more states and Union Territory.

### Constitution of High Courts

- Every High Court consists of a Chief Justice and such other judges as the President appoints from time to time. So, unlike in Supreme Court, Constitution does not fix the number of Judges in High Courts and it depends on the discretion of President.

Neither additional nor acting judge holds office beyond 62 years of prescribed age for retirement of a High court Judge.

### Appointment of Judges

- Chief Justice of High Court is appointed by President of India in consultation with Chief Justice of India and Governor of the concerned State.
- All other judges of High court are also appointed by the President in consultation with the Chief Justice of India, Governor of the concerned State and Chief Justice of concerned High court.
- In case of common High court, Governors of all concerned states are consulted.

### Oath

- Every Judge of High Court before entering in office subscribes an oath administered by Governor of concerned State or any person appointed by him on his behalf.

## Qualifications

- A person to be appointed as a judge of High Court should hold following qualifications.
- He must be a citizen of India.
- He must have held a judicial office in the territory of India for 10 years or he must have been an advocate of a High Court (or High Courts) in succession for at least 10 years.

## Tenure

- There is no fixed tenure for judges of High Courts.
- A High Court Judge holds office until he attains the age of 62 years.
- He can be removed by President in the same manner as the judge of Supreme Court.

## Salary and allowances

- Salaries and allowances of High Court Judges are fixed by Parliament and they can not be varied for disadvantages of Judges during their tenure except in financial emergency.
- At present, monthly salary of High Court judges is 2.25 Lakh and Salary of Chief Justice of High Courts is 2.5 Lakh.
- **Jammu-Kashmir** and Delhi are the only two Union Territories to have their own High Courts.
- Calcutta, Bombay, Madras and Delhi High Courts have original civil jurisdiction in cases of higher value.

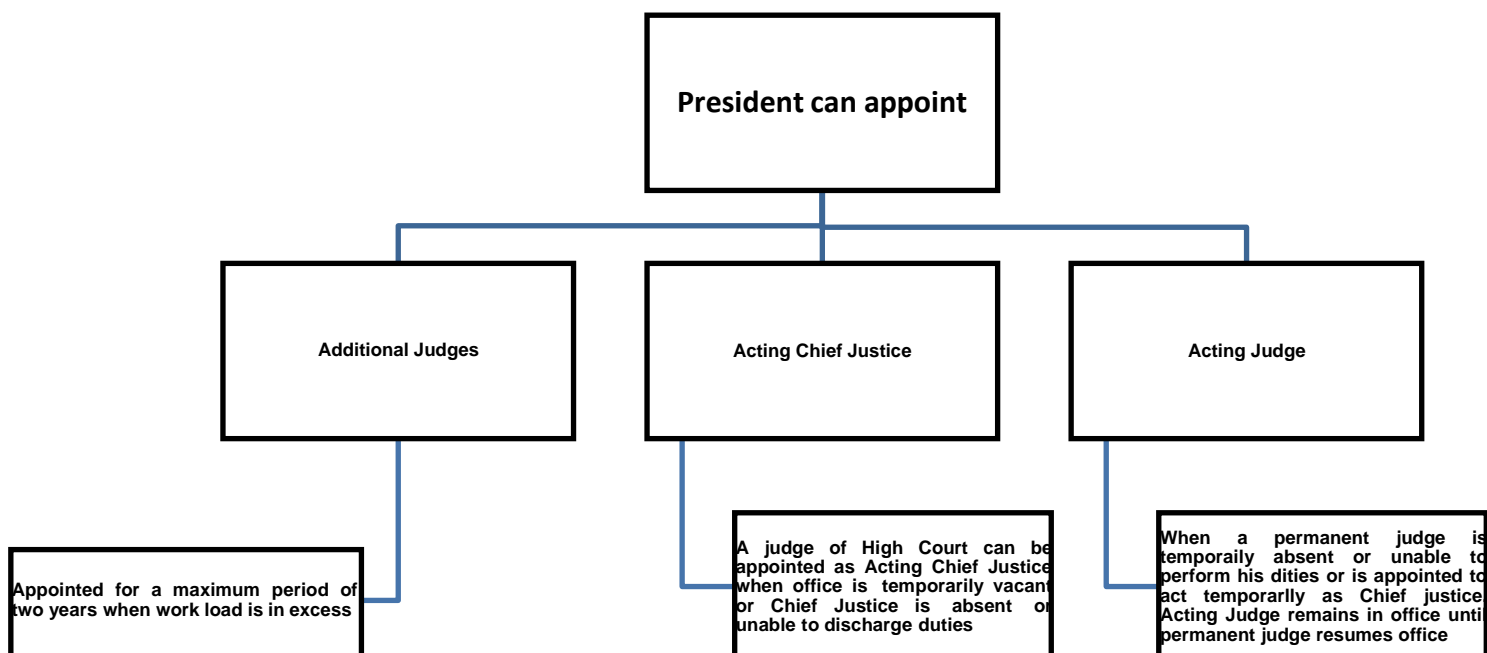
### Appellate Jurisdiction

- High Courts are the courts of appeal in Civil and Criminal cases against judgments of Subordinate Courts in the State.
- An appeal can be made to the High Court against a District Courts decision in a matter of fact or law.
- High courts have no jurisdiction over court martial or military courts.
- High court assumes the power of Judicial Review from Article 13 and 226 of the Indian constitution. The word Judicial review is nowhere used in the constitution.

Union Territories	Under Territorial Jurisdiction of
Dadra And Nagar Haveli and Daman and Diu	Bombay High Court
Andaman and Nicobar Islands	Calcutta High Court
Lakshadweep	Kerala High Court
Pondicherry / Puducherry	Madras High Court
Chandigarh	Punjab and Haryana High Court
Delhi	Delhi High Court (1966)
Ladakh	Jammu and Kashmir

#### Important Facts about High Courts in India

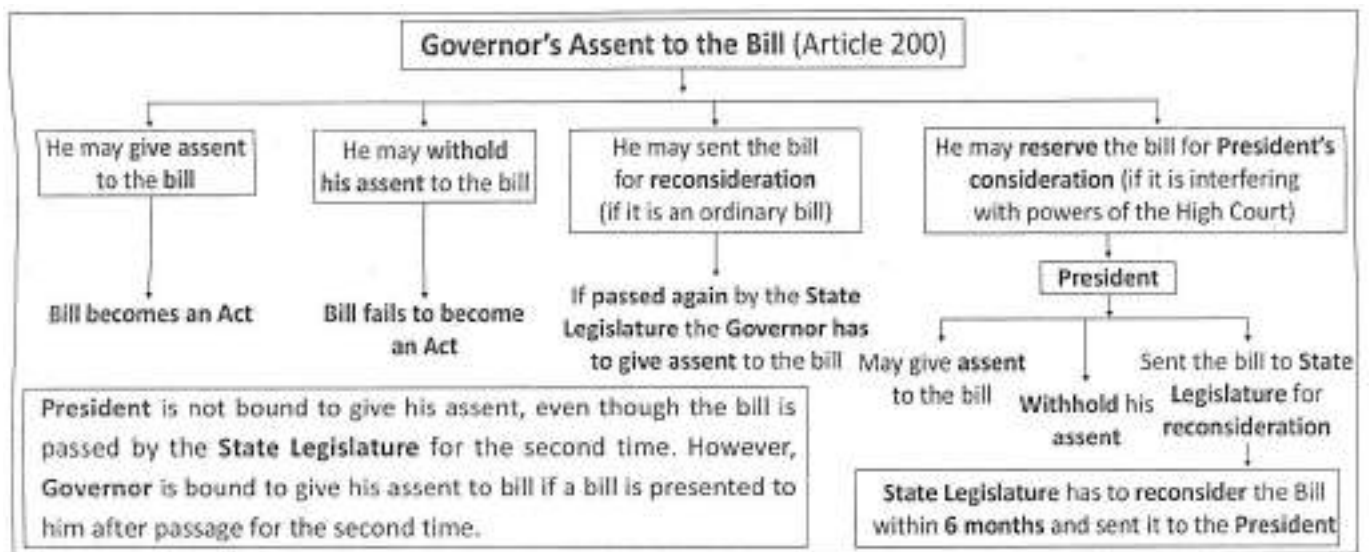
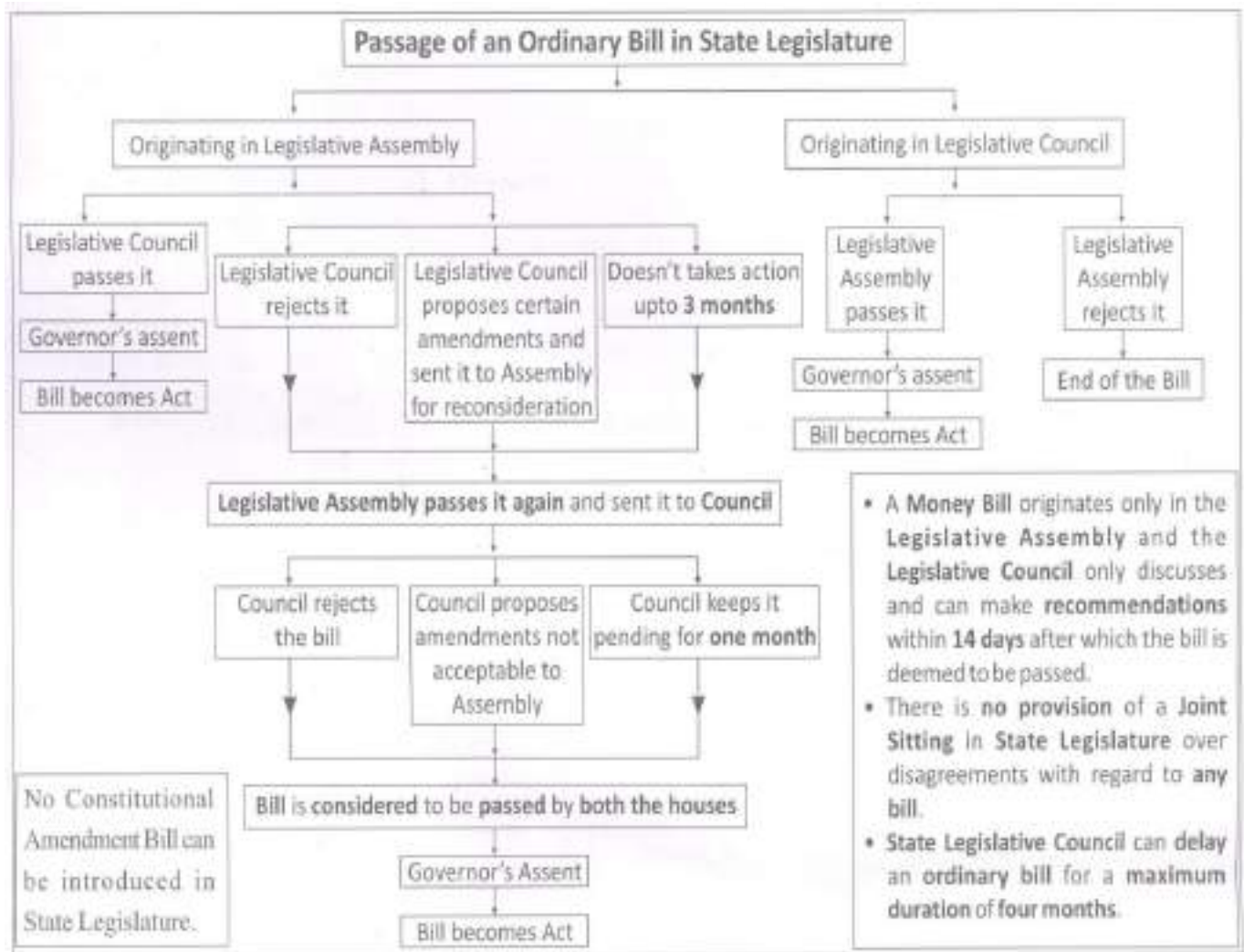
- The **Calcutta High Court** is the **oldest High Court** in the country, established on **2 July, 1862**.
- The **youngest High Court** in India is the **Andhra Pradesh High Court** established on **1 January, 2019**.
- The **Madras High Court** in Chennai, **Bombay High Court** in Mumbai, **Calcutta High Court** in Kolkata and **Allhabad High Court** in Allahabad are the **oldest four High Courts** in India.
- **First female Judge of High Court** was **Anna Chandy**. **First female Chief Justice of High Court** was **Leila Seth** (Himachal Pradesh HC).
- **India's first e-court** was opened at High Court of Judicature at **Hyderabad** in **2016**.



Name and Jurisdiction of High Courts				
S.No.	High Court	Establishment Year	Territorial Jurisdiction	Seat
1.	Allahabad High Court	1866	Uttar Pradesh	Allahabad <b>Bench:</b> Lucknow
2.	Andhra Pradesh High Court	2019	Andhra Pradesh	Amravati
3.	Bombay High Court	1862	Goa, Dadra and Nagar Haveli and Daman and Diu, Maharashtra	Mumbai <b>(Benches at</b> Nagpur, Haveli and Panaji and Aurangabad)
4.	Calcutta High Court	1862	Andaman and Nicobar Islands, West Bengal	Kolkata (Circuit Bench at Port Nicobar Blair)
5.	Chhattisgarh High Court	2000	Chhattisgarh	Bilaspur
6.	Delhi High Court	1966	NCT of Delhi	New Delhi
7.	Guwahati High Court	1948	Arunachal Pradesh, Assam, Mizoram, Nagaland	Guwahati <b>Bench:</b> Aizawl, Itanagar, Kohima
8.	Gujarat High Court	1960	Gujarat	Ahmedabad
9.	Himachal High Court	1971	Himachal Pradesh	Shimla
10.	Jammu & Kashmir High Court	1928	Jammu & Kashmir and Ladakh	Srinagar/ Jammu
11.	Jharkhand High Court	2000	Jharkhand	Ranchi
12.	Karnataka High Court	1884	Karnataka	Bengaluru <b>Bench:</b> Dharwad, Kalaburagi
13.	Kerala High Court	1956	Kerala, Lakshadweep	Kochi
14.	Madhya Pradesh High Court	1956	Madhya Pradesh	Jabalpur <b>Bench:</b> Gwalior, Indore
15.	Madras High Court	1862	Tamil Nadu, Puducherry	Madras <b>Bench:</b> Madurai
16.	Manipur High Court	2013	Manipur	Imphal

17.	Meghalaya High Court	2013	Meghalaya	Shillong
18.	Orissa High Court	1948	Orissa	Cuttack
19.	Patna High Court	1916	Bihar	Patna
20.	Punjab and Haryana High Court	1875	Chandigarh, Haryana, Punjab	Chandigarh
21.	Rajasthan High Court	1949	Rajasthan	Jodhpur <b>Bench:</b> Jaipur
22.	Sikkim High Court	1975	Sikkim	Gangtok
23.	Telangana High Court	1954	Telangana	Hyderabad
24.	Tripura High Court	2013	Tripura	Agartala
25.	Uttarakhand High Court	2000	Uttarakhand	Nanital

Presiding Officers	
Speaker and Deputy Speaker	Chairman and Deputy Chairman
<ul style="list-style-type: none"> <li>Legislative Assembly has a Speaker and a Deputy Speaker elected by Assembly itself from amongst its members.</li> <li>Speaker presides over the meetings of Legislative Assembly and in his absence Deputy Speaker presides over the meetings of Legislative Assembly.</li> <li>Speaker gives his resignation to Deputy Speaker and vice-versa.</li> </ul>	<ul style="list-style-type: none"> <li>Legislative Council has a Chairman and Deputy Chairman elected by itself from amongst its members to preside over the house.</li> <li>When Chairman is absent, the Deputy Chairman functions as presiding officer of the house.</li> <li>Chairman gives his resignation to Deputy Chairman or vice-versa.</li> </ul>



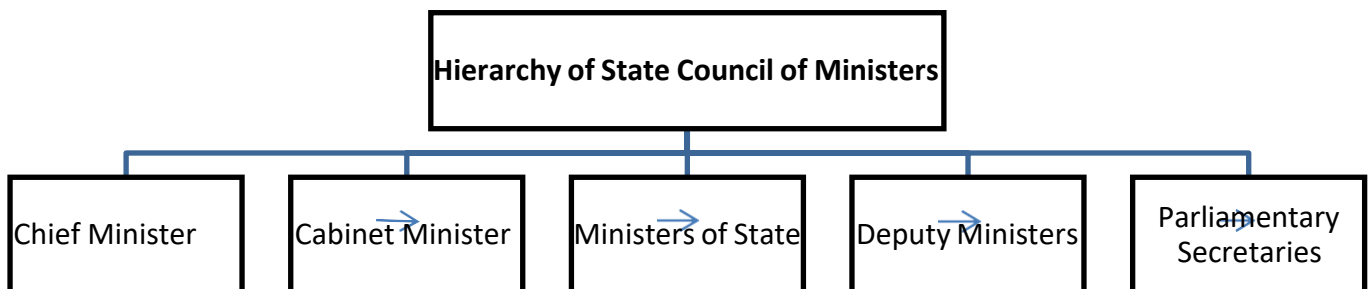
Article 164(1) maintains that the Chief Minister holds office at the pleasure of the Governor; also Article 164(2) maintains that the ministers (including the Chief Minister) are collectively responsible to the Legislative Assembly of the State. Hence forth as long as the Chief Minister enjoys the support and confidence in the house, he cannot be removed by the Governor.

- Chief Minister gets the same salary and allowances which are paid to the members of State Legislative Assembly.
- In addition to that he gets sumptuary allowance, free accommodation, travelling allowance, medical facilities etc. Salary and allowance of Chief Minister are determined by State Legislature from time to time.

Constitutional provisions related to Council of Ministers	
<b>Article 163</b>	
Council of Ministers to aid and advice the Governor	
<b>Article 164</b>	
Provisions related to appointment, reshuffle, allotment of portfolios, salary and allowances, individual and collective responsibility.	

- **Legislative Assembly** passes the bill again and send it to the Council if the Council still rejects it, the bill is considered to be passed by both the houses; if the Council proposes amendments not acceptable to the Bill, the bill is considered to be passed and if the state legislative council keeps the bill pending for one month; then in either of the three cases the bill is considered to be passed by both the houses.

**State Legislative Council can withhold and ordinary bill for a maximum duration of 4 months.**



## Powers and Functions of Chief Minister

### In relation to Council of Ministers

- Chief Minister recommends persons who are to be appointed as Ministers by the Governor. Article 164 says that Chief Minister shall be appointed by the Governor and the other ministers shall be appointed by the Governor on the advice of Chief Minister. So, Governor can appoint only those members as minister who are recommended by Chief Minister.
- He allocates and reshuffles portfolios among his ministers.
- He presides over the meetings of cabinet and Council of Ministers. He can call cabinet meeting anytime.
- He may ask any Minister to resign any time or can advice the Governor to dismiss a minister on difference of opinion.
- He guides, controls and coordinates the activities of all the ministers.
- If he resigns then Council of Ministers automatically gets dissolved.

### In relation to Governor

- Chief Minister functions as the channel of communication between the Governor and Council of Ministers.
- As given in Article 167 : It shall be the duty of the Chief Minister of each state
  - (a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation.
  - (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for, and
  - (c) if the Governor so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.
- He advises the Governor with regard to the appointment of important officials like Advocate General, the Chairman and the members of the State Public Service Commission, the State Election Commissioner etc.

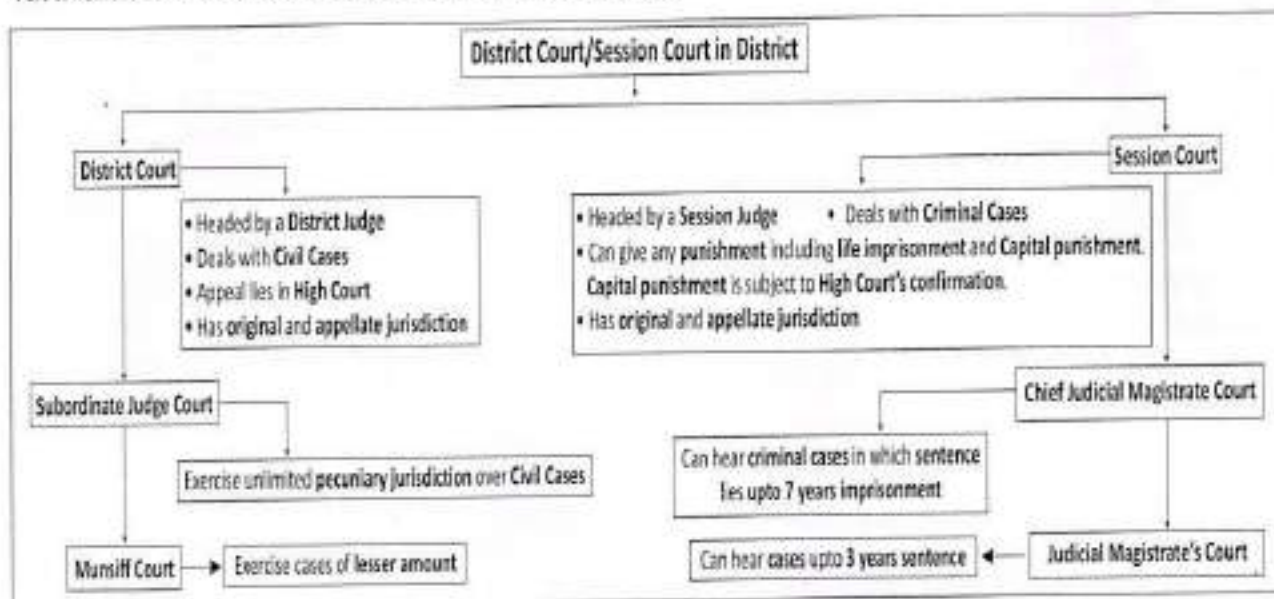
### In relation to the State Legislature

- Chief Minister is the leader of the State Legislative Assembly and leader of party in power. He announces government policies on the floor of the house.
- He intervenes in the debates of general importance.
- He advises the Governor with regard to the summoning and proroguing of the sessions of state legislature.
- He recommends the Governor for dissolution of the legislative assembly whenever he wishes to do so.



## 6 Subordinate Courts

Part VI from Article 233 to 237 in the Indian Constitution deals with Subordinate Courts.



Subordinate Courts (Part VI) (Article 233 to 237)	
Article 233	Appointment of District Judges
Article 233A	Validation of appointments of, and judgments, etc, delivered by certain District Judges
Article 234	Recruitment of persons other than district judges to the judicial service
Article 235	Control over subordinate courts
Article 236	Interpretation
Article 237	Application of the provisions of this chapter to certain class or classes of magistrates

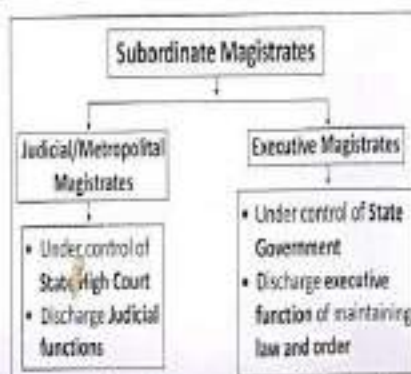
### Appointment of District Judges

- A Judge of District Court is appointed by the Governor in consultation with the concerned High Court. Promotion and posting of district judges are done by Governor in consultation with High Courts.

### Lok Adalats

- Lok Adalats are an alternative dispute resolution mechanism in an amicable manner by settling disputes in an informal manner. Disputes which are pending in court or are in pre-litigation stage can be settled in Lok Adalats.
- Legal Service Authority Act, 1987 gives statutory backing to Lok Adalats.

District Judge becomes a Session Judge while dealing with criminal cases and District Court is a Session Court in criminal cases. Appeals against District Court go to High Court.



- Gram Nyayalayas were enacted under Gram Nyayalayas Act, 2008 guided by principles of Natural Justice.

\*Source: COSMOS PUBLICATION, DELHI

# Indian Polity and Governance – Indian Polity –Constitution, Political System Chapter 4

## Short Answers

CSM – 04 Compiled by Dr Mamta Pathania



22

**This chapter contains:**

- **Emergency Provisions**
- **Constitutional Amendments**

## Contents

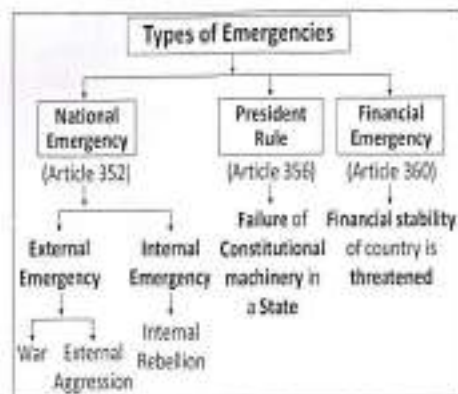
1	Emergency Provisions .....	1
2	Constitutional Amendment .....	1
2.1	First Amendment Act, 1951 .....	1
2.2	Second Amendment Act, 1952.....	1
2.3	Third Amendment Act, 1954 .....	1
2.4	Fourth Amendment Act, 1955 .....	1
2.5	Fifth Amendment Act, 1955.....	3
2.6	Sixth Amendment Act, 1956.....	3
2.7	Seventh Amendment Act, 1956.....	3
2.8	Eighth Amendment Act, 1960.....	3
2.9	Ninth Amendment Act, 1960 .....	3
2.10	Tenth Amendment Act, 1961 .....	3
2.11	Eleventh Amendment Act, 1961 .....	3
2.12	Twelfth Amendment Act, 1962 .....	4
2.13	Thirteenth Amendment Act, 1962.....	4
2.14	Fourteenth Amendment Act, 1962.....	4
2.15	Fifteenth Amendment Act, 1963.....	4
2.16	Sixteenth Amendment Act, 1963.....	4
2.17	Seventeenth Amendment Act, 1964.....	4
2.18	Eighteenth Amendment Act, 1966.....	5
2.19	Nineteenth Amendment Act, 1966.....	5
2.20	Twentieth Amendment Act, 1966 .....	5
2.21	Twenty-First Amendment Act, 1967 .....	5
2.22	Twenty-Second Amendment Act, 1969 .....	5
2.23	Twenty-Third Amendment Act, 1969 .....	5
2.24	Twenty-Fourth Amendment Act, 1971 .....	5
2.25	Twenty-Fifth Amendment Act, 1971 .....	5
2.26	Twenty-Sixth Amendment Act, 1971 .....	6
2.27	Twenty-Seventh Amendment, 1971 .....	6
2.28	Twenty-Eighth Amendment Act, 1972 .....	6
2.29	Twenty-Ninth Amendment Act, 1972.....	6
2.30	Thirtieth Amendment Act, 1972.....	6
2.31	Thirty-First Amendment Act, 1973.....	6
2.32	Thirty-Second Amendment Act, 1973.....	6
2.33	Thirty-Third Amendment Act, 1974.....	6
2.34	Thirty-Fourth Amendment Act, 1974 .....	7
2.35	Thirty-Fifth Amendment Act, 1974.....	7
2.36	Thirty-Sixth Amendment Act, 1975.....	7

2.37	Thirty-Seventh Amendment Act, 1975.....	7
2.38	Thirty-Eighth Amendment Act, 1975.....	7
2.39	Thirty-Ninth Amendment Act, 1975 .....	7
2.40	Fortieth Amendment Act, 1976.....	7
2.41	Forty-First Amendment Act, 1976 .....	8
2.42	Forty-Second Amendment Act, 1976 .....	8
2.43	Forty-Third Amendment Act, 1977 .....	9
2.44	Forty-Fourth Amendment Act, 1978 (Enacted by the Janata Government mainly to nullify some of the other distortions introduced by 42 <sup>nd</sup> Amendment Act, 1976) .....	9
2.45	Forty-Fifth Amendment Act, 1980 .....	10
2.46	Forty-Sixth Amendment Act, 1982.....	10
2.47	Forty-Seventh Amendment Act, 1984 .....	10
2.48	Forty-Eighth Amendment Act, 1984 .....	10
2.49	Forty-Ninth Amendment Act, 1984 .....	10
2.50	Fiftieth Amendment Act, 1984.....	10
2.51	Fifty-First Amendment Act, 1984.....	10
2.52	Fifty-Second Amendment Act, 1985 (Known as Anti-Defection Law) .....	10
2.53	Fifty-Third Amendment Act, 1986.....	10
2.54	Fifty-Fourth Amendment Act, 1986.....	11
2.55	Fifty-Fifth Amendment Act, 1986.....	11
2.56	Fifty-Sixth Amendment Act, 1987.....	11
2.57	Fifty-Seventh Amendment Act, 1987 .....	11
2.58	Fifty-Eighth Amendment Act, 1987.....	11
2.59	Fifty-Ninth Amendment Act, 1988 .....	11
2.60	Sixtieth Amendment Act, 1988.....	11
2.61	Sixty-First Amendment Act, 1989.....	11
2.62	Sixty-Second Amendment Act, 1989.....	12
2.63	Sixty-Third Amendment Act, 1989.....	12
2.64	Sixty-Fourth Amendment Act, 1990.....	12
2.65	Sixty-Fifth Amendment Act, 1990.....	12
2.66	Sixty-Sixth Amendment Act, 1990.....	12
2.67	Sixty-Seventh Amendment Act, 1990.....	12
2.68	Sixty-Eighth Amendment Act, 1991.....	12
2.69	Sixty-Ninth Amendment Act, 1991.....	12
2.70	Seventieth Amendment Act, 1992.....	12
2.71	Seventy-First Amendment Act, 1992.....	13
2.72	Seventy-Second Amendment Ac, 1992.....	13
2.73	Seventy-Third Amendment Act, 1992.....	13
2.74	Seventy-Fourth Amendment Act, 1992 .....	13
2.75	Seventy-Fifth Amendment Act, 1994.....	13

2.76	Seventy-Sixth Amendment Act, 1994.....	13
2.77	Seventy-Seventh Amendment Act, 1995.....	13
2.79	Seventy-Eighth Amendment Act, 1995.....	14
2.80	Seventy-Ninth Amendment Act, 1999 .....	14
2.81	Eightieth Amendment Act, 2000.....	14
2.82	Eighty-First Amendment Act, 2000.....	14
2.83	Eighty-Second Amendment Act, 2000.....	14
2.84	Eighty-Third Amendment Act, 2000.....	14
2.85	Eighty-Fourth Amendment Act, 2001 .....	14
2.86	Eighty-Fifth Amendment Act, 2001.....	15
2.87	Eighty-Sixth Amendment Act, 2002.....	15
2.88	Eighty-Seventh Amendment Act, 2003.....	15
2.89	Eighty-Eighth Amendment Act, 2003.....	15
2.90	Eighty-Ninth Amendment Act, 2003 .....	15
2.91	Ninetieth Amendment Act, 2003.....	16
2.92	Ninety-First Amendment Act, 2003.....	16
2.93	Ninety-Second Amendment Act, 2003 .....	16
2.94	Ninety-Third Amendment Act, 2005 .....	16
2.95	Ninety-Fourth Amendment Act, 2006 .....	16
2.96	Ninety-Fifth Amendment Act, 2009.....	17
2.97	Ninety-Sixth Amendment Act, 2011.....	17
2.98	Ninety-Seventh Amendment Act, 2011 .....	17
2.99	Ninety-Eighth Amendment Act, 2012 .....	17
2.100	Ninety-Ninth Amendment Act, 2014.....	17
2.101	One Hundredth Amendment Act, 2015.....	17
2.102	One Hundredth and First Amendment Act, 2016 .....	18
2.103	One Hundred and Second Amendment, 2018 .....	18
2.104	One Hundred and Third Amendment, 2019 .....	18
2.105	One Hundred and Fourth Amendment, 2020.....	19
2.106	One Hundred and Fifth Amendment, 2021 .....	19

# 1 Emergency Provisions

- Indian Constitution provides emergency provisions in Part XVIII from Article 352 to 360. These provisions in Indian Constitution are laid down to deal with an emergency or abnormal situations.



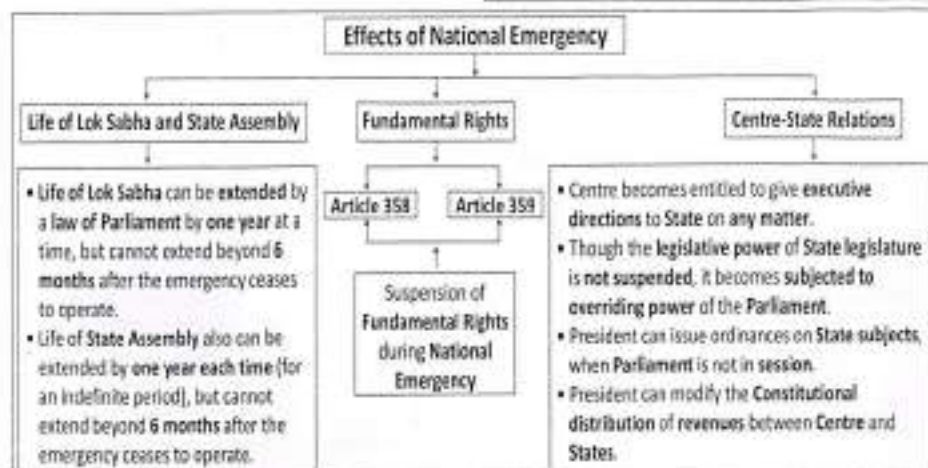
## National Emergency (Article 352)

- National Emergency is declared by the President of India when there is grave threat to the security of India or any of its territory due to war, external aggression or armed rebellion. He can proclaim emergency for whole India or any part of it.
- President can declare this Emergency even before actual occurrence of war, external aggression or armed rebellion if he is satisfied that there is an imminent danger.
- President declares National Emergency only on the written recommendation of Cabinet. It should be noted here, the word Cabinet is not mentioned in the original Constitution. It was added by 44<sup>th</sup> Constitutional Amendment Act, 1978.
- Approval of such proclamation must be done by special majority of both the houses of the Parliament. If both houses approve then Emergency remains in the force for six months. Though, it can continue for indefinite period with an approval of Parliament every six months.

- National emergency can be revoked by the President anytime by a subsequent proclamation if Lok Sabha disapproves the proclamation of Emergency or its continuance.

## Proclamation of National Emergency

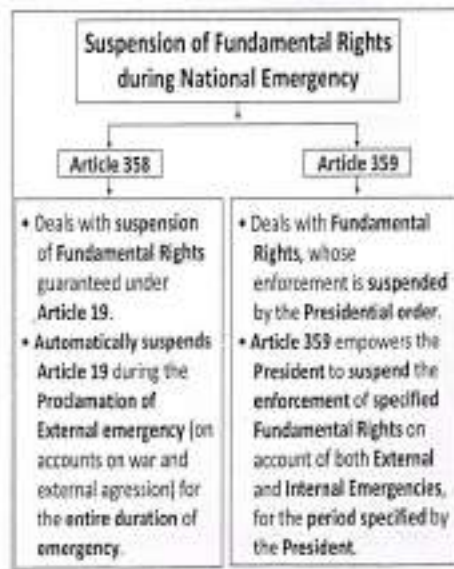
26 <sup>th</sup> October, 1962	– Indo-China War
3 <sup>rd</sup> December, 1971	– India-Pakistan War
25 <sup>th</sup> June, 1975	– On grounds of internal disturbances



Laws made by Parliament on State subject during emergency remains in force till 6 months after Emergency ceases.

Though the Proclamation of National Emergency does not suspend the State Legislature, it suspends the distribution of legislative powers between the Union and the State.

President cannot suspend the enforcement of fundamental rights guaranteed under Article 20 and 21 even during emergency.



## President Rule [State Emergency (Article 356)]

- Article 356 talks about the failure of Constitutional machinery in the State leading to President's rule. If the President, realises on the basis of Governor's report or otherwise that the situation has arisen that the government of a State cannot be carried in accordance with the Constitutional provisions, he may issue State emergency.
- When a State fails to comply with the directions given by Centre then too President can declare State Emergency as per Article 365.



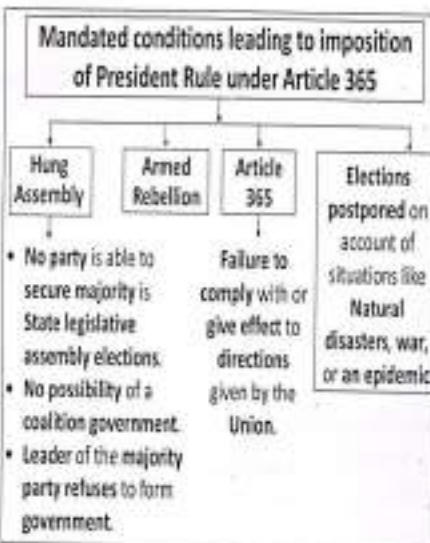
- Proclamation of State Emergency must be approved by the Parliament within two months, otherwise it will cease to operate. Once the proclamation is approved, it remains in force for six months from the date of proclamation.

