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PRELIMS 2025

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SERIES FOR PRELIMS 2025**

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Historical Background

EVOLUTION OF THE INDIAN CONSTITUTION

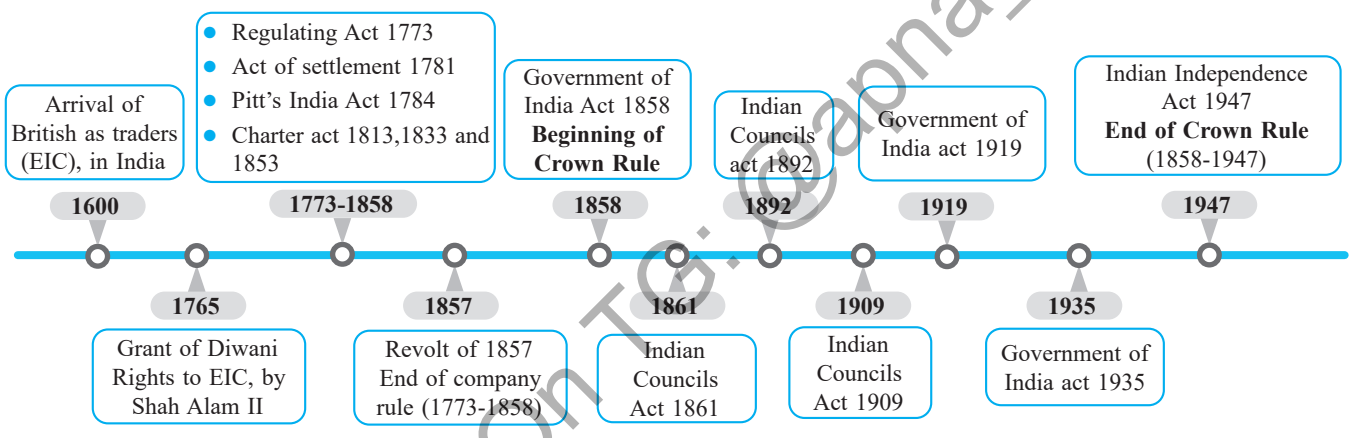
The Indian Constitution has its origins in acts and policies of the East India Company and the British government. It came into effect on January 26, 1950, marking India's transition from a **dominion** to a **Sovereign, Democratic, Republic**.

Dr. B.R. Ambedkar played a pivotal role as the **Chairman of the Drafting Committee**. The drafting process involved

the Constituent Assembly from 1946 to 1949, featuring extensive discussions. Its evolution can be understood in two key periods:

- **Company Rule (1773-1858):** Established the governance framework under the **East India Company**.
- **Crown Rule (1858-1947):** Marked **direct British control**, leading to major administrative changes.

The Acts Enacted by the British are Explained Here in Chronological Order



COMPANY RULE (1773-1858)

Regulating Act of 1773

Governor-General: Warren Hastings

- **First British Regulation:** Marked the beginning of British control over **East India Company's** affairs in India.
- **Central Administration:** Laid the foundation for centralised governance.
- **Company's Role:** Officially recognized the Company's **political and administrative authority**.
- **Governor-General Appointment:** Appointed **Lord Warren Hastings** as Governor-General of Bengal with a **4-member Executive Council**.
- **Supreme Court Establishment:** Set up the **Supreme Court in Calcutta (1774)**.
- **Prohibition of Private Trade:** Banned **private trade** and **bribes** among Company servants.

- **British Oversight:** Required the **Court of Directors** to report on revenue, civil, and military matters.
- **Presidency Subordination:** **Bombay and Madras** presidencies were made subordinate to **Bengal's Governor-General**.

Amending Act of 1781 (Act of Settlement)

Governor-General: Warren Hastings

- **Governor-General and Council:** Exempted from **Supreme Court jurisdiction** for official acts.
- **Revenue Matters:** Excluded revenue issues from Supreme Court's jurisdiction.
- **Personal Law:** Court to apply **Hindu/Mohammedan law** for respective defendants.
- **Appeals:** Provincial Court appeals directed to **Governor-General-in-Council**.
- **Regulations:** Governor-General-in-Council empowered to frame **regulations** for Provincial Courts and Councils.

Pitt's India Act, 1784

Governor-General: Warren Hastings

- **Function Distinction:** Separated **commercial** and **political functions** of the Company.
- **Dual Government:** The Act established:
 - **Board of Control:** Managed **political affairs** and supervised civil and military operations or revenues.
 - **Court of Directors:** Oversaw **commercial affairs**.
- **British Possessions:** First referred to Company territories as '**British possessions in India**', granting the British Government **supreme control**.

Act of 1786

Governor-General: Lord Cornwallis

- **Governor-General Appointment:** Lord Cornwallis appointed as Governor-General of Bengal and the **Commander-in-Chief**.
- **Override Authority:** Cornwallis was granted power to **override council decisions** in special cases.

Charter Act of 1793

Governor-General: John Shore

- **Extended Power:** Overriding powers granted to Lord Cornwallis were extended to future **Governors-Generals** and **Governors of Presidencies**.
- **Increased Authority:** Enhanced **Governor-General's** control over **Bombay** and **Madras** Presidencies.
- **Trade Monopoly:** Extended the **Company's** monopoly in India for an additional **twenty years**.
- **Council Membership:** Specified that the **Commander-in-Chief** would not be a council member unless appointed.
- **Financial Provisions:** Mandated payment for **Board of Control** members and staff from **Indian revenues**.

Charter Act of 1813

Governor-General: Lord Minto I

- **Ended the trade monopoly** of the East India Company, allowing all British merchants to trade in India, **except for trade with China and trade in tea**.
- **Asserted British Crown sovereignty** over Company territories in India.
- Empowered local governments to **impose taxes** and punish defaulters.
- Extended the Company's rule for another **20 years**.
- Enhanced the powers of the **Board of Control**.
- Allowed **Christian missionaries** to promote moral and religious improvements in India.

- Mandated an annual investment of **Rs. 1 Lakh** in Indian education.
- Regulated the Company's **territorial revenues** and **commercial profits**, requiring separate accounts.

Charter Act of 1833

Governor-General of India: William Bentinck

- Marked the **final step towards centralization** in British India, giving it an **All-India** character.
- **Legalised British colonisation**; the East India Company became an **administrative body**, holding territories "in trust for His Majesty, His heirs and successors".
- Ended the **Company's monopoly** on trade with **China** and in **tea**.
- The government of the Governor-General came to be known as the "Government of India," and the council as the "India Council."
- Designated the **Governor-General of Bengal** as the "**Governor-General of India**," granting full civil and military powers; **Lord William Bentinck** was the first appointee.
- Transferred **legislative powers** from Bombay and Madras to the **Governor-General of India**, with laws termed "**Acts**."
- Empowered the Governor-General to amend or repeal laws in British India.
- Proposed an **open competition** system for civil servant selection, but faced opposition from the **Court of Directors**.
- Established the **Indian Law Commission** (1834) for legal codification, chaired by **Lord Macaulay**.

Charter Act of 1853

Governor-General of India: Lord Dalhousie

- The last in a series of Charter Acts (1793-1853).
- **Separated** legislative and executive functions of the Governor-General's council.
- Introduced **local representation** in the Indian Legislative Council with six new legislative councillors, totalling **12** members.
- Reduced the Board of Directors from **24** to **18**, with **6** nominated by the British Crown.
- The legislative council functioned as a "**Mini-Parliament**", mirroring British procedures.
- Implemented an **open competition system** for civil service recruitment, allowing Indian participation; the **Macaulay Committee** was appointed in **1854**.
- The fourth **law member** gained voting rights as a full member.

CROWN RULE (1858-1947)

Government of India Act, 1858 (Act for Good Government of India)

Viceroy: Lord Canning

- **Abolition of the East India Company:** Powers transferred to the **British Crown**.
- **Viceroy of India:** The **Governor General** became the Viceroy, with Lord Canning as the first appointee.
- **End of Double Government:** Abolished the **Board of Control** and **Court of Directors**.
- **New Office:** Established the **Secretary of State for India**, a **British Cabinet** member accountable to Parliament. Created an **advisory Council** of **15-members** to assist the Secretary, chaired by him.
- **Corporate Body:** Formed the **Secretary of State-in-Council**, capable of suing and being sued in India and in England.

Indian Councils Act, 1861

Viceroy: Lord Canning

- The Viceroy could nominate **Indians** as non-official members of his council; in 1862, **Lord Canning** nominated three: the **Raja of Benaras**, **Maharaja of Patiala**, and **Sir Dinkar Rao**.
- Restored **legislative powers** of **Bombay** and **Madras**, initiating **decentralisation** and granting provinces near autonomy by 1937.
- Established **New Legislative Councils** for **Bengal** (1862), **Northwestern Province** (1886), and **Punjab** (1897).
- Enabled the Viceroy to issue **Ordinances (valid for 6 months)** for **emergencies** without council consent.
- Introduced the **Portfolio system**, allowing council members to independently manage departments.

Indian Councils Act, 1892

Viceroy: Lord Lansdowne

- **Increased Non-Official Members:** Non-official representation in **Central** and **Provincial Legislative Councils** was raised while maintaining an official majority.
- **Expanded Functions:** Legislative Councils gained powers to **discuss budgets** and address questions to the **Executive**.
- **Nomination Process:** Non-official members were nominated:
 - **Central Council:** By the Viceroy upon recommendations from the **Provincial Legislative Council** and **Bengal Chamber of Commerce**.
 - **Provincial Council:** By the Governor on advice from **District Boards**, **Municipalities**, **Universities**, **Trade Associations**, **Zamindars**, and **Chambers**.

- **Indirect Elections:** Although **elections** were not explicitly mentioned, a limited **indirect election** process for nominated members was introduced.

Indian Councils Act, 1909 (Morley Minto Reforms)

Viceroy: Lord Minto II

- **Legislative Council:** Membership increased from **16 to 60**; official majority retained.
- **Provincial Councils:** Allowed **non-official majority**, membership varied in provinces.
- **Deliberative Powers:** Members could ask **supplementary questions** and propose budget resolutions; separate budget voting introduced; budget as a whole could still not be voted upon.
- **Separate Electorate:** Muslims could vote only for Muslim candidates, legalising **communalism**. Lord Minto came to be known as “**Father of Communal Electorate**”.
- **Representation:** First Indian, **Satyendra Prasad Sinha**, appointed to the Viceroy's Executive Council as law member; separate representation for **Presidency Corporations**, **Chamber of Commerce**, **Universities**, and **Zamindars**.

Government of India Act of 1919 (Montagu-Chelmsford Reforms)

Viceroy: Lord Chelmsford

- **Objective:** On August 20, 1917, the British Government aimed to gradually introduce a **Responsible Government** in India.
- **Classification of Subjects:** Administration was divided into **central** and **provincial subjects** under the **Devolution Rules**, enabling authority delegation from the centre to provinces.
- **Dyarchy:** Introduced a dual governance scheme in provincial subjects:
 - **Reserved Subjects:** Governed by the **Governor General** and his Executive Council, not accountable to the Legislative Council. [UPSC 2022]
 - **Transferred Subjects:** Managed with legislative council oversight. [UPSC 2022]
- **Legislative Structure:** Replaced the Indian Legislative Council with a **Bicameral Legislature**—Upper House (Council of State) and Lower House (Legislative Assembly) with a majority elected directly.
- **Indian Representation:** Included three Indian members in the **Viceroy's Executive Council** (excluding the Commander-in-Chief).
- **Electoral Reforms:** Extended separate electorates for **Sikhs**, **Indian Christians**, **Anglo-Indians**, and **Europeans**; franchise limited to property, tax, and educational criteria.

- **Financial Autonomy:** Separated the **Provincial Budget** from the Central Budget, allowing provinces to enact their own budgets.
- **High Commissioner for India:** Established in London, transferring certain functions from the Secretary of State for India.
- **Civil Service Recruitment:** It provided for establishment of a public service commission and thus a **Central Public Service Commission** was created in 1926.
- **Chamber of Princes:** It proposed establishment of a Chamber of Princes (Narendra Mandal), which was formed in 1921 with 120 members (princes and representatives), promoting discussion on shared interests.
- **Future Review:** Mandated a statutory commission to assess its effectiveness after ten years.

The Simon Commission (1927)

- **Composition:** A seven-member statutory commission led by **Sir John Simon**, appointed by the **British Government**, Composed entirely of **British members**.
- **Key Proposals** (Report submitted in 1930):
 - Abolishment of Dyarchy.
 - Expansion of Responsible Government in provinces.
 - Creation of a Federation of British India and princely states.
 - Maintenance of Communal Electorate.

Communal Award (1932)

- Proposed by **Prime Minister Ramsay MacDonald** to ensure minority representation. **Separate Electorates** for **Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans**, and extended to the **depressed classes** (Scheduled Castes).
- **Gandhi's Opposition:** Mahatma Gandhi opposed separate electorates for the depressed classes, leading to a **fast in Yerawada Jail**.
- **Poona Pact:** Agreement between **Congress** and **Dr. B.R. Ambedkar**. Preserved **Hindu joint electorate** & reserved seats for the depressed classes.
- **Government Acceptance:** The British Government accepted the Poona Pact, eliminating separate electorates for the depressed classes, with provisions incorporated into the **Government of India Act, 1935**

Government of India Act, 1935

Viceroy: Lord Willingdon

The **Government of India Act, 1935** marked a significant step towards a **responsible government** in India, comprising **321 sections** and **10 schedules**.

- Aimed to establish an **All-India Federation** with provinces and princely states, but it failed due to non-participation from the princely states. [UPSC 2024]

- Powers were divided into three lists: **Federal** (59 items), **Provincial** (54 items), and **Concurrent** (36 items), with **residual powers** assigned to the **Viceroy**. [UPSC 2012]
- Introduced **provincial autonomy**, introduced **dyarchy** at the centre; autonomous governments formed in 1937 but were suspended in 1939.
- Established **bicameralism** in six provinces, Bengal, Bombay, Madras, Bihar, Assam and the United Provinces.
- Introduced separate electorate for depressed classes (Scheduled Castes), women, and labourers.
- Extended franchise to **14%** of the population and created the **Reserve Bank of India**.
- Established **Federal and Provincial Public Service Commissions** and a **Federal Court** in 1937.
- **Burma** was separated from India, and two new provinces, **Orissa** and **Sind**, were created.
- Introduced safeguards for **minority interests** and established a **Federal Railway Authority**. An **Auditor-General** was appointed for financial oversight.

Indian Independence Act, 1947

Viceroy: Lord Mountbatten

- **Partition Plan:** Presented by **Lord Mountbatten** on June 3, 1947; accepted by the **Congress** and **Muslim League**, leading to India's independence on **August 15, 1947**.
- **Dominions Established:** Created two independent dominions—**India** and **Pakistan**—with the right to exit the **British Commonwealth**.
- **Governance Changes:**
 - Abolished the office of **Viceroy**; introduced a **Governor-General** for each dominion.
 - Constituent Assemblies empowered to create constitutions and repeal British laws, including the **Independence Act**.
- **Legislative Authority:** Assemblies could legislate until new constitutions were enacted; British acts post-August 15 required dominion approval.
- **End of British Control:** The **Secretary of State for India's** role was abolished; British paramountcy over princely states lapsed, granting them autonomy.
- **Civil Services:** Appointment and reservation by the Secretary of State ceased, but pre-1947 appointees retained benefits.
- **Leadership:** **Lord Mountbatten** became the first **Governor-General** of India. The **Constituent Assembly** formed in 1946 became the parliament of India.

First Cabinet After Independence

No	Members	Portfolios
1	Jawaharlal Nehru	Prime Minister; External Affairs and Commonwealth Relations; Scientific Research
2	Sardar Vallabhbhai Patel	Home, Information and Broadcasting; States
3	Dr Rajendra Prasad	Food and Agriculture
4	Maulana Abul Kalam Azad	Education
5	Dr. John Mathai	Railways and Transport

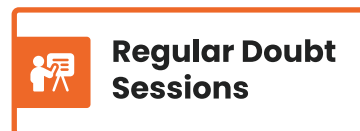
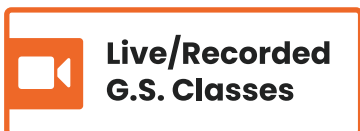
6	R.K. Shanmugham Chetty	Finance
7	Dr. B.R. Ambedkar	Law
8	Jagjivan Ram	Labour
9	Sardar Baldev Singh	Defence
10	Rajkumari Amrit Kaur	Health
11	C.H. Bhabha	Commerce
12	Rafi Ahmed Kidwai	Communication
13	Dr. Shyama Prasad Mukherjee	Industries and Supplies
14	V.N. Gadgil	Works, Mines, and Power



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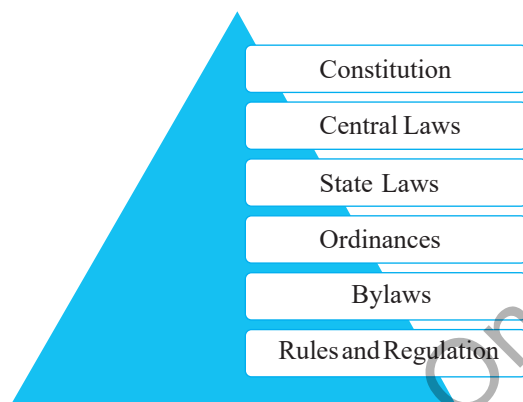
Historical Background

2

Making of the Indian Constitution

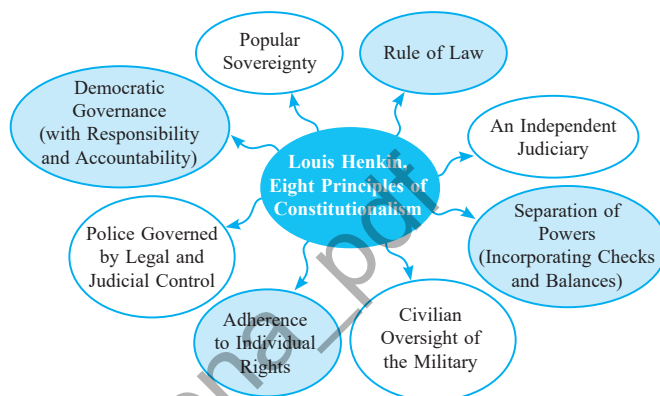
BASIC CONCEPTS RELATED TO CONSTITUTION

- **Law:** Rules governing behaviour, either written or unwritten; enacted by legislative bodies with legal force. Example: BNSS, Citizenship Amendment Act
- **Ordinance:** Temporary law issued by the President or Governor when the legislature is not in session; requires legislative approval. Example: COVID-19 lockdown ordinance.



Hierarchy of Laws in India

- **Bylaws:** Regulations made by local authorities; subordinate to central/state laws. Example: Municipal construction regulations
- **Constitution:** Supreme law outlining government structure and powers; foundation of the legal system. Example: Constitution of India
- **Rules:** Detailed instructions issued by the executive to implement laws; subordinate to laws and bylaws. Example: Passport application rules
- **Regulations:** Specific and technical guidelines issued by regulatory bodies. Example: SEBI regulations for listed companies.
- **Rule of Law:** As defined by British jurist A.V. Dicey, it asserts that law governs a nation, ensuring that no individual or institution, including the government, is above it. Key Elements include:



- **Supremacy of Law:** Law is the highest authority.
- **Equality Before the Law:** All individuals are subject to the same laws.
- **Accountability:** Government actions must be legally justified.
- **Legal Certainty:** Laws must be clear, public, and stable.
- The Supreme Court of India recognizes the '**Rule of Law**' as a '**Basic Structure**' of the Constitution, making it impervious to amendments. [UPSC 2018]
- **Constitutionalism:** According to Friedrich, "Constitutionalism ensures that the government operates within set rules, promoting fairness and accountability." The **primary purpose** of a constitution is to provide a **framework** for government, determining its nature and form. As the **fundamental law** of the state, it outlines the responsibilities of the **executive, legislature, and judiciary**. The **legislature** makes laws in accordance with the limits and directions provided by the constitution. [UPSC 2023]
- **Constitution vs. Constitutionalism:** A country can have a Constitution but may lack true Constitutionalism. For instance, a dictatorship might have a Constitution that isn't followed.
- **Types of Constitution:**
 - **Written Constitution:** A formal document outlining government structure and citizen rights. Example: U.S. Constitution.

- **Unwritten Constitution:** Composed of various sources like statutes and traditions, not in a single document. Example: United Kingdom Constitution.
- **Flexible Constitution:** Can be easily amended like regular laws. Example: British Constitution.
- **Rigid Constitution:** Requires a complex process for amendments. Example: U.S. Constitution.
- **Federal Constitution:** Divides powers between central and regional governments. Examples: U.S., Germany.
- **Unitary Constitution:** Centralizes power in one government. Example: United Kingdom.
- **Presidential Constitution:** Separates executive and legislative branches; the President is both head of state and government. Example: United States.
- **Parliamentary Constitution:** Executive comes from the legislature; the Prime Minister leads. Examples: U.K., India.
- **Monarchical Constitution:** Recognizes a monarch, either with limited powers (constitutional) or significant powers (absolute). Examples: U.K., Sweden.
- **Republican Constitution:** Establishes a republic without a monarchy; the head of state is elected. Examples: U.S., France.
- **Theocratic Constitution:** Based on religious laws and principles. Example: Iran.
- **Secular Constitution:** Separates religion from government laws. Example: Indian Constitution.

DEMAND FOR A CONSTITUENT ASSEMBLY

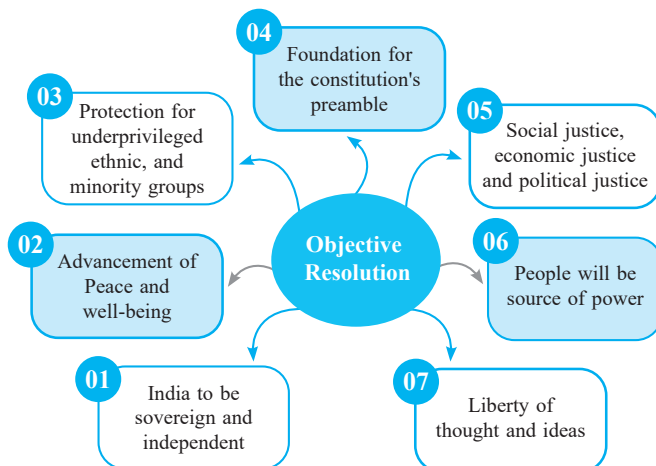
- **1934:** M.N. Roy proposed the idea of a Constituent Assembly for India.
- **1935:** The **Indian National Congress (INC)** officially demanded a Constituent Assembly to draft the **Indian Constitution**.
- **1938:** **Jawaharlal Nehru**, representing the INC, stated that the constitution must be created by a **Constituent Assembly** elected through an **adult franchise**.
- **1940:** The British government accepted the demand in principle during the **August Offer**.
- **1942:** The **Cripps Proposal** suggested drafting an independent Constitution post-**World War II**, but it was rejected by the **Muslim League**, which sought the division of India into two autonomous states.
- **1946:** The **Cabinet Mission Plan (CMP)** proposed a single Constituent Assembly, gaining some acceptance from the **Muslim League**.

IMPORTANT DATES OF CONSTITUENT ASSEMBLY

- **9th December 1946:** First sitting of the **Constituent Assembly**; **Muslim League** boycotted.
- **11th December 1946:**
 - **Dr. Rajendra Prasad** elected as President.
 - **Dr. Sachidanand Sinha** (oldest member) became temporary chairman.
 - **Vice-Presidents:** **H.C. Mukherjee** and **V.T. Krishnamachari**.
- **13th December 1946:** **Objective Resolution** introduced by **Jawaharlal Nehru**.
- **22nd January 1947:** **Objective Resolution** was adopted.
- **22nd July 1947:** The **National Flag** was adopted by the Constituent Assembly.
- **15th August 1947:** Transfer of power established the dominions of **India** and **Pakistan** (14th August 1947).
- **May 1949:** **Constituent Assembly** ratified India's membership in the **Commonwealth**.
- **26th November 1949:** The **Constitution** was adopted/enacted.
- **24th January 1950:** Adoption of the **National Song** and **National Anthem**. **Dr Rajendra Prasad** was elected as the first President of India. The final session of the **Constituent Assembly** was held. Continued as the **provisional Parliament** of India until the formation of the new Parliament in **May 1952**.
- **26th January 1950:** The Constitution came into force, marking the establishment of **India as a Republic**.

OBJECTIVE RESOLUTION

- It contained the **fundamentals** and **philosophy** of the Constitutional structure.



- **Declaration:** India as an **Independent Sovereign Republic**.
- **Union of Territories:** Includes British India, Indian States, and territories willing to join.
- **Autonomy:** Territories retain status as autonomous units with residual powers, except those assigned to the Union.
- **People's Authority:** All power derives from the people of India.
- **Justice and Equality:** Guarantees social, economic, and political justice; equality of opportunity; freedom of thought, expression, and action.
- **Minority Safeguards:** Provisions for minorities and backward classes.
- **Territorial Integrity:** Sovereign rights on land, sea, and air maintained.
- **Global Contribution:** Commitment to world peace and welfare.
- **The Preamble** of the Constitution of India is a **modified version** of the Objective Resolution.

ALL ABOUT CONSTITUENT ASSEMBLY

Heading	Description
Constituted	<ul style="list-style-type: none"> ● November 1946: Formed under the Cabinet Mission Plan.
Strength	<ul style="list-style-type: none"> ● Total Members: 389 (296 from British India + 93 from Princely States). ● British India: 292 members from 11 governor's provinces and 4 Chief Commissioner's provinces.
Composition	<ul style="list-style-type: none"> ● Representatives from diverse sections of Indian society, including: <ul style="list-style-type: none"> ○ Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs. ○ Women from all these sections.
Seat Allocation	<ul style="list-style-type: none"> ● Seats are allocated in proportion to the population of each province and princely state. ● Seats for each British province were divided among three principal communities: Muslims, Sikhs, and General.
Voting Method	<ul style="list-style-type: none"> ● Proportional representation using a Single Transferable Vote for provincial representation. ● Representatives from princely states were nominated by their heads.
Members	<ul style="list-style-type: none"> ● Partly elected (in British Provinces) and partly nominated (by heads of Princely states). ● Members are indirectly elected by provincial assembly members.
Notable Absence	<ul style="list-style-type: none"> ● Mahatma Gandhi did not participate in the Constituent Assembly. ● 93 seats allotted to princely states remained unfilled as they opted out.
Key Facts	<ul style="list-style-type: none"> ● Total Sessions: 11 ● Duration: 2 years, 11 months, and 18 days ● Total Expenditure: 64 lakh ● Symbol: Elephant adopted as the seal of the Constituent Assembly.
Changes Made by the Independence Act, 1947	<ul style="list-style-type: none"> ● Sovereign Body: The Assembly was declared fully sovereign, able to alter any law. ● Dual Functions: <ul style="list-style-type: none"> ○ Legislative Body: Chaired by G. V. Mavalankar. ○ Constituent Body: Chaired by Dr. Rajendra Prasad. ● First Parliament: Became the first Parliament of free India. ● Membership: Strength reduced to 299 after the Muslim League withdrawal, down from 389.

Key Personnel	<ul style="list-style-type: none"> • Sir B. N. Rau: Constitutional Adviser. • H.V.R. Iyengar: Secretary to the Constituent Assembly. • S.N. Mukherjee: Chief draftsman of the Constitution. • Prem Behari Raizada: Calligrapher of the Constitution. • Nand Lal Bose & B.R. Sinha: Responsible for decorating the Constitution. • Hindi Calligraphy: Vasant Krishan Vaidya and illuminated by Nand Lal Bose.
Women Participation	<ul style="list-style-type: none"> • Initial Membership of Constituent Assembly: 15 women, later increased by 2 • Women Signatories of the Indian Constitution: 11 women, namely, G. Durgabai, Ammu Swaminathan, Amrit Kaur, Dakshayani Velayudhan, Hansa Mehta, Renuka Ray, Sucheta Kripalani, Purnima Banerji, Begum Qudsiya Aizaz Rasul, Kamala Chaudhri and Annie Mascarene.

VARIOUS COMMITTEES OF THE CONSTITUENT ASSEMBLY

Major Committees

Chairman	Committees
Jawaharlal Nehru	Union Powers Committee, Union Constitution Committee, States Committee Expert Committee of the Congress (July 8, 1946): Chairman: Jawaharlal Nehru Purpose: To prepare material for the Constituent Assembly Members: M. Asaf Ali, K.M. Munshi, N. Gopalaswami Ayyangar, K.T. Shah, D.R. Gadgil, Humayun Kabir, K. Santhanam
Dr Rajendra Prasad	Rules of Procedure Committee, Steering Committee.
Sardar Patel	Provincial Constitution Committee, Advisory Committee on FRs and Minorities & Tribal & Excluded Areas (had 5 Sub-committees) <ul style="list-style-type: none"> ○ Fundamental Rights Sub-Committee - J.B. Kripalani ○ Minorities Sub-Committee - H.C. Mukherjee ○ North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee-Gopinath Bardoloi ○ Excluded and Partially Excluded Areas (other than those in Assam) Sub-Committee - A.V. Thakkar ○ North-West Frontier Tribal Areas Sub-Committee
Dr. B.R. Ambedkar	Drafting Committee 7 Members: Dr. B.R. Ambedkar (Chairman), <ul style="list-style-type: none"> • Members: N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Ayyar, Dr. K.M. Munshi, Syed Mohammad Saadullah, N. Madhava Rau (Replaced B.L. Mitter who resigned due to ill health), T.T. Krishnamachari (Replaced D.P. Khaitan who died in 1948). Drafting Process <ul style="list-style-type: none"> • First Draft: Published in February 1948 • Public Feedback Period: Eight months • Second Draft: Published in October 1948 • Total Meetings: 141 days • Completion Time: Less than six months

Minor Committees

- **Dr. Rajendra Prasad:** Finance and Staff Committee, National Flag Committee.
- **Alladi Krishnaswami Ayyar:** Credentials Committee.
- **B. Pattabhi Sitaramayya:** House Committee, Chief Commissioners' Provinces Committee.
- **Nalini Ranjan Sarkar (Non-member):** Financial Provisions Committee.
- **S.K. Dar (Non-member):** Linguistic Provinces Commission.
- **Jawaharlal Nehru:** Draft Constitution Committee.
- **Usha Nath Sen:** Press Gallery Committee.
- **S. Varadachari (Non-member):** Citizenship Committee, Supreme Court Committee.
- **Dr. K.M. Munshi:** Order of Business Committee.
- **G.V. Mavalankar:** Functions of Constituent Assembly Committee.

ENACTMENT AND ENFORCEMENT OF THE CONSTITUTION

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

SOURCES OF INDIAN CONSTITUTION

Sources	Features Borrowed
Govt. of India Act, 1935	Federal scheme, Governor's office, Judiciary, Public Service Commission, Emergency Provisions and Administrative details.
British	Parliamentary govt., Rule of Law, Single Citizenship, Cabinet System, Parliamentary privileges, Bicameralism, and prerogative writs.
US	Fundamental Rights, Independent Judiciary, Impeachment of President, Judicial review, Removal of Supreme Court and High Court judges and post of Vice-president.
Irish	DPSP, Method of election of President and Nomination of Members to Rajya Sabha.
Canadian	Federation with a strong centre, vesting Residuary powers to the centre, Appointment of State Governors by the Centre and Advisory Jurisdiction of the Supreme Court.
Australian	Concurrent List, Joint sitting of both the Houses of Parliament.
Germany (Weimar Constitution)	Suspension of Fundamental Rights during Emergency.
USSR	Fundamental Duties and the ideal of Justice (Social, Economic and Political) in the Preamble.
French	Republic and the Ideals of Liberty, Equality and Fraternity in the Preamble.
South African	Procedure for Amendment of the Constitution and election of members of Rajya Sabha.
Japanese	The Procedure Established by Law.



The term 'Constitution', refers to a **set of principles** outlining the organisation and **functioning of the government**, as well as the **relationship between the government and the people** regarding their **rights and duties**. The Constitution is also described as the '**Fundamental law of the land**', '**Supreme law of the state**', '**Basic law of the country**', '**Instrument of the government**', '**Rules of the state**', '**Basic structure of the polity**,' and '**Ground norm of the country**'.

FEATURES OF THE INDIAN CONSTITUTION

- **Longest Written Constitution:** Initially, the Constitution (1949) had a **Preamble**, **395 Articles** (22 Parts), and **8 Schedules**. Currently consists of approximately **470 Articles** and **12 Schedules**.
 - **Size attributed to:** **Diversity** and **vastness** of India, **Historical factors** and **legal expertise** in the Constituent Assembly.
- **Sources of Provisions:** Borrowed from various international constitutions and the **Government of India Act, 1935**.
 - **Structural part of the Constitution-** Government of India Act, 1935.
 - **Philosophical part of the Constitution (FR and DPSPs)** - American and Irish Constitution respectively.
 - **Political part of the constitution** - British Constitution.
- **Federal System with Unitary Bias:** Term **Federation** not used; **Article 1** designates India as a **Union of States**.
 - **Federal Features:** Two governments, Division of Powers, written constitution, **bicameralism**, and constitution supremacy.
 - **Unitary Features:** Strong central authority, single citizenship, integrated judiciary, and emergency provisions.
- **Rigidity and Flexibility:** Blends rigid (USA) and flexible (UK) characteristics in amendment processes.
- **Parliamentary Form of Government:** Based on the **British Westminster model**; executives are accountable to Parliament.
- **Synthesis of Parliamentary Sovereignty and Judicial Supremacy:** **Parliamentary sovereignty** from the UK; **Judicial supremacy** from the USA.
- **Integrated and Independent Judiciary:** The **Supreme Court** at the apex, ensures **fundamental rights** and constitutional guardianship. Single judicial system enforcing both central and state laws.
- **Fundamental Rights:** Promotes **political democracy** through six rights:
 - **Right to Equality** (Articles 14-18)
 - **Right to Freedom** (Articles 19-22)
 - **Right against Exploitation** (Articles 23-24)
 - **Right to Freedom of Religion** (Articles 25-28)
 - **Cultural and Educational Rights** (Articles 29-30)
 - **Right to Constitutional Remedies** (Article 32)
- **Directive Principles of State Policy:** Found in **Part IV (Article 36-51)**; aimed at establishing a **social and economic democracy and welfare state**.
 - **Non-justiciable**, non-enforceable by courts.
 - Classified into **socialistic**, **Gandhian**, and **liberal-intellectual**.
- **Fundamental Duties:** Added by the **42nd Amendment**; specifies **11 duties** in Article 51-A.
 - **Non-justiciable** in nature.
- **Secular State:** Term '**Secular**' was added to the Preamble (42nd CAA, 1976). Promotes equal respect for all religions, as opposed to Western secularism's complete separation.
 - **Articles promoting secularism:** Preamble, Articles **14, 15, 16, 25-30, 44**.
- **Universal Adult Franchise:** Voting age lowered to **18** (61st CAA, 1989); basis for elections.
- **Single Citizenship:** Citizens enjoy uniform **political and civil rights** throughout India, unlike the USA where state citizenship exists.
- **Independent Bodies:** Essential democratic institutions: **Election Commission, Comptroller and Auditor General, Union and State Public Service Commissions**.
- **Emergency Provisions:** Ensure national sovereignty and security through:
 - **National Emergency** (Article 352)
 - **State Emergency** (Articles 356 and 365)
 - **Financial Emergency** (Article 360)

During emergencies, the federal structure shifts to a unitary model.

- **Three-Tier Government: Art. 40:** Promotes **village panchayats**.
 - **73rd CAA (1992):** Recognizes **Panchayati Raj**.
 - **74th CAA (1992):** Recognizes **Municipalities**.
- **Cooperative Societies: 97th CAA (2011):** Grants constitutional status and protection;
 - Recognizes the right to form cooperatives as a **Fundamental Right** (Article 19).
 - **New DPSP:** Promotion of cooperative societies (Art. 43B).
 - **Part IX-B:** Dedicated to cooperative societies (Articles 243-ZH to 243-ZT).

Parts of the Indian Constitution		
Parts	Subjects	Articles
I	The Union and its Territories	1 – 4
II	Citizenship	5 – 11
III	Fundamental Rights	12 – 35
IV	Directive Principles of State Policy	36 – 51
IV A	Fundamental Duties	51A
V	The Union	52 – 151
VI	The States	152 – 237
VII	The States in Part B of the First Schedule (Repealed)	238
VIII	The Union Territories	239 – 242
IX	The Panchayats	243 – 243O
IX A	The Municipalities	243P – 243ZG
IX B	The Co-operative Societies	243ZH – 243ZT
X	The Scheduled and Tribal Areas	244 – 244A
XI	Relation between the Union and the States	245 – 263
XII	Finance, Property, Contracts and Suits	264 – 300A
XIII	Trade, Commerce and Intercourse within the territory of India	301 – 307
XIV	Services Under the Union and the States	308 – 323
XIV A	Tribunals	323A – 323B
XV	Elections	324 – 329A
XVI	Special provisions relating to certain classes	330 – 342
XVII	Official language	343 – 351
XVIII	Emergency Provisions	352 – 360
XIX	Miscellaneous	361 – 367
XX	Amendment of the Constitution	368
XXI	Temporary, Transitional and Special Provisions	369 – 392
XXII	Short Title, Commencement, Authoritative Text in Hindi and Repeals	393 – 395

Schedules of the Indian Constitution		
Schedule	Description	Related Articles
First Schedule	Lists the States and Union Territories along with their territories. Currently includes 28 States and 8 Union Territories .	Articles 1 and 4
Second Schedule	Outlines provisions for emoluments, allowances, and privileges for the President of India, Governors of States, Speaker and Deputy Speaker of the Lok Sabha, Chairman and Deputy Chairman of the Rajya Sabha, Speaker and Deputy Speaker of the Legislative Assembly in states, Chairman and Deputy Chairman of the Legislative Council in states, Judges of the Supreme Court, Judges of the High Courts, Comptroller and Auditor General of India .	Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219
Third Schedule	Provides forms of oaths or affirmations for: <ul style="list-style-type: none"> • Union and State Ministers • Candidates for election to the Parliament and the State Legislature • Members of Parliament and State Legislature • Judges of the Supreme Court and High Courts • Comptroller and Auditor General of India. Note: An oath is a solemn promise made under the invocation of God, while an affirmation is a non-religious pledge made by individuals who choose not to invoke religious references, both serving as formal commitments to uphold constitutional duties.	Articles 75(4), 99, 124(6), 8(2), 164(3), 188, 219, 75, 84, 99, 124, 146, 173, 188, 219
Fourth Schedule	Details the number of seats allocated to each state and union territory in the Council of States (Rajya Sabha) .	Articles 4(1) and 80(2)
Fifth Schedule	Provides for the administration of Scheduled Areas in certain states.	Articles 244
Sixth Schedule	Focuses on administering Tribal Areas in the states of Assam, Meghalaya, Tripura, and Mizoram .	Articles 244(2) and 275(1)
Seventh Schedule	Contains three lists for legislative authority: <ul style="list-style-type: none"> • Union List: National importance subjects for central law-making (e.g., defence, foreign affairs). • State List: Local subjects for state law-making (e.g., police, public health). • Concurrent List: Joint subjects for both (e.g., education). • Notes: Parliament can legislate on residuary subjects; Union List prevails over State List and Concurrent List; Central law takes precedence in case of conflict unless state law is approved by the President. 	Article 246
Eighth Schedule	Lists recognized languages in India. Originally included 14 , now contains 22 languages : <ul style="list-style-type: none"> • Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu, Urdu. Sindhi was added by the 21st CAA, 1967. • Konkani, Manipuri and Nepali were added by the 71st CAA, 1992. • Bodo, Dogri, Maithili and Santhali were added by the 92nd CAA, 2003. • Oriya was renamed as 'Odia' by the 96th CAA, 2011. [UPSC 2024] 	Articles 344(1) and 351
Ninth Schedule	<ul style="list-style-type: none"> • Acts and Regulations (originally 13 but presently 282 acts) of the State legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters. • This schedule was added by the 1st Amendment (1951) under J L Nehru as PM to protect the laws included in it from judicial review on the grounds of violation of Fundamental rights. However, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to judicial review (I R Coelho Case). [UPSC 2018, 2019] 	Article 31B

Tenth Schedule	Contains provisions regarding the disqualification of Parliament and State Legislature members on the grounds of defection (known as the Anti-defection Law), added by the Fifty-second Amendment (1985).	Articles 102(2) and 191(2)
Eleventh Schedule	Added by the Seventy-third Amendment (1992), detailing the powers, authority, and responsibilities of Panchayats . It contains 29 functional items : Agriculture, Land improvement, Implementation of land reforms, Land consolidation, etc.	Article 243G
Twelfth Schedule	Added by the Seventy-fourth Amendment (1992), outlining the powers, authorities, and responsibilities of Municipalities . It includes 18 functional items : Urban planning, including town planning, Regulation of land use and construction of buildings, Planning for economic and social development, etc.	Article 243W

ORDER OF PRECEDENCE: REPUBLIC OF INDIA

Order of Precedence is a protocol list maintained by the **Ministry of Home Affairs**. In it, the functionaries and authorities are recorded by rank and office in the Government of India. It is meant for State and **Ceremonial occasions** and has **no application** in the day-to-day business of the Government. Order of Precedence of the most important dignitaries is:

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 = Vice-Chairperson, NITI Aayog = Former Prime Ministers = Leaders of Opposition in Rajya Sabha and Lok Sabha
- 7A. Holders of Bharat Ratna
8. Ambassadors Extraordinary and Plenipotentiary and High Commissioners of Commonwealth countries accredited to India = Chief Ministers of States outside their respective States = Governors of States outside their respective States.
9. Judges of the 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 NITI Aayog = Ministers of State of the Union
11. Attorney General of India = Cabinet Secretary = Lieutenant Governors within their respective Union Territories.

