Quick Revision Material

AKS IAS®

Foundation For Competitive Exams

INDIAN POLITY

QRM



www.aksias.com

info@aksias.com

8448449709

Follow US :

FOREWARD

Dear Aspirants,

Every one of our student aims to get their dream job and seeks the right tools that helps them complete their career defining tests. We aim to be one of the main tool to help an aspirant become the one they aspire to be. AKS IAS thrives to be the best step a student takes towards his/her goal and we do achieve it nearly every time. Our publishing unit is one of the essential means to serve our intentions through AKS IAS Material and various imprinted and forthcoming titles.

This Exclusive book has been prepared and compiled keeping in mind the needs of those, who are looking for a focused and intensive approach, who wish to streamline their preparation strategy for the various competitive examinations.

AKS IAS Academy's - committed team has prepared this book following certain norms to ensure non-partisan treatment of the subject, a dedicated effort to help you prepare best to crack the Examinations. Explaining each and every detail required. This all-inclusive volume will facilitate the aspirants to amass a complete and detailed understanding of the concerned subject.

We wish you the best for your Test preparation!

M.S.Shashank
Founder & CEO
AKS IAS Academy

AKS IAS®
Foundation For Competitive Exams
UPSC / IAS Prelims Cum Mains
ENGLISH MEDIUM
Integrated Foundation Course
Online| Live |Offline
www.aksias.com 8955177997 / 8448449709

INDEX

HISTORICAL BACKGROUND 3
MAKING OF CONSTITUTION 6
SALIENT FEATURES OF CONSTITUTION 7
Sources of the Constitution at a Glance 7
PREAMBLE OF CONSTITUTION 8
UNION AND ITS TERRITORY 10
CITIZENSHIP 12
FUNDAMENTAL RIGHTS (PART III; ART. 12-35) 15
DIRECTIVE PRINCIPLE OF STATE POLICY (Part IV ;Art. 36-51) 22
AMENDMENT OF THE CONSTITUTION 23
BASIC STRUCTURE OF THE CONSTITUTION 28
PARLIAMENTARY SYSTEM- FEATURES 28
CENTER-STATE RELATIONS 29
INTER-STATE RELATIONS 31
ZONALCOUNCILS:(StatutoryBody) 32
EMERGENCY PROVISIONS 32
VICE PRESIDENT 36
PRIME MINISTER AND CHIEF MINISTER 36
COUNCIL OF MINISTERS 37
PARLIAMENT (PART V; ART.79 TO 122) 37
STATE LEGISLATURE (PART VI; ART.168-212) 44
PARLIAMENTARY GROUP 46
SUPREME COURT AND HIGH COURT 46
JUDICIAL REVIEW 50
PART-V LOCAL GOVERNMENT PANCHAYATI RAJ (PART IX; 11TH SCHEDULE) 52
MUNICIPALITIES (PART IX-A; 12TH SCHEDULE) 54
CONSTITUTIONAL BODIES 56
NON CONSTITUTIONAL BODIES 58
MISCELLANEOUS 63
INDIAN CONSTITUTION PARTS AND SCHEDULES 64



HISTORICAL BACKGROUND

Regulating Act of 1773

1) First step taken by the British Government **to control and regulate the affairs of the East India** Company in India (laid the foundations of central administration in India).
2) It designated the **Governor of Bengal as the Governor-General of Bengal' (GGB).** The first such Governor General was Lord Warren Hastings.
3) It provided for the establishment of a **Supreme Court at Calcutta (1774**) (with Original and Appellate jurisdiction) comprising one chief justice and three other judges. (UPSC PRE)
4) **Bombay and Madras presidencies** were made **subordinate**

Amending Act, 1781

1) To rectify the defects of the Regulating Act of 1773, the British Parliament passed the Amending Act of 1781, also known as the **Act of Settlement or Declaratory Act, 1781.**
2) It **exempted the Governor-General and the Council from the jurisdiction of the Supreme Court** for the acts done by them in their official capacity and also exempted the servants of the company from the jurisdiction of the Supreme Court for their official actions.
3) It **excluded the revenue matters and the matters arising in the collection of revenue** from the jurisdiction of the Supreme Court.
4) It provided that the **Supreme Court was to have jurisdiction over all the inhabitants of Calcutta**. It also required the court to administer the personal law of the defendants i.e., Hindus were to be tried according to the Hindu law and Muslims were to be tried according to the **Mohammedan law**.
5) It laid down that the appeals from the **Provincial Courts could be taken to the Governor-General-in-Council** and not to the Supreme Court. It empowered the Governor-General-in Council to frame regulations for the Provincial Courts and Councils.

Pitt's India Act, 1784

1) Indian affairs came under direct control of the British Government in Britain. **Distinguished between the commercial and political functions of the Company.**
2) Allowed the **Court of Directors(CoD)** to manage the commercial affairs and created a new body called **Board of Control(BoC)** (**6 members**) to manage the political affairs- to supervise and direct all operations of the civil and military government or revenues of the British possessions in India Thus, it established a system of dual government**.**

Act of 1786

1) **Lord Cornwallis** was appointed as the Governor-General of Bengal. He placed two demands to accept that post, viz., 1. He should be given power to **override the decision of his council** in special cases.
2) He would also be the **Commander-in-Chief**. Accordingly, the Act of 1786 was enacted to make both the provisions.

Charter Act 1793

1) It extended the **overriding power given to Lord Cornwallis over his council,** to all future Governor-Generals and Governors of Presidencies. It gave the Governor-General more powers and control over subordinate Presidencies of Bombay and Madras.
2) It extended **the trade monopoly of the Company in India for another period of 20 years**.
3) It provided that the Commander-in-Chief was not to be a member of the **Governor-General's council, unless he was so appointed**.
4) It laid down that the members of the Board of Control and their staff were, henceforth, **to be paid out of the Indian revenues.**

Charter Act, 1813

1) **It ended the monopoly of the EIC in India except company's monopoly in "trade with china" and "trade in tea with India".** Thus, trade with India for all commodities except tea was thrown open to all British subjects. This lasted till 1833 when the next charter abolished the trade of the company.
2) It asserted the sovereignty of the British Crown over the Company's territories in India. (Constitutional position of British territories in India explicitly defined for first time) (UPSC PRE 2019)
3) It allowed the **Christian missionaries to come to India for the purpose of enlightening the people**.

	4) It provided for the spread of western education among the inhabitants of the British territories in India. **(1 Lakh rupee for education in native India)**UPSC PRE 2018 5) It authorized the Local Governments in India to impose taxes on persons. They could also punish the persons for not paying taxes.
Charter Act, 1833 1) **Final step towards Centralization**. 2) Governor General of Bengal became the Governor General of India (Lord William Bentinck was the first governor-general of India). The Governor General was vested with all civil and military powers. 3) It deprived the Governor's of Bombay and Madras of their legislative powers. 4) **The laws made under the previous acts were known as Regulations, while the laws made under this act.** It ended the activities of the EIC as a commercial body, making it a purely administrative body. **5)** Introduced law member (Macaulay) in Governor General's Council. 6) Provision **for open competition** negated by this act 7) Restrictions on immigration of Europeans and acquire property were lifted 8) Indians law codified and consolidated 9) No Indian denied employment under company on the basis of religion, color 10) Abolished Slavery	**Charter Act, 1853** 1) Separated the legislative and executive functions of the Governor General's council. (Separation of powers) 2) **Provided for addition of six new members** called legislative councillors to the council known as the Indian (Central) Legislative Council. 3) It introduced, for the first time, local representation in the Indian (Central) Legislative Council. 4) **Introduced an open competition for civil services.** The covenant civil service was thus thrown open to the Indians also. **5)** Governor General could veto bill
Government of India Act, 1858 1) **Also known as the Act for the Good Government of India.** **2) Rule of company was replaced by the Rule of crown.** 3) **Changed the designation of the Governor-General of India to that of Viceroy of India.** Viceroy became the agent of the crown. 4) This act abolished the dual government of the Pitt's India Act. 5) **This act also ended the doctrine of lapse**. **6)** The **Secretary of State** was a member of the British cabinet and was ultimately responsible to the British Parliament. **Established a 15-member Council of India to assist the Secretary of State for India.** **7)** Secretary of state can be sued in India and in England	
Indian Councils Act, 1861 1) Initiated the process of decentralization by **restoring legislative powers to Bombay and Madras.** (These powers were taken away through Charter Act 1833). 2) Introduced representative institutions in India by associating Indians with the law-making process. **3) Viceroy nominated some Indians as non-official members of his expanded council**. Three Indians	**Indian Councils Act, 1892** **1)** Though the majority of official members were retained, the non-official members of the Indian Legislative Council were henceforth to be nominated by the Bengal Chamber of Commerce and the **Provincial Legislative Councils, while The non-official members of the Provincial Council were to be nominated by certain local bodies - such as universities, district boards and**

nominated were —the Raja of Banaras, the Maharaja of Patiala, and Sir Dinkar Rao.
4) It empowered the **Viceroy to issue ordinances during Emergency**.
5) Empowered the Viceroy to frame the Rules of Business (the same power is given to the President of India under Art 77).
6) New legislative councils for Bengal, NWFP, Punjab
7) Statutory recognition to **portfolio system**(introduced by Lord Canning) UPSC PRE

Indian Councils Act, 1909(Morley-Minto Reforms)

1) Introduced for the first time, an element of elections to the Legislative Councils; At the Provincial Legislative Councils, non-official members to be in majority;
2) Introduction **of separate electorates (for Muslims**).
3) Representation in excess of population accorded to Muslims
4) Income qualification Low for Muslim Voters
5) It provided for the first time, association of Indians with the Executive Councils of the Viceroy and Governors. (Satyendra Prasad Sinha became the first Indian to join the **Viceroy's Executive Council.** He was appointed as the law member).

municipalities. Beginning of representative system in India. (indirect Elections)
2) Council to have **the power to discuss budget** and of addressing questions to the Executive.

Government of India Act, 1919 (Montague-Chelmsford Reforms)

1) Responsible Government
2) Office of the High Commissioner of India was created in London
3) Indian Legislature became "bicameral" for the first time (Center)
4) Communal representation extended to Sikhs,christain,Anglo-Indian,Muslims
5) Secretary of State for India now to be paid from British revenue
6) Diarchy in provinces Transferred subjects- (Governor with ministers Responsible) Reserved subjects- Governor with Executives
7) Devolution of Legislative Authority by center to provinces- separating Central and provincial Subjects (UPSC PRE 2012)

Government of India Act, 1935

1) Provided for the establishment of an **All-India Federation** consisting of provinces and princely states as units. (Note: Princely States did not join and so Federation didn't come into existence)
2) Residuary powers were given to the Viceroy (Governor General) UPSC 2018
3) **Abolished dyarchy** in the provinces and introduced 'provincial autonomy' in its place. (UPSC PRE 2000)
4) **Introduced responsible** government in provinces.
5) Introduced Bicameralism in six out of eleven provinces.
6) Extended the principle **of communal representation** by providing separate electorates for depressed classes (scheduled castes), women and labor (workers). (1909 – **Only for Muslims, 1919 – extended for Sikhs, Indian Christians, Anglo-Indians and Europeans.)**
7) Abolished the Council of India, established by the Government of India Act of 1858.
8) The Secretary of State for India was provided with a team of advisors.
9) **Established the Reserve Bank of India** to control the currency and credit of the country.
10) **Established the Federal Public Service Commission**, Provincial Public Service Commission and Joint Public Service Commission for two or more provinces.
11) **Federal Court**, which was set up in 1937.

Indian Independence Act, 1947 20 Feb, 1947 Atlee declared British rule end by 30 June,1948; (3 June 1947 Mountbatten Plan accepted)

1) Declared India as an independent and sovereign state from August 15, 1947.
2) Provided for creation of two independent dominions of India and Pakistan with the right to secede from the British Commonwealth. (Governor General of each were to be appointed by King, the on advice of the Dominion Cabinet)
3) Empowered the Constituent Assemblies of the two dominions to frame and adopt any constitution and to repeal any act of the British Parliament, including the Independence act itself.
4) **Abolished the office of the secretary** of state for India and transferred his functions to the secretary of state for Commonwealth Affairs. It assigned dual functions (i.e. constituent and legislative) to the Constituent Assembly formed in 1946.
5) It declared this dominion legislature as a sovereign body. **Granted freedom to the Indian princely states either to join the Dominion of India or Dominion of Pakistan or to remain independent**.

MAKING OF CONSTITUTION

- 1934- **Idea of a Constituent Assembly** for India was put forward for the **first time by M.N. Roy,** a pioneer of **communist movement** in India.
- **1935- the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India.**
- 1938- Nehru declared constitution must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise.
- **1940- August Offer**; demand for constitution accepted.
- **1942- Sir Stafford Cripps**, a Member of the Cabinet**, came to India with a draft proposal** of the British Government on the **framing of an independent Constitution** to be adopted after the World War II (Proposal rejected by Muslim league)
- 1946-Constituent Assembly was constituted in November 1946 under the scheme formulated by the Cabinet Mission Plan
- **The Constituent Assembly was to be a partly elected and partly nominated body**. Moreover, the members were to be indirectly elected by the members of the provincial assemblies, who themselves were elected on a limited franchise. (UPSC PRE 2013)
- **Assembly comprised** representatives of all sections of **the Indian society– Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs including women of all these sections.**
- **9 dec,1946 – 1st meeting** of assembly; Muslim League boycotted the meeting; Schindra Sinha made temporary president (French practice)
- **11 Dec, 1946- Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly**
- **13 Dec, 1946- Jawaharlal Nehru moved the historic 'Objectives Resolution'** (philosophy of constitution structure) in the Assembly
- **22 Jan,1947**- Resolution adopted
- **3 June, 1947**- Mountbatten Plan
- **Indian Independence Act of 1947-Assembly was made a fully sovereign** body; Assembly also became a legislative body; the Assembly became the first Parliament of free India (Dominion Legislature)
- **Whenever the Assembly met as the Constituent body it was chaired by Dr. Rajendra Prasad and when it met as the legislative body, it was chaired by G.V. Mavlankar. These two functions continued till November 26, 1949**
- **Constituent Assembly also performed the following functions**:
  1. It ratified India's **membership of the Commonwealth** in **May 1949**.
  2. It adopted the **National flag** on **July 22, 1947.**
  3. It adopted the **National anthem** on **January 24, 1950**.
  4. It adopted the **National song** on **January 24, 1950**.
  5. It elected **Dr. Rajendra Prasad** as **the first President** of India on **January 24, 1950**
- **The Constitution as adopted on November 26, 1949, contained a Preamble, 22 PARTS, 395 Articles and 8 Schedules**. The Preamble was enacted after the entire Constitution was already enacted
- Some provisions of the Constitution pertaining to citizenship, elections, provisional parliament, temporary and transitional provisions, and short title contained in **Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393** came into force on November 26, 1949, itself
- **MAJOR COMMITTEES Drafting committee-**
  - **Steering Committee- Rajendra Prasad**
  - **Union Powers Committee - Jawaharlal Nehru Union**
  - **Constitution Committee -Jawaharlal Nehru**
  - **Provincial Constitution Committee - Sardar Patel**
  - **Drafting Committee - BR Ambedkar**
- **Drafting Committee** set up on August 29, 1947
- It consisted **of seven members.** They were:
  1. **Dr. B.R. Ambedkar (Chairman)**
  2. N. Gopalaswamy Ayyangar
  3. Alladi Krishnaswamy Ayyar
  4. Dr. K.M. Munshi 5. Syed Mohammad Saadullah
  5. N. Madhava Rau (He replaced B.L. Mitter who resigned due to ill-health)
  6. T.T. Krishnamachari (He replaced D.P. Khaitan who died in 1948)

SALIENT FEATURES OF CONSTITUTION

1) Lengthiest Written Constitution	Originally (1949), the Constitution contained a Preamble, **395 Articles (divided into 22 Parts**) **and 8 Schedules**
2) Drawn From Various Sources	The Constitution of India has **borrowed** most of its provisions from the Constitutions of **various other countries** as well as from the **Government of India Act of 1935**.
3) Blend of Rigidity and Flexibility	A rigid Constitution is one that requires a special procedure for its amendment, as for example, the American Constitution. A flexible constitution, on the other hand, is one that can be amended in the same manner as the ordinary laws are made, as for example, the British Constitution. **The Constitution of India is neither rigid nor flexible, but a synthesis of both.**
4) Federal System with Unitary Bias	(Art.1 Defines Union of States and not Federation of States)-usual features of a federation, viz., two governments, division of powers,written Constitution, supremacy of Constitution, rigidity of Constitution, independent judiciary and bicameralism. unitary or non-federal features, viz., a **strong Center**, **single Constitution, single citizenship,** flexibility of Constitution, integrated **judiciary, appointment of state governor by the Center**, **all-India services,Emergency provisions**
5) Parliamentary Form of Government (EXECUTIVES REMAIN RESPONSIBLE TO LEGISLATURE) UPSC PRE 2017	The parliamentary system is also known as the '**Westminster' Model of Government,** r**esponsible Government and Cabinet Government**. Even though the **Indian parliamentary system is largely based on the British pattern,** there are **some fundamental differences between the two**. For example, the Indian Parliament is not a sovereign body like the British Parliament. Further, the Indian State has an elected head (republic) while the British State has hereditary head (monarchy).
6) Synthesis of Parliamentary Sovereignty and Judicial Supremacy	**Doctrine of sovereignty of Parliament** is associated with the British Parliament, **while the principle of judicial supremacy with that of the American Supreme Court.**
7) Integrated and Independent Judiciary	**Single system of courts enforces both the central laws as well as the state laws**, unlike in USA, where the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary.
8) Single Citizenship	Though the Indian Constitution is federal and envisages a dual polity (Center and states), **it provides for only a single citizenship, that is, the Indian citizenship**

Sources of the Constitution at a Glance

1) Government of India Act of1935	Federal Scheme, **Office of governor**, Judiciary, Public Service Commissions**, Emergency provisions** and administrative details. Distribution Of Powers Between Center And States In Indian Constitution

2) British Constitution	**Parliamentary government**, Rule of Law, legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges and **bicameralism.**
3) US Constitution	Fundamental rights, independence of judiciary, judicial review, **impeachment of the president**, **removal of Supreme Court and high court judges and post of vice president.**
4) Irish Constitution	**Directive Principles of State** Policy, nomination of members to Rajya Sabha and method of election of president
5) Canadian Constitution	Federation with a strong Center, vesting of residuary powers in the Center, **appointment of state governors by the Center**, and advisory jurisdiction of the Supreme Court.
6) Australian Constitution	Concurrent List, freedom of trade, commerce and inter-course and joint sitting of the two Houses of Parliament.
7) Weimar Constitution of Germany	**Suspension of Fundamental Rights during Emergency**.
8) Soviet Constitution (USSR, now Russia)	**Fundamental duties** and the ideal of justice (social, economic and political) in the Preamble.
9) French Constitution	Republic and the ideals of **liberty, equality and fraternity in the Preamble**
10) South African	Constitution Procedure for **amendment** of the Constitution and election of members of Rajya Sabha.
11) Japanese Constitution	**Procedure established by Law**.

PREAMBLE OF CONSTITUTION

- American Constitution was the first to begin with a Preamble
- **Preamble to the Indian Constitution is based on the 'Objectives Resolution', drafted and moved by Pandit Nehru,** and adopted by the Constituent Assembly
- **Preamble reflects mind of constitution makers** (UPSC PRE 2017)
- It has been amended by the 42nd Constitutional Amendment Act (1976), which added three new words– Socialist, Secular and Integrity.

KEY WORDS IN THE PREAMBLE

Sovereign	'sovereign' implies that India is neither a dependency nor a dominion of any other nation, but an independent **state- free to conduct its own affairs** (both internal and external)
Socialist	• Congress party itself adopted a resolution to establish a '**socialistic pattern of society'** in its Avadi session • **Indian brand of socialism is a 'democratic socialism' and not a 'communistic socialism' (also known as 'state socialism')** • Democratic socialism- holds faith in a **'mixed economy**' where both public and private sectors co-exist side by side • Indian socialism is a **blend of Marxism and Gandhism**, leaning heavily towards the Gandhian socialism(stateless society)- UPSC PRE2020
Secular	• added by the **42nd Constitutional Amendment Act** of 1976

	• **positive concept** of secularism i.e**, all religions in our country (irrespective of their strength) have the same status and support from the state**
Democratic	• **doctrine of popular sovereignty**, **that is, possession of supreme power by the people (it calls into activity the intelligence and character of ordinary man and women) UPSC 2017** • **Direct democracy**, the people exercise their supreme power directly as is the case in **Switzerland- four devices of direct democracy, namely, Referendum, Initiative, Recall and Plebiscite** • **Referendum** is a procedure whereby a proposed legislation is referred to the **electorate for settlement by their direct votes**. Initiative is a method by means of which the people can propose a bill to the legislature for enactment. **Recall is** a **method by which the voters can remove a representative or an officer before the expiry of h**is **term, when he fails to discharge his duties properly. Plebiscite is a method of obtaining the opinion of people on any issue of public i mportanc**e. It is generally used to solve territorial disputes. • **Indirect democracy**, **on the other hand, the representatives elected by the people exercise the supreme power and thus carry on the government and make the laws FOR EG. INDIA** • The principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy
Republic	• **the head of the state is always elected directly or indirectly for a fixed period, e.g., USA** • **India has an elected head called the president.** He is elected indirectly for a fixed period of five years • **A republic also means** two more things: vesting of **political sovereignty in the people and not in king; second, the absence of any privileged class** and hence all public offices being **opened to every citizen without any discrimination.**
Justice	• The ideal of justice**–social, economic and political**–has been taken from **the Russian Revolution (1917).**
Liberty	• **'liberty' means the absence of restraints on the activities of individuals, and at the same time, providing opportunities for the development of individual personalities (UPSC 2019)** • **The Preamble secures to all citizens of India liberty of thought, expression, belief, faith and worship (UPSC PRE 2017)**
Equality	• **absence of special privileges** to any section of the society, and the **provision of adequate opportunities** for all individuals without any discrimination

Fraternity	• **Sense of brotherhood-** to assure two things– the dignity of the individual and the unity and integrity of the nation • **word 'integrity' has been added to the preamble by the 42nd Constitutional Amendment (1976)**

PREAMBLE AS PART OF THE CONSTITUTION

Berubari Union case(1960)	Supreme Court specifically opined that **Preamble is not a part of the Constitution.**
Kesavananda Bharati case (1973)	the Supreme Court again held that the **Preamble is an integral part of the Constitution**
STATUS OFPREAMBLE	• Like any other part of the Constitution, the Preamble was also enacted by the Constituent Assembly; but, after the rest of the Constitution was already enacted (INDEPENDENT) • **The Preamble is neither a source of power to legislature nor aprohibition upon the powers of legislature** • **It is non-justiciable, that is, its provisions are not enforceable in courts of law. (UPSC PRE 2020)**

AMENDABILITY OF THE PREAMBLE

- **Preamble can be amended**, subject to the condition that no amendment is done to the 'basic features'- the fundamental features of the Constitution as contained in the **Preamble cannot be altered by an amendment under Article 368**
- **Preamble has been amended only once so far**, in 1976, by **the 42nd Constitutional Amendment Act**, which has added three new words–**Socialist, Secular and Integrity–to the Preamble**.