If a Proclamation of Emergency (National Emergency) is already in operation under Article 352 and Election Commission certifies that elections cannot be held on such occasion, then State Emergency can be extended up to 3 years.

The proclamation of State emergency under Article 356 suspends the State Legislature and the Executive authority of the State is assumed by the President in whole or in part.

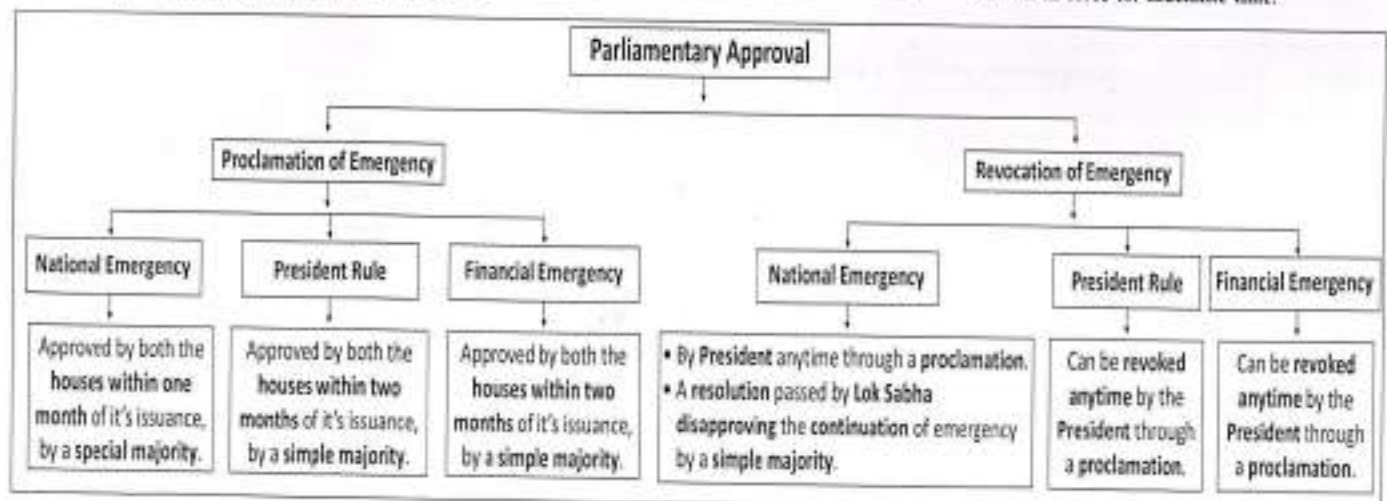
- According to a RTI response from the Ministry of

Home Affairs, President's Rule was imposed 115 times till 2016.



### Financial Emergency (Article 360)

- Under Article 360, President can declare the Financial Emergency if he is satisfied that a situation has arisen whereby the financial stability or the credit of India or any part thereof is threatened.
- Proclamation of Financial Emergency must be approved within two months by Parliament. But, if Lok Sabha is dissolved or its dissolution takes place within two months of proclamation without approving it then it will survive until 30 days from first sitting of Lok Sabha after its reconstitution provided Rajya Sabha approved it in the meantime.
- If Financial Emergency is approved by both houses of Parliament by a simple majority then it will survive until it is revoked by President. So, it can remain in force for indefinite time.



\*Source : COSMOS PUBLICATION, DELHI

## 2 Constitutional Amendment

Article 368 in Part XX of the constitution deals with the power of parliament to amend the constitution and its procedures. Article 368 provides of two type of amendments, that is, by a special majority of Parliament and the Special majority of Parliament along with the ratification of half of the states legislatures by simple majority. Amendment of certain provisions of the constitution requires amendment by a simple majority of each house present and voting. These amendments are not deemed to be amendments under Article 368. In Kesavananda Bharti case 1973, the supreme court has rules that parliament has the power to amend any part of the constitution but it cannot alter the basic structure of the constitution. The constituents of basic structure are not clearly defined by the court. However, it has been interpreted to provisions like values enshrined in preamble like secularism, equality, federalism, separation of power, independence judiciary, rule of law etc.

### 2.1 First Amendment Act, 1951

1. Empowered the state to make special provisions for the advancement of socially and economically backward classes.
2. Provided for the saving of laws providing for acquisition of estates, etc.
3. Added Ninth Schedule to protect the land reform and other laws included init from the judicial review.
4. Added three more grounds of restrictions on freedom of speech and expression, viz., public, order, friendly relations with foreign states and incitement to an offence. Also, made the restrictions reasonable and thus, justiciable in nature.
5. Provided that state trading and nationalisation of any trade or business by the state is not to be invalid on the ground of violation of the right to trade or business.

### 2.2 Second Amendment Act, 1952

Readjusted the scale of representation in the Lok Sabha by providing that one member could represent even more than 7,50,000 persons.

### 2.3 Third Amendment Act, 1954

Empowered the Parliament to control the production, supply and distribution of the foodstuffs, cattle fodder, raw cotton, cotton seed and raw jute in the public interest.

### 2.4 Fourth Amendment Act, 1955

1. Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
2. Authorised the state to nationalise any trade.
3. Included some more Acts in the Ninth Schedule.



4. Extended the scope of Article 31 A (savings of laws).

## **2.5 Fifth Amendment Act, 1955**

Empowered the president to fix the time-limit for the state legislatures to express their views on the proposed Central legislation affecting the areas, boundaries and names of the States.

## **2.6 Sixth Amendment Act, 1956**

Included a new subject in the Union list i.e., Taxes on the sale and purchase of goods in the course of inter-state trade and commerce and restricted the State's power in this regard.

## **2.7 Seventh Amendment Act, 1956**

1. Abolished the existing classification of States into four categories i.e., Part A, Part B, Part C and Part D states, and reorganised them into 14 States and 6 Union Territories.
2. Extended the jurisdiction of High Courts to union territories.
3. Provided for the establishment of a common High Court for two or more States.
4. Provided for the appointment of additional and acting judges of the High Court.

## **2.8 Eighth Amendment Act, 1960**

Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a period of ten years (i.e., up to 1970).

## **2.9 Ninth Amendment Act, 1960**

Facilitated the cession of Indian territory of Berubari Union (located in West Bengal) to Pakistan as provided in the Indo-Pakistan Agreement (1958).

## **2.10 Tenth Amendment Act, 1961**

Incorporated Dadra and Nagar Haveli in the Indian Union.

## **2.11 Eleventh Amendment Act, 1961**

1. Changed the procedure of election of the Vice-President by providing for an electoral college instead of a joint meeting of the two lines of Parliament.
2. Provided that the election of the President or Vice-President cannot be challenged on the ground of any vacancy in the appropriate electoral college.

### **2.12 Twelfth Amendment Act, 1962**

Incorporated Goa, Daman and Diu in the Indian Union.

### **2.13 Thirteenth Amendment Act, 1962**

Gave the status of a State to Nagaland and made special provisions for it.

### **2.14 Fourteenth Amendment Act, 1962**

1. Incorporated Puducherry in the Indian Union.
2. 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.

### **2.15 Fifteenth Amendment Act, 1963**

1. Enabled the High Courts to issue writs to any person or authority even outside its territorial jurisdiction if the cause of action arise within its territorial limits.
2. Increased the retirement age of High Court judges from 60 to 62 years.
3. Provided for appointment of retired judges of the High Courts as acting judges of the same court.
4. Provided for compensatory allowance to judges who are transferred from one High Court to another.
5. Enabled the retired judge of High Court to act as adhoc judge of the Supreme Court.
6. Provided for the procedure for determining the age of the Supreme Court and High Court judges.

### **2.16 Sixteenth Amendment Act, 1963**

1. Empowered the state to impose further restriction on the rights to freedom of speech and expression, to assemble peaceable and to form associations in the interests of sovereignty and integrity of India.
2. Included sovereignty and integrity in the forms of oaths or affirmations to be subscribed by contestants to the legislatures. Members of the legislatures, ministers, judges and CAG of India.

### **2.17 Seventeenth Amendment Act, 1964**

1. Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
2. Included 44 more Acts in the Ninth Schedule.

### **2.18 Eighteenth Amendment Act, 1966**

Made it clear that the power of Parliament to form a new State also includes a power to form a new state or union territory by uniting a part of a state or a union territory to another state or union territory.

### **2.19 Nineteenth Amendment Act, 1966**

Abolished the system of Election Tribunals and vested the power to hear election petitions in the High Courts.

### **2.20 Twentieth Amendment Act, 1966**

Validated certain appointments of district judges in the UP which were declared void by the Supreme Court.

### **2.21 Twenty-First Amendment Act, 1967**

Included Sindhi as the 15<sup>th</sup> language in the Eight Schedule.

### **2.22 Twenty-Second Amendment Act, 1969**

Facilitated the creation of a new autonomous State of Meghalaya within the State of Assam.

### **2.23 Twenty-Third Amendment Act, 1969**

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years (i.e., up to 1980).

### **2.24 Twenty-Fourth Amendment Act, 1971**

1. Affirmed the power of Parliament to amend any part of the Constitution including fundamental rights.
2. Made it compulsory for the President to give his assent to a Constitutional Amendment Bill.

### **2.25 Twenty-Fifth Amendment Act, 1971**

1. Curtailed the fundamental Right to Property.
2. Provided that any law made to give effect to the Directive Principles contained in

Article 39 (b) or (c) cannot be challenged on the ground of violation of the right guaranteed by Article 14, 19 and 31.

### **2.26 Twenty-Sixth Amendment Act, 1971**

Abolished the privy purses and privileges of the former rulers of princely states.

### **2.27 Twenty-Seventh Amendment, 1971**

1. Empowered the administrators of certain Union Territories to promulgate ordinances.
2. Made certain special provisions for new Union Territories of Arunachal Pradesh and Mizoram.
3. Authorised the Parliament to create the legislative assembly and the council of ministers for the new state of Manipur.

### **2.28 Twenty-Eighth Amendment Act, 1972**

Abolished the special privileges of ICS officers and empowered the Parliament to determine their service conditions.

### **2.29 Twenty-Ninth Amendment Act, 1972**

Included two Kerala Acts on land reforms in the Ninth Schedule.

### **2.30 Thirtieth Amendment Act, 1972**

Did away with the provision which allowed appeal to the supreme Court in civil cases involving an amount of Rs.20,000 and provided instead that an appeal can be filed in the Supreme Court only if the case involves a substantial question of law.

### **2.31 Thirty-First Amendment Act, 1973**

Increased the number of Lok Sabha seats from 525-5245.

### **2.32 Thirty-Second Amendment Act, 1973**

Made special provisions to satisfy the aspirations of the people of the Telengana region in Andhra Pradesh.

### **2.33 Thirty-Third Amendment Act, 1974**

Provided that the resignation of the members of Parliament and the state legislatures

may be accepted by the Speaker/Chairman only if he is satisfied that the resignation is voluntary or genuine.

### **2.34 Thirty-Fourth Amendment Act, 1974**

Included twenty more land tenure and land reforms acts of various states in the Ninth Schedule.

### **2.35 Thirty-Fifth Amendment Act, 1974**

Terminated the protectorate status of Sikkim and conferred on it 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.

### **2.36 Thirty-Sixth Amendment Act, 1975**

Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.

### **2.37 Thirty-Seventh Amendment Act, 1975**

Provided legislative assembly and council of ministers for the Union Territory of Arunachal Pradesh.

### **2.38 Thirty-Eighth Amendment Act, 1975**

1. Made the declaration emergency by the President non-justiciable.
2. Made the promulgation of ordinances by the President, Governors and administrators of union territories non-justiciable.
3. Empowered the president to declare different proclamations of national emergency on different grounds simultaneously.

### **2.39 Thirty-Ninth Amendment Act, 1975**

1. Placed the disputes relating to the President, Vice-President, Prime Minister and Speaker beyond the scope of the judiciary. They are to be decided by such authority as may be determined by the Parliament.
2. Included certain Central acts in the Ninth Schedule.

### **2.40 Fortieth Amendment Act, 1976**

1. Empowered the Parliament to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.
2. Included 64 more Central and state laws, mostly relating to land reforms, in the

Ninth Schedule.

### **2.41 Forty-First Amendment Act, 1976**

Raised the retirement age of members of State Public Service Commission and Joint Public Service Commission from 60 to 62.

### **2.42 Forty-Second Amendment Act, 1976**

The most comprehensive amendment made so far to the Constitution; it is known as **Mini-Constitution** it gave effect to the recommendations of Swaran Singh Committee

1. Added three new words (i.e., socialist, secular and integrity) in the Preamble.
2. Added Fundamental Duties by the citizens (new Part IV A).
3. Made the President bound by the advice of the Cabinet.
4. Provided for Administrative Tribunals and tribunals for other matters (added Part XIV A).
5. Froze the seats in the Lok Sabha and State legislative assemblies on the basis of 1971 census till 2001.
6. Made the constitutional amendments beyond judicial scrutiny.
7. Curtailed the power of judicial review and writ jurisdiction of the Supreme Court and High Courts.
8. Raised the tenure of Lok Sabha and State legislative assemblies from 5 to 6 years.
9. Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.
10. Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
11. Added three new Directive Principles viz., equal justice and free legal aid, participation of workers in the management of industries and protection of environment, forests and wild life.
12. Facilitated the proclamation of national emergency in a part of territory of India.
13. Extended the one-time duration of the President's rule in a state from 6 months to one year.
14. Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
15. Shifted five subjects from the state list to the concurrent list, viz., education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts.
16. Did away with the requirement of quorum in the Parliament and the state legislature.
17. Empowered the Parliament to decide from time to time the rights and privileges of its members and committees.
18. Provided for the creation of the All-India Judicial Service.

19. Shortened the procedure for disciplinary action by taking away the right of a civil servant to make representation at the second stage after the inquiry (i.e., on the penalty proposed).

### **2.43 Forty-Third Amendment Act, 1977**

Enacted by the Janata Government to nullify some of the distortions introduced by 42<sup>nd</sup> Amendment Act of 1976

1. Restored the jurisdiction of the Supreme Court and the High Courts in respect of judicial review and of writs.
2. Deprived the Parliament of its special powers to make laws to deal with anti-national activities.

### **2.44 Forty-Fourth Amendment Act, 1978 (Enacted by the Janata Government mainly to nullify some of the other distortions introduced by 42<sup>nd</sup> Amendment Act, 1976)**

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



### **2.45 Forty-Fifth Amendment Act, 1980**

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years (i.e., up to 1990).

### **2.46 Forty-Sixth Amendment Act, 1982**

1. Enabled the states to plug loopholes in the laws and realise sales tax duties.
2. Brought about some uniformity in tax rates on certain items.

### **2.47 Forty-Seventh Amendment Act, 1984**

Included 14 land reforms Acts of various states in the Ninth Schedule.

### **2.48 Forty-Eighth Amendment Act, 1984**

Facilitated the extension of President's rule in Punjab beyond one year without meeting the two special conditions for such extension.

### **2.49 Forty-Ninth Amendment Act, 1984**

Gave a constitutional sanctity to the Autonomous District Council in Tripura.

### **2.50 Fiftieth Amendment Act, 1984**

Empowered the Parliament to restrict the Fundamental Rights of person employed in intelligence organisations and telecommunication systems set up for the armed forces or intelligence organisations.

### **2.51 Fifty-First Amendment Act, 1984**

Provided for reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram as well as in the Legislative Assemblies of Meghalaya and Nagaland.

### **2.52 Fifty-Second Amendment Act, 1985 (Known as Anti-Defection Law)**

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.

### **2.53 Fifty-Third Amendment Act, 1986**

Made special provisions in respect of Mizoram and fixed the strength of its Assembly at a minimum of 40 members.

#### **2.54 Fifty-Fourth Amendment Act, 1986**

Increased the salaries of the Supreme Court and High Court Judges and enabled the Parliament to change them in future by an ordinary law.

#### **2.55 Fifty-Fifth Amendment Act, 1986**

Made special provisions in respect of Arunachal Pradesh and fixed the strength of its Assembly at a minimum of 30 members.

#### **2.56 Fifty-Sixth Amendment Act, 1987**

Fixed the strength of the Goa Legislative Assembly at a minimum of 30 members.

#### **2.57 Fifty-Seventh Amendment Act, 1987**

Reserved seats for the STs in the Legislative assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.

#### **2.58 Fifty-Eighth Amendment Act, 1987**

Provided for an authoritative text of the Constitution in Hindi language and gave the same legal sanctity to the Hindi version of the Constitution.

#### **2.59 Fifty-Ninth Amendment Act, 1988**

1. Facilitated the extension of President's Rule in Punjab up to three years.
2. Provided for the declaration of national emergency in Punjab on the ground of internal disturbance.

#### **2.60 Sixtieth Amendment Act, 1988**

Increased the ceiling of taxes on professions, trades, callings and employments from Rs.250 per annum to Rs.2,500 per annum.

#### **2.61 Sixty-First Amendment Act, 1989**

Reduced the voting age from 21 years to 18 years for the Lok Sabha and State legislative assembly elections.

### **2.62 Sixty-Second Amendment Act, 1989**

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for the further period of ten years (i.e., up to 2000).

### **2.63 Sixty-Third Amendment Act, 1989**

Repealed the changes introduced by the 59<sup>th</sup> Amendment Act of 1988 in relation to Punjab. In other words, Punjab was brought at par with the other states in respect of Emergency provisions.

### **2.64 Sixty-Fourth Amendment Act, 1990**

Facilitated the extension of the President's rule in Punjab upto a total period of three years.

### **2.65 Sixty-Fifth Amendment Act, 1990**

Provided for the establishment of a multi-member National Commission for SCs and STs in the place of a Special Officer for SCs and STs.

### **2.66 Sixty-Sixth Amendment Act, 1990**

Included 55 more land reforms Acts of various states in the Ninth Schedule.

### **2.67 Sixty-Seventh Amendment Act, 1990**

Facilitated the extension of the President's rule in Punjab up to a total period of four years.

### **2.68 Sixty-Eighth Amendment Act, 1991**

Facilitated the extension of the President's rule in Punjab up to a total period of five years.

### **2.69 Sixty-Ninth Amendment Act, 1991**

Accorded a special status to the Union Territory of Delhi by designing it as the National Capital Territory of Delhi. The amendment also provided for the creation of a 70 member legislative assembly and a 7 member Council of ministers for Delhi.

### **2.70 Seventieth Amendment Act, 1992**

Provided for the inclusion of the members of the Legislative Assemblies of National

Capital Territory of Delhi and the Union Territory of Puducherry in the electoral college for the election of the President.

### **2.71 Seventy-First Amendment Act, 1992**

Included konkani, Manipuri and Nepali languages in the Eighth Schedule. With this, the total number of scheduled languages increased to 18.

### **2.72 Seventy-Second Amendment Act, 1992**

Provided for reservation of seats for the STs in the Legislative Assembly of Tripura.

### **2.73 Seventy-Third Amendment Act, 1992**

Granted constitutional status and protection to the Panchayati Raj Institutions. For this purpose, the Amendment has added a new Part-IX entitled as The Panchayats and a new Eleventh Schedule containing 29 functional items of the panchayats.

### **2.74 Seventy-Fourth Amendment Act, 1992**

Granted constitutional status and protection to the urban local bodies. For this purpose, the Amendment has added a new Part IX-A entitled as the municipalities and a new Twelfth Schedule containing 18 functional items of the municipalities.

### **2.75 Seventy-Fifth Amendment Act, 1994**

Provided for the establishment of rent tribunals for the adjudication of disputes with respect to rent its regulation and control and tenancy issues including the rights, title and interest of landlord and tenants.

### **2.76 Seventy-Sixth Amendment Act, 1994**

Included the Tamil Nadu Reservation Act of 1994 (which provides for 69% reservation of seats in educational institutions and posts in state service) in the Ninth Schedule to protect it from judicial review. In 1992, the Supreme Court ruled that the total reservation should not exceed 50%.

### **2.77 Seventy-Seventh Amendment Act, 1995**

#### **2.78**

Provided for reservation in promotions in government jobs for SCs and STs. This amendment nullified the Supreme Court ruling with regard to reservation in promotions.

### **2.79 Seventy-Eighth Amendment Act, 1995**

Included 27 more land reforms Acts of various states in the Ninth Schedule. With this, the total number of Acts in the Schedule increased to 282. But, the last entry is numbered 284.

### **2.80 Seventy-Ninth Amendment Act, 1999**

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years (i.e., up to 2010).

### **2.81 Eightieth Amendment Act, 2000**

Provided for an alternative scheme of devolution of revenue between the Centre and States. This was enacted on the basis of the recommendations of the Tenth Finance Commission which has recommended that out of the total income obtained from Central taxes and duties, twenty-nine percent should be distributed among the states.

### **2.82 Eighty-First Amendment Act, 2000**

Empowered the state to consider the unfilled reserved vacancies of a year as a separate class of vacancies to be filled up in any succeeding year or years. Such class of vacancies are not to be combined with the vacancies of the year in which they are being filled up to determine the ceiling of 50% reservation on total number of vacancies of that year. In brief, this amendment ended the 50% ceiling on reservation in backlog vacancies.

### **2.83 Eighty-Second Amendment Act, 2000**

Provided for making of any provision in favour of the SCs and STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the Centre and the States.

### **2.84 Eighty-Third Amendment Act, 2000**

Provided that no reservation in panchayats need be made for SCs in Arunachal Pradesh. The total population of the State is tribal and there are no SCs.

### **2.85 Eighty-Fourth Amendment Act, 2001**

Extended the ban on re-adjustment 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. In other words, the number of seats in the Lok Sabha and the assemblies are to remain same till 2026. It also provided for the re-

adjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.

### **2.86 Eighty-Fifth Amendment Act, 2001**

Provided for consequential seniority in the case of promotion by virtue of rule of reservation for the government servants belonging to the SCs and STs with retrospective effect from June 1995.

### **2.87 Eighty-Sixth Amendment Act, 2002**

1. Made elementary education a Fundamental Right. The newly-added Article 21-A declares that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may determine.
2. Changed the subject matter of Article 45 in Directive Principles. It now reads The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
3. Added a new fundamental duty under Article 54-A which reads-It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years.

### **2.88 Eighty-Seventh Amendment Act, 2003**

Provided for the re-adjustment and rationalisation of territorial constituencies in the States on the basis of the population figures of 2001 census and not 1991 census as provided earlier by the 84th Amendment Act of 2001.

### **2.89 Eighty-Eighth Amendment Act, 2003**

Made a provision for Service tax. Taxes on services are levied by the Centre. But, their proceeds are collected as well as appropriated by both the Centre and the-states in accordance with the principles formulated by Parliament.

### **2.90 Eighty-Ninth Amendment Act, 2003**

Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies, namely, National Commission for Scheduled Castes and National Commission for Scheduled Tribes. Both the Commissions consist of a Chairperson, a Vice-Chairperson and three other members. They are appointed by the President.

### **2.91 Ninetieth Amendment Act, 2003**

Provided for maintaining the erstwhile representation of the Scheduled Tribes and non-Scheduled Tribes in the Assam legislative assembly from the Bodoland Territorial Areas District.

### **2.92 Ninety-First Amendment Act, 2003**

Made the following provisions to limit the size of Council of Ministers, to debar defector from holding public offices, and to strengthen the anti-defection law:-

- The total number of ministers, including the Prime Minister, in the Central Council of Ministers shall not exceed 15% of the strength of the Lok Sabha.
- A member of either house of Parliament belonging to any political party who is disqualified to be appointed as Minister.
- The total number of ministers, including the Chief Minister, in the Council of Ministers in a state shall not exceed 15% of the total strength of the Legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than 12.
- A member of either House of a state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a member.

The 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. It means that the defectors have no more protection on grounds of splits.

### **2.93 Ninety-Second Amendment Act, 2003**

Included four more languages in the Eighth Schedule. They are Bodo, Dogri (Dangri), Maithili (Maithili) and Santhali. With this, the total number of constitutionally recognised languages increased to 22.

### **2.94 Ninety-Third Amendment Act, 2005**

Empowered the State to make special provisions for the socially and educationally backward classes or the Scheduled Castes or the Scheduled Tribes in educational institutions including private educational institutions (whether aided or unaided by the state), except the minority educational institutions.

### **2.95 Ninety-Fourth Amendment Act, 2006**

Freed Bihar from the obligation of having a Tribal Welfare Minister and extended the same provision to Jharkhand and Chhattisgarh. This provision will now be applicable to the two newly formed states and Madhya Pradesh and Odisha, where it has already

been in force.

### **2.96 Ninety-Fifth Amendment Act, 2009**

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the State legislative assemblies for a further period of ten years i.e., upto 2020.

### **2.97 Ninety-Sixth Amendment Act, 2011**

Substituted Odia for Oriya. Consequently, the Oriya language in the Eighth Schedule shall be pronounced as Odia.

### **2.98 Ninety-Seventh Amendment Act, 2011**

Gave a constitutional status and protection to co-operative societies. In this context it made the following three changes in the constitution:-

1. It made the right to form co-operative societies a Fundamental Right.
2. It included a new Directive Principle of State Policy on promotion of co-operative societies.

It added a new Part 11-B in the constitution which is entitled as The Co-operative Societies.

### **2.99 Ninety-Eighth Amendment Act, 2012**

Provided for special provisions for the Hyderabad- Karnataka region of the State of Karnataka. The special provisions aim to establish an institutional mechanism for equitable allocation of funds to meet the development needs over the region, as well as to enhance human resources and promote employment from the region by providing for local cadres in service and reservation in educational and vocational-training institutions.

### **2.100 Ninety-Ninth Amendment Act, 2014**

Replaced the collegium system of appointing judge to the Supreme Court with a new body called the National Judicial Appointments Commission (NJAC). However, in 2015, the Supreme Court has declared this amendment act as unconstitutional.

### **2.101 One Hundredth Amendment Act, 2015**

Gave effect to the acquiring of certain territories by India and transfer of certain other territories to Bangladesh (through exchange of enclaves and retention of adverse possessions) in pursuance of the Land Boundary Agreement of 1974 and its Protocol of 2011. For this purpose, this amendment act amended the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution.



### **2.102 One Hundredth and First Amendment Act, 2016**

Paved the way for the introduction of the Goods and Services Tax (GST) regime in the country. The GST shall replace a number of indirect taxes being levied by the Union and the State Government. It is intended to remove cascading effect of taxes and provide for a common national market for goods and services. The proposed Central and State GST will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the GST.

1. Conferred concurrent taxing powers upon the Parliament and the State Legislatures to make laws for levying GST on every transaction of supply of goods or services or both.
2. Dispensed the concept of declared goods of special importance under the constitution.
3. Provided for the levy of integrated GST on inter-state transactions of goods and services.
4. Provided for the establishment of a Goods and Services Tax Council by a Presidential order.
5. Made the provision of compensation to the States for loss of revenue arising on account of introduction of GST for a period of five years.

Substituted and omitted certain entries in the Union and State Lists of the Seventh Schedule

### **2.103 One Hundred and Second Amendment, 2018**

1. Conferred a constitutional status on the National Commission for Backward Act, 2018 Classes which was set-up in 1993 by an Act of the Parliament.
2. Relieved the National Commission for Scheduled Castes from its functions with regard to the backward classes.
3. Empowered the President to specify the socially and educationally backward classes in relation to a State or Union Territory.

### **2.104 One Hundred and Third Amendment, 2019**

1. Empowered the States to make any special provision for the advancement of any Act, 2019 economically weaker sections of citizens.
2. Allowed the States to make a provision for the reservation of upto 10% of seats for such sections in admission to educational institutions including private educational institutions. This reservation of upto 10% would be in addition to the existing reservations.
3. Permitted the state to make a provision for the reservation of upto 10% of appointments or posts in favour of such sections. This reservation of upto 10%

would be in addition to the existing reservation.

#### **2.105 One Hundred and Fourth Amendment, 2020**

Extended the reservation of seats for SC/ST in Lok Sabha and State Assemblies Act, 2020 for the next ten years (till 2030).

#### **2.106 One Hundred and Fifth Amendment, 2021**

- 3 The 105th Amendment Act which received the assent of the President last month restores the power of the State Governments and Union Territories to identify and specify Socially and Economically Backward Classes (SEBCs). The 102nd Constitutional Amendment Act, 2018 while giving constitutional status to NCBC also empowered the President to notify the list of SEBCs for any state or union territory for all purposes. Prior to 102nd Amendment Act, the prevalent practice was the States and Union would specify their own lists respectively called state list and union list.

\*Source: COSMOS PUBLICATION, DELHI

# Indian Polity and Governance - Indian Polity - Constitution, Political System

## Chapter 5

### Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

#### **This chapter contains:**

- **Making of the Indian Constitution**
- **The Preamble**
- **The Union & Its Territory**
- **The Citizenship**
- **Fundamental Rights**
- **Fundamental Duties**
- **Directive Principles Of State Policy**
- **President Of India**
- **PARLIAMENT OF INDIA**
- **CONSTITUTIONAL BODIES (**
- **COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG)**
- **SPECIAL OFFICER FOR LINGUISTIC MINORITIES**

## Contents

1	Making of the Indian Constitution (Constituent Assembly and sources of the Constitution).....	4
1.1	Making of the Indian Constitution .....	4
1.2	Various Sources of The Indian Constitution.....	5
2	THE PREAMBLE.....	6
3	THE UNION & ITS TERRITORY.....	7
4	THE CITIZENSHIP .....	7
5	Fundamental Rights .....	9
6	FUNDAMENTAL DUTIES (ARTICLE-51A) .....	11
7	DIRECTIVE PRINCIPLES OF STATE POLICY.....	12
8	PRESIDENT OF INDIA.....	14
8.1	Election of the President.....	14
8.2	Qualification (Article 58), Conditions (Article 59) & Oath (Article 60).....	15
8.3	Impeachment of the President (Article 61) .....	16
8.4	Powers of the President.....	16
8.4.1	Executive Powers .....	16
8.4.2	Legislative Powers.....	16
8.4.3	Judicial Powers.....	17
8.4.4	Emergency Powers.....	17
8.4.5	Veto Powers .....	17
8.4.6	Ordinance Making Powers (Article 123) .....	18
8.4.7	Pardoning power of the President (Article 72) .....	18
8.4.8	Discretionary Powers of the President .....	18
9	PARLIAMENT OF INDIA .....	18
9.1	Parliament of India (Articles 79-122) .....	19
9.2	Composition of Rajya Sabha .....	19
9.3	Composition of Lok Sabha.....	19
9.4	Duration of the two Houses of Parliament .....	20
9.5	Qualification, disqualifications etc. to be an MP .....	20
9.6	Speaker of the Lok Sabha.....	20
9.7	Deputy Speaker of the Lok Sabha .....	21
9.8	Sessions of Parliament .....	21
9.9	RAJYA SABHA: THE COUNCIL OF STATES .....	24
9.10	Composition/Seat Distribution of Rajya Sabha.....	24
9.11	Term of Office .....	25
10	CONSTITUTIONAL BODIES (PART-1).....	27

11	COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG) .....	31
12	SPECIAL OFFICER FOR LINGUISTIC MINORITIES .....	32
13	CONSTITUTIONAL BODIES (PART-2).....	32
14	CONSTITUTIONAL BODIES IN INDIA: NCBC; ECI; NCSC; NCST AND ADVOCATE GENERAL OF INDIA	33

# 1 Making of the Indian Constitution (Constituent Assembly and sources of the Constitution)

## 1.1 Making of the Indian Constitution

1. It was **M.N Roy** who proposed the idea of an independent constituent assembly for India in 1934.
2. The constituent assembly was formed as per the guidelines suggested by the Cabinet Mission Plan, 1946. The mission was headed by **Pethick Lawrence** and included two other members apart from him – **Stafford Cripps** and **A.V Alexander**.
3. The total strength of the assembly was 389. However, after partition only 299 remained. It was partly elected and partly nominated body.
4. The elections to form the assembly took place in July-August 1946 and the process was completed by November 1946. The first meeting of the assembly took place on **9<sup>th</sup> December 1946** and was attended by **211 members**.
5. **Dr. Sachhidanand Sinha** became the temporary President of the assembly following the French practice.
6. On 11<sup>th</sup> December 1946, **Dr. Rajendra Prasad** and **H.C Mukherji** were elected as President and Vice-President respectively.
7. **Sir B.N Rau** was appointed as the constitutional advisor to the assembly.
8. On 13<sup>th</sup> December 1946, Pt. Nehru moved the Objectives resolution which later went on to become the Preamble of the constitution in slightly modified form. The resolution was unanimously adopted on 22<sup>nd</sup> January 1947.
9. The Constituent Assembly ratified India's membership of the commonwealth in May 1949. Also, it adopted National Song and National Anthem on 24<sup>th</sup> January 1950. Adopted the National Flag on 22<sup>nd</sup> July 1947.
10. The assembly met for 11 sessions, took 2 years, 11 months and 18 days to frame up the final draft, sat for 141 days in total and the draft constitution was considered for 114 days. Total amount incurred was around rupees 64 lakhs.
11. The assembly had 15 women members which were reduced to 9 after partition.
12. Some important committees of the constituent assembly along with their respective chairpersons are as follows:
  - Union Powers Committee - Jawahar Lal Nehru
  - Union Constitution Committee - Jawahar Lal Nehru
  - Provincial Constitution Committee - Sardar Patel

- Drafting Committee - B.R Ambedkar
- Rules of Procedure Committee - Dr. Rajendra Prasad
- Steering Committee - Dr. Rajendra Prasad
- Flag Committee - J.B. Kripalani

**The following were the members of the Drafting Committee-**

- Dr. B.R Ambedkar (Chairman)
- Alladi Krishnaswamy Ayyar
- Dr. K.M Munshi
- N. Gopalaswamy Ayyangar
- Syed Mohammad Saadullah
- N Madhava Rau
- TT Krishnamachari

**The final draft of the constitution was adopted on 26<sup>th</sup> November 1949 and it contained 8 schedules, 22 parts, and 395 articles.**

## **1.2 Various Sources of The Indian Constitution**

<b>Source</b>	<b>Features Borrowed</b>
<b>Government of India Act of 1935</b>	Federal Scheme, Office of the governor, Judiciary, Public Service Commissions, Emergency provisions and administrative details.
<b>British Constitution</b>	Parliamentary government, Rule of Law, legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges, and bicameralism.
<b>US Constitution</b>	Fundamental rights, independence of the judiciary, judicial review, impeachment of the president, removal of Supreme Court and high court judges and post of vice-president.
<b>Irish Constitution</b>	Directive Principles of State Policy, the nomination of members to Rajya Sabha and method of election of the president
<b>Canadian Constitution</b>	Federation with a strong Centre, vesting of residuary powers in the Centre, the appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court

<b>Australian Constitution</b>	Concurrent List, freedom of trade, commerce and intercourse, and the joint sitting of the two Houses of Parliament.
<b>Weimar Constitution of Germany</b>	Suspension of Fundamental Rights during Emergency
<b>Soviet Constitution (USSR, now Russia)</b>	Fundamental duties and the idea of justice (social, economic and political) in the Preamble
<b>French Constitution</b>	Republic and the ideals of liberty, equality, and fraternity in the Preamble
<b>South African Constitution</b>	Procedure for amendment of the Constitution and election of members of Rajya Sabha
<b>Japanese Constitution</b>	Procedure established by Law.

### **Preamble, Union of India and Citizenship**

The Preamble, the Union and its territory and Citizenship.

## **2 THE PREAMBLE**

1. The term 'preamble' refers to the introduction or preface to the Constitution. It's a kind of summary or essence of the Constitution.
2. The American Constitution was the first, to begin with, a preamble.
3. N.A Palkiwala has termed preamble as 'the identity card of the constitution'.
4. The Preamble is somewhat **based on the 'Objectives Resolution'** moved by Nehru in the Constituent Assembly.
5. The Preamble has been amended only once so far, that is by **42<sup>nd</sup> Amendment Act of 1976**. Three words were added by that amendment – **Socialist, Secular, and Integrity**.
6. The Preamble reveals four ingredients or components:
  - Source of the authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India
  - Nature of Indian State: It declares India as a sovereign, socialist, secular democratic and republican polity.
  - Objectives of the Constitution: To provide justice, liberty, equality and fraternity to the citizens of India.
  - Date of adoption of the Constitution: **26<sup>th</sup> November 1949**.