AMENDMENT OF THE CONSTITUTION (PART XX: ARTICLE 368)

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

Constitutional Amendment Bill Procedure (Article 368): Key Points

- **Introduction:** Can be introduced in either house of Parliament by a **minister** or **private member**. No State legislature can do so. [UPSC 2013]
- **President's Role:** No prior permission required for introduction. [UPSC 2022]
- **Majority Needed:** Requires a **special majority** (50% total membership + 2/3 of members present & voting). [UPSC 2022]
- **Passage:** Both houses must pass it separately; **no provision of joint sitting** in case of disagreement.
- **Amendment of Federal Provisions:** Needs **special majority + state ratification** (half the states by simple majority). [UPSC 2013]
- **President's Assent:**
 - **24th constitutional amendment:** It also amended Article 368 to provide expressly that Parliament has the power to amend any provision of the Constitution. The amendment further made it **obligatory for the President to give his assent**, when a Constitution Amendment Bill was presented to him. [UPSC 2022]
 - He can neither withhold his assent to the bill nor return the bill for reconsideration by the Parliament.
 - After the President's assent, the bill becomes an Act, and the Constitution stands amended in accordance with the terms of the Act.

Types of Majorities in Parliament

Type of Majority	Explanation
Simple Majority	Majority of the members present and voting, not considered under Art.368. Example: Recently, the number of SC judges was increased from 31 to 34 by the Supreme Court (Number of Judges) Amendment Act, 2019.
Absolute Majority	Majority of the total membership of the House, regardless of vacancies or absent members.
Effective Majority	Majority of the effective strength of the House (i.e. Total Strength minus vacancies) Example: 'Removal of chair of house.'
Special Majority as per Article 249	Majority of not less than 2/3 of the members present and voting.
Special Majority under Article 368	Majority of the total membership (irrespective of the vacancies/absentees) and by a majority of not less than 2/3 of members present and voting. Example: 103rd amendment to provide 10% reservation to EWS.
Special Majority under Article 61	Majority of not less than 2/3 of the total membership of the House.
Special Majority of Parliament & Consent of States	<ul style="list-style-type: none"> Special majority + Ratification of half (50%) of the state legislatures by a simple majority. Most of the federal provisions are amended by this method. [UPSC 2013] If one or some or all the remaining states take no action on the bill, it does not matter; the moment half of the states give their consent, the formality is completed. There is no time limit within which the states should give their consent to the bill. Example: 101st Amendment related to GST.

Various Provisions and Type of Majority Required:

- Provisions that require a Simple Majority
 - Admission of new states (Art. 2)
 - Formation and alteration of existing states (Art. 3)
 - The Second Schedule, abolition/creation of legislative councils (Art. 169)
 - Quorum in Parliament (Art. 100)
 - Salaries and allowances of members (Art. 106)
 - Rules of procedure (Art. 118)
 - Use of English, number of puisne judges, privileges of Parliament (Art. 105)
 - Jurisdiction to the Supreme Court (Art. 138)
 - Official language (Art. 343)
 - Citizenship (Art. 5-11)
 - Elections, delimitation of constituencies (Art. 82)
 - Union Territories, the Fifth Schedule (Art. 244), and the Six Schedules (Art. 244).
- Provisions that require a Special Majority: Fundamental Rights, DPSPs and all other provisions which are not covered by the first and third categories.
 - Provisions that require a Special Majority + Ratification of half of the States: election of the

President (Art. 54 and 55), executive powers of the Union and states, Supreme Court and High Courts (Art. 124 & 214)

- Legislative powers distribution, Goods and Services Tax Council, the Seventh Schedule (Art. 246)
- Representation of states in Parliament, and Article 368.

Criticism of the Amendment Procedure

- Unlike the USA, Indian states cannot initiate constitutional amendments; this authority rests solely with Parliament. The only exception is when states pass a resolution requesting the creation or abolition of a legislative council, which Parliament can approve, reject, or ignore.
- The Constitution does not mention the time within which state legislatures ratify or reject the amendment. The Constitution is also silent on whether the states can withdraw their approval once given.
- No provision for a special body for amendment + Only in a few cases, the consent of the state legislatures is required.
- No provision for holding a joint sitting.
- Wide scope for taking matters to the judiciary due to vague provisions.

Major Constitutional Amendments at a Glance

Constitutional Amendment Acts (CAA)	Description
1 st CAA, 1951	<ul style="list-style-type: none"> Empowered the state to make special provisions for the advancement of socially and economically backward classes. Provided for the saving of laws providing for the acquisition of estates, etc. The first PM, Jawaharlal Nehru, added the Ninth Schedule to protect the land reforms and other laws included in it from judicial review. Afterwards, Art.31, 31A and 31B were inserted. [UPSC 2023] Three more grounds for restrictions on Article 19 (1) were added: Public order, Friendly relations with foreign states, and Incitement to an offence. The validity of the state's move to nationalise any business or trade and the same to not be invalid on the grounds of violation of the right to trade and business.
7 th CAA, 1956	<ul style="list-style-type: none"> Extended the jurisdiction of high courts to union territories. Provided for the appointment of additional and acting judges of the high court. The provision of having a common High Court for two or more states was introduced. Abolition of Class A, B, C and D states and reorganised them into 14 States and 6 UTs. Article 153 provides that there shall be a Governor for each State. Since it may be desirable in certain circumstances to appoint a Governor for two or more States, it is proposed to add a proviso to this article to remove any possible technical bar to such an appointment.
9 th CAA, 1960	<ul style="list-style-type: none"> Adjustments to Indian Territory as a result of Indo-Pak Agreement 1958 with Pakistan. Cession of Indian territory of Berubari Union (West Bengal) to Pakistan.
14 th CAA, 1962	<ul style="list-style-type: none"> Incorporated Puducherry in the Indian Union. Provided for the creation of legislatures and council of ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.
16 th CAA, 1963	<ul style="list-style-type: none"> Expanded government authority to limit free speech and assemblies for national unity and safety. Required oaths of office to include commitments to India's unity.
24 th CAA, 1971	<ul style="list-style-type: none"> Affirmed the power of Parliament to amend any part of the Constitution, including Fundamental rights. Made it compulsory for the President to give his assent to a Constitutional Amendment Bill.
25 th CAA, 1971	<ul style="list-style-type: none"> Limited the right to property and protected laws under Article 39 (b) or (c) from challenges based on Article 14, 19, and 31.
26 th CAA, 1971	<ul style="list-style-type: none"> Abolished the privy purses and privileges of the former rulers of princely states.
35 th CAA, 1974	<ul style="list-style-type: none"> Terminated the protectorate status of Sikkim and conferred the status of an associate state of the Indian Union. The Tenth Schedule was added, laying down the terms and conditions of the association of Sikkim with the Indian Union.
36 th CAA, 1975	<ul style="list-style-type: none"> Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.
39 th CAA, 1975	<ul style="list-style-type: none"> Election of the President, Vice President, Prime Minister and the Speaker of the Lok Sabha beyond the scrutiny of the Indian courts. Introduced during the time of Emergency 1975–1977. [UPSC 2019]

42nd CAA, 1976 (Mini Constitution)	<ul style="list-style-type: none"> Added three new words - Socialist, Secular and Integrity - in the Preamble. Added Fundamental Duties by the citizens (new Part IV A). Added four new Directive Principles viz., healthy development of children (Article 39); equal justice and free legal aid (Article 39A); the participation of workers in the management of industries (Article 43A) and protection of the environment, forests, and wildlife (Article 48A). DPSPs vs. Rights: Established DPSPs as superior to Fundamental Rights. Elections: Delayed delimitation of constituencies until the 2001 census. Parliament: President was obligated to follow the cabinet's advice unrestricted amendment powers. Judiciary: Limited Supreme Court's review powers; amendments became immune to challenges. [UPSC 2019] Federalism: Shifted five subjects to the Concurrent List (Education, Forests, Weights & Measures, Protection of Wild Animals and Birds, & Administration of Justice) Emergency Provisions: Allowed localised emergencies; extended President's rule to one year.
43rd CAA, 1977	Restored the original position of the HC and moreover now the HC is considered as the principal civil courts of original jurisdiction in each state and union territory, thus they shall have the jurisdiction to declare any central law to be constitutionally invalid. [UPSC 2019]
44th CAA, 1978	<ul style="list-style-type: none"> Replaced the term 'internal disturbance' by 'armed rebellion' in respect of national emergency. Made the President declare a national emergency only on the written recommendation of the cabinet. Deleted the right to property from the list of Fundamental Rights and made it only a legal right. Provided that the fundamental rights guaranteed by Art.20 and 21 cannot be suspended during a national emergency. [UPSC 2020]
52nd CAA, 1985	<ul style="list-style-type: none"> Provided for disqualification of members of Parliament and state legislatures on the ground of defection and added a Tenth Schedule containing the details in this regard. 91st CAA (2001): Strengthened anti-defection laws by removing exceptions for splits.
61st CAA, 1989	Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.
69th CAA, 1991	Accorded a special status to the Union Territory of Delhi by designating it as the National Capital Territory of Delhi . The amendment also provided for the creation of a 70-member legislative assembly and 7-member council of ministers for Delhi .
73rd CAA, 1992	Granted constitutional status and protection to the Panchayati Raj institutions also added a new Part-IX entitled as 'the panchayats' and a new 'Eleventh Schedule' containing 29 functional items of the panchayats.
74th CAA, 1992	Granted constitutional status and protection to the urban local bodies and facilitated the addition of a new Part IX-A entitled as 'the municipalities' and a new 'Twelfth Schedule' containing 18 functional items of the municipalities.
84th CAA, 2001	Extended the ban on the readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population-limiting measures.
86th CAA, 2002	<ul style="list-style-type: none"> Made elementary education a fundamental right under Article 21A. Changed the subject matter of Article 45 in Directive Principles Added a new fundamental duty under Article 51A.
89th CAA, 2003	Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies , namely, National Commission for Scheduled Castes (Art.338) and National Commission for Scheduled Tribes (Art.338A).

97th CAA, 2011	<ul style="list-style-type: none"> ● Constitutional status and protection to cooperative societies. It made the following three changes in the constitution: <ul style="list-style-type: none"> ○ It made the right to form co-operative societies a fundamental right (Article 19). ○ It included a new Directive Principle of State Policy on the promotion of co-operative societies. ○ It added a new Part IX-B in the constitution which is entitled “The Co-operative Societies”.
99th CAA, 2014	<ul style="list-style-type: none"> ● Formation of a National Judicial Appointments Commission. ● Note: In 2015, a five judge Constitution Bench of SC by 4:1 majority upheld the collegium system and struck down the NJAC as unconstitutional. [UPSC 2019]
100th CAA, 2015	Related to the Land Boundary Agreement (LBA) between India and Bangladesh.
101st CAA, 2017	Introduced the Goods and Services Tax in the country from 1st July 2017.
102nd CAA, 2018	Constitutional status to National Commission for Backward Classes (NCBC)-Article 338B.
103rd CAA, 2019	<ul style="list-style-type: none"> ● Provided a maximum of 10% Reservation for Economically Weaker Sections (EWS). Introduced Articles 15(6) and 16(6), granting up to 10% reservation for the Economically Weaker Sections (EWS) among non-OBC and non-SC/ST groups in admissions and government jobs, excluding minority-run institutions. ● This amendment was upheld by a Supreme Court bench with a 3:2 majority.
104th CAA, 2020	Extended the reservation of seats for SCs and STs in the Lok Sabha and states assemblies until 2030 and discontinued special representation for the Anglo-Indian community.
105th CAA, 2021	Exempted the state governments from consulting the National Commission for Backward Classes with regard to the preparation and maintenance of the list of socially and educationally backward classes (SEBCs) for their own purposes.
106th CAA, 2023	It reserves one-third of all seats for women in Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi, including those reserved for SCs and STs.

EVOLUTION OF BASIC STRUCTURE DOCTRINE

Basic Structure **encompasses basic and core values which form the bedrock of the Indian Constitution.** It is a Judicially innovative doctrine which is **neither defined under the Constitution nor defined by the Supreme Court or any other court.** Various judgments of the Supreme Court form the bedrock of the Basic Structure Doctrine. **[UPSC 2020]**

Basic Structure **cannot be amended by Parliament under Art. 368.**

Present position: Under Article 368, Parliament **can amend any part of the Constitution**, including the Fundamental Rights, but **without affecting the ‘basic structure’ of the Constitution.** The Supreme Court has yet to define or clarify what constitutes the ‘basic structure’ of the Constitution.

Cases Related to the Basic Structure Doctrine

Cases	Description
Shankari Prasad Case 1951	<ul style="list-style-type: none"> ● Whether parliament can curtail Fundamental Rights under Article 368 was dealt with in this case. The constitutional validity of the 1st Amendment Act (1951), which curtailed the Right to Property, was challenged. ● Supreme Court: Under Article 368, Parliament can amend Fundamental Rights (FR). Article 13 includes only ordinary law and not constitutional amendment law. Amendments abridging FR cannot be void under Article 13.
Golaknath Case 1967	<ul style="list-style-type: none"> ● The 17th Amendment (1964), which inserted certain state laws in the 9th Schedule, was challenged. ● Supreme Court: FRs are transcendental and immutable. Parliament cannot abridge or take away any FR. Constitutional Amendment Acts are laws under Article 13. So, any amendment violating FR would be void under Article 13.

Parliament's Reaction to Golaknath Case	<ul style="list-style-type: none"> ● 24th Amendment Act (1971): The act amended Articles 13 and 368. ● Parliament can take away any FR under Article 368, and such acts are not laws under Article 13.
Kesavananda Bharati Case 1973	<p>Supreme Court: Overruled its judgement in the Golaknath Case (1967) and upheld the 24th Amendment.</p> <ul style="list-style-type: none"> ● The basic Structure Doctrine was laid down by SC. ● Parliament cannot alter the Basic structure of the Constitution. ● Parliament cannot take away FR that forms the Basic Structure Doctrine.
39th Amendment 1975	Election disputes between the PM and the Speaker of LS were kept outside the jurisdiction of the court, affecting basic structure.
Indira Nehru Gandhi Case 1975	Supreme Court: Invalidated 39th Amendment. Judicial review is a basic structure.
42nd Amendment 1976	Amended Article 368 , no limitations on constituent power of Parliament and no amendment can be questioned in courts.
Minerva Mills Case 1980	<ul style="list-style-type: none"> ● Invalidated above changes under the 42nd Amendment. ● Judicial review is a basic structure of the constitution.
Waman Rao case 1981	<ul style="list-style-type: none"> ● Again, the Supreme Court adhered to the doctrine of the 'basic structure' and clarified that it would apply to constitutional amendments enacted after April 24, 1973 (Kesavananda Bharati case).
L. Chandra Kumar v. Union of India, 1997	Reiterated the independence of the judiciary as an integral part of the Basic Structure.
IR Coelho vs State of Tamil Nadu, 2007	The SC ruled that all laws (including those in the Ninth Schedule) would be open to Judicial Review if they violated the basic structure of the Constitution.
Justice K.S. Puttaswamy (Retd.) v. Union of India (Aadhaar Case) 2017	Recognized the right to privacy as a fundamental right, affirming it as part of the Basic Structure of the Constitution.

ELEMENTS OF BASIC STRUCTURE

With various Supreme Court judgements, various elements emerged as 'basic features' includes:

<ul style="list-style-type: none"> ● Separation of powers between the legislature, the executive and the judiciary 	<ul style="list-style-type: none"> ● Powers of the Supreme Court under Articles 32, 136, 141 and 142 	<ul style="list-style-type: none"> ● Sovereign, democratic and republican nature of the Indian polity. 	<ul style="list-style-type: none"> ● Balance between Fundamental Rights and Directive Principles
<ul style="list-style-type: none"> ● Powers of the High Courts under Articles 226 and 227. 	<ul style="list-style-type: none"> ● Limited power of Parliament to amend the Constitution. 	<ul style="list-style-type: none"> ● Effective access to justice. 	<ul style="list-style-type: none"> ● Principles (or essence) underlying fundamental rights.
<ul style="list-style-type: none"> ● Federal character of the Constitution. 	<ul style="list-style-type: none"> ● Secular character of the Constitution. 	<ul style="list-style-type: none"> ● Welfare state (socio-economic justice). 	<ul style="list-style-type: none"> ● Unity and integrity of the nation.
<ul style="list-style-type: none"> ● Principle of equality. 	<ul style="list-style-type: none"> ● Rule of Law 	<ul style="list-style-type: none"> ● Parliamentary system. 	<ul style="list-style-type: none"> ● Judicial review.
<ul style="list-style-type: none"> ● Freedom and dignity of the individual. 	<ul style="list-style-type: none"> ● Supremacy of the Constitution. 	<ul style="list-style-type: none"> ● Free and fair elections 	<ul style="list-style-type: none"> ● Independence of Judiciary.



4

System of Government

The State refers to a political institution that represents a sovereign people organised under one independent government within a definite territory and subject to no outside control. Thus, a community of persons permanently occupying a definite territory independent of external control and possessing an organised government. [UPSC 2021]

A government is a group exercising authority over a territory and its people, responsible for creating and enforcing laws, managing public affairs, and providing essential services.

The system of government defines the division of authority between the legislature and executive, determining a country's governance structure.

TYPES OF GOVERNMENT

- **Unitary System:** In a **Unitary System**, a central government holds all power, with regional authorities deriving their authority from it. Unitary systems always have a Single strong Government and may have a written (France) or unwritten (Britain) constitution, supreme (Japan) or non-supreme (Britain) constitution, rigid (France) or flexible (Britain) constitution, bicameral (Britain) or unicameral (China) legislature.
- **Federal System:** A **Federal System** divides powers between a central government and regional governments, each with constitutionally defined autonomy. Example: US, Switzerland, Australia, Canada, Russia, Brazil, Argentina and Germany
- **Confederate System:** In a **Confederate System**, regional governments maintain most power, with a weak central authority that relies on voluntary compliance. It features a **flexible constitution**. Examples include the **former Soviet Union** and **Switzerland's canton system**.
- **Constitutional government** is one that operates within the limitations set by a country's constitution, serving as the supreme law of the land. [UPSC 2020, 2021]
The **Constitutional Government** places effective restrictions on the Authority of the State in the interest of individual liberty. [UPSC 2014]
- **Source of Power:** It is the ultimate source of all governmental powers and delineates critical limitations that protect the **fundamental rights** of citizens. [UPSC 2023, 2014]
- **Limitation on Government:** A key aspect is its role in constraining sovereign governments in their ruling capacity, establishing a **limited government** structure. [UPSC 2020]

FORMS OF GOVERNMENT

Feature	Parliamentary System	Presidential System	Semi-Presidential System
Executive Authority	Prime Minister leads; derives authority from Parliament.	President is both head of state and government; elected independently.	Dual executive: President and Prime Minister share authority.
Relationship with Legislature	The Prime Minister can be removed by a vote of no confidence.	President cannot be easily removed; serves fixed terms.	The President is elected; the Prime Minister is accountable to the legislature.
Cabinet Composition	Cabinet members are typically from the legislature.	Cabinet members are appointed by the President; may not be part of the legislature.	The Cabinet includes members from both the President and the legislature.
Legislative Role	Legislature plays a crucial role in governance and policy making.	Legislature has limited influence over the President's decisions.	The Legislature has significant power but also shares it with the President.
Stability	Can be unstable; the government can change frequently.	More stable; fixed terms provide consistency.	Stability can vary; dependent on the balance of power.

Decision-Making	Quick decision-making due to close ties between executive and legislature.	Slower decision-making; President may face opposition from Congress.	Decision-making can be efficient but may face conflicts.
Constitutional Flexibility	Often more flexible due to the evolving nature of Parliamentary practices.	Generally rigid; fixed terms are defined in the constitution.	Can be both flexible and rigid, depending on the balance of power.
Example Countries	United Kingdom, India, Canada	United States, Brazil, Mexico	France, Russia, Ukraine
Merits	<ul style="list-style-type: none"> • Harmony between Legislature & Executive. • Responsible Government answerable to Parliament; [UPSC 2020] • Power isn't centralised; Cabinet (CoM) ensures collective authority. • Opposition can serve as an alternative if the ruling party loses majority. • CoM reflects with wide Representation to diverse sections in governance. 	<ul style="list-style-type: none"> • Stable government. • Definiteness in policies. • Based on separation of powers. • Government by experts. • Direct mandate from the electorate enhances legitimacy. 	<ul style="list-style-type: none"> • Combines strengths of both systems • Flexible power distribution. • Encourages cooperation • Stable Leadership: Parliament can remove an unpopular PM, ensuring stability. • Checks and Balances • Alignment with Development: An independent PM fosters political and economic growth.
Demerits	<ul style="list-style-type: none"> • Loss of majority can lead to frequent government changes. • New governments often alter existing policies. • A strong Cabinet can centralise power. • Blurred Separation of Powers. • Ministers may not be specialists, limiting effective governance. 	<ul style="list-style-type: none"> • Conflict between legislature and executive. • Non-responsible government. • May lead to autocracy. • Narrow representation. • Difficulties in achieving consensus. 	<ul style="list-style-type: none"> • Potential for conflict between President and PM; leading to inefficiencies. • Unclear responsibility for policy outcomes. • Votes of confidence may disrupt the legislative process. • Unpopular policies can be deflected to the PM, obscuring true accountability.

SYSTEM OF GOVERNMENT IN INDIA

- The Constitution of India provides for a parliamentary form of government (**the executive is responsible to the legislature for its policies and acts**), both at the Centre and in the states. [UPSC 2017]
- **Parliamentary Government:** It is also known as the Cabinet government/ Responsible government/ Westminster model of government and is prevalent in Britain, Japan, Canada, and India, among others. Defined by **Articles 74, 75** (Centre) and **Articles 163, 164** (States).
- **Reasons for Adopting the Parliamentary System in India**
 - **Familiarity:** The framers were acquainted with the parliamentary system from British rule, making it a natural choice.
 - **Responsibility:** Dr. B.R. Ambedkar emphasised the need for a democratic executive to ensure **stability** and **responsibility**.
 - **Avoiding Conflicts:** The parliamentary system helps prevent conflicts between the **legislature** and **executive**, crucial for a young democracy like India.
 - **Representation:** Given India's diverse society, the parliamentary system ensures **representation** of various sections and interests through small constituencies.

FEATURES OF PARLIAMENTARY SYSTEM IN INDIA

- **Nominal and Real Executives:** The **President** is the nominal head (**de jure**, **Article 74**), while the **Prime Minister** is the real head (**de facto**, **Article 75**).
- **Majority Party Rule:** The party with the majority in the **Lok Sabha** forms the government. The **President** appoints the **PM (Article 75)** and ministers on the PM's advice.
- **Collective Responsibility:** Ministers are collectively responsible to the **Lok Sabha (Article 75)**, which can remove them through a **no-confidence motion**. [UPSC 2015]
- **Double Membership:** Ministers belong to both **executive and legislature (Article 75)**.
- **Dissolution of Lok Sabha:** The **President**, on the PM's advice, can dissolve the Lok Sabha before its term (**Article 85**).
- **Secrecy:** Ministers maintain confidentiality in their decisions and proceedings (**Article 75**).

DISTINCTION BETWEEN INDIAN AND BRITISH MODELS

Indian	British
<ul style="list-style-type: none"> • Republican system with an indirectly elected President as head of State. • Based on Constitutional Supremacy. • The PM may be a member of any House (Lok Sabha or Rajya Sabha). • Non-Parliament members can be appointed as ministers for six months • No system of legal responsibility; ministers do not countersign official acts • No institution of Shadow Cabinet. 	<ul style="list-style-type: none"> • Monarchical system with a hereditary King/Queen as Head of State. • Based on Parliamentary Sovereignty. [UPSC 2021] • The PM must be a member of the Lower House (House of Commons). • Ministers are usually members of Parliament only. • Ministers have a system of legal responsibility; they must countersign acts. • Shadow Cabinet formed by the opposition to balance the ruling cabinet and prepare future ministers.

INDIAN CONSTITUTION AND FEDERAL SYSTEM

- The USA, the **first and oldest federation** in the world, was formed in **1787** following the **American Revolution (1775–83)**. The **Constitution of India** establishes a **federal system** of government, although the term **federation** is not explicitly mentioned. Unlike the USA, Indian federalism did not arise from agreements among states; it is modelled after the **Canadian system**.
- Indian federalism is not the result of an agreement among the federating units. [UPSC 2017]
- **Federal Structure:** India is described as a **'Union of States' (Article 1)**, reflecting its **sociocultural diversity** and large size. This structure allows for a **quasi-federal system** that accommodates regional autonomy while maintaining a strong central authority.
- **Quasi-Federal:** The federalism in India represents a compromise between the following two conflicting considerations: normal division of powers under which states enjoy autonomy within their own spheres; and need for national integrity and a strong Union government under exceptional circumstances.
- **Supreme Court Ruling:** The **S.R. Bommai case (1994)** affirmed federalism as a **basic structure**; states possess **supreme authority** within their sphere, recognizing **practical realities**.

POLITICAL SCIENTISTS AND THEIR DESCRIPTIONS OF INDIAN FEDERATION

- **Paul Appleby:** Describes the Indian system as **extremely federal**.
- **Morris Jones:** Refers to it as **"bargaining federalism,"** indicating negotiations among different levels of government.
- **Ivor Jennings:** Characterises it as a federation with a **strong centralising tendency**, noting that the Indian Constitution has unique safeguards to enforce **national unity and growth**.
- **Alexandrowicz:** States that India is a **case sui generis**, emphasising its **unique character**.
- **Granville Austin:** Calls Indian federalism **"cooperative federalism,"** describing it as a **new kind of federation** tailored to meet India's specific needs.
- **K.C. Wheare:** Considers India a **semi-federal** or **quasi-federal** state, highlighting its mixed characteristics.
- **K. Santhanam:** Points out the **unitary bias** of the system due to central financial dominance.
- **Dr. B.R. Ambedkar:** Emphasises that India's federation is **indestructible** and not formed by agreements among states, stating, "The Indian Constitution is a Federal Constitution with a dual polity - both the Union and the states derive their authority from the Constitution."

FEDERAL AND UNITARY FEATURES OF THE INDIAN CONSTITUTION

Federal Features	Unitary Features
<ul style="list-style-type: none"> Dual Polity: Union handles national matters, States handle local issues (Article 246). Written Constitution: World's longest constitution with clear Centre-State jurisdictions. Division of Powers: Centre and States legislate on concurrent subjects, but Centre prevails in conflicts [UPSC 2017] Supremacy of Constitution: It's the Supreme law, enforced by Judicial review (Article 13). Rigid Constitution: Federal structure amendments need special procedures (Article 368). Bicameralism: Rajya Sabha represents States; Lok Sabha represents people (Article 79). Independent Judiciary: Supreme Court settles Centre-State disputes and guards constitutional supremacy (Article 131, 32, 136). [UPSC 2017/ 2021] 	<ul style="list-style-type: none"> Strong Centre: Union has more important subjects (Article 248, 249) and overriding power on the Concurrent List. Single Constitution: Same constitution for Centre and States. No Equal State Representation: Rajya Sabha representation is population-based. [UPSC 2017] States Not Indestructible: Parliament can change state boundaries (Article 3). Flexible Constitution: Most provisions amended by Parliament alone (Article 368). Emergency Provisions: Centre gained complete control during emergencies (Articles 352, 356, 360). Single Citizenship: Equal rights nationwide (Article 5-11). Integrated Judiciary: Supreme Court oversees both Central and State laws (Article 141). All-India Services: Centrally controlled services (IAS, IPS, IFS) (Article 312). Integrated Audit: CAG audits both Centre and States (Article 148). Governor's Appointment: By the President, acts as Centre's representative (Article 155-156). Parliament's Authority: Can legislate on State List if necessary (Article 249). Veto Over State Bills: Governor can refer bills to the President (Article 200).

COMPARISON OF INDIAN CONSTITUTION WITH THE WORLD

Feature	India	United Kingdom	United States	Canada	France	Japan	South Africa
Type of Constitution	Written and lengthy	Unwritten, based on statutes, conventions, and treaties	Written and codified	Written and codified	Written and codified	Written and codified	Written and codified
Fundamental Rights	Yes, detailed in Part III	Not explicitly stated; rights derived from common law and statutes	Yes, Bill of Rights (first ten amendments)	Yes, in the Canadian Charter of Rights and Freedoms	Yes, in the Declaration of the Rights of Man and Citizen	Yes, guaranteed under Article 11 of the Constitution	Yes, in the Bill of Rights (Chapter 2 of the Constitution)
Amendment Process	Rigid and flexible (different procedures)	Not formalised; based on parliamentary sovereignty	Rigid; requires supermajority in Congress and state ratification	Flexible; requires a majority in Parliament	Rigid; requires a majority in both houses and approval by referendum	Rigid; requires a majority in both houses and a majority vote	Rigid; requires a two-thirds majority in Parliament

Separation of Powers	Yes, clear separation among Executive, Legislature, and Judiciary	No strict separation; Parliament holds supreme authority	Yes, clear separation among Executive, Legislature, and Judiciary	Yes, clear separation, with parliamentary system	Yes, clear separation among Executive, Legislature, and Judiciary	Yes, clear separation among Executive, Legislature, and Judiciary	Yes, clear separation among Executive, Legislature, and Judiciary
Judicial Review	Yes, the Supreme Court has the power of judicial review	No formal judicial review; Parliament is sovereign	Yes, power of judicial review established in Marbury v. Madison	Yes, the Supreme Court has judicial review authority	Yes, Constitutional Council ensures compliance with the Constitution	Yes, the Supreme Court can review laws for constitutionality	Yes, the Constitutional Court has the power of judicial review
System of Government	Parliamentary system (Quasi-federal)	Parliamentary system (Unitary with devolved powers)	Federal system	Federal system	Semi-presidential system (Unitary, but regions have some autonomy)	Parliamentary system (Unitary system but recognizes local autonomy)	Parliamentary republic (Unitary system)
Head of State	President (Ceremonial role)	Monarch (Ceremonial role)	President (Executive role)	Monarch (Ceremonial role)	President (Executive role)	Emperor (Ceremonial role)	President (Executive role)
Party System	Multi-party system	Two-party system	Two-party system	Multi-party system	Multi-party system	Multi-party system	Multi-party system
Emergency Powers	President can declare national emergency	Government can declare state of emergency	President can declare national emergency	Prime Minister can declare national emergency	President can declare state of emergency	Prime Minister can declare state of emergency	President can declare state of emergency
Official Language	Hindi and English	English	No official language at the federal level	English and French	French	Japanese	English and Afrikaans



TEXT OF THE PREAMBLE

THE CONSTITUTION OF INDIA PREAMBLE

“We, **THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, Social, Economic and Political; [UPSC 2013]
LIBERTY of thought, expression, belief, faith and worship;
[UPSC 2017]

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION**”.
[UPSC 2021]

Introduction

- The preamble to the Indian Constitution is based on the ‘**Objective Resolution**’, drafted and moved by **Pandit Nehru**, and adopted by the Constituent Assembly. The Constituent Assembly enacted it **after the rest of the Constitution** was already enacted to ensure its **conformity and coherence** with the Constitution.
- It has been **amended only once** so far by the **42nd Constitutional Amendment Act (1976)** by adding three **new words** - ‘**SOCIALIST**’, ‘**SECULAR**’, and ‘**INTEGRITY**’.
- It contains the **grand and noble vision** of the **Constituent Assembly** and reflects the **dreams, mind and aspirations of the founding fathers** of the Constitution. [UPSC 2017]
- Limitations of the Preamble in Jurisprudence**
 - No Governmental Power:** Does not grant authority to the Executive, Legislature, or Judiciary.
 - Cannot Override Provisions:** Cannot supersede explicit constitutional articles.
 - Non-Enforceable:** Cannot be enforced by the in courts.
 - Clarification Role:** The Preamble itself has been vague, general and ambiguous. Its constitutional

position has itself been debatable on the courts of justice.

- Constitution Day (Samvidhan Divas)**
 - Date:** Celebrated annually on **26th November**.
 - Purpose:** Commemorates the adoption of the Constitution of India in 1949 and promotes constitutional values among citizens.
 - Notification:** The Ministry of Social Justice and Empowerment announced this celebration on **19th November 2015**. [UPSC 2023]

COMPONENTS OF PREAMBLE

Source of Authority of the Constitution	People of India
Nature of Indian State	Sovereign, Socialist, Secular, Democratic, Republic.
Objectives of the Constitution	Justice, Liberty, Equality, Fraternity.
Date of Adoption of the Constitution	26 November 1949
Philosophy of the Constitution	Gandhi's idea of Swaraj (Self-reliance, Justice, Tolerance)

SIGNIFICANCE OF THE PREAMBLE

- “It is the summary and philosophy of the Indian Constitution and key to the mind of the Constitution makers”. Supreme Court
- “**Identity card of the Constitution**” – N.A. Palkhivala
- “**Horoscope of our sovereign Indian democratic republic**” – K.M. Munshi
- “**Key note to the Constitution**” – Sir Ernest Barker
- “**Guiding light for judicial interpretation**” – Justice Sikri in the Kesavananda Bharati case.

KEYWORDS IN PREAMBLE - MEANING AND FEATURES

“We the People of India”:

Emphasises that the constitution is made **by and for the Indian people**. It emphasises the “**concept of popular sovereignty**” whereby citizens are the ultimate source of constitutional authority, ensuring governance aligns with their well-being.

Sovereign

- **Definition:** It signifies that India is a fully independent State, free from the dominion or dependency of any other country.
- **Independence in Affairs:** India has the authority to conduct both internal and external matters without interference. It can acquire foreign territories or cede parts of its own to other nations.
- **International Relations:** India's full membership in the Commonwealth of Nations with the British Crown as its head or Joining the United Nations Organization (UNO) does not compromise its sovereignty, reflecting its commitment to global cooperation while retaining independence.

Socialist

- **Definition:** Socialism is an economic and political system where the **means of production** are owned collectively or by the government, prioritising **social equality**.
- **Types of Socialism:**
 - **Democratic Socialism:** Characterised by a **mixed economy** with both public and private sectors, adopted by India.
 - **Communist Socialism:** Advocates for **total nationalisation** as prevalent in China, 'earlier'.
- **Indian Approach:** Blends **Marxism** and **Gandhian** principles to combat **poverty, ignorance, disease, and inequality**.

Gandhism and Marxism both aim for a **stateless and classless society** but differ in their approach.

- **Marxism** views the state as an instrument of oppression, serving the bourgeoisie, and advocates for class struggle and revolution to achieve a stateless society.
- **Gandhism** opposes even a minimal state due to its reliance on force, which contradicts non-violence. Gandhi favoured strengthening of local self-governments instead. **[UPSC 2020]**

- **Addition in Constitution:** Socialist nature is implicit in **Directive Principles of State Policy** (Articles- 38, 39, 39A, 41, 42, 43, 43A, 47), but the 42nd Amendment of 1976 mentioned it explicitly.

Secular

- **Definition:** In the Indian context, **secular** means equal treatment of all religions without discrimination. **42nd Amendment** the term '**secular**' was explicitly added in the **Preamble**, establishing India as a secular state.
- **Positive Secularism:** Emphasises equal status and support for all religions, fostering a diverse and inclusive society. Each religion receives equal recognition, regardless of size or influence.
- **Legal Standing:** The concept of a secular state is part of the **Basic Structure doctrine**, and the **Supreme Court** acknowledged its implicit presence in Articles **25-28 (Right to Freedom of Religion)**.

Indian vs Western Model of Secularism		
Parameter	Indian Secularism	Western Secularism
Definition & History	Impartiality towards all religions; rooted in ancient traditions of tolerance.	Separation of church and state emerged as a reaction to religious wars in Europe.
Role of Religion	State can support and participate in religious activities.	Prohibits state involvement in religious matters.
Display of Religion	Freedom to practise with limited public display.	Generally restricts public religious displays.
State Intervention	Intervenes to eliminate harmful practices.	Non-intervention unless laws are violated.
Code of Law & Relation with Law	Personal laws vary by religion; they accommodate multiple religious principles.	Uniform legal code applies to all; laws are independent of religion.
Religion and Society	Religion is integral to society.	Religion is viewed as a private matter.
Inter and Intra-Religious Focus	Addresses both intra- and inter-religious issues.	Primarily focuses on intra-religious matters.
Rights & Influence	Protects individual and minority rights; religious groups can influence politics.	Emphasises overall liberty, with limited role of religious bodies in government.

Democratic

- **Definition:** Democracy allows citizens to enjoy **equal political rights**, elect rulers, and hold them accountable. It is based on the **doctrine of popular sovereignty**, where supreme power resides with the people. Articulated in the **Preamble**.
- **Forms of Democracy:**
 - **Direct Democracy:** Citizens exercise power directly (e.g., **Switzerland** using Referendums, Initiatives, Recalls, and Plebiscites).

- **Initiative:** Citizen-proposed statutes sent to the legislature or put on the ballot.
- **Recall:** Voters can remove public officials before term ends.
- **Referendum:** Voters accept or reject a legislation.
- **Plebiscite:** Direct vote on significant issues for establishing political conditions.
- **Indirect Democracy:** Elected representatives govern (parliamentary and presidential systems).

- **Indian Democracy:** A **representative parliamentary democracy** with an accountable executive. Features include **universal adult franchise, periodic elections, rule of law, independent judiciary, and non-discrimination.**
- **Comprehensive Approach:** Encompasses **political, social, and economic** dimensions.
- **Supreme Court Insight (1997):** The Constitution aims for an **egalitarian social order**, ensuring justice in India's **social and economic democracy.**
- **Note:** Democracy's superior virtue lies in the fact that it calls into activity, the intelligence and character of ordinary men and women. [UPSC 2017]

Republic

- **Definition:** A republic vests political sovereignty in the people (and not a monarch), ensuring no privileged class and equal access to public offices without any discrimination. Political sovereignty rests with the collective citizenry, fostering **equality and inclusivity** in governance.
- **Indian Republic:** The Head of State (President) is indirectly elected for a fixed **five-year term**, as stated in **Articles 56 (Source Indian Constitution).**

Justice

- **Definition:** It is the idea that all people should be given fair, equal, and balanced consideration and treatment. The idea of providing Social, Economic and Political justice in the Preamble is influenced by the **Russian Revolution (1917).**
- **Distributive Justice:** Combines social, economic, and political justice.
 - **Social Justice:** Ensures **equal treatment** of all citizens without distinction based on caste, colour, race, religion, or gender. No privileges for any group; aims to uplift **backward classes (SC, ST and OBC) and womens.**
 - **Economic Justice:** Eliminates discrimination based on **economic factors.** Focuses on reducing inequalities in **wealth, income, and property.** [UPSC 2013/2014]
 - **Political Justice:** Guarantees **equal political rights** and access to all political offices. Ensures every citizen has an **equitable voice** in government.
- **Overall Framework:** Justice is safeguarded through provisions in **Fundamental Rights and Directive Principles**, highlighting its comprehensive approach.

The term **social capital**, popularised by Robert Putnam, refers to “networks with shared norms, values, and understandings that facilitate cooperation.” It includes trust, mutual understanding, and shared values that foster community and cooperative action. Literacy rates and working-age population size are examples of human capital. Buildings and infrastructure represent physical capital. [UPSC 2019]

Liberty

- **Definition:** Liberty means **absence of restraints** on the activities of individuals [UPSC 2019]. It grants individuals the freedom to make choices and pursue activities without restrictions, promoting personal growth and the development of unique personalities. The ideals of liberty, equality, and fraternity in the Preamble are inspired by the **French Revolution (1789-99).**

“Where there is no Law, there is no Freedom. For liberty is to be free from restraint and violence from others, which cannot be where there is no law.” John Locke

[UPSC 2018]

- **Preamble Provisions:** Secures the liberty of **thought, expression, belief, faith, and worship** and emphasises that liberty is not absolute; it must be exercised within constitutional limitations (qualified). Fundamental Rights related to liberty are legally protected and enforceable in court.
- **Types of Liberty:**
 - **Negative Liberty:** Focuses on the **absence of interference**, ensuring individuals are free from obstacles and constraints.
 - **Positive Liberty:** Freedom to act in a way that allows individuals to take control of their lives and **achieve their fundamental purposes**, emphasising the importance of community.