UNION AND ITS TERRITORY

UNION OF STATES

- **Article 1 describes India, that is, Bharat as a 'Union of States' rather than a 'Federation of States'**
- **First schedule** of Constitution lists **the names of states and their territories**
- phrase **'Union of States'** has been preferred to **'Federation of States'** for **two reasons**: **one, the Indian Federation is not the result of an agreement among the states like the American Federation; and two, the states have no right to secede from the federation.(INDIAN FEDERALISM- UPSC PRE 2017)**
- **According to Article 1, the territory of India can be classified into three categories: 1. Territories of the states 2. Union territories 3. Territories that may be acquired by the Government of India at any time.**
- **Names of states and union territories and their territorial extent** are mentioned in the **first schedule** of the Constitution.
- **Article 1**: Describes India, **that is, Bharat as a 'Union of States'** rather than a '**Federation of States'**. This provision **deals with two things: one, name of the country; and two, type of polity.**
- **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. The first refers to the **admission** of states which are already in existence, while the second refers to the establishment of states which were not in existence before.
- **Article 3**:Parliament to:
  (a) form a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state;
  (b) increase the area of any state;
  (c) diminish the area of any state;
  (d) alter the boundaries of any state; and
  (e) alter the name of any state
- above changes can be **introduced in the Parliament only with the prior recommendation of the President**

- President has to refer the same to the state legislature concerned for expressing its views within a **specified period**
- power of Parliament to form new states includes the power to form a new state or union territory by uniting a part of any state or union territory to any other state or union territory
- **President (or Parliament) is not bound by the views of the state legislature**
- Constitution authorizes the Parliament to form new states or alter the areas, boundaries or names of the existing states without their consent
- **India is rightly described as 'an indestructible union of destructible states'**

Article 4: **Declares that laws made for admission or establishment of new states (**under Article 2) and formation of new states and alteration of areas, boundaries or names of existing states (**under Articles 3**) are **not to be considered as amendments of the Constitution under Article 368**

- **such laws can be passed by a simple majority and by the ordinary legislative process**

Dhar Commission

- **For reorganization of states on linguistic basis**. Accordingly, in June 1948, **the Government of India appointed** the **Linguistic Provinces Commission under the chairmanship of S.K. Dhar** to examine the feasibility.
- the **commission submitted its report** in December, 1948, and **recommended the reorganization of states on the basis of administrative convenience rather than linguistic factor.**

JVP Committee

- It consisted **of Jawaharlal Nehru, Vallahbhai Patel and Pattabhi Sitaramayya** and hence, was popularly known as JVP Committee.
- Constituted in December 1948; submitted its report in April, 1949, and **formally rejected language as the basis for reorganization of states**
- However, in October, 1953, **the Government of India was forced to create the first linguistic state, known as Andhra state, by separating the Telugu speaking areas from the Madras state.**

Fazl Ali Commission

- December, 1953 a **three member States Reorganization Commission** under the **chairmanship of Fazl A**li. Its other two members were **K.M. Panikkar and H.N. Kunzru**
- submitted its report in September 1955 and **broadly accepted language as the basis of reorganization of states**
- **it rejected the theory of 'one language-one state'**
- **commission suggested the abolition of the four-fold classification of states and territories.**

States Reorganization Act (1956)- New States and Union Territories Created After 1956

1956	Kerala= Travancore + Cochin + South Canada Andhra Pradesh= Andhra + Hyderabad Madhya Pradesh= Madhya Bharat + Vindhya + Bhopal New UT= Laccadive; Minicoy; Amindivi Islands from the territory detached from the Madras state
1960	Maharashtra and Gujarat Bifurcated
1961	Dadra and Nagar Haveli (10th const. Amd.)
1962	Goa, daman,Diu (12th Const. Amd.) French handover Puducherry (14th Const. Amd.)
1963	Nagaland
1966	Haryana
1971	Himachal Pradesh
1974	Sikkim (36th Amd. Sikkim full fledged State)
1987	Mizoram, Arunachal Pradesh, Goa
2000	Chattisgarh, Uttarakhand, Jharkhand
2014	Telangana
2019	2 union territories J&K ; Ladakh Jammu and Kashmir Reorganization Act, **2019,** bifurcated threstwhile State of Jammu and Kashmir into two separate union territories, **namely, the union territory of Jammu & Kashmir and the union territory of Ladakh**

CITIZENSHIP

RIGHTS ONLY TO CITIZENS	RIGHTS TO ALIENS
• They enjoy all civil and political rights 1. Right against discrimination on grounds of religion, race, caste, sex or place of birth **(Article 15).** 2. Right to equality of opportunity in the matter of public employment (**Article 16).** **3.** Right to freedom of speech and expression, assembly, association, movement, residence and profession (**Article 19).** **4.** Cultural and educational rights (**Articles 29 and 30).** **5.** Right **to vote in elections to the Lok Sabha and state legislative assembly.** 6. Right to **contest for the membership** of the P**arliament** and the **state legislature**. 7. **Eligibility to hold certain public offices**, that is, **President of India, Vice-President** of India, **judges of the Supreme Court** and the high courts, Governor of states, Attorney General of India and Advocate General of states.	• Aliens are the citizens of some other state and hence, do not enjoy all the civil and political rights • **All other rights except Article- 15,16,19,29,30 are enjoyed by Aliens** • **However Enemy aliens do not enjoy protection against arrest and detention (Article 22).** ***Note:** **In India both a citizen by birth as well as a naturalized citizen are eligible for the office of President while in USA, only a citizen by birth and not a naturalized citizen is eligible for the office of President.** **EX:** British citizens staying in India cannot claimright to FREEDOM OF TRADE ANDPROFESSION (UPSC PRE 1999)

CONSTITUTIONAL PROVISIONS: (citizenship from Articles 5 to 11 under Part II)

- I**t only identifies the persons who became citizens of India at its commencement (i.e., on January 26, 1950)**
- neither any permanent nor any elaborate provisions.
- It **does not deal with the problem of acquisition or loss of citizenship** subsequent to its commencement.
- **empowers the Parliament to enact a law on matter relating to citizenship**

Following four categories of persons became the citizens of India at its commencement i.e., on January 26, 1950.

ARTICLE 5	Person who had his domicile in India and also fulfilled any one of the three conditions, viz., 1)if he was born in India; 2)or if either of his **parents was born in India**; 3) or if he has been ordinarily resident in India for **five years immediately before the commencement of the Constitution,** became a citizen of India.
ARTICLE 6	A person **who migrated to India from Pakistan**; if he or either of his parents or any of his grandparents was **born in undivided India** And also fulfill any of **2 conditions** 1) he migrated to India before July 19, 1948 , he had been ordinarily resident in India since the date of his migration. 2) he migrated to India before July 19, 19481 , he had been ordinarily resident in India since the date of his migration (**residence for 6 months before registration)**
ARTICLE 7	**A person who migrated to Pakistan from India after March 1, 1947 returned to India for resettlement**- he

	had to be resident in India for **six months preceding** the **date of his application**
ARTICLE 8	provision covers the overseas Indians who may want to acquire Indian citizenship (persons of Indian origin residing outside India)

CITIZENSHIP ACT, 1955

Acquisition of Citizenship	Loss of Citizenship
(1) **By Birth** • A person **born in India** on or **after January 26, 1950 but before July 1, 1987 is a citizen of India by birth** • born in India on or after July 1, 1987: citizen only if either of his parents is a citizen of India at the time of his birth • born in India on or after December 3, 2004 are considered citizens of India only if both of their parents are citizens of India ***NOTE- children of foreign diplomats posted in India and enemy aliens cannot acquire Indian citizenship by birth** **(2) By Descent** • person **born outside** India on or after January 26, **1950 but before December 10, 1992** is a citizen of India **by descent**, if his father was a citizen of India at the time of his birth • **December 3, 2004 onwards**, a person **born outside** India **shall not be a citizen of India** by **descent**, **unless his birth is registered.** **(3) By Registration** on an application, register as a citizen of India any person (**not being an illegal migrant**) if he belongs- • ordinarily resident in **India for seven years** • person who is **married to a citizen of India** and is **ordinarily resident** in India **for seven years** • registered as an **overseas citizen of India cardholder for five years**, and who is ordinarily resident in India for **twelve months** before making an application for registration **(4) By Naturalization** • on an application, grant a certificate of naturalization to any person (not being an illegal migrant) if he- • **not a subject or citizen of any country** where citizens of India are prevented from becoming subjects or citizens • **he undertakes to renounce the citizenship of Origin country** in the event of his application for Indian citizenship being accepted • resided in India or been in the service of a Government in India • he is of good character • **adequate knowledge of a language specified in the Eighth Schedule** **(5) By Incorporation of Territory**	**1. By Renunciation** • Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship • If such a declaration is **made during a war** in which India is engaged, its **registration shall be withheld** by the Central Government • when a person renounces his Indian citizenship, **every minor child of that person also loses Indian citizenshi**p. However, when such a child attains the age of eighteen, he may resume Indian citizenship. **2. By Termination** • When an **Indian citizen voluntarily** (consciously, knowingly and without duress, undue influence or compulsion) **acquires the citizenship of another country, his Indian citizenship automatically terminates** • **Does not apply during a war** in which India is engaged. **3. By Deprivation** • It is a **compulsory termination of Indian citizenship** by the Central government, if: (a) the citizen has **obtained the citizenship by fraud**: (b) the citizen has shown **disloyalty to the Constitution** of India: (c) the citizen has **unlawfully traded** or communicated with the **enemy during a war**; (d) the citizen has, within **five years after registration or naturalization**, been **imprisoned in any country** for **two years**; and (e) the citizen has been **ordinarily resident out of India for seven years continuously** **OVERSEAS CITIZENSHIP OF INDIA** ○ In September 2000, the Government of India (**Ministry of External Affairs)** had set-up **a High Level Committee** on the **Indian Diaspora** under the Chairmanship **of L.M. Singhvi** ○ It **recommended the amendment** of the Citizenship Act (1955) **to provide for grant of dual citizenship to the Persons of Indian Origin (PIOs) belonging to certain specified countries** ○ **Citizenship (Amendment) Act, 2005, expanded the scope of grant of OCI for PIOs of all countries except Pakistan and Bangladesh** as long as their home countries all dual citizenship under their local laws **(OCI is not actually a dual citizenships as the Indian Constitution forbids dual citizenship or dual**

For example, when Pondicherry became a part of India (6) **Special Provisions as to Citizenship of Persons Covered by the Assam Accord** (which related to the foreigners' issue): • All persons of Indian origin who came to **Assam before the January 1, 1966 from Bangladesh** -Who have been ordinarily residents in Assam since the **date of their entry into Assam shall be deemed to be citizens** • Who came to Assam on **or after January 1, 1966** but before **March 25, 1971** from Bangladesh and who has been ordinarily resident in Assam since the date of his entry into Assam and who has been detected to be a foreigner shall register himself.	**nationality (Article** 9) ○ **The OCI card scheme was introduced on December 2, 2005.** ○ The Citizenship (Amendment) Act, 2015, replaced the nomenclature of **"Overseas Citizen of India" with that of "Overseas Citizen of India Cardholder"(OCIC)**

COMPARING NRI, PIO AND OCI CARDHOLDER

NonResident Indian (NRI)	**Person of Indian Origin(PIO)**	**Overseas citizens of India(OCI)Cardholder**
An **Indian citizen** who is ordinarily residing **outside India and holds an Indian Passport**	A person who or whose any of **ancestors was an Indian national** and who is **presently holding another country's citizenship** / nationality i.e. he/she is holding **foreign passport**	A **Person registered as Overseas Citizen of India (OCI**) Cardholder under the Citizenship Act, 1955
All benefits as available to Indian citizens subject to notifications issued by the Government from time to time **NO VISA REQUIRED**	No specific benefits Activity as per the type of visa obtained	1)Multiple lifelong visa for visiting India for any purpose **(require a special permission to undertake research work in India)**
ALL ACTIVITIES **He/she is an Indian citizen**	As per the Citizenship Act, 1955, he/she has to be **ordinarily resident** in India for a **period of 7 years before making an application for registration**	1)Exemption from registration with Foreigners Regional Registration Officer (FRRO) 2) Parity with Non Resident Indians (NRIs) in **respect of all facilities** available to them in economic, financial, and educational fields except in matters relating to the acquisition of agricultural or plantation properties 3) **treated at par with Non Resident Indians in the matter of inter country adoption of Indian children** 4) treated at par with resident Indian nationals in the matter of tariffs in air fares in domestic sectors in India



FUNDAMENTAL RIGHTS (PART III; ART. 12-35)

- Fundamental Rights are enshrined **in Part III (**described as the Magna Carta of India) of the Constitution from **Articles 12 to 35;** derived inspiration from the Constitution of USA (i.e., Bill of Rights)
- Fundamental Rights are meant for **promoting the ideal of political democracy**
- **protect the liberties and freedoms of the people against the invasion by the State (operate as limitations on the tyranny of the executive and arbitrary laws of the legislature) (UPSC 2017- FR CLAIMS OF CITIZENS AGAINST STATE)**

FEATURES OF FUNDAMENTAL RIGHTS

- **Some of them** are available only to the citizens while others are **available to all persons whether citizens, foreigners or legal persons like corporations or companies**
- They **are not absolute but qualified**. The state can impose **reasonable restrictions** on them
- **All of them are available against the arbitrary action of the state**. Some of them are also against the actions of private individuals.
- **Some of them are negative in character**, that is, place limitations on the authority of the State
- **They are justiciable**
- They are **not sacrosanct or permanent**. The **Parliament can curtail or repeal them but only by a constitutional amendment act and not by an ordinary act**
- They **can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21**. Further, the six rights guaranteed **by Article 19** can be suspended only when emergency is declared on the grounds of war or external aggression
- **Their application can be restricted while martial law is in force in any area.**

DEFINITION OF STATE **(even a private body or an agency working as an instrument of the State falls within the meaning of the 'State' under Article 12)**	• **Article 12** has defined the term for the purposes of Part III • **State includes**- executive and legislative organs of the Union government; executive and legislative organs of state government; All local authorities, that is, **municipalities, panchayats, district boards**, improvement trusts; **All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL, etc**
LAWS INCONSISTENT WITH FUNDAMENTAL RIGHTS	• **Article 13** declares that all laws that are inconsistent with or in derogation of any of the fundamental rights shall be void (**provides for the doctrine of judicial review)** • **Term 'law' in Article 13** : Permanent laws enacted by center and state; temporary ordinance by president; Statutory instruments of delegated legislation (executive legislation) like order; • The Supreme Court held in **the Kesavananda Bharati case (1973)** that a Constitutional amendment can be challenged on the ground that it violates a fundamental right that forms a part of the **'basic structure' of the Constitution and hence, can be declared as void.**

RIGHT TO EQUALITY (ART.14-18)

ARTICLE 14 : **Equality before Law and Equal Protection of Laws**	• **State shall not deny to any person equality before the law or the equal protection of the laws** • **concept of 'equality before law' is of British origin :(Negative Concept)** • It is an element of the concept of '**Rule of Law',** propounded **by A.V. Dicey**, the British jurist • Supreme Court held that the 'Rule of Law' as embodied in **Article 14 is a 'basic feature' of the constitution**

	• British constitution is result of rights of individuals defined by courts and not a source of rights ; In the **Indian System, the constitution is the source of the individual rights** (a) **the absence of any special privileges in favor of any person, (UPSC2017)** (b) the equal subjection of all persons to the ordinary law of the land administered by ordinary law courts, and (c**) no person is above the law** • concept of 'equal protection of laws' has been taken from the American Constitution: (Positive Concept) (a)the **equality of treatment under equal circumstances, both in the privileges conferred and liabilities imposed by the laws**, (b) the similar application of the same laws to all persons (c) the like should be treated alike without any discrimination • **Exceptions to Equality The rule of equality before law is not absolute** : president, member of parliament, member of state legislatures, foreign diplomats who enjoy immunities, protections, and special privileges.
ARTICLE 15: Prohibition of Discrimination on Certain Grounds	• **State shall not discriminate** against any citizen on grounds **only of religion, race, caste, sex or place of birth.** • **word 'only' connotes that discrimination on other grounds is not prohibited** • No citizens shall be prohibited from using general public use properties maintained partly of fully by state fund- **This provision prohibits discrimination both by the State and private individuals** • **EXCEPTIONS** : state is permitted to make any special provision for women and children; socially and **EDUCATIONALLY backward citizens** in education institutes; economically weaker **sections; SC,ST**
ARTICLE 16:Equality of Opportunity in Public Employment	• provides for **equality of opportunity for all citizens** in matters of employment or appointment to any office under the State • **No discrimination** for employment under state on grounds **of only religion, race, caste, sex, descent, place of birth or residence** • **EXCEPTIONS:** 1) **Parliament can prescribe residence as a condition for certain employment or appointment** in a state or union territory or local authority 2) reservation of appointments or posts in favour of any backward class that is not adequately represented 3**) 103rd Amendment Act of 2019**- In order to give effect to this provision, the central government. issued an order (in 2019) providing **10% reservation to the Economically Weaker Sections (EWSs) in**

	civil posts and services in the Government of India
ARTICLE 17:Abolition of Untouchability (UPSC 2020)	• **Article 17 abolishes 'untouchability'** and forbids its practice in any form • The **term 'untouchability' has not been defined either in the Constitution or in the** Act • **Supreme Court held that the right under Article 17 is available against private individuals**
ARTICLE 18:Abolition of Titles	• It **prohibits the state from conferring any title (except a military or academic distinction) on any body, whether a citizen or a foreigner**. • **It prohibits a citizen of India from accepting any title from any foreign state**. • A **foreigner holding** any office of profit or trust under the state cannot accept any title from any foreign state without the consent of the president. • **No citizen or foreigner holding any office of profit** or trust under the State is to accept any present, emolument or office from or under any foreign State without the consent of the president. • **Supreme Court upheld the constitutional validity of the National Awards–Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri**

RIGHT TO FREEDOM (ART 19–22)

ARTICLE19:guarantees to all citizens the six rights	(i) Right to freedom of **speech and expression**. (ii) Right to **assemble peaceably** and without arms. (iii) Right to form **associations** or unions or co-operative societies. (iv) Right to **move freely throughout the territory** of **India.** (v) Right to reside and settle in any part of the territory of India. **(v) Right to practice any profession *NOTE- right to acquire, hold and dispose of property was deleted by the 44th Amendment Act of 1978.** • **(State can impose 'reasonable' restrictions) EX: Sec 144 can restrain an assembly, meeting if there is a risk of obstruction, annoyance or danger to human life, health or safety**.
ARTICLE 20:Protection in Respect of Conviction for Offenses	• **grants protection against arbitrary and excessive punishment to an accused person**, whether citizen or foreigner or legal person • It contains **three provisions:** (a) **No ex-post-facto** law: **No person shall be** (i) **convicted** of any offense except for violation of a law in force at the time of the commission of the act, nor **(ii)** Subjected to a penalty greater than that prescribed by the law in force at the time of the commission of the act. **Limitation is imposed only on criminal laws and not on civil laws or tax laws** (b) **No double jeopardy**: **No person** shall be prosecuted and **punished** for **the same offense more than once**. **Protection against double jeopardy is available only in proceedings before a court of law or a judicial tribunal**

	NOT for administrative courts (C**) No self-incrimination: No person accused** of any offense shall **be compelled** to be a **witness against himself**. **Protection against self-incrimination extends to both oral evidence and documentary evidence**-However, it does not extend to (i) compulsory production of material objects, (ii) compulsion to give thumb impression, specimen signature, blood specimens, and (iii) compulsory exhibition of the body **it extends only to criminal proceedings and not to civil proceedings**
ARTICLE 21:Protection of Life and Personal Liberty	• **No person shall be deprived of his life or personal liberty except according to procedure established by law** • **Gopalan case(1950),** the Supreme Court has taken a narrow interpretation of Article 21. It held that the protection under **Article 21 is available only against arbitrary executive action and not from arbitrary legislative action** • **Menaka case(1978**), taking a **wider interpretation** of **Article 21.** It ruled that the right to life and personal liberty of a person can be deprived by a law provided the procedure prescribed by that law is reasonable, fair and just it has introduced the American expression 'due process of law' • **Right to life also includes right to live with human dignity not mere survival** • **UPSC 2019: ART. 21 safeguards Right to Marry** • **UPSC 2018: Right to Privacy is part of Right to life and personal Liberty is imply in Art.21**
ARTICLE 21 A :Right to Education (added by the 86th Constitutional Amendment Act of 2002)	• It asks the **state to provide free and compulsory** education to all children between the ages of 6 to 14 years. • **Also included in DPSP ART.45 and Fundamental Duty ART. 51A**
ARTICLE 22 : Protection Against Arrest and Detention (Parliament and states concurrently make laws on preventive detention.)	• **Article 22 grants** protection to persons under both kinds of **detention namely punitive and preventive**. • **Punitive detention** is to punish a person for an offense committed by him after trial and conviction in a court. • **Preventive detention**, on the other hand, means detention of a person without trial and conviction by a court. If a person is arrested after committing a crime, it is called punitive detention. • **Art. 22 provides following protection against such detention. Right to be informed of the ground of arrest.** • Right to consult and be defended by a lawyer. • Right to be **produced before a magistrate within 24 hours of his arrest (excluding the time of journey**). • Right not to be detained for **more than 24 hours** without the authority of a magistrate • **These are not available to Enemy Alien or under preventive Detention**. • **Safeguards against preventive detention**: 1. **If the detention is for more than 3 months** the matter must be referred to an **advisory board** in which there shall be a **High Court judge**.

	2. The **detention may be continued only** where the **advisory board** considers that there are **sufficient grounds for further detention**. 3. Grounds of detention must be communicated to the detenu. 4. The detenu must be given an opportunity to make a representation against the order of detention.

RIGHT AGAINST EXPLOITATION: (ART. 23 & 24) (UPSC PRE 2017)

Article 23: Prohibition of Traffic in human beings and forced labor	• This **right is available to both citizens and non-citizens.** • **It protects the individual not only against the State but also against private persons** • Article 23 also provides for an exception to this provision. It permits the State to impose compulsory service for public purposes, as for example, military service or social service
Article 24 : Prohibition of Employment of Children in Factories	• **prohibits the employment of children below the age of 14 years in any factory, mine or other hazardous activities** • it does not prohibit their employment in any harmless or innocent work

RIGHT TO FREEDOM OF RELIGION (ART. 25-28)

ARTICLE 25 : Freedom of Conscience and Free Profession, Practice and Propagation of Religion (Right of Individual)	It says that all persons are equally entitled to **freedom of conscience** and the **right to freely profess, practice and propagate religion.** The implications of these are: Freedom of conscience; Right to profess; Right to practice ; Right to propagate **It does not include a right to convert another person to one's own religion**
ARTICLE 26: Freedom to Manage Religious Affairs (Right of group)	(a) Right to **establish and maintain institutions for religious and charitable purposes;** (b) Right to manage its own affairs in matters of religion; (c) Right to own and acquire movable and immovable property; and (d) Right to administer such property in accordance with law
ARTICLE 27: Freedom from Taxation for Promotion of a Religion	**no person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion** or religious denomination State should not spend the public money collected by way of tax for the promotion or maintenance of any particular religion **No tax but Fee can be levied**
ARTICLE 28 :Freedom from Attending Religious Instruction	**No religious instruction shall be provided in any educational institution wholly maintained out of State funds.** However, this provision shall not apply to an educational institution administered by the State but established under any endowment or trust, requiring imparting of religious instruction in such institution

CULTURAL AND EDUCATIONAL RIGHTS (ART. 29-30)

ARTICLE 29:Protection of Interest of Minorities	provides that **any section of the citizens residing in any part of India having a distinct language, script or culture** of **its own, shall have the right to conserve the same (Right to every citizen-includes Minority as well as Majority)** No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, or language
ARTICLE 30 :Right of Minorities to Establish and Administer Educational Institutions	**All minorities shall have the right to establish and administer educational** institutions of their choice (Right only to minority) Compensation amount fixed by State for compulsory acquisition of property of a minority educational institution **(44th Amd**.) **Term Minority is not Defined in the Constitution.**

Right to Property and Saving of Certain Laws: Article 31

- **Article 31: Abolition of right to property The Constitution (44th Amendment) Act, 1978 omitted Article 19(1)(f) (Right to acquire, held hold and dispose of property), and** shifted the provision in Article 31 (no person shall be deprived of his property except by law) to another article viz. Article 300-A.
- The effect of this change is that **the right to property is no more a fundamental right. Thus the Right to property, though still a constitutional right (LEGAL RIGHT), is not a fundamental right.**
- If this right is infringed the aggrieved person cannot access the Supreme Court directly under Art.