7. In *Berubari Union* case (1960) - the Supreme Court said that the Preamble isn't a part of the Constitution.
8. In *Kesavananda Bharati* case (1973) - the Supreme Court rejected the earlier opinion and held that Preamble *is* a part of the Constitution.
9. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of the legislature. Provisions in the preamble are non-enforceable in the court of law, that is, it's **non-justiciable**.

### 3 THE UNION & ITS TERRITORY

1. Articles 1 to 4 under Part-I of the Constitution deal with the Union and its territory.
2. **Article 1** declares India, that is, Bharat as a '**Union of States**'.
3. Article 2 empowers the Parliament to 'admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit'. Thus, Article 2 grants two powers to the Parliament: (a) the power to admit into the Union of India new states; and (b) the power to establish new states.
4. **Article 3** relates to the **formation of or changes in the existing states** of the Union of India. In other words, Article 3 deals with the internal re-adjustment *inter se* of the territories of the constituent states of the Union of India.
5. Some committees that were important in the reorganization of states in the Indian Union – Dhar Commission, JVP Committee, Fazl Ali Commission and States Reorganization Commission (1<sup>st</sup> one was in 1956).
6. New states that were created after 1956 with year - **Maharashtra and Gujarat** In 1960, **Goa, Daman and Diu** India acquired these three territories from the Portuguese by means of a police action in 1961. They were constituted as a union territory by the 12th Constitutional Amendment Act, 1962. Later, in 1987, Goa was conferred a statehood, **Nagaland** In 1963, **Haryana, Chandigarh and Himachal Pradesh** In 1966, **Manipur, Tripura and Meghalaya** In 1972, Sikkim in 1974-75, **Mizoram, Arunachal Pradesh and Goa** In 1987, **Chhattisgarh, Uttarakhand and Jharkhand** In 2000, and now most recently Telangana on 2<sup>nd</sup> June, 2014.

### 4 THE CITIZENSHIP

1. **Part 2<sup>nd</sup>** covers **articles 5-11**.
2. The Constitution confers the following rights and privileges on the citizens of India (and denies the same to aliens):

- Rights conferred under Articles 15, 16, 19, 29 & 30.
  - 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, that is, President of India, Vice-President of India, judges of the Supreme Court and the high courts, governor of states, attorney general of India and advocate general of states.
1. **Articles 5-8** only deal with the citizenship of individuals who became citizens of India **at the commencement of the Constitution**. Also, these articles take into account migration issues.
  2. No person shall be a citizen of India or be deemed to be a citizen of India if he has voluntarily acquired the citizenship of any foreign state (**Article 9**).
  3. Every person who is or is deemed to be a citizen of India shall continue to be such citizen, subject to the provisions of any law made by Parliament (**Article 10**).
  4. 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 (**Article 11**).
  5. Hence, the Parliament enacted the Citizenship Act, 1955, which has been amended in 1986, 1992, 2003, and 2005 and most recently in 2015. The **Citizenship (Amendment) Act, 2019** was passed by the Parliament on 11 December 2019. The Parliament amended the Citizenship Act of 1955 to **provide Indian citizenship to persecuted religious minorities from Afghanistan, Bangladesh, and Pakistan** who are Hindus, Sikhs, Buddhists, Jains, Parsis, or Christians who arrived in India before December 31, 2014.
  6. The five modes of acquisition of citizenship as per the citizenship act are
    - (a) By Birth
    - (b) By Descent
    - (c) By Registration
    - (d) By Naturalization
    - (e) By acquisition of any other territory into the Indian Union.
  7. Loss of Citizenship is by – Termination, Renunciation and Deprivation.
  8. India provides for single citizenship.
  9. **PIO**- A person registered as PIO card holder under the Ministry of Home Affairs' scheme dated 19-08-2002.
  10. **OCI**- A person registered as Overseas Citizen of India (OCI) under the Citizenship Act, 1955. The OCI scheme is operational from 02-12-2005.
  11. Now both the schemes (**PIO & OCI**) have been merged with effect from 9<sup>th</sup> January 2015.

## FUNDAMENTAL RIGHTS (FR) & FUNDAMENTAL DUTIES (FD)

### 5 Fundamental Rights

These rights are fundamental in the sense that any law passed by the legislature in the country would be declared as null and void if it is in contravention to the rights guaranteed by the constitution. However, the rights are not absolute and can be curtailed during the emergency. The Indian Constitution offers all the citizens, individually and collectively, some basic rights to practice. These are guaranteed in the Constitution in the form of six broad categories of Fundamental Rights. These rights are justiciable, if any of these rights are violated; the individual affected is entitled to move the Supreme Court or High Court for the protection and enforcement of his rights. These are contained in Part III of the Constitution and are enshrined in Article 12 to 35, and deal with Fundamental Rights. These rights are as follows:

- Right to equality, including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of employment.
- Right to freedom of speech and expression, assembly, association or union, movement, residence and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality).
- Right amongst exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings.
- Right to freedom of conscience and free profession, practice and propagation of religion.
- Right of any citizen to conserve their culture, language or script and right of minorities to establish and administer educational institutions of their choice; and
- Right to constitutional remedies for enforcement of Fundamental Rights.

#### Important Highlights of Fundamental Rights

- Fundamental Rights have been described as the **Magna Carta** of India.
- The concept has been taken from the US' bill of rights. Earliest known evidence of rights was also present in ancient India, Iran etc.
- The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are the most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals.
- The original constitution contained seven fundamental rights, however, after the 44<sup>th</sup> constitutional amendment act, 1978, right to property was repealed and now only six fundamental rights remain.

**Following are the articles related to the fundamental rights-**

A. 12- Definition of the State

B. 13- Laws inconsistent with part-3 or Fundamental Rights

## **Following is the segregation of the Fundamental Rights**

### **C. Right to equality (Articles 14–18)**

- (a) Equality before the law and equal protection of laws (Article 14).
- (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
- (c) Equality of opportunity in matters of public employment (Article 16).
- (d) Abolition of untouchability and the prohibition of its practice (Article 17).
- (e) Abolition of titles except military and academic (Article 18).

### **D. Right to freedom (Articles 19–22)**

- (a) Protection of six rights regarding freedom of (Article 19):
  - i. Speech and Expression
  - ii. Assembly
  - iii. Association
  - iv. Movement,
  - v. Residence, and
  - vi. Profession
- (b) Protection in respect of conviction for offences (Article 20).
- (c) Protection of life and personal liberty (Article 21).
- (d) Right to elementary education (Article 21A).
- (e) Protection against arrest and detention in certain cases (Article 22).

- **Right against exploitation (Articles 23–24)**

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

- **Right to Freedom of Religion (Article 25–28)**

- (a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
- (b) Freedom to manage religious affairs (Article 26).
- (c) Freedom from payment of taxes for promotion of any religion (Article 27).
- (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).

- **Cultural and educational rights (Articles 29–30)**

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

- **Right to constitutional remedies (Article 32)**- Heart and Soul of the Constitution. Right to move the Supreme Court for the enforcement of fundamental rights including the writs of (i) *habeas corpus*, (ii) *mandamus*, (iii) *prohibition*, (iv) *certiorari*, and (v) *quo warranto* (Article 32).
- **Article 33** deals with the power of Parliament to modify the fundamental rights.
- **Article 34** deals with Martial Law
- **Article 35** deals with legislation required to deal with fundamental rights
- **Fundamental Rights** which are available to only citizens - 15, 16, 19, 29 and 30.
- Fundamental Rights those are available to both citizens as well as non-citizens – 14, 20, 21, 21A, 22, 23, 24, 25, 26, 27 and 28.

## 6 FUNDAMENTAL DUTIES (ARTICLE-51A)

Fundamental Duties of the citizens have been enumerated by the 42<sup>nd</sup> Amendment of the Constitution of India. Article 51 A enshrined in Part IVA of the Constitution deals with the fundamental duties. The citizen enjoin upon them as abide by the constitution to cherish and follow noble ideals, which inspired India's struggle for freedom. Also, to defend the country and render national service when called upon to do so. They are aimed to promote harmony and spirit of common brotherhood transcending religious, linguistic and regional or sectional diversities.

### Important Highlights of Fundamental Duties

- They are a set of 11 guidelines to the citizens.
- The original constitution did not mention about the FDs.
- The idea has been taken from the former **Soviet Constitution** and now even Russia does not have them. Probably only Japan is one such major country which has an exclusive chapter on fundamental duties.
- In 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.
- They were added on the recommendations of the Swaran Singh Committee which was constituted by Indira Gandhi in 1975. It recommended only 8 fundamental duties than with pecuniary punishments as well. However, the government did not welcome the punishments part.
- A new part – 4A, A NEW ARTICLE 51A was added by virtue of 42<sup>nd</sup> constitutional amendment act, 1976. Ten duties were added to 51A. Presently there are eleven duties.
- The 11<sup>th</sup> Fundamental Duty was added by the 86<sup>th</sup> amendment act, 2002.

- **Following is the list of FDs:**
  - (a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
  - (b) To cherish and follow the noble ideals that inspired the national struggle for freedom;
  - (c) To uphold and protect the sovereignty, unity and integrity of India;
  - (d) To defend the country and render national service when called upon to do so;
  - (e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
  - (f) To value and preserve the rich heritage of the country's composite culture;
  - (g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
  - (h) To develop scientific temper, humanism and the spirit of inquiry and reform;
  - (i) To safeguard public property and to abjure violence;
  - (j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; and
  - (k) To provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.

## 7 DIRECTIVE PRINCIPLES OF STATE POLICY

Directive Principles of State Policy mentioned in the **Part IV** of the Constitution of India, is aimed to create social and economic conditions under which the citizens can lead a good life. These also aim to establish social and economic democracy through a welfare state.

### Directive Principles of the State Policy

1. They have been mentioned in Part-4 and cover articles from 36-51 of the Constitution of India.
2. Called as **Novel Features** of the Constitution.
3. Inspired by the Irish constitution.
4. Similar to the Instruments of Instructions mentioned in the Government of India Act, 1935.
5. Together with fundamental rights, they are termed as the **conscience of the constitution**.
6. 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters.
7. The DPSPs constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realizing the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a

‘welfare state’.

8. The Directive Principles are **non-justiciable** in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. Nevertheless, the Constitution (Article 37) itself says that these principles are fundamental to the governance of the country and it shall be the duty of the State to apply these principles in making laws.

**9. The provisions of the Directive Principles are broadly classified into-**

- (a) Socialist principles
- (b) Gandhian principles
- (c) Liberal intellectual principles

**10. Some Important Articles in DPSPs are:**

- a. To promote the welfare of the people by securing a social order permeated by justice—social, economic and political—and to minimise inequalities in income, status, facilities and opportunities (**Article 38**).
- b. To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children (**Article 39**).
- c. To promote equal justice and to **provide free legal aid to the poor (Article 39 A)**. This was added by 42<sup>nd</sup> constitutional amendment act, 1976.
- d. To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement (**Article 41**).
- e. To make provision for just and humane conditions for work and maternity relief (**Article 42**).
- f. To take steps to secure the participation of workers in the management of industries (**Article 43 A**). Also added by 42<sup>nd</sup> constitutional amendment act, 1976.
- g. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (**Article 40**).
- h. To promote cottage industries on an individual or co-operation basis in rural areas (**Article 43**).
- i. To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (**Article 47**).
- j. To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (**Article 48**).
- k. To secure for all citizens a **uniform civil code** throughout the country (Article 44).

- l. To provide early childhood care and **education for all children until they complete the age of six years (Article 45)**. Also, amended by the 86<sup>th</sup> constitutional amendment act, 2002.
  - m. To separate the judiciary from the executive in the public services of the State (**Article 50**).
  - n. To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (**Article 51**).
10. The 86th Amendment Act of 2002 changed the subject-matter of Article 45 and made elementary education a fundamental right under **Article 21A**. The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years.
11. The 97th Amendment Act of 2011 added a new Directive Principle relating to co-operative societies. It requires the state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (Article 43B).
12. The DPSPs are instructions to the State.

## 8 PRESIDENT OF INDIA

The Indian constitutional system is unique because of its deeply imbibed culture of "Unity Amidst Diversity". India is a "Union of States" delineated for political and cultural unity, elimination of divisive forces and effective administration of the vast country. The Union government can take over a State government under article 356 of the Constitution of India through Presidential proclamation if a situation has arisen in which the government of that State cannot be carried on in accordance with the provisions of the Constitution.

- (1) **Article 52** – There shall be a President of India
- (2) **Article 53** – the Executive power of the Union: The executive power shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him.
- (3) He is the supreme commander of the defense forces in India.
- (4) Though he's only the constitutional head, or titular head, *de jure head* or nominal executive or just a symbolic head.

### 8.1 Election of the President

- 1. The President shall be elected by the members of an ELECTORAL COLLEGE consisting of:
  - (a) The Elected MPs
  - (b) The Elected MLAs of the states



(c) The Elected MLAs of National Capital Territory of Delhi (added by 70<sup>th</sup> Amendment Act, 1992 and with effect from 1-06-1995) and Union territory of Puducherry.

2. Thus, nominated members of parliament and legislative assemblies and members of legislative councils do not participate in the presidential election.
3. Article-55 provides for the manner of election and there should be uniformity and representation throughout the Nation as per the constitution. Hence, MPs and MLAs have been assigned votes as per their representation.
4. The election is held in accordance with the system of proportional representation by means of single transferable vote and voting is done by secret ballot.
5. All doubts and disputes arising out of the Presidential elections are decided into and enquired by the Supreme Court whose decision is final.
6. The elections are monitored and conducted by the Election Commission of India.
7. Only one President, that is, **Neelam Sanjiva Reddy** has been elected unopposed so far.
8. Dr. Rajendra Prasad is the only President to have been elected twice.
9. Two Presidents – Dr. Zakir Hussain and Fakhruddin Ali Ahmed have died in the office.

#### **Term of office (Article 56) and Re-election (Article 57)**

1. Term – 5 years.
2. Resignation is addressed to the Vice-President.
3. The President is eligible for re-election for any number of terms.

#### **8.2 Qualification (Article 58), Conditions (Article 59) & Oath (Article 60)**

1. Eligibility -
  - (a) Citizen of India
  - (b) 35 years
  - (c) Is eligible for election as an MP of the House of the People.
2. Shouldn't hold any office of profit.
3. The President shall not be a member of either House of Parliament of any Legislature. Even if such a member is elected, he is deemed to have vacated that seat.
4. The nomination of a candidate for election must be subscribed by at least 50 electors as proposers and 50 electors as seconders.
5. Oath administered by the Chief Justice of India or in his absence the senior-most judge of the Supreme Court available.
6. Emoluments, allowances and privileges etc. as may be determined by the parliament and which can't be diminished during his term.
7. He is immune from any criminal proceeding during his term. He can't be arrested or imprisoned. However, after two-month' notice civil proceedings can be initiated against him during his term in respect of his personal acts.

### **8.3 Impeachment of the President (Article 61)**

1. A formal removal of the President from his post by constitutional means.
2. He is impeached for the 'Violation of the Constitution'. However, the term is defined nowhere in the constitution.
3. The charges can be preferred by either house of the parliament. However, a 14-days' notice shall be served to the President before the acceptance of such a resolution.
4. Also, that notice must be signed by at least one-fourth members of the total members of that house which initiated the charges.
5. After the acceptance of that bill in that house, that impeachment bill must be passed by the majority of  $2/3^{\text{rd}}$  of the total membership of that house.
6. Then that bill goes in another house which should investigate the charges and the President shall have the right to appear and to be represented at such an investigation.
7. If another house sustains the charges and finds the President of violation, and passes that resolution by  $2/3^{\text{rd}}$  of the total membership of that house, the President stands removed from the date the resolution is so passed.
8. Hence, impeachment is a quasi-judicial process. And though, the nominated members of Parliament do not participate in his election, they take part in the impeachment process. Also, states' legislatures do not have a role in the impeachment process.

### **8.4 Powers of the President**

#### **8.4.1 Executive Powers**

1. All executive actions are taken in his name. He is the formal, constitutional, titular head or *de jure* head of the Government.
2. Appoints the P.M and other ministers on P.M's advice.
3. Appoints the Attorney General of India, CAG, Chief Election Commissioner and other Commissioners, the chairman and members of UPSC, Governors of states, Chairman and members of Finance Commission etc.
4. He appoints Inter-State Council and he is the one who can declare any area as scheduled area and decides on the matter of the declaration of any tribe as the scheduled tribe.

#### **8.4.2 Legislative Powers**

1. Summons and Prorogues the Parliament and dissolves the Lok Sabha.
2. Summons the joint sitting of the two houses of Parliament (which is presided over by the Speaker of Lok Sabha).

3. Nominates 12 members to Rajya Sabha from amongst people having achievements in art, literature, science and social service and may nominate 2 members to Lok Sabha from the Anglo-Indian Community.
4. His prior recommendation is required in case of presentation of certain types of bills such as money bills, bills seeking expenditure from the consolidated fund of India etc.
5. He can withhold his assent to bills, return the bills to the legislatures, apply pocket veto to bills etc.
6. He can promulgate ordinances when the parliament is not in session.
7. He presents the reports of Finance Commission, CAG, and UPSC etc. before the Parliament.
8. No demand for the grant can be made except on his recommendation. Also, he constitutes a Finance Commission every five years for distribution of revenues between center and states.

#### **8.4.3 Judicial Powers**

1. Appoints the Chief Justice and other judges of the Supreme Court and High courts.
2. Seeks advice from the Supreme Court on any question of law.
3. He can grant pardon etc.

#### **8.4.4 Emergency Powers**

1. National Emergency (Article 352)
2. President's Rule (Article 356)
3. Financial Emergency (Article 360)

#### **8.4.5 Veto Powers**

The President of India has three types of Veto powers, namely

1. Absolute Veto- Withholding the assent to the bill. The bill then ends and does not become an Act. Example- in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill. Also, in 1991 R. Venkataram withheld his assent to the MPs Salaries, allowances bill.
2. Suspensive Veto- Returning the bill for reconsideration. In 2006, President APJ Abdul Kalam used the suspensive veto in the office of profit bill. However, the President can return the bill for reconsideration to the legislature only once, after which he has to give his consent.
3. Pocket Veto- Taking no action on the bill sent to the President. There's no time limit provided in the constitution within which the President has to give his assent or sign the bill. Hence, he has a 'bigger pocket' than the American President. In 1986, President Zail Singh applied Pocket Veto to Indian Post Office Amendment bill.

**NOTE: The President has no veto power in case of a constitutional amendment bill. He is bound to give his assent to such bills.**

#### **8.4.6 Ordinance Making Powers (Article 123)**

1. An ordinance can be issued by the President only when both houses of Parliament are not in session or when only one house is in session.
2. The ordinance must be approved by the Parliament within six weeks of its reassembly.
3. Hence, the maximum life of an ordinance is – six months + six weeks.
4. He can issue an ordinance only on the advice of the council of ministers headed by the P.M

#### **8.4.7 Pardoning power of the President (Article 72)**

1. The President has the power to grant pardon, reprieve, commutation, remission, respite to any persons convicted in any Union Law, or by a court-martial or in cases of death penalty.
2. It is an executive power. And the Governor also has those powers under Article 161, however, the Governor can't pardon a death sentence nor can he interfere in court-martial cases.
3. The President exercises this power on the advice of the Union Cabinet.

#### **8.4.8 Discretionary Powers of the President**

1. Appointment of the P.M when no party has a clear majority in the Lok Sabha or when the P.M in office dies suddenly and there's no obvious successor.
2. Dismissal of the council of ministers when it can't prove the confidence of the Lok Sabha.
3. Dissolution of the Lok Sabha if the council of ministers has lost its majority.
4. Use of Suspensive Veto in case of bills.

## **9 PARLIAMENT OF INDIA**

The Parliament of India is the supreme legislative body of the Republic of India. It is a bicameral legislature composed of the President of India and the two houses: the Rajya Sabha and the Lok Sabha. Let us know in detail about it!

## **9.1 Parliament of India (Articles 79-122)**

### **Organization of the Parliament**

1. The Parliament consists of the President, the Lok Sabha and the Rajya Sabha.
2. Lok Sabha is the Lower House (First Chamber or Popular House) and Rajya Sabha is the Upper House (Second Chamber or House of Elders).

## **9.2 Composition of Rajya Sabha**

1. The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.
2. At present, the Rajya Sabha has **245** members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president.
3. The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.
4. The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The seats are allotted to the states in the Rajya Sabha on the basis of population.

**NOTE** – Population as ascertained on the basis of 2001 census as per 87<sup>th</sup> Amendment Act, 2003.

## **9.3 Composition of Lok Sabha**

1. The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members may be nominated by the president from the Anglo-Indian community.
2. At present, the Lok Sabha has 545 members.
3. The representatives of states in the Lok Sabha are directly elected by the people from their respective constituencies.
4. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

## 9.4 Duration of the two Houses of Parliament

1. The Rajya Sabha is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. The retiring members are eligible for re-election and re-nomination any number of times.
2. Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.

## 9.5 Qualification, disqualifications etc. to be an MP

1. Eligibility
  - (a) Citizen of India.
  - (b) Minimum age – 30 years in Rajya Sabha and 25 years in Lok Sabha.
  - (c) He must possess other qualifications prescribed by Parliament. (Hence, the Representation of People Act, 1951).
1. Criteria for disqualifying an MP:
  - (a) If he holds any office of profit under the Union or state government
  - (b) If he is of unsound mind and stands so declared by a court.
  - (c) If he is an undischarged insolvent.
  - (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
  - (e) If he is so disqualified under any law made by Parliament (RPA, 1951).
1. The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
2. **Double Membership** - A person cannot be a member of both Houses of Parliament at the same time.
3. A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission.

## 9.6 Speaker of the Lok Sabha

1. The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting). The date of election of the Speaker is fixed by the President.
2. The Speaker offers his resignation to the Deputy Speaker and he can be removed by a resolution passed by a majority of members of Lok Sabha, however, only after giving him a 14-day notice.
3. He presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.

4. He decides whether a bill is a money bill or not and his decision on this question is final.
5. He can't vote in the first instance, though can vote in the event of a tie. When his removal motion is under consideration, he can take part and speak in the proceedings and can vote as well but not in the case of a tie. He can't preside in that case. However, his motion can be passed by an absolute majority only and can be considered only if it has the support of at least 50 members.
6. G.V Mavalankar was the first Speaker of Lok Sabha.
7. The longest serving Speaker of Lok Sabha so far has been Balram Jakhar.
8. **NOTE** – There's also a post known as *Speaker Pro Tem*, appointed by the President himself. He is usually the oldest member of the last Lok Sabha and he presides over the first session of the incoming Lok Sabha. President administers him the oath.

### 9.7 Deputy Speaker of the Lok Sabha

1. Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.
2. The date of election of the Deputy Speaker is fixed by the Speaker. The removal process is the same as that of the speaker and he offers his resignation to the Speaker of the Lok Sabha.
3. Madabhushi Ananthasayanam Ayyangar was the first Deputy Speaker of Lok Sabha.
4. He presides over the joint sitting in case of absence of the Speaker.

### 9.8 Sessions of Parliament

A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha). The time period between the prorogation of a House and its reassembly in a new session is called 'Recess'. There are usually three sessions. The budget session is the longest and winter is the shortest.

1. The Budget Session (February to May);
2. The Monsoon Session (July to September); and
3. The Winter Session (November to December).

### Important parliamentary terms, points, motions, bills, questions and Committees

1. The maximum gap between two sessions of Parliament cannot be more than six months.
2. The President summons and prorogues the two houses of parliament.
3. **Quorum** is the minimum number of members required to be present in the House before transaction of any business. It is one-tenth of the total number of members in

each House including the presiding officer. It means that there must be at least 55 members present in the Lok Sabha and 25 in the Rajya Sabha.

4. Every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote.
5. **Lame-Duck session** refers to the last session of the existing Lok Sabha after a new Lok Sabha has been elected.
6. **Question Hour** is the first hour of every parliamentary sitting.
7. A **starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.
8. An **unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.
9. A **short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.
10. **The zero hour** starts immediately after the question hour and lasts until the agenda for the day (that is, regular business of the House) is taken up. In other words, the time gap between the question hour and the agenda is known as zero hour. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.
11. **Adjournment Motion** It is introduced in the Parliament to draw the attention of the House to a definite matter of urgent public importance and needs the support of 50 members to be admitted. Rajya Sabha isn't permitted to make use of this device and the discussion should last for not less than two hours and thirty minutes.
12. **No-Confidence Motion** Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys the confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion. The motion needs the support of 50 members to be admitted.
13. A **bill** is a proposal for legislation and it becomes an act or law when duly enacted. It could be classified as a private member bill or a public bill. A public bill is the one introduced by any minister and a private bill is the one which is otherwise.
14. Bills can be ordinary, money or financial and constitutional amendment bills. Money bills are the ones which are concerned with taxation, money matters which are specifically mentioned in article 110. Financial bill is also concerned with such matters though with slight differences and are mentioned in articles 117(1) and 117(3). Constitution amendment bills, which are concerned with the amendment of the provisions of the Constitution.
15. The Rajya Sabha cannot reject or amend a money bill. It can only make the recommendations. It must return the bill to the Lok Sabha within 14 days, either with or



without recommendations. The decision of the speaker is final in deciding a bill is a money bill or not. Also, every such bill is deemed to be a public bill.

16. The provision of joint sitting is applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills. In the case of a money bill, the Lok Sabha has overriding powers, while a Constitutional amendment bill must be passed by each House separately.
17. The term 'budget' has nowhere been used in the Constitution. It is the popular name for the 'annual financial statement' that has been dealt with in Article 112 of the Constitution.
18. The Railway Budget was separated from the General Budget in 1921 on the recommendations of the Acworth Committee. From the year 2017, the railway budget and the main financial budget were again merged and in 2017 the budget was presented on the 1<sup>st</sup> February 2017.
19. **Consolidated Fund of India** - It is a fund to which all receipts are credited and all payments are debited. In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money received by the government in repayment of loans forms the Consolidated Fund of India. Mentioned in article 266.
20. **Public Account of India** - All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India.
21. **Contingency Fund of India** - The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time. Accordingly, the Parliament enacted the contingency fund of India Act in 1950. This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament.
22. **Public Accounts Committee** - It consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). Term of members – 1 year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members. Until 1966–67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition. The function of the committee is to examine the annual audit reports of the Comptroller and auditor general of India (CAG), which are laid before the Parliament by the president.
23. **Estimates Committee** – The largest committee of the Parliament. The present number of members is 30. All the thirty members are from Lok Sabha only. The term of office is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.

24. **Committee on Public Undertakings** – Present number of members is 22 (15 from the Lok Sabha and 7 from the Rajya Sabha). The term of office of the members is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.

## 9.9 RAJYA SABHA: THE COUNCIL OF STATES

Rajya Sabha represents the states of the Indian Federation which aims to maintain the federal equilibrium. This topic forms part of Indian Parliament from where a number of questions are being asked in UPSC, State PCS and other competitive exams. So, in this article, we would cover all the relevant details of Rajya Sabha which needs to be done for any exam.

### Important Facts

- The idea of the second Chamber was given by the Montague-Chelmsford in its Report of 1918.
- The Government of India Act, 1919 made provisions for the establishment of 'Council of State' as a second chamber, which finally came into existence in 1921.
- The Government of India Act, 1935 did not make any changes in the composition and structure of the 'Council of State'.
- After independence in 1947, the Constituent Assembly (Legislative) which became the Provisional Parliament at later stage worked in a unicameral structure till the conduct of first general elections in 1952.
- As the directly elected single House was not sufficient to meet the aspirations of free India, a dire need was felt for a second chamber as 'Council of States'.
- Hence, after a long debate, the 'Council of States' which later came to known as Rajya Sabha was created in 1954 with almost entirely different composition and structure.

## 9.10 Composition/Seat Distribution of Rajya Sabha

- The constitution of India in its Article 80 lays down that the maximum strength of Rajya Sabha can be 250, out of which 238 are representatives of the States and Union Territories. 12 members of House are nominated by the President.
- However, in the present scenario, the total strength of Rajya Sabha is 245 only, in which 233 are States and Union territories representatives and 12 members are nominated by the President of India from the persons who is having special knowledge or practical experience in the field of literature, Arts, science and social service.
- The method of allocation of seats has been provided in the Fourth Schedule of the constitution. The seats are allotted on the basis of population of a state. Since 1952, the

number of seats allotted to the states and Union Territories has been changed many times.

- The vice-President of India has been made the ex-officio chairman of Rajya Sabha.
- The Deputy Chairman is chosen from amongst the member of Rajya Sabha and takes care of the day-to-day activities of the House in case of absence of Chairman.

### 9.11 Term of Office

- The term of every member of Rajya Sabha is **six years**. However, one-third of the seats are to be vacated after every two years.
- **Unlike the Lok Sabha, the Rajya Sabha meets in continuous session and are not subject to dissolution.**
- However, the President of India can prorogue the Rajya Sabha.

### Election Procedure

- The Member of Parliament in the Rajya Sabha are elected as the representative of the States and Union Territories of Delhi and Puducherry by the method of indirect election.
- They are elected in accordance with the system of proportional representation by means of a single transferable vote by elected members of the Legislative Assembly in case of states and by members of electoral college constituted for that purpose in case of Union Territories of Delhi and Puducherry.
- The electoral college of Union Territory of Delhi and Puducherry consists of elected members of those Union Territories.
- The term of Rajya Sabha members is six years, and one-third members retire after every second year.
- By-elections are held to fulfil the vacancies created otherwise by retirement on completion of the tenure,
- A member of parliament elected through by-election remains in the office only for the remainder period of that member on whose seat she/he has been elected.

### Eligibility

The constitution of India under Article 84 lays down the following qualifications for becoming a member of the Rajya Sabha:-

She/he

- must be a citizen of India.
- must have completed 30 years of age.
- must satisfy the other conditions prescribed by the Parliament.

### **Presiding Officers - Chairman and Deputy Chairman**

- The Vice-President of India acts as the *ex-officio* Chairman of Rajya Sabha.
- The Presiding Officer of the House is responsible for the conduct of the proceedings of the House as per the procedure.
- Amongst the members of Rajya Sabha, a Deputy Chairman is chosen.
- A panel of Vice-Chairmen also chosen from amongst the members of the Rajya Sabha.
- One of the members from the Panel of Vice-Chairmen gets the responsibility of presiding officer in case of absence of the Chairmen and Deputy Chairmen.

### **The Relation between the two Houses**

- In case of any ordinary legislation, the joint sitting of two houses can be called to resolve a deadlock between the two Houses.
- However, there is no provision of the joint sitting of two houses in case of a Money Bill, as Lok Sabha enjoys overriding powers in financial matters.
- In case of constitutional amendment bill also no provision exists for the joint sitting of two houses.
- Members of both houses of Parliament may become a minister.
- Any minister may take part in the proceedings of either house of parliament and also has the right to speak, but she/he can vote only in the House of which she/he is a member.
- The two houses have been placed absolutely on equal footing, with regard to the Privileges, Powers and immunities of the House.
- There are many other important issues on which both the houses enjoy equal powers like election and impeachment of the President, approving the proclamation of Emergency, the election of the Vice-President etc.
- From the above, it is very clear that other than the financial matters, both the houses of Parliament enjoy almost equal powers.

### **Special Powers of Rajya Sabha**

- The Rajya Sabha has the power to authorize the parliament to legislate on any matter enumerated in the State List, by passing a resolution with a two-third majority. Such resolution remains valid for a period of one year from the date of the passing resolution.
- The Rajya Sabha can authorize the parliament to create a new all India services by passing a resolution to that effect with not less than two-thirds of majority.

- If the proclamation of emergency has been issued and the Lok Sabha gets dissolved before the approval of the proclamation, the Rajya Sabha has special powers in this regard, and it can approve the proclamation of emergency provisions by passing a resolution in this regard with a two-third majority.

### **Role of Rajya Sabha in Financial Matters**

- A Money Bill cannot be introduced in Rajya Sabha. A Money bill must be introduced only in the lower house (means Lok Sabha). After passing of Money Bill from Lok Sabha, it is sent to Rajya Sabha for concurrence.
- However, Rajya Sabha has limited powers with respect to Money Bills. Rajya Sabha cannot amend the original bill, it can only make recommendations which can be accepted or rejected by the Lok Sabha.
- The Rajya Sabha needs to pass the Money Bill within fourteen days or it will be deemed to have been passed after that period.
- Apart from a Money Bill, there are many other Financial Bills which also cannot be introduced in Rajya Sabha.
- From the above, it can be understood that the Rajya Sabha plays a very limited role in the financial matters of the government.
- The role of Rajya Sabha has been very effective and constructive in our polity.
- The Rajya Sabha has drastically improved the legislative performance by scrutinizing government policies.
- Many times, it has prevented the hasty legislation put forward by the government in power.
- As a federal chamber, it has reinforced the public faith in parliamentary democracy.

## **10 CONSTITUTIONAL BODIES (PART-1)**

Constitutional Bodies are those which have their mention in the constitution of India. Their powers, functions and authorities are derived from the constitution itself and any changes in them would require amendment in the constitution.

In this article, we are providing you with short notes on polity for UPSC IAS prelims and can be utilised for quick Revision.