Equality

- **Definition:** Equality signifies the **absence of special privileges** and ensures equal opportunities for all individuals, free from discrimination. [UPSC 2017]
- **Preamble Provisions:** The Preamble guarantees equality of **status and opportunities** across three dimensions: **Civic, political, and economic.**
 - **Civic Equality:** Ensures equality before the law (**Article 14**), prohibits discrimination (**Article 15**), provides equal opportunity in public employment (**Article 16**), abolishes untouchability (**Article 17**), and eliminates titles (**Article 18**).
 - **Political Equality:** Guarantees inclusion in electoral rolls (**Article 325**) and mandates elections based on adult suffrage (**Article 326**).
 - **Economic Equality:** Secures equal rights to livelihood and equal pay for equal work (**Article 39**), promoting a fair and just society in India.
- **Overall Significance:** The Constitution fosters a **fair and just society through this.**

Fraternity

- **Definition:** **Dr B. R. Ambedkar** defines fraternity as the sentiment of **shared brotherhood and sisterhood** among all Indians”.

- **Preamble Provisions:** It declares that the Fraternity has to ensure the dignity of individuals and the unity and integrity of the Nation by **Single Citizenship, Fundamental Rights, DPSPs, and Fundamental Duties**.
- **Fundamental Duties (Article 51A):** Every citizen must promote harmony and common brotherhood, transcending **religious, linguistic, regional, or sectional** diversities.
- **National Integration:** “Unity and integrity” addresses both psychological and territorial aspects, with Article 1 declaring India as a ‘**Union of States**’ to combat

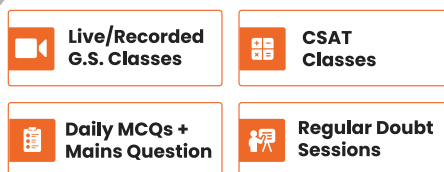
communalism, regionalism, casteism, linguism, and secessionism. The term “integrity” was added by the **42nd Constitutional Amendment** in 1976.

Union of Trinity

- **Union of Trinity (Social Democracy):** Principles of **liberty, equality** and **fraternity** are not to be treated as separate items in a trinity. If any of these is absent, it will defeat the purpose of democracy. Without equality, liberty would produce the supremacy of the few over many. Equality without liberty would kill individual initiative.

SUPREME COURT CASES RELATED TO THE PREAMBLE

Case	Opinion of the Supreme Court (SC)
Berubari Union Case (1960)	The Preamble shows the general purpose behind several provisions of the Constitution. If terms used in articles are ambiguous, some assistance from the preamble could be taken for interpretation. SC held that the Preamble is not a part of the Constitution.
Golak Nath vs. State of Punjab (1967)	Justice Hidayatullah asserted that the Preamble contains enduring principles essential for government functioning, making it the eternal and unalterable essence of the Constitution.
Kesavananda Bharati Case (1973)	SC: The Preamble is a part of the Constitution. (Reversed its opinion as given in the Berubari Union (1960).) The Preamble can be amended , subject to the condition that it should not destroy the ‘Basic Structure’ of the Constitution.
LIC of India Case (1995)	SC again held that the Preamble is an integral part of the Constitution. [UPSC 2020]



6

States and Union Territories (Part-I: Article 1-4)

- **India as a Union of States:** Article 1 refers to India that is Bharat as a 'Union of States'.
- **Schedule 1:** Lists the states and their territorial jurisdiction.
- **Territory Categories:**
 - **States:** 28 states (2024), administered in a federal system mentioned in the 7th Schedule.
 - **Union Territories (UTs):** 8 UTs (2024), directly administered by the Central government.
 - **Acquired Territories:** Also directly administered.
- **Former UTs:** States like Himachal Pradesh, Manipur, and Goa were formerly UTs.
- **Need for UTs:** Address political, administrative, cultural, and strategic considerations.
- **UTs with High Court:** Delhi and the common High Court for Jammu & Kashmir and Ladakh.

Constitutional Provisions

- **Article 1:** Defines the **name** and **territory** of the Union of India.
- **Article 2:** Governs the **admission** or **establishment** of new states.
- **Article 2A (Repealed):** Previously associated Sikkim with the Union.
- **Article 3:** Outlines the **formation of new states** and alterations of **areas, boundaries, or names** of existing states.
 - **States:** A bill for changes requires **Presidential recommendation** after consulting the **state legislature** for views, though the President/Parliament is not bound by these views.
 - **Union Territories (UTs):** No requirement to consult the legislature; Parliament can act independently.
- **Article 4:** Laws made under Articles 2 and 3 to provide for the **amendment of the First and the Fourth Schedules** and supplemental, incidental and consequential matters.
 - Declares that laws made under Article 2 and Article 3 are **not to be considered as amendments of the Constitution under Article 368**.

IMPORTANT CONCEPTS REGARDING STATES AND UTs

- **Union vs. Federation:** "Union of States" is used over "Federation of States" because:
 - The Indian Federation is not based on state agreements like in the U.S.
 - States cannot **secede**.
- **Indestructible Union:** India is "an **indestructible union of destructible states**," while the U.S. is "an **indestructible union of indestructible states**." The U.S. requires state consent to form new states or alter borders.
- **Parliamentary Authority:** **Parliament** can create new states or alter boundaries without consent, so **territorial integrity** isn't guaranteed.
- **Territorial Scope:** "Territory of India" includes **states, Union Territories, and future territories**, while "Union of India" includes only states.
- The Constitution does not contain any separate provisions for the administration of acquired territories.

EXCHANGE OF TERRITORIES

- **Parliament's Power:** Under **Article 3**, Parliament can reduce a state's area but **cannot** cede territory to a foreign nation, as ruled by the **Supreme Court in 1960** regarding **Berubari Union**.
- **Territorial Cession:** Territory can only be ceded to foreign states via a constitutional amendment (e.g., **100th Amendment Act, 2015** dealt with the **transfer of enclaves between India and Bangladesh**).
 - As a sovereign state, India has acquired various foreign territories such as **Dadra and Nagar Haveli, Goa, Daman and Diu, Puducherry, and Sikkim** since the commencement of the Constitution
- Transferring territory requires a **constitutional amendment** under **Article 368**, enacted through the **9th Constitutional Amendment Act of 1960** for Berubari.
- **Boundary Disputes:** In **1969**, the Supreme Court stated that resolving boundary disputes does not need a constitutional amendment and can be done via **executive action**.
- **Exchange with Bangladesh**
 - **Radcliffe Commission (1947):** Demarcated boundaries at independence, neglecting small **enclaves**.

- **Enclaves:** Known as **Chitmahals**, these areas were discussed during the Bagge award of 1950 and the **Nehru-Noon Agreement of 1958**.
- **Enclave Details:** 111 Indian enclaves in Bangladesh; 51 Bangladeshi enclaves in India.

CHANGE OF NAMES OF STATES AND UNION TERRITORIES

- All name changes were executed under **Article 3** of the Constitution by **Parliament**.
 - It includes **Uttar Pradesh (United Provinces, 1950), Tamil Nadu (Formerly Madras, 1969);**
 - **Karnataka:** Formerly **Mysore**, renamed in **1973**,
 - **Lakshadweep:** Formerly **Laccadive, Minicoy, and Amindivi Islands**,
 - **National Capital Territory of Delhi:** Redesignated in **1992** under the **69th Constitutional Amendment Act**,
 - **Uttarakhand:** Formerly **Uttaranchal**, renamed in **2006**,
 - **Puducherry:** Formerly **Pondicherry**, renamed in **2006** and **Odisha:** Formerly **Orissa**, renamed in **2011**.

VARIOUS COMMISSIONS IN THE REORGANISATION OF STATES AND UTs

- **DHAR Commission** (Dec 1948): Recommended state reorganisation based on **administrative convenience**, not language.
- **JVP Committee** (Dec 1948 - Apr 1949): Formally rejected language as the basis for state reorganisation; members included **Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya**. 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** (Dec 1953 - Sept 1955): Accepted language as a basis but rejected 'one language-one state' theory. Its recommendations led to the **States Reorganisation Act (1956)**, creating **14 states** and **6 UTs** on Nov 1, 1956. **Members** of commission: **Fazl Ali (Chairman), K.M. Panikkar and H.N. Kunzru**

States and UTs in 1956	States and UTs (Post-1956)
<ul style="list-style-type: none"> • States: Andhra Pradesh, Assam, Bihar, Bombay, Jammu and Kashmir, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh, West Bengal. • Union Territories: Andaman and Nicobar Islands, Delhi, Himachal Pradesh, Laccadive Islands, Manipur, Tripura. 	<ul style="list-style-type: none"> • 1960: Bifurcation of Maharashtra and Gujarat. • 1961: UT: Creation of Dadra and Nagar Haveli (10th Amendment). • 1962: UTs: Goa, Daman, Diu (12th Amendment); Puducherry (14th Amendment). • 1963: Nagaland. • 1971: Himachal Pradesh. • 1987: Mizoram, Arunachal Pradesh, Goa. • 2000: Chhattisgarh, Uttarakhand, Jharkhand; • 2014: Telangana. • 2019: Two UTs: J&K and Ladakh.

COMPARISON BETWEEN STATES AND UNION TERRITORIES

States	Union Territories
<ul style="list-style-type: none"> • The relationship with the centre is Federal. • Power distribution with the centre. • Have autonomy. • Uniformity in their administrative set-up. • The Governor is the constitutional head of state. • Parliament cannot make laws on the subjects of state lists in relation to states except under extraordinary circumstances. 	<ul style="list-style-type: none"> • Relationships are Unitary. • Under the direct control and administration of the centre. • They do not have autonomy. • There is no uniformity in their administrative setup. • Executive head (agent of the president): Administrator, Lt. Governor, Chief Commissioner. • Parliament can make law on any subject of the three lists in relation to union territories.

- **Jammu and Kashmir Reorganisation Act, 2019:** In 2019, **Article 370** was abolished, ending Jammu and Kashmir's special status. The **J&K Reorganisation Act** created two Union Territories - **UT of Jammu & Kashmir (with Legislature)**: All districts except Kargil and Leh & **UT of Ladakh (without Legislature)**: Kargil and Leh districts. (Under Article-3)
- **Dadra and Nagar Haveli and Daman and Diu (Merger of UTs) Act, 2019:** Merged two UTs into one.

ADMINISTRATION OF UNION TERRITORIES (ARTICLE 239-241 IN PART VIII)

- **Articles:** Governed by **Articles 239-241** in Part VIII of the Constitution.
- **Administered by:** The **President** via an **Administrator**, an agent, not head of state.
- **Lieutenant Governor (LG):** Appointed for **Delhi, Puducherry, Andaman and Nicobar, Jammu and Kashmir, and Ladakh**.
- **Administrators** for **Chandigarh, Dadra and Nagar Haveli, Daman and Diu, and Lakshadweep**.
- **Union Territories with Legislative Assembly and Council of Ministers headed by the Chief Minister:** Puducherry, Delhi, Jammu and Kashmir.
- **Advisory Committees:** **Home Ministers Advisory Committee (HMAC)** for UTs without legislature; chaired by the **Union Home Minister**. **Administrative Advisory Committee (AAC)** chaired by the Administrator of UT.
- **Presidential Authority:** The President can make regulations for **Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu** with the same effect as parliamentary acts.
- **High Court Jurisdictions for Union Territories**
 - **Parliament Authority:** Can establish a High Court for a territory or assign it to a nearby state's High Court.
 - **Delhi:** Is the only Union territory with its own **High Court** since **1966**.
 - **Others include** Dadra and Nagar Haveli, Daman and Diu under Bombay High Court, Andaman and Nicobar Islands Under Calcutta High Court, Chandigarh under Punjab and Haryana High Court; Lakshadweep under Kerala High Court; Puducherry under Madras High Court ; Jammu and Kashmir & Ladakh: Share the Jammu and Kashmir & Ladakh High Court.

DIFFERENCE BETWEEN POWERS OF UTs WITH LEGISLATIVE ASSEMBLIES

Feature	Delhi	Puducherry	Jammu & Kashmir (Post-2019)
Constitutional Status	Article 239AA	Article 239A	J&K Reorganisation Act, 2019
Seats in Assembly	70	33	90 (Total 114; 24-PoK)
Maximum number of ministers in CoM	7	6	9
Legislative Powers	Can legislate on all subjects except public order, police, and land	Can legislate on subjects in State and Concurrent Lists	Can legislate on State List except public order, police; also Concurrent List
Reserved Subjects	Public order, police, land	Follows the general State List and Concurrent List	Public order, police, bureaucracy (All India Services), Anti-Corruption Bureau
Role of Lieutenant Governor	Refers disagreements to President; control over services (bureaucracy); final decision on reserved matters	LG less intrusive but refers disputes to President	Final decision on discretion in key areas; extensive powers in governance, including judicial functions
Financial Bills	Requires LG recommendation for introduction	Requires LG assent for certain bills	Requires LG recommendation before introduction
Anti-Corruption Bureau (ACB)	Restricted to Delhi bureaucrats; Ministry of Home Affairs consent needed to prosecute central officers	No specific provisions	Under LG control
Unique Features	Services brought under LG's control through 2023 legislation; ACB jurisdiction limited	Similar to state governance with central oversight	LG appoints Advocate General, controls prosecutions; financial provisions tightly controlled by LG



Citizenship

(Part II: Article 5-11)

CONSTITUTIONAL PROVISIONS RELATED TO CITIZENSHIP

- **Articles 5 to 11:** Located in **Part II** of the Constitution, these provisions identify those who became citizens of India at its commencement on **January 26, 1950**. They do not contain permanent or detailed rules on citizenship.
 - **Article 5:** Citizenship at the time of the Constitution's commencement. People who were born in India or have been residing in India for 5 years immediately before the commencement of the constitution.
 - **Article 6:** Citizenship of those who migrated from **Pakistan** to India and either of his/her parents or grandparents were born in undivided India.
 - **Article 7:** Citizenship of those who migrated to **Pakistan** and later returned to India and had been a resident for six months.
 - **Article 8:** Citizenship for **Persons of Indian Origin** residing abroad.
 - **Article 9:** **Termination of citizenship** upon voluntary acceptance of another country's citizenship.
 - **Article 10:** Continuance of citizenship rights unless Parliament enacts a law.
 - **Article 11:** Parliament's authority to regulate citizenship through laws.
- **Parliament's Power:** Parliament is empowered to legislate on matters related to citizenship.
- **Comparison:** Unlike the USA and Australia, which have **dual citizenship**, India ensures uniform political and civil rights across the nation without discrimination.
- **Exceptions:**
 - **Residence Requirement for Employment:** Under **Article 16**, Parliament can impose residential qualifications for specific jobs. The **Public Employment (Requirement as to Residence) Act, 1957** allowed states like **Andhra Pradesh & Telangana (under Article 371 D)**, **Himachal Pradesh**, **Manipur**, and **Tripura** to set such requirements.
 - **Discrimination Based on Residence:** While **Article 15** prohibits discrimination based on various factors, states can grant special benefits to residents (e.g., educational fee concessions).
 - **Protection of Tribal Interests:** **Article 19** restricts outsiders from settling in tribal areas to protect their culture and livelihoods.
- **Allegiance:** Citizens owe allegiance only to the **Union**, with no separate state citizenship.
- **Eligibility for President:**
 - **India:** Both **citizens by birth** and **naturalised citizens** can hold the office of President.
 - **USA:** Only **citizens by birth** are eligible for the office of President. **[UPSC 2021]**
- **Tribunal Empowerment:**
 - The **Ministry of Home Affairs (MHA)** has amended the **Foreigners (Tribunals) Order, 1964**.
 - **District Magistrates** in all States and Union Territories can now establish tribunals (quasi-judicial bodies) to determine if individuals residing illegally in India are classified as foreigners.
 - **Certain Offices require Indian citizenship:** Judges of Supreme Court, President of India, VP of India, Governor, MLAs/MPs, Attorney General of India, Advocate General of India.

SINGLE CITIZENSHIP IN INDIA

- **Definition:** The Indian Constitution establishes **single citizenship like Canada**, meaning all citizens are Indian citizens, regardless of their state of residence. **[UPSC 2021]**

COMPARISON BETWEEN CITIZENS AND ALIENS

Citizens	Aliens
<ul style="list-style-type: none"> • Definition: Full members of the Indian State; owe allegiance to India. • Their acquisition and loss of citizenship is governed by the Citizenship Act, 1955 • Rights: Enjoy all civil and political rights including appointments to key public offices in India. • Fundamental Rights: Exclusive rights under Articles 15, 16, 19, 29, and 30. [UPSC 2021] • Duties: Obligated to pay taxes, respect the national flag and anthem, and defend the country. 	<ul style="list-style-type: none"> • Definition: Citizens of other states or countries. • Rights: Do not enjoy all civil and political rights. • Categories: <ul style="list-style-type: none"> ○ Friendly Aliens: Subjects of countries with cordial relations with India; enjoy more rights. ○ Enemy Aliens: Subjects of countries at war with India; have lesser rights, such as no protection against arrest and detention (Article 22). • Rights of Aliens <ul style="list-style-type: none"> ○ General Rights: All rights except Articles 15, 16, 19, 29, and 30. ○ Enemy Aliens: Lack protection against arrest and detention (Article 22).

THE CITIZENSHIP ACT, 1955

- Governs **acquisition (5 ways)** and **loss of Indian citizenship (3 ways)** post-Constitution commencement. This has been amended many times subsequently in 1957, 1960, 1985, 1986, 1992, 2003, 2005, 2015 and 2019. Initially included Commonwealth citizenship, removed by the Citizenship (Amendment) Act, 2003.

ACQUISITION OF CITIZENSHIP

1. By Birth (Section 3)

- **Born in India:**
 - **(Jan 26, 1950 - July 1, 1987):** Automatic citizenship, regardless of parents' nationality.
 - **(Post-Jul 1, 1987):** Citizenship if at least one parent is an Indian citizen.
 - **(Post-Dec 3, 2004):** Citizenship if both parents are citizens or one is a citizen and the other is not an illegal migrant.
- **Exclusions:** Children of foreign diplomats and enemy aliens cannot acquire citizenship by birth.

2. By Descent (Section 4)

- **Born Outside India:**
 - **(Jan 26, 1950 - Dec 10, 1992):** Citizenship if the father was an Indian citizen.
 - **(Post-Dec 10, 1992):** Citizenship if either parent is an Indian citizen.
 - **(Post-Dec 3, 2004):** Birth must be registered at an Indian consulate within one year or with Central Government permission afterward.

3. By Registration (Section 5)

- **Eligibility:** Non-illegal migrants can apply.
 - Must take an oath of allegiance and reside in India for **7 years** prior to application.

4. By Naturalization (Section 6)

- **Requirements:** Continuous residence in India for **12 years** (11 out of the last **14 years**).
 - Must renounce other citizenship upon acceptance.
 - Must have good character and knowledge of a language in the Eighth Schedule.

5. By Incorporation of Territory (Section 7)

- When a foreign territory becomes part of India, the government specifies citizenship eligibility.
- **Example:** The Citizenship (Pondicherry) Order, 1962, granted Indian citizenship to Pondicherry residents.

LOSS OF CITIZENSHIP

The **Citizenship Act (1955)** prescribes three ways, whether acquired under the Act or prior to it under the Constitution

1. Renunciation of Citizenship (Section 8)

- **Process:** A citizen of full age can declare renunciation, which is registered by the authorities.
- **Effect:** Citizenship ceases upon registration; the process can be withheld during wartime.
- **Minor Children:** Children of the renouncing citizen also lose citizenship but can reclaim it upon turning 18 within one year.

2. Termination of Citizenship (Section 9)

- **Automatic Loss:** Voluntarily acquiring another country's citizenship results in automatic loss of Indian citizenship.
- **Exception:** This does not apply during wartime.

3. Deprivation of Citizenship (Section 10):

Citizenship can be revoked by the government if:

- **Fraud:** Acquired through deceit.
- **Disloyalty:** Demonstrated disloyalty to the Constitution.
- **Unlawful Trade:** Engaged with enemies during wartime.

- **Criminal Record:** Imprisoned for at least two years within five years of gaining citizenship.
- **Continuous Residence:** Resided outside India for seven years, with exceptions for students, government employees, international organisation members, or those registered to retain citizenship at consulates.

CITIZENSHIP AMENDMENT ACT, 2019

Definition of Illegal Migrants

- **Definition:** A foreigner entering India without valid documents or overstaying is deemed an illegal migrant.
- **Prohibition:** Illegal migrants cannot acquire Indian citizenship.

Citizenship for (Persecuted Migrants)

- **Exemptions:** Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan entering before **December 31, 2014**, are exempt.
- **Reduced Requirement:** Citizenship requirement for these groups is **5 years** instead of **11 years**.

Exclusions

- **Tribal Areas:** Exemptions do not apply to tribal areas of Assam, Meghalaya, Mizoram, and Tripura (Sixth Schedule).
- **Inner Line Areas:** Also exempt are regions under the **Bengal Eastern Frontier Regulation, 1873** (e.g., Arunachal Pradesh, Mizoram, Manipur, and Nagaland).

COMPARISON BETWEEN NRI, PIO, AND OCI CARDHOLDER

Category	Non-Resident Indian (NRI)	Persons of Indian Origin (PIO)	Overseas Citizens of India (OCI) Cardholder
Definition	Indian citizen residing outside India, holding an Indian passport	Person whose ancestors were of Indian nationality and currently hold foreign citizenship	Registered under the Citizenship Act, 1955
Visa Requirements	No visa required for India	Visa required for entry into India	Can visit India without a visa for life
Registration with Local Police	Not required unless stay exceeds 180 days	Required if stay exceeds 180 days	Not required to register with police authorities
Benefits	Benefits available to Indian citizens, subject to government notifications	No specific benefits	Multiple lifelong visas, exemption from FRRO registration, parity with NRIs (excluding agriculture/plantation), intercountry adoption, parity in domestic airfare
Activities in India	All activities can be undertaken	Activities as per visa obtained	All activities except research (requires special permission)
Citizenship Eligibility	Indian citizen	Must be ordinarily resident in India for 7 years to apply for registration	After 5 years as an OCI and 12 months residence, eligible for Indian citizenship

Note: The Person of Indian Origin (PIO) card scheme has been withdrawn by Government of India and has been merged with Overseas Citizen of India (OCI) card scheme w.e.f. 9th January 2015.

CANCELLATION OF OCI REGISTRATION

The central government may cancel OCI registrations for:

- **Fraud:** If obtained fraudulently.
- **Criminal Record:** If sentenced to 2+ years within 5 years.
- **National Security:** If required for sovereignty and security.
- **Legal Violations:** If laws are breached. If the person had unlawfully communicated or traded with an enemy alien.
- **Hearing Required:** OCI holders must be given a chance to be heard before cancellation.



Fundamental Rights

(Part-III: Article 12-35)

These are **fundamental** for **all round** (material, intellectual, moral and spiritual) **development**. These were inspired by the **Constitution of the USA (Bill of Rights)**. Fundamental Rights in India are **more elaborate** than those found in any other country in the world, including the USA. It has been rightly described as the **Magna Carta** of India.

FEATURES OF THE FUNDAMENTAL RIGHTS

- **Amendable:** Can be amended by Parliament via constitutional amendments, without altering the “basic structure” of the Constitution.
- **Qualified:** Rights are not absolute and are subject to reasonable restrictions.
- **Protection Against State and Individuals:** Protection against arbitrary state action, with some extending protection against private individuals.
- **Positive and Negative Rights:** Some rights limit state authority (negative), while others provide individual privileges (positive).
- **Democratic:** Promote political democracy by limiting executive tyranny and arbitrary legislative laws.
- **Justiciable:** Enforceable through courts if violated.
- **Claims against state:** Rights are **claims by the citizens against the state** and not vice versa. [UPSC 2017]
- They can be **suspended** during the operation of a **National Emergency** except for the rights guaranteed by **Articles 20 and 21**.

- The **six fundamental rights** guaranteed by **Article 19** are **automatically suspended** only on the grounds of **external aggression** (external emergency) and **not** on the grounds of armed rebellion (internal emergency).

Constitutional Provisions with Respect to Fundamental Rights

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Property (Article 31) (**deleted**)
7. Right to Constitutional Remedies (Article 32)

The **44th Amendment Act, 1978**, removed the right to property from the list of Fundamental Rights. It has been reclassified as a **Legal and Constitutional right** under **Article 300-A in Part XII** of the Constitution. Consequently, the current count of Fundamental Rights is **six**.

Fundamental Rights available

- **Only to citizens and not to foreigners:** Articles 15, 16, 19, 29 and 30.
- **To both citizens and foreigners** (except enemy aliens) Articles 14, 20 to 28.

Definition of State and Laws Inconsistent with Fundamental Rights

Definition of State (Article 12)	Laws Inconsistent with Fundamental Rights (Article 13)
<ul style="list-style-type: none"> • As per Article 12, the term State includes Government and parliament; Government and legislature of states; All local authorities i.e. municipalities, panchayat, district boards, improvement trust etc.; All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, etc. • According to the Supreme Court, even a private body or an agency working as an instrument of the state falls within the meaning of state under Article 12. 	<ul style="list-style-type: none"> • Article 13: All laws that are inconsistent with or in derogation of any of the fundamental rights shall be void (expressly provides for the doctrine of judicial review). • Term ‘law’ in Article 13: Permanent laws enacted by the centre and state; temporary ordinance by the President; Statutory instruments of delegated legislation (executive legislation) like order; custom or usage having the force of law. • Article 13(4) states that nothing in this article shall apply to any amendment of this constitution made under Article 368. (24th constitutional amendment, 1971) <ul style="list-style-type: none"> ○ However, in the Kesavananda Bharati case (1973), the SC held that a Constitutional amendment can be challenged on the ground if it violates a fundamental right that forms a part of the ‘basic structure’ of the Constitution and hence, can be declared as void.

RIGHT TO EQUALITY: ARTICLE 14-18

- **Article 14:** The state shall not deny to any person “equality before the law” or the “equal protection of the laws” within the territory of India.

Equality Before Law (British Origin + Negative connotation)

- Absence of any special privileges in favour of any person;
- Equal subjection of all persons to ordinary law of land administered by ordinary law courts;
- No person is above the law.

Equal Protection of Law (American Origin + Positive notion)

- Equality of treatment under equal circumstances, both in privileges conferred and liabilities imposed by the laws;
- Similar application of the same laws to all persons who are similarly situated;
- Like should be treated alike without any discrimination.

- The Supreme Court held that where equals and unequals are treated differently, Article 14 does not apply.
- **Article 14 forbids class legislation**, but it permits reasonable classification of persons, objects and transactions by the law (should not be arbitrary, artificial or evasive). A Legislation which confers on the executive Or administrative authority an unguided and uncontrolled discretionary power in the matter of application of law violates **Article 14 of the Constitution**. [UPSC 2021]
- **Rule of Law (by A V Dicey) (Basic feature of the Constitution):** The concept of ‘Equality before Law’ is an element of the Rule of Law.
- **Rule of Law has 3 fundamental principles:** The first and the second elements are applicable to the Indian System (the Constitution is the source of the individual rights).
 - Absence of arbitrary power - applicable to the Indian System. [UPSC 2021]
 - Equality before the law - applicable to the Indian System.
 - Primacy of individual rights - **Not applicable**, as the constitution is the source of individual rights.

Exceptions to Equality:

- **Art 361:** The President of India and Governor enjoy few immunities.
- **Art 361-A:** No person is liable for any civil or criminal proceedings in any court in respect of publication in the newspaper (or by radio/television) of a substantially true report of any proceedings of Parliament or the state legislature.
- **Art 105:** Parliamentary privilege of members of Parliament.
- **Art 194:** Privileges of members of the state legislature in the legislature or any committee thereof.
- **Art 31-C:** SC held that where “Art 31-C comes in, Art 14 goes out”.
 - It provides that the laws made by the state for implementing the directive principles contained in clause (b) or clause (c) of Article 39 cannot be challenged on the grounds that they are violative of Article 14.

- Foreign sovereigns and diplomats enjoy immunity from criminal and civil proceedings.
- The UNO and its agencies enjoy diplomatic immunity.

- **Article 15(1):** The state shall **not discriminate** against any citizen on grounds **only** of religion, race, caste, sex or place of birth. The word ‘only’ connotes that **discrimination on other grounds is not prohibited**.
- **Art 15(2):** No citizen shall on the grounds only of **religion, race, caste, sex, place of birth, or any of them**, be subject to any disability, liability restriction or condition with regard to -
 - Access to shops, public restaurant, hotels, and place of entertainment or
 - The use of wells, tanks, bathing ghats, roads and places of public resorts maintained wholly or partly out of state funds or dedicated to the use of the general public.
- This provision prohibits discrimination **both by the State and private individuals**, while the former provision prohibits discrimination only by the State.
- **Art 15(3) and 15(4):** Foundational bricks of reservation system in the country.
- **Four exceptions to this general rule of non-discrimination:**
 - The State is permitted to make any special provision for **women and children**.
 - For the advancement of any **socially and educationally backward classes** or for SCs and STs.
 - For the advancement of any **socially and educationally backward classes** of citizens or for SCs and STs regarding their **admission to educational institutions, including private educational institutions**, whether aided or unaided by the state **except minority educational institutions**.
 - For the advancement of any **economically weaker section (EWS)** of citizens.

- **Reservation for OBCs in Educational Institutions:**
 - **Exception in Article 15 (5):** The **93rd Amendment Act (2005)** enacted Central Educational Institutions (reservation in admission) Act, 2006, providing quota for 27% reservation for the OBCs in all central higher educational institutions including the IITs and the IIM.
 - The Supreme Court upheld the validity and directed the central government to exclude the '**creamy layer**' (advanced sections) among the OBCs while implementing the law.
- **Reservation for EWS in Educational Institutions:**
 - **Exception in Article 15 (6)** was added by the **103rd Amendment Act of 2019**. **10% reservation** to EWS in admission to educational institutions was introduced.
 - EWSs who are not covered under any of the existing schemes of reservations for SCs, STs and OBCs.

Creamy Layer for SC-ST

- The **Supreme Court of India** in review judgement of Punjab and Haryana High Court, allowed **states the authority to sub-classify reserved category groups**, such as **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**, for the purpose of reservations.
- This decision overturns the **E.V. Chinnaiah vs. State of Andhra Pradesh, 2004 ruling**, which altered the landscape of reservation policies in India.
- The Supreme Court allowed states to sub-classify SCs and STs based on backwardness, applying the creamy layer principle to exclude privileged groups. Sub-classification must rely on empirical data, and 100% reservation for any subclass is impermissible.
- According to SC, States can now sub-classify SCs within the 15% reservation quota to provide better support for the most disadvantaged groups. The court stated that Reservation has to be limited only to the first generation.

Article 16: Equality of opportunity for all citizens in matters of **public employment** or appointment to any office under the state.

- No citizen can be discriminated against or be ineligible for any employment or office under the state on grounds of **only religion, race, caste, sex, descent, place of birth or residence**.
- **Four exceptions to this general rule of Equality of opportunity:**
 - Parliament can prescribe **residence as a condition** for certain employment or appointment in a State or UT or local authority or other authority (presently only in Andhra Pradesh and Telangana).
 - State can provide for **reservation of appointments or posts in favour of any backward class** that is not adequately represented in state services
 - A law can provide that the incumbent of an office related to a religious or denominational institution or a member of its governing body **should belong to the particular religion or denomination**.
 - State is permitted to make a provision for the reservation of **upto 10%** of appointment of post in favour of any citizen belonging to EWS.
- **Indra Sawhney Judgement:** SC in **Indra Sawhney (1992)**, examined the scope of **Article 16(4)**:
 - It upheld the constitutional validity of 27% reservation for the OBCs with certain conditions.
 - Advanced sections among the OBCs (**the creamy layer**) should be excluded from the list of beneficiaries of reservation.
 - Rejected the additional reservation of 10% for poorer sections.
 - Total reserved quota **should not exceed 50%** except in some extraordinary situations.
 - No reservation in promotions; reservation should be confined to initial appointments only.
 - '**Carry Forward Rule**' in case of backlog vacancies is valid - should not violate the 50% rule.
 - A permanent statutory body should be established to examine inclusion-exclusion purposes. **[UPSC 2023]**
- **1953:** The **First Backward Classes Commission** was formed under the chairmanship of **Kaka Kalelkar**.
- **1979:** Under **Article 340**, **Second Backward Classes Commission** under the chairmanship of **B.P. Mandal** to investigate the conditions of the SEBCs (Socially and Educationally Backward Classes) and suggest measures for their advancement -
 - **About** 52% of India's population is Socially + educationally backward (excluding SCs and STs)
 - Reservation of **27%** government jobs for the OBCs- total reservation would be 50%.
- **1990:** V.P. Singh Govt. declared a **reservation of 27%** in government jobs for the OBCs.
- **1991:** Narasimha Rao Govt introduced two changes:
 - Preference to the poorer sections among the OBCs in the **27% quota** (economic criteria)
 - Reservation of **another 10%** in jobs for poorer sections among the higher castes.
- **NCBC** (National Commission Backward Classes) was established by an Act in 1993. It was accorded **constitutional status** by the **102nd CAA (2018)** by inserting a new Article 338-B in the constitution.

Justice Rohini Commission:

The Commission, formed in 2017 under Article 340 of the Indian Constitution, was tasked with investigating the unequal distribution of reservation benefits among OBCs. Its objectives include developing a scientific approach for sub-categorization within OBCs, identifying and classifying castes in the Central List, and reviewing the list to address errors, repetitions, and inconsistencies. In 2020, its mandate expanded to correcting ambiguities and transcription issues.

Article 17: It abolishes ‘untouchability’ and forbids its practice in any form. [UPSC 2020]

- The Untouchability (Offences) Act, 1955 was amended in 1976 and renamed as “**Protection of Civil Rights Act, 1955**”. The phrase “Untouchability” is **not defined** either in the Constitution or in the act.
- **Mysore High Court:** The subject matter of Article 17 is not untouchability in the literal or grammatical sense but the ‘practice as it had developed historically in the country’.
- **Exception:** Does not cover the **social boycott** of a few individuals or their exclusion from religious services etc.
- **The Supreme Court**, in the **People’s Union For Democratic Rights** case (1982), held that the right under Article 17 is available **against private individuals**, and it is the **constitutional obligation of the state** to take necessary action to ensure that this right is not violated.

Article 18: It abolishes titles and makes four provisions in that regard:

- It prohibits the state from conferring any title (**except a military or academic distinction**) on anybody, **whether a citizen or a foreigner**.
- It prohibits a citizen of India from accepting any title from any foreign state.
- Foreigners holding any office of profit or trust under the state cannot accept any title from any foreign state **without the consent of the President**.

Article 19 (1)(a): Freedom of Speech and Expression

The Supreme Court held that freedom of speech contains the following rights:

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| <ul style="list-style-type: none">• Right to propagate one’s views as well as the views of others. (Freedom of circulation.)• Freedom of the press.• Freedom of commercial advertisements.• Right against tapping of telephonic conversation.• Right to telecast, that is, the government has no monopoly on electronic media.• Right against bandh called by a political party or organisation.• Right to know about government activities.• Freedom of silence.• Right against imposition of pre-censorship on a newspaper. | <ul style="list-style-type: none">• Right to fly the national flag.• Right of voters to know the antecedents of the candidates contesting elections.• Right to choose the medium of instruction at the stage of primary school.• Right to express gender identity.• Right to reply (right to answer the criticism).• Right to post information/videos on the internet/ social media.• Right of film-makers to exhibit their films.• Right to access the internet (right to access to information via the internet)• Right to demonstration or picketing but not the right to strike. |
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- No citizen or foreigner holding any office of profit or trust under the State is to accept any present, emolument/ office from/under any foreign State **without the consent of the president**.
- **The Supreme Court in the Balaji Raghavan Case (1996)** upheld the constitutional validity of the National Awards–Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. [UPSC 2021]
 - SC ruled that these awards do not amount to ‘titles’ within the meaning of **Article 18, which prohibits only hereditary titles of nobility** - Maharaja, Raj/ Rai Bahadur, Rai Saheb, Dewan Bahadur etc.
- They **should not be used as suffixes or prefixes** to the names of awardees. Otherwise, they should forfeit the awards.
- National Awards were instituted in 1954. The Janata Party government headed by Morarji Desai discontinued them in 1977. But they were again revived in 1980 by the Indira Gandhi government.

RIGHT TO FREEDOM: ARTICLE 19-22

Article 19(1): Guarantees to all citizens the **six rights**.

- Originally, the Constitution provided for seven Fundamental Rights under Article 19. The **right to property** was **deleted** from the list by the **44th Amendment Act, 1978**. It is made a **legal right** under **Article 300-A in Part XII** of the Constitution. So, at present, there are only **six Fundamental Rights** under **Article 19**. [UPSC 2021]
- The Supreme Court has ruled that a fundamental right under Articles 19 and 21 **can be enforced even against private parties** other than the State or its instrumentalities.
- States can impose **reasonable restrictions on these 6 rights solely** on the grounds mentioned in **Article 19(2)** itself and **not on other grounds**.

- **Article 19(2):** The State can impose **reasonable restrictions** on the following grounds: Friendly relations with foreign states (1st CAA, 1951); Incitement to an offence (1st CAA, 1951); Public order (1st CAA, 1951); Sovereignty and integrity of India (16th CAA, 1963); Defamation; Contempt of court; Security of the state; Decency or morality.

Article 19 (1)(b): Freedom of Assembly: All Citizens have the **right to assemble peaceably and without arms**.

- Right to hold public meetings, demonstrations and take out processions.
- Permitted **only on public land** in a peaceful manner and without arms.
- **Does not protect:** Violent, disorderly, riotous assemblies or one that causes a breach of public peace or involves arms. Right does **not include Right to Strike**.
- **Article 19 (3)** mentions **reasonable restrictions on two grounds:** Sovereignty and integrity of India; Public order, including the maintenance of traffic in the concerned area.
- **Section 144 (CrPC):** Magistrate can restrain an assembly, meeting or procession involving the risk of obstruction, annoyance or danger to human life, health or safety or disturbance of public tranquillity or riot or any affray – invoked on many instances to tackle COVID-19.
- **Section 141 (IPC):** Assembly of five or more persons becomes unlawful if the objective is:
 - To resist the execution of any law or legal process.
 - To forcibly occupy the property of some person.
 - To commit any mischief or criminal trespass.
 - To force someone to do an illegal act.
 - To threaten govt officials on exercising lawful powers.

Article 19 (1)(c): Freedom of Association: All citizens have the right to form associations or unions or cooperative societies:

- **Right to Form:** Political Parties + companies + partnership firms + societies + clubs + organisations + trade unions or any body of persons. Includes the **right to continue** with the association. Includes **negative right of not to form or join** an association or union.
- **Article 19(4) - Reasonable restrictions:** Sovereignty of India + Integrity of India + Public order + Morality.
- **Right to obtain recognition** of association is **not a fundamental right**.
- **Supreme Court** held that **trade unions** have:
 - No guaranteed right to effective bargaining.
 - Have **no right to strike**. (It can be controlled by an appropriate industrial law.)
 - Have no right to declare a lockout.

Article- 19(1)(d): Freedom of Movement: Every citizen has the right to move freely - Inter-state and Intra-state movement.

- **Article 19(5) - Reasonable restrictions:** Interest of general public + Protection of interests of any STs.

- **Supreme Court:** The movement of prostitutes can be restricted on grounds of - public health and morals.
- **Article 19:** Internal freedom of movement - right to **move inside** the country.
- **Article 21:** External freedom of movement - right to **move out of** the country.

Article- 19(1)(e): Freedom of Residence: Every citizen has the right to **reside and settle in any part** of the territory of India. (stay temporarily or set up a domicile at any place permanently.)

- **Intended to remove internal barriers** within the country. (to promote nationalism and avoid narrow-mindedness.)
- **Article 19(5) - Reasonable restrictions:** Interest of general public and Protection of interests of any ST.
- In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws.
- **Supreme court:** Certain areas can be banned for certain kinds of persons like **prostitutes and habitual offenders**.

Article- 19(1)(g): Freedom of Profession: All citizens are given the **right to practise any profession** or to carry on **any occupation, trade and business**.

- **Very wide:** Covers all means of earning one's livelihood
- **Article 19(6): The State can impose reasonable restrictions on the exercise of this right in the interest of the general public. State is empowered to:**
 - Prescribe professional/technical qualifications necessary for practising any profession or carrying on any occupation, trade or business;
 - Carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise.
 - State is **not required to justify its monopoly**.
- **Does not include:** Right to carry on a profession or business or trade or occupation that is **immoral or dangerous** – state can absolutely prohibit these or regulate through licensing

Article 20: Protection in respect of conviction for offences

Protection **against arbitrary and excessive punishment** to an accused person - Citizen, or foreigner or legal person like a company or a corporation.