Exceptions To Fundamental Rights:

- **Art. 31A :** Agriculture Reform, Industry, Commerce **(State Can Acquire Personal Land)**
- **Art. 31B :** Acts in 9th Schedule protected being challenged on FR **(I.R. Coelho case 2007- Ruled out Blanket immunity)**
- **Art.31C:** 1)Laws to implement DPSP 39(b) & (c) immune by FR (Saving of Laws giving effect to certain DPSP)
- 2) No law containing a declaration that it is for giving effect to such policy shall be questioned in any court on the ground that it does not give effect to such a policy **(Kesavananda Bharati Case- SC declared second provision unconstitutional and void)**

RIGHT TO CONSTITUTIONAL REMEDIES (ART.32)

- **ART.32 is Basic Feature of constitution**
- Parliament can empower any other Court to issue directions, orders, writs
- **The President can suspend the right to move any court for FR during National emergency (Art. 359**)
- **Art. 32 is used for only enforcement of Fundamental Rights**
- Role of Supreme Court and High Courts regarding Constitutional Remedies are as follows:

Supreme Court (Art. 32)	High Court (Art. 226)
• SC can issue writ for FR under **Art.32** and not other rights • **Narrow Writ jurisdiction** • SC can issue writ against body throughout country (Territorial Writ Jurisdiction is Wider) • Art. 32 is itself FR hence SC cannot refuse to exercise writ jurisdiction	• HC can issue writ for FR as well as Other Rights • **Wider Writ Jurisdiction** • Writ against body only confined to that state territory (Territorial Writ Jurisdiction is Narrow) • **Art. 226** is discretionary for HC; hence they May refuse



WRITS–TYPES AND SCOPE

	Habeas Corpus	Mandamus	Prohibition	Certiorari	Quo-Warran to
Meaning	**literally means 'to have the body of'** order issued by the court to a person who has detained another person, to produce the body of the latter before it	**literally means 'we command'** command issued by the court to a public official asking him to perform his official duties that he has failed or refused to perform	**it means 'to forbid'** issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction prohibition directs inactivity (preventive)	**it means 'to be certified' or 'to be informed'** issued by a higher court to a lower court or tribunal either to transfer a case pending certiorari is both preventive as well as curative	**it means 'by what authority or warrant'** issued by the court to enquire into the legality of claim of a person to a public office
Can be issued Against	against both public authorities as well as private individuals	any public body, a corporation, an inferior court, a tribunal or government	issued only against judicial and quasi-judicial authorities	Judicial;Quasi judicial; Administrative bodies*	only in case of a substantive public office of a permanent character created by a statute or by the Constitution
Can NOT be issued Against	Lawful Detention; Contempt of Court	Private Body; President ; CJI	administrative authorities, legislative bodies, and private individuals	legislative bodies and private individuals or bodies	It cannot be issued in cases of ministerial office or private office.

ARMED FORCES AND FUNDAMENTAL RIGHTS

Article 33	The Parliament can **restrict or abrogate**, by law, FR's in the application to: • T**he members of Armed forces, Paramilitary Forces, police forces, intelligence agencies.** • The forces charged with the maintenance of public order. A parliamentary law enacted under **Article 33 can also exclude the Court Martials (tribunals established under the Military law)** from the writ jurisdiction of the SC and HC, so far as the enforcement of the Fundamental Rights are concerned.
Article 34	While **Martial Law** is in force in any area, **the FRs can b**e **restricted**. The Supreme Court held that the declaration of martial law does not ipso facto result in the suspension of the writ of habeas corpus.
Article 35	**Article 35** lays down that the power to make laws, to give effect to certain **specified fundamental rights** shall vest only in the Parliament and not in the state legislatures.

Legal Rights (RIGHTS OUTSIDE PART III)

Art. 265 ; Part XII	No tax shall be levied or collected except by authority of law
Art.300A ; part XII	**No person** shall be **deprived of his property** save by authority of law
Art.301; Part XIII	Trade, commerce and intercourse throughout the territory of India shall be free
Art. 326; Part XV	**Adult Suffrage(Right to Vote) (UPSC 2017**)

DIRECTIVE PRINCIPLE OF STATE POLICY (Part IV; Art. 36-51)

- It is enumerated in **Part IV** of the Constitution from **Articles 36 to 51**. This idea is borrowed from the Irish Constitution of 1937, which had copied it from the Spanish Constitution.
- The **phrase 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. (UPSC PRE 2013- DPSP Fundamentals for Governance) (UPSC 2020- DPSP is to influence making of laws)**
- The Directive Principles resemble the '**Instrument of Instructions'** enumerated in the Government of India Act of 1935.
- They embody the concept of a '**welfare state' and not that of a 'police state'.** (UPSC 2020)
- The **Directive Principles are non-justiciable in nature**. The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the constitutional validity of a law.
- **DPSP does not constitute limitations upon Legislative or executive Functions however it guidelines state (UPSC 2017)**
- ART.36 : This defines the term state
- ART.37 : It shall be the duty of the state to include DPSP directives in their policies

SOCIALISTIC DPSP	GANDHIAN DPSP	LIBERAL DPSP
Article 38: i) create a social order for the promotion of welfare of the people. ii)state to minimize inequalities in income, to eliminate inequalities in status, facilities and opportunities (44TH Amd.) **Article39**:a) Livelihood for All b)Equitable Distribution of resources for common good c)Prevent Concentration of Wealth d)**Equal pay to men and women(UPSC 2006**) e) **Health of workers and children not abused Healthy Development of Children (42nd Amd).** **Article 39 A :**Equal justice, free legal Aid (42nd Amd) **Article 41:** provide right to work, to education and to public assistance **Article42:** Humane condition of work and Maternity Relief **Article43:** Social and cultural opportunity of worker; Decent standard of Life **Article43 A: Participation of workers in industry management (42nd Amd.) (UPSC 2017)** **Article 47:** Nutrition and Public Health	**Article 40: Village Panchayats** **Article 43:** Cottage Industries **Article43 B: Co-Operative societies(97th Amd. 2011)** **Article 46:** SC,ST Promotion **Article 47:** Prohibition of liquor and intoxicating drugs (UPSC 2007) **Article 48: Prohibit Slaughter of Cows and draught cattle** **(UPSC PRE 2012-Gandhian DPSP**) (**UPSC PRE 2020- Common Agreement between Gandhism and Marxism is final goal of stateless society: this can be inferred from Gandhian DPSP)** (**UPSC 2015- DPSP SPELLS OUT SOCIO ECONOMIC DEMOCRACY IN COUNTRY)**	**Article 44: Uniform Civil Code** **Article 45:** Provision for free and compulsory education for children till the age of 14 years (86th Amd.2002) **Article 48:** Organization of agriculture and animal husbandry **Article 48 A: Safeguard Forest, Wildlife (42nd Amd.)** **Article 49**: Preserve Monuments, Historical interests **Article 50: Separate judiciary from Executive (UPSC PRE 2020)** **Article 51:** Promote International peace and security (UPSC PRE 2014) UPSC PRE 2013- Economic Justice (Art. 39(b)(c)) also enshrined in DPSP OUTSIDE DPSP: SC, ST's services (Article 335; part XVI) Instruction in Mother Tongue (Art.350A, Part XVII) Development of Hindi (Article 351, Part XVII)

CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES

- **CHAMPAKAM CASE 1951** : (FR>>DPSP)(FR CAN BE AMENDED)
- **GOLAKNATH CASE 1967** : FR CAN NOT AMENDED FOR DPSP
- **25TH CONST. AMD. INSERTED ART. 31C**- 1)FOR IMPLEMENTATION OF DPSP 39(b)&(c) FR CAN BE AMENDED ; 2) CAN NOT BE CHALLENGED IN COURT
- **KESAVANANDA BHARATI CASE** – CANCELED 2ND PROVISION
- **42ND CONST. AMD.** – (DPSP>>FR)
- **MINERVA MILLS CASE 1980** : FR SUPERIOR TO DPSP HOWEVER(DPSP 39(b)&9c)>>FR(14,19))
- **FR ARE SUPREME OVER DPSP, PARLIAMENT CAN AMEND FR FOR DPSP**

FUNDAMENTAL DUTIES (PART IV-A ; ART.51A; 42 ND CONST. AMD. 1976)

- **FD inspired by USSR constitution;** Japanese Constitution also incorporate FD
- 1976, **Swaran Singh committee recommended FD**
- 1999,Verma Committee identified legal provisions of FD
- 42nd Constitutional Amendment Act (1976) included ten Fundamental Duties; **11th FD added by 86th amd. 2002**
- **Fundamental Duties are confined to citizens only**; they are **Non-justiciable without legal sanction- no legislative process has been provided to enforce FD (UPSC 2017)**
  1) Respect National Flag and Anthem
  2) Follow Noble Ideals
  3) Protect Unity And Integrity of the Nation
  4) Defend Country
  5) Promote Brotherhood
  6) Preserve Rich Heritage
  7) Improve/Protect Environment
  8) Develop Scientific Temper, Humanism
  9) Safeguard Public Property
  10) Strive towards Excellence in All Sphere
  11) Child Education(86th Const. Amd. 2002)

AMENDMENT OF THE CONSTITUTION

- **Article 368 in Part XX** of the Constitution deals with the powers **of Parliament to amend the Constitution and its** p**rocedure**
- **Indian Constitution is neither flexible nor rigid but a synthesis of both**
- **Parliament cannot amend** those provisions which form the '**basic structure' of the Constitution**. This was ruled by the Supreme Court in the Kesavananda Bharati case(1973).
- The **procedure for the amendment** of the Constitution as laid down **in Article 368** is as follows:
  - **Bill Can be initiated in either house of parliament (UPSC 2013)**
  - Bill Can be **initiated either by Minister or Private member**
  - **Not require Prior Permission of President**
  - Passed by **Special Majority** (More than 50% of Total Membership and 2/3 Present and voting)
  - **Federal provisions of Bill ratified by Half of states by Simple Majority(UPSC 2013**)
  - 24th Const. Amd. Made Obligatory for the President to give Assent (President Must give assent to Const. Amd. Bill)

The Constitution can be amended in three ways:

Simple Majority of Parliament	**Special Majority Of Parliament**	**Special majority of the of the Parliament and the ratification of half of the state legislatures**
outside the scope of Article 368 **(1) Add New States; Alter names; areas** (2) Formation of Legislative councils (3) Second Schedule **(4) Citizenship** (5) 5th 6th schedule **(6)** Official Languages**.** (7) Elections to Parliament and states Legislature	**The provisions which can be amended by this way includes:** (i) Fundamental Rights; (ii) Directive Principles of State Policy; and **(iii)** All other provisions which are not covered by the first and third categories.	**related to the federal structure of the polity** **There is no time limit within which the states should give their consent to the bill** 1 Election of the President 2 Extent of the executive power of the Union and the states. 3 Supreme Court and high courts. 4 Distribution of legislative powers between the Union and

		the states. 5 Goods and Services Tax Council 6 Any of the lists in the 7th Schedule. 7 Representation of states in Parliament. 8 Power of Parliament to amend the Constitution and its procedure(Article 368 itself).

List of Major Amendments of the Indian Constitution

First Amendment Act, 1951

The state was empowered to make **special provisions for the advancement** of socially and backward classes

The Ninth Schedule was added

Note:

- **Fourth Amendment Act, 1955** included some more Acts in the **Ninth Schedule**
- **17th Amendment Act, 1964** included **44 more Acts** in the **Ninth Schedule**
- **29th Amendment Act, 1972** included two Kerala Acts on land reforms in the **Ninth Schedule**
- **34th Amendment Act, 1974** included twenty more land tenure and land reforms acts of various states in the **Ninth Schedule**

Three more grounds of restrictions on **Article 19 (1) Freedom of Expression** were added:

- Public order
- Friendly relations with foreign states
- Incitement to an offence

Note: Restrictions were made reasonable and justiciable.

Introduced the validity of the state's move to nationalize any business or trade and the same to not be invalid on the grounds of violation of the right to trade and business

Second Amendment Act, 1952

The scale of representation in the Lok Sabha was readjusted stating that 1 member can represent even more than **7.5 lakh people.**

Seventh Amendment Act, 1956

The provision of having a **common High Court** for two or more states was introduced

Abolition **of Class A, B, C and D states – 14 States and 6 Union Territories** were formed

Introduction of Union Territories

Ninth Amendment Act, 1960

Adjustments to Indian Territory as a result of an agreement with **Pakistan (Indo-Pak Agreement 1958):**

- Cession of Indian territory of Berubari Union (West Bengal) to Pakistan

Tenth Amendment Act, 1961

Dadra, Nagar, and Haveli incorporated in the Union of Indian as a Union Territory

12th Amendment Act, 1962

Goa, Daman and Diu incorporated in the Indian Union as a Union Territory

13th Amendment Act, 1962

Nagaland was formed with special status under **Article 371A**

14th Amendment Act, 1962

Pondicherry incorporated into the Indian Union

Union Territories of **Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Puducherry** were provided the legislature and council of ministers

19th Amendment Act, 1966

System of **Election Tribunals** was abolished and High Courts were given the power to hear the election petitions

21st Amendment Act, 1967

Sindhi language was language into **8th Schedule** of Indian Constitution

24th Amendment Act, 1971

The President's assent to Constitutional Amendment Bill was made compulsory

25th Amendment Act, 1971

Fundamental Right to Property was curtailed

26th Amendment Act, 1971

Privy Purse and privileges of former rulers of princely states were abolished

31st Amendment Act, 1972

Lok Sabha seats were increased from 525 to 545

35th Amendment Act, 1974

The status of Sikkim as protectorate state was terminated and Sikkim was given the status of 'Associate State' of India

36th Amendment Act, 1975

Sikkim was made a full-fledged state of India

40th Amendment Act, 1976

Parliament was empowered 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.

42nd Amendment Act, 1976	Since the 42nd Amendment Act is the most comprehensive amendment of the Indian Constitution, called the **'Mini-Constitution,'** candidates can read about it in detail in the linked article.
44th Amendment Act, 1978	It is also one of the important amendments in the Indian Constitution, enacted by the Janata Government. Candidates can read about the **44th Amendment Act** in detail in the linked article.

52nd Amendment Act, 1985

A new tenth Schedule was added providing for the anti-defection laws. Candidates can read in detail about the Tenth Schedule in the linked article.

61st Amendment Act, 1989

The voting age was decreased from **21 to 18** for both Lok Sabha and Legislative Assemblies elections

65th Amendment Act, 1990

Multi-member National Commission for SC/ST was established and the office of a special officer for SCs and STs was removed.

Candidates can read about these National Commissions from the links provided below:

- **National Commission for SC**
- **National Commission for ST**

69th Amendment Act, 1991

Union Territory of Delhi was given the special status of '**National Capital Territory of Delhi**.'

70-member legislative assembly and a **7-member council of ministers** were established Delhi

71st Amendment Act, 1992

Konkani, Manipuri and Nepali languages were included in the Eighth Schedule of the Constitution.

Total number of official languages increased to 18

73rd Amendment Act, 1992

Panchayati Raj institutions were given constitutional status.

A new Part-IX and 11th Schedule were added in the Indian Constitution to recognize **Panchayati Raj Institutions and provisions** related to them

74th Amendment Act, 1992

Urban local bodies were granted constitutional status

A new **Part IX-A and 12th Schedule** were added to the Indian Constitution

86th Amendment Act, 2002

Elementary Education was made a fundamental **right – Free and compulsory education to children between 6 and 14 years**

A new Fundamental Duty under **Article 51 A** was added – "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"

Read about Fundamental Duties in detail in the linked article.

88th Amendment Act, 2003

Provision of Service Tax was made under **Article 268-A** – Service tax levied by Union and collected and appropriated by the Union and the States

92nd Amendment Act, 2003

Bodo, Dogri (Dongri), Maithili and Santhali were added in the Eighth schedule

Total official languages were increased from **18 to 22**

95th 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., up to 2020 (Article 334).

97th Amendment Act, 2011

Co-operative Societies were granted constitutional status:

- **Right to form cooperative societies** made a fundamental right (Article 19)
- A new Directive Principle of State Policy **(Article 43-B**) to promote cooperative societies
- A **new part IX-B** was added in the constitution for cooperative societies

100th Amendment Act, 2015

To pursue land boundary agreement 1974 between India and Bangladesh, exchange of some enclave territories with Bangladesh mentioned

Provisions relating to the territories of four states (**Assam, West Bengal, Meghalaya**) in the first schedule of the Indian Constitution, amended.

101st Amendment Act, 2016

Goods and Service Tax (GST) was introduced. Read more about GST in the linked article.

102nd Amendment Act, 2018

Constitutional Status was granted to **National Commission for Backward Classes (NCBC)**

103rd Amendment Act, 2019

A maximum of **10% Reservation for Economically Weaker Sections** of citizens of classes other than the classes mentioned in **clauses (4) and (5) of Article 15,** i.e. Classes other than socially and educationally backward classes of citizens or the Scheduled Castes and the Scheduled Tribes.

104th Amendment Act, 2020

Extended the deadline for the **cessation of seats for SCs and STs in the Lok Sabha and states assemblies from Seventy years to Eighty.** Removed the reserved seats for the Anglo-Indian community in the Lok Sabha and state assemblies.

BASIC STRUCTURE OF THE CONSTITUTION

- **Shankari Prasad Case 1951 :** Constitutional validity of **First Amendment Act (1951**), which curtailed the right to property, was challenged; SC- power to amend constitution also means amendments to FR; word 'law' in Article 13 includes only ordinary laws and not the constitutional amendment acts
- **Golak Nath Case 1967**: The Supreme Court ruled that the Fundamental Rights are given a 'transcendental and immutable' position and hence, the Parliament cannot abridge or take away any of these rights
- **24th Amd. Act 1971** : Parliament has the power to abridge or take away any of the Fundamental Rights under Article 368
- **Kesavananda Bharati Case 1971**: overruled Golaknath judgment; upheld validity of 24th amd. Also laid down **"Doctrine of Basic Structure**"
- **42nd Amd.1976**: Amended art.368; No limitations of parliament and No question shall asked in court
- **Minerva Mills Case 1980: 'Judicial review is Basic Structure'**
- **BASIC STRUCTURE** :
  1. Supremacy of the Constitution
  2. Sovereign, democratic and republican nature of the Indian polity
  3. Secular character of the Constitution
  4. **Separation of powers between the legislature, the executive and the judiciary**
  5. Federal character of the Constitution
  6. Unity and integrity of the nation
  7. Welfare state (socio-economic justice)
  8. **Judicial review**
  9. **Freedom and dignity of the individual**
  10. Parliamentary system
  11. Rule of law
  12. **Fundamental Rights**

PART II : SYSTEM OF GOVERNMENT

PARLIAMENTARY SYSTEM- FEATURES

- The **Constitution of India provides for a parliamentary form of government, both at the Center and in the states. Articles 74 and 75** deal with the parliamentary system at the Center **and Articles 163 and 164 in the states**
- The parliamentary system of government is the one in which the **executive is responsible to the legislature** for its policies and acts.
- Principle underlying **Cabinet form of government** is mechanism of parliamentary democracy ensuring Collective responsibility of Government to People (UPSC 2017)
- The parliamentary government is also known as cabinet government or responsible government or Westminster model of government and is prevalent in Britain, Japan, Canada, India among others
- The **President is the nominal executive (de jure executive or titular executive) while the Prime Minister is the real executive**
- The political party which secures **majority seats in the Lok Sabha forms the government**

- The **ministers are collectively responsible to the Parliament** in general and to the Lok Sabha in particular (Article 75)
- **Political Homogeneity**- council of ministers belong to the **same political party**, and hence they share the same political ideology
- **Ministers are members of both the legislature and the executive**. (The **doctrine of separation of powers** is the basis of the American presidential system. **The legislative, executive and judicial powers** of the government are separated and vested in the three independent organs of the government.)
- **Prime Minister plays the leadership** role in this system of government
- **The ministers operate on the principle of secrecy** of procedure
- The **lower house of the Parliament** (Lok Sabha) can be **dissolved** by the President **on recommendation of the Prime Minister**
- **{'Shadow cabinet'** is a unique institution of the British cabinet system. It is formed by the opposition party to balance the ruling cabinet and to prepare its members for future ministerial office. There is no such institution in India.}

FEDERAL SYSTEM

Federal Government	**Unitary Government**
1 Dual Government (that is, national government and regional government)	1 Single government, that is, the national government which may create regional governments
2 Written Constitution	2 Constitution may be written (France) or unwritten (Britain)
3 Division of powers between the national and regional government	3 No division of powers. All powers are vested in the national government
4 Supremacy of the Constitution	4 Constitution may be supreme (Japan) or may not be supreme (Britain)
5 Rigid Constitution	5 Constitution may be rigid (France) or flexible (Britain)
6 Independent judiciary	6 Judiciary may be independent or may not be independent
7 Bicameral legislature	7 Legislature may be bicameral (Britain) or unicameral (China)
The Constitution of India provides for a federal system of government in the country. Indian Federalism is NOT result of agreements among states unlike America- UPSC 2017 Term 'federation' has nowhere been used in the Constitution. Indian federal system is based on the 'Canadian model' and not on the 'American model'	

CENTER-STATE RELATIONS

The **Center-state relations can be studied under three heads:**

• Legislative relations. • Administrative relations. • Financial relations

LEGISLATIVE RELATIONS	**ADMINISTRATIVE RELATIONS**	**FINANCIAL RELATIONS**
• **Articles 245 to 255 in Part XI** • The Parliament can make laws for the whole or any part of the territory of India(state laws limited to state only) • Constitution provides for a **three-fold distribution** of legislative subjects between the Center and the states, viz., List-I (the Union List), List-II (the State List) and List-III (the Concurrent List) in the **Seventh Schedule** • **42nd Amendment Act of 1976**	• **Articles 256 to 263 in Part XI** • The executive power has been divided between the Centre and the states on the lines of the distribution of legislative powers • executive power of every state is to be exercised in such a way (a) as to ensure compliance with the laws made by the Parliament and any existing law which apply in the state; and (b) as not to impede or prejudice the exercise of executive power	• **Articles 268 to 293 in Part XII** • **Parliament has exclusive power to levy taxes on subjects enumerated in the Union List and states legislature in state list** • Residuary power of taxation remain at parliament • present position with respect to the distribution of tax revenues between the centre and the states is as follows: A) Taxes Levied by the Centre but Collected and

transferred five subjects to Concurrent List from State List, that is, (a)education, (b) forests, (c) weights and measures, (d) protection of wild animals and birds, and (e) administration of justice

- The power to make laws with respect to residuary subjects is vested in the Parliament.
- **Constitution empowers** the **Parliament t**o make laws on any matter enumerated in the State List under the following five extraordinary circumstances:
  (1) When **Rajya Sabha** Passes a Resolution- supported by **2/3 members present**
  (2) During a **National Emergency**- The laws become inoperative on
  (3) the **expiration of six months** after the emergency has ceased to operate
  (4) When **the legislatures of two or more states** pass resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws
  (5) **The Parliament can make laws** on any matter in the State List for implementing the **international treaties**, agreements
  (6) When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state. **A law made so by the Parliament continues to be operative even after the president's rule**

of the Centre in the state

- Article 365 says that where any state has failed to comply with (or to give effect to) any directions given by the Centre President's rule can be imposed in the state under Article 356.
- **Under Art.356- the power of legislature of that state is exercisable by or under authority of parliament (UPSC2018)**
- Centre Directions to the States- 1.maintenance of means of communication
  2. protection of the railways
  3. adequate facilities for instruction in the mother tongue at the primary stage of education
  4. execution of the specified **schemes for the welfare** of the **Scheduled Tribes**
- The President may, with the consent of the state government, **entrust to that government any of the executive functions of the Centre.**
- **All-India Services- Article 312 of the Constitution authorizes the Parliament to create new All-India Services on the basis of a Rajya Sabha resolution** to that effect
- **Integrated Judicial System- single system of courts enforces both the Central laws as well as the state laws;** The judges of a state high court are appointed by the president in consultation with the Chief Justice of India and the governor of the state.