## Constitutional Bodies in India: UPSC, SPSC, Finance Commission, CAG and Special Officer for Linguistic Minorities

### Union Public Service Commission (UPSC)

**Article** 315-323

<b>Composition and Appointment</b>	<ul style="list-style-type: none"><li>• Strength-based on the discretion of the President.</li><li>• Appointment by the President of India.</li></ul>
<b>Service conditions and Tenure</b>	<ul style="list-style-type: none"><li>• Six years to 65 years of age, whichever is earlier</li><li>• Resignation to the appointing authority- President.</li></ul>
<b>Removal</b>	<ul style="list-style-type: none"><li>• Removed for adjudged insolvency, engagement in paid employment outside the office during tenure and infirmity of body or mind in President's opinion.</li></ul>
<b>Qualification</b>	<ul style="list-style-type: none"><li>• Not prescribed except that at least half of the members should have held office under Government of India or State Governments for at least 10 years.</li><li>• Conducts examinations for services at Union level.</li></ul>
<b>Powers</b>	<ul style="list-style-type: none"><li>• Advice the President of India when asked.</li><li>• Additional functions are given by the Parliament.</li></ul>
<b>Reports</b>	<ul style="list-style-type: none"><li>• To the President of India.</li><li>• Recommendations not binding in nature.</li></ul>
<b>Eligibility for reappointment</b>	<ul style="list-style-type: none"><li>• Chairperson-Not eligible</li><li>• Members can be appointed as UPSC/SPSC chairperson.</li></ul>

#### Obligations on the State:

<b>Few Other Important Pointers</b>	<ul style="list-style-type: none"><li>• UPSC/SPSC shall be consulted on all matters relating to<ul style="list-style-type: none"><li>○ The methods of recruitment to civil services.</li><li>○ On the suitability of candidates for such appointments, promotions or transfers.</li><li>○ On disciplinary actions.</li></ul></li></ul>
-------------------------------------	--

## State Public Service Commission's (SPSC)

**Article** 315-323

<b>Composition and Appointment</b>	<ul style="list-style-type: none"><li>• Strength-based on the discretion of the Governor.</li><li>• Appointed by the Governor of the state</li></ul>
<b>Service conditions and Tenure</b>	<ul style="list-style-type: none"><li>• Six years or 62 years of age whichever is earlier.</li><li>• Resignation to the appointing authority- President.</li></ul>
<b>Removal</b>	<ul style="list-style-type: none"><li>• Removed for adjudged insolvency, engagement in paid employment outside the office during tenure and infirmity of body or mind in President's opinion.</li></ul>
<b>Qualification</b>	<ul style="list-style-type: none"><li>• Not prescribed except that at least half of the members should have held office under Government of India or State Governments for at least 10 years.</li></ul>
<b>Powers</b>	<ul style="list-style-type: none"><li>• Conducts examinations for services at the state level.</li><li>• Advice the Governor of the state when asked.</li><li>• Additional functions given by the Parliament.</li></ul>
<b>Reports</b>	<ul style="list-style-type: none"><li>• To the Governor of the state.</li><li>• Recommendations not binding in nature.</li></ul>
<b>Eligibility for Reappointment</b>	<ul style="list-style-type: none"><li>• <b>Chairperson:</b> Eligible for UPSC chairperson/member.</li><li>• <b>Members:</b> Eligible for UPSC chairperson/member and any SPSC chairperson.</li></ul>

## Obligations on the State

<b>Few Other Important Pointers</b>	<ul style="list-style-type: none"><li>• UPSC/SPSC shall be consulted on all matters relating to<ul style="list-style-type: none"><li>○ The methods of recruitment to civil services.</li><li>○ On the suitability of candidates for such appointments, promotions or transfers.</li><li>○ On disciplinary actions.</li></ul></li></ul>
-------------------------------------	--

## **Finance Commission**

<b>Article</b>	<ul style="list-style-type: none"><li>• 280</li></ul>
<b>Composition and Appointment</b>	<ul style="list-style-type: none"><li>• Chairman and 4 other members appointed by the President.</li><li>• Constituted by President at an interval of 5 years or even before.</li></ul>
<b>Service conditions and Tenure</b>	<ul style="list-style-type: none"><li>• Not mentioned</li></ul>
<b>Removal</b>	<ul style="list-style-type: none"><li>• Not mentioned</li><li>• Constitution authorises the Parliament to determine the qualifications of the members and the manner of their selection.</li><li>• Chairman should have experience in public affairs.</li><li>• Four other members should be-</li></ul>
<b>Qualification</b>	<ul style="list-style-type: none"><li>○ A judge of High court or one qualified to be appointed as one.</li><li>○ One with specialised knowledge of finance and government accounts.</li><li>○ One with wide experience in financial matters and administration.</li><li>○ One with specialised knowledge of economics</li></ul>
<b>Powers</b>	<ul style="list-style-type: none"><li>• FC makes the following recommendations to the President</li><li>• Distribution of net proceeds of taxes to be shared between the centre and the states, and allocation between the states.</li><li>• Principles governing the grant in aid ( Out of the consolidated fund of India)</li><li>• Measures needed to augment the consolidated fund of the state to supplement the resources of Panchayat and Municipality on the basis of recommendation made by the Finance Commission.</li><li>• Any other matter to refer to it by the President.</li></ul>
<b>Reports</b>	<ul style="list-style-type: none"><li>• Commission submits the report to the President.</li><li>• Recommendations are not binding</li></ul>
<b>Eligibility for reappointment</b>	<ul style="list-style-type: none"><li>• Eligible</li></ul>



## 11 COMPTROLLER AND AUDITOR GENERAL OF INDIA (CAG)

<b>Article</b>		<ul style="list-style-type: none"><li>• 148-151</li></ul>
<b>Appointment and Tenure</b>		<ul style="list-style-type: none"><li>• By President by a warrant under his hand seal.</li><li>• Six years or 65 years of age whichever is earlier.</li></ul>
<b>Removal</b>		<ul style="list-style-type: none"><li>• Resignation to the President.</li><li>• Removal in the same manner as Supreme court judge.</li><li>• Removal not at President's pleasure.</li></ul>
<b>Qualification</b>		<ul style="list-style-type: none"><li>• No condition of qualification mentioned.</li></ul>
		<ul style="list-style-type: none"><li>• Article 149 discusses the duties and powers of CAG.</li><li>• The duties are prescribed by the law made by Parliament.</li><li>• Audits accounts of Consolidated fund of India, Consolidated fund of each state and Consolidated fund of each Union Territory</li><li>• Audits expenditure of Contingency fund of each state and Public Account of each state.</li></ul>
<b>Powers</b>		<ul style="list-style-type: none"><li>• Audits all the subsidiary accounts of the state and central governments.</li><li>• Audits receipts and expenditure of state and central government.</li><li>• Audits receipts and expenditure of Bodies financed by Central and State revenues, Government companies and other corporation and bodies required by laws.</li><li>• Advises the president to the prescription of the form in which accounts of the centre and state shall be kept.</li><li>• Acts as friend philosopher and guide of the PAC.</li><li>• Ascertains and certifies the net proceeds of any tax or duty.</li></ul>
<b>Reports</b>		<ul style="list-style-type: none"><li>• Submits audits and report to President/Governor who shall place them before both houses of Parliament/State Legislature.</li></ul>
<b>Eligibility for reappointment</b>		<ul style="list-style-type: none"><li>• Not Eligible</li></ul>

## 12 SPECIAL OFFICER FOR LINGUISTIC MINORITIES

<b>Article</b>	<ul style="list-style-type: none"><li>• 350-B</li></ul>
<b>Appointment</b>	<ul style="list-style-type: none"><li>• President of India</li></ul>
<b>Composition</b>	<ul style="list-style-type: none"><li>• Commissioner assisted by the deputy commissioner and assistant commissioner</li></ul>
<b>Service conditions and Tenure</b>	<ul style="list-style-type: none"><li>• Not specified by the Constitution.</li></ul>
<b>Removal</b>	<ul style="list-style-type: none"><li>• Not specified by the Constitution.</li></ul>
<b>Qualification</b>	<ul style="list-style-type: none"><li>• Not specified by the Constitution.</li></ul>
<b>Powers</b>	<ul style="list-style-type: none"><li>• To investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.</li><li>• Report to the President upon those matters at such intervals as the President may direct.</li></ul>
<b>Reports</b>	<ul style="list-style-type: none"><li>• Submits to the President through the Ministry of Minority Affairs.</li></ul>

## 13 CONSTITUTIONAL BODIES (PART-2)

Constitutional Bodies are those which have their mention in the constitution of India. Their powers, functions and authorities are derived from the constitution itself and any changes in them would require amendment in the constitution.

In this article, we are providing you with short notes on polity for UPSC IAS prelims which can be utilised for Quick Revision.

## 14 CONSTITUTIONAL BODIES IN INDIA: NCBC; ECI; NCSC; NCST AND ADVOCATE GENERAL OF INDIA

### NATIONAL COMMISSION FOR BACKWARD CLASSES (NCBC)

Article	<ul style="list-style-type: none"><li>• Constitutional status by 102nd Constitutional Amendment Act, 2018</li><li>• 338-B and 342A</li></ul>
Appointment	<ul style="list-style-type: none"><li>• By the President of India by warrant under his hand and seal.</li><li>• Chairperson</li></ul>
Composition	<ul style="list-style-type: none"><li>• Vice-chairperson</li><li>• 3 members</li></ul>
Service conditions and Tenure	<ul style="list-style-type: none"><li>• Determined by the President of India</li></ul>
Removal	<ul style="list-style-type: none"><li>• Not Specified</li></ul>
Qualification	<ul style="list-style-type: none"><li>• Not Specified</li></ul>
Powers	<ul style="list-style-type: none"><li>• To investigate and monitor matters relating to Backward Classes (BCs).</li><li>• Inquire specific complaints relating to deprivation of rights.</li><li>• Participate and advice on the planning process.</li><li>• To present the President the reports related to BCs.</li><li>• To make a recommendation for the effective implementation of safeguards.</li><li>• It has the powers of a civil court.</li></ul>
Reports	<ul style="list-style-type: none"><li>• To the President of India.</li></ul>
Eligibility for reappointment	<ul style="list-style-type: none"><li>• Not Specified</li></ul>

### ELECTION COMMISSION OF INDIA (ECI)

Article	<ul style="list-style-type: none"><li>• 324</li></ul>
Appointment	<ul style="list-style-type: none"><li>• By President of India.</li><li>• Chief Election Commissioner</li></ul>
Composition	<ul style="list-style-type: none"><li>• Any numbers of other Election Commissioners President may fix. (Currently 2 members)</li></ul>

**Service conditions and  
Tenure**

- To be determined by the President.
- Six years or 65 years of age, whichever is earlier.

**Removal**

- Same manner as a judge of the Supreme court, i.e., proved misbehaviour or incapacity.

**Qualification**

- Not prescribed by the Constitution.
- **Administrative Functions:**
  - To determine the territorial areas of the electoral constituencies on the basis of the delimitation commission Act of Parliament.
  - Prepare and revise electoral rolls and register eligible voters.
  - Notify dates for elections – scrutinize nominations.
  - Recognition to political parties and allotting election symbols
  - Preparing roster for publicity
  - Supervise the machinery of elections throughout the country.

**Powers**

- **Quasi-Judicial Functions:-**
  - Settle disputes related to the recognition of political parties and allotment of election symbols.
  - For inquiring into disputes related to election arrangements.
  - To determine the code of conduct during elections for parties and candidates.
- **Advisory Functions:-**
  - Advise President/ Governor on matters relating to disqualifications of the members of Parliament/ State Legislature
  - To advise President whether elections to be held in the state under President rule or extent the period of emergency.
  - To register political parties and grant them the status of national and state parties.

**Reports**

- To the President of India.

**Eligibility  
reappointment**                      **for**

- Not eligible

## **NATIONAL COMMISSION FOR SCHEDULED CASTES (NCSC)**

<b>Article</b>	<ul style="list-style-type: none"><li>• 338</li></ul>
<b>Appointment</b>	<ul style="list-style-type: none"><li>• President of India by warrant under his hand and seal.</li></ul>
<b>Composition</b>	<ul style="list-style-type: none"><li>• Chairperson</li><li>• Vice-chairperson</li><li>• 3 members</li></ul>
<b>Service conditions and Tenure</b>	<ul style="list-style-type: none"><li>• Determined by the President of India.</li><li>• 3 years.</li></ul>
<b>Qualification</b>	Not Specified in Constitution
<b>Powers</b>	<ul style="list-style-type: none"><li>• To investigate and monitor matters relating to SCs.</li><li>• Inquire specific complaints relating to deprivation of rights.</li><li>• Participate and advice on the planning process.</li><li>• To present the President the reports related to SCs.</li><li>• To make recommendations for the effective implementation of safeguards.</li></ul>
<b>Reports</b>	<ul style="list-style-type: none"><li>• To the President of India</li></ul>
<b>Eligibility for reappointment</b>	<ul style="list-style-type: none"><li>• Not specified by the Constitution.</li></ul>
<b>Few Other Important Pointers</b>	<ul style="list-style-type: none"><li>• It has powers of a Civil Court.</li><li>• Discharges similar functions for Anglo-Indians.</li></ul>

## **NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST)**

<b>Article</b>	<ul style="list-style-type: none"><li>• 338-A</li></ul>
<b>Appointment</b>	<ul style="list-style-type: none"><li>• President of India by warrant under his hand and seal.</li></ul>
<b>Composition</b>	<ul style="list-style-type: none"><li>• Chairperson</li><li>• Vice-chairperson</li><li>• 3 members</li></ul>

**Service conditions and Tenure**

- Determined by the President of India.
- 3 years.

**Qualification**

- Chairperson must be a prominent member of ST.
- At least 2 of VCs and other members belong to STs.
- At least one female member.

**Powers**

- To investigate and monitor matters relating to STs.
- Inquire specific complaints relating to deprivation of rights.
- Participate and advice on the planning process.
- To present the President the reports related to STs.
- To make recommendation for effective implementation of safeguards.
- It has powers of a Civil Court.
- Functions given by the President of India in 2005:-
  - Related to ownership rights of STs.
  - Related to improving relief and rehabilitation measures.
  - Ensure full implementation of PESA,1996
  - Reduce and eliminate shifting cultivation among tribals.

**Reports**

- To the President of India

**Eligibility for reappointment**

- Not specified by the Constitution.

**Attorney General of India****Article**

- 76

**Appointment**

- President of India

**Service conditions and Tenure**

- Tenure not mentioned in the Constitution.
- Conditions determined by the President of India

**Removal**

	<ul style="list-style-type: none"> <li>• Removal by the pleasure of the President of India.</li> <li>• Resignation to the President of India.</li> </ul>
<b>Qualification</b>	<ul style="list-style-type: none"> <li>• Qualified to be appointed as SC judge.</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• Chief Law officer of the government of India</li> <li>• Gives advice to GOI on legal matters</li> <li>• Perform the duties of a legal character</li> <li>• Discharges functions conferred on him by the constitution.</li> <li>• President may assign the following duties to AG:- <ul style="list-style-type: none"> <li>○ To appear on behalf of the government</li> <li>○ To represent the government.</li> <li>○ To appear when required by the government in any High court.</li> </ul> </li> <li>• <b>Rights</b> <ul style="list-style-type: none"> <li>○ Right of the audience in all courts.</li> <li>○ Right to speak and take part in the proceedings of both the houses of parliamentary proceedings.</li> <li>○ Does not have the right to vote.</li> <li>○ Enjoys all privileges and immunities that are available to a member of parliament.</li> </ul> </li> </ul>
<b>Privilege</b>	<ul style="list-style-type: none"> <li>• <b>Limitations</b> <ul style="list-style-type: none"> <li>○ Should not advise against the Government of India.</li> <li>○ Should not defend accused persons in criminal proceedings</li> <li>○ Should not accept appointment as director in any company or corporation without government permission.</li> <li>○ Not a Government servant.</li> </ul> </li> </ul>

## ADVOCATE GENERAL OF STATE

<b>Article</b>	<ul style="list-style-type: none"> <li>• 165</li> </ul>
<b>Appointment</b>	<ul style="list-style-type: none"> <li>• Governor of the state</li> </ul>
<b>Service conditions and Tenure</b>	

<b>Removal</b>	<ul style="list-style-type: none"> <li>• Tenure not mentioned in the Constitution.</li> <li>• Conditions determined by the Governor of the State.</li> <li>• Removal by the pleasure of the Governor of the state.</li> <li>• Resignation to the Governor of the state.</li> </ul>
<b>Qualification</b>	<ul style="list-style-type: none"> <li>• Qualified to be appointed as HC judge.</li> </ul>
<b>Powers</b>	<ul style="list-style-type: none"> <li>• Chief Law officer of the government of the state.</li> <li>• Give advice to the State Government on legal matters</li> <li>• Perform the duties of a legal character.</li> <li>• Discharge functions conferred on him by the constitution.</li> <li>• Governor may assign the following duties to AG:- <ul style="list-style-type: none"> <li>○ To appear on behalf of the government.</li> <li>○ To represent the government.</li> <li>○ To appear when required by the government in any high court.</li> </ul> </li> </ul>
<b>Eligibility for reappointment</b>	<ul style="list-style-type: none"> <li>• Eligible</li> </ul>
<b>Few Other Important Pointers</b>	<ul style="list-style-type: none"> <li>• Similar to that of Attorney General of India at State level.</li> </ul>



# Indian Polity and Governance – Indian Polity –Constitution, Political System

## Chapter 6

### Short Answers

CSM – 04 Compiled by Dr Mamta Pathania



22

**This chapter contains:**

- **Schedules of Indian Constitution**
- **Constitution Of India**
- **Anti-Defection Law**
- **Delhi Full Statehood Issue**
- **Electoral Bonds In India**
- **Writs In The Indian Constitution**

## Contents

1	SCHEDULES OF INDIAN CONSTITUTION.....	3
1.1	CENTRE-STATE RELATIONS .....	5
1.1.1	Centre's control over State Legislation:.....	7
1.1.2	Centre-State Relations during Emergency: .....	7
1.1.3	Financial Relations:.....	7
1.1.4	Trends in Centre-state relations .....	8
1.1.5	Sarkaria Commission.....	8
1.1.6	Punchi Commission .....	9
1.2	STRENGTHENING PARLIAMENTARY SYSTEM.....	9
2	CONSTITUTION OF INDIA: AT A GLANCE: .....	13
3	ANTI-DEFECTION LAW : .....	18
4	DELHI FULL STATEHOOD ISSUE .....	21
4.1	Historical Background .....	21
4.2	Supreme Court's verdict.....	23
4.3	SABARIMALA TEMPLE ISSUE .....	23
4.4	The legality of traditions? .....	24
5	ELECTORAL BONDS IN INDIA .....	28
5.1	WHAT ARE ELECTORAL BONDS? .....	28
5.2	Recent observations of Election Commission of India.....	28
6	WRITS IN THE INDIAN CONSTITUTION .....	31

# 1 SCHEDULES OF INDIAN CONSTITUTION

Original Constitution of India contains only 8 schedules. However, 4 more schedules were added later. In this blog, we have furnished the list of 12 schedules of the Indian Constitution in table below.

For the first time, schedules were introduced by the **Government of India Act, 1935**, which had 10 schedules. After independence, the Indian Constitution had contained 8 schedules only. Later, four more schedules were added by various amendments as under:

- Ninth Schedule was added by the Constitution (First Amendment) Act, 1951.
- Tenth Schedule was added by the Constitution (Fifty-second Amendment) Act, 1985.
- Eleventh Schedule was added by the Constitution (Seventy Third Amendment) Act, 1992.
- Twelfth Schedule was added by the Constitution (Seventy Fourth Amendment) Act, 1992.

## 12 Schedules of Indian Constitution

S. No.	Schedule	Articles Under the Schedule	Contains Provisions relating to
1	First Schedule	Articles 1 and 4	Name of the state and union territories and also territorial jurisdiction of States
2	Second Schedule	Articles: 59, 65, 75, 97, 125, 148, 158, 164, 186 & 221	Allowances, privileges, and emoluments of: <ul style="list-style-type: none"><li>• President of India</li><li>• Governors of Indian States</li><li>• Speaker of Lok Sabha &amp; Deputy Speaker of Lok Sabha</li><li>• Chairman of Rajya Sabha &amp; Deputy Chairman of Rajya Sabha</li><li>• Speaker and Deputy Speaker of Legislative Assemblies of Indian States</li><li>• Chairman and Deputy Chairman of Legislative Councils of the Indian States</li><li>• Supreme Court Judges</li><li>• High Court Judges</li></ul>

			<ul style="list-style-type: none"> <li>• Comptroller &amp; Auditor General of India (CAG)</li> </ul> <p>Forms of oath and affirmation of office for:</p> <ul style="list-style-type: none"> <li>• Union Ministers of India</li> <li>• Candidate for election to Parliament</li> <li>• Members of Parliament (MPs)</li> <li>• Judge of a Supreme Court</li> <li>• Comptroller and Auditor General</li> <li>• State Ministers</li> <li>• Candidate for election to the Legislature of a State</li> <li>• State Legislature Members</li> <li>• Judge of a High Court</li> </ul>
3	Third Schedule	Articles 75(4), 84, 99, 124(6), 148(2), 164(3), 173, 188 and 219	
4	Fourth Schedule	Article 4 and Article 80	<b>Allocation of seats</b> for States and Union Territories in the <b>Council of States</b> (Rajya Sabha)
5	<b>Fifth Schedule</b>	Article 244	Administration and Control of <b>Scheduled Areas</b> and <b>Scheduled Tribes</b> .
6	<b>Sixth Schedule</b>	Article 244 and Article 275	Administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram (AMTM).
			Classification of the <b>law making power of Centre and the states into three lists</b> :
7	Seventh Schedule	Article 246	<ol style="list-style-type: none"> <li>1. Union List</li> <li>2. State List</li> <li>3. Concurrent List</li> </ol>
			the list of 22 scheduled Languages:
8	Eighth Schedule	Article 344 and Article 351	<ol style="list-style-type: none"> <li>1. Assamese</li> <li>2. Bengali</li> <li>3. Bodo</li> <li>4. Dogri (Dongri)</li> <li>5. Gujarati</li> <li>6. Hindi</li> </ol>

7. Kannada
8. Kashmiri
9. Konkani
10. Mathili (Maithili)
11. Malayalam
12. Manipuri
13. Marathi
14. Nepali
15. Oriya
16. Punjabi
17. Sanskrit
18. Santhali
19. Sindhi
20. Tamil
21. Telugu
22. Urdu

9	Ninth Schedule	Article 31-B	<b>Validation</b> of certain Acts and Regulations.
10	<b>Tenth Schedule</b>	Article 102 and Article 191	<b>Disqualification</b> of the members of Parliament and State Legislatures <b>on ground of defection.</b>
11	Eleventh Schedule	Article 243-G	<b>Powers, authority and responsibilities of Panchayats</b>
12	Twelfth Schedule	Article 243-W	<b>Powers, authority and responsibilities of Municipal Corporations, Municipalities etc.</b>

## 1.1 CENTRE-STATE RELATIONS

“Though the country and the people may be divided into different states for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source.”

- Dr B.R.Ambedkar

India has a history of colonial rule, suppressed liberties and economic exploitation and in order to deal with that our Founding Fathers opted for a ‘Union of States’ with a strong Centre to make sure that the country did not have to suffer any challenge to its integrity again.

Centre-State Relations in India can be studied under the following heads: -

- I. Legislative relations
- II. Administrative relations
- III. Financial relations

### **Legislative relations**

Articles 245 to 255(Part XI) of the Constitution deal with the legislative relations between the Centre and the State.

#### *Territorial extent:*

The Parliament has the power to create or amend laws for the whole or any part of the territory of India.

The territory of India comprises the states, UTs and any other area for the time being included in the territory of India. While the state legislature can make laws for whole or any part of the state.

Additionally, The Parliament can solely make 'extra-territorial legislations' thus the laws of the Parliament are applicable to the citizens of India and their properties in any part of the world.

#### *Distribution of Legislative subjects:*

The union can exclusively make laws on subjects in Union List, States can exclusively make laws on subjects in the state list, and both union and states can make laws on Concurrent list, but the laws of the Union will prevail. The constitution has vested the residuary powers (subjects not enumerated in any of the three Lists) with the Union Parliament.

#### *Parliamentary legislation in the state field:*

Can be in the following 5 circumstances: -

1. If Rajya Sabha passes a resolution in the national interest (Art.249)
2. Under Proclamation of National Emergency (Art.250)
3. To Implement international agreements (Art. 253)
4. When states make a request (Art. 252)
5. Under Proclamation of Presidents Rule (Art. 356)

### **1.1.1 Centre's control over State Legislation:**

The Constitution has empowered the centre to exercise control over the state's legislature in certain cases in the following manner:

1. The governor can reserve certain kinds of bills that are passed by the state legislature for consideration of the President, and the President has an absolute veto over such bills.
2. Bills on such matters that are present in the State List can be tabled in the state legislature only with the initial sanction of the President such as imposing a restriction on freedom of trade & commerce.
3. The President can give direction to the states for reserving money bills and other such finance bills passed by the state legislatures for his/her consideration during a financial emergency.

### **Administrative Relations:**

Article 256 to 263 covers the administrative relationship between the centre and the states. Article 256 conveys that "the executive powers of every State shall be so exercised in order to ensure compliance with the laws framed by the parliament and any other existing laws which are applied in that State, and the executive power of the Union shall extend to giving of such directions to State as may appear to the Government of India to be necessary for that purpose".

### **1.1.2 Centre-State Relations during Emergency:**

1. During the national emergency (as per Article 352), the state government becomes subordinate to the central government and All the executive functions of the state come under the direct control of the union government.
2. During a state emergency, the president can assume to himself all or any of the functions of the Govt of the State as well as all or any of the powers vested in or exercisable by the Governor or authority in the State other than the Legislature of the State.
3. During the operation of financial emergency, the Union may provide directions to any State to observe any such canons of financial propriety as may be specified in the directions, and also to the giving of such other directions as the President may deem adequate and necessary for the purpose.

### **1.1.3 Financial Relations:**

Article 268 to 293 covers the provisions of financial relations between Centre and States. They deal with distribution of tax revenue, grant in aids, etc.

*Finance Commission (Art. 280):* is constituted every 5 years by the President for redistribution of tax revenue among centre and states.

The Finance Commission recommends the President as to:-

1. The distribution between the Union & the States of the net proceeds of the taxes to be divided between them and allocation between the States of respective shares of such proceeds;
2. The principles which should govern grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
3. Measures that are needed to augment the Consolidated Fund of State so as to supplement the resources of the Panchayats as well as Municipalities in the State;
4. Any other matters referred to the Commission by the President in the interest of sound finance

#### **1.1.4 Trends in Centre-state relations**

The most recent is the move to abrogate Art. 370 to fully integrate the state of Jammu Kashmir and Ladakh. It transformed a state into a UT thus sparking of new debates on centre-state relations.

Major areas of tensions between Centre and State: -

1. Mode of appointment and dismissal of the governor
2. Discriminatory and partisan role of governors
3. The imposition of Presidents' rule for partisan reasons
4. Discrimination in financial allocation to states
5. Management of All India Services
6. Encroachment by the centre of state subjects

#### **1.1.5 Sarkaria Commission**

The Sarkaria Commission was formed by the central government in 1983 in order to examine the centre-state relationship in various fields and provides suggestion within the constitutional framework. The Commission submitted its report in 1988, with the following recommendations:-

1. Uses of article 356 of the constitution should be made sparingly, and all possibilities for forming an alternative government should be explored before imposing Article 356 in the state. The state assembly must not be dissolved unless the proclamation is approved by the parliament.



2. Formation of the inter-governmental council consisting of the prime minister & chief ministers of states to discuss collectively on various canons of governance that cause friction between the centre and states.
3. It favoured for the determination of terms of reference of the finance commission in consultation with the state governments and also setting up of similar expert bodies at the state level was suggested.
4. The high courts' judges should not be transferred without their consent.
5. The three-language formula must be implemented in its true spirit in all the parts of India.

#### **1.1.6 Punchi Commission**

The Government of India constituted the Punchi Commission in 2007 to examine centre-state relations. Commission was chaired by the former Chief Justice of India M.M. Punchi. It submitted its report in 2009 with the following recommendations :

1. It called for providing a fixed term of five years to the governors and also their removal via the process of impeachment (similar to that of the President) by the State Legislature.
2. The governor should have the power to sanction prosecution of a minister against the advice of the council of ministers.
3. It called for amending Articles 355 and 356 to enable the centre to bring specific trouble-torn areas under its rule for a limited period. Hence, it proposed 'localising emergency provisions' under which either a district or parts of a district can be brought under the central government instead of the whole state, a further Such an emergency should not be for more than three months.
4. It proposed that the Centre should have the power to deploy its forces in case of communal conflagration without the state's consent for a short period of a week.

The Constitutional scheme is sound in its fundamentals and can withstand the challenges thrown up by globalisation, technological developments and security threats, provided political leadership at the Central, State and local levels organise governance in the spirit of the Constitution.

More from Us:

## **1.2 STRENGTHENING PARLIAMENTARY SYSTEM**

Parliament being the chamber of deliberation is also the supreme institution of lawmaking. One can't deny the fact that the supreme institution of accountability in the country is the Parliament itself. So as to ensure the development of a country, Parliament plays a major role.

As there are six parameters given by the World Bank on the basis of which, the performance of the Parliament of a specific country is evaluated. The parameters include- Financial

accountability, Rule Compliance, Efficiency, Effectiveness, Relevance and Sustainability. But in all the above-mentioned parameters, the performance of the Indian Parliament is less than an average which henceforth justifies the fact that it is the need of an hour to strengthen the Parliamentary institutions for the effective and the smooth functioning of the Parliament.

Following factors are responsible for the inefficient working of Parliament. These are-

- **Lack of women representatives:** Women representatives in the Parliament are very low in numbers which results in the lack of effective debates and discussions regarding the problems which women are facing along with the heinous crimes against them with that much intensity. Thus, The Women's Reservation Bill was conceived in 1996 by Geeta Mukherjee Committee for 33% reservation of women in Lok Sabha and State legislative assemblies. The Rajya Sabha gave its assent in 2010, but Lok Sabha never voted on the Bill. In the recently held 17th Lok Sabha election, women representative constituted 14% of the total seats which is a record high in the world's largest democracy, but still well below the global average of nearly one in four seats.
- **Non- productive sessions:** One of the reason is that the Parliamentarians themselves do not comply with the rules of procedures made by themselves. Thus, our former Vice President Hamid Ansari has remarked Parliament as 'chamber of anarchy'. Another factor is the lack of efficient and productive debates and discussions over there. M.P.'s are always provided with week advance notice regarding the topic of debate/discussion but, in spite of that, there are mere disruptions in the House during the time of debates.
- **Destructive Opposition:** Opposition plays a major role in analysing the loopholes of governmental processes as it is central to parliamentary democracy, but every time, they deviate from the significant issues and keep playing the blame game with the other parties.
- **Inefficient functioning of Committee systems:** Parliamentary Committees have a tenure of one year. Also, they don't have any constraints to meet throughout the year. Thus, members of them are replaced after every one year, and the quality of research is not enhancing as the members are not given the time of more than one year for their research. It can be analysed by the fact of how far there committees reports are contributing to debates in the Parliament.
- **Lack of blue-chip researchers:** Of panels of experts on the specific subject areas is one of the major issues. Thus, the prominent research in some areas is not feasible as the ministers themselves can't analyse the difficult situation due to lack of knowledge.

## Steps Taken To Strengthen Parliamentary Institutions

To improve the quality of debates and discussions, steps have been taken by the Parliament including organising training programmes for Members of Parliament along with visits in other parliamentary and commonwealth countries so as the interaction with the parliamentarians of various countries would enhance the skills and add value to their capabilities. Moreover, ten recommendations regarding the smooth functioning of Parliament have adopted in the 18th All India Whips conference on 8th January 2018 including reforms of Zero Hour for an immediate reply and Action taken the report from concerned Ministry, Legislative work for more working days in the Parliament etc.

## Suggestions

- **Building a better image of Parliament:** Parliament is the communication link between the people and the government. Bad public relations job has resulted in a poor image of Parliament and of its members. People talk of happenings in Parliament and of the M.P.s as things quite remote and different from themselves. It is requisite to establish a new rapport between the people and the Parliament. The people should be aware of what their representatives are doing for them. Better press and public relations job and image-building for Parliament are legitimate and necessary, and there should be no hesitation to use the latest tools and techniques for the purpose. The mass media - the radio, television, newspapers, films etc. should all be suitably harnessed to the service of Parliament. These, particularly the print and electronic media, can play a vital role in building a healthy image of Parliament. The recent innovations of televising the Question Hour and other important debates would go a long way to bring Parliament to the door-steps of the people.
- **Panchayats and Parliament:** The role of M.P. must undergo change as a result of Panchayati Raj. Ideally, MPs are Members for the whole of India and should deal basically with the national issues leaving the local issues to the care of Panchayats and Nagar Palikas. Schemes like the ones placing two crores of rupees each year at the discretion of each M.P. to be spent on local projects are bound to create role conflicts and tensions.
- **Improving the quality of Members of Parliament:** Quality of Members is the most crucial variable in the working of any Parliament in as much as a Parliament would be what its members make of it. Members of important parliamentary committees require to lay down a strict code of conduct for themselves, never to ask the senior Govt officers appearing before the Committee for personal favours, avoiding Committee tours unless really required and never accept any gifts, dinners, free transport, five-star hospitality and the like while on tours.
- **Planning Legislation and improving its Quality:** Indian Legislation has often been criticised for hasty drafting and for its being rushed through the Parliament in an ad hoc and haphazard manner. There is a need for a dynamic (not mechanical) approach to

legislative engineering and systematic programming of laws which may be proposed for enactment over a period of time. This can be done by:

- streamlining the functions of the Parliamentary and Legal Affairs Committee of the Cabinet;
  - making greater use of the Law Commission;
  - setting up a new Legislation Committee of Parliament to oversee and coordinate legislative planning; and
  - referring all Bills to the newly set-up Departmental Standing Committees for consideration and scrutiny, consulting concerned interest groups and finalisation of the second reading stage in the relaxed atmosphere of Committees aided by experts thereby reducing the burden of the House without impinging on any of its rights and improving the quality of drafting and content of Legislation.
- **Codifying Parliamentary Privileges:** In a democratic society, any privileges for a section or class of the people are anachronistic, any undefined privileges like the privileges of Parliament are even more so. For this reason, It becomes the utmost importance that the weapon of parliamentary privileges is used with great circumspection. These privileges must not be allowed to be used in such a manner as to nullify themselves and become rights against the people. Time is now ripe for removing the currently existing uncertainty and anxiety of the people and the press through early codification. A Joint Parliamentary Committee may be set up to lay down the privileges in precise terms and to recommend appropriate piecemeal or comprehensive Legislation.

To ensure effective functioning, minimum sitting along with the longer parliamentary tenure is the need of an hour. As the debates are the embodiment of the democratic process, so as to serve the purpose, it should be required to enhance the quality of debate. Moreover, to deal with the disruptions, more powers should be provided to the presiding officers. A holistic approach should be adopted for Legislation, along with the best researchers. Whips should be relaxed in ordinary Legislation and strengthening the backbone of Parliament, i.e. The parliamentary Secretariat along with Members of Parliament is to be done.

### **Comparison of the Indian Constitutional Scheme with that of Other Countries**

A constitution is a set of rules and fundamental principles according to which a country should be governed. It is a document that contains detail description of power distribution, citizen rights and duties of various organization of the government i.e. legislature, executive and judiciary.

## 2 CONSTITUTION OF INDIA: AT A GLANCE:

Indian constitution is one of the unique constitutions with its content and spirit. The constitution of India was framed by constituent assembly under the scheme formulated by cabinet Mission plan in 1946 under the president of constituent assembly Dr Rajendra Prasad and chairman of the drafting committee Dr B.R. Ambedkar. The constitution was adopted on November 26, 1949.

The constitution of India is the lengthiest of all written constitution of the world. Although borrowed from almost every constitution of the world, the framers tried to borrow the best features of each of the existing constitution and modified that according to the conditions and needs of the country. Some of the important features of the Indian constitution include sources from the **Government of India Act 1935**. Presently, it consists of a Preamble, about 465 articles and 12 schedules.

The constitution of India describes India as a 'Union of state' and an independent Socialist Secular Democratic Republic with a parliamentary form of government.

### Some of the salient features of the Constitution of India:

- **Lengthiest Written Constitution-** Due to geographical and historical factors, a single constitution for both the centre and the state and imaginative ambition of the nationalist leaders.
- **Blend of Rigidity and Flexibility-** Article 368 provides for two types of amendments, one with the special majority of the parliament and other special majorities of the Parliament and with the ratification by half of the total states.
- **The federal system with unitary bias-** Indian Constitution contains all the usual features of the federation such as two governments, division of powers, bicameralism etc. while unitary features like single citizenship, single constitution, emergency provision etc.
- **Parliamentary Form of Government -** The parliamentary system is based on the principle of cooperation and coordination between legislative and executive organs. President is the nominal executive and the prime minister is the real executive. It is also known as 'Westminster' model of government
- **The sovereignty of Parliament-** The doctrine of the sovereignty of parliament is associated with the British parliament with one difference where the British state has hereditary head called monarchy whereas in case of India has an elected head.
- **Fundamental Rights –** The fundamental Rights are meant for promoting the idea of political democracy and operate as limitations on the tyranny of the executive and arbitrary laws of the legislature.

- **Citizenship-** The Indian Constitution is although federal but it provides for only single citizenship.

As most of the features of the constitution of India borrowed from several countries. Here are some of the comparisons of the constitution with other countries:

**1. Witten Constitution-** A written constitution is a formal legal document defining the nature of the constitution, the rules that govern the political system, governments and the rights of the citizen in a codified manner. A written constitution is an absolute must for the rule of law.

- India- lengthiest Written constitution
- British- most important feature of the British constitution is its unwritten character because it is based on conventions, common law, statutes, charters and political traditions which have not been laid down in any document.
- USA- American constitution is the shortest and the first written constitution. The US constitution came through a convention in 1787.
- France- French constitution is the only Democratic constitution based on the principle of supremacy of Executive. Due to political instability, France has changed its constitution very often, presently the constitution of the 5<sup>th</sup> republic provides a strong president with a fixed term of 5 years.

**2. Flexible or Rigid-** A flexible constitution can be changed by simple majority or ordinary law while a rigid constitution is one which can be altered by a special procedure of amendment.

- India-The Indian constitution is more flexible than rigid as some provision of the constitution can be amended by a simple majority of parliament but due to regional parties, it is becoming difficult to amend the constitution as some of the amendment requires the consent of the half states.
- British- The British constitution is the most flexible constitution as it can be passed, amended and repealed by a simple majority of the parliament. There is no distinction between ordinary law and constitutional law. Due to its flexibility, it provided for the continuation of constitutional monarchy and virtue of adjustability and adaptability with the growing needs of the time.
- USA- American constitution is the most rigid constitution of the world which can be amended by congress by a special procedure.
- France- French constitution can be changed by a rigid procedure requiring a resolution to get passed by 60% majority in both the Houses of Parliament. However, the President has one special power to refer the amendment to people by referendum.
- Germany- German constitution is a rigid constitution. Germany has two houses one is Bundestag which is a lower house while the other one is Bundesrat which is the upper house. Basic law can be amended by an absolute two-thirds majority of Bundestag along with a simple two-third majority of Bundesrat.

- Japan- It has a rigid constitution. The two houses of Parliament are called Diet. Any amendment to the constitution initiated by diet passed by the special majority then submitted to the people for ratification at a special referendum.

**3. Unitary or Federal:** A unitary form of government is governed as a single constitutional unit, with one constitutionally created legislature while a federal form of government which function between a central government and constituent political units like states or provinces.

- India- The Indian constitution is federal in character with unitary bias.
- British- The British constitution has a unitary character. The British parliament is a sovereign body vested with all the powers of the government.
- USA- American constitution is truly a federal. It provides for complete independence between centre and state. Every state has its own constitution, governor, elected legislature and supreme court.
- France- France has a unitary feature.
- Germany- Germany is a federation and the residuary powers in Germany lie with the states.