- **No ex-post-facto Law** (imposes penalties retrospectively): No person shall be convicted of any offence except for violation of a **law in force at the time of the commission of the act** nor subjected to a penalty greater than that prescribed by the law in force at the time of the commission of an offence.
 - The limitation is imposed only with respect to **criminal law, not civil laws** or tax laws;
 - It **cannot** be claimed in case of **preventive detention** /demanding security from a person.

- **No Double Jeopardy:** No one shall be prosecuted and **punished for the same offence more than once**. Available only on proceedings before a court of law or judicial tribunal (judicial bodies). Inquiries by Dept. or administrative authorities are exceptions.
- **No Self-Incrimination:** No person accused of any offence shall be compelled to be a witness against himself (oral and documentary evidence). It only extends to **criminal proceedings** and not to civil proceedings. It doesn't extend to:
 - Compulsory production of material objects,
 - Compulsion to give thumb impression, blood specimen,
 - Compulsory exhibition of body.

Article 21: Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to the **procedure established by law**. This right is available to both citizens and non-citizens.

- **Procedure established by law (borrowed from the Japanese Constitution):** The validity of a law that has prescribed a procedure cannot be questioned on the ground that the law is unreasonable, unfair or unjust.
- **Due Process of Law (American concept):** A doctrine that not only checks if there is a law to deprive the life and personal liberty of a person but also **ensures that the law is made fair and just**. [UPSC 2023]

Landmark Cases on Article 21

- **Gopalan Case (1950):** Protection under Article 21 is available against **arbitrary executive action** and **not**

from arbitrary legislative action. Here the SC took a narrow interpretation of Article 21.

- **Personal liberty:** only liberty relating to the person or body of an individual.
- **Maneka Gandhi Case (1978):** Introduced '**due process of law**': Protection under Article 21 should be available not only against arbitrary executive action but **also against arbitrary legislative action**.
 - The right to life and personal liberty of a person **cannot be deprived by law** provided the procedure prescribed by that law is **reasonable, fair and just**.
 - **Right to life:** Right to live with **human dignity**.
 - **Personal liberty:** Widest amplitude, and it covers a variety of rights that constitute the personal liberties of a man. It is a **wider interpretation** of Article 21.
- **KS Puttaswamy Case (2017):** It held that **privacy is a natural right** that inheres in all-natural persons, and that right may be restricted only by state action **if it passes each of three tests**:
 - Such state action must have a legislative mandate;
 - It must be pursuing a legitimate state purpose;
 - It must be proportionate. [UPSC 2018]
- **Hadiya Case (2017):** The Supreme Court held that "The **right to marry** a person of one's choice is integral to Article 21 (right to life and liberty) of the Constitution". [UPSC 2019]
- M.K.Ranjitsinh judgement, the Supreme Court recognized the **right to protection from climate change impacts** under Articles 21 and 14 as essential to life and equality. [April, 2024]

Rights as part of Article 21:

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| 1. Right to live with human dignity. | 20. Right to a fair trial. |
| 2. Right to a decent environment, including pollution-free water and air and protection against hazardous industries. | 21. Right of prisoners to have necessities of life. |
| 3. Right to livelihood. | 22. Right of women to be treated with decency and dignity. |
| 4. Right to privacy. [UPSC 2021, 2018] | 23. Right against public hanging. |
| 5. Right to shelter. | 24. Right to road in hilly areas. |
| 6. Right to health. | 25. Right to information. |
| 7. Right to free education upto 14 years | 26. Right to reputation. |
| 8. Right to free legal aid. | 27. Right of appeal from a judgement of conviction |
| 9. Right against solitary confinement. | 28. Right to family pension |
| 10. Right to speedy trial. | 29. Right to social and economic justice and empowerment |
| 11. Right against handcuffing. | 30. Right against bar fetters |
| 12. Right against inhuman treatment. | 31. Right to appropriate life insurance policy |
| 13. Right against delayed execution. | 32. Right to sleep |
| 14. Right to travel abroad. | 33. Right to freedom from noise pollution |
| 15. Right against bonded labour. | 34. Right to sustainable development |
| 16. Right against custodial harassment. | 35. Right to opportunity. |
| 17. Right to emergency medical aid. | 36. Right to decent burial/cremation. |
| 18. Right to timely medical treatment in government hospitals. | 37. Right to marry a person of one's choice. |
| 19. Right not to be driven out of a state. | 38. Right to die with dignity. (passive euthanasia) |

Article 21A: (inserted by the 86th CAA, 2002): State shall provide **free and compulsory education** to all children of the **age of 6-14 years**, in such manner as the State may, by law, determine.

- This provision makes **only elementary education** a fundamental right, **not higher or professional education**. In pursuance of Article 21A, the Parliament enacted the Right of Children to free and Compulsory Education (RTE) Act, 2009
- In the **Unni Krishnan case** (1993), the Supreme Court recognized a fundamental right to primary education in the right to life under **Article 21**.

86th CAA (2002): Education for All is considered the “Dawn of the second revolution in the chapter of citizen’s rights”

Other changes made by the 86th CAA, 2002

- **Article 45 in Part IV:** The Directive principles of state policy – provision for **free education**
- **Change after 86th CAA:** The state shall endeavour to provide **early childhood care** and education to children until they complete the age of 6 years.
- **Article 51A:** It shall be the duty of every citizen of India to provide opportunities for education to his child or ward between the **age of 6 and 14 years**.

Article 22: It grants **protection to persons who are arrested or detained** in certain cases. [UPSC 2023]

Preventive detention: Without trial and conviction by court.

Punitive detention: Punishment after trial and conviction.

- **Article 22 (1):** Confers the rights of a person who is arrested or detained under an ordinary law. These include:
 - Right to be informed of the grounds of arrest;
 - Right to consult and be defended by a legal practitioner;
 - Right to be produced before a magistrate within 24 hours (excluding the journey time);
 - Right to be released after 24 hours unless the magistrate authorises further detention.
 - These safeguards are not available to an enemy alien or a person arrested or detained under a preventive detention law.
- **Article 22(2):** Grants protection to persons who are arrested or detained under a **preventive detention** law.
 - Available to **both** citizens as well as aliens.
 - The detention of a person **cannot exceed three months** unless the **advisory board** reports sufficient cause for extended detention. The board is to consist of **judges of a High Court**.
- Article 22 also **authorises the Parliament** to prescribe circumstances and classes of cases in which a person can be detained for **more than three months** under a preventive detention law **without obtaining the opinion of an advisory board**; maximum period for which a person can be detained under a preventive detention law; procedure to be followed by an advisory board.

- **Parliament has exclusive authority** to make a law of preventive detention with respect to **defence, foreign affairs and the security of India**.
- Both **Parliament** and **state legislatures** can concurrently make a law of preventive detention for security of state, maintenance of public order, supplies & services essential to the community.

No democratic country in the world has made preventive detention as an integral part of the Constitution as has been done in India.

Article 22(5):

- **Preventive Detention Rights:** Requires detainees to be informed of the grounds for detention.
- **Opportunity for Representation:** Guarantees the right to challenge detention legally.

Prevention of Terrorism Act (POTA), 2002:

- **Purpose:** Strengthened anti-terrorism operations; repealed in 2004.
- **Confession Admissibility:** Allowed confessions to police officers of a specified rank to be used in trials, raising concerns about coercion. [UPSC 2023]

RIGHT AGAINST EXPLOITATION: ARTICLE 23-24

Article 23: Prohibition of **traffic in human beings** and **forced labour**. [UPSC 2017]

- This right is available to both **citizens** and **non-citizens**.
- It is available against both the **State** and **Private** persons.

Exception: Article 23 permits the **State to impose compulsory service** for public purposes. E.g. Military service or social service, for which it is not bound to pay.

- Expression ‘**traffic in human beings**’ includes selling and buying of men, women and children like goods; Immoral traffic in women and children; prostitution; Devadasis; Slavery.
 - To punish these Acts, the Parliament has implemented the **Immoral Traffic (Prevention) Act, 1956**.

Article 24: Prohibits the **employment of children** (below the age of **14 years**) in any factory, mine or other hazardous activities like construction work or railway. [UPSC 2017]

- It **does not prohibit** their employment in any **harmless** or **innocent** work.
- **Commissions for Protection of Child Rights Act, 2005:** Enacted to provide for the establishment of **National and State Commissions for Protection of Child Rights** and **Children’s Courts** for providing **speedy trial** of offences against children or of violation of child rights.
- **Supreme Court:** Directed the establishment of the **Child Labour Rehabilitation Welfare Fund**.

In 2006, the government **banned the employment of children** as **domestic servants** or workers in business establishments like **hotels, dhabas, restaurants, shops** etc. Anyone employing children below the age of 14 years will be liable for prosecution and penal action.



RIGHT TO FREEDOM OF RELIGION: ARTICLE- 25-28

Article 25: All persons are equally entitled to **freedom of conscience** and the **right to freely profess, practice and propagate religion**. It includes:

- **Freedom of conscience:** Inner freedom of an individual to mould his relation with God or Creatures in whatever way he desires.
- **Right to profess:** Declaration of one's religious beliefs and faith openly and freely.
- **Right to practice:** Performance of religious worship, rituals, ceremonies and exhibition of beliefs and ideas.
- **Right to propagate:** Transmission and dissemination of one's religious beliefs to others or exposition of the tenets of one's religion.
 - Right to propagate **does not include a right to convert** another person to one's own religion. Forcible conversions **impinge on the 'freedom of conscience'** guaranteed to all persons alike.
- **Article 25 covers:** Religious beliefs (**doctrines**) and religious practices (**rituals**).
- **Article 25 also contains two explanations:**
 - Wearing and carrying of **kirpans** is to be included in the profession of the Sikh religion;
 - **Hindus** include Sikhs, Jains and Buddhists.
- **Available to all persons:** Citizens as well as non-citizens.
- **Exceptions:** Public order, morality, health and other provisions relating to fundamental rights.

Article 26: Freedom to manage religious affairs: Every religious denomination or any of its sections shall have the following rights:

- Right to **establish and maintain** institutions for religious and charitable purposes.
- Right to **manage its own affairs** in matters of religion.
- Right to **own and acquire** movable and immovable property.
- Right to **administer such property** in accordance with law.

Article 25 guarantees the rights of individuals, while **Article 26** guarantees the rights of religious denominations or their sections, thus protecting the **collective freedom of religion**.

- **Restrictions:** **Article 26** is subject to **public order, morality and health** but not subject to other provisions relating to the fundamental rights.
- **Supreme Court** held that religious denominations must satisfy three conditions:
 - It should be a collection of beliefs (doctrines) which they regard as conducive to their spiritual well-being.
 - It should have a common organisation.
 - It should be designated by a distinctive name.

SC held that **Ramkrishna Mission** and **Ananda Marga** are religious denominations within the Hindu religion, while **Aurobindo Society** is not a religious denomination.

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.

- Provision prohibits the state from favouring, patronising and supporting one religion over the other.
- **Taxes can be used** for the promotion or maintenance of **all religions** and not any particular religion.
- **Provision prohibits** only the levy of a tax and **not a fee**.
 - Fee can be levied on religious endowments for meeting the regulation expenditure.

Article 28: Freedom from Attending Religious Instruction: No religious instruction shall be provided in any educational institution **wholly maintained out of state funds**.

- Not applicable to educational institutions administered by the state but established under any endowment or trust, requiring imparting of religious instruction in such institutions.
- No person attending any educational institution recognized by the state or receiving aid out of state funds shall be required to attend any religious instruction or worship in that institution without his/her consent.
- **Article 28** distinguishes **four** types of **educational institutions**:
 - Institution **wholly maintained by the state** - completely prohibited.
 - Institution **administered by the state but established under any endowment or trust** - religious instruction is permitted.
 - Institution **recognised by state** - permitted on a voluntary basis.
 - Institution **receiving aid from the state** - permitted on a voluntary basis.

CULTURAL AND EDUCATIONAL RIGHTS: ARTICLE 29-30

Article 29: Protection of Interests of Minorities

- **Rights of a group:** It 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 of a citizen as an individual:** 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 29 grants protection to both **religious minorities** as well as **linguistic minorities**.

- **The Supreme Court** held that
 - The term '**section of the citizens**' includes **minorities** as well as the **majority**.

- The **right to conserve the language** includes the **right to agitate** for the protection of the language.

Article 30: Right of minorities to establish and administer educational institutions

- All minorities, whether based on **religion** or **language**, shall have the **right to establish** and **administer** educational institutions of their choice.
- The **compensation amount** fixed by the State for the compulsory acquisition of any property of a minority educational institution shall not restrict or abrogate the right guaranteed to them.
- In granting aid, the State shall not discriminate against any educational institution managed by a minority.

The protection under Article 30 is **confined only to minorities (religious or linguistic)** and does not extend to any section of citizens.

- The term '**minority**' has **not been defined** anywhere in the Constitution.

The right under Article 30 also includes the **right of a minority to impart education to its children in its own language**.

Minority educational institutions are of **three types**:

- (a) **Seeking recognition as well as aid** from the State. They are subject to the regulatory power of the state.
 - (b) **Seeking only recognition** from the State and **not aid**. They are subject to the regulatory power of the state.
 - (c) **Neither seeking recognition nor aid** from the State. They are free to administer their affairs but subject to the operation of general laws like contract law, labour law etc.
- The right conferred on minorities under Article 30 is **only to ensure equality with the majority** and not intended to place the minorities in a more advantageous position vis-à-vis the majority. There is **no reverse discrimination** in favour of minorities.
 - The right to establish and administer educational institutions is **not absolute**. Nor does it include the right to maladminister.
 - In India, if a religious sect/community is given the status of a national minority, it entitled to, establish and administer exclusive educational institutions & It can derive benefits from the Prime Minister's 15-Point Programme.

[UPSC 2011]

RIGHT TO CONSTITUTIONAL REMEDIES: ARTICLE- 32

Article 32: These contain remedies for the enforcement of the fundamental rights of an aggrieved citizen. The right to get the Fundamental Rights protected is in itself a fundamental right.

- **Four provisions in Article 32:**
 1. Right to move to the Supreme Court.
 2. The Supreme Court has the power to issue writs.
 3. Parliament can empower any other court to issue directions, orders and writs of all kinds.

4. Right to move the Supreme Court shall not be suspended except as otherwise provided by the Constitution.

- The **Supreme Court** ruled that its power under **Article 32** is a **Basic feature** of the Constitution.
- Violation of **Fundamental Rights** is the **sine qua non** for the exercise of the rights conferred by Article 32.
- Constitutionally, the **President can suspend the right to move any court** for the enforcement of Fundamental Rights during a National Emergency (**Article 359**).
- **Enforcement of Fundamental Rights:** The jurisdiction of the SC is **original but not exclusive**. It is **concurrent** with the jurisdiction of the High Court under Art.226.
 - SC ruled that where relief through the High Court is available under Art.226, the aggrieved party should **first move the High Court**.
- **Article 32 cannot be invoked** to determine the constitutionality of an executive order or legislation **unless it directly infringes** any of the Fundamental Rights.
- **Ambedkar:** "It is an article without which this constitution be a nullity". It's the very **soul of the Constitution** and the **very heart of it**.

WRITS: TYPES AND SCOPE

- Borrowed from **English prerogative writs** fountain of justice.
- **Parliament**, under Art.32, can **empower any other court** to issue these writs.
- The **Supreme Court** (Article 32) and **High Court** (Article 226) can issue writs, namely:
 - **Habeas Corpus:** Meaning: "**To have the body of.**"
 - **Use:** It is used to release a person who has been unlawfully detained or imprisoned. Through this writ, the court orders the detaining authority to bring the detained person before the court to determine the legality of detention. Not issued when detention is lawful, contempt of court or legislature, by a competent court, or outside court jurisdiction.
 - **Mandamus:** Meaning: "**We command.**"
 - **Use:** It commands a public authority to perform a public or statutory duty. This writ is issued when a lower court, a government officer, corporation, or any public authority has failed or refused to fulfil its duty. Not issued against private individuals, for non-statutory departmental instructions, discretionary duties, contractual obligations, the President, State Governors, or Chief Justice acting judicially. [UPSC 2022]
 - **Prohibition:** Meaning: "**To forbid.**"
 - **Use:** It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction it does not possess. The writ of prohibition is only issued against judicial and quasi-judicial authorities. Not available against administrative authorities, legislative bodies, private individuals, or bodies. [UPSC 2024]



- **Certiorari:** Meaning: “To be certified” or “To be informed.”
 - **Use:** It is used by a higher court to review the decision of a lower court or tribunal. It can be issued to quash a decision that has been made without jurisdiction or in violation of the rules of natural justice. Initially against judicial and quasi-judicial authorities, it was extended to administrative authorities in 1991. Not available against legislative bodies, private individuals, or bodies.
- **Quo Warranto:** Meaning: “By what warrant?”
 - **Use:** This writ is used to challenge the legality of a person’s claim to a public office. It restrains the person from acting in an office to which he/she is not entitled and asks them to show by what authority they hold the office. Applicable to substantive public offices of a permanent character created by statute or the Constitution. Can be sought by any interested person, not necessarily the aggrieved person. [UPSC 2022]

Comparison between the writ jurisdiction of Supreme Court Vs High Court:

Supreme Court (SC)	High Court (HC)
Narrower jurisdiction: can issue writs only for the enforcement of Fundamental Rights.	Wider jurisdiction: can issue writs not only for the enforcement of Fundamental Rights but also for “ any other purpose ” (Ordinary legal rights).
SC can issue writs against a person or government throughout the territory of India.	HC can issue writs against a person residing or against a govt or authority located within its territorial jurisdiction only or outside only if, the cause of action arises within its territorial jurisdiction.
Mandatory: Remedy under Article 32 is in itself a Fundamental Right, SC may not refuse to exercise its writ jurisdiction.	Discretionary: Remedy under Article 226 is discretionary, HC may refuse to exercise its writ jurisdiction.

ARMED FORCES AND FUNDAMENTAL RIGHTS: ARTICLE 33-35

Article 33: Parliament can restrict or abrogate, by law, FRs in the application to: Members of Armed forces, Paramilitary Forces, police forces, intelligence agencies and analogous forces.

- Forces charged with the maintenance of public order.
- Parliamentary law enacted under Article 33 **can also exclude the Court Martials** (tribunals established under the Military law) **from the writ jurisdiction of SC and HC**, so far as enforcement of FR is concerned.
- Power to make laws under Article 33 is **conferred only on Parliament and not on state legislatures**.
- Any such law **cannot be challenged in any court on the ground of contravention of any of the FR**.
- The expression ‘**members of the armed forces**’ also covers such employees of the armed forces as barbers, carpenters, mechanics, cooks, chowkidars, bootmakers, and tailors who are **non-combatants**.

Article 34: When **Martial Law** is in force in any area within the territory of India, the **FRs can be restricted**. Borrowed from the **English common law**.

Martial law literally means ‘military rule’. It refers to a situation where civil administration is run by the military authorities according to their own rules and regulations framed outside the ordinary law. It thus implies the suspension of ordinary law and the government by military tribunals. It is different from the military law that is applicable to the armed forces.

- **Supreme Court:** declaration of martial law **does not** ipso facto result in the suspension of writ of habeas corpus.
- It **empowers the Parliament to indemnify** any government servant or any other person for any act done by him. The Act of Indemnity made by the Parliament **cannot be challenged in any court** on the ground of contravention of any of the FR.
- The expression ‘**martial law**’ **has not been defined** anywhere in the Constitution.
- **No specific or express provision in the Constitution** that authorises the executive to declare martial law, it is **implicit in Article 34**.

Difference between Martial Law and National Emergency

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

Article 35: It lays down that the power to make laws, and to give effect to certain specified fundamental rights, shall vest **only in the Parliament and not in the state legislatures**. Ensures there is **uniformity throughout India** with regard to the nature of those FRs and punishment.

- **Parliament** shall have (and legislature of a state shall not have) power to make laws with respect to:
 - **Article 16:** Prescribing residence as a condition for certain employment or appointments.
 - **Article 32:** Empowering courts other than SC and HC to issue directions, orders and writs.
 - **Article 33:** Restricting or abrogating the application of FR to members of armed forces, police forces, etc.
 - **Article 34:** Indemnifying any government servant or other person for any act done in martial law.
- Parliament shall have powers to make laws for prescribing punishment for those acts that are declared to be offences under the FR. These include the following:
 - **Article 17:** Untouchability.
 - **Article 23:** Traffic in human beings and forced labour.
- **Article 35 extends the competence** of the Parliament to make a law on the matters specified above, although some of those matters may fall within the **sphere of the state legislatures (State List)**.

EXCEPTIONS TO FUNDAMENTAL RIGHTS

- Their scope of operation of Fundamental Rights is limited by:
- **Article 31A:** Saves **five categories of laws** from being challenged for contravention of the fundamental rights conferred by **Article 14 and Article 19**. These are:
 - Acquisition of estates and related rights by the State;
 - Taking over the management of properties by the State;
 - Amalgamation of corporations;
 - Extinguishment or modification of rights of directors or shareholders of corporations;
 - Extinguishment or modification of mining leases.
- **Article 31B:** Saves the acts and regulations included in the **Ninth Schedule** (added by **First Amendment in 1951**) from being challenged for contravention of any of the fundamental rights.
 - **SC in I.R. Coelho case (2007):** No blanket immunity from judicial review of laws included in the Ninth

Schedule. Judicial review is a 'basic feature' of the constitution. Such laws placed after **April 24, 1973** (the date of Kesavananda Bharati judgement), are open to challenge in court if they violated fundamental rights. **[UPSC 2018]**

- **Article 31C:** No law that seeks to implement the socialistic DPSP specified in **Art. 39(b) or (c)** shall be void on the ground of contravention of the FR conferred by **Article 14 or Article 19**.

Rights Outside Part III

- **Article 265/Part XII:** No tax shall be levied or collected except by authority of law.
- **Article 300-A/Part XII:** No person shall be deprived of his property save by authority of law.
- **Article 301/Part XIII:** Trade, commerce and intercourse throughout the territory of India shall be free.
- **Article 326/Part XV:** Adult Suffrage (Right to Vote): **Constitutional right.** **[UPSC 2017]**
- **61st Constitutional Amendment 1989:** Lowered the voting age of elections to the Lok Sabha and to the Legislative Assemblies of States from **21 to 18 years**.

Universal Declaration of Human Rights (UDHR)

- The General Assembly of the United Nations, on 10 December 1948, announced the **30 rights and freedoms** that belong to everyone, under the **Universal Declaration of Human Rights (UDHR)**.
- **Article 26 of UDHR:** Right to free elementary education.
- **Article 27 of UDHR:** Right to cultural participation and protection of intellectual work.
- It promises to all the **economic, social, political, cultural and civic rights** for a life free from want and fear. Reflected in the principles of Fundamental rights, DPSPs, fundamental duties and the Preamble. **[UPSC 2020]**
- The Preamble's **Justice, Equality, and Liberty** reflect **Article 3 of UDHR:** right to life, liberty, and security. **[UPSC 2020]**
- **DPSPs align with Article 22 of UDHR**, ensuring social security and justice.
- **Fundamental Duties** (Article 51A) are civic obligations, including ensuring education for children aged 6-14. **[UPSC 2020]**



Directive Principles of State Policy (Part IV Article 36-51)

The phrase 'Directive Principles of State Policy' denotes the **ideals that the State should keep in mind while formulating policies and enacting laws**. These are Ideals for the State in policy formulation and law enactment.

- **Significance:** Described by **Dr. B.R. Ambedkar** a 'novel feature' of the Indian Constitution, embodying its philosophy and serving as its soul.
- **Origins:** Inspired by the **Irish Constitution**, which itself was influenced by the **Spanish Constitution**; resembles the 'Instrument of Instructions' from the **Government of India Act, 1935**.
- **Objective:** Aims for 'Socio-economic democracy' (UPSC 2015), complementing **Political democracy**.
- **Legal Exceptions:** Laws under Articles 39(b) and (c) cannot be declared unconstitutional based on Articles 14 and 19.
- **Key Insights:**
 - **Granville Austin:** DPSP + Fundamental Rights (FR) = **Conscience of the Constitution**.
 - **Article 37:** DPSP principles are fundamental for governance. [UPSC 2013]
 - **Minerva Mills Case (1980):** Emphasises harmony between FR and DPSP as vital to the Constitution's basic structure.

FEATURES OF DIRECTIVE PRINCIPLES OF STATE POLICY

- **Comprehensive Programme:** Covers **economic, social, and political** aspects for a modern democratic state. The 'State': Includes **legislative and executive organs** of the central and state governments, all local authorities and all other public authorities in the country.
- **Moral Obligation:** Although **non-justiciable** (not legally enforceable), their implementation relies on **public opinion**. [UPSC 2020, 2015]
- Directive Principles of State Policy constitute does not put limitations upon legislative & executive function [UPSC 2017]
- **Constitutional Guidelines:** Serve as **recommendations** for the **State** (central, state, and local authorities) in legislative, executive, and administrative matters. [UPSC 2020]

- **Socio-economic Democracy:** Promote **positive** social and economic rights, unlike **Fundamental Rights** (negative in nature). [UPSC 2015]
- **Supplement Fundamental Rights:** Fill gaps in **Part III** of the Constitution by addressing social and economic issues.
- **Welfare State:** Embodies the principles of a **Welfare State**, aiming for **justice, liberty, equality, and fraternity**. [UPSC 2020, 2015]
- They are fundamental for the governance of the country. [UPSC 2013]
- **Constitutional Advisor:** **B.N. Rau** proposed dividing rights into **justiciable** and **non-justiciable**, a recommendation accepted by the Drafting Committee.
- **Judicial Role:** Helps courts assess the **constitutional validity** of laws concerning **Articles 14 & 19**.

CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

The **Constitution does not specify the classification** of DPSPs. On the basis of content, these are classified into Socialist, Gandhian and Liberal-intellectual.

- A. **SOCIALIST:** Reflects ideology of Socialism, lays down the framework of a democratic socialist state, aims at providing **social and economic justice**, and sets the path towards a **welfare state**. [UPSC 2015, 2020]
 1. **Article 38:** Promote **social, economic, and political justice**; minimise **income and opportunity inequalities** (44th Amendment).
 2. **Article 39:** State policies to ensure:
 - a. **Livelihood** equality for men and women.
 - b. Distribution of **resources** for the common good.
 - c. Prevention of **wealth concentration**. [UPSC 2021]
 - d. **Equal pay** for equal work.
 - e. **Health and safety** of workers and children.
 - f. **Child development** and protection (42nd Amendment).

3. **Article 39A:** Promote **equal justice** and provide **free legal aid** (42nd Amendment).
Example: Legal Services Authorities Act, 1987: Section 12: Free legal services to various sections of the society.
 4. **Article 41:** Ensure the **right to work, education**, and public assistance.
 5. **Article 42:** Provide **humane work conditions** and **maternity relief**.
 6. **Article 43:** Secure **living wages** and decent living standards for workers.
 7. **Article 43A:** Workers' **participation in industry management** (42nd Amendment).
 8. **Article 47:** Improve **nutrition, living standards**, and public health.
- B. GANDHIAN:** Based on Gandhian Ideology. Represent the **programme of reconstruction** enunciated by Gandhi during the National Movement.
- **Article 40:** Establish **village Panchayats** for self-government. [UPSC 2012]
 - **73rd CAA, 1992:** Constitutional recognition (Part IX, Schedule 11).
 - **Article 43:** Promote **cottage industries** in rural areas. [UPSC 2012]
 - **Article 43B:** Encourage democratic management of Co-operative Societies (97th Amendment, 2011).
 - **Article 46:** Protect educational and economic interests of SCs, STs, and weaker sections.
 - **Article 47:** Ban intoxicants except for **medicinal use**.
 - **Article 48:** Prohibit slaughter of cows and improve their breeds.
- C. LIBERAL INTELLECTUAL:** To represent the ideology of liberalism.
- **Article 44:** Establishes a **Uniform Civil Code** for national integration.
 - **Shah Bano Case (1985):** Highlights the need to resolve conflicting legal loyalties.
 - **Article 45:** Ensures **early childhood education** for children up to age 6 (86th CAA, 2002). [UPSC 2012]
 - **Article 48:** Promotes **modern agriculture and animal husbandry**.
 - **Article 48A:** Protects the **environment** and wildlife (42nd CAA, 1976).
 - **Article 49:** Safeguards **historic monuments** of national importance.
 - **Article 50:** Separates the **Judiciary from the Executive**. [UPSC 2020]
 - **Article 51:** Fosters **international peace** and respect for laws. [UPSC 2014/2015]

NEW DIRECTIVE PRINCIPLES

Amendment	Description
42nd CAA 1976	Added Article 39(f) , Article 39A , Article 43A , Article 48A . [UPSC 2017] The 42nd CAA (1976) shifted the five subjects from the State list to the Concurrent list – Education, Forests, Weights and Measures, Protection of Wild Animals and Birds, and Administration of Justice .
44th CAA 1978	Added Article 38(2) - To minimise inequalities in income, status, facilities and opportunities.
86th CAA 2002	Added Article 45 : The amendment changed the subject - matter of Article 45 and elementary education made as FR under Article 21A.
97th CAA 2011	Added Article 43B : to promote formation, functioning and management of Co-operative Societies .

DIRECTIVES OUTSIDE PART IV

Article 335 Part XVI	Claims of SCs & STs to services.
Article 350A Part XVII	Instruction in mother tongue.
Article 351 Part XVII	Development of Hindi Language.

DIFFERENCE BETWEEN FUNDAMENTAL RIGHTS, FUNDAMENTAL DUTIES AND DPSPs

Aspect	Fundamental Rights (FRs)	Fundamental Duties	Directive Principles of State Policy
Definition	Rights guaranteed to individuals.	Responsibilities of citizens.	Guidelines for state governance.
Articles	Articles 12-35	Article 51 (A)	Articles 36-51
Nature	Justiciable; enforceable in court.	Non-justiciable; not enforceable in court.	Non-justiciable; guide state policy.
Purpose	Establish political democracy.	Promote civic responsibility.	Establish social and economic democracy.
Enforcement	Automatically enforced; courts can invalidate laws (e.g., Articles 32, 226).	Voluntary compliance requires special laws.	Require legislation; not automatically enforced. [UPSC 2015]
Sanctions	Legal sanctions; individual welfare focus.	No legal sanctions; mere duties.	Moral sanctions; community welfare focus.
Amendment	Can be amended but not the basic structure (Article 368).	Can be modified by Parliament.	Can be amended to reflect societal needs.
Origin	Borrowed from the USA.	Soviet Constitution	Irish Constitution.
State's Role	Restricts state action.	N/A	Directs state action.
Judicial Review	Laws violating FRs can be declared unconstitutional	Not subject to judicial review.	Courts cannot declare laws unconstitutional.

Note: Rights and duties are correlated.

[UPSC 2017]

CONFLICT BETWEEN FUNDAMENTAL RIGHTS AND DPSP

- **Champakam Dorairajan Case (1951):** FRs prevail over DPSPs. FRs can be amended by **Parliament** through constitutional amendments.
- **Golaknath Case (1967):** Parliament cannot remove any **FR** (sacrosanct). **FRs** cannot be amended for implementing **DPSPs**.
- **24th Amendment (1971):** Parliament can remove **FRs** via constitutional amendment.
 - Inserted **Article 31C**: Laws for **Article 39(b)** and **39(c)** not void if they violate **Article 14** and **19**; non-justiciable.
 - Such laws **cannot be questioned** in a court of law.
- **Kesavananda Bharati Case (1973):** Invalidated the second provision of **Article 31C**. And established **judicial review** as a basic structure.
- **42nd Amendment (1976):** Laws for **DPSPs** are **not** void despite violating **Article 14** and **19**. **DPSPs** given primacy over **Articles 14** and **19**.
- **Minerva Mills Case (1980):** Invalidated **DPSP** primacy over **FR**. It emphasised the balance between **FR** and **DPSP**.
- **Present Position:** **FRs** hold supremacy over **DPSPs**. **Parliament** can amend **FRs** for **DPSP** implementation without harming the basic structure.



Fundamental Duties

(Part-IV-A: Article 51A)

Fundamental Duties encourage responsible citizenship, urging individuals to respect national symbols, uphold sovereignty, and contribute to national welfare. The original constitution of India contained only the **Fundamental Rights** and **not the Fundamental Duties**.

FEATURES OF FUNDAMENTAL DUTIES

- **Swaran Singh Committee:** In 1976, first recommended by the **Swaran Singh Committee**; its need was felt during the internal emergency (1975-77). The committee suggested **eight Fundamental Duties**.
- **42nd CAA, 1976:** Added **Part IV-A, Art 51A** to the Constitution containing **ten** fundamental duties of citizens, inspired by the Soviet (USSR) Constitution. **Rights are correlative with duties**, [UPSC 2017]
- **Total Duties:** Originally 10, with one added by the **86th Amendment Act, 2002**, totalling **11 duties**.
- **Significance:** Encourage responsible citizenship and contribute to national welfare and integrity.
- **Legal Implications:** Help courts assess the constitutional validity of laws. Laws promoting Fundamental Duties may be deemed "reasonable" under Articles **14** and **19**.
- **Applicability:** Confined to **citizens only**, not foreigners.
- **Non-justiciable** by courts. However, **Parliament can enforce this through suitable legislation**. [UPSC 2017]
- **Exclusions:** **Duty to pay taxes** and **Duty to vote** are **not** part of FDs.
- **International Comparison:** The Japanese Constitution uniquely includes a list of citizens' duties.
- **Verma Committee on Fundamental Duties of the Citizens (1999):**
 - Identified the existence of legal provisions for the implementation of some FDs.
 - ◆ Ex: Wildlife Protection Act, 1972.

- Recommended reorienting approaches to the school curriculum and teacher's education programmes and incorporating FDs in higher and professional education.

LIST OF FUNDAMENTAL DUTIES

It shall be the duty of every citizen of India-

1. **Respect:** Abide by the Constitution and respect its ideals, institutions, the National Flag, and National Anthem (Article 51A(a)). [UPSC 2011]
2. **Cherish:** Follow the noble ideals that inspired the freedom struggle (Article 51A(b)).
3. **Uphold:** Protect the sovereignty, unity, and integrity of India (Article 51A(c)). [UPSC 2015]
4. **Defend:** Defend the country and render national service when called upon (Article 51A(d)).
5. **Promote:** Promote harmony and brotherhood among all people, transcending religious, linguistic, and regional diversities; renounce practices derogatory to women's dignity (Article 51A(e)).
6. **Preserve:** Value and preserve the rich heritage of India's composite culture (Article 51A(f)). [UPSC 2012]
7. **Protect:** Improve the natural environment, including forests, lakes, and wildlife; show compassion for all living creatures (Article 51A(g)).
8. **Develop Scientific Temper:** Develop a scientific temper, humanism, and a spirit of inquiry and reform (Article 51A(h)). [UPSC 2012/ 2012]
9. **Safeguard Public Property:** Protect public property and abjure violence (Article 51A(i)). [UPSC 2011]
10. **Strive for Excellence:** Strive for excellence in all activities, ensuring national progress (Article 51A(j)). [UPSC 2012]
11. **Provide Opportunities:** Provide educational opportunities for children aged 6 to 14 years (as added by the 86th Constitutional Amendment Act, 2002) (Article 51A(k)).

Important Cases Related to Fundamental Duties

- **Minerva Mills Ltd. vs. Union of India (1980):** Upheld the **42nd Amendment** but stated Fundamental Duties are **not enforceable** by courts.
- **Supreme Court (1992):** In determining the constitutional validity of any law, if the law in question seeks to give effect to FDs, it may consider such law to be '**reasonable**' in relation to **Art. 14** or **Art. 19** and thus save such law from unconstitutionality.
- **M.C. Mehta vs. Union of India (2000):** Mandated **one-hour lectures** on environmental protection in schools; made it part of the curriculum.
- **Ramlila Maidan Incident vs. Home Secretary (2012):** Affirmed **freedom of speech** as a fundamental right, subject to reasonable restrictions; highlighted the **duty to respect the Constitution**.



CENTRE-STATE RELATIONS

The Constitution of India, being federal in structure, **divides** all powers, **legislative**, **executive** and **financial** between the Centre and the states. However, there is **no division of judicial power**. The constitution provides for an **integrated judiciary** which adjudicates on both the central and state laws.

LEGISLATIVE RELATIONS (PART XI: ARTICLE 245-255)

Territorial Extent of Legislation

- **Parliament** can make laws for the entire or any part of India.
- **State legislatures** make laws for their respective states.
- **Extraterritorial legislation:** Only Parliament can legislate for Indian citizens and their property abroad.

Constitutional Restrictions

- **The President** can make regulations for peace, progress and good governance of Andaman & Nicobar, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu, and Ladakh. These regulations have the same effect as an Act of Parliament.
- **Governors** can direct that a Parliamentary act doesn't apply or applies with modifications to **Scheduled Areas** in the state.
- The **Governor of Assam** and **President** have similar powers over **Tribal Areas** in Meghalaya, Tripura, and Mizoram.

Distribution of Legislative Subjects

- **Union List:** 98 subjects – Parliament has exclusive powers.
- **State List:** 59 subjects – State legislatures have exclusive powers under normal circumstances.
- **Concurrent List:** 52 subjects – Both Parliament and State legislatures can legislate.
- **Residuary powers:** Parliament holds the authority, including taxation.



Special Provisions

- Parliament can legislate on **State List** matters for **Union Territories**.
- **101st Amendment Act, 2016:** Governs **Goods and Services Tax (GST)**. Parliament has exclusive powers for inter-state trade or commerce.

Law Precedence

- **Union List > Concurrent List > State List.**
- **State laws** can prevail if they receive **Presidential assent**.

Parliamentary Legislation in the State Field

- **Rajya Sabha Resolution:**
 - Passed in the **national interest** with a **2/3 majority** of members present and voting. [UPSC 2016]
 - Valid for **one year**, can be renewed indefinitely (not exceeding one year at a time).
 - Laws cease to operate **six months** after the resolution expires.
- **National Emergency:**
 - Parliament can legislate on **State List** matters, including GST.
 - Laws lapse **six months** after the emergency ends.
 - **State laws** may coexist, but **parliamentary law prevails** in case of conflict.
- **State Request:**
 - Two or more **state legislatures** may request Parliament to enact laws on **State List** matters. These laws apply only to requesting states, and others may adopt them later.
 - **Only Parliament** can amend or repeal such laws.
- **International Agreements:**
 - Parliament can legislate to implement **international treaties or agreements** (e.g., Geneva Convention Act 1960). [UPSC 2013]
- **President's Rule:**
 - Laws made by Parliament during **President's Rule** remain effective after the rule ends, unless repealed by the **state legislature**.

Centre's Control Over State Legislation

- **Governor's Power:** Can **reserve bills** for the President's consideration, who has **absolute veto** (Articles 200 & 201). Certain **State List** bills (e.g., trade restrictions) need **Presidential approval** before introduction (Article 304).
- **Financial Emergency:** Centre can direct the states to reserve money bills and other financial bills for President's consideration during a financial emergency.
- **Governor's Ordinances:** Certain ordinances need **Presidential instructions** before promulgation (Article 213).

ADMINISTRATIVE RELATIONS (PART XI : ARTICLE 256-263)

Distribution of Executive Power

- **Coextensive** with legislative powers, except in specific cases.
- **States execute** laws on the **Concurrent List**, unless a **Constitutional provision** or parliamentary law gives this power to the Centre.

Obligation of States and Centre

- **Article 256:** States must ensure compliance with **Parliament's laws**; the Centre can give directions.
- **Two restrictions** on state executive power:
 - Compliance with **Parliament's laws**.
 - Avoiding interference with **Centre's executive power**.

Article 365: If a state fails to comply with the Central's directions, **President's Rule** may be imposed.

Centre's Directions to States (Art. 257)

- Directions can relate to: **Communication, railway protection, and Scheduled Tribe welfare**.
- Coercive sanction under **Article 365** applies here.

Mutual Delegation of Functions

- The President, with the agreement of the state government, may delegate Union executive functions to the state.
- Similarly, the Governor, with the consent of the central government, can delegate the state's executive functions to the Union. This delegation may be conditional or unconditional.
- Additionally, the Constitution permits the delegation of Union executive functions to a state without the state's consent, but such delegation must be authorised by Parliament, not the President. However, a state cannot delegate its executive powers in this manner.

Cooperation between Centre and State

- Parliament can adjudicate disputes over the use, distribution and control of inter-state rivers and valleys (Article 262).
- The President may establish an Inter-State Council for matters of common interest (Article 263).
- Public acts, records, and judicial proceedings of the Centre and States must be recognized nationwide.
- Parliament can appoint an authority for interstate trade, commerce, and intercourse, but none has been appointed yet.

All India Services (Art 312)

- **Article 312:** Parliament can create new **All-India Services (AIS)** through a Rajya Sabha resolution.
- AIS is jointly controlled by **Centre and States**, with **ultimate control** under the **Centre**.