Appropriated by the States (Article 268): includes the stamp duties on bills of exchange, cheques, promissory notes

B) **Taxes Levied and Collected by the Centre but Assigned to the States (Article 269):**sales of goods in inter-state trade or commerce

C) Levy and Collection of Goods and Services Tax in Course of Inter-State Trade or Commerce (**Article 269-A)**

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

E) Surcharge on Certain Taxes and Duties for Purposes of the Centre (**Article 271**)

- **Grants-in-Aid to the States**
- **Statutory Grants Article 275 empowers the Parliament** to make grants to the states which are in **need of financial assistance and not to every state.**
- **Discretionary Grants Article 282 empowers both the Centre and the states** to make any grants for any public purpose (Centre is under no obligation to give these grants and the matter lies within its discretion)
- **101st Amendment Act of 2016 provided for the establishment of a Goods and Services Tax Council or the GST Council. Article 279-A empowered the President to constitute a GST Council by an order**



VARIOUS COMMISSION REPORTS ON CENTER-STATE RELATIONS:

ADMINISTRATIVEREFORMCOMMISSION 1966	• Under chairmanship of Morarji Desai (followed by K Hanumanthayya) • Recommendation- 1) **Establish Inter State Council** 2)Appointment of Governors(non Partisan) 3)Maximum powers to state; more financial resources to states
RAJAMANNARCOMMITTEE 1969	• 1969, TN **govt.appointed committee identified centralisation trend in center-state relation ; hence recommended:** 1)Finance commission to permanent body 2)omit President's Rule 3)**Abolish All India Services** 4)Residuary powers to state
SARKARIACOMMISSION 1983	• Permanent Inter State Council • Extreme/rare use of president's rule • **Strengthen All India services** • Armed forces to deploy without consent of states • 3 language formula • **Center to consult state before laws on concurrent list** • Other residuary powers vested in concurrent list • **Appointment of Governors: he should be outside of state; not be eligible for any office of profit; can appoint for second term (UPSC PRE 2018)**
PUNCHHICOMMISSION 2007	• **Took help of Sarkaria comm. Report and 2nd ARC Co-operative Federalism is key for unity** • Selection of governors on the basis of Sarkaria Comm. Recommendation • **Governor impeachment procedure same as president** • Governor not to be chancellor of university • **Create new All India Services** • Setting up Interstate Trade and commerce commission

INTER-STATE RELATIONS

- **Article 262** of the Constitution provides for the adjudication of interstate water disputes. It makes two provisions: i) Parliament may by law provide for the adjudication of any dispute ; ii) Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction
- **Inter-State Water Dispute Tribunals Set-up So Far :**

Name	Set-up in	States Involved
Krishna Water DisputesTribunal-I	1969	Maharashtra, Karnataka and Andhra Pradesh
Godavari Water DisputesTribunal	1969	Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh and Odisha

Narmada Water DisputesTribunal	1969	Rajasthan, Gujarat, Madhya Pradesh and Maharashtra
Ravi and Beas Water Disputes Tribunal	1986	Punjab, Haryana and Rajasthan
Cauvery Water DisputesTribunal	1990	Karnataka, Kerala,Tamil Nadu and Puducherry
Krishna Water Disputes Tribunal-II	2004	Maharashtra, Karnataka and Andhra Pradesh
Vansadhara Water Disputes Tribunal	2010	Odisha and Andhra Pradesh
Mahadayi Water Disputes Tribunal	2010	Goa, Karnataka and Maharashtra
Mahanadi Water Disputes Tribunal	2018	Odisha and Chhattisgarh

INTER-STATE COUNCILS: Article 263 for establishment of an Inter-State Council to effect coordination between the states and between Center and states.

- President can establish ISC and defines nature and duties
- Council can advise SC on legal Controversies between states as per jurisdiction of SC by Art.131
- president has established the following councils:
- Central Council of Health and Family Welfare.
- Central Council of Local Government
- Four Regional Councils for Sales Tax for the Northern, Eastern, Western and Southern Zones
- By recommendations of Sarkaria Commission, the Janata Dal Government headed by V. P. Singh established the Inter-State Council in 1990
- **It consists of the following members**:(i)**Prime minister as the Chairman**(ii)Chief ministers of all the states (iii) Chief ministers of union territories having legislative assemblies (iv)Administrators of union territories not having legislative assemblies (v) Governors of States under President's rule (vi) Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.
- **Standing committee of ISC**: **HomeMinister+5cabinetministers+9Cmofstates**
- **ISC Secretariat**: **headed by secretary of Government; also works as secretary to Zonal council**

INTERSTATETRADE&COMMERCE:(Art.301-307) Part XII

ZONALCOUNCILS:(StatutoryBody)

- **Zonal Councils are the statutory(and not the constitutional)bodies.**
- They are **established by an Act of the Parliament, that is, the States Reorganization Act of 1956**.
- **Five zones(Northern,Central,Eastern,Western and Southern)**
- **Members: (a) Home minister* of Central government-chairman (b) chief ministers of all the States in the zone. (c)Two other ministers from each state in the zone.(d)Administrator of each union territory in the zone.**
- Each chief minister acts as a vice-chairman of the council by rotation,holding office for a period of oneyear at a time.
- **North-Eastern Council** In addition to the above Zonal Councils, a North-Eastern Council was created by a separate Act of Parliament–**the North-Eastern Council Act of 1971**. Its members include Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.

EMERGENCY PROVISIONS

NATIONAL EMERGENCY(ART.352)	PRESIDENT'S RULE(ART.356)	FINANCIAL EMERGENCY(ART.360)
Grounds of Declaration: • **Art.352:External Aggression or Armed Rebellion(44th amd**.)	**Grounds of Declaration:** • **It is also known as state Emergency**	**Grounds of Declaration:** • President to proclaim financial

- 42nd Amd. 1976- President can limit operation of National emergency to particular area
- National Emergency 1975- due to Internal Disturbance
- The **President can proclaim only after receiving a written recommendation from Cabinet(44th amd.)**
- Proclamation of National emergency brought under Judicial Review(44th amd.) **(Minerva Mills case)**

Approval:

- Must be approved by both houses **within 1 Month** from date of issue (44th amd.)
- If approved continues for 6 months; can be extended to infinite with the approval for **every 6 months (periodic parliamentary approval- 44th amd.)**
- **Approval for Continuous- By either of houses by Special Majority(44th amd.)**

Revocation:

- **President must revoke if LOKSABHA(1/10th Of total members of Lok Sabha give written notice to Speaker)- 44th amd.**
- Revocationby **simple majority**

Effects on Center-State relations:

A) **Executive-** Center extends its executive power to states; give directions to states on ANY matter; (STATE GOVT. IS NOT SUSPENDED BUT COMPLETE CONTROL BY CENTER)

B) Legislative- Parliament make laws on state list however legislative power of state is not suspended; **laws of parliament inoperative 6 months after emergency ceased; President can issue ordinance on state subjects**

C) **Financial**- President can **modify(reduce/cancel)distribution of revenues of states- such** order, president has to laid before parliament.

Effect on Loksabha and State Assembly: Loksabha may extend for 1 yr at a time;Extension can not continue beyond 6 months after emergency ceased to operate Parliament may extend tenure of state assembly

Effects on Fundamental Rights: Art.358&Art.359-effects on FR during national emergency

- **Art.355- Duty on center to ensure state Govt. is Working in accordance to constitution**
- **Art.356-Duty on center to take over state govt. in case of Constitution failure in state**
- 2 grounds to proclaim president's rule:
- 1)Art.356- President to proclaim, if SATISFIED action with/without Governor's Report.
- 2)**Art.365-State fails to comply with directions of center**

Approval:

- **Must be approved** by both houses **within 2 months** from date of issue
- If approved, it will continue for 6 months; can be extended for **Max. 3 Years** with approval of Parliament
- Continuation: either house, by **Simple Majority**
- Condition For Continuance: 1)National emergency in whole country 2)Election commission to certify No general elections due to difficulties

Revocation:

- **Revoked by president ANY TIM**E (NO PARLIAMENTARY APPROVAL NEEDED)

Effects on State Assembly:

- **President dismisses state council of ministers**
- Governor on behalf of center carry Administration with help of chief secretary (authority of parliament)and advisor appointed by president (UPSC 2018)
- President either suspend /Dissolve State assemble
- Removal of Council of ministers of SLA

(State Legis. Assembly not dissolves automatically)- UPSC 2017

- **44th Constitutional Amd** 1978: **'Satisfaction of President'** this provision is brought under **JUDICIAL REVIEW COMPARATIVE** emergency, if he 'SATISFIED' that situation arised.

Approval:

- Must approved by Both Houses of Parliament within 2 Months
- Resolution of approval can be passed by simple majority.
- Continues indefinitely till it revoked
- **No Maximum period specified**
- **No Parliamentary approval needed for continuation**

Revocation:

- Financial emergencies can be **revoked by the president ANY TIME without parliamentary Approval.**

Effects: Center extends executive authority:

- Directing states to observe financial propriety
- Direction to President:

a)Reduction of salaries & allowances
b)**reservation of all money/** other financial bills for consideration of presidents
c) **Reduction of salaries & allowances** for union & state and Judges of SC&HC.

• **Art.358-** automatically suspends 6 rights of FR19 only when national emergency on External aggression; FR19 suspends for entire duration of emergency and extended to entire country • **Art.359**-Suspension of other FR except FR20&21;Suspends FR at both cases(armed rebellion or external); President may specify duration and the suspension of FR may applied to entire country or any part of country • **44thAmd**.: automatic suspension of FR19 only on External aggression And **Art.359-** President suspend Right to seek Remedy Except for FR20&21.		

COMPARATIVE STUDY OF PART-III CENTRAL GOVERNMENT AND PART-VI STATE GOVERNMENT

PRESIDENT (Art. 52 to 78) (PART V)	**GOVERNOR (ART.153-167) (PART VI)**
ELECTION: By **members of electoral college** consisting: 1**)Elected members of both LS+RS** **2)Elected members of State legislature** **3)Elected member of UT(Delhi+Puducherry)** Vote of MLA= (Total Pop. Of state)/(No. of elected members x 1000) Vote of MP= Total value of votes of MLA/ Total no. of elected members of (LS+RS) (Value of Vote of each MLA varies from State to state) - (UPSC 2018) • Election by proportional representation by means of single transferable vote and voting secret Ballot. • All disputes with elections of president resolved by Supreme Court **QUALIFICATION**: • **35yrs** above age; • Qualified for member of **Loksabha** • Oath Administered by CJI **Condition of Office:** i)Not member of either house ii)No office of profit iii)**immune from criminal proceeding**(even if personal) iv) **2 Months notice in civil proceedings** during term **Term:** 5yrs; Resign addressing to Vice President; Eligible for reappointment any no. of term **IMPEACHMENT:** • **Impeachment for violation of constitution** • Initiated by either House • **Signed by 1/4th member & 14 days notice to**	• **Art.153 to 167** :state executives • Governor: chief executive head; Nominal head of state • **7th Const. Amd.1956: Same person as Governor of 2 or more state(UPSC 2013)** • Appointment: Governor appointed by president by warrant under his seal • He is central nominee but independent Constitutional office • **Canadian Model of appointment of Governor.** **QUALIFICATION**: • Citizen of India; completed 35yrs • Governor belong to other state is recommendation of **Sarkaria commission**(NOT constitutional provision) • Oath Admin. By CJ of HC Condition of Office: i)Not member of either house ii)No office of profit iii)**immune from criminal proceeding**(even if personal)-**No criminal proceeding during term (UPSC 2018)** iv) **2 Months notice in civil proceedings during term** **Art.158-The emoluments and allowances of the Governor of State shall NOT be diminished during his term of office (UPSC 2018)** • Term : 5yrs; subjected to pleasure of President ('Pleasure'-NOT under Judicial Review) • Governor has no security of tenure • **No ground specified for removal of governor** • Transfer of governors by president(UPSC 2013) • Reappointment in same state is possible

president

- **Resolution passed by Special majority by both houses**
- (Elected+Nominated Members of LS+RS participate)
- No member. From state Legislature and UT

POWERS OF PRESIDENT:

(1) **1)EXECUTIVE**: **Executive power of union of India is vested in President**.(**UPSC 2015**) make rules for transaction of business of union govt.; Appoints-PM, CoM, Attorney General, CAG, Governors, etc; Declare any area scheduled area

(2) **LEGISLATIVE:** Summon/prorogue/dissolve LS; AppoInt speakers and dept. speakers when office vacant; **Nominates 12 personalities to RS**; Decides disqualification of members with Election commission; Issue Ordinance

(3) **FINANCIAL**: **Money bill prior recommendation**; Union Budget after **president** summon; constitute Finance Commission

(4) **JUDICIAL** : Appoints CJI,Judges of SC & HC; seek advice from SC; Grant Pardon; Commute punishment

(5) **VETO POWER**: President has 3 alternatives for Bills-Assent,with hold,Return President of India enjoys 3 Veto power (**No Qualified Veto i.e. overridden by legislature with Higher Majority**)

- **Absolute Veto**: **To Withhold his Assen**t to Bill then Bill ends; it is available for- Private Members bill and when Cabinet Resigns
- **Suspensive Veto**: When he Returns bill for reconsideration; No suspensive Veto available for Money Bill
- **Pocket Veto**: Simply keeping Bill pending for indefinite time(**NO ACTION); No Pocket Veto available for Constitutional Amd. Bill;** {Indian Pocket Veto>>>Wider than American}
- **President's Veto power over State Bills: Art.200:**Governor has **4 options**- Ascent, withhold,Return and Reserve for President **Art.201**:If Bill is reserved for President's consideration, he has **3 options**- Assent,withhold assent, Direct Governor to return Bill (President is not bound to give Assent to Bill)
- **ORDINANCE MAKING POWER:** (**ART. 123**) **President to promulgate ordinance during recess of parliament**

  1) **Promulgate only when both(LS+RS) not in session or either of house not in session**

  2) Only when he is SATISFIED* to take action (44th Amd: Satisfaction is under Judicial Review)

  3) When parliament reassembles Both houses must approve to become Act (**Expiry-6 weeks; Max. Life-6 Months 6 Weeks)**

  4) Can issue ordinance only on advice of Council of

- **Chief justice of HC may be appointed temporarily if office vacant**

POWERS OF GOVERNOR

1)EXECUTIVE: Appoints tribal welfare minister; Appoints-CM, advocate General, state election Commissioner; Acts as chancellor of university in state

2)LEGISLATIVE: Summon/prorogue/Dissolve State Legislative Assembly; Nominates-1/6 member in council; Give Assent or withhold assent; return bills and also can Reserve bills for consideration of president; Issue ordinance

3)FINANCIAL: Money Bills only with prior recommendations of governor; constitutes state finance commission every 5 yr

4)JUDICIAL: he consulted by president while appointments of judges of HC; Pardoning power except Death sentence

5)VETO POWER: For ordinary Laws governor has 4 alternatives- Assent, withhold, return and reserve bill

Regarding Money Bills: governor has 3 alternatives- it **can NOT return Bill for reconsideration**

If Money Bill Reserved by Governor for President then president has 2 options- Assent the bill or withhold assent; President can NOT Return Money Bill

ORDINANCE MAKING POWER: (ART.213) 43

1)Promulgate ordinance when both or either of house not in session in case of Bicameral

2) **Only when he is SATISFIED*** to take action (44th Amd: Satisfaction is under Judicial Review)

3)Can issue ordinance only on advice of Council of ministers

4) **Ordinance making power of president is Coextensive with parliament but not parallel**

5)ordinance making power of Governor is not Discretionary power President can instruct Governor on Ordinance Making

PARDONING POWER OF GOVERNOR:

- Pardon,Commute,Reprieve,Respite,Suspend convicted of any offense against State Laws

ministers

5) **Ordinance can not be issued to Amend Constitution**

6) Ordinance making power of president is Coextensive with parliament but not parallel

PARDONING POWER OF PRESIDENT: (ART.72)

- It is an executive Power; Independent of Judiciary
- **Pardon: Completely absolves** conviction
- **Commutation:** Substitution to **lighter punishment**
- **Remission**: **Reducing Period** without changing character of punishment
- **Respite**: Lesser sentence than original due to special facts- pregnancy, disability,etc
- **Reprieve**: Stay on execution for temporary period DISCRETIONARY POWER(SITUATIONAL):
  1) Appointment of PM and Com when No majority in Lok Sabha or when PM dies in office
  2) Dismiss CoM if No confidence Motion Approved
  3) Dissolve Loksabha if CoM lost Majority

IMPORTANT FACTS: 1) DR RAJENDRA PRASAD- TWICE PRESIDENT 2) SANJEEVAN REDDY-UNOPPOSED IN 1977 3) ZAKIR HUSSAIN-DIED IN OFFICE 1969 4) V.V GIRI-ACTING PRESIDENT

- No pardon for Death Sentence; but governor can suspend ,Remit, Commute Death sentence

DISCRETIONARY POWER IN CONSTITUTION FOR GOVERNOR: (**UPSC 2014**)

1**)Reservation of Bills** for president's consideration
2)Recommend President's Rule
3)administration of Adjoining UT
4)Seeking information from Chief minister(CM) regarding administrative and legislative policies.

ADDITIONAL DISCRETION- establishment of separate Development Board Maharashtra ,Gujarat Assam,Nagaland,Manipur,Sikkim,Arunachal Pradesh,Karnataka

VICE PRESIDENT

- **Second Highest office; Modeled on American Vice President**
- **VP is not directly elected** by people but elected by members of electoral college- Both Houses 1)Consists Both Elected+Nominated members of both houses 2)Not include members of State Legislature Assembly & UT
- Election by proportional Representation by single transferable vote
- **Qualification: 35yr Age** completed; qualified for member of RS; No office of Profit
- **Term-**5 yrs; can be **removed from office by Resolution of Rajya Sabha passed by special majority and agreed by Loksabha-14 days notice given; No grounds for removal mentioned**
- **VP is Ex-Officio Chairman of RS-his power similar to speaker**
- **VP acts as President when there is vacancy in president's office due to death/Removal**
- DR S Radha krishna elected as VP for 2 terms; Krishna kant first VP to Die serving office.

PRIME MINISTER AND CHIEF MINISTER

PRIME MINISTER	**CHIEF MINISTER**
• **Constitution NOT specified procedure for selection of PM** • **ART.75**- Prime Minister shall be appointed by President; president has to appoint leader of Majority party in Lok Sabha • **When No majority, President can apply his discretion** (President Neelam Reddy appointed Charan Singh) • **President may first appoint PM then ask to prove his majority in Lok Sabha** • 1997: SC held that person not member of either house can be appointed as PM for 6 months within	○ **Constitution NOT specified procedure for selection of CM** ○ **ART. 164-** Chief Minister shall be appointed by Governor; Governor has to appoint the leader of the Majority party in State Legi. Assembly(SLA) ○ **When No majority, Governor can apply his discretion** ○ Governor may first appoint CM then ask to prove his majority in SLA ○ **person not member of either house can be appointed as CM for 6 months within which he**

which he should become member of any house • **Term:** Not Fixed; and hold office during pleasure of president • **ART.78:** PM acts as channel of communication between president & Council of Ministers	**should become member of any house** ○ Term: Not Fixed; and hold office during pleasure of Governor

COUNCIL OF MINISTERS

- **ART.74**- CoM to aid and advise the president; **President 'shall' act according** to advice tendered; Advice tendered **by ministers shall NOT be inquired in court**.
- **ART.163**-Council with CM aid and advice Governor except in his discretion
- **ART.75-** CoM on advice of PM, appointed by President; Total No. **of CoM+PM shall not exceed 15%** of total members of LS(**91st Amd.2003**); **CoM HOLDS OFFICE DURING PLEASURE OF PRESIDENT (UPSC 2013; 2007**)
- **ART.75**- when LS passes a **NO-Confidence motion against council of Ministers**, all ministers including those ministers who are member of RS have to resign**(Collective responsibility**)
- **ART.164**- other Ministers shall be appointed on advice of CM, by Governor
- **If Members of either house disqualified on the grounds of defection, Also disqualified to be appointed as Ministers**
- Satisfaction of president= satisfaction of council of ministers
- **Council of Minister is Constitutional Body** whereas cabinet ministers only mentioned in ART.352 of national emergency- originally it was not mentioned
- Cabinet Ministers are actual center of power they supervise CoM

CABINET COMMITTEES-

- **Extra constitutional body provided by Rules of Business**
- **Set up by Prime minister** as per requirement
- **Cabinet Committee chaired by PM**- Appointment Comm.;Economic Affair Comm.;Political Affair Comm.;Security Comm.;Investment and Growth comm.;Skill Development comm.
- **Parliamentary Affair Committee is chaired by Home Minister**
- **Cabinet secretariat**: Preparation of agenda of Cabinet meetings; Secretarial assistance to cabinet committees (UPSC 2014)

PARLIAMENT (PART V; ART.79 TO 122)

- P**arliament consists of: President+Loksabha+Rajyasabha (UPSC 2012)**
- Indian parliamentary Model is based on British Westminster Model

COMPOSITION OF RAJYA SABHA	**COMPOSITION OF LOKSABHA**
○ **Maximum strength**= 250 ; 238 (Electedindirectly) and 12 Nominated by president ○ **(4th schedule**- Allocation of seats in Rajya Sabha to states and UT) ○ **RS members**- Elected members of state legislative assembly are represented in RS by system of proportional representation (Seats to states based **on population**) ○ **Representatives of Ut's in RS indirectly elected** by member of electoral College with system of proportional representation ○ **(Only 2UT's Delhi and Puducherry have representation in RS)- UPSC 2012** ○ President nominates 12 members to RS from different fields **QUALIFICATION OF MEMBERS** • Constitution mentioned-	• **Maximum strength**= 552; 530(states) + 20(UT) • 2 members are nominated from the Anglo Indian community if not represented adequately(95th Amd.) • Members to Loksabha from states and UT's chosen by Direction elections **TERM**: **Rajya Sabha is a permanent body-** No dissolution **however 1/3 members retire every 2 yrs.** Constitution Not fixed term for RS. **Representation of people act 1955** mentioned **6 yr term for RS Loksabha**- **Norma**l **term is 5 yrs**; can be extended by **1yr at a time** of National emergency. **DISQUALIFICATION OF MEMBERS** • Constitution mentioned- • If he hold office of profit • If not citizen of India • **If disqualified by law made by parliament RPA(1951)**