**4. Type of Government (Parliamentary or Presidential):** In a parliamentary form of government executives are responsible and accountable to the legislature whereas in the presidential form of executive and legislature are entirely independent and executives are not responsible to the law-making members.

- India- Indian constitution provides for a parliamentary form of government both at the centre and the state. Some of the principles of parliamentary form are nominal and real executive, majority party rule, collective responsibility, double membership as ministers are executive as well as legislature.
- British- One of the major similarity between the British Constitution and the Indian constitution is both have a parliamentary form of government. British constitution provides de jure head in the form king who is sovereign but deprived of all his powers and the real functionaries are ministers who belong to the majority party in the parliament.
- USA- America has a presidential form of government in which the president is directly elected by people. President is not accountable to the House of Congress and head of the state as well as the government.
- France- France has some features of the parliamentary system and others of Presidential type and therefore it is called a semi-Presidential type of government. French President is directly elected by the people for the for a seven-year term and there are nominated council of ministers headed by the prime minister.
- Japan – Japan has a parliamentary form of government with some features of the British form of parliament like Japan has also a constitutional monarchy.

**5. The sovereignty of Parliament:** The term Sovereignty means Supreme Power. Parliament sovereignty means parliament has the supreme authority over all other government institution including judiciary and executive. Parliament is not bound by the written laws of the constitution. Some democracies have absolute sovereignty while some democracies have checks and balances through judicial supremacy.

- India- India parliament is not a sovereign body like the British Parliament. Any laws made by the parliament can be presented to the supreme court for the judicial review as the supreme court is the custodian of the constitution
- Some of the other countries that have similar features of Judicial Review of the parliamentary law are USA and Japan.
- British- One of the most important features of the British constitution is the sovereignty of the British parliament. The British parliament is the only legislative body with unrestricted power of legislation. It can amend, make or repeal any law without any question of the validity of the law.
- France- French Constitution has a sovereign parliament with limited powers. The legislature is clearly subordinate to the executive. Article 37 of the French constitution put a limitation on the legislative power of the parliament.

## **6. President-**

- India- The President of India is the head of the Indian state. He is the nominal head of the government while the real power is vested with the Prime Minister of India with the aid and advice of the council of Ministers. Although all the executive actions of the government are formally taken in the name of the President.
- The USA- The President of the USA holds the real executive power. He is the head of state as well as head of the government. He is also the commander in chief of the United States Armed forces. President of USA holds office for a term of 4 years and can be re-elected twice.
- France- The French President is the most powerful within the French system as well as amongst all other executives across world democracies. France has PM as well as President but he is assistant to the President unlike that in India and Britain. The President is elected for a fixed term of currently 5 years.
- Germany- Germany has a parliamentary form of government and called as 'Chancellor's Democracy'. Chancellor is the PM. President is the constitutional head of the government.

## **7. Citizenship-**

- India- The constitution of India provides for single citizenship for all over the country despite being a federal country.
- British- British citizenship is liberal in the sense that in order to get British nationality one doesn't need to renounce his/her citizenship of that country.



- The USA- The American constitution provides for Dual Citizenship. One for the whole USA and one for the state one belongs to but USA law doesn't mention dual nationality or require a person to choose one citizenship or another.
- France and Germany have dual citizenship.

### **8. Due Process of Law or Procedure established by law:**

Due process of law is the legal necessity that the state must follow the principles of fairness, fundamental rights, liberty etc during legal requirement as these rights are owed to the person. The legality of law cannot be questioned on the ground that the law is unreasonable as this law follows the principle of natural justice. Example – American constitution provides for Due process of law

The procedure established by law – This law clearly states that the law is valid only if the legislature has followed the correct procedure and contrary to principles of justice and equity. Article 21 states *that no person shall be deprived of his life or personal liberty except according to the procedure established by law.*

### **9. Fundamental Rights, Fundamental Duties and Directive Principle:**

Fundamental Rights- Fundamental Rights are meant for promoting the idea of political democracy It is meant for establishing a government of laws.

- India- Fundamental Rights are enshrined in Part III of the constitution from Article 12 to 35. Fundamental Rights are borrowed from the American Bill of Rights. The Fundamental Rights guaranteed by the constitution are Right to equality, Right to freedom, Right against exploitation, Right to freedom of Religion, Cultural and educational rights and Right to constitutional remedies.
- USA- Fundamental Rights in the USA are absolute not like India where the reasonable restriction is present.
- Japan have also Fundamental Rights but no such rights are mentioned in Britain constitution.

Fundamental Duties- Fundamental Duties and rights of the citizen are inseparable and correlative. The citizen must have some moral and civic duties toward their country.

Originally the Indian constitution does not contain Fundamental Duties. It has been borrowed from USSR and no major country has Fundamental Duties.

Directive Principle- The constitution of India contains the directive principle borrowed from the Irish Constitution. The Directive principles constitute a very comprehensive economic, social and political programme for a modern democratic state. Although directive principles are not enforceable in nature the state should keep in mind while formulating policies and enacting laws.

### **Conclusion:**

Recently the Indian Constitution completed 70 years of adoption. For newly independent nation making of the constitution and entering into force was a challenge for the framers of the

constitution. Several Political scientists had criticized the newly adopted constitution that this will not be able to run the diversity of the nation and soon will collapse. But the working of the constitution has stood the test of time and made India one of the successful and largest democracy of the world.

### 3 ANTI-DEFECTION LAW :

Due to ongoing legislative tussles in different states and UTs like Karnataka, Sikkim and Delhi, **Anti-defection law** remains in news. Even the Supreme court gives periodic orders to ensure judicious use of the law. Since the law makes frequent headings in the newspapers, it has become important for both prelims and mains exam of UPSC, State PCS and other competitive exams.

The analysis of the law needs to be done from the exam point of view. Here in the article, all aspects of Anti-defection law are covered.

#### **Anti-defection Law**

- Indian Politics started facing the problem of Political Defection just after a decade when regional parties started gaining importance.
- In a case study, Haryana MLA Gaya Lal in 1967 changed his political party three times in a single day for getting political privileges and benefits.
- Apart from this, there were many other such incidences which were motivating a legislator for defection.
- For such reasons, Anti-Defection was necessary for stabilizing the Indian Politics and prevents such political defections which happened only to get some political reward or similar consideration.
- Anti-Defection Law was inserted in the Indian Constitution in 1985 by the 52<sup>nd</sup> Amendment Act of 1985. Rajiv Gandhi government was the main initiator for the introduction of this law.
- The 52nd amendment of the Constitution inserted the Tenth Schedule in which provisions were made by which legislators can be disqualified on the grounds of defection to any other political party.
- The issue of disqualification on the ground of defection may be raised by any member of the house and is referred to the Chairman or the Speaker of House. The decision of the Chairman/Speaker of the concerned house is final and binding.
- However, the decision of the Speaker or the Chairman of the house is open for judicial review.
- The Anti-Defection law is applicable to both the houses of Parliament and also to the state assemblies.

- Anti-Defection law is in practice not only in India, but it is practised in various other countries of Asia and Africa like Bangladesh, South Africa, Kenya etc.

### **What was the need for Anti-Defection Law?**

- The main reason for the introduction of Anti-Defection Law was to discourage “*the evil practice of political defections*” by the legislators who get motivated even by the immoral reasons of getting a high office or any other such benefits.
- The other important reason was to provide stability to the government in power. This was necessary for the stability in Indian Politics.
- The Anti-Defection Law was also introduced to ensure that a legislator elected from a political party symbol with the issues and agenda of that party remains loyal to that political party.
- This was also necessary for creating stability in the policy formulation process.
- It was also essential for morale upgradation of legislators in the Indian Politics.

### **Salient Features Anti-Defection Law**

#### **Grounds of Defection**

Signup for Free Mock Test

- **For Members belonging to any political party** – A legislator who is a member of any political party may be disqualified if:–
  - If any legislator voluntarily gives up his membership from such political party.
  - If any legislator belonging to any political party votes or abstains from voting in the House contrary to the directions already issued by that political party.
- **For nominated members of a House** – A nominated member of a house may be disqualified if a nominated member of a house declares to joins any other political party after six months of taking her/ his seat in that house after complying with the provision of Article 99 or Article 188.
- **For Member elected otherwise than as a candidate set up by any political party** – A member of the house who is elected as an independent candidate may be disqualified on the ground of defection if he joins any political party after the election.

**Exceptions under the Anti-Defection Law:-** The changing of a political party by a legislator do not always lead to defection under the Anti-Defection Law. The Anti-Defection law allows a political party to merge with any other party subjected to the fulfilment of the following condition –

- A legislator shall not be disqualified if his original/ initial political party merges with any other political party, and:
  - She/ He and other members of her/ his old political party takes the membership of the new political party, or
  - She/ He and other members of her/ his old political party do not accept the merger and decide to function as a separate group.
- This exception under the Anti-Defection Law shall be applicable only if not less than two-thirds of the members of a political party is in agreement with the merger or to function as a separate group.

### **Judicial Interpretations of Anti-Defection law**

- As per the Tenth Schedule, the decision of Speaker/Chairperson on the questions of disqualification under the Anti-Defection Law shall be final and can't be questioned in the court of law. However, the Constitution Bench of Supreme Court in Kihoto Hollohan vs Zachillhu and Others case of 1991, declared that the decision of Speaker/Chairperson is subject to judicial review.
- In 1996 it was declared under Tenth Schedule that once a member of a house is expelled, She/he will be treated as an 'unattached' member in that house. However, she/he should continue to be a member of the old party from which she/he belongs. If she/he joins a new political party after being expelled from the house, she/he should be looked in the same way as she/he has voluntarily given up membership from his old political party.
- The Speaker/Chairperson of a House does not have the power to review his own decisions taken under the Anti-Defection Law to disqualify a candidate. Such powers were not implicit in the provisions of Tenth Schedule but interpreted by the courts.
- In case Speaker/Chairperson of a house fails to act on a complaint or accepts the claim of splits or mergers of a political party without making a finding, it will be treated that the Speaker/Chairperson has failed to act as per the Tenth Schedule of the constitution. The Court declared that in all such cases of ignoring a petition for disqualification will not be treated only as an irregularity but also the violation of the constitutional duties of the Speaker/Chairperson.

### **Benefits of the anti-defection law**

- It helped in providing stability to the government by imposing restrictions on shifting of party allegiance.
- It helped in ensuring a candidate's loyalty to his political party as well the citizens of the country who voted for her/him.
- It also helped in the genuine merger of political parties without in case of difference of opinion without attracting defections under the provisions of Anti-defection Law.

- It helped in promoting discipline in a political party.
- Now a political party in power will have more time and stability for working in other government bills and other important issues.
- The Anti-Defection Law also helped in reducing the political corruptions.
- The Anti-Defection has the provision of punitive action in case of defections and hence created a deterrent.

### **Way Forward**

- According to the Tenth Schedule, the Speaker/Chairperson has been given too much importance by giving final decision-making powers of disqualifying a member. The final decision-making power may be shifted to the President or Governor.
- To create more deterrence more stringent and effective law may be made by the parliament.
- A Tribunal may be set up to deal with the cases of disqualifications declared under the Anti-Defection Law.
- Political stability should be given due priority as the government can perform well only with the disciplined parliamentarians having high moral values.

## **4 DELHI FULL STATEHOOD ISSUE**

### **4.1 Historical Background**

Initially, Delhi was a full-fledged state as the first Legislative Assembly elections of Delhi held on 27<sup>th</sup> of March, 1952. It was during the year 1956, under the States Reorganisation Act, where major reforms regarding the boundaries of States along with Union Territories took place. During this time, Delhi became a Union Territory by losing its full statehood. It was during 1991, under the 69<sup>th</sup> Amendment of the Indian Constitution when the special status was provided to Delhi and it was formally declared as The National Territory of Delhi. Thus, it provided the partial statehood to Delhi, which, by various Chief Ministers contested, from time to time.

### **Tussle between Centre and Delhi Government**

The demand for the special statehood for Delhi is not something new. The fact can be traced historically, that any government ruling over Delhi has placed this demand in front of the Central government, in one way or another. During the elections of 2015, special statehood for Delhi was the agenda as it was included in the manifesto of BJP. Since 1998, BJP always extended its support to Delhi as a separate state. But it was only in 1999 when BJP inculcated this as its agenda by incorporating it in its manifesto. In 2003, it was somehow, managed to present it in Lok Sabha although Home Ministry rejected it. But it was in 2013 legislative elections when BJP dropped its agenda for separate statehood. To be a great surprise, it was the same time when Aam Aadmi Party included this as its agenda in the Manifesto.

We are aware of the fact that the crisis regarding the Delhi statehood issue has erupted due to the difference of opinions regarding the various matters existing between the Chief Minister, who represents the State government and, Lieutenant governor, who is responsible to the Union Home Ministry and hence, the Central government. This factor is responsible for creating tussle between the two governments and hence, leads to various issues including the policy crises, deadlock in talks between the two, etc.

It was in 1991, when, through a Constitutional Amendment, Delhi was granted a special status and was declared as a National Capital Territory (NCT) which itself clarified the situation that Delhi would be serving as a Central Government seat similar as in the case of Washington DC, which also serves as a national capital but none of the elected government lies there and exists only one Mayor. The above-mentioned situation depicts that if there lies a seat of Central authority, there cannot be two authorities in the one way or another.

### **A Comparison between Delhi and Puducherry**

Both Delhi and Puducherry are among the Union Territories of this nation and hence, constitutes an elected legislative Assembly and the Lieutenant Governor along with The Council of Ministers serving as an executive. It is worth mentioning over here that being Union territories, both Delhi and Puducherry are deriving their powers from different constitutional provisions as Puducherry is being dealt with Article 239 A and Delhi with 239AA. The former Article deals with enabling provisions that give its nod to the Parliament for creating a law for Puducherry while, the latter, deals with providing the scope along with the limits of powers of the legislative assembly. In other words, it can be said that there lie few restrictions with article 239AA including laws regarding police, public order and land are to be created by the Central Government and not the State Government. Such restrictions are not applicable by Article 239A.

Puducherry is being governed by the Government of Union Territories Act, 1963 and enables the legislative assembly by providing the power of making laws on any of the matters which have enumerated in the State List or the Concurrent List. Thus, it can be said that Puducherry enjoys a bit of broader legislative and executive powers than that of Delhi.

### **Delhi's reasoning for the demand of separate statehood**

- The government also has a very limited say in the issues pertaining to recruitment and conditions of service of officials of clerks, IAS etc.
- Delhi government has also been accusing the centre to be meddling in their work and putting hurdles through LG.

- Statehood will bring control of administration under one umbrella, the state government, led by the CM and his Council of Ministers and avoid multiplicity of authorities.
- By attaining a separate statehood, more opportunities along with the development in the various fields should be available to the native population as the restricting areas under Article 239AA would be accessible to the state government. Moreover, there lie many issues regarding transport, electricity, water, housing, etc. which needs to be addressed as soon as possible.
- As of now, there are many instances when the Lieutenant Governor without consulting the Council of ministers, have taken decisions independently and eventually raised conflicts between the two as it is the responsibility of Lt. Governor to work harmoniously with the State government which deals with the various aspects such as education, health, etc.

## **4.2 Supreme Court's verdict**

A verdict regarding the ongoing power tussle between the Centre and the Delhi Government has been given by a five-judge bench of the Supreme Court which highlights some of the important points:

- SC declared that Lt. Governor is not authorised to make independent decisions and should act only after consulting the council of Ministers.
- The decisions regarding the three matters including police, land and public order should be under the complete control of the Central Government.
- Delhi government enjoys all the powers of the State Government except the above three mentioned areas.
- Under the provision of Clause (4), Lt. Governor is provided with the power of consulting President under Article 239, regarding any dispute and under certain circumstances.
- Governor is not a real Governor and only an administrator.

### **Conclusion**

Thus, it can be said that Delhi is not a full-fledged state. Although, the SC has clarified the situation that under any circumstances, Lt. Governor has to follow the Constitutional provisions but it has created a sense of ambiguity by providing the Lt. Governor with the power of consulting President without drawing a fine line between 'any matter' and 'every matter'. Thus, few things have again remained unsaid and may cause disruption in the political machinery.

## **4.3 SABARIMALA TEMPLE ISSUE**

Sabarimala is a legendary place of worship for the Hindus surrounded by the myths, devotees, and recently some controversies. Lord Ayyappan is the chief deity at the Sabarimala temple in

Pathanamthitta district of Kerala. In this particular temple, Lord Ayyappan is worshipped as the "Naishtika Brahmachari" (eternal celibate) which has led to the evolution of strict customs in place for the devotees as well. Travancore Devaswom Board ( TDB) which is an autonomous authority under the state government is responsible for the administration of the temple.

### **The Debate?**

The Sabarimala Temple debate is about the conflict between the traditions and faith of devotees on one side, and women's right to worship and constitutional propriety on the other.

### **Traditions in question?**

On account of being a divinated place of a celibate deity, the temple board restricts menstruating women ( aged 10 to 50) from taking the pilgrimage to Sabarimala and worship Lord Ayyappan. The customs in this case as held by devotees cannot be transgressed as it would be against the faith surrounding the deity itself.

Also, there is a view that as the menstrual blood is impure, it would pollute the premises. In this view, the woman herself is not treated as impure, but the blood only.

## **4.4 The legality of traditions?**

- Legally, the Kerala Hindu Places of Public Worship ( Authorization of Entry) Rules, 1965, prohibits women from entering the temple as well.
- Then, Kerala High Court in 1991 ordered in favour of the restriction by stating that the restriction had been there throughout history and not in violation of the Constitutional provisions of Right of Worship and Equality.
- Indian Young Lawyers Association challenged this prohibition on women's entry in Supreme Court in 2006.

### **Alternate legend and history**

A shrine deep inside the forest, it is said to be visited by tribals and low castes living near the forest and some pilgrims from Tamil Nadu. It is believed that there were no Vedic rites or any purity rituals. The temple shrine was under the ownership of the Pandalam ruling family. Later, they surrendered their rights over the shrine and forest to the Travancore ruling family. Then the temple came under the management of Travancore Royal Devaswom Commission (TRDC).

In June 1950, poachers set Sabarimala temple on fire and desecrated the shrine. A new temple was then constructed by the Travancore Devaswom Board (TDB). It is said that since then the pilgrim numbers rose steadily which had reached to astonishing 50 lakhs now.



## **Upper Caste Dominance.**

Slowly from the 1970s onward, upper-caste pilgrims began to increase. Steadily, it is argued that it led to the introduction of upper caste rituals and customs of purity and pollution. Thus, the marginalization of tribal and lower caste is said to have begun. It is also said that there were no restrictions on the entry of women as well. Because menstruation is seen as a symbol of fertility and therefore auspicious in the forest dwellers. It is in the upper caste rituals that menstruating women are prone to exclusion.

The total ban on the entry of women came through a High Court judgement in 1991 in *S. Mahendran v. The Secretary, Travancore*.

## **Arguments against women's entry said in court**

- It would affect the deity's celibacy and austerity.
- The temple has its own traditions and customs which had to be respected. This is similar to any other public place and is not in contravention of Art 26 of the Indian Constitution.
- Sabarimala pilgrim needs to observe 41-day penance essential for the pilgrimage. Such penance would be difficult for the women to undertake.
- Art 25 (2) of the constitution provides access to public Hindu religious institutions for all classes and sections of the society. However, it is applicable to social welfare and reforms only and not to the religious customs and worshipping practices of the temples.
- Art 26 (b) of the Indian Constitution provides the right to every religious group to manage their own religious affairs.
- Guwahati High Court in *Ritu Prasad Sharma v State of Assam* 2015 ruled that religious customs protected under Art 25 and Art 26 are immune from challenge under other provisions of Part III of the Indian Constitution.
- Rule 3(b) of Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, prohibits women of menstruating age from entering the Sabarimala temple.

## **Arguments to lift the ban on women's entry said in court**

### **1. Moral argument:**

- Why would God discriminate towards women on the basis of a natural phenomenon?
- How can devotees pollute God and disturb the sage's austerity?
- There is nothing impure about a menstruating woman.

### **1. Legal argument**

- Art 25 of Indian Constitution grants an individual the right to choose own religion and praying in a temple or mosque comes within that right.

- There are hundreds of Ayyappa temples in India where this rule of restricting women does not apply. Women worship Lord Ayyappa at home as well. The practice of worshipping has been since ages.
- Discrimination based on gender violates Fundamental Rights under Art 14 (Right to Equality), Art 15 (No Discrimination based on gender) and Art 17 (Abolition of untouchability ). Hence, the practice of restriction of menstruating women to worship in the Sabarimala temple is unconstitutional.
- Prohibiting women's entry due to their biological feature is a derogatory practice which the Fundamental Duties in Art 51A (e) seek to renounce.
- Sabarimala temple's trust is funded from the Consolidated Fund of Kerala. So, it is a public place of worship and not a fiefdom of the priests.
- The Hindu way of life can not and should not be dictated by narrow and exclusion based rituals created by priests.
- Religious traditions should not be trapped in time and must reform themselves to stay relevant.

### **Supreme Court Verdict**

The court in 4-1 majority struck down the provisions of the Kerala Hindu Places of Public Worship Rules, 1965. It legalised the entry into the Sabarimala temple and worship of the deity by women of all age groups.

### **Court's Rationale**

- The Travancore Devaswom Board claimed that Ayyappa devotees form a religious denomination and were permitted to make their own rules. Supreme Court outrightly rejected this claim.
- The court also held that prohibition on women entering the temple is not an essential part of Hindu religion. Hence the court can intervene to ban a discriminatory custom.
- Art 14, Art 15 and Art 17 trump over the exclusionary practices claimed under Art 26. That means individual freedom and principle of equality prevails over irrational and unreasonable customs.
- The court declared that exclusion of women on the basis of menstrual impurity is a form of untouchability.
- SC observed that stigmatization of women based on the medieval perspective of purity and pollution is unscientific and inhumane, and thus, not tenable in modern times.

Thus, the Supreme Court held that any such religious tradition which discriminates and segregates women because of their biology is Unconstitutional.

## **Dissenting opinion**

The dissenting remark came from the lone woman judge Justice Indu Malhotra. In her widely discussed dissent, she said,

- Religious matters should be left to religious communities and need not be interfered by the courts. The very fact that the issue is regarding faith and not reason, the court is bound to transgress their mandate.
- A balance needs to be created between religious beliefs and constitutional principles of equality.
- She warned of the future ramifications of the judgement and the Pandora's box it will open.

## **Review of the judgement**

However, the court in a 3-2 majority has accepted the review petition of the Sabarimala judgement. It has referred the case to a larger 7 judge bench. After its triple talaq judgement, another debate on a women's issue will reopen the larger issue of whether any religious practice can discriminate among its followers based on caste, or gender.

The larger bench will also re-examine its "essential religious practice test" doctrine.

### **Essential Religious Practice Test:**

The Doctrine of Essentiality is a contentious and much-debated doctrine expounded by the Supreme Court in the Shirur Mutt case in 1954. The court held that "religion" covers all rituals and practices, and the court took upon itself to determine the essential and non-essential practices. That is such practices which form an integral part of the religion.

In *Dr M Ismail Faruqui and Others v. Union of India and Others* (1994), a five-judge Constitution bench ruled that "A mosque is not an essential part of the practice of the religion of Islam". It also held that namaz (prayer) by Muslims can be offered anywhere, even in the open.

The highly subjective doctrine has been criticised by many constitutional experts since its inception. This is because the test of essentiality will simply lead the court into an area which is beyond its domain expertise and will give judges the power to interpret matters of belief. Debating on purely religious issues is beyond the competence of the courts which function on reason and proofs and not on faith.

This fear has been proven right as the court has been inconsistent on this question. As in some cases, the courts have relied on religious texts to determine the essentiality of practice while in others, they relied on the behaviour of followers. In matters such as Sabarimala, the court saw it in a purely rational and scientific manner.

## **Conclusion: Importance of Sabarimala Issue**

The issue of exclusion of women in different aspects of life has come into the national limelight due to the Sabarimala debate. Giving a progressive judgement the court has led the way for behavioural change in the society, and reform in the religious matters. The judgement will become a landmark for future cases and will lead to a more wider interpretation of the constitution. It will raise awareness regarding people's civil rights across caste, gender.

## **5 ELECTORAL BONDS IN INDIA**

### **5.1 WHAT ARE ELECTORAL BONDS?**

- The Electoral bonds are securities/ instruments which can be used to donate money to the political parties. These bonds are like promissory notes or bearer bond in which the (bank) issuer is the custodian and is liable to pay the political parties holding the bonds. The basic features of electoral bonds are:
- These bonds can be issued only by notified banks.
- Anyone who wants to purchase these bonds may approach these notified banks.
- The donor who wants to buy these bonds shall be permitted to buy only through digital payment or cheque.
- After purchasing these bonds, the donor may donate these bonds to any political party.
- The political party who will receive these bonds can encash it into their accounts registered with the Election Commission of India.

### **5.2 Recent observations of Election Commission of India**

- Recently, the Election Commission of India has raised the issue of political funding in the Supreme Court stating that the present electoral bonds system is creating a transparency issue in political financing.
- The Election Commission of India submitted that removal of the cap on foreign funding is a cause of major concern as foreign corporate powers may impact Indian politics through political donations.
- Donations received through electoral bonds are a cause of "serious concern" on the transparency of the system and hence needs to be changed.
- There is a threat of pumping of black money in the political system through electoral bonds which may have disastrous consequences in the long run.

## **Important Facts**

- Electoral Bonds were mooted for the first time in the Union Budget, 2017 and finally, the Government of India notified this scheme in 2018.
- These electoral bonds can be purchased by any Indian citizen or a body/organisation incorporated in India either singly or even jointly with other individuals/organisation.
- These bonds can be redeemed into the bank accounts of a political party allotted by the Election Commission of India within 15 days of purchase.
- Only those political parties are eligible for getting Electoral Bonds which have secured at least one percent of votes polled in the Lok Sabha election or state elections.
- All the Donations made under these bonds are exempted from taxes.
- The bonds can be purchased only by a KYC compliant account.
- These bonds are issued in multiples of Rs One Thousand, Rs Ten Thousand, Rs One Lakh, Rs Ten Lakh and Rs one Crore.
- A political party can receive donations in cash only upto Rs 2000/-.

## **Amendment in the Acts**

- The Finance Act of 2017 has made various amendments in the Representation of People Act (RoPA), 1951, the Companies Act and the Income Tax Act.
- The finance act of 2016 makes some changes in the Foreign Contribution (Regulation) Act of 2010.
- The amendments in the RoPA make provisions for the political parties that keeping the records of fund donations received through electoral bonds to them is not required.
- The amendment in Income Tax Act allowed anonymous contributions to political parties whose donation amount is upto Rs 20,000/-. The political parties don't need to disclose the details of donations in these cases. Most of the donations of the political parties come under this category.
- The amendments in the Finance Act of 2016 also allowed the process of donations from foreign companies which are having majority stake in Indian companies.

## **What was the need for electoral bonds?**

- Earlier, when most of the election donations were known to be taken in cash, it was supposed to be a more transparent mechanism of political funding for political parties to raise finances to meet election expenditures.
- The Association for Democratic Rights in one of its reports states that around 69% of political funding comes from unknown sources in India. This was a cause of concern, and

hence, electoral bonds were found somehow more transparent alternative of political funding than the earlier one.

- Electoral bond preserves the anonymity of donors who purchase these bonds and protects them against any post-poll harassment/intimidation by political opponents.
- As the life of these electoral bonds is only 15 days, it restricts the scope for misuse. Also, political parties need to disclose the amount of the contribution received through these electoral bonds to the Election Commission India. Therefore, these electoral bonds are of some help in cleaning up the political funding system of in India.

### Major Concerns

- The lack of disclosure requirements for those individuals who are purchasing electoral bonds is a cause of concern.
- This system of electoral funding is more opaque and hence puts no obligation on either the individual/organisation/companies or political parties about political funding.
- It creates a system in which much more black money will be infused into the political system, which will lead to political corruption.
- This system of electoral funding provides a legal channel to the individuals/corporate to park their money and get a tax haven cash to political parties. This will make the corporate lobbies stronger, which may affect the policy formulation for their interest.
- Companies/Corporate no longer requires about declaring the funding amount or name of political parties and hence shareholders of these companies won't know anything about their money being donated to any political party.
- The banks have all details about the person/companies/corporate who are buying these bonds and also about the redeemed amount against any political party. Hence, it gives an easy way to the government in power to take all these details from the public sector banks working under them indirectly.
- **The elimination of a cap of 7.5% with respect to corporate donations, a loss-making company may also donate to any amount, and this may lead to corruption in political funding.**

### Provisions for Checking the political funding/expenditure

- **Section 29C** of the RPA, 1951 makes it necessary for the political parties to declare the political donations received from any person or company whenever it exceeds the amount of Rs.20, 000/-. The political party may be dealt with under the Income Tax Act, 1961 when it fails to submit the report on time.
- Under **Section 2(e) of the Foreign Contribution Regulation Act, acceptance of any contribution** from any foreign source is prohibited punishable with imprisonment of up to five years or fine or both.

- **Section 77 of the Representation of Peoples Act clarifies** the issue of what comes under the purview of 'expenditures of the political party'. The expenditures include all expenses incurred by a candidate of any party by himself or through his authorised agent during the election from the date of nomination till the date declaration of the result.
- **Under the Conduct of Elections Rules, 1961, the election expenditure of a political party** during an election has been fixed and will be dealt with accordingly.

### **Need of the hour and way forward**

- The cap of Rs 2000 for cash donations gives an opportunity to the political party to use black money during the elections. Hence, the Election Commission of India has suggested that donation in cash to any amount may be eliminated altogether.
- When the country is going towards digital transactions, it is necessary that all political funding must be through digital payment or cheque only. This will create transparency in political funding.
- During elections, all measures need to put in place to ensure that election expenditure incurred by the candidates and political parties are in line with the conduct of election rules, 1961.
- The concept of National Electoral Fund as an alternate may be considered for political funding during elections, as this may be the best tool to stop corruption in political funding.
- Simultaneous elections may also be explored for restricting the election expenses of the political parties.
- The political parties must disclose all the money received either through digital transaction/cheque or electoral bonds.

The Election Commission of India may be given more powers to take decisions to curb any political corruption.

## **6 WRITS IN THE INDIAN CONSTITUTION**

Writs are the orders issued by an authority. The written orders of the Supreme Court or the High Court that commands/confers constitutional remedies to Indian Citizens against the violation of their basic fundamental rights are called writs. Warrants, orders, directions etc. issued by an authority are some examples of writs.

### **Writs In the Indian Constitution: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo-Warranto**

- The concept of writs has been borrowed from English Law, where these laws were known as 'Prerogative writs'.

- In England, these 'Prerogative writs' were issued on the prerogative of the king who was, and is still known as 'fountain of justice'.
- Later these writs were being also issued by the High Courts for upholding the rights and liberties of the British People.
- The Supreme Court of India is the defender of the basic fundamental rights of the Indian citizens, and for this, it has been given original and wide powers by the constitution of India.
- The constitution of India under Article 32 empowers the Supreme Court of India to issue writs.
- The constitution of India under Article 226 empowers the High Court to issue writs.
- The Supreme Court and the High Court can issue writs of five types for enforcement of fundamental rights of citizens of India.
- The five types of writs are - Habeas Corpus, Certiorari, Mandamus, Prohibition and Quo Warranto.
- The Parliament of India also has the authority under Article 32 to empower any other court to issue above-mentioned writs.
- Till date, there has not been any instance in which the Parliament has given the power of issuing writs to any other court. Hence, no other court than the Supreme Court or the High Court in India can issue writs.
- Before 1950 only the High Courts of Bombay, Calcutta and Madras had the writs issuing powers.
- However, after 1950 all the High Courts were empowered to issue writs under Article 226.

### **Types of Writs in India**

The five types of writs are as appended below:-

- Writs of Habeas Corpus
- Writs of Prohibition
- Writs of Mandamus
- Writs of Certiorari
- Writs of Quo-Warranto



## **Habeas Corpus**

- The literal meaning of 'Habeas Corpus' is actually 'To have the body of.'
- This is issued by the Supreme Court or the High Courts against unlawful detention and for enforcement of fundamental rights guaranteed under the constitution.
- Under the writs of Habeas Corpus, the Supreme Court or High Courts can issue orders for one person who has been detained, to bring the individual in physical before the court.
- Both the Supreme Court and the High Courts can issue writs of Habeas Corpus against both public and private authorities.
- The writs of Habeas Corpus can not be issued by the Supreme Court or the High Courts in cases when the detention is lawful or during the proceeding for contempt of a legislature, or court or detention is by the orders of a competent court or detention is outside the writ jurisdiction of the court.

## **Mandamus**

- The literal meaning of writ of Mandamus is 'We command.'
- It is issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.
- Apart from a public official, the writ of mandamus can be issued against any other public body, corporation, tribunal, an inferior court, or government.
- The writ of mandamus cannot be used against private individuals.
- The writs of mandamus can not be issued by the Supreme Court or the High Courts to enforce departmental instructions or to order someone to do some discretionary work which is not mandatory under her/his duties or for a contractual obligation or against the President, State Governors and chief justice of a high court.

## **Prohibition**

- The literal meaning of writ of Prohibition is 'To forbid.' It is issued by a higher court against a lower court to prevent the latter from usurping a jurisdiction or exceeding its jurisdiction that is not possessed by the lower court.
- It directs the lower courts to be inactive for exceeding its jurisdiction.
- The writs of Prohibition can be issued by the Supreme Court or the High Court's only against quasi-judicial or judicial authorities.
- The writs of Prohibition cannot be issued by the Supreme Court or the High Courts against legislative bodies, administrative authorities and private bodies or individuals.

## **Certiorari**

- The literal meaning of 'Certiorari' is 'To be informed' or 'To be certified'.
- It is issued by a higher court against a lower court or tribunal instructing them either to squash their order in a case or to transfer a case pending with them to itself.
- It is issued on the basis of an excess of jurisdiction or error of law or lack of jurisdiction.
- Before 1991 the writ of certiorari was used only against quasi-judicial and judicial authorities and not against any administrative authorities.
- However, after 1991, the writ of certiorari can be issued against any administrative authorities also, which is affecting the rights of individuals after the orders of the Supreme Court ruling issued in this regard.

## **Quo-Warranto**

- The literal meaning of 'Quo-Warranto' is 'By what warrant or authority'.
- The writ of Quo-Warranto is issued to prevent illegal usurpation of a public office by a person.
- With this writ, the court can inquire into the legality of the claim of a person to a public office.
- The writ of Quo-Warranto can be issued only when the substantive public office created by a statute or by the constitution of a permanent character is involved.
- The writ of Quo-Warranto can't be issued against ministerial office or a private person.

## **Difference in the Writ jurisdiction of the Supreme Court from the High Courts**

- The High Courts can issue writs not only for the preservation of Fundamental Rights but also for any other purpose. However, the Supreme Court can issue writs only for the preservation of Fundamental Rights. Hence, the writ jurisdiction of the Supreme Court is narrow than that of the High Courts in this regard.
- The territorial jurisdiction of the Supreme Court is much wider as it can issue writs throughout the territory of India. However, the High Courts can issue writs within the territorial jurisdiction of the respective state.
- The Supreme Court cannot refuse to exercise its writ jurisdiction as under Article 32 it is in itself a Fundamental Right. However, it is not mandatory for the High Courts to issue these writs as a remedy under Article 226 is discretionary.

**Importance of writs in the Indian constitution**

- It is important for the protection of the fundamental rights of the citizen of the country.
- It helps in checking the discretionary power of the executive.
- It helps in checking and correction of any error in the judiciary through writs of certiorari.
- It helps in as a balancing wheel while exercising power or authority by the state.
- It helps in the judicial review of administrative action taken by the state or any public authority.