Bureaucracy, the **permanent executive**, implements **government decisions** and ensures **continuity** in policies despite changes in **political leadership**. It is selected through a **Merit-Based process** and focuses on **execution**, not expanding **parliamentary democracy**. [UPSC 2020]

Public Service Commissions (PSC)

- **State PSC**: Chairman and members appointed by the **Governor**, but removed only by the **President**.
- **Joint State PSC (JSPSC)**: Created by **Parliament** for multiple states; appointments by the **President**.
- **UPSC** can assist states on request for joint recruitment for posts that require special qualifications.

Integrated Judicial System

- **A Single Judicial System**: **Supreme Court** at the top, **High Courts** below.
- **Parliament** can establish a **common High Court** for two or more states (e.g., Maharashtra-Goa, Punjab-Haryana).

Relations During Emergencies

- **National Emergency (Art. 352)**: Centre can direct states on any matter.
- **President's Rule (Art. 356)**: The President assumes state Government's functions.
- **Financial Emergency (Art. 360)**: Centre can direct financial propriety, including salary reductions.

Other Provisions

- **Article 355**: Centre to protect from External aggression and internal disturbance and ensure constitutional governance.
- **Governor**: Appointed by **President**; acts as Centre's agent.
- **State Election Commissioner**: Appointed by **Governor**, removed by **President**.

Extra-Constitutional Devices

- **NITI Aayog**, **National Integration Council**, **Zonal Councils**, and **North-Eastern Council** facilitate cooperation.

FINANCIAL RELATIONS (PART XII: ARTICLE 264-293)

Allocation of Taxation Powers

- **Art 264**: Interpretation of financial relations.
- **Art 265**: Taxes not to be imposed save by authority of law. No tax shall be levied or collected except by authority of law.
- **Art 266**: Consolidated Funds and public accounts of India and of the States
- **Art 267**: Contingency Fund
- **Parliament/State Legislature**: Exclusive power to levy taxes on Union/State List subjects.

- **Residuary Power**: Vested in Parliament (e.g., gift tax, wealth tax).
- No tax entries in **Concurrent List**, except for **GST** under the **101st Amendment (2016)**, which grants concurrent power to Parliament and State Legislatures.
- **Distinction** between taxing power and appropriation of tax proceeds

Distribution of Non-tax Revenues

- Major sources for the Centre: (i) posts and telegraphs; (ii) railways; (iii) banking; (iv) broadcasting (v) coinage and currency; (vi) central public sector enterprises; (vii) escheat and lapse; and (viii) others.
- Major sources for the states: (i) irrigation; (ii) forests; (iii) fisheries; (iv) state public sector enterprises; (v) escheat and lapse; and (vi) others

Grants in Aid to States

Statutory Grants (Article 275)

- For states needing financial assistance, not for every state.
- Charged annually on the Consolidated Fund of India.
- Includes specific grants for promoting welfare of scheduled tribes and improving administration in scheduled areas.
- Based on the recommendation of the Finance Commission.

Discretionary Grants (Article 282)

- Empower both **Centre and states to make grants for any public purpose** beyond their legislative competence.
- Known as **discretionary** because the **Centre is not obligated** to provide them.
- Used to **assist states financially to meet plan targets** and enable the Centre to **coordinate state actions** for national planning.

Other Grants

- Temporary grants were provided for **ten years** after the Constitution's commencement for **states exporting jute** (Assam, Bihar, Orissa, West Bengal).
- These sums were also **charged on the Consolidated Fund of India** and recommended by the Finance Commission.

Protection of State's Interests

- Bills requiring **President's recommendation (Article 274)**:
 - Imposing or varying **taxes or duties** concerning states.
 - Altering the definition of "**agricultural income**."
 - Modifying the principles for distributing funds to states.
 - Imposing a **surcharge for purpose of Centre**.
- "**Net proceeds**" of **taxes/duties** are certified by the CAG and are final (Article 279).

Finance Commission (FC)

- **Constitutional Body** under **Article 280** for tax revenue distribution between **Centre and States**.
- Established every **5 years** by the **President**.
- **15th FC**: Recommendations from **2021-22 to 2025-26**.
- **16th FC**: The Sixteenth Finance Commission was constituted on 31.12.2023 with Shri Arvind Panagariya, former Vice-Chairman, NITI Aayog as its Chairman.

Key Recommendations

- **Vertical Devolution:** Maintained at **41%**.
- **Horizontal Devolution:** Formula based on **Income Distance (45%), demographic performance (12.5%), Population 2011(15%), area (15%), forest and ecology (10%), and tax and fiscal efforts (2.5%)**.
- **Revenue Deficit Grants:** For States with unmet fiscal needs.
- **Incentives/Grants:** Performance-based for **social sector, rural economy, governance, and power**.
- **Local Government Grants:** For **municipal services, new cities, and health**.

Borrowing Powers

Centre (Article 292)

- Can borrow within or outside India upon security of the **Consolidated Fund of India, within limits set by Parliament**.
- Can provide **loans or guarantees** to states.

States (Article 293)

- Cannot borrow without Centre's consent if they owe outstanding loans to the Centre.
- Can borrow within India, **not outside**, upon security of the **Consolidated Fund of the State** subject to Parliamentary limits

Exemption from Taxation

Union Property (Article 285)

- Centre's property is **exempt from state and local taxes** unless Parliament removes the exemption.
- **Central corporations or companies** are **taxable**.

State Property (Article 289)

- **State property and income** are exempt from central taxes, except for **commercial activities** if Parliament allows it.
- **Local authorities and state corporations** are subject to central taxes.

Effects of Emergency

National Emergency (Article 352)

- The President can **modify revenue distribution** between the Centre and states.
- Transfer of funds can be **reduced or cancelled** during the emergency.

Financial Emergency (Article 360)

- The Centre can direct states to:
 - Follow specific **financial propriety** norms.
 - **Reduce salaries** of state employees.
 - **Reserve money bills** for the President's consideration.

DISTRIBUTION OF TAX REVENUES

Article	Levy	Collection	Appropriation	Various Taxes
268	Centre	States	States	<ul style="list-style-type: none">• Stamp duties on shares, cheque, promissory notes, insurance etc.
269	Centre	Centre	States	<ul style="list-style-type: none">• Taxes on interstate trade and commerce. Revenues do not form part of the consolidated fund of India.
270	Centre	Centre	Shared between Centre and states	<ul style="list-style-type: none">• All taxes and duties in the union list except Duties and taxes referred to in Articles 268, 269 and 269-A, Surcharge on taxes and duties referred to in Article 271
271	Centre	Centre	Centre	<ul style="list-style-type: none">• Surcharge on taxes under Art 269, 270.• Goods and Services tax (GST) is exempted from this surcharge. This surcharge can't be imposed on the GST.

Others

- Levy and Collection of GST in Course of Inter- State Trade or Commerce (**Article 269-A**)
- Taxes Levied and Collected and Retained by the States: These are the taxes belonging to the states exclusively eg: land revenue , tax on mineral rights, etc.
 - **Note:** The sales tax you pay while purchasing a toothpaste is a Tax imposed and collected by the State Government.

[UPSC 2014]

COMMITTEES ON CENTRE-STATE RELATIONS

By Center	By State
<ul style="list-style-type: none">• Sarkaria commission (1983)- [UPSC 2019]• Punchhi commission (2007)• Administrative Reforms Commission I(1996) and II(2005)	<ul style="list-style-type: none">• Rajamannar committee (1969) – Tamilnadu• Anandpur Sahib resolution (1973) – Akali dal of Punjab



Centre's Control Over State Legislation

- **1st ARC Recommendation (1966):** Suggested appointing governors with extensive experience in public life and administration, who are non-partisan.
- **Rajamannar Committee (1969):** Recommended removing the provision allowing state ministries to hold office at the governor's pleasure.
- **Sarkaria Commission (1983):** Advised that governors should be distinguished outsiders without strong political links, who have not recently participated in politics, and should not belong to the ruling party. [UPSC 2019]
- **National Commission to Review the Working of the Constitution (2000):** Proposed that governors be appointed by the President only after consulting the state's chief minister.

JUDICIAL DOCTRINES ON CENTRE-STATE RELATIONS

- **Doctrine of Pith and Substance:** Ensures legislative competence by focusing on the **true nature** of laws, reducing conflicts. Examples include:
 - **West Bengal v. Union of India (1967):** Law on inter-State trade was intra vires.
 - **Fertilizer Corp. v. Union of India (1981):** Law on land acquisition was intra vires.
 - **Minerva Mills v. Union of India (1980):** Law on textile nationalisation was ultra vires.
- **Doctrine of Colourable Legislation:** Prevents **indirect lawmaking** on matters outside jurisdiction. Examples:
 - **K.C. Gajapati Deo v. State of Orissa (1953):** Law on land acquisition was ultra vires.
 - **Bombay Education Society (1954):** Educational regulation law was ultra vires.
- **Doctrine of Territorial Nexus:** Laws apply **within territorial boundaries**, as per **Article 245**. Example: **State of Bihar v. Kameshwar Singh (2009):** Tax law invalid due to insufficient territorial connection.

Key Legislations

River Boards Act, 1956	Inter-State Water Disputes Act, 1956
<ul style="list-style-type: none"> • Establishment: Creates River Boards for intergovernmental consultation. • Status: No river board formed yet. • Authority: Centre can notify the formation of boards on request or independently. • Function: Provides advisory support on inter-state river management and development. • Composition: Includes a Chairman and members appointed by the Central government. • Goal: Enhances cooperation and sustainable water management. 	<ul style="list-style-type: none"> • Purpose: Establishes a tribunal for adjudicating inter-state river water disputes. • Composition: Tribunal has a Chairman and two judges from the Supreme or High Courts. • Jurisdiction: Excludes Supreme Court authority, granting exclusive power to the tribunal for dispute resolution.

INTER-STATE RELATIONS

Important Articles

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

PUBLIC ACTS, RECORDS AND JUDICIAL PROCEEDINGS (ARTICLE 261)

- Ensures "**full faith & credit**" to public acts, records, and judicial proceedings across **India**.
- **Public Acts:** Includes both **legislative** and **executive acts** of the government.
- **Public Records:** Refers to official books, registers, or records created by public servants.
- **Parliament** will define the manner and conditions for proving these acts and records.
- **Final Judgments:** Civil court judgments are executable across India; this does not apply to criminal judgments.

INTER-STATE WATER DISPUTES (ARTICLE 262)

- **Entry 17 (State List):** States legislate on water-related matters (supply, irrigation, etc.).
- **Entry 56 (Union List):** Central government regulates inter-State rivers as deemed necessary.
- **Article 262(1):** Parliament can legislate on disputes regarding **use, distribution, and control** of inter-state river waters.
- **Article 262(2):** Parliament may exclude the **Supreme Court** and other courts from jurisdiction over these disputes.

INTER-STATE COUNCIL (ARTICLE 263)

- **Purpose:** Facilitates coordination between states and between states and the Centre.
- **Status:** A constitutional body under Article 263.
- **Establishment:** First set up in 1990 via a Presidential order based on the **Sarkaria Commission's** recommendations. The President defines its duties, organisation, and procedure.
- **Functions:**
 - Advises on inter-state disputes (complements SC's role under Article 131).
 - Discusses issues of common interest between states and the Centre.
 - Recommends ways to improve coordination in policies and actions.
- **Decisions:** Advisory only, not binding.
- **Composition:** PM as Chairman + CMs of all states + CMs of all UTs having legislative assemblies + Administrators of all UTs not having Legislative Assemblies + Governors of states under President's Rule + Six Central Cabinet Minister including Home Minister (Nominated by PM) + Five ministers of cabinet rank/ Minister of State (Independent Charge) nominated by PM are permanent invitees.
- **Meetings:** Held at least thrice a year, decisions by consensus.
- **Standing Committee:** Formed in 1996, chaired by the Union Home Minister. ISC Secretariat (1991) assists the council and Zonal Councils.

INTER-STATE TRADE AND COMMERCE

- **Article 301:** Guarantees free trade across India (inter-state and intra-state).
- **Article 302:** Parliament can restrict trade for public interest without state discrimination, except in scarcity.

- **Article 303:** States can impose restrictions with Presidential approval, no state discrimination allowed.
- **Article 304:** States can tax imported goods if similar local goods are taxed, barring discriminatory taxes.
- **Article 305:** Trade freedom subject to national laws; monopolies for Centre/State allowed.
- **Article 307:** Parliament can appoint an authority to enforce trade laws.

ZONAL COUNCILS

- **Nature:** **Statutory**, extra-constitutional, **advisory**, and **deliberative** body; recommendations are **non-binding**. (UPSC 2013)
- **Established:** Under the **States Reorganisation Act, 1956 (7th CAA 1956)**.
- **Objective:** Foster **cooperation** between **states, UTs**, and the **Centre**.
- **Zones:** Five—**Northern, Central, Eastern, Western, Southern**.
- **Formation Criteria:** Based on **natural divisions, river systems, communication, cultural/language affinity**, and **economic/security needs**.
- **Members:** Union Home Minister as Chairman + CMs of all the states in the zone + Two other ministers from each state in the zone + Administrator of each UT in the zone.
- **Advisors (non-voting):** **NITI Aayog nominee, chief secretaries, development commissioners of each state in the zone**.
- **Vice-Chairman:** Each chief minister acts as **vice-chairman** of the council by rotation, holding office for a period of one year at a time.

Zonal Council	Headquarters	Members
Northern	New Delhi	Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, Chandigarh, Jammu and Kashmir and Ladakh
Central	Allahabad	UP, Uttarakhand, Chhattisgarh, and MP
Eastern	Kolkata	Bihar, Jharkhand, West Bengal and Odisha
Western	Mumbai	Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu
Southern	Chennai	Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala and Puducherry

NORTH-EASTERN COUNCIL

- **Statutory body** created by **separate Act i.e., North-Eastern Council Act, 1971. It came into existence on August 8, 1972.**
- **Members:** all North Eastern states - Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim (added in 2002). [UPSC 2024]



Composition

- **Ex-officio Chairperson:** Union Home Minister.
- **Ex-officio Vice-Chairperson:** Minister, Ministry of Development of North Eastern Region.
- **Members:** Governors and Chief Ministers of all the eight States and **3 members** nominated by the President.
- **Functions:** Similar to those of the zonal councils + unified and coordinated regional plan on matters of common importance; review measures for maintaining security and public order in the region.

ASYMMETRIC FEDERALISM AND ITS FEATURES IN INDIAN CONSTITUTION

Asymmetric federalism means different States/regions have varying degrees of **power** and **autonomy** to address diverse regional needs.

Asymmetric Features in Indian Federalism

- **Vertical Asymmetry:** The **Centre** holds more power than States, e.g., changing **State boundaries** (Article 3) and imposing a **national emergency** (Article 352).
- **Horizontal Asymmetry** Varying powers amongst the states like: **Unequal representation** in the **Rajya Sabha** (e.g., UP: 31 seats, Arunachal Pradesh: 1). **Union Territories** have special administrative provisions (Part VIII).
- **Fiscal Asymmetry:**
 - **Finance Commission:** Determines **States' share** of **Central taxes** (41% for 2021-26).
 - **Devolution:** Based on factors like **income disparity** and **forest cover**.
 - **Grants:** Central government provides **revenue deficit** and sector-specific grants.
 - **Centrally Sponsored Schemes:** Joint funding with higher **Centre contribution** for **special category States**.

INTER-STATE BORDER DISPUTES SUMMARY

- These **disputes** arise due to **historical discrepancies**, **colonial boundary demarcations**, and **resource conflicts**, challenging **cooperative federalism**.

Key Disputes:

- **Karnataka-Maharashtra:** **Belgaum district**.
 - **Assam-Mizoram:** Differing claims on **British-era boundaries**.
 - **Haryana-Himachal Pradesh:** Dispute over **Parwanoo**.
 - **Himachal Pradesh-Ladakh:** Claims over **Sarchu**.
 - **Arunachal Pradesh-Assam:** Forest tract dispute.
 - **Meghalaya-Assam:** Blocks I & II of the **Mikir Hills**.
 - **Assam-Nagaland:** Longest-running dispute since 1963.
- **Resolution Mechanisms (Crisp)**
 - **Judicial Intervention:** Supreme Court handles disputes under Article 131.
 - **Inter-State Council:** Facilitates resolution under Article 263.
 - **Bilateral Negotiations:** States negotiate directly, often with central facilitation.

MAJOR RIVER DISPUTES

- **1969: Krishna Water Dispute:** Maharashtra, Karnataka, Andhra Pradesh
- **1969: Godavari Dispute:** Madhya Pradesh, Karnataka, Andhra Pradesh, Maharashtra, Odisha
- **1969: Narmada:** Rajasthan, Gujarat, Madhya Pradesh, Maharashtra
- **1986: Ravi & Beas:** Punjab, Haryana, Rajasthan
- **1990: Cauvery:** Karnataka, Kerala, Tamil Nadu, Puducherry
- **2004: 2nd Krishna Water Dispute:** Maharashtra, Karnataka, Andhra Pradesh
- **2010: Vamsadhara:** Odisha, Andhra Pradesh
- **2010: Mahadayi:** Goa, Karnataka, Maharashtra
- **2018: Mahanadi:** Odisha and Chhattisgarh



Emergency Provisions (Part XVIII Articles 352-360)

The Emergency provisions have been borrowed from the **Government of India Act 1935**. It converts the **federal structure into a unitary one without a formal amendment** of the Constitution. "Suspension of Fundamental Rights during Proclamation of Emergency" provision borrowed from the **Weimar Constitution**.

Important Articles

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

NATIONAL EMERGENCY (ARTICLE 352)

Grounds of Declaration

The **President** declares on grounds of **war, external aggression, or armed rebellion**. Can act even before occurrence if there is **imminent danger**.

- **External Emergency:** For war or external aggression.
- **Internal Emergency:** For armed rebellion.
 - **38th Amendment 1975:** Allows different proclamations based on these grounds, whether or not one already exists.
 - **42nd Amendment 1976:** Proclamation can apply to the entire country or part of it.
 - **44th Amendment 1978:** Replaced "internal disturbance" with **armed rebellion**.

Role of Cabinet

- **Original Constitution:** No mention of the cabinet's role.
- **44th Amendment:** The **President** can declare an emergency only on the **written recommendation** of the cabinet.

Parliamentary Approval

- **Originally:** Approval required within **2 months**.
- **44th Amendment:** Approval required within **1 month** by both Houses.

- If **Lok Sabha** is dissolved, the proclamation survives for **30 days** from its first sitting after reconstitution, provided **Rajya Sabha** approves in the meantime.

Type of Majority for Approval

- **Originally:** Simple majority.
- **44th Amendment:** Requires a **special majority**.

Duration

- **Originally:** Indefinite, with executive approval.
- **44th Amendment:** Can be extended indefinitely with **Parliament's approval every 6 months**.
 - If **Lok Sabha** dissolves during the 6 months without approval, the proclamation survives for **30 days** from its first sitting after reconstitution, provided **Rajya Sabha** approves in the meantime.

Judicial Review

- **Originally:** No mention.
- **38th Amendment:** Made emergency **immune from judicial review**.
- **44th Amendment:** Deleted this provision, restoring judicial review.
 - **Minerva Mills Case 1980:** Allowed challenge to emergency on grounds of **malafide**, irrelevance, or absurdity.

Revocation

- **The President** can revoke it. No need for parliamentary approval.
- **44th Amendment:** **Lok Sabha** can pass a resolution to disapprove the continuation.
 - **1/10th** of Lok Sabha members can give written notice to the Speaker or President (or to the President if Lok Sabha is not in session), and a **special session** must be held within **14 days**.
 - Simple majority needed for **disapproval**.

Imposition: Declared **three times: 1962, 1971, 1975**.

Note: Shah Commission: Enquired 1975 emergency and did not justify the declaration of Emergency.

EFFECT OF IMPOSITION OF NATIONAL EMERGENCY

Effect on Centre-State Relations

- **Executive:**
 - The **Centre's executive power** allows it to direct state on any matter.
 - During normal times, the Centre can only give directions on specified matters.
 - State Governments are under **complete control** of the Centre but are **not suspended**.
- **Legislative:**
 - **Parliament** can legislate on any subject under the **State List**.
 - State legislatures are **not suspended**, but Parliament gains **overriding powers**.
 - Laws made by Parliament on the State List lapse **6 months** after the emergency ends.
 - If Parliament is not in session, the **President** can issue **ordinances** on state subjects.
 - **42nd Amendment:** Legislative and executive functions extend to all states, regardless of emergency status.
- **Financial:**
 - The **President** can modify the distribution of revenues between the Centre and states, effective until the end of the financial year when the emergency ends.
 - Orders from the President must be laid before both Houses.

Effect on Lok Sabha & State Assemblies

- **On Lok Sabha:**
 - Its life may be extended by law for **1 year at a time** during the emergency.
 - Extensions cannot exceed **6 months** after the emergency ends.
- **On State Assemblies:**
 - Only **Parliament** can extend assembly life (by **1 year** each time), mirroring Lok Sabha extensions.

Effect on Fundamental Rights

- **Article 358** (Suspension of Article 19):
 - **Six Fundamental Rights** under Article 19 are automatically suspended.
 - Laws violating these rights cannot be challenged in court during or after the emergency.
 - Article 19 revives automatically after the emergency ends.
- **Article 359** (Suspension of Other Fundamental Rights):
 - Authorises the **President** to suspend the right to approach courts for Fundamental Rights during a national emergency.

- The enforcement of specified rights is suspended; the suspension may cover all or part of the country.
- Suspension orders must be approved by both Houses.
- **44th Amendment:**
 - **Article 19** rights can only be suspended during emergencies declared for **war** or **external aggression**, not for **armed rebellion**.
 - The **President** cannot suspend the right to move courts for **Articles 20 & 21**.
 - Only laws related to the emergency are protected from judicial review.

Comparison of Article 358 & 359

Article 358	Article 359
<ul style="list-style-type: none"> • Applies only during external emergencies. • Suspends Fundamental Rights under Article 19 for the emergency's duration. • Applies to the whole country. 	<ul style="list-style-type: none"> • Applies during both external and internal emergencies. • The President specifies the suspension duration in the order. • Extends to the whole country or part of it as stated.

Similarities: Both articles provide **immunity from challenge** to laws related to the emergency, protecting executive actions under such laws.

PRESIDENT'S RULE (ARTICLE 356)

- **State Emergency** declared when a state government cannot be run per the Constitution.
- **Article 355:** Centre's duty to protect states and ensure governance as per the Constitution.
- **Article 356:** President can proclaim if satisfied, with or without the **Governor's report**. [UPSC 2018]
- **Article 365:** Applied if a state fails to comply with **Centre's directions**.
- **Approval:** Simple majority in both Houses within **2 months**; survives 30 days from the first sitting of the Lok Sabha if **Lok Sabha** is dissolved during the six month period without approving it, provided Rajya Sabha approves it.
- **Duration:** Initially **6 months**, extendable up to **3 years** with **Parliament's approval** every 6 months.
 - **44th Amendment:** Extended only if a **national emergency** is in place or elections cannot be held due to difficulties.
- **Judicial Review:** Immunity granted by **38th Amendment**, removed by **44th Amendment**.
- **Revocation:** Can be revoked by the **President** anytime without Parliament's approval.
- First imposed in **Punjab (1951)**.
- **Dr BR Ambedkar:** Considered this power a **last resort**.

EFFECT OF IMPOSITION OF PRESIDENT'S RULE

Extraordinary Powers of the President

- **Assumption of Powers:** The **President** can take over the functions of the state government and assume powers vested in the **Governor** or any other executive authority.
- **Legislative Powers:** The President can declare that powers of the state legislature are to be exercised by the **Parliament**.
- **Constitutional Suspension:** He can suspend constitutional provisions relating to any authority in the state.
- **Dismissal of Council of Ministers:** The President can dismiss the **Council of Ministers** headed by the Chief Minister; state bills and budgets are passed by Parliament. [UPSC 2017]
- **State Administration:** The administration is carried out by the **Governor** with help from the **Chief Secretary** on behalf of the President.
- **Continuity of Laws:** Laws made by the Parliament or President continue to operate even after President's Rule.
- **Assembly Actions:** The President can suspend or dissolve the state legislative assembly.
- **Judicial Status:** The constitutional position, status, powers, and functions of the **State High Court** remain unchanged during President's Rule.

S. R. Bommai Judgment (1994)

- **Judicial Review:** The imposition of President's Rule is subject to **judicial review**.
- **Presidential Satisfaction:** The court can assess whether the President's satisfaction is based on relevant material but not the correctness or adequacy of that material.
- **Justification Required:** The Centre must justify the imposition; if found unconstitutional, the court can revive the state assembly.
- **Assembly Dissolution:** A state assembly can be dissolved only after **Parliamentary approval**; it can only be suspended otherwise.
- **Confidence Decisions:** The question of the state government losing confidence must be resolved on the **floor of the House** before unseating the ministry.
- **Anti-Secular Policies:** Action may be taken under **Article 356** if the state pursues anti-secular policies.

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

FINANCIAL EMERGENCY (ARTICLE 360)

- **Grounds of Declaration:** President can proclaim if **financial stability** or **credit** of India or any part is **threatened**.
- **Parliamentary Approval:** Requires **simple majority** in both Houses within **2 months**. If **Lok Sabha** is dissolved, the proclamation survives for **30 days** after reconstitution, provided **Rajya Sabha** approves it.
- **Duration:** Continues **indefinitely** once approved, until revoked.
- **Judicial Review**
 - **38th Amendment:** Made immune from Judicial Review.
 - **44th Amendment:** Restored **judicial review**.
- **Revocation:** President can revoke without parliamentary approval.
- **Imposition:** Never declared so far.

EFFECTS OF FINANCIAL EMERGENCY (ARTICLE 360)

- **Legal Basis:** Article 360 is modelled after the **National Recovery Act** of the U.S. (1933).
- **Historical Note:** India has never declared a Financial Emergency, despite a financial crisis in **1991**.
- **Centre's Authority:** The Centre can instruct states to follow specified **financial propriety** standards.

Presidential Powers

- **Salary Reductions:** The President can mandate reductions in **salaries and allowances** for all state or union employees, including judges of the **Supreme Court** and **High Courts**.
- **Reservation of Bills:** The President can reserve **money bills** and other financial bills for consideration after they are passed by state legislatures.

QUICK COMPARISON BETWEEN THE THREE EMERGENCIES

Feature	National Emergency (Article 352)	President's Rule (Article 356)	Financial Emergency (Article 360)
Grounds for Declaration	War, external aggression, armed rebellion	Article 365: if a state fails to comply with or to give effect to any directions given by the Union.	Threat to financial stability or credit
Cabinet Role	Requires written recommendation from the Cabinet Article 352(3) .		
Parliamentary Approval	Approval within 1 month (44th Amendment)	Approval within 2 months; survives if Lok Sabha dissolves	Approval within 2 months
Majority Type	Special majority required (44th Amendment)	Simple majority required	Simple majority required
Duration	Indefinite; extended every 6 months (44th Amendment)	Initially 6 months; extendable up to 3 years with approval every 6 months.	Indefinite once approved; until revoked
Judicial Review	Judicial review restored by (44th Amendment)	Immunity to Judicial review removed by 44th Amendment.	Judicial review restored by 44th Amendment
Revocation	President can revoke without approval; Lok Sabha can disapprove	Can be revoked by the President anytime; parliamentary approval not required.	President can revoke parliamentary approval
Historical Context	Declared thrice: 1962, 1971, 1975	First imposed in Punjab (1951)	Never declared; crisis in 1991
Impact on Governance	Centre assumes powers; Parliament gains overriding powers	President assumes state functions; assemblies can be suspended or dissolved.	Centre directs states on financial propriety; salary reductions possible

Note: Chhattisgarh and Telangana are the only states where the President's rule has never been imposed so far.



VICE-PRESIDENT

Important Provisions

- **Article 63:** Establishes the **Vice-President** as the **second highest office** in India.
 - Modelled on the **American Vice-President**.
- **Election**
 - **Indirect Election:** Elected by an **Electoral College** of both houses of **Parliament** (elected and nominated). Excludes state assembly members. [UPSC 2013]
- **Voting Method:** Uses **proportional representation** with a **single transferable vote** and a **secret ballot**.
- **Dispute Resolution:** Addressed by the **Supreme Court**; acts performed before a void declaration remain valid. Election cannot be challenged based on an incomplete Electoral College (Article 71).
- **Notable Fact:** Four time Vice-Presidents have been elected unopposed namely; S. Radhakrishnan (Two times), Mohammad Hidayatullah, & Shankar Dayal Sharma.
- **Nomination**
 - Requires **20 proposers** and **20 seconders**.
 - **Security Deposit:** ₹15,000 to the **RBI**.
- **Qualifications**
 - Must be a **Citizen of India**.
 - At least **35 years old**.
 - Qualified for election to the **Rajya Sabha**.
 - Must not hold any **office of profit** (current officeholders exempt).
- **Oath of Office:** Administered by the **President** or an appointed representative (Article 69).
- **Conditions of Office:** Cannot be a member of **Parliament** or state legislature; vacates seat upon assuming office. Must not hold any other **office of profit**. The term office of profit is not well defined in the constitution. [UPSC 2020]
- **Emoluments, Allowances, and Privileges:** The Constitution does not specify **emoluments** for the Vice-President in this role. Receives salary as **Chairman of the Rajya Sabha**.
- **Term of Office (Article 67)**
 - **Term:** 5 years; eligible for **re-election**.
 - Resignation to be submitted to the **President**.
 - Holds office until a successor is in place.
- **Removal: Impeachment Not Required:** Can be removed through a **Rajya Sabha** resolution passed with **effective majority**, requiring a simple majority in the **Lok Sabha**. **14 days** notice needed; no grounds specified for removal.
- **Vacancy**
 - **Causes:** Expiry of term, resignation, removal, death, disqualification, or void election.
 - Elections to fill vacancies must occur before term ends.
 - Prompt elections following resignation or removal.
- **Powers:**
 - **Ex-Officio Chairman of Rajya Sabha (Article 64):** Similar powers to the **Speaker**.
 - Acts as President (Article 65) when there's a vacancy, for a maximum of **six months** until a new President is elected.
 - When the President is unable to function, the Vice-President performs duties, with the **Deputy Chairman** taking on Rajya Sabha responsibilities.
- **Comparison with American Vice-President**
 - The **Indian Vice-President** acts as an **acting President** until a new President is elected. The **American Vice-President** succeeds directly and serves the **unexpired term**.

DIFFERENCE BETWEEN PRESIDENT AND GOVERNOR

Features	The President	The Governor
Introduction	<ul style="list-style-type: none"> • Part of Union Executive: Includes President, VP, PM, CoM, and Attorney General (Articles 52-78, Part V). • Role: Head of Indian State, first citizen of India, symbol of unity, integrity, and solidarity. [UPSC 2015] • Fact: Only Dr. Rajendra Prasad has served two terms. 	<ul style="list-style-type: none"> • Part of State Executive: Includes Governor, CM, CoM, and Advocate General (Articles 153-167, Part VI). • Role: Chief Executive of the state, with a dual role: <ul style="list-style-type: none"> ○ Constitutional Head. ○ Agent of the Central Government. • First Woman Governor: Sarojini Naidu, Governor of Uttar Pradesh (1947-49)
Qualifications	<ul style="list-style-type: none"> • Citizen of India • 35+ years old • Qualified for Lok Sabha election • No office of profit 	<ul style="list-style-type: none"> • Citizen of India • 35+ years old • Preferably an outsider to the state • President consults CM (not always followed)
Oath	<ul style="list-style-type: none"> • Administered by Chief Justice of India or senior-most SC judge in absence 	<ul style="list-style-type: none"> • Administered by Chief Justice of HC of the state or senior-most judge in absence
Conditions of Office	<ul style="list-style-type: none"> • Not a member of either house • No office of profit 	<ul style="list-style-type: none"> • Not a member of either house • No office of profit
Emoluments, Allowances, Privileges	<ul style="list-style-type: none"> • Determined by Parliament • Cannot be diminished during term • Immune from criminal proceedings (personal) • Cannot be arrested or imprisoned • 2 months' notice required in civil cases for personal acts 	<ul style="list-style-type: none"> • Determined by Parliament • Cannot be diminished during term • Immune from criminal proceedings (personal) • Cannot be arrested or imprisoned • Allowances shared when governor of two/more states. [UPSC 2018, 2013]
Term	<ul style="list-style-type: none"> • 5 years from taking office • Resignation to Vice President • Can be re-elected without limit • Holds office until successor takes charge to avoid 'interregnum' 	<ul style="list-style-type: none"> • 5 years, subject to President's pleasure • No fixed tenure • Resignation to President • Can be transferred or reappointed to same/another state • Holds office until successor takes charge to avoid 'interregnum'
Impeachment/ Removal	<ul style="list-style-type: none"> • For violation of Constitution (undefined) • Initiated by 1/4th members of either house with 14-day notice • 2/3 majority of total membership of house needed in both houses • Quasi-judicial process • No President impeached so far 	<ul style="list-style-type: none"> • No specific grounds for removal by President • Not justiciable (Surya Narain case 1981) [UPSC 2013]
Vacancy	<ul style="list-style-type: none"> • Causes: Tenure expiry, resignation, impeachment, death • VP acts as President when vacancy occurs due to resignation, death, removal or otherwise until new election within 6 months • New President serves a full term of 5 years from taking office • No interim term for VP if President's tenure is extended beyond 5 years due to delayed elections 	<ul style="list-style-type: none"> • Causes: Tenure expiry, resignation, death, or removal • President may appoint an interim governor until a successor assumes charge

Privileges	<ul style="list-style-type: none"> • Immune from arrest and personal liability for official acts • 2 months' notice required for personal legal proceedings 	<ul style="list-style-type: none"> • Immune from arrest and personal liability for official acts • 2 months' notice for civil proceedings during term
Executive Powers	<ul style="list-style-type: none"> • All executive actions taken in his name. • Makes rules for authenticating orders and for business transactions of the Union. Requires PM to submit matters for CoM consideration. • Appoints commissions for SCs, STs, OBCs. Appoints inter-state council and UT administrators. Appoints PM, Ministers, AG, CAG, CEC, other election commissioners, Governors, chairpersons of commissions, UT administrators. • Declares Scheduled Areas. 	<ul style="list-style-type: none"> • Executes state executive actions in his name. • Appoints key state officials, such as members of State Finance Commission, SPSC. • Administers union territories. • Promulgates ordinances when the state legislature is not in session. • Appoints administrators for UTs under his control.
Legislative Powers	<ul style="list-style-type: none"> • Integral part of Parliament. • Summons, prorogues, dissolves Lok Sabha. • Can summon joint sittings of both Houses. • Addresses Parliament at the start of each year and after general elections. • Sends messages to Parliament on bills or other issues. • Prior permission for certain bills. • Nominates 12 RS members, and used to nominate 2 LS Anglo-Indian members until 2020. • Promulgates ordinances (approved within 6 weeks). • Alters state boundaries/creates new states. • Lays reports of the Finance Commission, UPSC, and CAG. • Decisions on MP disqualification. 	<ul style="list-style-type: none"> • Integral part of the state legislature. • Summons, prorogues, dissolves the state legislative assembly. • Addresses the state legislature after general elections and at the beginning of each year. [UPSC 2019] • Sends messages to the state legislature. • Nominates 1/6 of State Legislative Council members and used to one Anglo-Indian (until 2020). • Promulgates ordinances (approved within 6 weeks). • Lays reports of State Finance Commission, SPSC, CAG. • Decisions on disqualification of MLAs.
Financial Powers	<ul style="list-style-type: none"> • Prior recommendation for Money bills and demand for grants. • Lays Annual Financial Statement (Budget). • Constitutes Finance Commission every 5 years. • Advances from Contingency Fund of India. 	<ul style="list-style-type: none"> • Prior recommendation for Money bills and demand for grants. • Lays State Budget. • Constitutes State Finance Commission every 5 years. • Makes advances from the Contingency Fund of the state.
Judicial Powers	<ul style="list-style-type: none"> • Appoints CJI, SC, HC judges. • Seeks SC advisory opinion (non-binding). • Grants pardon, reprieve, respite, remission, or commutation of punishment for Union law offences, court-martial sentences, and death sentences. 	<ul style="list-style-type: none"> • Consulted by the President for HC judge appointments. • Appoints district judges in consultation with HC. • Grants pardon, reprieve, respite, remission, or commutation of punishment for offences under state laws. • Cannot pardon death sentence .

Features	The President	The Governor
Diplomatic Powers	<ul style="list-style-type: none"> Negotiates and concludes international treaties (subject to Parliament's approval). Represents India in international forums, sends and receives diplomats. 	<ul style="list-style-type: none"> No diplomatic powers.
Military Powers	<ul style="list-style-type: none"> Supreme Commander of India's defence forces. Appoints Army, Navy, Air Force chiefs. Can declare war/peace, subject to Parliament's approval. 	<ul style="list-style-type: none"> No military powers.
Emergency Powers	<ul style="list-style-type: none"> Declares National Emergency (Art. 352), President's Rule (Art. 356, 365), Financial Emergency (Art. 360). 	<ul style="list-style-type: none"> He can submit report to President regarding the Imposition of President's Rule
Veto Power	<ul style="list-style-type: none"> Veto Power (Art. 111): When a bill is passed by Parliament, the President has three alternatives: Give assent to the bill. Withhold assent, (which ends the bill). Return the bill for reconsideration. If Parliament passes it again, the President must give assent. Presidential Veto over State Legislation (Art. 201): When a state bill is reserved for the President's consideration: Assent, Withhold assent, which ends the bill & Return the bill for reconsideration. If passed again by the state legislature, the President is not bound to give assent. No veto for Constitutional Amendments: Since the 24th Amendment Act, 1971, the President must give assent to constitutional amendment bills. No time-limit for the President to make a decision regarding a bill presented for assent. [UPSC 2023] 	<ul style="list-style-type: none"> The Governor has four alternatives for ordinary bills: <ul style="list-style-type: none"> Give assent to the bill. Withhold assent, ending the bill. Return the bill for reconsideration (if passed again, must give assent). Reserve the bill for Presidential consideration. Money Bills: The Governor can only give or withhold assent or reserve the bill for the President. The Governor cannot return a money bill for reconsideration.
Ordinance	<p>(Art. 123)</p> <ul style="list-style-type: none"> The President can issue ordinances when Parliament is not in session. They must be laid before both Houses when Parliament reassembles and approved within 6 weeks to become an Act. The total validity is 6 months + 6 weeks. Ordinances cannot amend the Constitution. Judicial Review: The 44th Amendment allows the satisfaction of the President in issuing ordinances to be questioned in court. 	<p>(Art. 213)</p> <ul style="list-style-type: none"> The Governor can issue ordinances when the state legislature is not in session. The ordinance is valid for 6 weeks after the state legislature reassembles. The total maximum life is 6 months + 6 weeks. Ordinances must be laid before the legislature upon reassembly. Ordinances require the President's instructions in certain cases, such as bills requiring Presidential assent. In D.C. Wadhwa case (1987), SC held that repeated re-promulgation of ordinances is unconstitutional.

Pardoning Power	<ul style="list-style-type: none"> The President (Art. 72) can grant pardons for: <ul style="list-style-type: none"> Union Law offences. Court-martial punishments. Death sentences. Powers are based on Cabinet advice. They are not subject to judicial review unless the decision is arbitrary or discriminatory. Powers include commutation, remission, respite, reprieve, pardon for death sentences. 	<ul style="list-style-type: none"> The Governor (Art. 161) can grant pardons for: <ul style="list-style-type: none"> Offences against state laws. He cannot pardon court-martial sentences or death sentences (only the President can pardon a death sentence). Powers include commutation, remission, respite, reprieve, but no pardon for death sentences.
Discretionary Powers	<p>The President has no constitutional discretion. But some situational discretions include:</p> <ul style="list-style-type: none"> Appointment of PM when no clear majority exists. Dismissal of CoM if they lose the Lok Sabha's confidence. Dissolution of Lok Sabha when CoM loses majority. 	<ul style="list-style-type: none"> Constitutional Discretion: <ul style="list-style-type: none"> Reservation of bills for the President. Recommendations for President's Rule. Seeking information from the CM. Administration of adjoining Union Territories. [UPSC 2014] Situational Discretion: <ul style="list-style-type: none"> Appointment of CM when no party has a clear majority or after the death of a sitting CM. Dismissal of CoM when they lose majority. Dissolution of the Assembly if CoM loses majority.

ELECTIONS

President	Governor
<ul style="list-style-type: none"> Indirectly elected by an Electoral College. <ul style="list-style-type: none"> Reason for Indirect Election: Nominal executive role; real power lies with the PM. Direct election would be costly and time-consuming. Method: Proportional representation by single transferable vote and secret ballot. Nomination requires 50 proposers & 50 seconders Security deposit: ₹15,000 (forfeited if 1/6th votes not secured) 	<ul style="list-style-type: none"> Not elected by people or the Electoral College. Appointed by the President (nominee of the Central Government). Borrowed from the GOI Act 1935. Canadian Model: Governor of a state appointed by the Centre (Governor-General in Canada). 7th Constitutional Amendment (1956): Allows the appointment of one Governor for two or more states. Supreme Court (1979): Governor is not a Central Government employee; holds an independent constitutional office.