• Should be citizen of India • Make oath to Election Commission • **For RS-** Not less than 30 yrs and for LS Not less than **25yrs** Representation of people act 1951 mentioned- • Person should be registered as an elector • **For RS it is not necessary that person should be elector in particular state (UPSC 2017**) (For Election to Lok Sabha a nomination paper can be filled by any citizen of India whose name appears in the electoral roll of a constituency)	**mentioned-** • Not guilty of election offense/corrupt practice • **No imprisoned for 2 or more yrs** • Not dismissed from Govt. services • Presidents decision is final on disqualification and president can consult with election commission. **Disqualification on grounds of Defection:** • Defection under 10th schedule • **Question of disqualification under 10th schedule** is decided by chairperson of that house i.e. chairman in RS and speaker in LS; however their decision is subjected to **judicial review**

SPEAKER IN LOKSABHA	**DEPUTY SPEAKER IN LOKSABHA**
• **Speaker is elected by Lok sabha among its member** • **He is guardian of power and privileges of members** • His decision in all parliamentary matter is final • Adjourns house or suspend if No Quorum maintained • Exercise casting Vote in case of Tie; can not vote in 1st instance • **Presides over joint sitting** • **Decides bill is money bill or ordinary** • **Decides disqualification of members on the grounds of defection in 10th schedule** • He is chairman of Business Advisory committee; Rules Committee; General purpose committee • **Speaker can Removed only by resolution passed by an Absolute Majority- 14 days notice given** • Speaker is at higher rank than all cabinet ministers • **In India Speaker does not resign from party; in Britain Speaker is Non party person**	• **Deputy speaker is elected by Loksabha among its member itself** • **Deputy Speaker is NOT subordinate to speaker** • **Whenever he presides over house- can not vote in 1st instance** • **NOT BY CONSTITUTIONAL PROVISION BUT Parliamentary Convention- Generally the Speaker is from the ruling party and Dept. Speaker is from opposition party (UPSC 2017)** • GOI 1919- provision for Speaker and dept. speaker **PANEL OF CHAIRPERSON IN LOKSABHA** • **Rule of Lok sabha-** speaker nominates panel of 10 members; anyone of them can preside if office of speaker and deputy Speaker is ABSENT **SPEAKER PRO TEM** • President appoints a member of lok sabha as speaker pro tem (temporary)

CHAIRMAN OF RAJYA SABHA	DEPUTY CHAIRMAN OF RAJYA SABHA
○ **Vice President of India is Ex-Officio chairman of RS** ○ Chairman can be removed from office only if he removed from office of Vice President ○ **Chairman is NOT member house unlike speaker (UPSC 2013)**	○ Elec**ted by Rajya sabha among its members** ○ R**emoval by Absolute Majority** ○ Dept.Chairman is Not subordinate to chairman

LEADER OF HOUSE	**LEADER OF OPPOSITION**
○ **Under rules of Lok Sabha 'PM' is leader of house or Minister nominated by Pm** ○ In Rajya Sabha, PM nominates ministers as Leader of House	• **For the first time Leader of Opposition recognised in1969 (UPSC 2018**) • Statutory recognition in1977 because it is mentioned in salary Act • **Not less than 1/10 seats of total seats required for recognition as opposition** • Leader of Opposition is equivalent to cabinet minister
○ **WHIP- Not mentioned in constitution not in rules (Nowhere Mentioned**) ○ Based on parliamentary convention every political party has own whip	

SESSIONS OF PARLIAMENT

SUMMONING	**President summons** each house time to time **Session**- Duration between **1st sitting and prorogation** **Recess**- duration **between prorogation and Reassembly**
ADJOURNMENT	Each meeting of day consists 2 sitting; sitting terminated by adjournment it suspends work for specific time
ADJOURNMENT SINEDIE	Terminating sitting for indefinite period without naming day of reassembly Power of adjournment and Adjournment sine die les with presiding officer
PROROGATION	presiding officer declares house adjourned sine die when business of session completed then President issue prorogation
DISSOLUTION	Only LS subjected to dissolution **Position of bills with respect to lapsing of Bills : (UPSC 2016)** ○ Bill passed by both houses but return by president- Not Lapse ○ Bill passed by both houses but pending assent- Not lapse ○ Bill pending in RS, not passed by LS- Not Lapse ○ **Bill pending in LS- Lapses (wherever originated)** ○ **Bill pending in RS but passed by LS- Lapses**

Other Terms Related To the Parliamentary Functioning

- **Quorum** It is **the minimum number** of members whose presence is essential to transact the business of the House
- **Question Hour:** The **day's business normally begins** with the Question Hour during which questions asked by the members are answered by the Minister. The different types of questions are:
- **Starred Question :** It is one for which an oral answer is required to be given by the Minister on the floor of the House. Supplementary questions may be asked based on the Minister's reply.
- **Unstarred Question :** It is one for which the Minister lays on the table a written answer. A **15 day notice** has to be given to ask such questions and no supplementary questions can be asked with regard to such questions.
- **Short Notice Question :** This type of question which can be asked by members on **matters of public importance of an urgent** nature. It is for the speaker to decide whether the matter is of urgent nature or not. The member has also to state reasons for asking the question while serving notice.
- **Zero Hour:** This **period follows the 'Question Hour'** and it normally begins at noon. Usually, the members use this period to raise various issues for discussion.(zero hour not mentioned in rules of procedure; it is Indian innovation of parliamentary procedure)
- **Motions** – to express opinions on various issues by ministers/private members **3 principal categories of motions-**
- **1. Substantive Motion**- matter like Impeachment of president; removal of chief election commissioner
- **2. Substitute motion**- Moved in substitute to original motion an passes alternative to it
- **3. Subsidiary Motion**- Reference to original motion
- **Closure Motion**- to cut short debate on provisions of bills **Kangaroo closure**- **only important clause taken for debate and voting**; other clauses skipped Guillotine closure- Undiscussed clauses of bill put to vote along discussed clauses due to matter of time
- **Privilege Motion**- Concerned with **breach of parliamentary privileges** by Minister- by withholding facts or giving wrong facts; used against Minister
- **Calling Attention Motion**- to call attention of minister on matter of **urgent public importance**; it **is Indian innovation to parliamentary procedure**; it is mentioned in Rules of procedure
- **Adjourned Motion**- To **draw attention of house to definite matter of urgent public importance**; It is an Extraordinary device as interrupts normal

business of house; It is used only In Lok Sabha- RS is not permitted to use this motion (UPSC 2012)

- **No Confidence Motion**- This motion is not mentioned in Constitution;In Lok Sabha, removal of minister by passing this motion; **Motion needs support of 50 members to be admitted**; there is no need to state reasons for adoption of this motion; this motion can be **moved against entire council** ; if passed in LS then council of minister Must resign.(UPSC 2014)
- **Censure Motion**- There **is need to state the reason for adoption of this motion**; Can be **moved against individual or group of ministers**; it means censuring council for specific policies; if passed in LS then entire Council of Ministers need not to Resign from office.
- **Motion of Thanks- President addresses** motion of thanks in the **first session after every general election** and first session of every fiscal year; It is discussed in both houses; Motion outlines Govt. Policies; Motion Must be passed otherwise it amounts defeat of Government
- **Point of Order- Members can raise point of order** when proceedings of house do **not follow normal rule** of procedure; Usually Leader of Opposition raise this device; **It is an extraordinary device**.
- **Special Mention**- A matter which is cannot be raised during any other rules of business, can be raised in special Mention in Rajyasabha; it **is equivalent to notice device of Loksabha**
- **Resolutions**- Private member Resolution discussed on alternative Fridays; Government Resolution moved by ministers from Monday to Thursday; **All Resolution came in category of substantive motion**; All motions need not to be voted upon but all Resolutions required to Voted upon
- **UPSC 2017: Parliament exercises Control over CoM through –Adjournment motion; Question Hour; Supplementary questions and other parliamentary devices**

LEGISLATIVE PROCEDURE IN PARLIAMENT

The bills introduced in the Parliament can also be classified into four categories:

1. **Ordinary bills,** which are concerned with **any matter other than financial subjects**.

2. **Money bills**, which are concerned with **financial matters like taxation, public expenditure,** etc.

3. **Financial bills**, which are also concerned **with financial matters (but are different from money bills**).

4. **Constitution amendment bills**, which are concerned with the **amendment of the provisions of the Constitution**.

Public Bill	**Private Bill**
(1) It is introduced in the **Parliament by a minister**.	**(1)** It is **introduced by any member of Parliament other than a minister.**
(2) It reflects the policies of the government (ruling party).	(2) It reflects the stand of the **opposition party** on public matters.
(3) It has a greater **chance to be approved by the Parliament**.	(3) It has **lesser chance** to be approved by the Parliament
(4) **Its rejection** by the House amounts to the expression of want of parliamentary confidence in the government **and may lead to its resignation**.	(4) **Its rejection** by the House **has no implication** on the parliamentary confidence in the government or **its resignation**.
(5) Its introduction in the House requires **seven days'** notice.	(5) Its introduction in the House requires **one month's** notice.
(6) It is **drafted by the concerned department in consultation with the law department.**	**(6)** Its **drafting is the responsibility of the member concerned.**
	Only 14 private Members bills passed since Independence- UPSC 2017



Money Bills (art.110)	Financial Bills (art.117)
○ **Art.110** of the Constitution deals with the definition of money bills. ○ It states that a bill is deemed to be a money bill if it contains 'only' provisions dealing with all or any of the following matters: 1. The imposition**, abolition, remission, alteration** or regulation of **any tax**; 2. The regulation of the borrowing of money by the Union government; 3. The custody of the **Consolidated Fund of India** or the contingency fund of India; 4. **Regulation of borrowing of money or giving of any guarantee by GOI (UPSC 2018)** ○ **If any question arises whether a bill is a money bill or not, the decision of the Speaker of the Lok Sabha is final. His decision in this regard cannot be questioned in any court of law** ○ **A money bill can only be introduced in the Lok Sabha** and that too on the recommendation of the president. ○ can **be introduced only by a minister**. ○ The **Rajya Sabha has restricted powers** with **regard to a money bill.** It 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**, whether with or without recommendations. ○ **Lok sabha may accept or reject amendments recommended by RS in the Money Bill (UPSC 2013)** ○ **When a money bill is presented to the president, he may either give his assent to the bill or withhold his assent to the bill but cannot return the bill for reconsideration of the Houses**. **Ordinary Bill** ○ **can be introduced either in the Lok Sabha or the Rajya Sabha** ○ can be **introduced either by a minister or by a private member** ○ introduced **without the recommendation of the president** ○ **can be amended or rejected by the Rajya Sabha** ○ does not require the certification of the Speaker ○ In **case of a deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock** ○ **Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister).**	**Financial Bills (I)** • bill that contains not only any or all the matters mentioned in **Article 110, but** also other matters of general legislation. • a financial bill (I) is similar to a money bill–(a) both of them can be introduced only in the Lok Sabha and not in the Rajya Sabha, and (b) both of them can be introduced only on the recommendation of the president. • it can be either rejected or amended by the Rajya Sabha (except that an amendment other than for reduction or abolition of a tax cannot be moved in either House without the recommendation of the president) • In case of **a disagreement between the two House**s over such a bill, the president can summon a joint sitting of the two Houses to resolve the deadlock. • **President can give Assent, Withhold it or Return for reconsideration** **Financial Bills (II)** • **A financial bill (II)** contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in **Article 110** • It is governed by the **same legislative** procedure which is **applicable to an ordinary bill.** • **financial bill (II**) can be introduced in either House of Parliament and recommendation of the President is not necessary for its introduction • The President can summon a joint sitting of the two Houses to resolve the deadlock. • **President can give Assent, Withhold it or Return for reconsideration**

JOINT SITTING OF TWO HOUSES- an **extraordinary machinery provided by the Constitution** to resolve a deadlock between the two Houses over the passage of a bill; the president can summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the bill. It must be noted here that the provision of joint sitting is applicable to **ordinary bills or financial bills only a**nd **not to money bills or**

Constitutional amendment bills. The **Speaker of Lok Sabha presides over a joint sitting of the two Houses and the Deputy Speaker, in his absence; If the Deputy Speaker is also absent from a joint sitting, the Deputy Chairman of Rajya Sabha presides**. provision regarding the joint sitting of the two Houses has been invoked only thrice

BILL referred to Joint sitting is passed by a simple majority of members present and voting (UPSC 2015)

BUDGET IN PARLIAMENT

- The Constitution refers to the budget as the '**annual financial statement'.** In other words**, the term 'budget' has nowhere been used in the Constitution.**
- The Railway Budget was separated from the General Budget in 1924 on the recommendations of the Acworth Committee Report (1921).
- **In 2017, the Central Government merged the railway budget into the general budget**
- The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of estimated receipts and expenditure of the Government of India for that year
- **No demand for a grant shall be made except on the recommendation of the President**.
- **No money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law**
- **The expenditure 'charged on' the Consolidated Fund of India shall not be submitted to the vote of Parliament. However, it can be discussed by the Parliament**.
- the voting of demands for grants is the exclusive privilege of the Lok Sabha, that is, the Rajya Sabha has no power of voting the demands
- Parliament can also move motions to reduce any demand for grants. Such motions are called as '**cut motion', which are of three kinds**:
  (a) **Policy Cut Motion**: It represents the disapproval of the policy underlying the demand. It states that the amount of the demand will be **reduced to Rs 1.**
  b) **Economy Cut Motion** -It states that the amount of the demand be **reduced by a specified amount**
  (c) **Token Cut Motion- It** ventilates a specific grievance that is within the sphere of responsibility of the Government of India. It states that the amount of the demand will be **reduced by ₹100**.
- The Constitution of India provides for the following **three kinds** of funds for the Central government:
  (1) **Consolidated Fund of India (Article 266) -** fund to which all receipts are credited and all payments are debited; All the legally authorized payments on behalf of the Government of India are made out of this fund. **No money out of this fund can be appropriated (issued or drawn**) **except in accordance with a parliamentary law.(UPSC 2011)**
  (2) Public Account of India (Article 266)- 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; **includes provident fund deposits, judicial deposits, savings bank deposits**, departmental deposits, remittances and so on. **This account is operated by executive action,** that is, the payments from this account can by **made without parliamentary appropriation.**
  (3) **Contingency Fund of India (Article 267)-** 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.

POSITION OF RAJYA SABHA

The Constitutional position of the Rajya Sabha (as compared with the Lok Sabha) can be studied from three angles:

1. Where Rajya Sabha is equal to Lok Sabha.
2. Where Rajya Sabha is unequal to Lok Sabha.
3. Where Rajya Sabha has special powers that are not at all shared with the Lok Sabha



EQUAL STATUS WITH LOKSABHA (RS= LS)	UNEQUAL STATUS WITH LOKSABHA (RS<LS)	SPECIAL POWERS TO RAJYA SABHA (RS>LS)
• Ordinary bills • **Passage of constitutional amendment bills (UPSC 2020)** • Financial bill type II • Election and Impeachment of President • Election and removal of Vice president (RS can alone initiate removal) • **Approval of ordinance issued by president** • Approval for emergencies	○ **Money bills introduced only in LS; RS NO power to amend or Reject Money Bill (UPSC 2015)** ○ Financial Bill type I introduced only in LS ○ **Speaker** presides over **joint sitting** ○ RS can only discuss Budget but cannot vote on demand for grants(UPSC 2015) ○ Resolution for discontinuance of national emergency passed only by LS ○ **No confidence Motion- Removal of Government only initiated in LS (UPSC 2020**)	RS can authorize parliament to make law on subject in state list(art.249) **RS can authorizes parliament to create All India Services common to both center and State(Art.312)** UPSC 2012- Special powers conferred to RS

PARLIAMENTARY PRIVILEGES:

Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members.

Parliamentary privileges also extend to the attorney general of India and Union ministers but parliamentary privileges do not extend to the president who is also an integral part of the Parliament.

Originally, the Constitution (Article 105) expressly mentioned **two privileges**, that is**, freedom of speech** in Parliament and **right of publication of its proceedings.**

Collective privileges	Individual privileges
(1) It has **the right to publish its reports, debates** and proceedings and also **the right to prohibit** others from publishing the same (2) It **can exclude strangers** from its proceedings and hold **secret sittings**. (3) It can make rules to regulate its own procedure and the conduct of its business and to adjudicate **(4) It can punish members as well as outsiders for breach of its privileges** (5) It has **the right to receive immediate information** of the **arrest, detention, conviction, imprisonment** and **release of a member** (6) The courts are prohibited to inquire into the proceedings of a House or its committees (7) **No person (either a member or outsider) can be arrested,** and no legal process (civil or criminal) can be served **within the precincts** of the House **without the permission of the presiding officer**.	The **privileges belonging to the members individually are:** 1. They cannot be arrested during the session of Parliament and **40 days before the beginning** and **40 days after the end of a session**. (available only in civil cases and not in criminal cases) 2. **They have freedom of speech in Parliament**. No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees 3. **They are exempted from jury service**. They can **refuse to give evidence and appear** as a **witness in a case pending in a court when Parliament is in session**

Breach of Privilege and Contempt of the House- When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offense is termed as breach of privilege and is punishable by the House.

Any act or omission which obstructs a House of Parliament, its member or its officer in the performance of their functions-treated as contempt of House.

STATE LEGISLATURE (PART VI; ART.168-212)

- **Presently 28 states and 8 UT's**
- Only **6 states have Bicameral Legislature**- Andhra Pradesh,Telangana,Karnataka,Maharashtra,Uttar Pradesh,Bihar.
- **ART.169**: The Constitution provides for **the abolition or creation of legislative councils in states**- if the legislative assembly of the concerned state passes a resolution to that effect. Such a specific resolution must be passed by the state assembly by a special majority, that is, a majority of the total membership of the assembly and a majority of not less than two-thirds of the members of the assembly present and voting.

COMPOSITION OF TWO HOUSES

Composition of Assembly	**Composition of Council**
• **legislative assembl**y consists of representatives **directly elected** by the people on the **basis of universal adult franchise** • Its **maximum strength** is **fixed at 500 and minimum strength at 60**; in case of Arunachal Pradesh, Sikkim and Goa, the minimum number is fixed at 30 • The governor can nominate one member from the Anglo-Indian community, if the community is not adequately represented in the assembly **(under the 95th Amendment Act of 2009, this is to last until 2020.)** • The Constitution provided for the reservation of seats for scheduled castes and scheduled tribes in the assembly of each state on the basis of population ratios	• The members of the legislative council are indirectly elected. • **The maximum strength of the council is fixed at one-third of the total strength of the assembly and the minimum strength is fixed at 40 (UPSC 2015)** • Though the **Constitution has fixed the maximum and the minimum limits**, the **actual strength** of a Council is fixed by Parliament • Of the total number of members of a legislative council: (1) **1/3 are** elected by the **members of local bodies** in the state like municipalities, district boards, etc., (2) **1/12** are **elected by graduates** of three years standing and residing within the state, (3) **1/12 are elected by teachers** of three years standing in the state, not lower in standard than secondary school, (4) **1/3** are **elected by the membe**rs of the legislative assembly of the state from amongst persons who are not members of the assembly, and **(5) 1/6 are nominated by the governor**
Duration of Assembly : • Its **normal term is five years** from the date of its first meeting after the general elections • However, the **governor is authorized to dissolve the assembly at any time** (i.e., even before the completion of five years) • **Term of the assembly can be extended during the period of national emergency** by a law of Parliament for one year at a time (for any length of time)	**Duration of Council :** • the **legislative council is a continuing chamber**, that is, it is a permanent body and is not subject to dissolution • **one-third of its members retire on the expiration** of every second year. So, a member continues as such for six years. • The **retiring members** are also eligible for re-election and re-nomination any number of times
Speaker of Assembly: • The Speaker is elected by the assembly itself from amongst its members • **Remains in office during life of Assembly; Speaker of Legislative assembly shall vacate office if he ceases to member of assembly (UPSC 2018**) • Even if SLA dissolves speakers remains in Office until next Speaker Resumes Office • He was **removed by a resolution** passed by a	**Chairman of Council:** • **The Chairman is elected by the council itself from amongst its members (UPSC 2015)** • He can be removed by a resolution passed by a majority of all the then members of the council. Such a resolution can be moved only after giving 14 days advance notice. • **Speaker has one special power which is not enjoyed by**

majority of all the then members of the assembly. Such a **resolution can be moved only after giving 14 days advance notice** • H**e does not vote in the first instance. But, he can exercise a casting vote in the case of a tie.**	• **the Chairman. The Speaker decides whether a bill is a Money Bill or not and his decision on this question is final.**
Deputy Speaker of Assembly: • Deputy Speaker is also elected by the assembly itself from amongst its members • **He was removed by a resolution passed by a majority of all the then members of the assembly. Such a resolution can be moved only after giving 14 days' advance notice** • he Deputy Speaker performs the duties of the Speaker's office when it is vacant	**Deputy Chairman of Council :** • Deputy Chairman is also elected by the council itself from amongst its members • **He was removed by a resolution passed by a majority of all the then members of the council. Such a resolution can be moved only after giving 14 days advance notice** • The Deputy Chairman performs the duties of the Chairman's office when it is vacant. He also acts as the Chairman when the latter is absent from the sitting of the council.

PARLIAMENTARY COMMITTEES

- The Constitution of India makes a mention of these committees at different places, but without making any specific provisions regarding their composition, tenure, functions
- **Committees appointed or nominated by speaker/ chairman of that hous**e
- **The Minister is not eligible for the Financial committee; departmental committee; women Empowerment; Govt. Assurance; Petitions and Welfare of SC St committees.**

1. FINANCIAL COMMITTEES

Public Accounts Committee	Estimates Committee	Committee on Public Undertakings
• **committee was set up first in 1921** under the provisions of the Government of India Act of 1919 • it consists of **22 members** (15 from the Lok Sabha and 7 from the Rajya Sabha) (UPSC 2013;2007) • **The term of office of the members is one year** • 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) (UPSC 2013; 2012)**	○ **set up in 1921**. ○ The **first Estimates Committee in the post-independence era was constituted in 1950 on the recommendation of John Mathai** ○ **30 members**- All the thirty members are from Lok Sabha only. ○ It is **largest committee** of parliament(UPSC 2014). ○ **Rajya Sabha has no representation** in this committee. ○ T**he term of office is one year** ○ The function of the committee is to examine the estimates included in the budget and suggest 'economies' in public expenditure.	• **created in 1964** on the recommendation of the Krishna **Menon Committee** • In 1974, its membership was raised to 22 (15 from the Lok Sabha and 7 from the Rajya Sabha). • **The term of office of the members is one year**. • The **chairman of the committee is appointed by the Speaker** from amongst its members who are drawn from the Lok Sabha only

2. **Departmental Standing Committees (24**)

3**. Committees to Inquire** (a) **Committee on Petitions (b) Committee of Privileges (c) Ethics Committee**

4. **Committees to Scrutinize and Control (**a) Committee on Government Assurances (**b) Committee on Subordinate Legislation-scrutinizes and reports the house whether the power to make regulations,rules,sub rules, by laws conferred by constitution or delegated by parliament are being properly exercised by Executives (UPSC2018**) (c)

Committee on Papers Laid on the Table (d) Committee on Welfare of SCs and STs (e) Committee on Empowerment of Women (f) Joint Committee on Offices of Profit

5**. Committees Relating to the Day-to-Day Business of the House** (a) Business Advisory Committee (b) Committee on Private Members' Bills and Resolutions (c) Rules Committee (d) Committee on Absence of Members from Sittings of the House

6. **House-Keeping Committees or Service Committees** (i.e., Committees concerned with the Provision of Facilities and Services to Members): (a) General Purposes Committee (b) House Committee (c) Library Committee (d) Joint Committee on Salaries and Allowances of Members

Consultative Committee- these are NOT parliamentary committees; Minister/ minister of state is chairman; it is forum for informal discussion; it is constituted by Ministry of Parliamentary Affairs

NOTE*- Attorney General and Vice President can be member of Parliamentary committees

PARLIAMENTARY FORUMS

- The first Parliamentary Forum on Water Conservation and Management was constituted in the year 2005
- **Seven more Parliamentary forums were constituted**. At present, there are **eight Parliamentary forums**
- **Objectives- To** provide a platform to the members to have interactions with the ministers concerned, experts and key officials from the nodal ministries; To sensitize members about the key areas of concern and also about the ground level situation and equip them with the latest information.
- **Composition of Forum**- The Speaker of Lok Sabha is the ex-officio President of all the Forums except the Parliamentary Forum on **Population and Public Health wherein the Chairman of Rajya Sabha** is the ex-officio President and the Speaker is the ex-officio Co-President.
- **Each Forum consists of not more than 31 members** (excluding the President, Co-President and Vice-Presidents) out of whom not more than **21 are from the Lok Sabha** and not more than **10 are from the Rajya Sabha**.
- The duration of the office of members of the forum is coterminous with their membership in the respective Houses.