# Indian Polity and Governance – Indian Polity –Constitution, Political System

## Chapter 7

### Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

#### This chapter contains:

- Important Bills And Acts News
- The Arms (Amendment) Act, 2019
- The Motor Vehicle (Amendment) Act, 2019
- Right To Information Act 2005
- Representation Of People's Act (RPA)
- Labour Laws And The Recent Changes Amid Lockdown
- Triple Talaq Act 2019
- History of Padma Awards

## Contents

1	IMPORTANT BILLS AND ACTS NEWS.....	4
1.1	Essential Commodities Act .....	4
1.2	Major Features of the Act:.....	4
1.3	Benefits of the Essential Commodities Act: .....	4
1.4	Why Essential commodities Act is essential for the welfare of consumers: .....	5
1.5	Why there is a need to make Balance between genuine stock build-up and speculative hoarding:.....	5
1.6	Why the act is termed as outdated: .....	5
1.7	Conclusion: .....	6
2	THE ARMS (AMENDMENT) ACT, 2019 .....	6
2.1	The Arms (Amendment) Act, 2019: Salient Features; Analysis; Way Forward .....	6
2.1.1	Salient Feature of the Act.....	6
2.1.2	Analysis of the Act .....	7
2.2	Way forward.....	8
3	THE MOTOR VEHICLE (AMENDMENT) ACT, 2019 .....	8
3.1	Need For Amendment Of Motor Vehicle Act 1988:.....	9
3.2	Key Features of the Amendment Bill: .....	9
3.3	Analysis Of The Mv Act-2019:.....	11
4	RIGHT TO INFORMATION ACT 2005 .....	11
4.1	Right to Information (RTI) Act, 2005.....	11
4.2	Introduction .....	12
4.3	Salient Features of RTI Act 2005 .....	12
4.4	The Objective of the RTI Act .....	13
4.5	Recent Amendments of the RTI Act.....	14
4.6	Challenges/Issues.....	14
5	REPRESENTATION OF PEOPLE'S ACT (RPA): INTRODUCTION; SALIENT FEATURES.....	15
5.1	Representation of People's Act .....	15
5.2	Representation of People Act 1950.....	15
5.3	Salient features of the Act .....	15
5.4	Representation of People Act, 1951.....	16
5.5	Salient Features of the Act.....	16
5.6	Various Offenses related to Elections defined under the act .....	17
5.7	Representation of the People (Amendment) Act, 1966 .....	17
5.8	Representation of the People (Amendment) Act, 1988 .....	17
5.9	Representation of the People (Amendment) Act, 2002 .....	18
5.10	Representation of People (Amendment) Bill, 2017 .....	18
6	LABOUR LAWS AND THE RECENT CHANGES AMID LOCKDOWN (THE CONCEPTS).....	18

6.1	Labour Laws and the Recent Changes amid Lockdown.....	18
6.1.1	a. Uttar Pradesh.....	19
6.1.2	b. Madhya Pradesh.....	19
6.1.3	c. Gujarat.....	19
6.2	Labour Laws in India.....	19
6.3	What are the labour laws in India? .....	19
6.4	Contribution of labour in an Economy .....	20
6.5	Purpose of labour legislation.....	20
6.6	Labour law covers the following aspects: .....	20
6.7	International reaction to the proposed labour law changes.....	21
6.8	Way Forward .....	21
7	TRIPLE TALAQ ACT 2019:.....	21
7.1	What is the triple talaq issue? .....	22
7.2	Key provisions of Muslim Women (Protection of Rights on Marriage) Bill 2019 .....	22
7.3	Benefits of the bill .....	23
7.4	Concerns of the Bill.....	23
7.5	Significance and way forward .....	24
8	History of Padma Awards.....	25

# 1 IMPORTANT BILLS AND ACTS NEWS

## 1.1 Essential Commodities Act

The Essential Commodities Act was **enacted** by the parliament **in 1955**. The Act is used by the Government **to manage and regulate the production, supply and distribution** of essential commodities order to make them available to consumers at fair prices. The supply of these commodities when obstructed can **affect the normal life of the people**.

**Recently** the Govt Included **masks and hand sanitizers** under the Essential Commodities Act. The government's order came **due to the reports of a shortage of these commodities** and a sudden and sharp spike in their prices because of alleged hoarding of stocks by manufacturers. The **recent coronavirus pandemic** (COVID-19) triggered panic for buying of masks and hand sanitisers at many places in India.

**Essential Commodities Act: Major Features; Benefits; Needs; Why Act is termed as Outdated; Conclusion**

## 1.2 Major Features of the Act:

- The list of items that comes under the Act include **fertilisers, drugs, edible oils and pulses, petroleum and petroleum products**.
- The **Centre govt can include** new commodities as and when the need arises **and exclude them from** the list once the situation gets improved.
- Under the Act, the govt can **also fix the maximum retail price (MRP) of any packaged product** that is declared as an "essential commodity".
- **Under the Essential commodities Act, powers of the Central Government have already been delegated to the States by way of orders from 1972 to 1978. The States/UTs may take action against the offenders.**

## 1.3 Benefits of the Essential Commodities Act:

- When the Centre came to know that the supply of a certain commodity is short due to which its price is spiking, it puts **stock-holding limits** on it for a specified period.
- **The States then specify limits and take steps to ensure its implication.**
- Anybody (**wholesalers, retailers or even importers**) who is trading or dealing in the commodity are **prevented from stockpiling** it beyond a certain quantity.
- **A State may also choose not to impose any restrictions.** But once the state chooses to impose any restrictions, traders have to immediately sell into the market any stocks held beyond the mandated quantity.

#### 1.4 Why Essential commodities Act is essential for the welfare of consumers:

- The ECA protects the consumers **against irrational spikes in prices** of essential commodities.
- The Government has invoked this Act many times to **ensure adequate supplies**.
- It **discourages hoarders and black-marketeers** of such commodities.
- The Act empowers the State agencies to conduct raids so that the **defaulters can be punished and** the excess stocks are auctioned or sold through fair price shops.

#### 1.5 Why there is a need to make Balance between genuine stock build-up and speculative hoarding:

Generally, most of the **crops are seasonal** so ensuring round-the-clock supply requires an adequate build-up of stocks during the season. Thus it may **not be possible to differentiate between genuine stockpiling and speculative hoarding**. Also, there can be genuine shortages due to weather-related disruptions because of which the prices will move up. So **if prices are always monitored, the farmers may have no incentive to grow that crop**.

With too-frequent stock limits, **traders may have no reason to invest** in better storage infrastructure. On the other hand, food processing industries need to maintain large stocks to run their operations smoothly. Hence Stock limits may curtail their operations. In such a situation, **large scale private investments are unlikely to flow into food processing and cold storage facilities**.

#### 1.6 Why the act is termed as outdated:

- In **2019**, the Centre invoked Essential commodities Act provisions and impose **stock limits on onions after heavy rains** wiped out a quarter of the Kharif crop and led to a sustained spike in prices.
- The restrictions on both the retail and wholesale traders were meant **to prevent hoarding and enhance supply in the market**, But the **Economic Survey (2019-20)** states **that there was an increase in price volatility** of the commodities and a **widening gap between wholesale and retail prices**.
- It is because of the fact that **ECA act fails to differentiate between hoarding and Storage**.
- Thus this **Act disincentivises development of storage infrastructure** which may lead to increased volatility in prices.
- **The report states that the ECA was enacted in 1955 when the economy was ravaged due to famine and food shortages. The government needs to note that today's scenario is much more different.**



### 1.7 Conclusion:

Without the Essential commodities Act, the consumers would be at the mercy of opportunistic traders and shopkeepers. Thus the commodities which qualify as 'essential' are not subjected to unfair profiteering. The Act also empowers the government to control prices of such commodities directly and thus ensure the welfare of the consumers.

## 2 THE ARMS (AMENDMENT) ACT, 2019

Recently, the legislation was passed in both the houses of parliament, which has increased the punishment for manufacturing and carrying of illegal arms to life imprisonment. The Act has made amendments in the Arms Act, 1959. It decreases the number of licensed firearms which can be allowed per person and has also increased the penalties for certain offences under the Act. It has also introduced some new categories of offences. This Act will regulate the use of firearms in India, which is being used by around 35 lakh people in the name of personal safety. Uttar Pradesh has the maximum number of the person having a firearm license which is around 13 Lakh.

### 2.1 The Arms (Amendment) Act, 2019: Salient Features; Analysis; Way Forward

#### 2.1.1 Salient Feature of the Act

- **Ban on firearms-** The Act bans the sale, manufacture, use, conversion, transfer, testing or proofing of firearms without any license. The Bill also prohibits procuring or obtaining un-licensed firearms.
- **License for acquiring firearms:** Under the Act, a license must be obtained to possess, acquire or carry any firearm. Earlier a person was permitted to obtain a license for up to three firearms. However, the new Act reduced the number of allowed firearms from three to one.
- **The validity of Firearms License-** The validity will be from three years to five years.
- **Increase in punishment:** The Bill increases the punishment for unlicensed firearms and related offences from seven years to life imprisonment with a fine.
- **Addition of new offences-** The Act has added the following new offences:
  - Taking a firearm from armed forces or police forcefully
  - Using firearms in such a way which endangers the personal safety of others or human. Even the Celebratory use of firearms in public gatherings, marriages, religious places or other functions will also be an offence.
- **Tracking of firearms** -The central government will have the power to make rules to track firearms and ammunition from manufacturer to the purchaser to investigate, detect and analyze illicit trafficking and manufacturing.
- Heritage or heirloom weapons could be kept in the house if they have been de-activated permanently.

- The Act has also provided special status to the sportspersons who need firearms for practice and participating in various tournaments.
- As per the Act, the excess firearms than authorized will have to be deposited with the nearest police station or any authorized gun dealers.
- In case of loot or snatch of firearms and ammunition from police or security forces, a new provision has increased the punishment to life imprisonment.
- As the new Act, the minimum punishment will be 14 years for any violation of the Act.

### **2.1.2 Analysis of the Act**

#### **Pros**

- The Act has been introduced to control the possession and use of firearms in the country and its illegal usage. This will ensure safety and security to the other human being.
- The Act will help in reducing firearm-related crime.
- The Act will set a milestone in effective control overuse of firearms which is very important for the security and safety of people in the country.
- The Increase in punishment will create a deterrent for such crime in society.
- This will help the security forces and police in maintain law and order.

#### **Cons**

- As most of the crime is being committed by illegal license holders, the Act will not affect a lot to the license holders.
- This Act is required to be made in line with the police reforms in the country.
- Many states have objected its application to the whole country in a similar fashion, which may be a cause of concern due to the difference in culture and tradition.

##### **○ Issue raised in Punjab**

- In Punjab, the individuals who own more than one weapon (includes former Army personnel, businessmen and farmers) is raising concern on the Act.
- The Punjab government is stating that over 50% is residence stay in remote villages and hence they need arms to protect themselves.
- Villagers who are close to the Pakistan border in Punjab is raising concern on the Act.
- May Punjab residents had acquired firearms during the days of militancy in the 1990s and 1980s, and now they are concerned about the new regulations of the Act.

- Many residents in Punjab had acquired more than one vintage weapons from their ancestors, and hence they do not want this Act to be implemented in Punjab.
- Punjab doesn't have much problem with any other provisions of the Act except with the limit on the number of firearms.
- **Issue raised in Rajasthan**
  - The members of the Rajput community is opposing the amendments of the Act as they were holding more than one firearms.
  - Many families in Rajasthan have antique guns as acquire from their ancestors as heirlooms and worship weapons.
  - Some social outfits like Karni Sena have raised concerns and threatened to protest in opposition.
  - The ADG Crime of Rajasthan put up the data that at present, there are 1.72 lakh firearms licences holders in the sated in which almost 10% have multiple weapons.
  - Many retired personnel of armed forces and the person who poses ancestral weapons are opposing the Act.
- Its execution in true spirit will be a challenge for the security personnel.

## **2.2 Way forward**

- The government needs to strengthen such acts in most of the states with some exception to some states which hold a traditional culture of holding multiple weapons.
- Holding dysfunctional ancestral weapons need to be allowed for some states.
- The Act needs to be taken by states in the right spirit, and the police forces should implement it in letter and spirit.
- The redressal of grievance to the people in needs is necessary, and the government should make such a mechanism.
- Punishments to illegal license holders should be ensured by security personnel.
- Representation of states should be taken into consideration.
- Trekking of firearms from illegal holders should be ensured.

## **3 THE MOTOR VEHICLE (AMENDMENT) ACT, 2019**

The Motor Vehicles Act regulates all aspects and concerns regarding road transport vehicles. The Act provides for legislative provisions regarding licensing of drivers, registration of motor vehicles, permits for motor vehicles, special provisions regarding state transport undertakings, traffic regulation, insurance, liability, offences and penalties for violation of road transport

legislation and rules. For implementing the legislative provisions of the Act, the Government made the Central Motor Vehicles Rules 1989.

### 3.1 Need For Amendment Of Motor Vehicle Act 1988:

- As per a WHO report in 2018, the highest number of road accidents occurs in India. Even China is behind India in this regard.
- As per a report of the Ministry of Road Transport and Highways published in 2017, there are approximately 4.64 lakh road accidents in India every year, in which about 1.47 lakh people are killed every year.
- Around 1.49 lakh people died in 2018 due to road accidents. Uttar Pradesh registering the maximum fatalities.

Therefore, in order to prevent fatalities and casualties due to road accidents; the central government has amended the Motor Vehicle 1988 by promulgating the Motor Vehicles (Amendment) Bill 2019. The amendments have come into effect from September 1, 2019.

### 3.2 Key Features of the Amendment Bill:

- **Compensation for road accident victims:** The government aims to institute a scheme for cashless treatment of road accident victims during the golden hour. **Golden hour** is the time period of up to one hour following a traumatic injury. During the golden hour, the likelihood of preventing death through immediate and prompt medical care is the greatest. The Bill has also increased the minimum compensation for hit and run cases.
- **Mandatory insurance:** The government shall constitute a Motor Vehicle Accident Fund. This fund will be used for providing compulsory insurance cover to all road users in the country. It will be utilised for:
  - the treatment of peoples injured in road accidents as per the golden hour rule,
  - compensation to nominees of a person who died in a hit and run accident,
  - compensation to a victim who is severely hurt in a hit and run accident,
  - Compensation to any other persons as prescribed by the government.
- **Good samaritans:** A good samaritan is defined as a person who renders emergency medical/non-medical assistance to a victim of an accident at the scene. The assistance should have been-
  - in good faith,
  - voluntary, and
  - without the expectation of any reward.
- Good samaritans shall not be liable for any civil or criminal action for any injury/death of an accident victim which may be caused due to their negligence in providing assistance to the victim of the accident.

- **Recall of vehicles:** The central government can order the recall of motor vehicles if a defect in the vehicle may cause damage to the driver, or the environment or to other road users. The manufacturer of the recalled vehicle shall be required to:
  - reimburse the buyers, the full cost of the recalled vehicle.
  - replace the recalled defective vehicle with another vehicle with similar or better specifications.
- **National Transportation Policy:** The government will develop a National Transportation Policy. This policy will be developed in consultation with state governments. The Policy will:
  - aim to establish a planning framework for road transport in India
  - aim to develop a framework for the grant of permits for road transport in India.
- **Road Safety Board:** The MVA Bill provides for the establishment of a National Road Safety Board. It is to be created by the central government through a notification. The Board shall advise the central and state governments on all comprehensive aspects of road safety and traffic management. This will include:
  - standards of vehicles,
  - registration and licensing of motor vehicles,
  - road safety standards, and
  - promotion of the latest vehicle technology.
- **Offences and penalties:** The Bill has increased penalties for many offences under the Act. For instance, the maximum penalty for driving while intoxicated or under the influence of drugs has now been increased from Rs 2,000 to Rs 10,000.
  - In case a vehicle manufacturer fails to comply with standards, the penalty shall be a fine of less than or upto Rs 100 crore or imprisonment of less than or up to one year, or both.
  - In case a contractor is not in compliance with road design standards, the penalty shall be a fine of less than or up to one lakh rupees. The government can increase the fines mentioned in the Act per year by up to 10%.
- **Taxi aggregators:** The Bill also defines aggregators. They are digital intermediaries/ marketplaces which may be used by users to connect with a driver for transportation. These aggregators need licenses to be issued by the state. Further, they must also comply with the IT Act, 2000.

### 3.3 Analysis Of The Mv Act-2019:

#### PROS

- Very steep penalties to deter rule-breakers.
- Focus on the safety of pillion riders also.
- The number of passengers based on the type of vehicle has been fixed.
- Good Samaritans have been provided legal cover.
- Funds to provide cashless treatment in the golden hour.

#### CONS

- No written test or scrutiny for being eligible to get a driver's license.
- Period of validity of DL is comparatively high in India as compared to other countries.
- Road safety is under concurrent subject. Despite this, the central government has been unable to enforce the law effectively across states. Several states are still following the previous law and the fines as per it.
- Testing infrastructure is inadequate in India to meet the ever-increasing demand for testing standards of vehicles and road safety.

Overall, the MV Amendment Act of 2019 is a step in the right direction as it aims to deal with the unacceptable burden of deaths and casualties due to road accidents in India.

As the popular saying goes - 'Alert today then alive tomorrow'. With the enactment of the new act, it can be modified as: 'Alert to rules to save your pocket'.

## 4 RIGHT TO INFORMATION ACT 2005

The RTI Act of 2005 was enacted by India's parliament to provide citizens with access to records held by the national government and state governments. As a result, in 2005, the government enacted the Right to Information Act, which establishes a framework for exercising this fundamental right. We will provide the Right to Information Act 2005 study notes in this article because it is frequently asked in various competitive exams, making it a very likely topic to be asked in the UPSC prelims or mains test.

Recently the Government has amended the **Right to Information (RTI) Act of 2005**. So, being in news has become important from an exam point of view. This write-up covers all the necessary Right to Information Act 2005 study notes which can be asked in **UPSC, State PCS, and other competitive exams**.

### 4.1 Right to Information (RTI) Act, 2005

- The demand for the Right to Information started with the Mazdoor Kisan Shakti Sangathan (MKSS) movement in Rajasthan for bringing transparency in village accounts

in rural India. They wanted information available in official information recorded in government files.

- A draft RTI law was proposed in 1993 by the CERC, Ahmedabad.
- In 1996, a draft model law on the right to information to the Government of India by the Press Council of India headed by Justice P B Sawant. The draft model law was later modified and renamed as Freedom of Information Bill 1997.
- The Central Government formed a working group under the chairmanship of Mr. H D Shourie and was given the responsibility to prepare draft legislation on freedom of information. The Shourie Committee's submitted its Report in 1997, and a draft law was published based on Shourie Committee draft law. Subsequently, the same report was used for the Freedom of Information Bill 2000.
- The 2000 Freedom of information Bill was sent to the Parliamentary Standing Committee. The Freedom of Information Bill 2000 was passed by both the Houses of Parliament in 2002.
- In 2004, the UPA Government came into power at the Centre and promised to make "The Right to Information Act" more participatory and meaningful under its Common Minimum Program.
- A National Advisory Council (NAC) was set up to look after the implementation of the Government's Common Minimum Program.
- A public interest litigation (PIL) case was heard by the Supreme Court in 2004 on the issue of the Right to information. The Supreme Court's ordered the Government to make the RTI law for the same.
- RTI Bill was finally passed in Parliament in 2005.

## **4.2 Introduction**

- The Right to Information Act, 2005 with the right of information was passed by the parliament on Jun 2005, and it came into force in Oct 2005.
- The RTI Act 2005, replaced the freedom of information act 2002, to provide for the setting up of a practical regime of right to information for every citizen.
- RTI is a mechanism to develop and ensure accountability and transparency, in line with Art 19 (1) (a) of the constitution.
- It is a legal right of every Indian citizen.

## **4.3 Salient Features of RTI Act 2005**

- Under its provision, any citizen of India may request information from a public authority. The required information needs to be replied to within 30 days.

- The request for the information on any issue from the public authority is required to be submitted to the Public Information officer at the center or in the State.
- The RTI Act promotes every government body to make their offices transparent by computerizing their records for the wide dissemination of the information for the public.
- The Jammu and Kashmir will not come under this RTI Act 2005. However, it has a separate Right to Information Act 2009.
- The restrictions imposed by the Official Secrets Act 1923 were relaxed by the RTI Act.
- The Act has established a three-tier structure for enforcing the right to information guaranteed under the Act. The three Levels are – Public Information Officer, First Appellate Authority, and Central Information Commission (CIC).
- The information is to be submitted within 30 days from the date of receipt of the application.
- In case of non-receipt of information within 30 days, the individual requiring information may file an appeal. The Appellate Authority must reply within **30 days** or in exceptional cases 45 days.
- The individual may file 2nd appeal within 90 days in case of non-supply of information.
- The public authorities applicable under RTI are all Constitutional bodies at center and state (Legislature, Executive, Judiciary), bodies/NGOs owned/financed by government, privatized public utility companies.
- The public authorities excluded under RTI are Central Intelligence and Security Agencies, agencies of state specified through notification. The exclusion is not absolute.
- The Central Information Commission shall consist of one Chief Information Commissioner and up to 10 Central Information Commissioners.
- The Chief Information Commissioner will have a term of five years from the date of entering his office. She/ He shall not be entitled to reappointment to that post.
- There are 31 sections and 6 chapters enumerated in the act.
- Section 8 deals with public authorities which have been granted an exemption under this Act.

#### **4.4 The Objective of the RTI Act**

- To replace a prevailing culture of secrecy with a culture of transparency.
- To empower the citizen of the country.
- To promote transparency in the function of the public authorities.
- To prevent and eliminate corruption.
- transform the relationship between the citizen and government.
- dismantle illegitimate concentrations of power.



#### **4.5 Recent Amendments of the RTI Act**

- The bill gives the powers to change the terms and conditions of service of the Central Information Commissioner and the Information Commissioners in the hands of the central government.
- It clearly states that from now onward the term of office and the pay and allowances the Chief Information Commissioner and Information Commissioners in the Centre and the State shall be prescribed by the Central Government.
- The Chief Information Commissioner (CIC) and the other Information Commissioners will be appointed for a period and on the condition set by the central government.

#### **4.6 Challenges/Issues**

- According to a recent study, only 36 percent of people in rural areas and 38 percent of people in urban areas have heard of the RTI Act.
- The participation of women in the RTI Act is not sufficient for a progressive and empowered society.
- The data shows that around 45% of public information officers did not get any training while joining the post.
- There has been a tendency of poor record-keeping practices by the central and state government offices. This violates section 4 of the RTI act.
- The pendency of cases is a clear indication of the casual approach of the government towards RTI.
- There is a lack of appropriate infrastructure and a huge deficiency in staff required for running Information Commissions.
- The dilution of the whistle-blower protection act is a cause of concern.
- The security and protection of RTI activists in the course of their work is a cause of concern.
- The non-inclusion of the Judiciary and political parties creates suspicion in mind and creates a hurdle in the fight towards making the system more transparent and accountable.
- The recent changes will create political patronage in the selection of Information Commissioners and will lead to dilution of the main purpose of the RTI act.

## **5 REPRESENTATION OF PEOPLE'S ACT (RPA): INTRODUCTION; SALIENT FEATURES**

This topic is part of the 'Salient features of Representation of People's Act' of General Studies paper which is important for both prelims and mains point of view. Here in the article, we have discussed important features of RPA 1950 and 1951 along with the important amendments made so far.

### **5.1 Representation of People's Act**

The Indian Constitution, under its article 324 to 329 empowers the government to make provisions for the conduct of free and fair elections in the country. Based on this power, the government of India has devised some acts like the Representation of People Act 1950 and Representation of People Act 1951.

### **5.2 Representation of People Act 1950**

In an attempt to regulate elections in the country for the first time, the government came up with the Representation of People Act, 1950. The act provides for:

- Allocation of seats in Lok Sabha and Vidhan Sabha.
- Delimitation of constituencies for elections in Lok Sabha and Vidhan Sabha
- Qualification of voters for such elections
- Preparation of electoral roll

### **5.3 Salient features of the Act**

- The act provides for direct elections for filling seats in every constituency.
- The Delimitation Commission will determine the extent of the constituency of each state and Union Territory (except Sikkim and Arunachal Pradesh).
- The Election Commission shall identify constituencies reserved for Scheduled Tribes in the states of Meghalaya, Mizoram, Tripura, and Nagaland.
- The President of India has the power to alter constituencies after consulting the Election Commission of India.
- The Election Commission, after consulting the Governor of the state will nominate a Chief Electoral officer and a district-level Election Commissioner after consulting the state government.
- An electoral roll will be prepared for every constituency. No person shall be enrolled for more than one constituency and may be disqualified if he/she is not a citizen of India or maybe of unsound mind and is debarred from voting.
- Only the Union government after consulting the Election Commission of India amend the rules under the act and any such amendment will not be available for judicial scrutiny under any Civil Court.

## **5.4 Representation of People Act, 1951**

The Representation of People Act, 1951 is enacted by the provincial government of India to scrutinize the election process before the first general elections. The act provides for:

- The actual conduct of elections
- Qualification and grounds for disqualification of the members of both the houses of parliament and the state legislature
- The corrupt practices and other offences related to elections
- Dispute redressal regarding elections

## **5.5 Salient Features of the Act**

- Only a qualified voter can contest elections of Lok Sabha and Rajya Sabha.
- On the seats reserved for SCs and STs, only candidate belonging to that category can contest the election.
- The elector can contest election in any constituency irrespective of the state/Union Territory where the electorate is present for which he/she is eligible to vote.
- If a person is found guilty for promoting enmity, hatred between classes, bribery, influencing elections, rape or other heinous crimes against women, or spread religious disharmony, practice untouchability, import-export prohibited goods, sell or consume illegal drugs and other chemicals or terrorism in any form or may have been imprisoned for at least 2 years shall be disqualified for six years after his/her release from the jail to contest elections.
- The person shall also be disqualified if he/she is found engaged in corrupt practices or excluded for related government contracts.
- Declaration of electoral expenses is a must, failing which will lead to disqualification of the candidate.
- Every political party must be registered with the Election Commission of India whose decision regarding this will be final.
- In case of any changes in the name or address of the political party, the party must intimate the Election Commission as soon as it does so.
- A political party may take donations from any of the person or company within India except the government-owned companies. Foreign contributions are not allowed.
- Every political party must report the donation of more than ₹20,000 received from any person or company.

- **National Party:** If a party gets minimum 6 per cent of valid votes for assembly elections in more than four states or wins at least 2 per cent seats in Lok Sabha from at least three states is recognized as a National Party.
- **State Party:** If a political party gets a minimum 6 per cent of the votes in the state assembly elections or wins at least 3 per cent of total seats in the state assembly will be a state political party.
- The candidate must declare his/her assets and liabilities within 90 days from his/her oath-taking day.
- Petitions related to elections shall be filled in High Court and can be appealed in Supreme Court. The High Court must conclude the petition within six months of its filling. The decision in such case should be intimated to the Election Commission. It can be appealed in the Supreme Court within 30 days.
- The Election Commission has powers similar to the Civil Court to summon and enforce any person or any evidence. It can regulate its procedure.
- For elections-related works, people from local authorities, universities, government companies, and other institutions under state or center governments shall be provided to the Election Commission.
- The candidate should deposit ₹25000 as security for Lok Sabha elections, and all other polls ₹12500 should be deposited. SC/St candidates get 50 percent concession in security deposition.

## **5.6 Various Offenses related to Elections defined under the act**

- Promoting enmity and hatred
- Booth capturing and removal of ballot papers
- Breach of official duty and supporting any candidate
- Selling liquor within two days before polling to its conclusion
- Calling for public meetings within 48 hours before voting and creating disturbances

## **5.7 Representation of the People (Amendment) Act, 1966**

- It abolished the election tribunals and transferred the election petitions to the high court's whose orders can be appealed to Supreme Court.
- However, election disputes regarding the election of President and Vice-President are directly heard by the Supreme Court.

## **5.8 Representation of the People (Amendment) Act, 1988**

- It provided for adjournment of poll due to booth capturing and Election Voting Machines.

## 5.9 Representation of the People (Amendment) Act, 2002

- New section 33A related to Right to Information was inserted in the 1951 act.

## 5.10 Representation of People (Amendment) Bill, 2017

- The bill seeks to amend the Representation of People Act, 1950 and the Representation of People Act, 1951 to allow proxy voting by NRIs by inserting a sub-section in section 60 of Representation of People Act, 1951 and to make provisions of the acts gender-neutral, like, replacing the term 'wife' in section 20A of the Representation of People Act, 1950 with 'spouse'.
- The amendment will satisfy the demand for voting rights by NRIs.

# 6 LABOUR LAWS AND THE RECENT CHANGES AMID LOCKDOWN (THE CONCEPTS)

Under the prevailing circumstances of the pan-India lockdown, many states have pushed through labour law changes by way of amendments i.e. ordinances or executive orders. Some of the labour law changes are awaiting central governments' approval. The labour law amendments 2020 can be seen recently considering the economic status of the country and to cater to the well being of the labour. Labour law amendments 2020 seek various changes regarding working conditions, working days and many more.

## 6.1 Labour Laws and the Recent Changes amid Lockdown

To incentivize the economic activity, an increasing number of states, prominent of them are **Uttar Pradesh, Madhya Pradesh and Gujarat**, besides **Rajasthan, Punjab, Odisha** and **Punjab** have sought changes in the existing labour laws in their state. **Uttar Pradesh Government** has already cleared an ordinance in the State Legislative Assembly in this regard. The **most significant changes** were announced by three states **including Uttar Pradesh, Madhya Pradesh and Gujarat**. It is believed that to cope with the pressure of reviving the economy many other states are likely to follow the footsteps of these states. As the labour law changes are concerned with the basic working rights including working conditions, working days, and many more, these are important to be discussed.

In this article, we will discuss labour laws and the recent changes suggested or adopted by the states.

Among many other states, the recent labour law changes brought in three states that are prominently in the discussion, as others are likely to follow them in due course of time. These are:

#### 6.1.1 a. Uttar Pradesh

- The U.P. Government has exempted employers from the purview of **most of the labour laws for three years.**
- According to the draft ordinance, which is pending approval from the president, provisions related to **minimum wages, timely payment of wages, and safety provisions under the Factories Act, 1948 and Building (and Other Construction Workers) Act, 1996** will continue to **apply to all firms.**

#### 6.1.2 b. Madhya Pradesh

- **Madhya Pradesh** exempted the employers from the **Contract Labour Act for 1000 days, Madhya Pradesh Industrial Relations Act, and Industrial Disputes Act.**
- The **State** has also granted **exemptions to the employers for flexibility of extension of working hours.**
- The **Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961** has also undergone some labor law changes that will exempt **industries employing up to 100 workers from the law's provisions.**

#### 6.1.3 c. Gujarat

- The **Gujarat Government** has brought in the **suspension of most of the labour laws** in the state whereby the **industries will have to abide** by the **Minimum Wages Act, the Industrial Safety Rules and the Employees' Compensation Act.**
- Gujarat decided to **exempt new industrial units** from all related acts and **norms for 1200 days.**

### 6.2 Labour Laws in India

The Labour Laws of India **originated and express the socio-political views of leaders from pre-1947 independence movement struggle.** The laws related to labour and employment in India are broadly put under "Industrial Law". The industrial laws have developed in India post-Independence are the result of the awakening of the workers of their rights. The industrial relations involve a delicate balance between the workers, employers and conditions of labour or the workers.

### 6.3 What are the labour laws in India?

'Labour laws' is a conglomeration of laws that administers the rulings and precedents addressing the relationship between 'Employers, Employees and Labour Organisations, which deal with labour issues.

'Labour Laws' is a cluster of different Acts, Rules and Regulations enacted by the Parliament of India and different State Legislatures. In India, labour laws cover almost all types of industries, several labour laws regulate service conditions in specific industries such as building and construction work, pharmaceuticals, dockyards and mines. Various compliances in accordance with the procedures laid down therein are also dealt with by labour laws.

Therefore, labour laws in India not only deal with industrial relations i.e. relations between the employees and employers but also relate to the payment of wages, working conditions, social security etc.

In the current Indian economic environment, which is marked by the globalized economy, liberalization in trade, enhanced competition and ongoing technological advancement, rationalization of manpower is one of the most effective keys to the efficiency of any organization. Rationalization of manpower does not merely mean reductional retrenchment of employers.

#### **6.4 Contribution of labour in an Economy**

Labour is regarded as the primary factor of production, no labour means difficult to produce. The size of a country's labour force is determined by the size of the adult population. Also, the extent to which the adults are either working or are prepared to offer their labour for wages.

#### **6.5 Purpose of labour legislation**

Labour laws are designed to protect the rights of individual workers and employers and to promote productive, safe workplaces. Before the advent of labour legislation, workplaces were regulated only by the ethics of the ownership and the bargaining power of the employee. Basically, the labour law defines the rights and obligations as workers, union members, and employers in the workplace.

#### **6.6 Labour law covers the following aspects:**

- Ensures that **just and humane conditions of work** and **maternity relief** are provided.
- Ensures productive economy by establishing a **legal system** that **facilitates productive individual** and **collective employment relationships**.
- A framework within which employers, workers and their representatives can interact with regard to work-related issues is provided by the labour laws.
- **It serves as an important vehicle for achieving harmonious industrial relations based on workplace democracy**
- Secures the **citizens are not forced by economic necessity** to enter avocations **unsuited to their age or strength**
- A **constant reminder** and **guarantee of fundamental principles and rights at work** are provided by labour laws, which have received **broad social acceptance** and establishes to processes through which these principles and rights can be implemented and enforced.
- Lastly, the labour laws also secure the **participation of the employee** in the **management of undertakings, establishments, or other organisations engaged in any industry**.

## 6.7 International reaction to the proposed labour law changes

The **International Labour Organization (ILO)** came into the existence in **1919**, is a specialized agency of the **United Nations**. As India is one of the **founding members of the ILO** and the **Parliament of India** has **ratified 47 conventions of the ILO**.

- Some of the conventions related to **working hours, labor inspections, equal remuneration, and compensation in case of injuries**, among others.
- **India** has adopted the **ILO's declaration on the Fundamental Principles and Rights at Work** in
- These **declarations** are **binding to the member countries**.
- **ILO members** have to **"respect and promote"** the **freedom of association** and the **effective recognition of the right to collective bargaining, elimination of discrimination in respect of employment and occupation, the abolition of child labour, the elimination of forced or compulsory labour**.

The ILO has responded to the sweeping labour law changes proposed by state governments and has asked the authorities to ensure that all such relaxations adhere to global standards and are effected after proper consultation. It also said that labour laws protect the well-being of both employers and workers, and called for "collective efforts and solidarity between the government, employers and workers". Labour laws are an important means to advance social justice and promote decent work for all.

## 6.8 Way Forward

As suggested by the International Labour Organisation and also the need of the hour is to strengthen the social dialogue, collective bargaining, labour relation institutions and process for implementing solutions. The workers need to be taken into confidence amid the social chaos occurred due to COVID-19 spread. As advised by the ILO that any policy response should ensure recovery through fiscal and monetary stimulus measures. The support to enterprises, jobs and income through social protection, retention and financial relief to companies along with ensuring that workers' needs be protected by strengthening occupational safety and health measures.

Presently, the latest amendments in labour laws in India 2020 have been passed an ordinance and are still awaiting the president's assent to become an Act. The new labour law changes and suggestion will improve the country's standing in ILO and is an effective step towards implementing Fundamental Principles and Rights at work.

## 7 TRIPLE TALAQ ACT 2019:

Recently the Government has passed the **Triple Talaq Act on July 2019**. So, being a highly discussed issue, it has become important from exam point of view. This article covers all the relevant details about the **Triple Talaq issue**.

As per a study, around 92% of Muslim women in India want to abolish triple talaq.



- As per the National Commission of Women (NCW), Triple talaq is one of the “highly misused” customs in society and it should be scrapped to protect the basic rights of Muslim women.
- The provision of ‘triple talaq’ has been abolished in almost 21 Islamic theocratic countries, including Pakistan.
- According to a study, the largest percentage of divorces in our society takes place among Muslim women.
- In 2016, the **Allahabad High Court** declared in a ruling that the practice of instant triple talaq is unconstitutional and violates the rights of Muslim women.
- In 2017, the **Supreme Court declared** Triple Talaq as unconstitutional in the Shayara Bano case. The court struck down the practice of giving divorce to his wife by uttering the word “talaq” thrice on the grounds of violation of Art 14 and Art 21 of the constitution.