Electoral College of President: The Electoral College comprises members from **Union and States**, making the President a representative of both.

<ul style="list-style-type: none"> Participants: <ul style="list-style-type: none"> Elected members of LS and RS. Elected members of State Legislative Assemblies. Elected members of Delhi and Puducherry UT Assemblies. 	<ul style="list-style-type: none"> Non-participants: <ul style="list-style-type: none"> Nominated members of LS, RS, SLA. Members of State Legislative Councils. Nominated members of Delhi and Puducherry Assemblies. [UPSC 2023]
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VOTE VALUE IN PRESIDENT ELECTIONS

Value of Vote of an MLA: (UPSC 2018)

Value of Vote of each MLA varies from State to state.

$$\frac{\text{Total Population of State}}{\text{Total No. of elected number in SLA}} \times \frac{1}{1000}$$

Value of Vote of an MP: [UPSC 2023,2019,18]

$$\frac{\text{Total Value of votes of all MLAs of all state}}{\text{Total No. of elected members of Parliament}}$$

A candidate, in order to be declared elected to the office of President, must secure a **fixed quota of votes**:

$$\text{Electoral Quota} = \frac{\text{Total No. of valid votes polled}}{1+1} + 1$$

Disputes in President Election: Article 71(2) If the election is **declared void** by the Supreme Court, **acts done** by him before the date of such declaration are **not invalidated** and **continue to remain in force**. [UPSC 2023]

- **Article 71 (4):** If the assembly is dissolved, members cease to be qualified to vote, so the election of a person as President **cannot be challenged** on the ground that the Electoral College was incomplete. [UPSC 2023]
- According to the Constitution of India, it is the duty of the President of India to cause to be laid before the Parliament the Recommendation of the Union Finance Commission, The Report of the Comptroller and Auditor General & The Report of the National Commission for Scheduled Castes. [UPSC 2012]

• Veto Types:

- **Absolute Veto:** Permanent withholding of assent.
- **Suspensive Veto:** Returning the bill for reconsideration. If Parliament passes it again, the President must assent (not applicable to money bills).
- **Pocket Veto:** President keeps the bill pending without taking any action. No time limit exists for the President's decision, unlike in the USA (10 days)
- **Qualified Veto:** It can be overridden by the legislature with a higher majority. (In USA not in India)

• Types of Pardoning Powers:

- **Pardon:** Completely absolves the person of punishment.
- **Commutation:** Substitution of punishment with a lighter one.
- **Remission:** Reduction of punishment period without altering its nature.
- **Respite:** Lesser punishment due to special conditions.
- **Reprieve:** Temporary stay on execution.



In India's parliamentary system, executive power is divided between the Union and State governments. The Prime Minister and Chief Minister, along with their respective Councils of Ministers, hold real executive authority, shaping national and state policies.

THE PRIME MINISTER AND CHIEF MINISTER

Articles Related to the Prime Minister of India	Articles Related to the Chief Minister
<ul style="list-style-type: none"> • 74: Council of Ministers advises the President. • 75: Provisions for Minister appointment and conduct. • 77: Business conduct of the Government of India. • 78: PM's duties for providing information to the President. • 88: Rights of Ministers concerning the Houses. 	<ul style="list-style-type: none"> • 163: Council of Ministers aids and advises the Governor. • 164: Provisions for Minister appointment by the Governor. • 167: CM's duties to inform the Governor about Council decisions. • 169: Power to legislate for the composition of the Legislative Council.

CONSTITUTIONAL PROVISIONS OF PM AND CM

Parameters	Prime Minister (PM)	Chief Minister (CM)
Appointment & Oath	<p>Article 75: The Prime Minister shall be appointed by the President.</p> <ul style="list-style-type: none"> • Appointment of PM/CM: No specific procedure in the Constitution. By convention, the leader of the majority party is appointed PM/CM. • Discretion in Case of No Majority: If no clear majority, the President/Governor may use personal discretion to appoint PM/CM. The PM/CM must secure a vote of confidence within a month. • Death of PM/CM: In case of sudden death and no successor, the President/Governor uses individual judgement to appoint a successor. • Eligibility: PM/CM can be from either House of Parliament/State Legislature. Non-members can be appointed but must be elected within six months. • Oath Administration: President/Governor administers oaths of office and secrecy. 	<p>Article 164: The Chief Minister shall be appointed by the Governor.</p>
Term	Not fixed, holds office during the pleasure of the President .	Not fixed, holds office during the pleasure of the Governor .
Salary	Determined by Parliament .	Determined by the State legislature .

Powers and Functions	PM/CM Role in COM <ul style="list-style-type: none"> • Recommends ministerial appointments. • Allocates/reshuffles portfolios. • Can ask a minister to resign or advise dismissal. • Presides over COM meetings and influences decisions. • Resignation of PM/CM can collapse the COM. Impact of PM/CM Resignation or Death: Resignation or death of PM/CM dissolves COM.	
Additional Powers	With Parliament: <ul style="list-style-type: none"> • Advises President on summoning/proroguing sessions. • Can recommend dissolution of Lok Sabha. • Announces government policies in the House. Other Roles of PM: <ul style="list-style-type: none"> • Chairman of NITI Aayog, NITI Aayog, National Integration Council, Inter-State Council, National Water Resources Council, and other councils. • Shapes foreign policy, chief government spokesperson, crisis manager, and leader of the ruling party. 	With State Legislature: <ul style="list-style-type: none"> • Advises Governor on summoning/proroguing the sessions and dissolution of the assembly. • Announces policies on the House floor. Other Roles: <ul style="list-style-type: none"> • Chairman of the State Planning Board. • Vice-chairman of Zonal Council (rotational), member of Inter-State Council and NITI Aayog. • Spokesperson, crisis manager, and political head of state services.
Relations with Nominal Head	PM with the President: Article 74: PM heads the Council of Ministers (CoM) to aid and advise the President. The President may ask for reconsideration but must follow final advice. Article 75: <ul style="list-style-type: none"> • PM appointed by the President; other ministers appointed on PM's advice. • Ministers hold office at the pleasure of the President. • CoM is collectively responsible to the Lok Sabha. Article 78: PM's duties include: <ul style="list-style-type: none"> • Communicating CoM decisions and legislative proposals to the President. • Submitting matters for CoM consideration upon the President's request. Others: Advises President on appointments of key officials (Attorney General, CAG, UPSC, Election Commissioners, etc.).	CM with the Governor: Article 163: CM heads the CoM to aid the Governor , who may act at discretion in some cases. Article 164: <ul style="list-style-type: none"> • CM appointed by the Governor; other ministers on CM's advice. • Ministers hold office at the pleasure of the Governor. • CoM is collectively responsible to the legislative assembly. Article 167: CM's duties include: <ul style="list-style-type: none"> • Communicating CoM decisions and legislative proposals to the Governor. • Submitting matters for CoM reconsideration upon Governor's request.

THE PRIME MINISTER'S OFFICE (PMO)

- The PMO supports the PM in managing the Government of India and executing constitutional, executive, and administrative responsibilities.
- Tasked with coordinating operations of various departments and ministries, offering counsel on policy and administrative matters.
- Led by the **Principal Secretary**, with senior officials assisting the PM.
- **Departments Under PMO:** Department of Atomic Energy (DAE), Department of Space (DoS), National Security Council (NSC)

PRIME MINISTER'S FUNDS

- **Prime Minister's National Relief Fund (PMNRF):** Established in 1948 by Jawaharlal Nehru for displaced people, now focuses on aiding families affected by natural disasters and reimbursing medical expenses. Donations are **100% tax-deductible** under section 80G of the Income Tax Act, 1961.
- **National Defence Fund:** Established in 1962 post-Sino-Indian War, chaired by the PM, reliant on **public voluntary contributions**. Contributions are **100% tax-deductible** under section 80G of the Income Tax Act, 1961.
- **PM Cares Fund:** Created in March 2020 by PM Narendra Modi in response to the COVID-19 pandemic, addressing various emergency situations.

Role of Prime Minister by Scholars	Facts About Indian Prime Ministers
<ul style="list-style-type: none"> • Sir William Vernor Harcourt: PM as a moon among lesser stars. • Ivor Jennings: PM is the sun around which planets revolve. • Lord Morley: PM is primus inter pares and the keystone of the cabinet arch. • Herbert Morrison: PM is primus inter pares, with a stronger role. • R.H. Crossman: Cabinet government turned into Prime Ministerial government. • Humphrey Berkley: PM holds super-ministerial powers, risking democracy. • Dr. B.R. Ambedkar: PM's role surpasses the President, akin to U.S. President. 	<ul style="list-style-type: none"> • Longest-serving: Jawaharlal Nehru (1947 – 1964). • Second longest-serving: Indira Gandhi. • First non-Congress PM: Morarji Desai. • First Indian PM awarded Pakistan's highest civilian award: Morarji Desai. • Youngest Indian PM: Rajiv Gandhi. • First PM from South India: P.V. Narasimha Rao. • First PM who was a member of the Rajya Sabha: Indira Gandhi. • Twice Acting Prime Minister: Gulzari Lal Nanda.

Note: The Prime Minister of India, at the time of his/her appointment **need not necessarily** be a member of one of the Houses of the Parliament but must become a member of one of the Houses **within six months**. [UPSC 2012]

Chief Ministers who Later became Prime Ministers

Chief Minister	State	Became Prime Minister
Morarji Desai	Bombay (1952–56)	March 1977 (First non-Congress PM)
Charan Singh	Uttar Pradesh (1967–68, 1970)	July 1979
V.P. Singh	Uttar Pradesh	December 1989 (National Front government)
P.V. Narasimha Rao	Andhra Pradesh (1971–73)	June 1991
H.D. Deve Gowda	Karnataka	June 1996 (United Front government)
Narendra Modi (BJP)	Gujarat (2001–2014)	May 2014

UNION AND STATE COUNCIL OF MINISTER

- **Historical Context:** The **portfolio system** was initiated by **Lord Canning** in the **Indian Councils Act of 1861**. In the **United Kingdom**, the Council of Ministers is a convention-based executive, while in **India**, it is codified in the Constitution.

Constitutional Provisions:

- **Article 74:** it is not known abbreviation aids and advises the **President**. The President can request reconsideration, but binding advice follows.
- **Article 163:** State CoM aids and advises the **Governor**. The Governor's discretion is final in ambiguous matters.
- **91st CAA, 2003:** Total no. of ministers, including PM/CM should **not be more than 15% of total strength of Lok Sabha/State Legislative Assembly**. [UPSC 2022] The number of ministers in the state legislature, including the CM, in a state **shall not be less than 12**.
- A member who is disqualified on the ground of defection **shall also be disqualified to be appointed as a minister**.
- **Article 88:** Every Minister has the **right to speak and take part in proceedings of both the houses** but can **only vote where he is a member**.
- **Article 177:** A minister who is a member of one House of the state legislature has the **right to speak and to take part in the proceedings of the other House**. But he can **vote only in the House of which he is a member**.
- Person, not a member of any house of parliament can become **minister maximum for a duration of six months**.

[UPSC 2020]



Criteria	Union Council of Ministers (UCoM)	State Council of Ministers (SCoM)
Definition	The executive body at the national level, advising the President of India.	The executive body at the state level, advising the Governor.
Constitutional Basis	Articles 74 and 75 of the Indian Constitution	Articles 163 and 164 of the Indian Constitution
Head	Prime Minister (PM)	Chief Minister (CM)
Appointment	PM appointed by the President; other ministers on PM's advice	CM appointed by the Governor; other ministers on CM's advice
Oath of Office	Administered by the President	Administered by the Governor of the State
Salary	Determined by Parliament	Determined by the State Legislature
Tenure	Ministers hold office during the President's pleasure. [UPSC 2013]	Ministers hold office during the Governor's pleasure
Collective Responsibility	Responsible to the Lok Sabha	Responsible to the State Legislative Assembly
Size	Typically 60 to 70 ministers not more than 15% of total strength	Minimum of 12 ministers required not more than 15% of total strength
Composition	Includes Cabinet Ministers, Ministers of State, and Deputy Ministers. [UPSC 2022]	Includes Cabinet Ministers and Ministers of State
Discretion	President acts on CoM's advice	Governor can exercise discretion on certain matters
Judicial Review	Advice tendered is not subject to court inquiry	Advice tendered is not subject to court inquiry
Rights of Ministers	Can speak in both Houses, vote only in their House	Similar rights as UCoM regarding legislative participation
Meeting Frequency	Does not meet as a body for business	May convene for legislative business

COLLECTIVE VS. INDIVIDUAL RESPONSIBILITY

- Both councils operate on **collective responsibility**, meaning they work as a team and resign upon a no-confidence motion. [UPSC 2018]
- Individual responsibility** allows the President or Governor to remove ministers on the advice of the PM or CM, even amidst legislative confidence.

Note: Unlike the UK, Indian ministers lack a provision for legal responsibility.

CABINET AND KITCHEN CABINET

- The **cabinet**, a smaller body defined in the **44th CAA, 1978**, consists of **15-20 ministers** and meets frequently for decision-making. [UPSC 2013]
- The **kitchen cabinet** is an informal group of the PM and trusted colleagues, serving as the inner circle for key discussions. Phenomenon of 'kitchen cabinets' is **not unique to India**; it also exists in the **USA and Britain**.



- **Parliament** (legislative organ of the Union Government) consists of the **President, the Lok Sabha (Lower House), and the Rajya Sabha (Upper House)**. [UPSC 2012]
- **Articles 79 to 122 in Part V** of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.
- **Hindi** names **Rajya Sabha** and **Lok Sabha** were adopted in **1954**.
- The Rajya Sabha represents the states and union territories of the Indian Union, while the Lok Sabha represents the people of India as a whole.

IMPORTANT PROVISIONS

President: Not a member of either house but an **integral part of the Parliament**. Unlike Britain and India, the American president is not an integral part of the legislature.

- **Summons and Prorogues** both the Houses, **dissolves** the LS, **addresses** both the Houses, issues ordinances when they are not in session, and so on. Can dissolve LS before completion of 5 years and this cannot be challenged in any court of law.

LOK SABHA VS. RAJYA SABHA

Feature	Rajya Sabha	Lok Sabha
Maximum Strength	250 total: 238 (elected from States & UTs) + 12 (nominated by the President)	550 total: 530 (elected from States) + 20 (elected from UTs)
Present Strength	245 total: 225 (from States) + 8 (from UTs) + 12 (nominated)	543 total: 524 (from States) + 19 (from UTs)
Anglo-Indian Nomination	N/A	2 Anglo-Indians to be nominated by the President (Article 331) has been discontinued by the 104th CAA, 2019; no Anglo-Indian members in the 17th Lok Sabha.
Seat Allocation	Defined in the 4th Schedule; representation only for Delhi, Puducherry, and J&K	N/A
State Representation	Elected by MLAs through proportional representation via single transferable vote	Directly elected from territorial constituencies using universal adult franchise (First-past-the-post system)
UT Representation	Indirectly elected by members of a specially constituted electoral college	Directly elected as per the Union Territories (Direct Election to the House of the People) Act, 1965 [UPSC 2012]
Term	Continuing chamber; one-third of members retire every two years; each member serves a 6-year term	Not a continuing chamber; normal term is 5 years from the date of the first meeting post-elections; automatically dissolves afterward.
Emergency Extension	N/A	Can extend for one year during a National Emergency (Article 352), but cannot exceed six months after the emergency ends.
Nominations	12 members nominated by the President, having special knowledge or experience in literature, science, art, and social service (Article 80(3))	N/A

Qualifications (Constitution)	<ul style="list-style-type: none"> • Citizenship of India Oath or affirmation (Schedule 3) • Age: 30 years (RS) • Other qualifications as prescribed by Parliament 	<ul style="list-style-type: none"> • Citizenship of India [UPSC 2017] • Oath or affirmation (Schedule 3) • Age: 25 years (LS) • Other qualifications as prescribed by Parliament
Qualification (RPA, 1951)	Must be registered as an elector for a Parliamentary constituency; Must be a member of SC/ST community for reserved seats. [UPSC 2018]	Must be registered as an elector for a Parliamentary constituency [UPSC 2017] Must be a member of SC/ST community for reserved seats
Disqualification (Constitution)	<ul style="list-style-type: none"> • Holds office of profit • Not a citizen of India • Unsound mind (court-declared) • Undischarged insolvent • Acquired foreign citizenship 	<ul style="list-style-type: none"> • Holds office of profit • Not a citizen of India • Unsound mind (court-declared) • Undischarged insolvent • Acquired foreign citizenship
Disqualification (RPA, 1951)	<ul style="list-style-type: none"> • Guilty of election offences • Failed to lodge election expenses • Interest in government contracts • Managing agent, manager, or secretary in a corporation with 25% government share (Sec.10 RPA 1951). <p>[UPSC 2020]</p> <ul style="list-style-type: none"> • Convicted for promoting enmity • Punished for social crimes • Dismissed for corruption. 	<ul style="list-style-type: none"> • Guilty of election offences • Failed to lodge election expenses • Interest in government contracts • Managing agent, manager, or secretary in a corporation with 25% government share (Sec.10 RPA 1951). • Convicted for promoting enmity • Punished for social crimes • Dismissed for corruption
Disqualification (Defection)	Decided by the Chairman; judicially reviewable (Kihoto Hollohan Judgement 1992) Grounds include: Voluntarily leaving the party, voting contrary to party direction, etc.	Decided by the Speaker; judicially reviewable (Kihoto Hollohan Judgement 1992) Grounds include: Voluntarily leaving the party, voting contrary to party direction, etc.
Vacating of Seats	<ul style="list-style-type: none"> • No double membership in both Houses • Must inform within 10 days if elected to both • Members elected to another House vacate their first House seat 	<ul style="list-style-type: none"> • No double membership with state legislature; if not resigning within 14 days, Parliament seat becomes vacant • Seat vacated if subject to disqualification or if election declared void
Oath/Affirmation	Administered by the President; cannot vote or participate until subscribed	Administered by the President; cannot vote or participate until subscribed
Penalties	Liable to a penalty of Rs. 500 for each day seated or voting without qualification	Liable to a penalty of Rs. 500 for each day seated or voting without qualification
Salaries and Allowances	Determined by Parliament; no pension provision in Constitution; pensions provided in 1976	Determined by Parliament; no pension provision in Constitution; pensions provided in 1976

Office of Profit

- **Definition:** An **office of profit** is any position that offers a salary, benefits, or financial gain. This concept prevents legislators (MPs and MLAs) from holding roles that could create conflicts of interest.
- **Exemption from the Law:** No limit exists on the number of offices exempted from disqualification. The **Supreme Court** upheld the **Parliament (Prevention of Disqualification) Amendment Act, 2006**, which exempted 55 offices held by Members of Parliament, ruling it constitutionally valid.
- **Legislative Framework:** The **Parliament (Prevention of Disqualification) Act, 1959** has been amended five times to expand the list of exempted offices.
- **Constitutional References:** The term '**office of profit**' appears in **Articles 102(1)(a)** and **191(1)(a)** of the Constitution but is not defined in the **Indian Constitution** or the **Representation of the People Act, 1951**. These articles bar legislators from holding offices of profit under the **Central or State Government** to prevent financial gain. [UPSC 2019]

System of Elections to Lok Sabha

- **Constituencies:** Each state is divided into **territorial constituencies** for Lok Sabha elections, ensuring uniformity of representation at two levels representation:
 - The ratio between number of seats and population is same for all
 - **Intra-State:** Equal representation among constituencies within the same state.
 - **Reservation:**
 - **Scheduled Castes (SC)** and **Scheduled Tribes (ST)** are allocated reserved seats based on **population ratios**.
 - All voters in a constituency elect reserved seats without a separate electorate.
 - Members of SC and ST can contest **general (non-reserved)** seats.
 - **Seat Allocation:**
 - The **42nd Amendment Act of 1976** froze Lok Sabha seat allocation and territorial constituency division until **2000** at 1971 levels.
 - The **84th Amendment Act of 2001** extended this freeze for another **25 years** (up to **2026**) to promote **population control measures**.
 - **Voting Age:** The **61st Constitutional Amendment Act of 1988** reduced the voting age from **21 to 18 years**.
- 104th CAA, 2019:** Extends **reservation** for **Scheduled Castes (SC)** and **Scheduled Tribes (ST)** in **Lok Sabha** and **legislative bodies** until **January 25, 2030** (Articles 330 and 332).
- Discontinues the nomination of **Anglo-Indians** (Article 331) to Lok Sabha (2 members) and legislative bodies (1 member).

PRESIDING OFFICERS OF THE PARLIAMENT

Each House of Parliament has its own presiding officer. The Lok Sabha has a Speaker and a Deputy Speaker, while the Rajya Sabha has a Chairman and a Deputy Chairman. Additionally, a panel of chairpersons is appointed for the Lok Sabha, and a panel of vice-chairpersons is appointed for the Rajya Sabha.

Historical Background

- **Origins:** The institution dates back to the Government of India Act, 1919.
- **Pre-1921:** Meetings of the Central Legislative Council were presided over by Governor General of India
- **1921:** First Speaker: Frederick Whyte, First Deputy Speaker: Scachidanad Sinha **[UPSC 2024]**
- **1925:** Vithalbhai J. Patel became the first Indian and elected Speaker of the Central Legislative Assembly.
- **1935 Act:** Renamed the President and Deputy President to Speaker and Deputy Speaker respectively.
- **Post-Independence:** First Speaker of Lok Sabha: G.V. Mavalankar, First Deputy Speaker of Lok Sabha: Ananthasayanam Ayyangar.

Speaker Pro-Tem

- The **last Lok Sabha Speaker** vacates their office just before the first meeting of the newly elected Lok Sabha.
- The **Speaker Pro-Tem** is a **temporary office** that helps transition from the old Lok Sabha to the new one, facilitating the election of the new Speaker.
- The **President** appoints the Speaker Pro-Tem, who also administers the **oath** to members; typically, the **senior-most** member is selected.

Feature	Speaker of the Lok Sabha	Chairman of the Rajya Sabha
Position	Elected by the Lok Sabha from among its members	Vice-President of India, ex-officio
Election	Elected whenever the office falls vacant; election date fixed by the President	Not elected; serves as long as Vice-President is in office
Tenure	Remains in office during the life of the Lok Sabha; must vacate if: Ceases to be a member. Resigns to the Deputy Speaker. [UPSC 2012/18]	Does not vacate unless removed as Vice-President (Art. 67)
Removal	Can be removed by a resolution passed by a majority of all the then members of Lok Sabha; requires 14 days' notice and support of at least 50 members [UPSC 2024]	Can only be removed if the Vice-President is removed; may participate in proceedings as a member without voting rights
Voting Rights	Does not vote in the first instance but can exercise a casting vote in case of a tie	Similar to the Speaker; does not vote in the first instance but can cast a vote in case of a tie

Powers and Duties	<ul style="list-style-type: none"> Derives powers from the Constitution, Rules of Procedure, and Parliamentary Conventions Guardian of House privileges Maintains order and decorum Final interpreter of provisions of the Constitution and Rules Adjourns the House or suspends meetings for lack of quorum (one-tenth of total strength) Decides if a bill is a money bill (decision is final) Presides over joint sittings (Art. 108) Allows secret sittings at the request of the Leader of the House Decides disqualifications arising from defection (subject to judicial review) Appoints chairpersons of parliamentary committees and supervises their functions Ex-officio chairman of various committees <p>Exclusive Powers of Rajya Sabha Chairman Similar powers to the Speaker, except:</p> <ul style="list-style-type: none"> Cannot decide if a bill is a money bill (that power lies with the Speaker) Does not preside over joint sittings of Parliament (that is the Speaker's role) Acts as a link between the Rajya Sabha and the President of India 	
Independence & Impartiality	<ul style="list-style-type: none"> Security of tenure, Salaries and allowances fixed by Parliament, charged on the Consolidated Fund of India. Work cannot be discussed or criticised in Lok Sabha except on a substantive motion. Powers of regulating procedure and maintaining order are not subject to court jurisdiction. Can only exercise a casting vote 	<ul style="list-style-type: none"> Salary and allowances fixed by Parliament, charged on the Consolidated Fund of India Cannot preside over Rajya Sabha when a removal resolution is under consideration; acts as a normal member without voting rights. Must ensure the smooth functioning of the Rajya Sabha
Ranking	Placed at the seventh rank, along with the Chief Justice of India	Not ranked separately; holds position as Vice-President of India
Party Affiliation	Expected to be impartial but not strictly enforced in practice	Expected to be a non-party individual, following British conventions
Quorum for Joint Sitting	Presides over joint sittings of both Houses; requires a quorum of both Houses	Does not preside over joint sittings; Speaker conducts these sessions
Role in Legislative Process	Plays a crucial role in the legislative process of the Lok Sabha, including managing debates	Plays a supportive role in the legislative process, primarily overseeing the Rajya Sabha

DEPUTY SPEAKER OF LOK SABHA AND DEPUTY CHAIRMAN OF RAJYA SABHA

Criteria	Deputy Speaker of Lok Sabha (Art. 93)	Deputy Chairman of Rajya Sabha
Election	Elected after the election of the Speaker; date fixed by the Speaker. [UPSC 2022]	Elected by the Rajya Sabha from among its members; vacancy filled similarly.
Affiliation	Since the 11th Lok Sabha: consensus that the Speaker belongs to ruling party or alliance and Deputy Speaker main opposition party. [UPSC 2022, 2017]	Elected from among Rajya Sabha members; no specific affiliation.
Vacancy Procedure	Lok Sabha elects another member to fill the Deputy Speaker vacancy.	Rajya Sabha elects another member to fill the Deputy Chairman vacancy.
Presiding Duties	Presides over joint sittings (Art. 108) in the Speaker's absence.	Performs duties of the Chairman when the office is vacant or when the Vice-President acts as President.
Committee Membership	Automatically becomes chairman of a parliamentary committee if a member.	No automatic chairmanship upon membership in a committee.

Resignation Submission	Resignation submitted to the Speaker of Lok Sabha.	Resignation submitted to the Chairman (Vice-President) of Rajya Sabha.
Voting Rights (while presiding)	Cannot vote in the first instance, only has a casting vote.	Same as Deputy Speaker; cannot vote in the first instance, only has a casting vote.
Salary and Allowance	Fixed by Parliament; charged on the Consolidated Fund of India.	Fixed by Parliament; charged on the Consolidated Fund of India.
Removal Procedure	Similar to Speaker's removal (Art. 94); cannot preside during removal consideration.	Removal as per Article 90; cannot preside during removal consideration.
Panel of Chairpersons/ Vice-Chairpersons	Nominated by Speaker from among LS members; presides in absence of Speaker and Deputy Speaker.	Nominated by Chairperson from among RS members; presides in absence of Chairman and Deputy Chairman.
Presiding in Vacant Seats	If both Speaker and Deputy Speaker are vacant, a member appointed by President presides.	If both Chairman & Deputy Chairman seats are vacant, the President appoints a member from the House.

Indian Speaker	British Speaker
<ul style="list-style-type: none"> • Elected from among the members of the Lok Sabha after a new assembly is formed. • Expected to be impartial, but retains membership in their political party. • Continues in office even if the Lok Sabha is dissolved until a new Lok Sabha is formed. • Has extensive powers to conduct the business of the House, including disciplinary actions. • Can return to active party politics after their tenure as Speaker. 	<ul style="list-style-type: none"> • Elected from among the members of the House of Commons, often unopposed in subsequent elections. • Required to be completely impartial and resign from their political party upon election. • Remains in office regardless of changes in government or general elections, until resignation or retirement. • Holds significant authority over the conduct of business in the House and maintains order. • Traditionally steps down from the House of Commons and is often elevated to the House of Lords. The constituency of the Speaker is also kept uncontested as a form of convention by parties.

SECRETARIAT OF PARLIAMENT ARTICLE 98

- **Separate Staff:** Each House has its own secretarial staff, with some common posts.
- **Regulated Recruitment:** Staff recruitment and service conditions are determined by Parliament.
- **Headed by Secretary-General:** Each House is led by a **Secretary-General**, a permanent officer appointed by the Presiding officer.

- Holds a status equivalent to a **cabinet minister**, receiving similar salary and benefits.
- Ivor Jennings referred to this position as “**Alternative Prime Minister**”; similar to the **minority leader** in the USA.

Whip

- **Definition:** Not explicitly mentioned in the Constitution; based on parliamentary conventions.
- **Roles:**
 - Each political party has a **Chief Whip** and whips to ensure attendance and party alignment during votes.
 - Members must adhere to the whip's directives, with potential disciplinary actions for non-compliance.
 - In **Lok Sabha**, the Chief Whip is the **Minister of Parliamentary Affairs**; in **Rajya Sabha**, it is the **Minister of State for Parliamentary Affairs**.
- **Types of Whips:**
 - **One-Line Whip:** Notifies members of a vote without instructions on how to vote.
 - **Two-Line Whip:** Directs members to attend voting, without specific voting instructions.
 - **Three-Line Whip:** Instructs members to vote according to the party line.

LEADERS IN PARLIAMENT

- **Leader of the House:**
 - In **Lok Sabha**: Typically the **Prime Minister** or a nominated minister.
 - In **Rajya Sabha**: A minister nominated by the Prime Minister; may have a deputy leader.
 - Comparable to the **majority leader** in the USA.
- **Leader of the Opposition:**
 - Recognized since **1969**; statutory acknowledgment in **1977**. [UPSC 2018]
 - In order to receive the status of opposition party and Consequent Leader of Opposition Tag a party should secure 10% of the total strength of the House i.e., 55 seats in the Lok Sabha

Recognized Parties and Groups

- A **recognized party** requires **55 members** in the Lok Sabha or **25 members** in the Rajya Sabha.
- A **recognized group** requires **30 members** in the Lok Sabha or **15 members** in the Rajya Sabha.
- Each party's Chief Whip provides voting instructions during parliamentary votes.

IMPORTANT CONCEPTS RELATED TO PARLIAMENT

Summoning (Article 85)

- The **President** summons each House of Parliament periodically or at a suitable location.
- Each House must meet at least **twice a year**. The gap between two sessions must not exceed 6 months. There is no provision of the minimum number of days that the Parliament is required to meet in a year. [UPSC 2020]

Sessions

- A **session** is the period between the first sitting and prorogation (or dissolution for Lok Sabha).
- Typically, there are **three sessions** annually:
 - **Budget Session:** February to May
 - **Monsoon Session:** July to September
 - **Winter Session:** November to December [UPSC 2020]

Recess and Adjournment

- **Recess:** Duration between prorogation and reassembly.
- **Adjournment:** The Presiding Officer can terminate a sitting temporarily, which can be for hours, days, or weeks. Pending business is resumed when the House reconvenes.
 - A sitting consists of two meetings: morning (11 am to 1 pm) and post-lunch (2 to 6 pm).

Adjournment Sine Die

- Means indefinite termination of a sitting by the Presiding Officer.
- Pending bills and business remain unaffected.

Prorogation

- **Prorogation** is notified by the President and can also occur while the House is in session.
- It terminates both the sitting and session but does not affect pending business except for notices (other than introducing bills) which lapse. [UPSC 2024]

Dissolution

- Only the Lok Sabha can be dissolved, ending its current life irrevocably.
- Dissolution may occur:
 - Automatically at the end of its tenure.
 - By the President's decision.

- All pending business lapses upon dissolution, except some bills and pending assurances for the Committee on Government Assurances. [UPSC 2024]

Lame Duck Session

- The last session of the outgoing Lok Sabha after a new Lok Sabha has been elected. Members who are not re-elected are termed **lame ducks**.

Quorum

- Minimum members required: **one-tenth** of total members (including the Presiding Officer).
- In the absence of a quorum, the Presiding Officer must adjourn or suspend the meeting.

Language in Parliament

- **Hindi and English** are designated for Parliamentary business. Members may use their mother tongue with the Presiding Officer's permission.
- The **Official Languages Act (1963)** allows English to continue alongside Hindi post-15 years from the Constitution's commencement.

Rights of Ministers and Attorney General

- Every **minister** and the **Attorney General** can speak and participate in both Houses and committees without a vote.

Voting in the House

- Decisions are made by a **majority** of members present and voting, excluding the Presiding Officer.
- Specific matters, like **impeachment** and constitutional amendments, require an effective majority or **special majority**.
- Proceedings are valid despite unauthorised voting or vacancies.

Methods of Voting

- Includes **Voice Vote, Secret Ballot, Recording of Votes by Slips, Physical Count, and Casting Vote**.

Position of Bills Regarding Lapsing

- **Bill Lapses:** [UPSC 2016]
 - If pending in Lok Sabha.
 - If pending in Rajya Sabha but passed by Lok Sabha.
- **Bill Does Not Lapse:**
 - If passed by both Houses but returned by the President.
 - If pending in Rajya Sabha and not passed by Lok Sabha. [UPSC 2016]
 - If a joint sitting is notified before Lok Sabha dissolution.
 - If passed by both Houses but awaiting the President's assent.

DEVICES OF PARLIAMENTARY PROCEEDINGS

Question Hour

The **first hour** of parliamentary sitting was dedicated to members asking questions, with ministers providing answers. Established by the **Indian Council Act of 1892**.

- **Types of Questions:**
 - **Starred Question:** Requires an **oral answer**; supplementary questions allowed.
 - **Unstarred Question:** Requires a **written answer**; no supplementary questions allowed.
 - **Short Notice Question:** Answered orally on **less than 10 days** notice.
- **Question types are colour-coded:**
 - **Starred:** Green
 - **Unstarred:** White
 - **Short Notice:** Light Pink
 - **Private Members:** Yellow

Zero Hour

An **informal device** for members to raise urgent public issues immediately after Question Hour until the day's agenda starts. Introduced in **1962**. Not mentioned in Rules of Procedure.

Motions

Discussions on public matters require a **motion** with the Presiding Officer's consent.

- **Categories of Motions:**
 - **Substantive Motion:** Independent proposal on significant matters.
 - **Substitute Motion:** Proposes an alternative to replace the original motion.
 - **Subsidiary Motion:** Lacks meaning alone and relates to the original motion; includes:
 - ◆ **Ancillary Motion:** Regularly used to proceed with business.
 - ◆ **Superseding Motion:** Seeks to replace another issue during a debate.
 - ◆ **Amendment:** Modifies part of the original motion.

Closure Motion

- A member moves this to **cut short** the debate. If approved, the matter is put to a vote.
- **Types of Closure Motions:**
 - **Simple Closure:** Enough discussion has occurred; put to vote.
 - **Closure by Compartments:** Groups clauses for debate and voting.
 - **Kangaroo Closure:** Important clauses debated; others skipped.
 - **Guillotine Closure:** Undiscussed clauses voted along with discussed ones due to time constraints.

Privilege Motion

- Raised when a member believes a minister has breached the **privileges** of the House by withholding or distorting facts, aimed at censuring the minister.

Calling Attention Motion

- Moved to alert a minister about urgent public matters; an **Indian innovation** since **1954**.

Adjournment Motion

- Draws attention to urgent public matters, interrupting normal House business. Not allowed in **Rajya Sabha** as it involves censure.
- It allows a discussion on a definite matter of urgent public importance. **[UPSC 2012]**
- Discussion lasts for at least **2 hours and 30 minutes**.
- **Criteria:**
 - Covers only one recent matter.
 - Cannot be general or previously discussed.
 - Cannot address court-adjudicated matters.
 - Requires support from **50 members**.

Confidence Motion

- A procedural tool for addressing **fractured mandates** and government stability.
- The **President** may request a demonstration of majority in the House, or governments may voluntarily propose it.
- If a confidence motion fails, it results in the **collapse** of the government.

No-Confidence Motion

- **Article 75:** Establishes that the Council of Ministers (CoM) is **collectively responsible** to the Lok Sabha, a principle central to Parliamentary democracy. **[UPSC 2014]**
- Not explicitly mentioned in the Constitution; moved under **Rule 198** of the Rules of Procedure.
- Can only be introduced in the **Lok Sabha** and requires support from **50 members** without needing to state reasons for its adoption.
- Targets the **entire** Council of Ministers, not individual ministers. If passed, the CoM must **resign**.

Censure Motion

- Moved to express **disapproval** of certain government policies.
- Requires reasons for adoption.
- Can be directed against an **individual minister**, a group of ministers, or the entire CoM.
- If passed in the Lok Sabha, the CoM does **not** need to resign.

Motion of Thanks

- Addressed by the **President** during the first session after each general election and every fiscal year, outlining government policies.
- Discussed in both Houses of Parliament and must be passed; failure to pass amounts to a **defeat** of the government.

No-Day-Yet-Named Motion

- A motion that has been **admitted** by the Speaker but lacks a scheduled date for discussion.



Dilatory Motion

- A motion seeking the **adjournment** of debate on a bill/motion/resolution.
- Can be moved anytime after a motion is made, but debate is restricted to the motion's content.
- If deemed an **abuse of rules**, the Speaker may decline or proceed with a vote.

Point of Order

- Raised when parliamentary proceedings deviate from normal rules, typically by the **Opposition**.
- Concerns interpretation/enforcement of the **Rules of the House** or relevant Constitutional articles.
- An extraordinary device that **suspends** proceedings; debate is not allowed.

Half-an-Hour Discussion

- Intended for discussing matters of **public importance**.
- The Speaker can allocate **three days a week** for such discussions.
- No formal motion or voting occurs.

Short Duration Discussion

- Also known as a **two-hour discussion**; time limit is **two hours**.
- Speakers can allocate **two days a week** for such discussions; no formal motion or voting required. Established in 1953.

Special Mention

- Used to raise matters that do not fit other parliamentary categories.
- In the **Rajya Sabha**, this falls under special mention; in the **Lok Sabha**, it is termed "Notice (Mention) Under Rule 377".

Resolutions

- A **self-contained independent proposal** for House approval, expressing decisions on public interest matters.
- Members moving resolutions cannot withdraw without House **permission**.
- All resolutions are substantive motions, while not all motions require a vote.

Types of Resolutions

- **Private Member's Resolution:** Moved by private members, discussed on alternate Fridays during afternoon sittings.
- **Government Resolution:** Moved by a minister.
- **Statutory Resolution:** Can be moved by either a private member or a minister; arises from provisions in the Constitution or an Act of Parliament.

Youth Parliament

- Initiated based on recommendations from the **Fourth All India Whips Conference** to educate younger generations about parliamentary practices and democratic values.
- The Ministry of Parliamentary Affairs supports training and implementation in states.

LEGISLATIVE PROCEDURE IN PARLIAMENT

- The legislative procedure is **identical** in both Houses of Parliament.
- Every **bill** must pass through the same stages in each House.
- A bill is a proposal for legislation that becomes an **act** or **law** upon enactment.

TYPES OF BILLS

Based on Introduction

1. Public Bill

- Introduced in Parliament by a **minister**.
- Reflects the **policies of the government** (ruling party).
- Greater chance of approval; rejection indicates a lack of **parliamentary confidence** in the government, potentially leading to its resignation.
- Requires **seven days' notice** for introduction.

2. Private Bill

- Introduced by any **member of Parliament** other than a minister. [UPSC 2017]
- Lesser chance of approval; rejection does not affect the government's confidence or lead to its resignation.
- Requires **one month's notice** for introduction.

Based on Procedure Required for Passage

1. **Ordinary Bill:** Deals with any matter other than **financial subjects**.
2. **Money Bill (Article 110):** Concerns **financial matters** such as taxation and public expenditure. Special procedures for passage, including limitations on the Rajya Sabha's power to amend or reject.
3. **Financial Bill (Article 117):** Related to financial matters but distinct from Money Bills. All Money Bills are Financial Bills, but not all Financial Bills qualify as Money Bills. [UPSC 2023]
4. **Constitutional Amendment Bill:** Pertains to amendments of provisions in the **Constitution** (Article 368). There is **no provision** for a joint sitting in the case of a Constitutional Amendment.

Ordinary Bill

- **Introduction:** Can be introduced in either the **Lok Sabha** or the **Rajya Sabha** by a minister or a private member, without the President's recommendation.
- **Rajya Sabha Actions:** Can amend or reject the bill. It can be detained for a maximum of **six months**. The bill does not require the Speaker's certification when transmitted to the Rajya Sabha (if it originated in the Lok Sabha).
- **Deadlock Resolution:** In case of disagreement, a joint sitting can be summoned by the President. Defeat in Lok Sabha (if introduced by a minister) may lead to government resignation. The bill can be rejected, approved, or returned by the President.

Stages of Enactment of an Ordinary Bill

1. First Reading

- Introduction of the bill and its publication in the **Gazette**.
- No discussion occurs; members must ask for leave of the House for introduction.
- If published before introduction, leave is not required.

2. Second Reading

- Involves general and detailed scrutiny, shaping the final form of the bill.
- **Sub-Stages:**
 - ◆ **Stage of General Discussion:** General principles discussed; may be referred to a committee or elicited for public opinion.
 - ◆ **Committee Stage:** Clause-by-clause examination; amendments can be made without altering core principles. The committee reports back to the House.
 - ◆ **Consideration Stage:** Detailed discussion and voting on each clause. Amendments can be proposed and accepted.