PARLIAMENTARY GROUP

- To **promote inter parliamentary relation**
- **IPG that acts both as the National Group of the Inter-Parliamentary Union (IPU) and also as the India Branch of the Commonwealth Parliamentary Association (CPA).**
- **IPG is an autonomous body**. It was formed in the year 1949
- The Speaker of the Lok Sabha is the ex officio president of the Group.
- **The Deputy Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha** are the ex officio vice-presidents of the Group.
- The SecretaryGeneral of the Lok Sabha acts as the ex officio Secretary-General of the Group.

SUPREME COURT AND HIGH COURT

Supreme Court(Part V; Art.124 to 147)	**High Court (Part VI; Art. 214 to 231)**
• SC inaugurated: 28 Jan 1950 (single system of courts, adopted from the Government of India Act of 1935) • **SC Replace British Privy Council in 1950** • Constitution Declares Delhi as seat, however CJI can appoint other places as seats • **Parliament can NOT curtail jurisdiction of SC , however parliament can EXTEND Jurisdiction of SC** • SC is CUSTODIAN of Constitution of India (UPSC 2015)	• The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. In 1866, a fourth high court was established at Allahabad • **The Constitution of India provides for a high court for each state, but the 7TH Amendment Act of 1956 authorized the Parliament to establish a common high court for two or more states or for two or more states and a union territory**. • **At present (2019), there are 25 high courts in the country**

COMPOSITION AND APPOINTMENT OF SC JUDGES:

- In 2019, the center notified an increase in the number of Supreme Court judges from thirty-one to thirty-four(34), including the Chief Justice of India
- **The judges of the Supreme Court are appointed by the president**
- **The chief justice is appointed by the president** after consultation with such judges of the Supreme Court and high courts
- **The other judges are appointed by president after consultation with the chief justice and such other judges of the Supreme Court and the high courts**
- The consultation with the chief justice is obligatory in the case of appointment of a judge other than the Chief justice.
- **3rd Justice Case- consultation of plurality judges**

QUALIFICATION OF JUDGES:

- He should be a citizen of India
- He should have been a judge of a **High Court for 5 years**
- He should have been an **advocate of a High Co**urt for **10 years**
- He should be a **distinguished jurist in** the opinion of the president
- **Constitution has not prescribed a minimum age for appointment as a judge**

OATH:

- has to make and subscribe an oath or **affirmation before the President**

TENURE:

- The **Constitution has not fixed the tenure of a judge of the Supreme Court.**
- He holds office until he attains the **age of 65 years** (question regarding age determined by parliament)
- He can resign his office by writing to the president
- He can be **removed from his office by the President** on the recommendation of the Parliament. On Grounds of- 1) **Mis behavior 2)Incapacity**

REMOVAL OF JUDGES:

- he Judges Enquiry Act (1968) regulates the procedure
- A **removal motion signed by 100 members** (in the case of Lok Sabha) or **50 members** (in the case of Rajya Sabha)
- **The Speaker/Chairman may admit the motion or refuse to admit it**.
- After the motion is passed by each House of Parliament **by special majority**, an address is

COMPOSITION AND APPOINTMENT OF HC JUDGES:

- Every high court (whether exclusive or common) consists of a chief justice and such other judges as the president may from time to time deem necessary to appoint
- **The Constitution does not specify the strength of a high court** and **leaves it to** the discretion of the **president**.
- The judges of a high court are appointed by the **President.** The chief justice is appointed by the President after consultation with the chief justice of India and the governor of the state concerned.
- **in 2015, the Supreme Court declared both the 99th Constitutional Amendment as well as the NJAC Act as unconstitutional and void.**

QUALIFICATION OF JUDGES:

- He should be a citizen of India
- He should have held a judicial office in the territory **of India for ten years**
- He should have been an **advocate of a high court** (or high courts in succession) for ten years.
- Constitution makes no provision for appointment of a distinguished jurist as a judge of a high court

OATH:

- has to make and subscribe an oath or **affirmation before the governor of the state**

TENURE:

- The **Constitution has not fixed the tenure of a judge of a high court**.
- He holds office until he attains the **age of 62 years**
- He can resign his office by writing to the president
- He can be **removed from his office by the President** on the recommendation of the Parliament. On Grounds of- **1) Mis behavior 2)Incapacity**

REMOVAL OF JUDGES:

- A judge of a high court can be removed from his office by an order of the President
- A **removal motion signed by 100 members (in the case of Lok Sabha**) or 50 members (in the case of Rajya Sabha) is to be given to the Speaker/Chairman
- After the motion is passed by each House of **Parliament by special majority**, an address is presented to the president for removal of the judge
- the **procedure for the impeachment of a judge of a high court is the same as that for a judge of the**

presented to the president for removal of the judge.
- no judge of the Supreme Court has been impeached so far.

ACTING, AD HOC AND RETIRED JUDGES

- **Acting Chief Justice** -The President can appoint a judge of the Supreme Court as an acting Chief Justice of India; when Office is vacant/ CJI is absent/ CJI is unable to perform
- **Ad hoc Judge**- When there is a lack of quorum of the permanent judges to hold or continue any session of the Supreme Court, **the Chief Justice of India can appoint a judge of a High Court as an ad hoc judge of the Supreme Court for a temporary period.**
- **Retired Judg**e- At any time, the chief justice of India can request a retired judge of the Supreme Court or a retired judge of a high court to act as a judge of the Supreme Court for a temporary period.

JURISDICTION AND POWERS OF SUPREME COURT

- **Original Jurisdiction (UPSC 2012) Under Article 131,** subject to the provisions of this Constitution, the Supreme Court shall, to the **exclusion of any other court, have original jurisdiction** any dispute: i)Between the Government of India and States;

ii) Between the Government of India and any State or States on one side and one or more other
iii)States on the other; or Between two or more States, if and in so far as the **dispute involves** any **question on which the existence or extent of a legal right depends**

- The Supreme Court has exclusive original **jurisdiction in the above cases**. Exclusive means, no other court can decide such disputes and original means, the power to hear such disputes in the first instance, not by way of appeal
- **Original jurisdiction does not extend toi) Preconstitutional treaty; ii)Inter State Water Disputes iii)Matter referring Finance Commission**

Writ Jurisdiction

- The **Supreme Court has original jurisdiction** in the sense that an aggrieved citizen can directly go to the Supreme **Court, not necessarily by way of appeal. However, the writ jurisdiction of the Supreme Court is not exclusive.**
- **SC can issue writ only for enforcement of FR**

Supreme Court.
- The President can transfer a judge from one high court to another after consulting the Chief Justice of India.

ACTING, ADDITIONAL AND RETIRED JUDGES

Acting Chief Justice -The President can appoint a judge of the Supreme Court as an acting Chief Justice of HC; when Office is vacant/ CJ is absent/ CJ is unable to perform

Additional and Acting Judges The President can appoint duly qualified persons as additional judges of a high court for a temporary period not exceeding two years

Retired Judges At any time, the chief justice of a high court of a state can request a retired judge of that high court or any other high court to act as a judge of the high court of that state for a temporary period

JURISDICTION AND POWERS OF HIGH COURT

Original Jurisdiction It means the **power of a high court to hear disputes in the first instance**, not by way of appeal. It extends to the following:
(a) Matters of **admiralty and contempt of court**.
(b) Disputes relating to the election of members of Parliament and state legislatures.
(c) Regarding revenue matters or an act ordered or done in revenue collection.
(d) Enforcement of **fundamental rights of citizens**.
(e) Cases ordered to be transferred from a subordinate court involving the interpretation of the Constitution to its own file.

Writ Jurisdiction

- **Article 226** of the Constitution empowers a high court to **issue writs**
- **The writ jurisdiction of the high court (under Article 226) is not exclusive but concurrent with** the writ jurisdiction of the Supreme Court (under Article 32).

Appellate Jurisdiction

- **A high court is primarily a court of appeal**. It hears appeals against the judgments of subordinate courts functioning in its territorial jurisdiction. It has **appellate jurisdiction in both civil and criminal matters.**

Appellate Jurisdiction

- **It enjoys a wide appellate jurisdiction** which can be classified under **four heads**: (a) Appeals in constitutional matters. (b) Appeals in civil matters. (c) Appeals in criminal matters. (d) Appeals by special leave.

Advisory Jurisdiction (UPSC 2010)

- **The Constitution (Article 143)** authorizes the **president to seek the opinion of the Supreme Court in the two categories of matters**: (a) On any question of law or fact of public importance which has arisen or which is likely to arise (Supreme Court may tender or may refuse to tender its opinion to the president) (b) On any dispute arising out of any pre-constitution treaty, agreement
  (Supreme Court 'must' tender its opinion
  to the president)

Power of Judicial Review

- **Judicial review is the power of the Supreme Court** to **examine the constitutionality of legislative enactments and executive orders** of both the Central and state governments

Constitutional Interpretation

- The Supreme Court is the ultimate interpreter of the Constitution

Other Powers of SC

- It decides **the disputes regarding the election** of the **president and the vice president**
- **inquires into the conduct and behavior of the chairman and members of the Union Public Service Commission**
- It has the **power to review its own judgment** or order.
- It has **power of judicial superintendence and control over all the courts and tribunals functioning in the entire territory of the country**

IMPORTANT ARTICLES

124A. National Judicial Appointments Commission
130. Seat of Supreme Court
141. Law declared by Supreme Court to be binding on all courts
142. Enforcement of decrees and orders of the Supreme Court and orders as to discovery, etc.
143. Power of President to consult Supreme Court

Supervisory Jurisdiction

- A high court has the power **of superintendence** over all courts and tribunals functioning in its territorial jurisdiction (except military courts or tribunals).

Power of Judicial Review

- **Judicial review is the power of a high court** to **examine the constitutionality of legislative enactments and executive orders of both the Central and state governments.**
- Though the phrase **'judicial review'** has no where been used in the Constitution, the provisions of Articles 13 and 226 explicitly confer the power of judicial review on a high court. The constitutional validity of a legislative enactment or an executive order can be challenged in a high court

A Court of Record

As a court of record, a high court has two powers: (a) The judgements, proceedings and acts of the high courts are **recorded for perpetual memory** and t**estimony**. These records are admitted to be of evidentiary value and cannot be questioned when produced before any subordinate court. They are recognised as legal precedents and legal references. (b) It **has power to punish for contempt of court**, either with simple imprisonment or with fine or with both. **The expression 'contempt of court'** has not been defined by the Constitution. However, the expression has been defined by **the Contempt of Court** Act of 1971.

IMPORTANT ARTICLES

222. Transfer of a judge from one High Court to another
227. Power of superintendence over all courts by the High Court

JUDICIAL REVIEW

- The doctrine of **judicial review originated and developed in the USA**
- Supreme Court has declared the power **of judicial review as a basic feature of the Constitution** or an element of the **basic structure of the Constitution**
- **MEANING- Judicial review is the power of the judiciary to examine the constitutionality of legislative enactments and executive orders of both the Central and State governments (UPSC 2017)**
- Judicial review is needed for the following reasons: (a) To uphold the principle of the supremacy of the Constitution. (b) To maintain federal equilibrium (**balance between the Center and the states**). (c) To protect the Fundamental Rights of the citizens
- Though the **phrase 'Judicial Review' has nowhere been used in the Constitution, the** provisions of several **Articles explicitly confer the power of judicial review** on the Supreme Court and the High Courts.
- These provisions are explained below:
    1. **Article 13 declares** that all laws that are inconsistent with or in derogation of the Fundamental Rights shall be null and void.
    2. **Article 32** guarantees the right to move the Supreme Court for the enforcement of the Fundamental Rights and empowers the Supreme Court to issue directions or orders or writs for that purpose
    3. **Article 226** empowers the High Courts to issue directions or orders or writs for the enforcement of the Fundamental Rights and for any other purpose.
    4. Article 372 deals with the continuance in force of the pre constitution laws
    5. **ART.131,**132,134,136,143,227,245,246,etc.
    - The **scope of judicial review in India is narrower than what exists in the USA, though the American Constitution does not explicitly mention the concept of judicial review in any of its provisions**.
    - This is because, the American Constitution provides for 'due process of law' against that of 'procedure established by law' which is contained in the Indian Constitution.

JUDICIAL REVIEW OF THE NINTH SCHEDULE

- **Article 31B saves the acts and regulations included in the Ninth Schedule** from being challenged and **invalidated on the ground of contravention of any of the Fundamental Rights**
- **Article 31B** along with the Ninth Schedule was added by the 1st Constitutional Amendment Act of 1951.
- **Significant judgment delivered in I.R. Coelho case (2007), the Supreme Court ruled that there could not be any blanket immunity from judicial review of laws included in the Ninth Schedule.** The court held that **judicial review is a 'basic feature' of the constitution and it could not be taken away by putting a law under the Ninth Schedule. (UPSC 2018)**
- It said that the laws placed under the Ninth Schedule after April 24, 1973, are open to challenge in court if they violated Fundamental Rights guaranteed under the Articles 14, 15, 19 and 21 or the 'basic structure' of the Constitution.
- It was on April 24, 1973, that the Supreme Court first propounded the doctrine of 'basic structure' or 'basic features' of the constitution in its landmark verdict in **the Kesavananda Bharati case.**

JUDICIAL ACTIVISM

- concept of **judicial activism originated and developed in the USA**
- In India, the doctrine of judicial activism was introduced in mid1970s. Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinnappa Reddy and Justice D.A. Desai
- **MEANING- Judicial activism denotes the proactive role played by the judiciary in the protection of the rights of citizens and in the promotion of justice in the society. In other words, it implies the assertive role played by the judiciary to force the other two organs of the government (legislature and executive) to discharge their constitutional duties**
- **The concept of judicial activism is closely related to the concept of Public Interest Litigation (PIL).**
- **Meaning of Judicial Restraint- Judicial activism and judicial restraint are the two alternative judicial philosophies in the United States. Those who subscribe to judicial restraint contend that the role of judges should be scrupulously limited; their job is merely to say what the law is, leaving the business of lawmaking where it properly belongs, that is, with the legislators and the executives.**

Public Interest Litigation (UPSC 2006)

- Justice **V.R. Krishna Iyer and Justice P.N. Bhagwati were the pioneers of the concept of PIL.** PIL is also known variously as **Social Action Litigation (SAL**),

Social Interest Litigation (SIL) and Class Action Litigation (CAL)

- In 1998, the Supreme Court formulated a set of guidelines to be followed for entertaining letters or petitions received by it as PIL. These guidelines were modified in 1993 and 2003.

TRIBUNALS

- The original Constitution did not contain provisions with respect to tribunals. The **42nd Amendment Act of 1976 added a new Part XIV-A to the Constitution**.
- This part is entitled as 'Tribunals' and consists of only two Articles–Article 323 A dealing with administrative tribunals and Article **323 B dealing with tribunals for other matters**.
- **Article 323 A** enables the Parliament to take out the adjudication of disputes relating to service matters from the civil courts and the high courts and place it before the administrative tribunals.
- **Central Administrative Tribunal (CAT**)- The Central Administrative Tribunal (CAT) was set up in 1985 with the principal bench at Delhi and additional benches in different states. **CAT was set up during Presidentship of RAJIV GANDHI (UPSC 2009)**
- **The CAT exercises original jurisdiction in relation to recruitment and all service matters of public servants covered by it. Its jurisdiction extends to the all-India services, the Central civil services, civil posts under the Center and civilian employees of defense services**.
- State Administrative Tribunals The Administrative Tribunals Act of 1985 empowers the Central government to establish the State Administrative Tribunals (SATs) on specific request of the concerned state governments
- **Article 323 B, the Parliament and the state legislatures are authorized to provide for the establishment of tribunals for the adjudication of disputes relating to the following matters**: (a) Taxation (b) Foreign exchange, import and export (c) Industrial and labor (d) Land reforms (e) Ceiling on urban property (f) Elections to Parliament and state legislatures (g) Food stuffs

Subordinate Courts

- **Articles 233 to 237 in Part VI of the Constitution make the following provisions to regulate the organization of subordinate courts and to ensure their independence from the executive**.
- The appointment, posting and promotion of district judges in a state are made by the governor of the state in consultation with the high court.
- **Appointment of persons (other than district judges) to the judicial service of a state are made by the governo**r of the state after consultation with the State Public Service Commission and the high court.

NATIONAL LEGAL SERVICES AUTHORITY

- **Article 39A** of the Constitution of India provides for **free legal aid to the poor and weaker sections** of the society and ensures justice for all.
- **Articles 14 and 22(1)** of the Constitution also make it obligatory for the State to ensure equality **before law and a legal system which promotes justice on the basis of equal opportunity to all.**
- In the year 1987, the Legal Services Authorities Act was enacted.

LOK ADALATS

- The **word 'Lok Adalat' means 'People's Court'.** This **system is based on Gandhian principles. It is one of the components of the ADR (Alternative Dispute Resolution) system.**
- As the Indian courts are overburdened with the backlog of cases and the regular courts are to decide the cases involving a lengthy, expensive and tedious procedure.
- **The first Lok Adalat camp in the post independence era was organized in Gujarat in 1982**
- Lok Adalat has been given statutory status under the Legal Services Authorities Act, 1987
- There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat.
- The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable

PERMANENT LOK ADALATS- Statutory

- **The Legal Services Authorities Act, 1987 was amended in 2002 to provide for the establishment of the Permanent Lok Adalats to deal with cases pertaining to the public utility services.**
- **The Permanent Lok Adalat shall consist of a Chairman who is or has been a district judge or additional district judge or has held judicial office higher in rank than that of the district judge**
- **No jurisdiction on Non compoundable laws**
- The pecuniary jurisdiction of the Permanent Lok Adalat shall be up to rupees ten lakhs

- Every award made by the Permanent Lok Adalat shall be final and binding on all the parties thereto and shall be by a majority of the persons constituting the Permanent Lok Adalat.

FAMILY COURTS- statutory

- Specialized court, Exclusively- family matters
- Established by State Govt. consulting HC
- Obligatory to set up court in city- **1 million population**
- **Provides only 1 right to appeal which shall lie to High court**

Gram Nyayalayas

- **Gram Nyayalayas Act, 2008** has been enacted to provide for the **establishment of the Gram Nyayalayas** at the **grass roots level for the purposes of providing access to justice to the citizens** at their doorsteps
- The **Gram Nyayalaya shall be the court of Judicial Magistrate** of the first class and its presiding officer (Nyayadhikari) shall be appointed by the State Government in consultation with the High Court.
- The **Gram Nyayalaya shall be a mobile court** and shall exercise the powers **of both Criminal and Civil Courts**
- The Gram Nyayalaya shall try to settle the disputes as far as possible by bringing about conciliation between the parties and for this purpose, it shall make use of the conciliators to be appointed for this purpose.
- **The Gram Nyayalaya shall not be bound by the rules of evidence provided in the Indian Evidence Act, 1872 but shall be guided by the principles of natural justice and subject to any rule made by the High Court**
- **Appeal in criminal cases shall lie to the Court of Session**, which shall be heard and disposed of within a period of six months from the date of filing of such appeal.

SPECIAL PROVISIONS FOR SOME STATES (PART XXI; ART.371 TO371J)

- Articles 371 to 371-J in Part XXI of the constitution contain special provisions for twelve states viz., Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa and Karnataka.
- Originally, the constitution did not make any special provisions for these states.

- **371**. Special provision with respect to the states of **Maharashtra and Gujarat** (7TH Const.Amd.)
- **371A**. Special provision with respect to the state of **Nagalan**d (13th Const.Amd)
- **371B**. Special provision with respect to the state of **Assam**(22nd Const.Amd)
- **371C**. Special provision with respect to the state **of Manipur** (27th Const.Amd.)
- **371D**. Special provisions with respect to the state of **Andhra Pradesh or the state of Telangana** (32nd Const.Amd)
- **371E**. Es**tablishmen**t of **Central University** in **Andhra Pradesh**
- **371F**. Special provisions with respect to the state of S**ikkim** (36th Const Amd-Full statehood)
- **371G**. Special provision with respect to the state of **Mizoram** (53rd Const.Amd)
- **371H.** Special provision with respect to the state of **Arunachal Pradesh** (55th const.Amd.)
- **371-I**. Special provision with respect to the state of **Goa (56th** Const.Amd)
- **371J**. Special provisions with respect to the state **of Karnataka**(98th Const.Amd)

PART-V LOCAL GOVERNMENT PANCHAYATI RAJ (PART IX; 11TH SCHEDULE)

- It is entrusted with **rural development**. It was constitutionalised through the **73rd Constitutional Amendment Act of 1992.**
- **Local self government best explain as exercise in Democratic Decentralization** (UPSC 2017)
- **Fundamental Objective of Panchayati Raj- People's participation in development and Democratic Decentralization (UPSC 2015)**

EVOLUTION OF PANCHAYATI RAJ

- **Balwant Rai Mehta Committee**(Jan 1957) :Recommended 3 Tier Panchayati raj system
- **Ashok Mehta Committee**(Dec 1977): recommended 2 Tier Panchayati Raj system
- **GVK Rao Committee**(1985): recommended 2 Tier Panchayati Raj system
- **Dantwala comm**.(1978)- Block Level Planning
- **Hanumantha rao Comm**.: District Planning
- **L M Singhvi (1986**)-Revitalisation of panchayati Raj
- **Thungon Committee**(1988)- recommended **3 Tier Panchayati Raj system**
- **Gadgil Committee**(1988)- recommended 3 Tier Panchayati Raj system

73RD AMENDMENT ACT OF 1992 (UPSC 2011)

- This act has added a new **Part-IX** to **the Constitution of India**. This part is entitled **as 'The Panchayats'** and consists of provisions from **Articles 243 to 243 O.**
- This **schedule contains 29 functional items of the panchayats. It deals with Article 243-G**
- **Gram Sabha-The** act provides for a **Gram Sabha as the foundation of the panchayati raj system**; body of persons registered in the electoral rolls of a village comprising the area of Panchayat at the village level. Thus, it is a village assembly consisting of all the registered voters in the area of a panchayat.
- **Three-Tier System** -The act provides for a three-tier system of panchayati raj in every state, that is, panchayats at the village, intermediate, and district levels.
- **Election of Members and Chairpersons**- All the members of **panchayats at the village, intermediate and district levels shall be elected directly by the people;**
- **Reservation of Seats**- The act provides for the reservation of seats for scheduled castes and scheduled tribes in every panchayat (i.e., at all the three levels) in proportion of their population to the total population in the panchayat area**. The act provides for the reservation of not less than one-third of the total number of seats for women**
- **Duration of Panchayats**- The act provides for a **five-year term of office to the panchayat at every level**. However, it can be dissolved before the completion of its term. Further, fresh elections to constitute a panchayat shall be completed (a) before the expiry of its duration of five years; or (b) **in case of dissolution, before the expiry of a period of six months from the date of its dissolution- Panchayat continues only for remainder period after reconstituted (UPSC 2016; 2009)**
- **Disqualifications**- A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified, (a) under any law for the time being in force for the purpose of elections to the legislature of the state concerned, or (b) under any law made by the state legislature. **However, no person shall be disqualified** on the ground that **he is less than 25 years of age if he has attained the age of 21 years (UPSC 2016**)
- **State Election Commission**- The **superintendence**, **direction and control** of the preparation of electoral rolls and the **conduct of all elections to the panchayats shall be vested in the state election commission**. It consists of a state election commissioner to be appointed by the governor. His conditions of service and tenure of office shall also be determined by the governor. Removal on the grounds removal of HC judge.
- **State Finance Commission**- **The governor of a state shall, after every five years, constitute a finance commission to review the financial position of the panchayats; Governor is principle for determining the taxes and duties which may be appropriated bt panchayat (UPSC 2010)**

Compulsory Provisions 0f 73rd Amd Act 1992

1. Organization of **Gram Sabha** in a village or group of villages.
2. Establishment of **panchayats at the village, intermediate and district levels.**
3. **Direct elections to all seats** in panchay-ats at the village, intermediate and district levels.
4. **Indirect elections to the post of chairperson of panchayats at the intermediate and district levels**.
5. Voting rights of the chairperson and other members of a panchayat elected directly or indirectly.
6. **21 years to** be the **minimum ag**e for contesting elections to panchayats.
7. **Reservation of seats (**both members and chairpersons) for **SCs and STs in panchayats at all the three levels**.
8. Reservation **of one-third seats (both members and chairpersons) for** women in panchayats at all the three levels.
9. **Fixing tenure of five years for panchay**-ats at all levels and holding **fresh elections within six months** in the event of supersession of any panchayat.
10. **Establishment of a State Election Commission for conducting elections to the panchayats**.
11. Constitution of a **State Finance Commission after every five years to review the financial position** of the panchayats

PESA ACT OF 1996 (EXTENSION ACT) (UPSC 2013; 2012)

- The **provisions of Part IX** of the **constitution relating to the Panchayats are not applicable to the Fifth Schedule** areas. However, the **Parliament may extend these provisions to such areas,** subject to such exceptions and modifications as it may specify. Under this provision, the Parliament has enacted the "Provisions of the Panchayats (Extension to the Scheduled Areas) Act", 1996,

popularly known as the PESA Act or the Extension Act.