### 7.1 What is the triple talaq issue?

- ‘Triple Talaq’ or ‘Oral talaq’ was a practice of divorce in Islam according to which a husband can divorce his wife by just pronouncing the word ‘Talaq’ thrice. After the pronouncement of ‘Talaq’ thrice, the Muslim women will be treated as divorced with immediate effect, and the Muslim man can marry again with any other women.
- As per the constitution, the Muslims are treated as the biggest religious minority group in the country and the constitution allows Muslims to regulate their matters such as marriage, divorce, inheritance, and other important issues through their own civil code.
- **The practice of triple talaq is neither mentioned in the Quran nor Hadis and is not as per Sharia Law in Isl**
- However, in Shayara Bano case of 2017, the Supreme Court examined how much it can interfere in Muslim laws on family-related issues while hearing a plea to end the practice of ‘Triple’ talaq which permits Muslim men to give divorce to their wives by saying talaq three times.
- The Supreme Court declared this inhumane practice of ‘Triple’ talaq as unconstitutional and requested to the Government of India to frame a law on the issue.
- Accordingly, the Government of India framed a law known as **the Muslim Women (Protection of Rights on Marriage) Bill 2019, which has now been passed by both the houses of parliament and will become law on the assent of the President of India.**

### 7.2 Key provisions of Muslim Women (Protection of Rights on Marriage) Bill 2019

- **The Bill makes any kind of declaration of talaq by words or in writing in hand or through any electronic form, as void and illegal and not enforceable in law.**

- **Definition:** It defines talaq-e-bidder or any such other form of talaq practised by a Muslim man in which he can give instant and irrevocable divorce by just pronouncing 'Talaq' thrice in sitting.
- **Offence and penalty:** The **Muslim Women (Protection of Rights on Marriage) Bill 2019** makes the practice of talaq a cognizable offence, resulting in up to three years' imprisonment with a fine. (A cognizable offence means a police officer may arrest an accused without a warrant). The offence will be cognizable only if a written complaint is filed by a victim Muslim woman divorced through 'Triple' Talaq or any relative of women related to her by blood or marriage.
- **Grant of bail by the Magistrate:** The Magistrate may grant the bail only after hearing the woman against whom 'Triple' talaq has been pronounced after getting satisfied that there are reasonable grounds for granting bail.
- **The compounding clause and their application by the Magistrate:** Compounding here means the procedure where both sides agree to stop legal proceedings and settle the dispute through mutual agreement. The Magistrate will have the powers to set the terms and conditions of the compounding of the offence.
- **Subsistence Allowance:** Any victim Muslim woman divorced through 'Triple' Talaq, is entitled to subsistence allowance from her husband for herself and her minor children. The magistrate will have the power to determine the amount of subsistence allowance.
- **Custody of minor children:** Any victim Muslim woman divorced through 'Triple' Talaq is entitled to seek custody of her minor children. The Magistrate will have the powers to determine the manner of custody.

### 7.3 Benefits of the bill

- Through this Bill, Muslim women will be treated inequality **on par with** Muslim men.
- This will empower Muslim women and strengthen gender justice.
- Triple talaq was adversely impacting the dignity and rights of Muslim women and will strengthen the constitutional principles and international laws.
- The penalty and arrest, in this case, will act as a **"necessary deterrent" in the repetition of future incidents.**
- It will create a voice against any other arbitrary and unconstitutional practice being followed in the name of religion.
- The law will also help in giving justice and respect for the women in the country.
- The provision of maintenance or subsistence allowance will help in strengthening the family and social structure of the society.

### 7.4 Concerns of the Bill

- The Supreme Court invalidated this Triple Talaq practice and declared it arbitrary and unconstitutional.

- Logically the Talaq-e-bidder does not dissolve the marriage. However, the bill presumes that the 'pronouncement' of Talaq can instantaneously and irrevocably dissolve the marriage.
- After rendering Talaq-e-bidder inoperative and considering it as a crime and making it a cognizable offence is raising the questions.
- Making provisions on the post-divorce issues like subsistence allowance and custody when the pronouncement of triple talaq itself does not dissolve the marriage appears something hard and baseless.
- If the Muslim man will be kept in custody then who will give the subsistence allowance.

## **7.5 Significance and way forward**

- The penal provisions to discourage the practice of triple talaq do not take into account the issues of economic security of the women and hence their needs are to be taken care of.
- The government should strengthen the negotiating capacities of the women and should focus more on saving the marriage and family.
- The government should provide economic support to the affected women and children if her husband is put behind the bars.
- The uniform civil code needs to be thought about and related laws need to be framed for the same.

**What are the Padma Awards? What are the criteria for the selection of Padma awardees? What are the criteria and fields for the awards like Bharata Ratna, Padmi Vibushan, Padma Bhushan, and Padma Shri?.**

The Padma Awards are one of the highest civilian honours of India. They are announced annually on the eve of Republic Day.

The awards come under the aegis of the Ministry of Home Affairs.

The Awards are given in three categories:

1. Padma Vibhushan for exceptional and distinguished service.
2. Padma Bhushan for distinguished service of higher-order.
3. Padma Shri for distinguished service.

The award seeks to recognize achievements in all fields of activities or disciplines where an element of public service is involved.

The Padma Awards are conferred on the recommendations made by the Padma Awards Committee, which is constituted by the Prime Minister every year. The nomination process is open to the public. Even self-nomination can be made.

## **8 History of Padma Awards**

- The Government of India instituted two civilian awards, the Bharat Ratna and Padma Vibhushan in 1954.
- The Padma Vibhushan had three classes namely Pahela Varg, Dusra Varg, and Tisra Varg. These were later renamed Padma Vibhushan, Padma Bhushan, and Padma Shri through a Presidential Notification issued on January 8, 1955.

### **Bharat Ratna**

- Bharat Ratna is the highest civilian award in the country. It is awarded in recognition of exceptional service/performance of the highest order in any field of human endeavour. It is considered on a different level from Padma Award.
- The recommendations for Bharat Ratna are made by the Prime Minister to the President of India. No formal recommendations for Bharat Ratna are necessary
- The number of Bharat Ratna Awards is restricted to a maximum of three in a particular year. The government has conferred Bharat Ratna Award on 45 persons to date.

Padma Vibhushan, Padma Bhushan, and Padma Shri: List of fields Padma Awards, which were instituted in the year 1954, is announced every year on the occasion of Republic Day except for brief interruption(s) during the years 1978 and 1979 and 1993 to 1997.

The constitutional validity of Padma Awards was challenged in 1992 in Kerala and Madhya Pradesh concerning the Public interest Litigation filed. The award was suspended until the issue was resolved in the respective courts.

All persons without distinction of race, occupation, position, or sex are eligible for these awards. However, Government servants including those working with PSUs, except doctors and scientists, are not eligible for these awards.

The award seeks to recognize works of distinction and is given for distinguished and exceptional achievements/service in all fields of activities/disciplines.

A list of the fields is as under:

- Art (Music, Painting, Sculpture, Photography, Cinema, Theatre, etc.)
- Social work (social service, charitable service, contribution to community projects, etc.)
- Public Affairs (Law, Public Life, Politics, etc.)
- Science & Engineering (Space Engineering, Nuclear Science, Information Technology, Research & Development in Science & its allied subjects, etc.)
- Trade & Industry (Banking, Economic Activities, Management, Promotion of Tourism, Business, etc.)
- Medicine (medical research, distinction/specialization in Ayurveda, Homeopathy, Siddha, Allopathy, Naturopathy, etc.)
- Literature & Education (Journalism, Teaching, Book composing, Literature, Poetry, Promotion of education, Promotion of literacy, Education Reforms, etc.)
- Civil Service (distinction/excellence in administration etc. by Government Servants)
- Sports (popular Sports, Athletics, Adventure, Mountaineering, promotion of sports, Yoga, etc.)
- Others (fields not covered above and may include propagation of Indian Culture, protection of Human Rights, Wild Life protection/conservation, etc.)

### **The Padma Awards: Important Facts**

- The award is normally not conferred posthumously. However, in highly deserving cases, the Government could consider giving an award posthumously.
- A higher category of Padma award can be conferred on a person only where at least five years have elapsed since the conferment of the earlier Padma award. However, in highly deserving cases, a relaxation can be made by the Awards Committee.
- The awards are presented by the President of India usually in March/April every year where the awardees are presented a Sanad (certificate) signed by the President and a medallion.
- The recipients are also given a small replica of the medallion, which they can wear during any ceremonial/State functions etc. if the awardees so desire. The names of the awardees are published in the Gazette of India on the day of the presentation ceremony.

- The total number of awards to be given in a year (excluding posthumous awards and to NRI/foreigners/OCIs) should not be more than 120.
- The award does not amount to a title and cannot be used as a suffix or prefix to the awardees' name.

### **The Padma Awards Committee**

- All nominations received for Padma Awards are placed before the Padma Awards Committee, which is constituted by the Prime Minister every year.
- The Padma Awards Committee is headed by the Cabinet Secretary and includes Home Secretary, Secretary to the President, and four to six eminent persons as members.
- The recommendations of the committee are submitted to the Prime Minister and the President of India for approval.

### **Padma Awards 2022**

- This year the President has approved the conferment of 128 Padma Awards. This comprises of 4 Padma Vibhushan, 17 Padma Bhushan, and 107 Padma Shri Awards. There are 13 Posthumous awardees on the list.
- General Bipin Rawat, first Chief of Defence Staff who died in an air crash recently, and former Uttar Pradesh Chief Minister Kalyan Singh who headed the State during the Babri masjid demolition were conferred with Padma Vibushan posthumously on the eve of the 73rd Republic Day.

# Indian Polity and Governance – Indian Polity –Constitution, Political System

## Chapter 8

### Short Answers

CSM – 04 Compiled by Dr Mamta Pathania

22

This chapter contains:

- Gram Nyayalayas In India
- Electoral Reforms in India
- Supreme Court on Cryptocurrency
- Important Amendments In Indian Constitution
- Important Committees And Commissions In India
- All-India Judicial Services (AIJS)
- 22ND LAW COMMISSION OF INDIA
- THE FEMINISATION OF INDIAN POLITICS
- NATIONAL INVESTIGATION AGENCY (NIA)
- Electronic Voting Machine (Evm)

## Contents

1	GRAM NYAYALAYAS IN INDIA: COMPOSITION; SIGNIFICANCE; ISSUES; WAY FORWARD; CONCLUSION.....	3
1.1	About Gram Nyayalayas: .....	3
1.2	Composition:.....	4
1.3	Significance: .....	4
1.4	Issues: .....	4
1.5	Way Forward: .....	5
1.6	Conclusion: .....	5
1.7	Law Commission Report.....	7
2	Electoral Reforms in India: Meaning, Needs and Steps taken .....	8
2.1	Steps Taken by the government .....	9
3	SUPREME COURT ON CRYPTOCURRENCY UPSC: JUDGEMENT, ORDER, & EFFECT.....	10
4	IMPORTANT AMENDMENTS IN INDIAN CONSTITUTION.....	13
5	IMPORTANT COMMITTEES AND COMMISSIONS IN INDIA .....	19
6	ALL-INDIA JUDICIAL SERVICES (AIJS) .....	24
7	22ND LAW COMMISSION OF INDIA .....	26
8	THE FEMINISATION OF INDIAN POLITICS .....	28
9	NATIONAL INVESTIGATION AGENCY (NIA) Functions; Vision; Jurisdiction; National Investigating Agency (Amendment) Act, 2019.....	31
10	ELECTRONIC VOTING MACHINE (EVM) CONTROVERSY .....	34



# 1 GRAM NYAYALAYAS IN INDIA: COMPOSITION; SIGNIFICANCE; ISSUES; WAY FORWARD; CONCLUSION

## 1.1 About Gram Nyayalayas:

- **Gram Nyayalayas or village courts** are established under **the Gram Nyayalayas Act, 2008 as the lowest tier of the judiciary for rural areas.**
- This Act came into force on **2 October 2009.**
- They are aimed at providing inexpensive justice to people in rural areas at their doorsteps and for speedy and easy access to the justice system in the rural areas of India.
- It is a mobile court and exercises the powers of both Criminal and Civil Courts. It means that it can try criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the Gram Nyayalaya Act. The scope of those cases can be amended by both the Central and the State Governments, as per their respective legislative competence.
- The seat of the Gram Nyayalaya will be located at the headquarters of the intermediate Panchayat i.e. Panchayat Samiti. But they will go to villages, work there and dispose of the cases there itself.
- They can follow special procedures in civil matters, in a manner it deems just and reasonable in the interest of justice.
- **The appeal in criminal cases and civil cases shall** lie to the Court of Session and District Court respectively. These appeals shall be heard and disposed of within a period of six months from the date of filing of such appeal.
- The orders and verdicts passed by the Gram Nyayalaya are deemed to be a decree.
- They shall **be guided by the principles of natural justice** and subject to any rule made by the High Court. They are not bound by the Indian Evidence Act, 1872. They allow for conciliation of the dispute and settlement of the same in the first instance.
- Their jurisdiction over an area specified by State Government in consultation with the respective High Court.
- They have both **civil and criminal jurisdiction over the offences for example:**
  - Offences not punishable with death
  - imprisonment for life or imprisonment for a term exceeding two years.
  - Theft as well as receiving or retaining stolen property, where the value of the property stolen does not exceed rupees twenty thousand

- Offences related to central acts such as payment of wages, minimum wages, protection of civil rights, Bonded labour, Protection of Women from Domestic Violence Act etc.
- Offences under states acts are notified by each state government.
- Civil and Property suits for example use of common pasture, farms, water channels, right to draw water from a well or tube well etc.

## 1.2 Composition:

- **Nyayadhikari presides** the Gram Nyayalayas. He will have the same power, enjoy the same salary and benefits of a **Judicial Magistrate of First Class**. He is to be **appointed by the State Government in consultation with the respective High Court** (Note: In regular civil/judicial courts, the High Court itself makes appointments).

## 1.3 Significance:

- They are important to reduce arrears and pendency of cases. It is a part of the judicial reforms. It is estimated that Gram Nyayalayas can reduce around 50% of the pendency of cases in subordinate courts. They can take care of the new litigations which will be disposed of within six months.

## 1.4 Issues:

- **Less number of courts:** So far only 11 states have taken steps to notify Gram Nyayalayas. Only 208 'Gram Nyayalayas' are functioning in the country as against 5000 by Gram Nyayalaya act 2008 and **2,500 estimated to be required by the 12th five-year plan**.
- The problem of **concurrent jurisdiction of regular courts:** The majority of states have now set up regular courts at the Taluk level, thus reducing the demand for gram Nyayalayas.
- **Shortage of human resources:** The progress is affected by the non-availability of judicial officers to function as Gram Nyayadhikaries, Non-availability of notaries, stamp vendors etc.
- **Funds:** The slow pace of utilisation of funds under the Scheme is mainly due to the lack of proposals from the States for setting up of Gram Nyayalayas, lukewarm response of the Bar. There is also the reluctance of police officials and other State functionaries to invoke jurisdiction of Gram Nyayalayas.
- **Reduction of Pendency:** one among the objectives of the Act was to scale back pendency and burden on lower courts within the district but it's revealed that even this has not been fulfilled. the amount of cases disposed of by Gram Nyayalayas is minuscule.
- **Functioning:** they have been established on a part-time basis (weekly once or twice) and aren't added to the prevailing courts. They are grappling with systemic defects, lack of practice of recording case data and status, lack of political will etc.
- **Lack of awareness:** Many of the stakeholders including the litigants, lawyers, police officers and others are not even aware of the existence of Gram Nyayalayas in the district court premises. There are no conferences or seminars organized for creating awareness about this institution.

- **Ambiguity in the jurisdiction:** Due to the existence of alternative forums such as labour courts, family courts, etc., there is ambiguity and confusion regarding the specific jurisdiction of Gram Nyayalayas,

### 1.5 Way Forward:

- **Training of Gram Nyayadhikari:** Aside from the legal and procedural requirements of Gram Nyayalayas, training can also include the local language of the community amongst whom they are posted.
- **Infrastructure and Security:** Separate building for the functioning of the Gram Nyayalaya need to be constructed. The provision also has to be made for providing adequate security to them.
- **Establishment of permanent Gram Nyayalayas:** they'll be established in every Panchayats at an intermediate level or group of contiguous Panchayats depending upon the number of disputes that normally arise from that area.
- **Creation of awareness among various stakeholders** through workshops, Advertisements, Seminars, etc.
- **Creation of a regular cadre of Gram Nyayadhikari** so that vacancy issues can be tackled.
- **The Jurisdiction of the Gram Nyayalayas may be redefined** in order to remove the ambiguities regarding the jurisdiction of Gram Nyayalayas, and the Act amended.

### 1.6 Conclusion:

Despite these shortcomings, the institution of Gram Nyayalayas has been a positive step. Above everything else they need concrete, well planned and continuous efforts to make them work. The success of these institutions should not only be measured by the number of courts established in different states, but also in terms of reaching out to deprived sections of the society and its role in the overall reduction in the pendency of cases.

### **POST-RETIREMENT APPOINTMENT OF JUDGES: FACTS; ARGUMENTS IN FAVOUR; ARGUMENTS AGAINST; LAW COMMISSION REPORT; INTERNATIONAL PRACTICE; WAY FORWARD**

Controversies around the appointment of judges post-retirement have been a recurring one. Recently, the president nominated former Chief Justice of India to the Rajya Sabha.

Ranjan Gogoi became the first former chief justice of India to be nominated as Rajya Sabha member. However, it is not the first time; judges Post-retirement are given a post in tribunals, commission, and in central Government. People from various part of the country, colleagues criticizing the nomination and alleging the appointment is a quid pro quo.

**Facts regarding judges accepting post-retirement jobs:**

- A Vidhi centre for Legal policy's study shows that almost 70 out of 100 Supreme Court retired judges have taken up some or other assignments
- After independence, there have been 44 Chief Justices of India who have accepted post-retirement jobs.
- The central Government gave about 36 percent of the appointments. The jobs mainly to tribunals, commissions, ad hoc committees, and government positions like that of Lokayukta.
- In some cases, judges have been appointed even four months ahead of retirement.
- Time and again, post-retirement jobs come into the limelight.

**Arguments in Favour:**

- The experience and insights that competent and honest judges learn during their period of service cannot waste after retirement.
- Unlike abroad, higher judiciary judge in India retires at a comparatively young age and is capable of many more years of productive work.
- Most of the posts have a statutory requirement to appoint former judges. For example the National Human Right Commission(NHRC).

**Arguments against:**

- The immediate appointments show that the Government made decisions regarding judges' post-retirement assignments even before retirement.
- Immediate post-retirement appointments of the judges create doubts about their judgments, irrespective of their merits.
- It creates a conflict of interest.
- Justice Krishna Iyer's observation demonstrates the prospect of post-retirement employment can damage judicial independence. He said, "Judicial afternoons and evenings are sensitive phases. The incumbent being bothered about post-retiral prospects. The executive plays upon this weakness to bend the integrity or buy the partiality of the elderly brethren
- Judiciary and executive should watch each other rather than mutual admirers.
- It reduces public faith in judicial independence.
- In the recent 'master of roster case,' the Supreme Court reiterated that public confidence was the greatest asset of the judiciary

## 1.7 Law Commission Report

- First Law Commission headed by MC Setalvad, recommended that judges of the higher judiciary must not accept any government job post-retirement.
- Such judges should not forget that their conduct after retirement was crucial to preserve people's trust in the judiciary

### International practice:

**United States:** No Supreme Court judge retires lifelong. It is done to prevent conflict of interest

**United Kingdom:** Supreme Court Judges retire at the age of 70. No law stopping judges from taking post-retirement jobs but no judge has taken such a post.

### Way forward:

- The judiciary needs a mechanism to regulate post-retirement government appointments
- The Tribunals should not be a haven for retired persons.
- The appointment process should not result in decisions being influenced when the Government itself is a party in the case and appointment authority at the same time.
- Former Chief Justice R M Lodha, says that judges should not take post-retirement government posts for at least two years of demitting office. This is necessary to prevent conflict of interest.
- An amendment to the Constitution can be done by incorporating a provision similar to Articles 148 or 319.
- A special law may also be passed by Parliament prohibiting retired judges from taking up an appointment for two years.
- There could be an increase in retirement age

### Points to Remember:

**Quid Pro Quo:** Quid pro quo is a Latin phrase that literally means “ something for something” or “this for that.” This phrase is used to signify an exchange of goods, services, favours or any other kind of value

### Constitutional provision related to it

Article 80(3): President nominates 12 members to the Rajya Sabha, and they shall consist of persons having special knowledge or practical experience in respect of literature, science, art, and social service.

The former chief justice of India was appointed **under the social service category**.

Other articles related to post-retirement jobs by the judiciary are

- Article 124 states that "no one who has held office as a Supreme Court judge shall plead in any court or before any authority within the territory of India."
- Article 220 bars High Court judges from pleading before any court, tribunals in India except the Supreme Court and the other High Courts.

## 2 Electoral Reforms in India: Meaning, Needs and Steps taken

Electoral reforms mean the development and change in the election process in India. The objective of the electoral reform is to facilitate free and fair elections, clean politics, and ideal members of a legislative house. It helps in making Indian democracy a real democracy in the letter as well as in spirit. Article 324-329 of the Indian constitution deals with elections and electoral system.

### The need for electoral reforms

- The **Goswami Committee** on Electoral reform in 1990, observed the crippling effect of money and muscle power in elections.
- The **N. Vohra committee**, which submitted its report in October 1993, studied the problem of criminalization of politics and the nexus among politicians, bureaucrats, and criminals in India. According to the committee CBI, IB had unanimously expressed their opinion that the criminal network is virtually running a parallel government.
- The **Law Commission** has said that in the last ten years since 2004, 18% of the candidates contesting national and state assembly elections had one or more criminal cases against them.
- In the 18<sup>th</sup> report presented by a parliamentary committee to the Rajya Sabha in March 2007 said that there should not be a person from criminal background
- The report said, "Criminalization of politics is the bane of society and negation of democracy."

### Major Challenges in the Indian electoral system:

- **Money Power:** Election is an expensive affair in every democratic polity. Money power plays a destructive role in our electoral system affecting the working of periodic elections seriously
- **Muscle Power:** Criminalisation of politics and politicization of criminals are like two sides of the same coin and mainly responsible for the muscle power in the election
- **Misuse of Government Machinery:** It generally complains that the government in power often misuse official machinery to further the election prospects of its part candidates.

- **Criminalisation of Politics and Politicisation of Criminal:** Nexus between the two groups of Politician and Criminals ensure each others survival in Indian Democracy. Criminals using money and muscle powers to enter politics and further ensures that the cases against them are not proceeded with. Political parties also field such candidates with a criminal background as they ensure a seat for the Party.
- **Freebies in the election:** Free liquor or some goods to voters are acts of enticing voters
- **Paid News and Fake news:** Paid news is published as a news item in the form of advertisement. Social media also transmit fake news

## 2.1 Steps Taken by the government

- **Electoral bonds:**
  - Electoral bonds are like a promissory note that can be bought by an Indian citizen or company incorporated in India from select branches of State bank of India.
  - It was introduced with the Finance Bill (2017).
  - On January 29, 2018, the government of India introduced the Electoral Bond Scheme 2018.
- **Introduction of VVPATs:**
  - It is a method of providing feedback to voters using a ballot less voting system.
  - It is an independent printer system attached with Electronic voting machine that allows the voters to verify that their votes are cast to the person they want to give
  - VVPAT generates a paper slip every time when a voter casts his vote, recording the party to whom the vote was made
  - The voters verified paper audit slip is kept in a sealed cover
- **Guidelines for social media during the election:** Voluntary Codes for ethics is given by election commission for the fair and free election
- **Lowering of voting Age:** The 61<sup>st</sup> constitutional amendment act reduced the minimum age for voting from 21 years to 18 years
- **Introduction of Electronic Voting Machines:**
  - EVMs were introduced in the year 1998 during the state elections of Delhi, Madhya Pradesh, and Rajasthan.
  - EVMs are used widely now because they are fool-proof, efficient, and a better option in terms of the environment.
- **Restriction on candidates from contesting in more than two constituencies**
  - It shall lead to disqualification of the person for six years from contesting to the Parliament and State legislatures when a person violates the National Honors Act, 1971

- **Increasing the number of proposers and the security deposit:** The no of electors required to sign as proposers in the nomination papers for election to the Rajya Sabha and the State Legislative Councils has been increased to 10% of the electors of the constituency or ten such electors
  - It helped in reducing the non-serious candidates in the election.
- It is restricted by law to go to the polling booth bearing arms. Taking arms to the polling booth is punishable by imprisonment for up to 2 years
- **Prohibition on the sale of liquor:** Liquor or other intoxicants shall not be sold at any shop, eating place, or any other place within the polling area during forty-eight hours. Forty eight hours ending with the hour fixed for the conclusion of poll
- **The ceiling on election expenditure:** For the Lok Sabha election, a candidate can spend nearly 50-70 lakh, and Rs 20-28 lakh for an assembly election.
- The government decided to observe January 25 as 'National Voters Day' to mark the EC's founding day.
- Voting through the postal ballot is another reform taken up by the Government.
- Political parties need to report any contribution above Rs 20000 to the Election Commission for claiming income tax benefit.
- Declaration of criminal record, assets, etc. by the candidates is required, and declaring false information in the affidavit is now an electoral offence punishable with imprisonment up to 6 months or fine or both.

### Way Forward

- **Audit of the party expenditure:** It should be conducted regularly.
- Awareness campaign to educate the voters in villages or colleges for the first time voters.
- **Self-regulation by the political parties:** Political parties voluntarily took money in the electronic form and bring transparency in their approach.
- **Neutrality by Mass media:** Mass media should play a non-partisan role in the election. It acts as a safeguard of democracy.
- Regulation by the social media companies on the **fake news** especially during the election time.

## 3 SUPREME COURT ON CRYPTOCURRENCY UPSC: JUDGEMENT, ORDER, & EFFECT

Recently the **Supreme Court** has **struck down a ban by the Reserve Bank of India (RBI)** on banks and financial institutions from dealing with **cryptocurrency** holders and exchanges. In 2018, the



RBI had banned various banks from dealing with virtual currency exchanges and individual holders on the grounds that these currencies had no underlying fiat (a formal authorization).

After the circular of RBI in 2018 which ban crypto-currency, The **Internet and Mobile Association of India (IAMAI)** had challenged the RBI's powers to bar banks and financial institutions from dealing in such **digital currencies**.

#### **About Crypto currencies:**

- There is **no globally accepted definition** of virtual currency. Few agencies have called it a method of exchange of value, while others have labeled it a goods item, product or commodity.
- The founder of bitcoin and the underlying technology called blockchain, Satoshi Nakamoto has defined bitcoins as a **new electronic cash system that's entirely peer-to-peer with no trusted third party**.
- This means that **all users** of currencies will be able to **keep track of the transactions** taking place.
- **Virtual currency** is an **umbrella term for all kind of non-fiat currency traded online**. They are mostly created, distributed and accepted in local virtual networks.
- On the other hand, **Cryptocurrencies have an extra layer of security, in the form of encryption algorithms**.
- Most cryptocurrencies now **operate on blockchain technology** which allows everyone on the network to keep track of the transactions which are occurring globally.

#### **Reason for the ban by RBI:**

- Lack of any underlying fiat.
- Excessive volatility in their value.
- Lack of information on their design, use and operation.
- They may seriously disrupt the business models of commercial banks.
- The anonymous nature of cryptocurrency which goes against global money-laundering rules.
- Risks and concerns associated with virtual currencies regarding data security and consumer protection.
- It can impact on the effectiveness of the monetary policy.

### **Internet and Mobile Association of India (IAMAI) arguments against the ban:**

- **RBI action was outside its purview** as a non-fiat currency is not a currency as such.
- There were **no studies conducted** either by the RBI or by the central government.
- The **ban was solely made on moral grounds** and RBI should have adopted a wait-and-watch approach as taken by other regulators like Securities and Exchange Board of India (SEBI).

### **Supreme Court's judgment on Crypto currency:**

- The Court said that **till date RBI has not come out with a stand that any of the entities** regulated by it, **have suffered any loss** or adversely effected due to Virtual Currency exchanges.
- Hence, the **RBI circular is “disproportionate”** as it is **short on the following five-prong test to check proportionality**
  - The direct and immediate impact upon fundamental rights.
  - The larger public interest should be ensured.
  - The necessity to restrict citizens' freedom.
  - Inherent harmful nature of the act prohibited
  - Possibility of achieving the same objective by imposing a less drastic restraint.
- The court also states that RBI did **not consider the availability of alternatives** before issuing the circular.
- The court said that **RBI could not be blamed for not adopting a “light-touch” approach** as adopted by other countries, as there could be no comparison with other countries such as the US, the UK, Japan, or Singapore were developed economies.
- Further, the court also pointed out the **Centre's failure to introduce an official digital Currency** despite two draft Bills.

### **Effects of Supreme Court judgement on Crypto currency:**

- It will **help in the incorporation of block chain technology**.
- Crypto currencies can act as **Alternative Investments** so as to hedge global volatility in the Finance market.
- It can be a crucial part of the **Industrial revolution 4.0**.
- It is also estimated that block chain will **generate \$3.1 trillion in new business value by 2030** and allowing crypto currency will enable India to be part of this.
- **For India to become a world power, embracing emerging technologies like crypto currency and block chain is a must.**

### Status of Virtual Currencies in the world:

- Organizations across the globe have issued the warning while dealing with virtual currencies.
- A blanket ban of any sort could potentially push the entire system underground which in turn would mean that there will be no regulation.
- **Countries such as China, Russia, and Vietnam** have placed a **complete prohibition** on using cryptocurrency.
- Whereas **countries like the US, UK, Canada, Singapore, and Australia** have **accepted** the use of Virtual Currency in some form or the other.

### Future Outlook:

- The **relief** for virtual currency investors and businesses **may be only temporary** as the Centre **govt.** in a draft law has proposed to ban all crypto currencies except a state-issued one.
- The **Centre may** introduce the bill to permanently **ban the crypto currencies** and to set up the basic infrastructure required **to issue state-owned crypto currency** and the digital rupee.
- But rather than imposing a blanket ban, the Govt. should **set up a new expert regulatory body** with capability in technology, economics and finance to deal with all aspect regarding crypto currency.
- RBI may come up with **a new framework or regulation** that deals with the reality of these technological advancements.
- The govt should also **designate virtual currency intermediaries** as reporting entities **under** the Prevention of Money Laundering Act (**PMLA**).
- A vibrant crypto currency segment could add more value to India's financial sector. Thus, in the era of growing technological innovation in the financial sector, it is critical to **strengthen the regulatory frameworks of India**.

## 4 IMPORTANT AMENDMENTS IN INDIAN CONSTITUTION

India's constitution is neither rigid nor flexible. Parliament is empowered to amend the Indian Constitution under Article 368, subjected to 'Basic structure of Constitution'. It is done in three ways:

1. By simple majority
2. By special majority
3. By special majority with ratification by half of the states.

## **Important Amendments in the Indian Constitution**

### **First Constitutional Amendment Act, 1951**

- Added Ninth schedule to protect land reforms and other laws from the scrutiny of Judicial review.
- Insertion of new Article 31A and Article 31 B.
- Amended Article 19 by adding three more ground of reasonable restriction on freedom of speech and expression.

### **Seventh Constitutional Amendment Act, 1956**

- State reorganization on a linguistic basis. Abolished classification of states into four categories and reorganized them into 14 states and 6 UTs.
- Appointment of a Governor for two or more states.
- Establishment of common High Court for two or more states, extended jurisdiction of the High Court to union territories. Appointment of additional and acting judges of High Court.
- Insertion of new Article 350 A (instruction in mother-tongue at primary education to children belonging to linguistic minority) and 350B (Special Officer for linguistic minorities is provided) in part XVII.

### **Eighth Constitutional Amendment Act, 1960**

- Extended reservation of seats for the SCs and STs and special representation for Anglo-Indians in the Lok Sabha and state legislature.

### **Twenty-Fourth Constitutional Amendment Act, 1971**

- Amended Article 368 and Article 13, affirming the power of Parliament to amend any part of the Constitution including fundamental rights.
- When an amendment to the Constitution adopted by both Houses of Parliament is submitted to the President for his approval, he is obliged to give his consent.

### **Twenty-Fifth Constitutional Amendment Act, 1971**

- Curtailment of the fundamental right to property.
- Insertion of new Article 31 C, which provides that if any law is passed in order to give result to the DPSP contained in 39(b) and (c), that law will not be considered to be void on the ground that it removes or reduces any of the rights under Article 14, 19 or 31 and will not be challenged on the ground that it doesn't give effect to those principles.

### **Twenty-Sixth Constitutional Amendment Act, 1971**

- Insertion of Article 363 A giving effect to the abolishment of Privy purse paid to former rulers

of princely states.

### **Forty-Second Constitutional Amendment Act, 1976**

- Amendment in Preamble by addition of three words- 'Socialist', 'Secular' and 'Integrity'.
- Addition of new Part IVA (Article 51 A) for fundamental duties.
- Insertion of new Article 31 D for saving laws in respect of anti-national activities, taking precedence over fundamental rights.
- Insertion of new Article 32 A for Constitutional validity of State laws not to be considered in proceedings under Article 32. Also added Article 226 A for Constitutional validity of Central laws not to be considered in proceedings under Article 226.
- Insertion of three new Articles regarding DPSP.
  - (i) Article 39 A: Free legal aid and Equal justice
  - (ii) Article 43 A: Participation of workers in the management of industries and
  - (ii) Article 48 A: Protection and improvement of environment and safeguarding of forests and wildlife.
- Curtailment of power of Supreme Court and High Court with respect to judicial review and writ jurisdiction.
- Made Constitutional amendment beyond judicial review.
- The tenure (period) of Lok Sabha and State Legislative assemblies raised to 6 years by amending Article 83 and Article 172.
- Frozen seats in Lok Sabha and State
- Parliament is empowered to decide the powers, privileges and immunities of the members and the committees of each House of Parliament and State Legislature by amending Article 105 and Article 194.
- Added new Part XIV regarding administrative tribunal and tribunal for other matters under Article 323 A and 323 B.
- Addition of new Article 257 A for assistance to States by the deployment of armed forces or other forces of the Union.
- Creation of All India Judicial Services under Article 236.
- Facilitated a Proclamation of emergency in operation in any part of the territory of India.
- Made President bound by the advice of Council of Ministers by amending Article 74.
- Amendment in Seventh Schedule by shifting five subjects from the state list to the concurrent list  
These are: (a) education, (b) forests, (c) protection of wild animals and birds, (d) weights and measures (e) administration of justice.

- Extended one-time duration of President's rule from six months to one year.

#### **Forty-Fourth Constitutional Amendment Act, 1978**

- Substituted term 'Armed rebellion' with earlier 'Internal disturbance' in case of national emergency.
- President can proclaim emergency only on the basis of written advice tendered by the cabinet.
- Removal of right to property from the list of fundamental right and recognized as a mere legal right.
- Provided that during national emergency fundamental right guaranteed under Article 20 and Article 21 cannot be suspended.
- Restored the original term of Lok Sabha and State Legislative assembly to five years.
- Restored the power of Election Commission in deciding matters related to election dispute of President, Vice-President, Prime Minister and Speaker of Lok Sabha.
- Guaranteed right of the media to report the proceedings in Parliament and the State Legislatures freely and without censorship.
- Set some procedural safeguards with respect to a national emergency and President's rule.
- Restored the powers of Supreme Court and High Court taken away in earlier amendments.
- In the case of issuing ordinances, the amendment did away with the provision that made the satisfaction of the President or Governor as final justification.
- President can now send back the advice of cabinet for reconsideration. Reconsidered advice, however, is binding on the President.

#### **Sixty-First Constitutional Amendment Act, 1988**

- Proposed to reduce the voting age from 21 years to 18 years for Lok Sabha and State legislative assembly election.

#### **Sixty-Ninth Constitutional Amendment Act, 1991**

- Granted the National Capital a special status among the Union territories to ensure stability and permanence. Amendment also provided with a Legislative Assembly and a Council of Ministers for Delhi.

#### **Seventy-Third Constitutional Amendment Act, 1992**

- Added new Part IX that gave Constitutional status to the Panchayati Raj Institution. Inserted new Eleventh schedule having 29 functions of Panchayat.

#### **Seventy-Fourth Constitutional Amendment Act, 1992**

- Granted Constitutional status to Urban Local Bodies. Added 'The Municipalities' as new Part XI-A in the Constitution. Inserted Twelfth schedule having 18 functions of the municipality.

#### **Eighty-Fourth Constitutional Amendment Act, 2002**

- Readjustment and rationalization of territorial constituencies, without altering the number of seats allotted in the Lok Sabha and State Legislative assemblies to be fixed on the basis of 1991 census till 2026.

#### **Eighty-sixth Constitutional Amendment Act, 2002**

- Inserted new Article 21-A in the Constitution which provided for free and compulsory education to all children of the age of 6 to 14 years.
- Inserted Article 51-A as a fundamental duty which provided for the education of a child between the age of 6 and 14 years.
- Changes in the DPSP Article 45 which provided free and compulsory education for all children up to the age of 14 years.

#### **Eighty-Seventh Constitutional Amendment Act, 2003**

- Readjustment and rationalization of territorial constituencies in the states to be fixed as per 2001 census instead of earlier 1991 census.