3. Third Reading

- Debate focuses on acceptance or rejection of the entire bill; no amendments allowed.
- If passed by a majority of members present, it is authenticated by the presiding officer and sent to the second House.

Bill in the Second House

- The bill goes through the same three stages: first reading, second reading, and third reading.
- Four options for the second House:
 - Pass the bill as received (without amendments).
 - Pass the bill with amendments and return it to the first House.
 - Reject the bill.
 - Take no action, keeping the bill pending. [UPSC 2015, 2024]
- If passed without amendments or accepted amendments are approved by both Houses, it is sent to the President.
- If there is rejection, or no action taken for six months, a deadlock occurs.
- The President can summon a joint sitting to resolve the deadlock. If approved by majority in the joint sitting, it is deemed passed by both Houses.

Assent of President

- If the President gives assent, the bill becomes an **act** and is placed on the **Statute Book**.
- If the President withholds assent, the bill ends. If returned for reconsideration and passed again by both Houses, the President must give assent.

MONEY BILLS

A bill is classified as a **Money Bill** if it includes provisions exclusively related to the following matters:

- **Taxation:** Imposition, abolition, remission, alteration, or regulation of any tax.
- **Borrowing:** Regulation of borrowing by the Union government.
- **Funds Management:**
 - Custody of the **Consolidated Fund of India** or the **Contingency Fund of India**.
 - Payment into or withdrawal from these funds.
 - Appropriation of money from the Consolidated Fund.
- **Expenditure:** Declaration of any expenditure charged on the Consolidated Fund or increasing such expenditure.
- **Receipts:** Receipt of money related to the Consolidated Fund or public accounts, custody or issue of such money, or audit of accounts.
- **Incidental Matters:** Any matter incidental to the above points. [UPSC 2018, 2019, 2024]

Note: A bill is not considered a Money Bill merely because it includes provisions related to fines, fees for licences, or local taxes imposed by local authorities.

Legislative Procedure for Money Bill

- **Introduction:**
 - Can only be introduced in the **Lok Sabha**, not in the **Rajya Sabha**.
 - Must be introduced by a **minister** and is considered a **government bill**.
 - Requires the recommendation of the **President** for introduction.
- **Rajya Sabha Actions:**
 - The **Rajya Sabha** cannot amend or reject a Money Bill. [UPSC 2013]
 - It must return the bill with or without recommendations, which the **Lok Sabha** may choose to accept or reject. [UPSC 2013]
 - The Rajya Sabha can detain the bill for a maximum of **14 days**.
 - The bill requires the **Speaker's certification** when sent to the Rajya Sabha.
- **President's Assent:**
 - The bill is sent for the President's assent even if approved only by the Lok Sabha.
 - There is no provision for a joint sitting between the two Houses concerning Money Bills, eliminating the possibility of disagreement. [UPSC 2013]

- **Government Accountability:**
 - Defeat of a Money Bill in the Lok Sabha results in the resignation of the government.
 - The President cannot return the Money Bill for reconsideration; it can only be rejected or approved.

Difference Between Financial Bill (I) and Financial Bill (II)

Financial Bill (I) [Article 117 (1)]	Financial Bill (II) [Article 117 (3)]
<ul style="list-style-type: none"> • Bill that not only contains exclusive matters of Article 110, but also contains other matters of general legislation. • Can be introduced only in the Lok Sabha. • Introduced only on the recommendation of the President. 	<ul style="list-style-type: none"> • Bill contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110. • Can be introduced in both Houses of Parliament. • Recommendation of the President is not necessary for its introduction but is required at the consideration stage.

JOINT SITTING (ARTICLE 108)

A **joint sitting** is a constitutional mechanism to resolve deadlocks between the two Houses of Parliament regarding the passage of a bill.

Conditions for Joint Sitting: A deadlock is considered to occur under any of the following conditions after a bill has been passed by one House and sent to the other:

1. The bill is rejected by the other House.
2. The Houses have disagreed on the amendments to be made to the bill.
3. More than **six months** have passed since the bill was received by the other House without it being passed.

Summoning a Joint Sitting

- The **President** has the authority to summon both Houses to a joint sitting for deliberation and voting on the bill.
- If a bill is approved by a majority of the total number of members present and voting in the joint sitting, it is deemed passed by both Houses.

Presiding Over a Joint Sitting

- The **Speaker of the Lok Sabha** presides over the joint sitting.
- In the absence of the Speaker, the **Deputy Speaker** presides; if both are absent, the **Deputy Chairman of the Rajya Sabha** takes over. If he/she is also absent, a member chosen by those present will preside.

- The **Chairman of the Rajya Sabha** does not preside as he is not a member of either House.

Quorum and Procedure: The quorum for a joint sitting is **one-tenth** of the total members of both Houses and is governed by the **Rules of Procedure of the Lok Sabha**.

- A joint sitting cannot be summoned if the disputed bill has lapsed due to the dissolution of the Lok Sabha. However, if the Lok Sabha is dissolved after the President notifies the intention to summon a sitting, the joint sitting can still occur.

Historical Instances: The provision for a joint sitting has been invoked only thrice:

- **Dowry Prohibition Bill (1960)**
- **Banking Service Commission (Repeal) Bill (1977)**
- **Prevention of Terrorism Bill (2002)**

Applicability

- The joint sitting is applicable to **ordinary bills** and **financial bills**, but not to **money bills** or **constitutional amendment bills**. [UPSC 2012]
- The bill can be passed by a simple majority of members present and voting. [UPSC 2015]

Amendment Provisions: At a joint sitting, new amendments can only be proposed in two scenarios:

- Those that caused final disagreement between the Houses.
- Those that have become necessary due to delays in the bill's passage.

BUDGET (ARTICLE- 112)

The Constitution refers to the budget as the “**Annual Financial Statement**.” The term “budget” is not explicitly mentioned in the Constitution. It outlines the estimated receipts and expenditures of the Government of India (GoI) for a financial year.

Components of the Budget

The Budget Includes

1. Estimates of **revenue** and **capital receipts**.
2. **Ways and means** to raise revenue.
3. Estimates of **expenditure**.
4. Details of **actual receipts** and **expenditure** from the closing financial year.
5. The **economic and financial policy** for the coming year.

Fiscal Responsibility and Budget Management (FRBM) Act, 2003: The FRBM Act, 2003 mandates the presentation of the **Macro-Economic Framework Statement** to Parliament. This statement assesses **GDP growth**, the **Central Government's fiscal balance**, and the **external sector balance** of the economy. [UPSC 2020]

Historical Context

- Until 2017, the Government of India had two separate budgets: the **Railway Budget** and the **General Budget**.

- The Railway Budget was separated from the General Budget in 1924 following the recommendations of the **Acworth Committee Report (1921)**.

Constitutional Provisions for Budget Enactment

The Constitution includes the following key provisions regarding the budget:

- **Presidential Presentation:** The President presents the estimated receipts and expenditures for the year to both Houses of Parliament (Article 112). [UPSC 2024]
- **Grant Recommendations:** No demand for a grant can be made except on the recommendation of the President (Article 113).
- **Withdrawal from the Consolidated Fund:** No money can be withdrawn from the **Consolidated Fund of India (CFI)** except under law (Article 114).
- **Tax Bills:** No money bill imposing tax can be introduced in Parliament without the President's recommendation, and such a bill cannot be introduced in the Rajya Sabha (Article 117).
- **Authority of Law:** No tax shall be levied or collected except by authority of law (Article 265).
- **Tax Reduction:** Parliament can reduce or abolish a tax but cannot increase it.
- **Demand for Grants:** The Rajya Sabha does not have the power to vote on demands for grants; this is the exclusive privilege of the Lok Sabha (Article 113).
- **Charged Expenditure:** Expenditure charged on the CFI is non-votable but can be discussed in Parliament. This includes:
 - Salaries and allowances of the President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha, and Judges of the Supreme Court, pensions of High Court Judges.
 - Administrative expenses of the **Supreme Court**, the office of the **Comptroller and Auditor General (CAG)**, and **Union Public Service Commission (UPSC)**.
 - Any sum required to satisfy court judgments, decrees, or awards.
 - Debt charges for which the Government of India is liable.
 - Any other expenditure declared by Parliament to be charged.
- **Lok Sabha Approval:** The Lok Sabha can approve, refuse, or reduce the amount specified in a demand but cannot increase it (Article 113).
- **Amendments to Appropriation Bills:** No amendment can be proposed that varies the amount or alters the destination of any grant voted (Article 114).
- **Vote on Account:** The Lok Sabha can make grants in advance regarding estimated expenditure for part of the financial year, pending the voting of demands for grants and the enactment of the appropriation bill (Article 116).
- **Note:** When the annual Union Budget is not passed by the Lok Sabha, the PM & COM resign. [UPSC 2011]

Stages in the Enactment of Budget



Presentation of the Budget

- The budget is traditionally presented to the **Lok Sabha** by the Finance Minister on the last working day of February. Since 2017, this has been advanced to **February 1**.
- The budget can be presented in two or more parts, each treated as the entire budget.
- There is no discussion on the budget on the day it is presented.

General Discussion

- A general discussion on the budget starts a few days after its presentation and usually lasts for **three to four days** in both Houses of Parliament.
- During this stage, the **Lok Sabha** can discuss the budget as a whole or on any underlying principles, but no cut motions can be moved, and the budget cannot be voted on.
- The Finance Minister has a right to reply at the end of the discussion.

Scrutiny by Departmental Committees

- After the general discussion, both Houses adjourn for about **three to four weeks**.
- The **24 departmental standing committees** examine and discuss the demands for grants in detail and prepare reports.
- These reports are submitted to both Houses for consideration, enhancing parliamentary financial control over ministries.

Voting on Demands for Grants

- Based on the reports of the departmental standing committees, the **Lok Sabha** votes on the demands for grants, presented ministry-wise.
- A demand becomes a grant after being duly voted.
- The Lok Sabha exclusively votes on demands, and the expenditure charged on the **Consolidated Fund of India** is not submitted for a vote.

- Each demand is voted on separately, and members can discuss the budget's details and propose cut motions, which are classified as:

- Policy Cut:** Disapproval of the policy underlying the demand, reducing the amount to ₹1.
- Economy Cut:** Reduction of the demand by a specified amount.
- Token Cut:** Ventilation of a specific grievance, reducing the demand by ₹100.

Conditions for Admissibility of Cut Motions

To be admissible, a cut motion must:

- Pertaining to a single demand.
- Clearly expressed, free from arguments or defamatory statements.
- Focus on one specific matter.
- Not suggest amendments or repeal existing laws.
- Address matters concerning the Union government.
- Not related to expenditure charged on the Consolidated Fund.

- Not concern matters under court adjudication.
- Not raise a question of privilege.

Passing of Appropriation Bill

- The Constitution mandates that no money shall be withdrawn from the **Consolidated Fund of India** except under appropriation made by law.
- After the demands for grants are voted on and passed by the Lok Sabha, an **Appropriation Bill** is introduced to authorise withdrawals from the Consolidated Fund.
- The Appropriation Bill becomes the **Appropriation Act** after receiving Presidential assent, allowing payments from the Consolidated Fund.

Vote on Account

- To address functional difficulties in passing the Appropriation Bill, the Constitution allows the Lok Sabha to make advance grants for estimated expenditure for part of the financial year.
- This provision, known as the '**Vote on Account**,' is generally granted for two months for an amount equivalent to one-sixth of the total estimates, passed after the general discussion.

Comparison between Interim Budget and the Vote on Account

Interim Budget	Vote on Account
<ul style="list-style-type: none"> An interim budget is presented by the government in the Parliament if it does not have the time to present a full budget, or if the general elections are approaching. It will require parliamentary approval for incurring expenditure in the new financial year until a new budget is passed. Until the Parliament discusses the budget and passes it through the interim budget, the government passes a vote-on-account which will allow the government to meet its expenses of administration. "Interim budget" includes both expenditure and receipts. 	<ul style="list-style-type: none"> Vote-on-Account is a provision by which the government seeks Parliament's approval for funds that are sufficient to bear the expenditure till the formation of a new government takes place. A vote-on-account lists only the expenditure borne by the government. It can be passed by the Lok Sabha without discussion. Vote on Account cannot change the Direct Taxes at any cost. The vote-on-account can be passed through the interim budget. A "vote-on-account" only deals with the expenditure in the Government's budget. [UPSC 2011]

- Passing of Finance Bill:** The 'Finance Bill' is introduced annually to implement the financial proposals of the Government of India for the next fiscal year, including supplementary proposals for any period.
 - It is treated as a Money Bill and can be subject to amendments related to taxes. During the discussion stage, members can address issues concerning general administration, local grievances, or monetary policies.
 - The Provisional Collection of Taxes Act 1931 mandates the Finance Bill's enactment within **75 days**.
 - The Finance Act finalises the budget process by legalising the income side of the budget.

Comparison Between Different Types of Funds

Consolidated Fund of India Article 266	Public Account of India Article 266	Contingency Fund of India Article 267
<ul style="list-style-type: none"> All receipts are credited and all payments are debited. 	<ul style="list-style-type: none"> All public money other than those which are credited to the CFI shall be credited here. 	<ul style="list-style-type: none"> Amounts determined by Parliament by law are paid from time to time into this fund.

<ul style="list-style-type: none"> All legally authorised payments on behalf of the GoI are made out of this fund. No money out of this fund can be issued except in accordance with a parliamentary law. [UPSC 2015] 	<ul style="list-style-type: none"> Includes PF deposits, Judicial deposits, Savings Banks deposits, Departmental deposits, Remittances and so on. Operated by executive action 	<ul style="list-style-type: none"> Placed at the disposal of the President, and he can make advances out of it to meet unforeseen expenditure. Held by the finance secretary on behalf of the president. It is operated by executive action.
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Note: The authorization for the withdrawal of funds from the Consolidated Fund of India must come from **The Parliament of India**. All revenues received by the Union Government by way of taxes and other receipts for the conduct of Government business are credited to the Consolidated Fund of India.

[UPSC 2011]

Parliamentary control over public finance in India by placing Annual Financial Statement before the Parliament, withdrawal of money from Consolidated Fund of India only after passing the Appropriation Bill, Provisions of supplementary grants and vote-on accounts & Introducing the Finance Bill in the Parliament.

[UPSC 2012]

VARIOUS KINDS OF GRANTS

- Supplementary Grant (Article 115):** Issued when Budgeted funds are insufficient for a particular service for the year.

- Additional Grant (Article 115):** Allocated for new services, unforeseen at the budget's formulation.
- Excess Grant (Article 115):** Provided when spending exceeds the budgeted amount, it requires Lok Sabha vote post-financial year and approval by the Public Accounts Committee.
- Vote of Credit (Article 116):** For unexpected demands, akin to a blank cheque from Lok Sabha to the Executive, due to the service's large scale or indefinite nature.
- Exceptional Grant (Article 116):** Given for special purposes outside of the regular services of the financial year.
- Token Grant:** Approved when the expense on a new service is met through reappropriation; entails voting for a token sum (Rs 1) to reallocate funds, without additional spending.

Supplementary, additional, excess and exceptional grants and vote of credit are regulated by the same procedure which is applicable in the case of a regular budget.

POSITION OF RAJYA SABHA WITH RESPECT TO LOK SABHA

Equal Status With Lok Sabha	Unequal Status With Lok Sabha	Special Powers to Rajya Sabha
<ul style="list-style-type: none"> Ordinary bills. Constitutional amendment bills. [UPSC 2020, 2013] Financial bills involving expenditure from the Consolidated Fund of India. Election and Impeachment of the President. Recommendation to the President for the removal of Chief Justice and judges of Supreme Court and High courts, CEC and CAG. Election and removal of the Vice President (RS can alone initiate removal). Approval of ordinance issued by president Approval for proclamation of emergencies. Selection of ministers including the Prime Minister. Consideration of the reports of the constitutional bodies. Enlargement of the jurisdiction of the Supreme Court and the UPSC. 	<ul style="list-style-type: none"> Money bills can be introduced only in LS. RS has no power to amend/reject the Money Bill. [UPSC 2015] Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses. Final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha. Financial Bill-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 can only be initiated in LS. [UPSC 2022, 2014] 	<ul style="list-style-type: none"> Article- 249: RS can authorise parliament to make law on state list subjects by a majority of not less than two-thirds of its members present and voting [UPSC 2016] Article- 312: RS can authorise parliament to create All India Services common to both centre and State. [UPSC 2012] Article 67: RS alone can initiate a move for the removal of the Vice-President. Articles 352, 356 and 360: proclamation issued by the President for imposing emergency at a time when the Lok Sabha has been dissolved or the dissolution of the Lok Sabha takes place within the period allowed for its approval, then the proclamation can remain effective even if it is approved by the Rajya Sabha alone.

PARLIAMENTARY PRIVILEGES

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

Sources of Privileges

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

Collective Privileges	Individual Privileges
<ul style="list-style-type: none"> • Right to publish its reports, debates and proceedings; right to prohibit others from publishing the same. • Hold secret sittings excluding strangers from its proceedings. • Make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters. • Punish members as well as outsiders for breach of its privileges or its contempt. • Right to receive immediate information: of the arrest, detention, conviction, imprisonment and release of a member. • Inquiries and orders the attendance of witnesses and sends for relevant papers and records. • Courts are prohibited to inquire into the proceedings of a House or its committees. • No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the presiding officer. 	<ul style="list-style-type: none"> • Cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session (applicable only in civil cases and not in criminal cases or preventive detention cases). • Freedom of Speech: No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees. • Exempted from Jury Service: He/She can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.

Breach of Privileges

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

Sovereignty of Parliament

- **Sovereignty:** supreme power within the State; **no 'legal' restrictions** on its authority and jurisdiction.
- The doctrine of '**sovereignty of Parliament**' is **associated with the British Parliament** means supreme power in Great Britain lies with the Parliament.
- **Indian Parliament** cannot be regarded as a sovereign body in the similar sense as **there are 'legal' restrictions** on its authority and jurisdiction. [UPSC 2021]

Factors that Limit the Sovereignty of Indian Parliament are

- Written Nature of the Constitution;
- Federal System of Government;
- System of Judicial Review;
- Fundamental Rights.

In this regard, the **Indian Parliament is similar to the American Legislature** (known as Congress). The sovereignty of Congress is legally restricted by the written character of the Constitution, the federal system of government, the system of judicial review and the Bill of Rights.

PARLIAMENTARY AND CABINET COMMITTEES

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

Parliamentary Committee

- Appointed or elected by the house or nominated by Speaker or chairman.
- Works under direction of the speaker/chairman.
- Presents its report to the house or to the speaker/chairman.
- Has a secretariat provided by Lok Sabha/Rajya Sabha.
- The **consultative committees**, which also consist of members of Parliament, are **not parliamentary** committees as they do not fulfil above four conditions.

Classification: Parliamentary committees are of two kinds:-

- **Standing Committees:** Permanent (constituted every year or periodically), work on a continuous basis
- **Ad Hoc Committees:** Temporary and cease to exist on completion of the task assigned to them. These are of two types: Inquiry Committees and Advisory Committees.

Important Parliamentary Committees

- **Estimates Committee:** The origin can be traced to the standing financial committee set up in 1921. The First Estimates Committee in the post-independence era was set up in **1950** on the recommendation of **John Mathai**.
 - **Composition:** **30** members all from LS (**largest committee**). [UPSC 2014]
 - These members are elected every year from amongst its own members, according to the principles of proportional representation by means of a single transferable vote. The Minister cannot be a member.
 - **Function:** To examine the budget and also suggest economies of public expenditure. Suggest alternative policy to ensure economies of public expenditure
- **Public Accounts Committee:** Set up **first in 1921** under GOI Act 1919.
 - **Composition:** **22** = 15(LS) + 7(RS). [UPSC 2013]. Elected for one year on the basis of proportional representation by single transferable vote. **Chairman from Opposition**. The Minister cannot be a member. The chairman of the committee is appointed from amongst its members by the Speaker. Until 1966 - 67, chairman: from the ruling party. Since 1967: invariably from the Opposition.
- **Function:** Examines CAG Audit report and discovers the irregularities. [UPSC 2013]
The committee examines public expenditure not only from legal and formal point of view but also from the point of view of economy, prudence, wisdom and propriety. [UPSC 2013]. **CAG - friend, philosopher, and guide for PAC.**
- **Public Undertakings: Krishna Menon Committee 1964.**
 - **Composition:** Originally it had 15 member (10 LS + 5 RS). However, in 1974, membership raised to 22 (15 LS+7 RS).
 - The Minister cannot be a member. Chairman of the committee is appointed by the **Speaker** from amongst its members who are drawn from the Lok Sabha only.
 - **Function:** To examine reports and accounts of public sector undertakings. Does not involve in the day to day affairs of PSUs. Recommendations are advisory and not binding on the ministries.
- **Departmental Standing Committee (24 Committees):** On the recommendation of the Rules committees of Lok Sabha (1993). In 2004, seven more such committees were set up, thus increasing their number from 17 to 24.
 - **Composition:** **31** = 21(LS) + 10(RS). Members **nominated** by respective presiding officers.
 - **Term:** each standing committee's term is **one year** from the date of its constitution.
 - Minister is not eligible to be nominated as a member of any of the standing committees
 - **Functions:** To examine bills, demand of grants and other matters recommended to them. Out of the 24 standing committees, **8** work under the **Rajya Sabha** and **16** under the **Lok Sabha**.

Other Committees

Committee	Purpose	Composition
Rules Committee	Considers procedural matters and recommends amendments to House rules.	15 members (Lok Sabha, including Speaker) as ex-officio chairman 16 members (Rajya Sabha, including Chairman)
Business Advisory Committee	Regulates the program and timetable of the House, allocating time for legislative business.	15 members (Lok Sabha, including Speaker) 11 members (Rajya Sabha, including Chairman)
General Purposes Committee	Advice on matters concerning the affairs of the House outside other committees' jurisdiction.	Numbers not given but member given
Private Members' Committee	Addresses issues relevant to private members.	15 members (Lok Sabha, nominated by the Speaker); The Deputy Speaker is the chairperson rajya sabha has no such committee.
Committee on Government Assurance	Examines assurances given by the government to the House.	15 members (Lok Sabha), 10 members (Rajya Sabha), nominated by the Speaker or Chairman.
Committee on Papers Laid on the Table	Reviews papers presented in the House for consideration.	15 members (Lok Sabha), 10 members (Rajya Sabha), nominated by the Speaker or Chairman.
Committee on Subordinate Legislation	Oversees rules and regulations made by authorities under legislative powers. [UPSC 2018]	15 members (Lok Sabha) 15 members (Rajya Sabha), nominated by the Speaker or Chairman.

Committee on Welfare of SC and ST	Focuses on issues affecting Scheduled Castes and Scheduled Tribes.	30 members (20 from Lok Sabha, 10 from Rajya Sabha), nominated by the Speaker or Chairman.
Committee on Empowerment of Women	Addresses issues related to women's empowerment.	30 members (20 from Lok Sabha, 10 from Rajya Sabha), nominated by the Speaker.
Joint Committee on Offices of Profit	Examines the implications of offices of profit.	15 members (10 from Lok Sabha, 5 from Rajya Sabha).
Committee on Petitions	Reviews petitions submitted to the House for consideration.	15 members (Lok Sabha), 10 members (Rajya Sabha), nominated by the Speaker or Chairman.
Committee of Privileges	Addresses matters related to the privileges of House members.	15 members (Lok Sabha), 10 members (Rajya Sabha), nominated by the Speaker or Chairman.
Ethics Committee	Oversees ethical conduct and behaviour among members of the House.	No fixed strength; separate for both Houses, nominated by the Speaker or Chairman.
Library Committee	Oversees the functioning and management of the Parliament Library.	9 members (6 from Lok Sabha, 3 from Rajya Sabha); Chairperson appointed by the Speaker.
Joint Committee on Salaries and Allowances of Members	Reviews and recommends salaries and allowances for members of the House.	15 members (10 from Lok Sabha, 5 from Rajya Sabha).

CABINET COMMITTEES

- **Extra constitutional** in emergence. The executive in India works under the **Government of India Transaction of Business Rules, 1961**. These **Rules emerge from Article 77(3) of the Constitution**, which states: "The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministries of the said business."
- Set up by the **Prime Minister (PM)**; aims to reduce the workload of cabinet; varies membership from 3-8; includes minister in charge; includes senior ministers; and takes decisions which are reviewed by cabinet.
- **Two types: Standing committee** or Permanent committee and **Ad Hoc committee** or temporary, for a special purpose. They are mostly headed by the Prime Minister. Sometimes other senior Cabinet ministers also act as their Chairman. But, in case the Prime Minister is a member of a committee, he/she invariably presides over it.

Important Cabinet Committees

Cabinet Committee	Purpose	Composition
Cabinet Committee on Political Affairs	Addresses policy matters related to foreign and domestic affairs.	Key cabinet ministers, including the Prime Minister. (Super-Cabinet)
Cabinet Committee on Economic Affairs	Directs and coordinates governmental activities in the economic sphere.	Ministers responsible for finance, planning, and economic portfolios.
Appointment Committee of the Cabinet	Decides higher-level appointments in central secretariat, public enterprises, banks, and financial institutions.	Prime Minister and Minister of Home Affairs.
Cabinet Committee on Parliamentary Affairs	Oversees the progress of government business in Parliament.	Ministers from various departments, often led by the Minister of Parliamentary Affairs.
Cabinet Committee on Investment and Growth	Promotes investment and fosters economic growth.	Ministers from finance, commerce, and industry sectors.
Cabinet Committee on Employment and Skill Development	Enhances employment opportunities and promotes skill development initiatives.	Ministers from labor, skill development, and education.
Cabinet Committee on Security	Responsible for national security and defence policy issues.	Prime Minister, Defense Minister, and key security officials.
Cabinet Committee on Accommodation	Manages the allocation and maintenance of government accommodation for officials.	Ministers responsible for housing and urban development.

- **Cabinet Secretariat:** The Cabinet Secretariat functions directly under the **Prime Minister**. The administrative head of the Secretariat is the Cabinet Secretary who is also the **ex-officio Chairman of the Civil Services Board**. [UPSC 2015]
- The business allocated to Cabinet Secretariat under Government of India (Allocation of Business) Rules, 1961 includes (i) Secretarial assistance to the Cabinet and Cabinet Committees; and (ii) Rules of Business. Preparation of agenda for Cabinet Meetings & Secretariat assistance to Cabinet Committees. [UPSC 2014]
- **Report on Reorganisation of the Machinery of Central Government (1950):** N. Gopalaswamy Ayyangar recommended grouping ministries and enhancing personnel capabilities in the **O&M Division** but did not propose a minister or secretary for administrative reform. [UPSC 2021]
- **Administrative Reforms Commission (ARC):** The 1st ARC recommended designating a minister and secretary specifically for promoting administrative reform. [UPSC 2021]
- **Establishment of the Department of Personnel:** In 1970, the **Department of Personnel** was established based on ARC recommendations under the **Cabinet Secretariat**. In 1985, it came under the Prime Minister's charge, assisted by a **Minister of State**. [UPSC 2021]

106TH CONSTITUTIONAL AMENDMENT ACT, 2023

Objective

The Nari Shakti Vandan Adhiniyam Act reserves one-third of seats for women in the Lok Sabha, State Assemblies, and the Legislative Assembly of the NCT of Delhi, effective after the next delimitation exercise.

Key Provisions

1. Amended Articles

- **Article 239AA:** Reserves one-third of seats for women in the NCT of Delhi's Legislative Assembly.

2. Inserted Articles

- **Article 330A:** Reserves one-third of Lok Sabha seats for women, including SC/ST seats.
- **Article 332A:** Reserves one-third of State Assembly seats for women, including SC/ST seats.
- **Article 334A:** Provisions take effect after delimitation, with a 15-year sunset clause for review and extension. (UPSC 2024)

Key Features

- **Lok Sabha:** One-third of seats reserved for women, including SC/ST allocations, with periodic rotation among states.
- **State Assemblies:** One-third reservation for women, including in direct elections.
- **NCT of Delhi:** Specific reservation of one-third of seats for women.
- **Review:** Reservation provisions to be reviewed after 70 years; can be extended by Parliament.
- **Rotation:** Seats reserved for women to be periodically rotated after delimitation.

State Legislatures

(Part-VI: Articles 168-212)

The **Constitution of India** establishes a federal structure that divides powers between the Central and State Governments. State Legislatures, governed by **Part VI** (Articles 168-212), serve as primary legislative bodies, detailing their organisation, composition, and powers.

TYPES OF LEGISLATURES

- **Unicameral Legislature:** Comprises a single legislative chamber (Legislative Assembly) responsible for enacting laws, passing budgets, and discussing significant issues.
- **Bicameral Legislature:** Features two law-making bodies (Legislative Assembly and Legislative Council).

State Legislature Structure

- **State legislature consists of:** Governor + Legislative Assembly (Vidhan Sabha) + Legislative Council (Vidhan Parishad) (in case of bicameral).

- **No Uniformity:** Indian state legislatures vary in structure.
- **Bicameral Legislatures:** Six states have a bicameral system:
 - **States:** Andhra Pradesh, Telangana, Maharashtra, Karnataka, Uttar Pradesh, Bihar.
 - **Composition:** Consists of the **Governor**, **Legislative Assembly (Vidhan Sabha)**, and **Legislative Council (Vidhan Parishad)**.
- **Article 169:** Parliament can abolish a Legislative Council or create it if the legislative assembly of the concerned state passes a resolution by a **Special Majority** to that effect. This Act of Parliament is **not to be deemed as an amendment of the Constitution** for the purposes of Art. 368 and is passed like an **ordinary piece of legislation** (by Simple Majority).

LEGISLATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

Parameters	Legislative Assembly (SLA)	Legislative Council (SLC)
Strength	<ul style="list-style-type: none"> • Maximum strength: 500 • Minimum strength: 60 • Arunachal Pradesh- 60, Sikkim- 32 • Goa, Mizoram- 40, Nagaland: 60 	<ul style="list-style-type: none"> • Maximum strength: 1/3rd of total strength of the assembly. [UPSC 2015] • Minimum strength: 40 • Members are indirectly elected • Actual strength fixed by Parliament
Manner of Election	Directly elected on the basis of universal adult franchise .	5/6th of the total members are indirectly elected (proportional representation by means of a single transferable vote) <ul style="list-style-type: none"> • 1/3rd by members of local bodies (municipalities, district boards, etc.) • 1/3rd by members of the Legislative Assembly • 1/12th by graduates of three years standing & residing in the state • 1/12th by teachers of three years standing in the state, not lower than secondary school
Nominated Members	Article 334: One Anglo-Indian could be nominated by the Governor to the assembly. 104th CAA (2019): Abolished the reservation to Anglo-Indians	1/6th nominated by the Governor , having knowledge & experience in Cooperative Movement, Literature, Arts, Social Service, or Science

Duration	Normal term: 5 years from the first meeting after general elections. Governors can dissolve at any time. Terms can be extended by Parliament during a national emergency for one year at a time (cannot exceed six months after the emergency ends)	Continuing chamber (permanent body); One-third of members retire every 2nd year , serving for six years . Eligible for re-election and re-nomination by the Governor
Presiding Officers	<p>Speaker of SLA: Elected by the Assembly from amongst its members; remains in office during the life of the assembly.</p> <p>Deputy Speaker: Performs duties of Speaker when absent; acts as presiding officer in the Speaker's absence.</p> <p>Panel of Chairpersons: Nominated by the Speaker; anyone can preside in the absence of the Speaker.</p>	<p>Chairperson of SLC: Elected by the Council from amongst its members. [UPSC 2015]</p> <p>Deputy Chairperson: Performs duties of Chairperson when absent; acts as presiding officer in the Chairperson's absence.</p> <p>Panel of Vice-Chairpersons: Nominated by the Chairman; anyone can preside in the absence of the Chairman.</p>
Powers & Duties	Maintains order & decorum , interprets provisions of Constitution & rules, adjourns assembly, votes in case of a tie, allows secret sittings, final decision on Money Bill , decides disqualification under 10th Schedule , appoints chairman of committees, presides over specific committees.	Same as SLA, with additional duties related to the Council's functioning.
Oath or Affirmation	Must make and subscribe to an oath before the Governor or appointed person; without it, cannot vote or participate in proceedings. Penalty of Rs 500 for each day sitting or voting without taking the oath or being disqualified.	
Qualification	<p>Constitutional</p> <ul style="list-style-type: none"> • Citizenship: Must be a citizen of India. • Oath: Must affirm allegiance to the Constitution and uphold India's sovereignty. • Age: At least 30 years for the Legislative Council, 25 years for the Legislative Assembly. • Other Qualifications: As prescribed by Parliament. <p>Representation of People's Act, 1951</p> <ul style="list-style-type: none"> • Legislative Council: Must be an elector in the state and a resident; eligible for Governor's nomination. • Legislative Assembly: Must be an elector in the state. • Reserved Seats: Must belong to a Scheduled Caste or Tribe to contest reserved seats, but can contest unreserved seats as well. 	
Disqualification	<p>Constitutional</p> <ul style="list-style-type: none"> • Office of Profit: Cannot hold any profit-making office under Union or state government (exceptions apply). • Unsound Mind: Declared by a court. • Insolvency: Must not be an undischarged insolvent. • Citizenship: Must not hold foreign citizenship. • Parliamentary Disqualifications: As defined by law. <p>Representation of People's Act, 1951</p> <ul style="list-style-type: none"> • Election Offences: Must not be guilty of corrupt practices. • Criminal Conviction: Cannot be convicted for crimes resulting in two or more years of imprisonment (preventive detention is exempt). • Election Expenses: Must submit accounts on time. • Government Contracts: No interest in government contracts or corporations with 25% government share. • Service Dismissal: Must not have been dismissed for corruption or disloyalty. • Social Crimes: Must not be punished for offences like untouchability, dowry, or sati. • Note: The governor's decision on disqualifications is final, with input from the Election Commission. <p>Anti-Defection Law: Under the 10th Schedule, disqualification due to defection is determined by the Chairman (Council) or Speaker (Assembly), not the Governor. Decisions are subject to judicial review as per 1992 (Kihoto Hollohan v/s Zachillhu).</p>	

Vacation of Seats	<ul style="list-style-type: none"> • Double membership: cannot be a member of both houses • Disqualification as per Constitution or RPA 1951 or Tenth Schedule • Resignation to Chairman of Council or Speaker of Assembly • Absence for 60 days without permission • Other cases include election voided by court, expelled, elected as President/VP, or appointed as Governor
Salaries and Allowances	Fixed by the state legislature ; charged on the Consolidated Fund of the State, not subject to annual vote.

Provisions Exclusive to State Legislative Assemblies

- **Territorial Constituencies:** Each state is divided into **territorial constituencies**; constituencies are demarcated to maintain a uniform ratio between **population** and **seats**.
- **Readjustment after Each Census:** **Readjustment** of total number of seats in the assembly and division into constituencies after each census; **Parliament** determines the authority and its manner.
- **Reservation of Seats for SCs & STs:** **Readjustment** of total number of seats in the assembly and division into constituencies after each census; **Parliament** determines the authority and its manner.

SESSIONS OF STATE LEGISLATURE

- **Summoning:** The **Governor** summons sessions. Maximum gap between two sessions is **6 months**.
- **Adjournment:** Suspends work for a specific time (hours, days, weeks). **Adjournment sine die** ends a sitting indefinitely. Power lies with the **Presiding officer**.
- **Prorogation:** Follows **adjournment sine die**; the **Governor** issues a notification. The Governor can also prorogue the House in session.
- **Dissolution:** Ends the life of the assembly.

Quorum: Minimum **10 members** or **1/10th** of total members (whichever is greater). Without quorum, the meeting is either **adjourned** or **suspended**.

Lapsing of Bills on Dissolution

- **Bill Lapses:** If pending in assembly or passed by the assembly but pending in Council.
- **Bill Doesn't Lapse:** If pending in the Council but not passed by assembly, or passed by both houses awaiting **Governor** or **President's assent**.

Voting in House

- **Simple majority** for most matters.
- **Special majority** for creation/abolition of Legislative Council.
- **Absolute majority** to remove the Speaker or Chairman.
- **Casting vote:** Speaker/Chairman votes only in case of a tie.

Language in Legislature: **Official language** of the state, **Hindi** or **English** is used. Members may address the house in their **mother tongue** with permission. **State Legislatures** can decide to continue or discontinue English after **15 years** (up to **40 years** in some states).

Rights of Ministers & Advocate General: They can speak in either house or committees but **cannot vote**. (Can vote only in the house in which they are elected member).

LEGISLATIVE PROCEDURE IN STATE LEGISLATURE

Ordinary Bill

- **Introduction:** Can originate in either house, introduced by a **minister** or **private member**. Passes through **three readings**. Sent to the **second house** after passing the originating house. In **unicameral legislatures**, sent directly to the **Governor** for assent.
- **In the Second House: Four options:**
 - Pass without amendments
 - Pass with amendments, return to Assembly
 - Reject the bill
 - Keep pending for **3 month**
 - If the Council disagrees, the Assembly can pass it again. **Ultimate power** lies with the Assembly, and the Council can delay for **4 months** maximum. No **joint sitting** for disagreements.
- **Governor's Assent: Four alternatives:**
 - Give assent (bill becomes law)
 - Withhold assent (bill ends)
 - Return for reconsideration
 - Reserve for **President's consideration**
- **President's Assent: Three alternatives:**
 - Assent
 - Withhold assent
 - Return for reconsideration; if passed again, the President is not obliged to assent.

Money Bill

- **Introduction:** Only in the Legislative Assembly, on Governor's recommendation, introduced by a minister.
- **In the Second House:** The Council can only recommend changes and must return the bill in **14 days**. If the Council fails, or if the Assembly rejects the recommendations, the bill is deemed passed.
- **Governor's Assent:** Assent; Withhold or Reserve for President's assent (Cannot return for reconsideration).
- **President's Assent:** Same as for ordinary bills.

Bills Reserved for President's Consideration

- **Must Be Reserved:** Bills affecting **High Court powers** (Article 200), **water/electricity taxes** (Article 288), or during a **financial emergency** (Article 360).
- **May Be Reserved:** Bills conflicting with **Articles 14 and 19**, those on **Concurrent List** (Article 254), or restricting **trade and commerce** (Article 304).
- **Discretionary:** Governor may reserve any bill under **Article 200**

Position of Legislative Council

Equal Status with Assembly

- Introduction and passage of **ordinary bills**.
- Assembly's will prevails in case of **disagreement**.
- Approval of **ordinances** issued by the **Governor** (Art. 213).
- **Selection of ministers**, including the Chief Minister.
- Consideration of **reports** from bodies like State Finance Commission and CAG.
- **Enlargement** of State Public Service Commission's jurisdiction.

Unequal Status with Assembly

- **Money bills** can only be introduced in the Legislative Assembly.
- The **Council** cannot amend or reject money bills.
- Only the **Speaker** decides whether a bill is a **money bill** or not.
- Final power for passing **ordinary bills** lies with the Assembly.
- The Council can **discuss the budget** but cannot vote on demands.
- Does not participate in the **election of the President** or **Rajya Sabha** members.
- Limited role in **Constitutional amendment bills**.
- **No confidence motion** can only be initiated in the Assembly.
- The **Council's existence** depends on the Assembly's will.

Privileges of State Legislature

- Privileges include **special rights, immunities, and exemptions** enjoyed by the houses, their committees, and members. Extended to those entitled to participate, like the **Advocate General** and ministers, but not the **Governor**.

Collective Privileges

- Right to **publish** or prohibit the publication of reports, debates, and proceedings.
- Ability to hold **secret sittings**.
- Can regulate its own **procedure** and punish breaches of privilege.
- Right to receive immediate information on **arrest, detention, or release** of members.
- Initiate **inquiries**, summon witnesses, and access relevant papers.
- **Courts cannot inquire** into legislative proceedings.
- **No person can be arrested** within the legislature's precincts without the presiding officer's permission.

Individual Privileges

- **Immunity from arrest** during sessions (except in criminal or preventive detention cases).
- **Freedom of speech** in the legislature; members cannot be held accountable in court for their statements.
- Exemption from **jury service** and court appearances during sessions.