- **At present (2019), ten states have Fifth Schedule Areas**
- Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level
- To Recognise Traditional Rights
- Free tribal people from exploitation and provide self governance
- **Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification** of **utilization of funds** for the above plans, programmes and projects
- The **reservation of seats in the Scheduled Areas in every Panchayat** shall be in proportion to the population of the communities for whom reservation is sought to be given under **Part IX of the Constitution**. However, the reservation for the Scheduled Tribes shall not be less than **one-half of the total number of seats**. Further, all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes.
- **Planning and management of minor water bodies** in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level
- The **prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be mandatory for grant of concession for the exploitation of minor minerals by auction.**

MUNICIPALITIES (PART IX-A; 12TH SCHEDULE)

- '**Urban Local Government'** in India signifies the governance of an urban area by the people through their elected representatives.
- The system of urban government was **constitutionalised** through **the 74th Constitutional Amendment Act of 1992.**
- At the Central level, the subject of **'urban local government'** is dealt with by the **following three ministries**: (i) Ministry of Housing and Urban Affairs. (ii) Ministry of Defense in the case of cantonment boards (iii) Ministry of Home Affairs in the case of Union Territories
- **Lord Mayo's** Resolution of 1870 on financial decentralization visualized the development of local self-government institutions. Lord Ripon's Resolution of 1882 has been hailed as **the 'MagnaCarta' of local self-government. He is called as the father of local-self government in India**. The Royal Commission on decentralization was appointed in 1907 and it submitted its report in 1909.

74TH AMENDMENT ACT OF 1992

- the **74th Amendment Act** has added a **new Part IX-A to** the Constitution of India. This part consists of provisions from **Articles 243-P to 243-ZG.**
- In addition, the act has also added **a new Twelfth Schedule to the Constitution. This schedule contains eighteen functional items of municipalities.**
- It deals with **Article 243-W.**
- **All the members** of a municipality shall be **elected directly by the people of the municipal area**. For this purpose, each municipal area shall be divided into territorial constituencies to be known as wards.
- **The act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion of their population to the total population in the municipal area. Further, it provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging to the SCs and the STs).**
- The **act provides for a five-year term** of office for every municipality. However, it can be dissolved before the completion of its term. Further, the fresh elections to constitute a municipality shall be completed (a) before the expiry of its duration of five years; or (b**) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.**
- A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified (a) under any law for the time being in force for the purposes of elections to the legislature of the state concerned; or (b) under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years **of age if he has attained the age of 21 years**

TYPES OF URBAN GOVERNMENTS

1 **Municipal Corporation**- Municipal corporations are created for the administration of big cities like Delhi, Mumbai, Kolkata, Hyderabad, Bangalore and others. A municipal corporation has three authorities, namely, the council, the standing committees and the commissioner The **Council is headed by a Mayor**. He is assisted by a **Deputy Mayor**. He is **elected in a majority of the states for a one-year renewable term.** The municipal

commissioner is appointed by the state government and is generally a member of the IAS.

2 **Municipality-** The municipalities are established for the **administration of towns and smaller cities. The** chief executive officer/chief municipal officer is responsible **for day-to-day general administration** of the municipality. **He is appointed by the state government**

3 **Notified Area Committee** -A notified area committee is created **for the administration of two types of areas–**a fast developing town due to industrialisation, and a town which does not yet fulfil all the conditions necessary for the constitution of a municipality. But unlike the municipality, it is an entirely nominated body, that is**, all the members of a notified area committee including the chairman are nominated by the state government**.

4 **Town Area Committee** -A town area committee is set up for the **administration of a small town**. It is a semi municipal authority and is entrusted with a limited number of civic functions like drainage, roads, street lighting, and conservancy**. It is created by a separate act of a state legislature**

5 **Cantonment Board**- A cantonment board is established **for municipal administration for civilian population** in the cantonment area. It is set up **under the provisions of the Cantonments Act of 2006–a** legislation enacted by the Central government. A cantonment board consists of **partly elected and partly nominated members.** The elected members hold office for a **term of five years** while the nominated members (i.e., ex-officio members) continue so long as they hold the office in that station

6 **Township-** This type of **urban government** is established by the **large public enterprises to provide civic amenities to its staff and workers who** live in the housing colonies built near the plant. **No elected members**.

7 **Port Trust-** The port trusts are established in the port areas like Mumbai, Kolkata, Chennai and so on for two purposes: (a) to manage and protect the ports; and (b) to provide civic amenities**. A port trust is created by an Act of Parliament.**

PART-VI UNION TERRITORIES AND SPECIAL AREAS
UNION TERRITORIES (PART VIII; ART.239-241)

- **Article 1** of the Constitution, the **territory of India comprises three categories of territories**: (a) territories of the states; (b) union territories; and (c) territories that may be acquired by the Government of India at any time
- During British Rule, certain areas were constituted as 'scheduled districts' in 1874. Later, they came to be known as 'chief commissioners provinces'
- **In 1956, they were constituted as the 'union territories' by the 7th Constitutional Amendment Act (1956) and the States Reorganization Act (1956**).
- **Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh and Goa, which are states today were formerly union territories**.
- **At present, there are 8 Union Territories. They are (along with the year of creation): (1) Andaman and Nicobar Islands– 1956, (2) Delhi–1956, (3) Lakshadweep–1956, (4) Puducherry– 1962, (5) Chandigarh–1966, (6) Jammu and Kashmir–2019 and (7) Ladakh–2019, (8) Dadra and Nagar Haveli and Daman and Diu–2019**
- **Every union territory is administered by the President** acting through an administrator appointed by him. An administrator of a union territory is an agent of the President and not head of state like a governor.
- The President can specify the designation of an administrator; it may be Lieutenant Governor or Chief Commissioner or Administrator
- **At present, it is Lieutenant Governor in the case of Delhi, Puducherry, Andaman and Nicobar Islands, Jammu and Kashmir and Ladakh and Administrator in the case of Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep.**
- **The Union Territories of Puducherry (in 1963), Delhi (in 1992) and Jammu and Kashmir (in 2019) are provided with a legislative assembly and a council of ministers headed by a chief minister**.
- The Bombay High Court has jurisdiction over two union territories–Dadra and Nagar Haveli, and Daman and Diu. Andaman and Nicobar Islands, Chandigarh, Lakshadweep and Puducherry are placed under the Calcutta, Punjab and Haryana, Kerala, and Madras High Courts respectively. The Jammu and Kashmir High Court is the common high court for the two union territories of Jammu and Kashmir, and Ladakh.

SPECIAL PROVISIONS FOR DELHI- **The 69th Constitutional Amendment Act of 1991 provided a special status** to the **Union Territory of Delhi, and redesignated it the National Capital Territory of Delhi and designated the administrator of Delhi as the lieutenant (lt.) governor. It created a legislative assembly and a council** of ministers for Delhi. The chief minister is appointed by the President (not by the lt. governor). The other ministers are appointed by the

president on the advice of the chief minister. The ministers hold office during the pleasure of the president.

SCHEDULED AND TRIBAL AREAS (PART X; ART.244)

- **Article 244 in Part X of** the Constitution envisages a special system of administration for certain areas designated as '**scheduled areas' and 'tribal areas'**.
- **The Fifth Schedule of the Constitution** deals with the administration and control of scheduled areas and scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram. (UPSC 2015; 2008)
- The **Sixth Schedule of the Constitution**, on the other hand, deals with the **administration of the tribal areas** in the **four north eastern states of Assam, Meghalaya, Tripura and Mizoram. (UPSC 2015**)
- **Declaration of Scheduled Areas**: The president is empowered to declare an area to be a scheduled area. He can also increase or decrease its area, alter its boundary lines, rescind such designation or make fresh orders for such designation on an area in consultation with the governor of the state concerned.
- **Executive Power of State and Center**: The executive power of a state extends to the scheduled areas therein. But the governor has a special responsibility regarding such areas.
- **Law applicable to Scheduled Areas**: The governor is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions.
- **The Constitution, under Sixth Schedule**, contains special provisions for the administration of tribal areas in the **four north eastern states of Assam, Meghalaya, Tripura and Mizoram**.
- The **governor is empowered to organize and reorganize the autonomous districts. Thus, he can increase or decrease their areas or change their names.**
- **The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions.**

CONSTITUTIONAL BODIES

UNION PUBLIC SERVICE COMMISSION

- **Art 315 – 323 of part XIV**
- Composition – Chairman and add members appointed by president.
- Term**- 6yrs or till age of 65yrs**
- **Qualification**-No prescribed qualification **else 50% Member holds field experience for 10 years**.
- **Removal:** Removal by president on basis of insolvent, Office of Profit or infirmity of minds or body and mis behavior Under **Article 319. Supreme Court advice is binding** in nature(for Removal)
- Members Not eligible for employment other than chairman of UPSC or SPSC once only.
- **Role-Its role is as Watchdog of Merit System , advisory recommendations and only a central recruiting agency**.

STATE PUBLIC SERVICE COMMISSION

- **Article 315 - 323 in Part XIV.**
- **Composition**- chairman and add members appointed by governor
- **Term**- for 6 or till age of 62 year.
- **Qualification**- No qualification **else 50% members have field experience for 10 years**.
- **Removal**- **Remove only by president on the same ground as UPSC chairman or members can be removed.**
- Enjoy security of junior new employment other than (UPSC chairman or members) and no second term.
- Their role is the same as UPSC but for the state.

Election Commission of India

- **Article 324 Establishes ECI as All India Body.**
- Under Article 324, Election commission is **3 Member Body** -Chief Election Commission (CEC) & 2 Election Commissioner (EC) can be **appointed by president For 6 or till age of 65 years And condition of services are determined by president. (UPSC 2017)**
- **CEC can be removed in the manner & same on the ground of Supreme Court judges**. EC removed by president On recommendation of CEC.
- **The chief election commissioner and the two other election commissioners have equal powers and receive equal salary, allowances and other perquisites, which are similar to those of a judge of the Supreme Court.**

- **They have power – Administrative advisory and quasi judicial. Election Commission resolves the disputes relating to splits/mergers of recognised political parties –UPSC 2017**
- No prescribed qualification, no specific term of office of Members and no appointment other than CEC by promotions for EC & no appointment for CEC.

FINANCE COMMISSION

- **Article 280** provides for a **Finance commission** , constituted by the president for 5 years.
- FC **is Balancing wheel of Fiscal Federalism** It recommends distribution of tax revenues and it is a quasi judicial Body.
- **It has a chairman and 4 other members** who can **be appointed by the President** And work for a s**pecialized period.**
- **Their qualification are decided by Parliamen**t as – Chairman - having experience in public affairs
- **the four other members** –

  1. A judge of the **high court or one qualified** to be appointed as one.

  2. A person who **has specialized knowledge of finance and accounts** of the government.

  3. A person who has wide experience **in financial matters and in administration**.

  4. A person who has **special knowledge of economics**

  - **Chairman and Members of FC are eligible for Re-Appointment for 2nd term**
  - **Recommendations Of Fc are only Of Advisory nature not binding on Government**

GST Council

- **Article 279 A added by 101st Constitution amendment Act 2016**, to makes recommendations to the Union and State Government on issues **related to Goods and Service Tax**.
- **The GST Council** - chaired by the Union Finance Minister and other members are the Union State Minister of Revenue or Finance and Ministers in-charge of Finance or Taxation of all the States.
- It is considered as **a federal body where both the center and the states get due representation**.
- **Every decision of the Goods and Services Tax Council shall be taken at a meeting by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely – Central Govt Vote – 1/3rd State Govt Vote – 2/3rd.**

CONTROLLER & AUDITOR GENERAL (CAG)

- **Article 148 CAG as** head of Indian audit and Account Department is the **Guardian of public purse at Center at any state level.**
- **Appointed by President By warrant under his hand and seal for 6 or till age of 65 years**. Can be removed by the president on the same grounds of judges of the Supreme Court.
- **No reappointment** and no Minister represents him in the Parliament. Article 149 prescribes duties of CAG to be set by Parliament , under CAG Act 1971.
- **CAG Audits all of the fund Center and state, related to consolidated Fund of India Contingency Fund of India and Public Account of India And respectively for states. CAG reports on execution of projects or programmes by ministries are discussed by the Public account committee- UPSC 2012**
- **Provides its report to the president** under Article 151. The 3 reports are audit on - appropriation account, finance account and public undertakings.
- **Article 279 - CAG ascertains and certifies the net proceeds of any tax and that is final. CAG Agent of element**.

National Commission for Scheduled Castes (part XVI)

- **Article 338 (by** Constitution (**89th Amendment) Act, 2003) in 2004**.
- **It consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President by warrant under his hand and seal.**
- Term- **3years**
- **Functions –**
- To investigate, monitor, inquire, advice, and participate in the planning process.
- **It presents its report Annually to the president**.
- It **has power of civil court and** acts as same provide the Scheduled Castes of Indian society safeguards against exploitation and to promote their social, economic, educational and cultural development.

About National Commission for Scheduled Tribes (NCST)

- **A new Article 338A in the Constitution through the Constitution (89th Amendment) Act, 2003.**
- Composition of NCST The Commission comprises a Chairperson, a Vice-Chairperson and three full time members (including one lady member).
- **The term of office Chairperson, Vice-Chairperson and Member of NCST is 3 years from the date of assumption of charge.**

- **The Chairperson has been given the rank of Union Cabinet Minister**
- The Vice-Chairperson has the rank of a Minister of State and other Members have the rank of a Secretary to the Government of India.
- **Functions of NCST**
- Constitution of India under Clause (5) of Article 338A has assigned the following duties and functions to the Commission:
- **To investigate, monitor, inquire, advice, and participate in the planning process**.
- **It presents its report Annually to the president.**
- It has the power of **civil court and acts the same.**

National Commission for Backward classes

- **102nd Constitution Amendment Act, 2018 provides constitutional status to the National Commission for Backward Classes (NCBC) under art 338B.**
- **The Commission consists of five members including a Chairperson, Vice-Chairperson and three other Members appointed by the President by warrant under his hand and seal.**
- **Term- 3 yrs**
- The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members is determined by the President.
- **Its functions are** – To investigate, monitor, inquire, advice, and participate in the planning process. It presents its report Annually to the president. **It has the power of civil court and acts the same.**

Special officer for linguistic minority

- **The Seventh Constitutional Amendment Act of 1956 inserted a new Article 350-B in Part XVII of the Constitution**.
- It contains the following provisions: There should be **a Special Officer for Linguistic Minorities.**
- **He is to be appointed by the President of India.**
- It would be the **duty of the Special Officer to investigate all matters** relating to the **safeguards** provided for **linguistic minorities** under the Constitution.
- He **would report to the President** upon those matters at such intervals as the President may direct.
- The **President should place all reports before each House** & **send it to the governments of the states concerned**.
- **Constitution does not specify Qualifications, tenure, removal**

ATTORNEY GENERAL OF INDIA

- **The Attorney General (AG) , part of the Union Executive & highest law officer in the country under Art 76.**
- AG is appointed by the President on the advice of the government as person qualified to beappointed a judge of the SC, or an eminent jurist, in the opinion of the President.
- **Term of the Office:** Not fixed
- **Removal**: holds office during the pleasure of the President (**may be removed by the President at any time**).
- To **give advice to the Government of India (GoI**) upon such **legal matters**, which are referred to her/him by the President.
- Appear on behalf of government in all cases in SC Attorney General has Right to Audience in all courts Right to speak in Parliament without entitled to vote .
- **Attorney General is not Full Time Counsel of Government He is not debarred from private legal practice.**

Advocate-General for the State

- **The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State under Art 165.**
- It shall be the **duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character**, as may from time to time be referred orassigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.
- The **Advocate-General shall hold office during the pleasure of the Governor**, and shall receive such remuneration as the Governor may determine. Holds the right to speak in the State Assembly but not the right to vote.

NON CONSTITUTIONAL BODIES

National Institution for Transforming India (NITI Aayog)

- **Extra constitutional Body** formed via a **resolution** of the Union Cabinet on **Jan. 1, 2015 as premier policy 'Think Tank' of Government of India** to thereby -fosters Cooperative Federalism. -Bottom Up approach

- **Structure**: Chairperson - The Prime Minister. Governing Council - **Headed by the Prime Minister,** it **comprises the Chief Ministers of all States/UTs and the Lieutenant Governors/Administrators of UTs without a legislature.**
- **Regional Councils** - these can be constituted to address specific issues which, in the opinion of the Prime Minister, can affect more than one state in a region. These Councils can be headed by the Prime Minister or his nominee and include the Chief Ministers and LieutenantGovernors/Administrators of States/UTs in the region.
- **The full-time organizational framework** of the Aayog consists of, Vice Chairperson who is in-charge of its everyday activities.
- **He has the rank of a Cabinet Minister.**
- **Four full-time members who have** the rank of Minister of State at the Union level. Two part-time members who are academics from leading universities, research organizations etc. They are appointed on a rotational basis.
- **Union Cabinet Ministers, not exceeding four, are nominated by the Prime Minister as ex-officio members.**
- A Chief Executive Officer who has a rank of Secretary to the Government of India is appointed by the Prime Minister. **He has a fixed tenure and serves as the Member-Secretary to the Aayog.**
- functions performed by the NITI Aayog can be divided into four main heads:
  1. Design policy and programme framework.
  2. Foster cooperative federalism.
  3. Monitoring and evaluation.
  4. Think-tank, and Knowledge and Innovation Hub.

LOKPAL & LOKAYUKTA

- **Lokpal** – **Under the 2013 Act, the Lokpal – 1 chairperson & not exceeding eight, of whom 50% should be judicial members. & Act states that not less than 50% from among persons belonging to the SCs, the STs, OBCs, minorities and women.**
- **Selection Procedure**- **A search committee** will prepare a panel of candidates, a selection committee**(PM+ Speaker+Leader of Opposition+CJI+ 1Jurist**) will recommend names from among this panel and the President will appoint these as members.
- **Salaries and allowances**-Salaries, allowances and service conditions same as those for the Chief Justice of India; for other members **- same as those for a judge of the Supreme Court**.
- **Jurisdiction of Lokpal**- For a wide range of public servants — from the Prime Minister, ministers and MPs, to groups A, B, C and D employees of the central government — various rules are in place. Even its own members.
- **Exception of inquiry in certain cases**- The Act does not allow a Lokpal inquiry if the allegation **against the Prime Minister relates to international relations, external and internal security, public order, atomic energy and space**. Complaints against the Prime Minister are not to be probed unless the full Lokpal bench considers the initiation of an inquiry and at least two-thirds of the members approve it and such an inquiry against the Prime Minister
- **Enquiry** - The Lokpal, after **receiving a complaint against any public servant, orders a preliminary inquiry** (to be **completed within 90 days**) or investigation by any agency. After receiving the report of the preliminary inquiry, the Lokpal may order an investigation by any agency or departmental proceedings or any other appropriate action against the concerned public servants by the competent authority, or it can order the closure of the proceedings.
- **Lokpal can not take Suo Moto against Public Servant**
- **Lokayuktas:** They are state equivalents of the central Lokpal. Every **State shall establish a body to be known** as the **Lokayukta for the State**, if not so established, constituted or appointed, by a law made by the State Legislature, to deal with complaints relating to corruption against certain public functionaries, **within a period of one year from the date of commencement of this Act**.
- **Term**- **5yrs or until age of 65yrs Not eligible for Reappointment** for 2nd term Recommendations made by Lokayukta are **only advisory not binding on state government**.

National Human Rights Commission (NHRC)

- **It is a statutory body. NHRC was established on 12th October, 1993 under the Protection of Human Rights Act (PHRA), 1993.**
- The **Act also provides for the creation of the State Human Rights Commission as well.**
- The NHRC is an embodiment of India's concern for **the promotion and protection of human rights.**
- The commission is a **multi-member body consisting of a chairman and five members.** The chairperson is a retired chief justice of India or a judge of the Supreme Court.

- They are **appointed by the President on the recommendations of a six-member committee consisting of: Prime Minister (head) Speaker of the Lok Sabha Deputy Chairman of the Rajya Sabha Leaders of the Opposition in both the Houses of Parliament Union Home Minister.**
- They hold office for a term of **three years or until they attain the age of 70 years**, whichever is earlier. The President can remove them from the office under specific circumstances.

State human rights commission (SHRC)

- **The Protection of Human Rights Act of 1993 provides for the creation of State Human Rights Commission at the state level.**
- **can inquire into violation of human rights related to subjects covered under state list and concurrent list in the seventh schedule of the Indian constitution**
- The Governor of the state appoints the chairperson and other members on the recommendations of a committee consisting of Chief Minister as its head Speaker of the Legislative Assembly The state home minister The leader of the opposition in the Legislative Assembly.
- **In case the state has legislative council – The chairman and the leader of the opposition of legislative council would also be the members of the committee**.
- **The chairman or any other member is removable by the President** on the charge of proved misbehavior or incapacity after a regular inquiry by a judge of the Supreme Court.
- State Information Commissioner It is an independent, statutory committee formed under the RTI Act to ensure freedom of information to citizens. It has jurisdiction over state government bodies, PSU and authorities.
- **Composition**: **chief information commissioner and up to 10 information commissioners. All are appointed by the governor on recommendation of the chief minister, cabinet minister nominated by him and leader of opposition in legislative assembly.**
- Qualification for membership to commission are persons of eminence in public life with experience in the field of law, science and technology, governance, social service, management, journalism, mass media or administration.
- They should not be MP / MLA's or connected to any political party, doing some business/ profession or holding office of profit.
- **They hold office till the age of 65 or 5 years.** The information commissioner is eligible for the post of state chief information commissioner but can be in office for a maximum of 5 years including his tenure as information commissioner.
- **Removal is done by the governor on grounds of bankruptcy, unsound mind, infirmity of body or mind, sentenced to imprisonment for a crime, or engaged in paid employment.**
- He can also be removed for proved mis behavior or incapacity if SC inquiry finds him guilty. They can resign by writing to the governor.