#### **Eighty-Ninth Constitutional Amendment Act, 2003**

- Creation of two separate bodies out of combined body namely 'National Commission for Scheduled Castes' under Article 338 and 'National Commission for Scheduled Tribes' under Article 338-A.

#### **Ninety-First Constitutional Amendment Act, 2003**

- Inserted new clause Article 75 (1A): provides that the total number of ministers, including the PM, in the COM shall not exceed 15% of the total number of members of LS.  
PM- Prime Minister COM- Council of Ministers LS- Lok Sabha
- Inserted fresh clause Article 75 (1B): Provides that a member of either House of Parliament belonging to any political party that is disqualified on grounds of defection from being a member of that House shall also be disqualified from being a Minister.
- New clause Article 164(1A): Provides that the total number of ministers, including the CM, in

the COM shall not exceed 15% of the total number of members of the State Legislative Assembly.

CM- Chief Minister COM- Council of Ministers

- Inserted new clause Article 164 (1B) which says, a member of Legislative assembly of the State or either House of State Legislature belonging to any political party who is disqualified on the ground of defection for being a member of that House shall also be disqualified to be appointed as a minister.
- Removal of the provision in Tenth Schedule pertaining to an exemption from disqualification in case of the split by one-third members of the legislature party.

#### **Ninety-Seventh Constitutional Amendment Act, 2011**

- It gave Constitutional protection to Co-operative societies by making the following changes.
- Right to form Co-operative society as a fundamental right under Article 19.
- Insertion of the new Directive Principle of State Policy under Article 43-B for promotion of Co-operative societies.
- Added new Part IX B under the Constitution as 'The Co-operative societies' under Article 243-ZH to 243-ZT.

#### **Ninety-Ninth Constitutional Amendment Act, 2014**

- Insertion of new Article 124-A which provided for the establishment of the National Judicial Appointments Commission (NJAC) for the appointment and transfer of judges of the higher judiciary. However, it was later struck down by apex court and held as unconstitutional and void.

#### **Hundredth Constitutional Amendment Act, 2015**

- This amendment gave effect to the acquisition of territories by India and transfer of certain territories to Bangladesh in pursuance of the Land Boundary Agreement and its protocol entered into between the Governments of India and Bangladesh.

#### **Hundred and First Constitutional Amendment Act, 2016**

- Insertion of new Article 246-A, 269-A and 279-A for enrollment of Goods and Service Tax (GST) that made changes in Seventh Schedule and course of inter-state trade and commerce.

#### **Hundred and Second Constitutional Amendment Act, 2018**

- It provided for the establishment of National Commission for Backward Classes (NCBC) as a



Constitutional body under Article 338-B of the Constitution. It is vested with the responsibility of considering inclusion and exclusion of communities in the list of backward communities for reservation in jobs.

### **Hundred and Third Constitutional Amendment Act, 2019**

- In relation to the current reservation, the reservation of up to 10% for "economically weaker segments" in academic organizations and government jobs has been made.
- It gives effect to the mandate of the Directive Principle of State Policy under Article 46.
- It added new provisions under Article 15 (6) and Article 16 (6) to permit the government to ensure the advancement of "economically weaker segments."

## **5 IMPORTANT COMMITTEES AND COMMISSIONS IN INDIA**

There are various committees and commissions formed in India at different instances for different purposes. Their recommendations over time have led to varied reforms in Indian society. Hence, they are very crucial for the UPSC Exam.

This article provides a list of various committees and commissions along with their purposes/Objectives (why they were formed/which field they worked in) so that aspirants can have a ready list with which revision can be done.

Committees and commissions are formed for studying a problem/issues and then putting forth recommendations to resolve those issue. The govt can either accept or reject the findings/recommendations of the committee/ commission:

<b>Committee/Commission</b>	<b>Head</b>	<b>Objective</b>
Justice Mukandakam Sharma Committee	Justice Mukandakam Sharma	The aim is to review the draft of the National Code for Good Governance in sports.
General Shekatkar Committee	General Shekatkar	Committee of Experts on rebalancing defence expenditure.
Naresh Chandra Committee	Naresh Chandra	Report on the Taskforce on National security
Prakash Tandon Committee(1994)	Prakash Tandon	Unification of existing railway service
Rajat Bhargav Committee	Rajat Bhargav Committee	Panel on petrochemical investment
H R Khan Committee	H R Khan Committee	Code for responsible lending in Micro Credit
Tapan Ray Committee	Tapan Ray	It will review the regulatory guidelines and supervisory framework of Core Investment

Harsh Vardhan Committee      Harsh Vardhan

Monetary Policy Committee/Shaktikanta Das      Shaktikanta Das Committee

High-level Committee/Nandan Nilekani Committee      Nandan Nilekani

High-level and Bezbaruah Committee      M.P. Bezbaruah

Expert Committee/UK Sinha Committee      UK Sinha

National Implementation Committee/Rajnath Singh      Rajnath Singh Committee

Rajiv Kumar Committee      Rajiv Kumar

Injeti Srinivas High-Level committee      Injeti Srinivas

Ethics Committee /Lal Krishna Advani      Lal Krishna Advani

Bhaskar Ramamurthy Committee      Bhaskar Ramamurthy

B Sesikeran Committee      B Sesikeran

High-level Empowered Committee      Cabinet Secretary

## Companies (CIC)

It will examine the existing state of mortgage securitization in India and Development of Housing Finance Securitization

It will accelerate the GDP growth of the country

It will suggest measure to strengthen the safety and security of digital payments in the country

It will review the implementation of clause 6 of the Assam Accord

It will look into the various challenges faced by MSMEs

It will look into the multiple challenges faced by MSMEs

It will look at selling as many as 149 small and gas fields of state-owned Oil and Natural Gas Corporation (ONGC) and Oil India Ltd (OIL) to private and foreign companies to boost domestic output.

It will review the existing framework and guide, and formulate a roadmap for a coherent policy on Corporate Social Responsibility(CSR)

It is a Committee of Lok Sabha which examines complaints related to any unethical conduct by members of Lower House of Parliament

It will suggest changes to JEE(Advanced)in the wake of an inadequate number of candidates qualifying the entrance test.

To review food labelling standards

It will suggest measures to address issues of Stressed Thermal Power Projects.

Sub-Committee/Dr. Nilima Kshrisagar Committee	Dr Nilima Kshrisagar	It will evaluate 324 irrational FDCs in three months
Group of Minister(GOM)and High-Level Committee/Rajiv Gauba Gauba	Rajiv Gauba	It will deliberate and make a recommendation for a separate penal provision on incidents of mob violence
13-member Committee/Ravinder Dholakia Committee	H Ravinder H Dholakia.	It will review Sub-National Accounts to upgrade the norms for the computation of economic data.
Sunil Mehta Committee	Sunil Mehta	It will examine setting up of Asset Reconstruction /Management Company for faster resolution of stressed assets of PSB
Minorities Commission and S.C., S.T. Commission	Mohammed Qamaruddin	For Minorities and S.C., S.T.
14-member panel/Umesh Sinha Committee	Umesh Sinha	It will study the use of social media and other digital platforms in the voting and give suggestions on how to adapt the Model Code of Conduct to these changes.
Manmohan Juneja Committee	Manmohan Juneja	The panel will revisit "Schedule VII of Companies Act, 2013, based on references received from stakeholders, including ministries and department of centre and states, members of Parliament, member of state legislatures and civil societies".
Defense Planning Committee(DCP)/Ajit Doval Committee	Ajit Doval	It will suggest measures to reform the process of higher defence planning and national security strategy.
Injeti Srinivas Committee	Injeti Srinivas	It will suggest improvements in the National Sports Development Code and functioning of Sports Federations
Negotiation Committee	A representative from Water Resources, River Development, and Rejuvenation Ganga	On Mahanadi & its Tributaries
Timothy Gonsalves Committee	Timothy Gonsalves	The committee suggested creating 20% reservation seats for the girl students in IITs
Vinod Rai Committee	Vinod Rai	To manage the Indian cricket board

N.S Kang Committee	N.S Kang	It will frame uniform rules for the states to avoid delay in the fast implementation and reduce hindrance of the Rights of Person with Disabilities (RPD) Act in the country
N.K. Singh Committee	N.K. Singh	It will review the Fiscal Responsibility and Budget Management(FRBM)
Amitabh Chaudhry Committee	Amitabh Chaudhry	To analysis the existing framework of IRDA-linked and non-linked insurance product regulation
Afzal Amanullah Committee	Afzal Amanullah	It suggests ways to improve India's Haj policy. It also looks into the issue of subsidy to the pilgrimage.
H. R. Nagendra Committee	H. R. Nagendra	The objective is to prepare a Yoga Protocol for Diabetes Control
Dr Pritam Singh Committee	Dr. Pritam Singh	The aim is to study the setting up of a Defence procurement organization
Meena Committee	Hemchandra Meena Hemchandra	It reviews the threats inherent in the existing and emerging technology also consider the adoption of various security standards and protocols, interface.
Partha Committee	Mukhopadhyay Partha Mukhopadhyay	It suggests the necessary legal and policy framework protecting the interests of the migrants in the country.
Arvind Panagariya Committee	Arvind Panagariya	It will examine the working of the regulatory bodies Central Council of Indian Medicine (CCIM) and Central Council of Homeopathy(CCH)
AK Bajaj Committee	AK Bajaj	It will address issues related to the management of the waters of Krishna River between warring Andhra Pradesh and Telangana.
Lt. Gen. D.B. Shekatkar Committee	Lt. Gen. D. B. Shekatkar	It will Reform the military and improve financial management.
Justice Shri Girdhar Malviya Committee	Justice Shri Girdhar Malviya	To prepare draft Ganga Act
Kewal Kumar Sharma	Kewal Kumar Sharma	To review the recommendations made by the

Committee		University Grants Commission (UGC) panel on implementation of the 7 <sup>th</sup> pay commission in educational institutions
Mr Ashok Dalwai Committee	Mr Ashok Dalwai	To establish a regulated wholesale agri-market at a distance of every 80 km
Dr R B Barman Committee	Dr R B Barman (Chairman of the national statistical Commission)	The objective is to lay down technical standards for the performance of core services and other services
Arvind Panagariya Committee	Arvind Panagariya	To compute timely data on the employment situation in the country
Madhav Chitale Committee	Madhav Chitale	The objective is to recommend measures for de-siltation of river Ganga
Smt. Rina Mitra Committee	Smt. Rina Mitra Special secretary (internal security) in the ministry of Home affairs.	It examines the rules which allow free movement of Indians and Myanmar Citizen.
Krishnaswamy Kasturirangan Committee	Krishnaswamy Kasturirangan	To draft the national education
Uday Kotak Committee	Uday Kotak	It will suggest improvement in the standards of corporate governance of listed companies
Pradeep Kumar Committee	Pradeep Kumar	It will look at the stressed assets of the banking sector
CK Khanna Committee	CK Khanna	The objective is to support staff of the Indian team and then decide in the contracts that will hand over to the coaches
Pradeep Kumar Shina Committee	Pradeep Kumar Sinha	To select the national anti-profiteering authority
Usha Nath Banerjee Committee	Usha Nath Banerjee	Deal with the players' transfer dispute.'
Justice B N Srikrishna Committee	Justice B.N. Srikrishna	It is an expert committee to study various issues relating to data protection.
Renuka Chowdhury Committee	Renuka Chowdhury	According to the committee, Genetically modified (G.M.) crop should be introduced only after biosafety, socio-economics evaluation

## 6 ALL-INDIA JUDICIAL SERVICES (AIJS)

It means creating a centralized cadre of District Judges recruited by the centre through an All-India examination similarly along the lines of all India services. Currently, district judges and the subordinate Judiciary are appointed by the examination conducted by the state government.

### Background of All India Judicial Service in India:

- The All India Judicial Service proposal was first initiated in the Chief justice Conference in 1961.
- The 14<sup>th</sup> law commission mooted the idea of creating an All-Indian Judicial Service in 1958.
- Jagannath Shetty commission also recommended the All India Judicial Service
- In 1976, after the recommendation of the Swaran Singh committee, Article 312 of the constitution was amended by the 42<sup>nd</sup> constitutional amendment act, 1976, to include an all-India judicial service.
- The UPA government in 2012 drafted a bill for All India Judicial Service, but it was done away with after opposition from the high court chief justices.

### The need of All India Judicial Service:

- It would help in filling the vacancies in the approximately 5,000 jobs across the district and subordinate court.
- It is the need of the hour to increase the case clearing ratio in the subordinate and district courts by increasing the number of judges
- It helps in enriching the quality of justice. As the judicial academies give proper training and high courts provide the freedom with the identified parameters to innovate. So district judges' efficiency will increase, and this would reduce appeals arising from their decision.
- It will help in addressing the lacunas of the state mechanism. The present appointing system is often criticized for the delay, inefficiencies. Even in some cases, limited selections are challenged in litigations, but the whole recruitment will stall.
- It will attract the best talent from across the country to join the district and Subordinate Judiciary.
- A unified judiciary with the uniform laws and an all-India judiciary helps to institutionalize the idea of co-operative federalism.
- It would help in establishing cordial relations between the Lawyers and judge relation.

- It would help in establishing the transparent and efficient method of recruitment and helps in restoring public faith in Judiciary

#### Issues:

- **Language barrier:** - Upto the district court and session judge, the proceedings are conducted, and the judgments are written in the local language.
- The judges appointed through the All India Judicial service are not familiar with the language and the customs of the state and deciding such cases may affect the legitimacy of the judicial system in the eyes of the local population
- It will reduce the efficiency of the legal system.
- According to civil procedure code 1908 and code of criminal procedure, 1973, the proceedings of civil and criminal courts are to be conducted in a language prescribed by the state government.
- Even some high courts have a special exemption to conduct their proceedings in Hindi
- Some people argue that the creation of All India Judicial service will disturb the federal structure.
- **Independence of Judiciary:** Currently, the autonomy of the district judge is guaranteed by the fact that the High court plays a significant role in the appointment, transfer, and removal of district judges.
- With the setting up of All India Judicial Service, this control would be weakened and thereby hampering the independence of Judiciary
- Many people are also apprehending that it will reduce the promotional avenues of the members of the subordinate state judicial service.
- As per now, many of the communities who currently benefit from the state quotas may oppose the formation of All-India Judicial service.
- A national exam may close down the doors from fewer privileged backgrounds from being able to enter the Judicial service
- A national exam may not end up taking into account the local laws, practices, and customs which vary from states to states
- Doing so it may increase the costs of training of judges selected through the mechanism
- It may trigger the conflicts between the centre and states
- Among all high courts, nine high courts are against the proposal and hence disapproving of the plan.

### Way forward:

- There is a need to ensure that the appointment should be made transparently, without any interference from the central government and the state government.
- The report of 116th Law commission recommends the formation of the National judicial service commission consisting of retiring and sitting judges of the supreme court, members of the bar and legal academies. Such steps should be taken
- All decisions should be made with the concurrence of the state and the high court to avoid the conflict and to maintain the federal structure of the country.
- Training can be imparted, or cadre may be distributed to improve efficiency.
- The state government must investigate the reasons and the cause of the large vacancies in the poorly performing state

### Facts for prelims:

- Article 312 authorizes the parliament to create new all-India services based on a Rajya Sabha resolution to that effect declaring that it is necessary to do so in the national interest
- Such resolution in the Rajya sabha should be passed with the 2/3<sup>rd</sup> of the members present and voting.
- The extraordinary power is given to Rajya sabha to protect the interest of states in the Indian federal system.
- The Governor makes the appointment, posting, and the promotion of district judges of the state.
- He does so after consulting the high court of the state.
- Sardar Vallabh Bhai Patel was the chief protagonist of all India service in the constitution assembly and known as the father of all India service.
- The Governor, with the previous consent of the president, can authorize the use of Hindi or any other regional language of the state, in proceedings of the high court.

## 7 22ND LAW COMMISSION OF INDIA

**Context:** The Union Cabinet has approved for Twenty-second Law Commission of India for a period of 3 years.

### About Law Commission of India:

- Law Commission of India is neither a constitutional body nor a statutory body, it is an executive body established by an order of the Government of India. Its major function is to work for **legal reforms**.
- The Commission is established for a fixed tenure and acts as an **advisory body** to the **Ministry of Law and Justice**.



- Its membership primarily comprises of the legal experts.

#### **Functions of Law Commission:**

- Identify laws which are no longer needed or relevant and can be immediately repealed.
- It examines the existing laws in the light of Directive Principles of State Policy and suggests ways of improvement and reform.
- It also suggests such legislation as might be necessary to implement the Directive Principles and to attain the objectives set out in the Preamble of the Constitution.
- It considers and conveys to the Government of India its views on any subject relating to law and judicial administration which may be specifically referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs).
- Take all such measures as may be necessary to harness law and the legal process in the service of the poor.
- Consider the requests for providing research to any foreign countries as may be referred to it by the Government through the Ministry of Law and Justice (Department of Legal Affairs).

#### **Background of Law Commission:**

- Law Commissions in India have a pre-independence origin. The first Law Commission was formed in the **year 1834** as a result of the **Charter Act, 1833** with the chairman being **TB Macaulay**.
- The first commission's recommendations resulted in codification of the penal code and the Criminal Procedure Code.
- Three other law commissions were constituted before independence by the British government. All four pre-independent law commissions have contributed to the statute books immensely.
- **After Independence, law commission was first formed in 1955 under the chairmanship of the then Attorney-General of India, M. C. Setalvad.**
- The commission is reconstituted every three years and so far, 277 reports have been submitted to the government.
- The various Law Commission have been able to make an important contribution towards the progressive development and codification of Law of the country.
- The 22nd Law Commission will be constituted for a **period of three years** from the date of publication of its Order in the Official Gazette.

**Members of Law Commission:**

1. A full-time Chairperson.
2. Four full-time Members (including Member-Secretary)
3. Secretary, Department of Legal Affairs as ex-officio Member
4. Secretary, Legislative Department as ex officio Member; and
5. Not more than five part-time Members.

**Benefits**

- The Government will have the benefit of recommendations from a specialised body on different aspects of law which are entrusted to the Commission for its study and recommendations, as per its terms of reference.
- The Law Commission shall, on a reference made to it by the Central Government or suo-motu, undertake research in law and review of existing laws in India for making reforms therein and enacting new legislations.
- It shall also undertake studies and research for bringing reforms in the justice delivery systems for elimination of delay in procedures, speedy disposal of cases, reduction in the cost of litigation etc.

**Note:**

- The 21<sup>st</sup> Law Commission was constituted under Justice B.S. Chauhan (retd.).
- He had submitted reports and working papers on key issues such as simultaneous elections to the Lok Sabha and the Assemblies and uniform civil code.

## **8 THE FEMINISATION OF INDIAN POLITICS**

The feminisation of Indian politics means the increase in women's participation in the politics of the country. The word Political Participation has deep meaning. It not only means the Right to vote but also includes the involvement of women in the decision-making process, power-sharing, running political parties, holding political offices, and policymaking at all levels of governance of the state.

To understand the political participation of women, we need to divide the political involvement of women in three-level:

- Political participation of women at the national level(Basically in the Lok Sabha, Rajya Sabha, National political parties, or any other ways by which women further their political interest).
- Political participation of women at the state level politics(In the legislative assembly or any state-level politics).
- Political participation of women at the local level in the panchayat and the municipalities.

**Constitutional Provisions:**

- Constitution has provided equal opportunities for both men and women in all the spheres including the political area with article 14, article 15, and article 16 of the constitution
- Moreover, Article 325 and 326 guarantees political equality, equal Right to participate in political activities, and the Right to vote, respectively.
- Apart from this, the 73<sup>rd</sup> Constitutional amendment has added article 243(D)(3), which provides reservation to the women.
- It provides reservation to women not less than 1/3<sup>rd</sup> of the total number of seats to be filled by direct elections of the panchayat.
- Due to this, more than 10 lakh women entered the local level politics of the country.
- However, no such reservation is provided at the national level as well as the state level. and hence only 78 women elected to the parliament in the recent Lok Sabha election
- Similarly, in state-level politics, the participation of women is less.

**Need of women in Indian politics:**

- Increasing the women in Indian politics will help in better representation of women's and children's concerns in policymaking.
- Women legislators in India gave a better performance in their constituencies by approx 1.8% per year more than male legislators.
- Even in terms of corruption, efficiency, and motivation, women show better results.
- Male legislators are almost three times as likely as the female legislature to have criminal charges pending against them when they contest the election,
- Even in terms of assets accumulation in office, women do this 10% point lower than men.
- Since economic infrastructure is valuable input, Women politicians are more likely to complete the project. It is based on the performance of MLA in the implementation of Pradhan Mantri Gram Sadak Yojana.
- Despite so many favourable points for women, women make up 14% of the Lok Sabha and 11% of the Rajya sabha.
- Women constitute only 9% of State assembly members and only 5% of the state Council members.

**Reason for less entry of women in Indian politics**

- Low status in society: Women are treated as a second class citizen, and patriarchal society often think that women are only for domestic responsibilities

- The restraining cultural norms
- Poor economic status: Women often face the problem of finance for their participation in the election
- Lesser exposure to education Women are often considered as a liability in some parts of the country and deprived of fundamental rights such as education
- The unhealthy political environment: For instance In this recent #me too movement, a journalist Priya Ramani accused Union Minister of state of external affairs, MJ Akbar of sexual harassment.
- Lack of leadership training: Women's participation is often limited at the low level in the political party, and no leadership training is provided to them.
- Lack of political will: Political parties in India tend not to follow provisions in their constitutions reserving seats for women in different committees
- On the reserved seats, at the local level, political leaders take positions in the name of their wife, and after winning elections, actual power is used by their male counterparts instead of women. (Concept of sarpanch pati raj)

#### **The situation in other countries**

- India ranked 148 in terms of representation of women in executive government and parliament as per the Women in Politics report, 2017 published by Inter-parliamentary union and UN women
- Rwanda has the maximum participation of women in the parliament, where women have won 61.3% of seats in the lower house.
- Only three countries namely Rwanda, Cuba, and Bolivia have more than 50% participation
- Globally, there are 27 countries in which women have less than 10% of parliamentarians in the single or lower house. Three states have no women at all in the parliament
- Nordic countries have 42.5%, Americas, 30.6%, Europe excluding Nordic countries 28.6%
- Sub-Saharan Africa has 23.9%, Asia 19.8%, Pacific 16.3%, and Arab states have 19 percent participation

#### **How to enhance such participation**

- Political mentoring: Mentoring and training skill programs prepare women for political work and strengthen their political skills.
- Building women's platform, networks, and pools of potential candidates for their developments
- Training women to raise funds and establish funds raise systems to decrease the obstacle of financial disadvantage.

- Provide opportunities to strengthen elected women's influence and leadership, such as conducting orientation for the newly elected women, networking opportunities, governance skill training.
- Political parties should identify potential women candidates and support them.
- Political parties need to create a conducive and safe environment for women in the political party.
- Political parties create Internal complaints committees and other grievance redressal method so that, women feel safe and have a mechanism for complete redressal of their complaints
- Parliament itself pass women reservation legislation. There are various advantage of women reservation
  - Issues related to women will get much more priority in the parliament and can be resolved easily
  - It can also help in making the atmosphere of the parliament and state assemblies more conducive for debates and discussions
  - Panchayati Raj is a positive example of reservation in the country
- Behaviour change of the society by street plays, natakas or counselling with the cases of women leaders
- Promoting education among women so that women get a fair chance.
- Organizing women youth parliament, which provides a platform for women to develop skills for political participation.
- States such as Andhra Pradesh, Bihar, and 14 others have implemented a 50% reservation of the women in the Panchayati Raj Institutions. Rest states should follow
- The central government, with the consent of the state government, should introduce a constitution amendment bill for the 50% reservation for women in the whole country.

## Conclusion

SDG goal 5 has a target " Ensure women's full and active participation and equal opportunities for leadership at all levels of decision making in political, economic, and public life. That needs to be achieved with the collective efforts of the international community(SDG goal 17- Partnership for the goals.)

## **9 NATIONAL INVESTIGATION AGENCY (NIA) Functions; Vision; Jurisdiction; National Investigating Agency (Amendment) Act, 2019**

National Investigation Agency was constituted under the provisions of the National Investigation Agency Act, 2008 (NIA Act) in the year 2009. It was established after the 2008 Mumbai terror

attacks, popularly known as attacks of 26/11. This attack alarmed the government to have a special and separate agency to deal with the terror-related crimes in the country. National Investigation Agency works as a central counter-terrorism law enforcement agency in the country. NIA's headquarter is situated in New Delhi, with branch offices at Hyderabad, Kolkata, Guwahati, Mumbai, Lucknow, Kochi, Jammu and Raipur.

The National Investigation Agency is headed by a Director-General. He is appointed by the central government. His powers are similar to the powers exercised by a Director-General of Police in respect of the police force in a state. NIA also has a separate cell known as TFFC cell dealing with the matter of fake currency notes and issues of terror funding. National Investigation Agency works under the control of the Ministry of Home Affairs, Government of India. The state government provide all assistance and cooperation to the NIA for investigation of the offences specified under the NIA Act.

#### **Reasons for introducing NIA Bill by Government:**

1. Past few years have seen many attacks apart from attacks on borders and in Naxalite areas. India has been a victim of terrorist attacks and bomb blasts in hinterlands as well as major cities.
2. Many of these incidents have complex linkage both with inter-state and international linkages. These include incidents of smuggling of arms and drugs, circulation of fake Indian currencies and infiltrations from across the borders, etc.
3. Therefore the Government felt the need for establishing an agency at the central level for the investigation of offences related to terrorism and certain other acts which have ramification for the Nation as a whole.
4. Several committees and the Second Administrative Reform Commission have also made recommendations for this.
5. The Government keeping in mind the interest involves had proposed to enact a legislation to make provisions for the establishment of an NIA. These provisions are to be incorporated in the National Investigation Agency Bill, 2008.

#### **Functions:**

- The NIA under the National Investigation Agency Act is mandated to investigate and prosecute offences mentioned under the act. As per its mandate, the NIA collects, collates and analyses counter-terrorism based investigations. It also shares information with sister investigation, intelligence and law enforcement units both at the level of the centre and the State.
- NIA investigate and prosecute offences in respect of the acts specified in the schedule of the National Investigation Agency Act. These include offences affecting Sovereignty, Unity and Integrity of India and Security of State etc.

- It also functions as a body which provides assistance to and seeks assistance from other intelligence and investigation agencies.
- It has the power to take other such measures which may be necessary for speedy and effective implementation of the provision of the NIA Act.

#### **Vision:**

1. It aims to be a professional investigation agency matching the best international standards.
2. It aims to create deterrence for existing and potential terrorist groups in the country.
3. It aims to set some standards of excellence in counter-terrorism and other National security-related questions, by the way of creating a highly trained and partnership-oriented workforce.
4. It also aims to create a repository of all terrorist-related information.

#### **Jurisdiction:**

It involves concurrent powers along with other investigating agencies to investigate and prosecute the offences affecting the Sovereignty, Security and integrity of India, the security of the state , friendly relations with foreign states and offences under various acts enacted to implement international treaties.

NIA is empowered to investigate terror attacks, bomb blasts, hijacking, attacks on nuclear installations and use of weapons of mass destruction. With the NIA (Amendment) Act,2019 the jurisdiction of NIA has increased.

#### **Mission of NIA as established by the National Investigation Agency Act is as follows:**

- Use of latest technology and scientific methods for accurate and minute investigation of the offences. To set up standards so that all case entrusted with the NIA are detected surely.
- To ensure speedy and fair trials.
- To create a professional workforce with regular training in best practices around the world.
- To create a professional and result oriented organisation, upholding the Constitution of India and laws of the land, giving prime importance to universal human rights and dignity of the individual.
- Building a vast database of information regarding individual terrorists and terrorist organisations, In order to share it with state and other investigating agencies.
- Displaying scientific temper while performing the duties assigned to them under the act.

- Maintaining cordial relations with the government of states and union territories.
- Studying and analysing laws related to terrorism in other countries and as well as evaluating the laws in India.
- Winning the confidence of the citizens of India by the way of selfless and fearless working.

#### **National Investigating Agency (Amendment) Act, 2019:**

1. It provides that Officers of the NIA shall have similar powers, privileges and liabilities as being exercised by the police officers in connection with the investigation of offences not only in India but outside India also.
2. It is also empowered to probe the offences relating to human trafficking, counterfeit currency, cyber terrorism, manufacturing and sale of prohibited arms and explosive substances.
3. It enhances the provision of the Act to persons who commit a scheduled offence beyond India against any Citizen of India or affecting the interest of India.
4. It empowers the central government, to direct the NIA to register the case with respect to a scheduled offence committed outside India.
5. It provides for the central as well as state government to designate Session Courts as Special courts for conducting the trial of offences under the NIA Act.

## **10 ELECTRONIC VOTING MACHINE (EVM) CONTROVERSY**

**Context:** The allegations of malfunctioning of Electronic Voting Machines (EVMs) by the opposition parties in the multiple State Elections as well as the two General Elections of 2014 and 2019 have raised questions over the credibility of the machines. The alleged tampering has the potential to wreak havoc in the democratic setup of the country. However, the Election Commission on multiple occasions has rejected these allegations and reassured the electorate against any such mischief regarding the EVMs.

#### **EVM Technology**

- EVMs are simple and **isolated** machines which provide the voter with a button of every choice corresponding to the candidate. It is linked by a cable to an electronic ballot box.
- EVMs are powered by a 6-volt single alkaline battery and thus can be used in remote areas with no electricity as well.
- EVMs are **not connected internally or externally to any internet** or any communication device which makes it difficult to hack from remote operations.



## **EVMs in India**

Globally only about 25 countries have tested or are using the EVM technology in their electoral process. The EVMs in countries like the **USA** are connected to a server and operated using the Internet. This makes it prone to hacking and manipulation (as alleged Russian role in US Presidential Elections). Similarly, in **Germany**, the EVMs were found with several issues as they were imported from a private company from the Netherlands and held unconstitutional by their courts on various accounts. **Brazil** and **Venezuela** have been using their model of EVMs successfully.

India has successfully incorporated the EVMs into its electoral process with the aim to reduce problems associated with ballot paper voting and create a clean voting environment. The Election Commission mooted the idea of EVM in 1977. M B Haneefa invented the first model of the Indian voting machine in 1980 which was used in 1981 by-election in Kerala. In 1989, EVMs were commissioned by Election Commission of India in collaboration with Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL).

Parliament amended the law in 1988 and a new section 61A was added to Representation of the People Act (RPA), 1951 which empowered the Commission to use voting machines. The Central Government appointed the Electoral Reforms Committee in January 1990 consisting of a representative of several recognized National and State Parties.

The Electoral Reforms Committee further constituted a technical Expert Committee for the evaluation of the EVMs. The Committee concluded that the EVM is a secure system. Thus, the expert committee recommended the use of electronic voting machines without further loss of time in April 1990. Since 2000, EVMs have been used in over 100 State Assembly Elections and 4 Lok Sabha elections held in 2004, 2009, 2014 and 2019.

## **From Ballot to Machine**

- Booth capturing or Ballot Box capturing was rampant in many places where the power politics came into play with the use of local goons.
- Forcibly casting false votes by party workers.
- A high proportion of invalid votes such as improper stamping on the ballots.
- Huge time and operational cost of the paper ballot system.

Studies show that EVMs have considerably reduced electoral fraud and made rigging nearly impossible.

## Should India Switch to Paper Ballots Again?

Since their debut, these machines have been targeted by all the political parties especially the losing side. The allegations that EVMs can tamper easily where the vote of one political party or candidate can be transferred to another. Or, that no matter the choice of the voter, the vote will be cast to a particular party or candidate. Technical glitches such as sudden stopping of the machine have been alleged as mischief by some parties.

**Transparency, Verifiability** and **Secrecy** of the voting process are the pillars of **free and fair elections** in a democratic setup. These are ensured by the paper ballots where the voter can confirm her casted vote and that too in secrecy. These very pillars are said to be shaken by the malfunctioning EVMs.

The doubt over the transparency and integrity of EVMs has been raised in technologically advanced countries as well. These include Germany, USA and Italy among many others and some have even held the use of EVMs as unconstitutional and therefore banned them in their countries.

Election Commission of India, however, swear by the un-hackability of the EVMs and had even thrown an open challenge to all political parties and other professionals to tamper the machine.

## The EVM Test

- EVMs are carefully selected and secured by the Election Commission to ensure that the machines record the actual vote. The testing of the EVMs is done in the presence of all political party representatives. Faulty machines are removed. The EVMs are then sent to different constituencies randomly such as to foil any rigging possibility.
- As a **dry run**, the EVMs are then retested in the presence of party representatives after which they sign a certificate of satisfaction. Before being finally delivered to polling booths, EVMs have sealed with a unique security number again in the presence of all the party representatives.
- After the elections, the EVMs are immediately despatched to the custody of the Returning Officer which may be SDM or DC (or any other who has been accorded magistracy powers).
- Now, the Election Commission has assured that in future VVPAT would be provided with the EVMs so the voter can see the vote she casts.

## Is EVM Tampering Possible?

- The EVMs are electronically designed in such a way as to prevent any manipulation. The software in the machines is burnt into a One Time Programmable (OTP) chip so that it cannot tamper.

- This software is developed indigenously by BEL and ECIL engineers independently. No private contracts are given to design the software.
- The testing and evaluation of the software are done by independent testing groups only.
- The code is burnt into the microcontrollers. The code is kept secret and not given to anyone outside the designer engineers group in the PSU.
- The software code is designed as per the requirements of the voting process. The software allows a voter to cast the vote only once. The vote can be recorded by an elector from the ballot unit only after the Presiding Officer enables the ballot on the Control Unit. The machine does not receive any signal from outside at any time. The next vote can be recorded only after the Presiding Officer enables the ballot on the Control Unit. In between, the machine becomes dead to any signal from outside (except the Control Unit.)
- The EVM samples are regularly checked by the Quality Assurance Group within the PSUs.
- In 2006, The Technical Evaluation Committee had concluded that any tampering of Control Unit by coded signals by wireless or Bluetooth/WiFi or any remote location is not possible as the Control Unit does not have a high-frequency receiver and data decoder. The Control Unit accepts an only special encrypted date from Ballot Unit.
- Data from any outside source is not accepted by the Control Unit.

This system makes the EVM effectively hack-proof. However, the allegations and claims continue. Therefore, the Election Commission of India has proposed the use of **Voter Verifiable Paper Audit Trail (VVPAT)** with the EVMs.

### How will VVPAT help?

It is claimed that the **EVMs are neither transparent and nor verifiable**. That is, once the vote had been cast, the voter cannot see her vote being recorded and cannot verify that the vote had been recorded correctly. The EVM record only the total number of votes. It is alleged that by tampering the machines, it is possible to game the system where the vote cast would be different than the vote recorded.

In its response, the **Voter Verifiable Paper Audit Trail (VVPAT)** was introduced by the Election Commission of India. It is an attached printer with the EVM that provides a paper trail for voters which she has 7 seconds to see. The paper with the **poll symbol** and **name of candidate** then drops into the box. This helps in verification of the vote cast.

VVPAT machines can be accessed only by polling officers.

*However, VVPAT resolves only the verification part of the voting. The counting part of the votes is still opaque.* The counting and verification of all the VVPAT will be a logistical challenge as well.

The secrecy of the voting process might also be compromised. With VVPAT papers, there is a *risk of capturing voting patterns* in a particular constituency. It would render the marginalised communities vulnerable. A totaliser machine was proposed to address this issue. The totaliser

machine mixes the votes from 14 booths and counts them together to protect the voters by maintaining their secrecy.

### **Malfunctioning VVPATs**

The VVPATs have reportedly malfunctioned in several Lok Sabha and State Assembly constituencies. The malfunction was blamed on excessive hot weather and exposure to light which damaged the sensors of the machine. The excuse of the inexperience of the staff with the VVPAT machines is also provided.

VVPAT machines are still not ubiquitous and their procurement has been delayed due to delay in sanctioning of funds from the Union Government.

### **Way Forward.**

EVMs are the key to elections in India. Free and fair elections are Sine qua non for a functional democracy. Any aspersions cast on the election process must be immediately quelled to maintain the confidence of the citizens upon the system of the state. In this regard, the best manner of the voting process is to be decided upon by all the stakeholders which include all political parties, Election Commission, and the people.

Some measures concerning the EVMs which will strengthen their use in elections in India and create a malign free election environment are:

- Frequent public hackathons of the EVM machines to build people's faith in the machines.
- Immediate correction of any malfunctioning when found.
- VVPAT to be attached with every EVM in the polling booth as soon as possible.

Improve the EVM and VVPAT technology to work in extreme temperatures to prevent any misbehaving.