Note:

- **To make the National Human Rights Commission (NHRC) more inclusive and efficient, Lok Sabha passes the Protection of Human Rights (Amendment) Bill, 2019 which amends the Protection of Human Rights Act,1993.**

Amendments:

- A person **who has been a Judge of the Supreme Court** is also made eligible to be appointed as Chairperson of the Commission in addition to the person who has been the Chief Justice of India.
- **Increasing the members of the commission who have knowledge of human rights issues,** from two to three, out of which one must be a woman;
- Include **Chairperson of the National Commission for Backward Classes**, **Chairperson of the National Commission for the Protection of Child Rights and the Chief Commissioner for Persons with Disabilities** as deemed Members of the Commission;
- **Reduces the term of the Chairperson** and Members of the Commission and the State Commissions from **five to three years** and shall be eligible for re-appointment;
- A person who has **been a Judge of the High Court is also made eligible** to be appointed as Chairperson of the State Commission in addition to the person who has been the Chief Justice of the High Court; and,
- **Confer upon State Commissions,** the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi, which will be dealt with by the Commission.

Central Information Commissioner:

- Central Information Commission established by the Central Government in 2005, under the provisions of the Right to Information Act (2005). It is not a constitutional body.
- The Commission consists of a Chief Information Commissioner and not more than ten Information Commissioners.
- **Appointment:** by the President on the recommendation of a committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.
- **Tenure:** The Chief Information Commissioner and an Information Commissioner shall hold office for such term as prescribed by the Central Government or until they attain the age of 65 years, whichever is earlier.
- They are not eligible for reappointment.
- **Power and Functions of CIC**
- It is the duty of the Commission to receive and inquire into a complaint from any person regarding information request under RTI, 2005.
- The Commission can order an inquiry into any matter if there are reasonable grounds (suo-moto power).
- While inquiring, the Commission has the powers of a civil court in respect of summoning, requiring documents etc.
- Removal is done by the President on grounds of bankruptcy, unsound mind, infirmity of body or mind, sentenced to imprisonment for a crime, or engaged in paid employment. He can also be removed for proved misbehavior or incapacity if SC inquiry finds him guilty.
- They can resign by writing to the President.

State Information Commission:

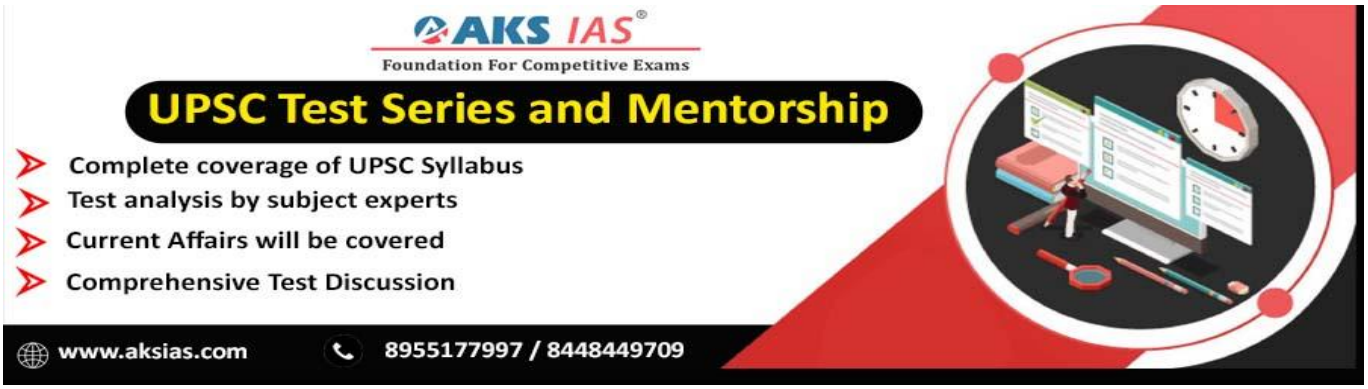
- It is constituted by the **State Government.**
- It has **one State Chief Information Commissioner (SCIC)** and **not more than 10 State Information Commissioners (SIC)** to be appointed by the **Governor** on the recommendation of the **Appointments Committee headed by the Chief Minister.**

CENTRAL BUREAU OF INVESTIGATION

- **Establis**hed in 1963 by Resolution of Ministry of Home Affairs, but not statutory body.
- And derives its powers from the **Delhi Special Police Establishment Act, 1946**.
- Establishment of CBI recommended by K **Santhanam Committee**
- CBI headed by Director and assisted by special director
- **Tenure- 2yrs by CVC act 2003**
- It functions under the aegis of the Dept. of Personnel, Ministry of Personnel, Pension & Public Grievances , prime minister's office (PMO).
- Its role is to **prevent corruption and maintain integrity in administration**. It works under the supervision of the CVC (Central Vigilance Commission) in matters pertaining to the Prevention of Corruption Act, 1988.
- It also investigates the cases connected to infringement of economic and fiscal laws, i.e., breach of laws concerning customs and central excise, export and import control, income tax, foreign exchange regulations.
- These types of cases are taken up by the CBI either at the request of the department concerned or in consultation with the concerned department. It can begin a probe under certain circumstances if a state government makes a request and the Union government agrees to it if the Supreme Court or any High Court order the CBI to take up such investigations It can take a case suo-moto only in the Union Territories.

CENTRAL VIGILANCE COMMISSION

- **Established in 1964 by executive Resolution but CVC Act 2003, force passed. On recommendation of Santhanam Committee in 1962.**
- **designated as the agency to receive and act on complaints or disclosure on any allegation of corruption or misuse of office from a whistleblower.**



- **apex business institution Comprising Chief, vigilance Commissioner and not more than 2 vigilance Commissioner, Appointed by president Warrant under his hand and seal for 4 or 65 years, On the recommendation of 3 member committee. Comprising PM , Minister of Home Affairs and Leader of opposition.**
- **Not eligible for further employment**. **Salary and allowance similar to the UPSC**
- The President can be removed on recommendation of the Supreme Court after inquiry on grounds of proven incapacity and misbehavior.
- The **CVC receives complaints on corruption** or misuse of office and to recommend appropriate action.
- Following institutions, bodies, or a person can approach to CVC: Central government Lokpal Whistle blowers

- **It is not an investigating agency**. The CVC either gets the investigation done through the CBI or through chief vigilance officers (CVO) in government offices. It is empowered to inquire into offenses alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants.

NATIONAL DISASTER MANAGEMENT AGENCY

- **Under Disaster Management Act 2005, NDMA SDMA & DDMA were established**.
- **NDMA – Chairperson PM Exvofficio, chairperson, and not more than 9 members. Which are nominated by the chairperson**.
- **Vice chairperson Access cabinet minister.** While other members are MOS. Apex Body for disaster management and works under the Ministry of Home Affairs. Responsible for laying down the policies, plans and guidelines for disaster management and for ensuring timely and effective response to disaster.
- **SDMA** – **Under disaster Management Act 2004.**
- **Chief Minister As ex Officio, chairperson and not more than 9 members (Chief of State Executive Committee is Exofficio member**)
- The state government also creates a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and ensure the compliance of directions issued by the State Authority.
- **Its powers and functions are almost a replica of the NEC at state level.**
- **DDMA** – District Magistrate or Deputy Commissioner as chairperson. Chairman of Zilla Parishad is co chairperson. Not more than 7 members. (Elected members of local authorities are ex officio members, But for tribal areas chief executive of District Autonomous Council is member.)
- **Maximum 2 Members are appointed by the State who are district level officers.**
- The DDMA works as a district planning, coordinating and implementing body for disaster management.
- It will coordinate with the upper two tiers of the structure and will plan the implementation of the prevention, mitigation and preparedness at local level.

NATIONAL INVESTIGATION AGENCY

- It was **established in 2009 by NIA Act 2008**. It is a **central agency for investigate and prosecute offenses which affect the sovereignty, security and integrity of India.**
- **It acts as the Central Counter-Terrorism Law Enforcement Agency without special permission** from the states. A State Government may request the Central Government to hand over the investigation of a case to the NIA, provided the case has been registered for the offenses as contained in the schedule to the NIA Act.
- **The Central Government can also order NIA t**o take over the investigation of any scheduled offense anywhere in India. The offenses under the Atomic Energy Act, 1962, and the Unlawful Activities Prevention Act, 1967 are to be investigated and prosecuted by the NIA.
- **Currently, the NIA has nine branches besides specialized units.**
- **Recent Amendment:** The NIA (Amendment) Bill, 2019 was passed by Parliament amending the original Act of 2008.
- The Bill seeks to allow the NIA to investigate the following additional offenses: Human trafficking Offenses related to counterfeit currency or banknotes Manufacture or sale of prohibited arms Cyber-terrorism, and Offenses under the Explosive Substances Act, 1908
- **Special NIA Courts:** for the trial of the cases registered at various police stations of NIA under Section 11 and 22 of the NIA Act 2008.
- Any question as to the jurisdiction of these courts is decided by the Central Government. These are presided over by a judge **appointed by the Central Government** on the recommendation of the Chief Justice of the High Court with jurisdiction in that region.
- **Supreme Court** of India has also been empowered to transfer the cases from one special court to any other special court within or outside the state if the

same is in the interest of justice in light of the prevailing circumstances in any particular state.
- The **NIA Special Courts** are empowered with all powers of the court of sessions under the Code of Criminal Procedure, **1973** for a trial of any offense. An appeal from any judgement, sentence or order, not being an interlocutory order, of a Special Court lies to the High Court both on facts and on the law. State Governments have also been empowered to appoint one or more such special courts in their states.

MISCELLANEOUS

ELECTIONS

- **Articles 324 to 329 in Part XV** of the Constitution make the following provisions with regard to the electoral system in our country:
- **The Constitution (Article 324) provides** for **an independent Election Commission** in order to ensure free and fair elections in the country. The power of superintendence, direction and conduct of elections to the Parliament, the state legislatures, the office of the President and the office of the Vice-president is vested in the Commission (UPSC 2017)
- There is to be only one general electoral roll for every territorial constituency for election to the Parliament and the state legislatures
- The elections to the Lok Sabha and the state assemblies are to be on the basis of adult franchise. Thus, every person who is a citizen of India and who is 18 years of age, is entitled to vote at the election provided he is not disqualified under the provisions of the Constitution or any law made by the appropriate legislature (Parliament or state legislature)
- Parliament may make provision with respect to all matters relating to elections to the Parliament and the state legislatures including the preparation of electoral rolls, the delimitation of constituencies
- **Article 323B empowers the appropriate legislature (Parliament or state legislature) to establish a tribunal for the adjudication of election disputes**
- Since 1998, the Commission has increasingly used Electronic Voting Machines (EMVs) instead of ballot boxes. In 2003, all state elections and by-elections were held using EVMs.
- **Electronic Voting Machine**- An Electronic Voting Machine (EVM) is **a simple electronic device used to record votes in place of ballot papers** and boxes which were used earlier in conventional voting system.
- Elections to the State Assemblies are carried out in the same manner as for the Lok Sabha election, with the states and union territories divided into single-member constituencies, and the first past-the-post electoral system used.

ELECTION LAWS

REPRESENTATION OF THE PEOPLE ACT, 1950

- **Articles 81 and 170 of the Constitution** of India lay down the maximum **number of seats in Parliament** and in **Legislative Assemblies of States**
- **Article 171 of** the Constitution of India lays down **the maximum and minimum number of seats** in the Legislative Council of a State
- **Representation of the People Act, 1950**, was enacted to provide for **the allocation of seats in** the House of the People and in the Legislative Assemblies and Legislative Councils of States.
- The Act also sought to confer on the **President the powers** to delimit, after consultation with the Election Commission, the various constituencies for the purpose of elections to fill seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.

REPRESENTATION OF THE PEOPLE ACT, 1951

- The Act contains provisions relating to the following electoral matters:
  1**. Qualifications and disqualifications for membership of Parliament and State Legislatures**
  2. Notification of general elections
  3. Administrative machinery for the conduct of elections
  4. Registration of political parties
  5. Conduct of elections
  6. Free supply of certain material to candidates of recognised political parties
  7**. Disputes regarding elections**
  8. Corrupt practices and electoral offenses
  9. Powers of Election Commission in connection with inquiries as to disqualifications of members.
  10. Bye-elections and time limit for filling vacancies.
  11. Miscellaneous provisions relating to elections.
  12. Barring **the jurisdiction of civil courts**

DELIMITATION ACT, 2002

- **Delimitation Act, 2002 , was enacted to set up a Delimitation Commission for the purpose of effecting delimitation on the basis** of **the 2001 census** so as to correct the aforesaid distortion in the sizes of electoral constituencies
- Orders **of delimitation commission** can not be challenged in court of law.

ELECTORAL REFORMS

- **The 61st Constitutional Amendment Act of 1988 reduced the voting age from 21 years to 18 years** for the Lok Sabha as well as the assembly elections.
- The **use of electors' photo identity cards by the Election Commission is surely making the electoral process simple, smoother and quicker.** A decision was taken by the Election Commission in 1993 to issue photo identity cards to electors throughout the country to check bogus voting and impersonation of electors at elections.
- In 1990, the National Front Government headed by V.P. Singh appointed a committee on electoral reforms under the chairmanship of Dinesh Goswami, the then Law Minister.
- **Recommendation enacted in RPA 1951-**
  1. A person who is convicted for the following offenses under the Prevention of Insults to National Honor Act of 1971 is disqualified to contest in the elections to the Parliament and state legislature for 6 years.
  2. **No liquor or other intoxicants are to be sold or given or distributed at any shop, eating** place, hotel or any other place whether public or private within a polling area **during the period of 48 hours ending with the hour fixed for the conclusion of poll.**
  3. the election would not be countermanded on the death of a contesting candidate before the actual polling. However, if the deceased candidate belonged to a recognised political party, the party concerned would be given an option to propose another candidate within seven days
  4. Now, by-elections are to be held within six months of occurrence of the vacancy in any House of Parliament or a state legislature

Introduction of NOTA-

- Option According to the directions of Supreme Court, the Election Commission made provision in the ballot papers / EVMs for None of the Above (NOTA) option so that the voters who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote for such candidates while maintaining the secrecy of their ballot.
- **The voters polled against the NOTA option are not taken into account for calculating the total valid voters polled by the contesting candidates for the purpose of return of security deposits to candidates. Even if the number of electors opting for NOTA options is more than the number of votes polled by any of the candidates, the candidate who secures the largest number of votes has to be declared elected**

INDIAN CONSTITUTION PARTS AND SCHEDULES

Originally the constitution contained 395 articles divided in 22 parts and 8 schedules.At present there are, 448 articles in 25 parts, 12 schedules. The numbering still remains the same but as and when the constitution is amended, new articles are added below original articles with suffix A, B, C etc. For example, when our constitution was amended for adjusting the Right to Education, a new Article 21A was inserted below Article 21.

Part	Subject	Articles
Part I	The Union and its territory	Art. 1 to 4
Part II	Citizenship	Art. 5 to 11
Part III	Fundamental Rights	Art. 12 to 35
Part IV	Directive Principles	Art. 36 to 51
Part IVA	Fundamental Duties	Art. 51A
Part V	The Union	Art. 52 to 151
Part VI	The States	Art. 152 to 237
Part VII	Repealed by Const. (7th Amendment) Act, 1956	
Part VIII	The Union Territories	Art. 239 to 242
Part IX	The Panchayats	Art. 243 to 243O
Part IXA	The Municipalities	Art. 243P to 243ZG
Part IXB	Co-operative Societies	Art. 243H to 243ZT
Part X	The Scheduled and Tribal Areas	Art. 244 to 244A
Part XI	Relations between the Union and the States	Art. 245 to 263
Part XII	Finance, Property, Contracts and Suits	Art. 264 to 300A

Part XIII	Trade, Commerce and Intercourse within the Territory of India	Art. 301 to 307
Part XIV	Services under the Union and the States	Art. 308 to 323
Part XIVA	Tribunals	Art. 323A to 323B
Part XV	Elections	Art. 324 to 329A
Part XVI	Special provisions relation to certain classes	Art. 330 to 342
Part XVII	Official Language	Art. 343 to 351
Part XVIII	Emergency Provisions	Art. 352 to 360
Part XIX	Miscellaneous	Art. 361 to 367
Part XX	Amendment of the Constitution	Art. 368
Part XXI	Temporary, Transitional and Special Provisions	Art. 369 to 392
Part XXII	Short title, commencement, authoritative text in Hindi and repeals	Art. 393 to 395

Indian Constitution Schedules: Indian Constitution originally had eight schedules. Four more schedules were added by different amendments, now making **a total tally of twelve**. Schedules are basically tables which contain additional details not mentioned in the articles.

INDIAN CONSTITUTION SCHEDULES 1 TO 12

(1) **First schedule** - The list of states and union territories and their territories
(2) **Second schedule** - Provisions of the President, Governors of States, Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State, the Judges of the Supreme Court and of the High Courts and the Comptroller and Auditor-General of India the list of states and union territories and their territories.
(3) **Third Schedule** - The Forms of Oaths or Affirmations.
(4) **Fourth Schedule** - Provisions as to the allocation of seats in the Council of States.
(5) **Fifth Schedule** - Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.
(6) **Sixth Schedule** - Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.
(7) **Seventh Schedule** - The Union list, State list and the concurrent list.
(8) **Eighth Schedule** - The list of recognized languages.
(9) **Ninth Schedule** - Provisions as to validation of certain Acts and Regulations.
(10) **Tenth Schedule** - Provisions as to disqualification on ground of defection.
(11) **Eleventh Schedule** - The powers, authority and responsibilities of Panchayats.
(12) **Twelfth Schedule** - The powers, authority and responsibilities of Municipalities.

Order of Precedence in the Republic of India

Order of Precedence	
Rank	**Post**
1	President
2	Vice-President
3	Prime Minister
4	Governors of States within their respective States
5	Former Presidents
5A	Deputy Prime Minister
6	• Chief Justice of India • Speaker of Lok Sabha
7	• Cabinet Ministers of the Union • Chief Ministers of States within their respective States

	• Deputy Chairman Planning commission (NITI Aayog) • Former Prime Minister • Leaders of Opposition in Rajya Sabha and Lok Sabha
7A	Holders of Bharat Ratna decoration
8	• Ambassadors Extraordinary and Plenipotentiary and High Commissioners of Commonwealth countries accredited to India • Chief Ministers of States (outside their respective States) • Governors of States (outside their respective States)
9	Judges of Supreme Court
9A	• Chairperson of Union Public Service Commission • Chief Election Commissioner • Comptroller and Auditor General of India
10	• Deputy Chairman of Rajya Sabha • Deputy Chief Ministers of States • Deputy Speaker of Lok Sabha • Members of the Planning Commission • Ministers of State of the Union • National Security Advisor
11	• Attorney General of India • Cabinet Secretary • Lieutenant Governors within their respective Union Territories • Principal Secretary to the Prime Minister
12	Chiefs of Staff holding the rank of full General or equivalent rank • General of the Indian Army • Air Chief Marshal of the Indian Air Force • Admiral of the Indian navy
13	Envoys Extraordinary and Ministers Plenipotentiary accredited to India.
14	• Chairmen and Speakers of State Legislatures (within their respective States.) • Chief Justices of High Courts (within their respective jurisdictions)
15	• Cabinet Ministers in States (within their respective States) • Chief Ministers of Union Territories (within their respective Union Territories) and Chief Executive Councillor, Delhi (within their respective Union Territories) • Deputy Ministers of the Union
16	Officiating Chiefs of Staff holding the rank of Lieutenant General or equivalent rank.
17	• Chairman of Central Administrative Tribunal • Chairman of Minorities Commission • Chairperson of National Commission for Scheduled Castes • Chairperson of National Commission for Scheduled Tribes • Chief Justices of High Courts (outside their respective jurisdictions) • Puisne Judges of High Courts (within their respective jurisdictions)Judicial Members, National Green Tribunal (NGT)
18	• Cabinet Ministers in States (outside their respective States) • Chairmen and Speakers of State Legislatures (outside their respective States) • Chairman of the Monopolies and Restrictive Trade Practices Commission • Deputy Chairmen and Deputy Speakers of State Legislatures (within their respective States) • Ministers of State in States (within their respective States) • Ministers of Union Territories and Executive Councilors, Delhi (within their respective Union Territories) • Speakers of Legislative Assemblies in Union Territories (within their respective Union Territories) • Chairman of Delhi Metropolitan Council (within their respective Union Territories)
19	• Chief Commissioners of Union Territories not having Councils of Ministers(within their respective Union Territories)

	• Deputy Ministers in States (within their respective States) • Deputy Speakers of Legislative Assemblies in Union Territories (within their respective Union Territories) • Deputy Chairman of metropolitan Council Delhi (within their respective Union Territories)
20	• Deputy Chairmen and Deputy Speakers of State Legislatures (outside their respective states) • Ministers of State in States(outside their respective States) • Puisne Judges of High Courts (outside their respective jurisdictions)
21	Members of Parliament
22	Deputy Ministers in State outside their respective States
23	• Army Commanders/ Vice-Chief of the Army Staff or equivalent in other services • Chief Secretaries to State Governments within their respective States • Commissioner for Linguistic Minorities • Commissioner for Scheduled Castes and Scheduled Tribes • Members, Minorities Commission • Members, National Commission for Scheduled Castes • Members, National Commission for Scheduled Tribes • Officers of the rank of full General or equivalent rank • Secretaries to the Government of India (including officers holding this office ex-officio). • Secretary, Minorities Commission. • Secretary, Scheduled Castes and Scheduled Tribes Commission. • Secretary to the President. • Secretary to the Prime Minister. • Secretary, Rajya Sabha and Lok Sabha • Solicitor General • Vice-Chairman, Central Administrative Tribunal
24	Officers of the rank of Lieutenant General or equivalent rank.
25	• Additional Secretaries to the Government of India. • Additional Solicitor General • Advocate Generals of States. • Chairman, Tariff Commission • Charge d' Affairs and Acting High Commissioners a pied and ad interim • Chief Ministers of Union Territories and Chief Executive Councillor, Delhi (outside their respective Union Territories) • Chief Secretaries of State Governments (outside their respective States) • Deputy Comptroller and Auditor General • Deputy Speakers of Legislative Assemblies in Union Territories and Deputy Chairman, • Delhi Metropolitan Council (outside their respective Union Territories) • Director, Central Bureau of Investigation • Director General, Border Security Force • Director General, Central Reserve Police. • Director, Intelligence Bureau • Lieutenant Governors(outside their respective Union Territories) • Members, Central Administrative Tribunal • Members, Monopolies and Restrictive Trade Practices Commission • Members, Union Public Service Commission • Ministers of Union Territories and Executive Councillors, Delhi,(outside their respective Union) • Territories. • Principal Staff Officers of the Armed Forces of the rank of Major General or equivalent rank • Speakers of Legislative Assemblies in Union Territories and Chairman of Delhi, Metropolitan Council, outside their respective Union Territories
26	Joint Secretaries to the Government of India and officers of equivalent rank Officers of the rank of Major-General or equivalent rank