Comparison between SLC, RS, LS & SLAs

Aspect	State Legislative Council	Rajya Sabha (RS)	Lok Sabha (LS)	State Legislative Assemblies)
Position and Power	Weaker than the Assembly	Equal to Lok Sabha except in financial matters	More powerful in financial matters	More powerful than the State Legislative Council
Constitutional Importance	Lesser importance under the Constitution	Vital role in maintaining federal structure	High importance as the lower house	Important for state governance
Representation	Represents specific interest groups; members elected indirectly or nominated	Represents states and union territories nationally; members elected by State Assemblies	Represents the entire nation; members directly elected	Represents specific states; members directly elected
Legislative Procedure	Can initiate and discuss bills; Assembly has final say	Can discuss and amend bills; participates equally in legislative process	Initiates financial bills; sole authority in financial matters	Can initiate and pass bills; final authority over legislation
No-confidence Motion	Cannot initiate no-confidence motion	Cannot initiate no-confidence motion	Initiate and pass no-confidence motions	Initiate and pass no-confidence motions
Tenure of Members	Members serve for 6 years	Members serve for 6 years	Members serve for 5 years	Members serve for 5 years
Disqualification of Members	Governed by the Constitution and state laws	Governed by the Constitution and Parliamentary laws	Governed by the Constitution and electoral laws	Governed by the Constitution and electoral laws
House Permanency	Permanent house. However can be abolished by parliamentary legislation based on a state assembly resolution for the same. (Article 169)	Permanent house; cannot be abolished	Not permanent; elections held every five year	Not permanent; elections held every five years
Special Powers	Lacks special powers	Approving Emergency proclamations and All India Services (Articles 352, 312)	Holds exclusive powers in financial matters	Lacks special powers



HISTORICAL BACKGROUND OF THE INDIAN JUDICIARY

- **Regulating Act, 1773:** Established the **Supreme Court of Judicature** in Calcutta (1774). Later, Supreme Courts were set up in **Madras (1800)** and **Bombay (1823)** under **King George III**.
- **Indian High Courts Act, 1861:** Created High Courts in provinces, abolishing Supreme Courts in **Calcutta, Madras, Bombay** and **Sadar Adalats**. These High Courts were the highest judicial bodies until the **Federal Court of India** was established under the **Government of India Act, 1935** to resolve disputes between provinces and states.
- **Post-Independence:** After independence, existing High Courts for provinces became High Courts for states. The **Seventh Amendment Act of 1956** allowed Parliament to create a **common High Court** for two or more states or union territories.

STRUCTURE OF THE INDIAN JUDICIARY

- **Integrated Judicial System:** India has a unified judicial system where **Central and State laws** are enforced by the same courts. **The Supreme Court** is at the top, followed by **High Courts** and **subordinate courts** like **District Courts**.
- **High Courts:** The **High Court** is the highest court in a state, working under the Supreme Court. Established in **1862** for **Calcutta, Bombay, Madras**, and later **Allahabad (1866)**. High Courts have jurisdiction over their respective states or combined states/union territories. There are currently **25 High Courts** in India; the **Calcutta High Court (1862)** is the oldest. High Courts now have **revenue jurisdiction**, absent before the Constitution.
- **Subordinate Courts:** Each High Court oversees a hierarchy of **subordinate courts**, including **District and Sessions Courts**.

EVOLUTION OF COLLEGIUM SYSTEM: CONCURRENCE VS. CONSULTATION

- **First Judges case (1982):** SC opined that **consultation** does not mean **concurrence** and it only implies an exchange of views.
- **Second Judges case (1993):** SC reversed its earlier ruling and changed the interpretation of the word **consultation to concurrence**. It ruled that the advice tendered by the Chief Justice of India is binding on the President in the matters of appointment of the judges of the SC. CJI will tender his advice after consulting with two senior-most colleagues.
- **Third Judges case (1998):** SC opined that the consultation process to be adopted by the CJI requires **consultation of plurality judges** (Not CJI alone).
 - CJI should consult a collegium of 4 senior most judges (even if two gave adverse opinions that recommendation cannot be forwarded).
 - The recommendations made by the Chief justice of India without complying with the norms and requirements of the consultation process are not binding on the government.
- **Fourth Judge's case (2015):** NJAC case: The **99th Constitutional Amendment Act of 2014** and the National Judicial Appointments Commission Act of 2014 replaced the collegium system with a new body called the National Judicial Appointments Commission (NJAC).
 - SC declared both the 99th Constitutional Amendment as well as the NJAC Act **unconstitutional** and void on grounds of interference. Consequently, the earlier collegium system became operative again. **[UPSC 2019]**
- **Present Scenario:** The appointment of Supreme Court judges in India involves several key steps:
 1. **Initiation:** CJI initiates the process upon vacancy.
 2. **Collegium Recommendations:** The Collegium (CJI + four senior judges) recommends candidates.
 3. **Consultation:** It consults eligible high court judges or lawyers.
 4. **Government Review:** Recommendations are sent to the government for feedback.
 5. **Presidential Approval:** The President approves appointments, followed by a swearing-in ceremony. **[UPSC 2019]**

SUPREME COURT AND HIGH COURT

Parameters	Supreme Court (Part V: Article 124 to 147)	High Courts (Part VI: Article 214-231)
Basic Facts	<ul style="list-style-type: none"> Part of an integrated judicial system, based on the GoI Act, 1935. Enforces central and state laws. Inaugurated on January 28, 1950, replacing the Federal Court of India and the British Privy Council as the highest court of appeal. 	<ul style="list-style-type: none"> The Constitution originally provided for one High Court per state. The 7th Amendment Act (1956) allows a common High Court for multiple states or Union Territories (UTs). Territorial jurisdiction is co-terminus with the concerned state(s) or UT(s), and Parliament can alter it.
Composition	<ul style="list-style-type: none"> 34 judges (CJI + 33 others). The Supreme Court (Number of Judges) Amendment Act, 2019 raised the number from 31 to 34. (The power to increase the number of judges in the Supreme Court of India is vested in the Parliament.) [UPSC 2014] 	<ul style="list-style-type: none"> Strength not fixed in the Constitution; at the President's discretion. Each High Court consists of a Chief Justice and other judges as appointed by the President.
Appointment	<ul style="list-style-type: none"> From 1950 to 1973, the senior most judge was appointed CJI, but this was violated in 1973 (A.N. Ray) and 1977 (M.U. Beg). Second Judges Case (1993): Established that only the senior most judge should be appointed as CJI. CJI Appointment: President consults Supreme Court and High Court judges. Other Judges: Appointed by the President after consultation with CJI, SC, and HC judges. [UPSC 2012-13] 	<p>Article 217:</p> <ul style="list-style-type: none"> Chief Justice: President consults CJI and the Governor of the state. Other Judges: Appointed by the President after consulting CJI, Governor, and Chief Justice of the State High Court. In common High Courts, the President consults the Governors of all concerned states. Third Judges Case: For High Court judges, the CJI must consult a collegium of two senior-most SC judges.
Qualification of Judges	<ul style="list-style-type: none"> Citizenship: Must be a citizen of India. Judicial Experience: <ul style="list-style-type: none"> Must have served as a judge of a High Court for 5 years or Been an advocate of a High Court for 10 years. Distinguished Jurist: Can be appointed at the President's discretion (not applicable for High Court judges). Age Requirement: No minimum age is prescribed for appointment. 	<ul style="list-style-type: none"> Citizenship: Must be a citizen of India. Judicial Experience: <ul style="list-style-type: none"> Must have held a judicial office for 10 years or Been an advocate of a High Court for 10 years. Distinguished Jurist: No provision for a distinguished jurist in High Court appointments. Age Requirement: No minimum age is prescribed.
Oath or Affirmation	Takes an oath before the President or an appointed representative.	Takes an oath before the Governor or an appointed representative (Article 219).
Tenure	<ul style="list-style-type: none"> Serve until 65 years of age. Resign by writing to the President. Removal is recommended by Parliament. 	<ul style="list-style-type: none"> Serve until 62 years of age. Resign by writing to the President. Can be removed similarly as Supreme Court judges.

Acting Chief Justice	<p>The President can appoint a judge of the SC as an Acting Chief Justice if:</p> <ul style="list-style-type: none"> • The CJI's office is vacant. • The CJI is temporarily absent. • The CJI is unable to perform duties (Article 126). 	<p>The President can appoint a judge of the HC as an Acting Chief Justice if:</p> <ul style="list-style-type: none"> • The HC Chief Justice's office is vacant. • The HC Chief Justice is temporarily absent or • Unable to perform duties (Article 223).
Retired Judge	<ul style="list-style-type: none"> • The Chief Justice of India (CJI) can request a retired Supreme Court judge or a retired High Court judge (qualified for SC) to act as a Supreme Court judge temporarily. • Requires consent from the President and the individual. • Holds all jurisdiction and powers of a Supreme Court judge but is not deemed a judge. 	<ul style="list-style-type: none"> • The Chief Justice of the High Court (CJ) can request a retired High Court judge to act as a High Court judge temporarily. • Requires consent from the President and the individual. • Holds all jurisdiction and powers of that High Court judge but is not deemed a judge (Article 224A).
Independence of the Judiciary	<ul style="list-style-type: none"> • Appointment: Judges are appointed by the President in consultation with the judiciary. • Security of Tenure: Judges can be removed only as per constitutional procedures. • Service Conditions: Cannot be altered post-appointment, except during financial emergencies. • Expenses Charged on the Consolidated Fund of India. [UPSC 2012] • Post-Retirement Practice: Prohibited from practising in any court. • Contempt of Court: SC has the power to punish for contempt. • Jurisdiction: Cannot be curtailed, but can be extended by Parliament. [UPSC 2014] • Separation of Powers: Judiciary is separated from the executive (A- 50). It thus helps to safeguard the liberty and rights of the people in a democracy. [UPSC 2021] 	<ul style="list-style-type: none"> • Appointment: Judges are appointed by the President in consultation with the CJI and HC Chief Justice. [UPSC 2013] • Security of Tenure: Judges can only be removed through constitutional procedures. • Service Conditions: Cannot be altered, except during a financial emergency. • Expenses: Salaries charged on the State's Consolidated Fund; pensions from the Consolidated Fund of India. • Post-Retirement Practice: Can practise in the SC or other HCs. • Contempt of Court: HC can punish for contempt. • Jurisdiction: Can be altered by Parliament or state legislature. • Separation of Powers: Judiciary is independent of the executive (A- 50).
Jurisdiction and Powers	<ul style="list-style-type: none"> • The SC has extensive jurisdiction. SC is the final interpreter and guardian of the Constitution and also the guarantor of the fundamental rights of the citizens. [UPSC 2015, 2019] • It acts as both a federal court and a final appellate court. Described as having more powers than any other Supreme Court worldwide. 	<ul style="list-style-type: none"> • Governed by constitutional provisions; Letters Patent, various Acts of Parliament, state laws, and criminal and civil procedure codes.
Writ Jurisdiction	<ul style="list-style-type: none"> • Writs: Includes habeas corpus, mandamus, prohibition, quo warranto, and certiorari. • Scope: Aggrieved individuals can approach the Supreme Court under Article 32 for enforcement of Fundamental Rights. The Court's writ jurisdiction is original but shared with High Courts, and Parliament can extend its scope. 	<ul style="list-style-type: none"> • Wider jurisdiction than the SC: can issue writs for both Fundamental Rights and other legal rights. (Article 226) • Can issue writs beyond its territorial jurisdiction if the cause of action arises within its territory. • Concurrent with SC's writ jurisdiction (Chandra Kumar case, 1997).

Court of Record	<ul style="list-style-type: none"> The Supreme Court acts as a court of record, where its judgments and proceedings are recorded for perpetual memory and legal precedent. (Article 129) These records have evidentiary value and cannot be questioned by any other court. 	<ul style="list-style-type: none"> Judgments and proceedings are recorded for evidentiary value and cannot be questioned. (Article 215) High Court has power to review and correct its own judgement, hence bound by its previous decision, but not on the lines as Supreme Court does. [UPSC 2021] Has the power to punish for contempt.
Contempt of Court	<ul style="list-style-type: none"> Governed by the Contempt of Court Act, 1971, which outlines procedures for investigation and punishment of contempt. It was based on the recommendations made by H.N. Sanyal committee. Expression 'contempt of court' has not been defined by the Constitution. [UPSC 2022] Civil Contempt: Wilful disobedience to court orders or judgments. Criminal Contempt: Publication or actions that scandalise or lower the authority of the court, or interfere with justice. Actions not amounting to contempt include: <ul style="list-style-type: none"> Innocent publication. Fair reports of judicial proceedings. Reasonable criticism of judicial acts. Penalties for contempt include simple imprisonment for up to six months, or fines up to ₹2000. Proceedings for contempt must be initiated within one year of the alleged contempt. The Act does not apply to Nyaya Panchayats or similar village courts. 	
Salaries and Allowances	<ul style="list-style-type: none"> Determination: Salaries fixed by Parliament; cannot be reduced post-appointment, except during financial emergencies (Article 360). Pension: Retired SC & HC judges receive 50% of their last drawn salary as pension. Supreme Court: Salaries charged on Consolidated Fund of India(Article 125). High Court: Salaries charged on Consolidated Fund of State, pensions charged on Consolidated Fund of India (Art. 221). 	
Removal of Judges	<ul style="list-style-type: none"> Grounds for Removal: Proved misbehaviour or incapacity. Procedure: Governed by the Judges Enquiry Act (1968); requires Parliament's recommendation. [UPSC 2019] Parliamentary Support: Needs a special majority in both Houses. Impeachment: No Supreme Court or High Court judges have been impeached. Judges Enquiry Act, 1968 <ul style="list-style-type: none"> Removal Motion: <ul style="list-style-type: none"> Must be signed by 100 members (Lok Sabha) or 50 members (Rajya Sabha). The Speaker/Chairman may admit or reject the motion. Inquiry: If admitted, a three-member committee investigates charges. Outcome: If found guilty, the motion goes to the House for consideration and must pass with a special majority. The President issues the final removal order. 	
Appellate Jurisdiction	<p>Supreme Court:</p> <ul style="list-style-type: none"> Constitutional matters: Under Article 132, appeals to the Supreme Court are allowed against High Court judgments involving substantial constitutional questions. Articles 133 and 134 govern appeals in civil and criminal matters, including death sentences. Appeals are limited when an acquittal is confirmed, but HC certification enables SC appeals. No right to appeal if an acquittal is confirmed. <p>High Court: HC has Wider appellate jurisdiction than its original jurisdiction and applicable in both civil and criminal matters against judgements of sub-ordinate courts in its territorial jurisdiction.</p> <p>1st appeal in cases involving questions of law and facts. And 2nd appeal in cases involving questions of laws only.</p>	

Original Jurisdiction	<p>Supreme Court:</p> <p>Original and exclusive jurisdiction(Art 131) in disputes between:</p> <ul style="list-style-type: none"> • States and the Centre. • States and other states. • Centre and a state vs. another state. • Political questions are generally avoided. • Disputes must involve a legal right (either law or fact). • Private citizens cannot bring suits against the Centre or a state. • Exclusions: Pre-Constitutional treaties or agreements, Inter-state water disputes, Financial adjustments or pensions between Centre and states, Commercial disputes between the Centre and states, Recovery of damages. • First suit under SC's original jurisdiction: West Bengal vs. Centre (1961). <p>High Court: Original jurisdiction in:</p> <ul style="list-style-type: none"> • Election disputes for members of parliament and state legislatures. • Revenue matters. • Enforcement of Fundamental Rights. • Cases transferred from subordinate courts involving constitutional interpretation. • Original civil jurisdiction in high-value cases (Calcutta, Bombay, Madras, and Delhi HCs). • Narrower than SC's jurisdiction. <p>Note: Original criminal jurisdiction of Calcutta, Bombay, and Madras HCs was abolished in 1973.</p>
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[UPSC 2012]
[UPSC 2014]
[UPSC 2012]

Note: Supreme court is custodian of the Constitution of India.

[UPSC 2015]

ADDITIONAL PROVISIONS RELATED TO SUPREME COURT

- **Ad Hoc Judge (Article 127)**
 - **Appointment:** CJI can appoint a High Court judge as an Ad Hoc judge when there is a lack of quorum. Requires consultation with the Chief Justice of the concerned High Court and the President's consent.
 - **Jurisdiction:** Ad hoc judges possess the same powers and privileges as Supreme Court judges.
 - **Qualifications:** Must be qualified for appointment as a Supreme Court judge.
- **Seat of Supreme Court (Article 130)**
 - **Location:** The Supreme Court is constitutionally located in Delhi.
 - **Alternative Seats:** The CJI can appoint another location as the Supreme Court's seat with Presidential approval (optional).
- **Procedure of the Court**
 - **Rule-Making:** The Supreme Court, with Presidential approval, can regulate its practice and procedure.
 - **Bench Composition:** Constitutional cases or Presidential references are decided by a bench of at least five judges; other cases can be decided by single or division benches.
 - **Judgement Delivery:** Majority voting is required, with provisions for dissenting opinions.
- **Appeal by Special Leave (Article 136)**
 - **Special Leave:** Grants special leave to appeal from judgments of any court or tribunal, except court martial.
 - **Key Features:**
 - ◆ Discretionary, not a right.
 - ◆ Applicable to final or interlocutory judgments.
 - ◆ Covers various matters (constitutional, civil, criminal, etc.).
 - ◆ Used sparingly in exceptional cases.
- **Advisory Jurisdiction (Article 143)**
 - The President can seek Supreme Court's opinion on:
 - (a) any question of law/fact of public importance and
 - (b) on disputes arising from from pre- constitutional treaties/agreement/sanad etc.

Note: In (a) SC may/may not give it's opinion.
In (b) SC bound to give it's opinion.

 - **Nature of Opinion:** Advisory, not binding; the President may choose whether to follow it.
 - **Reference Made:** Fifteen references made by the President by 2024. **Example** 2G spectrum case verdict. (2012)
- **Interpretation of Constitution (Article 147)**
 - **Role:** The Supreme Court serves as the ultimate interpreter of the Constitution.
 - **Guiding Doctrines:** Includes severability, waiver, eclipse, pith and substance, etc.

Key Doctrines of Constitutional Interpretation:

- **Doctrine of Severability:** Offending provisions can be voided without invalidating the **entire statute**.
- **Doctrine of Waiver:** Rights or privileges can be **intentionally given up**.
- **Doctrine of Eclipse:** Laws inconsistent with **fundamental rights** are overshadowed, not invalid.
- **Doctrine of Territorial Nexus:** State laws apply only within the state unless a sufficient **nexus** exists.
- **Doctrine of Pith and Substance:** Validity of legislation depends on its **substance** within jurisdiction.
- **Doctrine of Colourable Legislation:** Prohibitions apply **indirectly** to prevent misuse of authority.
- **Doctrine of Incidental and Ancillary Powers:** Enables laws for public benefit not explicitly stated.
- **Doctrine of Precedent:** Prior court decisions must be followed within **limits**.
- **Doctrine of Occupied Field:** State laws obstructing parliamentary laws are **repugnant**.
- **Doctrine of Prospective Overruling:** Decisions apply **only in the future**.
- **Doctrine of Harmonious Construction:** Interpret provisions together to resolve **inconsistencies**.
- **Doctrine of Liberal Interpretation:** The Constitution should be read **broadly**.

• Other Powers of the Supreme Court

- **Election Disputes:** Decides disputes regarding the election of the President and Vice-President (original, exclusive, and final authority).
- **UPSC Conduct:** Enquires into the conduct of UPSC members based on Presidential reference; advice is binding.
- **Self-Correction:** Power to review its own judgments.
- **Case Management:** Can withdraw cases from High Courts or transfer cases between High Courts.
- **Binding Authority:** Supreme Court's law and judgments are binding on all Indian courts.
- **Parliamentary Power:** Parliament can enlarge the Supreme Court's jurisdiction regarding Union matters.

• Articles Related to Jurisdiction

- **Article 141:** Law declared by the Supreme Court is binding on all courts.
- **Article 142:** Enforcement of Supreme Court decrees and orders.

Article 142 empowers the **Supreme Court (SC)** to pass orders or decrees necessary for ensuring complete justice in any pending case. This provision is often associated with **judicial activism**. For instance, in the **Union Carbide Case (1989)** related to the **Bhopal Gas Tragedy**, the SC invoked Article 142 to override parliamentary laws and award compensation to victims. (UPSC 2019)

Types of Advocates under the Advocates Act, 1961

1. Senior Advocates

- **Designation:** Senior Advocates are designated by the **Supreme Court (SC)** or **High Courts (HC)** based on merit, including their **standing at the Bar**, **special knowledge**, or **experience** in law.
- **Eligibility:** Retired Chief Justices or Judges of HCs can also be considered.
- **Practice Rules:** They must appear in the SC alongside an **Advocate-on-Record**.
- **Designation Process:** Governed by the **Supreme Court Rules, 2013**. A **Permanent Committee**, chaired by the **Chief Justice of India (CJI)**, handles senior advocate designations. The committee includes CJI (Chairperson), Two senior-most SC judges, **Attorney General**, & A Bar member nominated by the Chairperson.

2. Advocate-on-Record (AoR)

- **Role:** Only **Advocates-on-Record** can file appearances and act for a party in the SC.
- **Eligibility:** Advocates with 7 years of standing can register as AoR after passing the **AoR examination**.
- **Examination:** Introduced in **1959** and conducted by the SC under the supervision of the Secretary of the Board of Examiners, appointed by the CJI.
- **Training:** Advocates must undergo one year of continuous training under an AoR with at least 10 years of experience.

3. Other Advocates

- **Eligibility:** Advocates registered with any **State Bar Council** under the **Advocates Act, 1961**.
- **Limitations:** They cannot appear in the SC unless instructed by an AoR or permitted by the Court.
- The **Advocates Act, 1961** recognizes **Advocates** as the only class of persons entitled to practice law in India. This includes **corporate lawyers** and **patent attorneys**, who are also recognized as advocates with no restriction on their recognition. (UPSC 2022)

ADDITIONAL PROVISIONS RELATED TO HIGH COURTS

• Transfer of Judges (Article 222)

- **Presidential Power:** The President can transfer judges of High Courts after consulting the CJI.
- **Compensatory Allowance:** Transferred judges receive an allowance determined by Parliament.
- **Judicial Review:** Necessary to prevent arbitrariness in transfers; only the transferred judge can challenge the transfer.
- **Third Judges Case (1998):** CJI must consult a collegium of senior judges and the Chief Justices of the relevant High Courts.

- **Additional and Acting Judges (Article 224)**
 - **Appointment:** The President can appoint additional judges for up to two years during temporary increases in workload.
 - **Age Limit:** Cannot hold office after reaching 62 years.
- **Supervisory Jurisdiction (Article 227)**
 - **Scope:** Superintendence over all state courts and tribunals, excluding military courts.
 - **Types:** Includes both administrative and judicial superintendence; can act suo-motu.
 - **Usage:** Applied in extraordinary cases for excess jurisdiction, natural justice violations, and manifest injustice.
- **Control Over Subordinate Courts (Article 227)**
 - **Governor's Consultation:** Consulted in the appointment and promotion of district judges and judicial service personnel.
 - **Substantial Questions:** Can withdraw cases from subordinate courts involving substantial constitutional questions.
 - **Binding Authority:** Supreme Court's law is binding on all subordinate courts within its jurisdiction.

Common Jurisdiction of High Court with two or more States/UTs

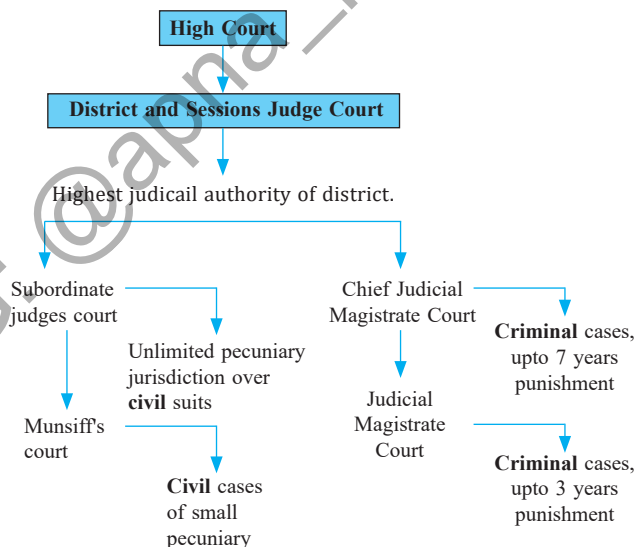
- **Bombay:** Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu
- **Guwahati:** Assam, Nagaland, Mizoram and Arunachal Pradesh
- **Punjab and Haryana:** Punjab, Haryana, Chandigarh
- **Calcutta:** West Bengal, Andaman and Nicobar Islands
- **Madras:** Tamil Nadu, Puducherry
- **Kerala:** Kerala, Lakshadweep

SUBORDINATE COURTS (PART VI: ARTICLE 233-237)

Provisions Related to Subordinate Courts

- **Regulatory Framework:** Articles 233-237 in Part VI ensure the **independence** and **organisation** of subordinate courts.
- **District Judges (Article 233):**
 - Appointed by the Governor with **High Court** consultation.
 - Must meet qualifications:
 - ◆ Not in service of the Union/State.
 - ◆ Advocate/pleader for **7 years**.
 - ◆ High Court recommendation.
- **Other Judicial Appointments (Article 234):** Appointed by **Governor** as per rules after consulting **State Public Service Commission** and **High Court**.

- **Control over Subordinate Courts (Article 235):** **High Court** manages district and lower courts, overseeing transfers, promotions, and leave of officers below district judge rank.
- **Interpretation of 'District Judge (Article 236)':** Includes city civil court judges, sessions judges, and chief magistrates. **Judicial Service** includes posts below district judges.
- **Judicial Structure and Jurisdiction:** Varies by state with three tiers of courts below the High Court. **District Judges** (civil) and **Sessions Judges** (criminal) hold appellate and original jurisdiction.
- **Powers:**
 - **District Judges:** Handle civil and administrative matters; appeals go to the High Court.
 - **Sessions Judges:** Can impose **life imprisonment** or **capital punishment**, subject to High Court confirmation.
- **Lower Courts:**



- **Metropolitan and Other Courts**
 - **City Civil Courts:** Handle civil cases in metropolitan areas.
 - **Metropolitan Magistrates' Courts:** Deal with criminal cases.
 - **Small Cause Courts:** Summary decisions on minor civil cases (High Court has revision power).
 - **Panchayat Courts:** Handle petty civil and criminal cases, known by various local names.

Subordinate courts form the backbone of India's justice system, ensuring grassroots access to legal recourse. Despite challenges, they play a crucial role in judicial administration.

ALTERNATE DISPUTE RESOLUTION (ADR)

- **Definition:** ADR is a structured, non-judicial process dispute **redressal mechanism** that helps parties resolve grievances without litigation, using a **neutral third party** to facilitate agreement.

• Methods of ADR

- **Arbitration:** A neutral arbitrator makes binding decisions on disputes. Governed by the **Arbitration and Conciliation Act, 1996**, it is used for both domestic and international disputes.
- **Conciliation:** A neutral party helps disputants reach an agreement amicably. It follows the **UNCITRAL Conciliation Rules (1980)** and is commonly used in commercial and civil disputes.
- **Mediation:** Involves a facilitator assisting parties in negotiating a settlement. It is **non-binding** and mandated by laws such as the Hindu Marriage Act, often used in family and matrimonial disputes.
- **Negotiation:** Parties directly discuss and resolve disputes, with a neutral party having a limited role. It is effective for family, industrial, and petty disputes.

NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

- **Background:** Established under the **Legal Services Authorities Act (1987)**, effective from **November 9, 1995**, to provide **free legal services** for the weaker sections.
- **Objectives:** Its objective is to provide free and competent legal services to the weaker section of the society on the basis of equal opportunity. It issues guidelines for the State Legal Services Authorities to implement the legal programmes and schemes throughout the country. [UPSC 2013]
- **Constitutional Provisions**
 - **Article 39A:** Ensures free legal aid for the poor.
 - **Articles 14 & 22(1):** Mandate state responsibility for equality before law and equal opportunity.
- **Legal Service Institutions**
 - **State Legal Services Authorities** oversee district and taluka legal services, conducting Lok Adalats and awareness camps.
 - **The Supreme Court Legal Services Committee** manages legal services related to the Supreme Court.
- **Eligibility for Free Legal Services:** Women, children, SC/ST members, victims of disasters, disabled persons, and low-income individuals ($\leq ₹1$ lakh; ₹1.25 lakh for Supreme Court). [UPSC 2020]
- **Services Offered:** Coverage of court fees, lawyer services, certified document copies, and appeal preparation.
- **Initiatives**
 - **Legal Service Mobile App:** Facilitates access to justice.
 - **DISHA Scheme:** Aims for holistic access to justice (2021-26).
 - **Nyaya Bandhu** (Pro Bono Legal Service)
- **Roles and Functions of NALSA:** Set policies, monitor implementation, organise Lok Adalats, and conduct legal literacy programs.
- Coordinate with government and non-government agencies for effective service delivery.

LOK ADALAT

- **Definition:** Lok Adalat, or **people's court**, serves as an **Alternative Dispute Resolution (ADR)** mechanism aimed at resolving disputes outside traditional court settings. It promotes **informal, affordable, and expedient** resolutions, reflecting **Gandhian principles**.
- **Statutory Status:** Established under the **Legal Services Authority Act, 1987**, it provides a structured framework for dispute resolution.
- **Historical Context:** The first Lok Adalat was held in **Gujarat in 1982**, successfully settling various disputes, leading to its expansion across India.
- **Composition:** Consists of such number of **serving or retired judicial officers** and **other persons** of the area as may be specified by the agency. Generally, a Lok Adalat consists of a judicial officer as the chairman and a lawyer (advocate) and a social worker as members

Types of Lok Adalat

1. **National Lok Adalats:** Conducted regularly, these cover all courts nationwide on designated days since **2015**.
2. **State Lok Adalats:** Also known as **Regular Lok Adalats**, these can be categorised into:
 - **Continuous Lok Adalat:** Operates for a set number of days for ongoing cases.
 - **Daily Lok Adalat:** Held every day to address disputes.
 - **Mobile Lok Adalat:** Utilises multi-utility vans to reach remote areas, resolving petty cases and raising legal awareness.
 - **Mega Lok Adalat:** Organised statewide on a single day across all courts.
3. **Permanent Lok Adalat**
 - **Established:** Under the **Legal Services Authorities Act, 1987**, amended in **2002**.
 - **Purpose:** Resolves disputes related to **public utility services**.
 - **Composition:** **Chairman:** A serving/retired **district judge** or higher judicial officer.
 - **Two members:** Experts in **public utility services**.
- **Jurisdiction:** Covers services like **transport, postal, telegraph, electricity, sanitation, hospitals, and insurance**. **Pecuniary limit:** Initially **₹10 lakhs**, raised to **₹1 crore** in **2015**. **No jurisdiction over non-compoundable offences**.
- **Application:** Once a case is filed, parties cannot approach other courts.
- **Settlement:** Tries to **formulate settlement terms**. If no agreement, resolves the dispute on **merits**.
- **Award:** The **award is final and binding**, with **no appeal** allowed.

GRAM NYAYALAYAS

- **Objective:** To provide **access to justice** at the grassroots level, ensuring speedy and affordable dispute resolution in rural areas.
- **Establishment:** For every **Panchayat at the intermediate level** or a group of contiguous Panchayats. **Headquarters are located** at the intermediate Panchayat, but the court travels to villages.
- **Composition:** Presiding officer (**Nyayadhipari**): A **Judicial Magistrate of the first class**, appointed by the **State Government** in consultation with the **High Court**. Adequate representation from **SC/ST, women**, and other communities is mandated.
- **Jurisdiction:** **Criminal and Civil** jurisdiction over cases specified in the **First and Second Schedule**. Can try cases related to both **criminal offenses** and **civil disputes** using **summary procedure**.
- **Conciliation:** The court aims to resolve disputes through **conciliation** with the help of **appointed conciliators** [UPSC 2016]. Not bound by the **Indian Evidence Act**, but guided by principles of **natural justice**.
- **Appeals:** **Criminal cases:** Appeals go to the **Sessions Court**, which must dispose of them within **6 months**. **Civil cases:** Appeals go to the **District Court**, with the same **6-month** disposal timeline. [UPSC 2016]
- **Salary:** Nyayadhiparis receive the same salary and allowances as First Class Judicial Magistrates.
- **Language:** Judgements and proceedings are conducted in the **local state language**.
- **Awards:** The decision of the Gram Nyayalaya is treated as a **decree** and follows **summary procedures** for execution.

COMMERCIAL COURTS

- **Purpose:** Establish specialised courts for quick resolution of **commercial disputes**.
- **Commercial Courts:** Set up by **State Governments** at the **district level** for disputes above **₹3 lakh**.
- **Commercial Appellate Courts:** Handle appeals from **lower commercial courts**, established at the **District Judge level**.
- **High Court:**
 - **Commercial Division:** For commercial disputes in High Courts with original jurisdiction.
 - **Commercial Appellate Division:** Hears appeals from **Commercial Courts/Divisions**.

TRIBUNALS IN INDIA

Tribunals: Judicial or quasi-judicial bodies established by law to resolve specific disputes efficiently, often with subject matter expertise.

Constitutional Provisions

- **42nd Amendment Act, 1976:** Introduced Part XIV-A on **Tribunals** in the Constitution, comprising:
- **Article 323A:** Pertains to administrative tribunals.
- **Article 323B:** Covers tribunals for other matters like taxation.

Differences Between Articles 323A and 323B

Article 323A	Article 323B
Establishes tribunals for public service	Establishes tribunals for various matters
Created solely by Parliament	Both Parliament and State Legislatures
No hierarchy of tribunals	Hierarchy may be established

Salient Features

- **Expertise:** Composed of members with specialised knowledge.
- **Flexible Procedures:** Not bound by the Civil Procedure Code (CPC).
- **Natural Justice:** Adhere to fair hearing principles.
- **Quasi-Judicial Powers:** Can hear evidence, examine witnesses, and make binding decisions.
- **Expedited Process:** Faster resolution compared to traditional courts.
- **Appellate Authority:** Tribunal decisions can be appealed to higher courts.
- **Functions:** Resolve disputes and determine rights. Make administrative decisions and review existing ones. Must operate independently of the executive.

Types of Tribunals

Administrative Tribunals (Article 323A)

1. **Central Administrative Tribunal (CAT):**
 - Established:** 1985, under the Administrative Tribunals Act, 1985. **Principal Bench** in Delhi, with additional benches in various states.
 - ◆ **Jurisdiction:** Covers **all-India services**, **Central civil services**, and **civilian employees of defence services**.
 - ◆ **Excludes:** Members of the defence forces, officers of the Supreme Court, and Parliament's secretarial staff.
 - ◆ **Structure:** Multi-member body: 69 Hon'ble Members in various Benches of the Tribunal out of which 34 are Judicial Members and 35 are Administrative Members.
 - ◆ **Appointment:** Made by the President, based on recommendations from a **Supreme Court Judge-led committee** and approved by the **Appointments Committee of the Cabinet**.
 - ◆ **Term:** Chairman - 5 years or until 65 years of age; Members - 5 years or until 62 years of age.
 - ◆ **Procedure:** Follows **natural justice** principles, not bound by the Civil Procedure Code. A nominal **₹50 fee** is required for application, and individuals can appear either in person or via a lawyer.



- ◆ **Appeals:** Initially, appeals could only be made to the **Supreme Court**. **L. Chandra Kumar Case (1997):** High Courts regained jurisdiction, and appeals must first be made to the **concerned High Court** before approaching the Supreme Court.

2. State Administrative Tribunals (SATs):

Established: Based on state government requests under the Administrative Tribunals Act of 1985.

- ◆ **Jurisdiction:** Recruitment and service matters of state government employees.
- ◆ **Appointment:** Chairman and members are appointed by the **President** after consulting the state's **Governor**.
- ◆ **States with SATs:** Andhra Pradesh, Odisha, Karnataka, Maharashtra, West Bengal, Kerala.
- ◆ **Abolished SATs:** Madhya Pradesh, Tamil Nadu, Himachal Pradesh (though Tamil Nadu and Himachal Pradesh have requested re-establishment).

3. Joint Administrative Tribunals (JATs)

- ◆ **Provision:** For two or more states under the Administrative Tribunals Act, 1985.
- ◆ **Appointment:** Chairman and members appointed by the **President**, with consultation from Governors of the concerned states.

• Tribunals for Other Matters (Article 323B)

- **Authority:** Both Parliament and State Legislatures can establish tribunals for adjudication in specific areas.
- **Areas:** Taxation, Foreign exchange, import/export, Industrial and labour disputes, Land reforms, Urban property ceiling, Elections (to Parliament and State Legislatures), Foodstuffs & Rent and tenancy rights.
- **Examples:** NGT, National Company Law Tribunal etc.

Comparison: Court of Law Vs. Tribunal

Court of Law	Tribunal
Part of the traditional judicial system	Statutory agency with judicial powers
Judges are independent of the executive	Members' tenure is controlled by the executive
Can assess the validity of legislation	Cannot assess legislative vires
Bound by rules of evidence and procedure	Follows principles of natural justice
Presiding officers trained in law	Members may lack formal legal training
Decisions based on objective evidence	Decisions can be subjective, influenced by policy

Tribunal Reforms Act, 2021

- **Objective:** Streamlines and rationalises the functioning of various tribunals to improve efficiency and reduce costs.
- **Finance Act 2017:** Merged several tribunals based on sectors. Empowered the **Central Government** to regulate search and selection committees.
- **Selection Committees:** Chairperson and members selected based on **Search-cum-Selection Committee** recommendations. **State tribunals** have separate selection panels. Government must act within **3 months** on recommendations.
- **Eligibility and Tenure:** 4 years of tenure with **Maximum Age** 70 years for Chairperson, 67 years for members & **Minimum Age** 50 years for appointments.
- **Uniform Pay:** Ensures **uniform compensation** and rules for search and selection across tribunals.
- **Removal of Chairperson/Members:** Grounds for removal include: Insolvency, moral turpitude, incapacity, conflict of interest, or misuse of position.
- **Compensation:** Chairpersons and members of dissolved tribunals receive **3 months' pay and allowances** for premature termination.

JUDICIAL REVIEW, JUDICIAL ACTIVISM AND JUDICIAL OVERREACH

- **JUDICIAL REVIEW:** Though the phrase '**Judicial Review**' has **nowhere** been **used** in the **Constitution**, But there are various provisions from several Articles which explicitly confer the power of judicial review on the Supreme Court and the High Courts, like in Articles 13, 32, 131-136, 143, 226, 227, etc.
- Judicial Review the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders. **[UPSC 2017]**
- **JUDICIAL ACTIVISM:** The concept of judicial activism originated and developed in the USA. This term was **first** coined in 1947 by **Arthur Schlesinger Jr.**, an American historian and educator. In India, the doctrine of judicial activism was introduced in the mid-1970s. **Justice V.R. Krishna Iyer, Justice P.N. Bhagwati, Justice O. Chinnappa Reddy** and **Justice D.A. Desai** laid the foundations of judicial activism in the country.
- Other related concepts include Judicial Overreach & Judicial Restraint. The table below presents the basic differences among Judicial Review, Judicial Activism, Judicial Overreach & Judicial Restraint.

Aspect	Judicial Review	Judicial Activism	Judicial Restraint	Judicial Overreach
Definition	Process of reviewing laws to ensure they align with the Constitution.	Interpretation of the Constitution to address contemporary issues.	Judges avoid striking down laws unless there is a clear violation	Judiciary encroaches into executive or legislative domains.
Goals	Ensures laws conform to Fundamental Rights and the Constitution.	Addresses societal needs and gaps left by the other branches of government.	Limits judicial interference in policy matters.	Attempts to compensate for failures of the executive/legislature.
Intent	Validates laws based on constitutional principles.	To promote necessary societal changes, sometimes without constitutional backing.	Preserves the separation of powers.	Oversteps or intruding into executive/legislative functions.
Power	Protect and enforce FRs by invalidating unconstitutional laws.	Act when other constitutional bodies fail, often through mechanisms like PILs or suo-motu actions.	Maintain judicial humility, intervening only in constitutional cases.	Often infringing upon the domain of the executive or legislature.
Examples	Striking down Section 66A of the IT Act for violating Fundamental Rights.	Use of PILs, suo-motu cases, and creation of new doctrines without direct constitutional backing.	Upholding laws unless they clearly violate constitutional provisions	Liquor ban near highways, censorship of films like Jolly LLB II.
Impact	Ensures the rule of law and maintains constitutional supremacy.	Promotes social justice	Respects the separation of powers.	Undermines the doctrine of separation of powers.

Key Supreme Court Cases Judicial Review

- **Golaknath v. State of Punjab (1967):** Ruled **Parliament** cannot amend **Fundamental Rights**.
- **24th Amendment:** Allowed amendments to any part of the Constitution.
- **Kesavananda Bharati v. State of Kerala (1973):** Established limitations on amending power; **basic structure** must be preserved.
- **I.R. Coelho Case (2007):** Affirmed **judicial review** as a **basic feature**; laws added to the **Ninth Schedule** after **April 24, 1973** can be challenged.

PUBLIC INTEREST LITIGATION (PIL)

- Also known as **Social Action Litigation (SAL)**, **Social Interest Litigation (SIL)**, and **Class Action Litigation (CAL)**. It is Legal action initiated for **public interest**, addressing issues that affect **legal rights** and **liabilities** of individuals.
- **Origin:** Developed in the **USA** in the 1960s to represent underrepresented groups; introduced in **India** in the **1980s** through **judicial activism** by the Supreme Court, pioneered by **Justices V.R. Krishna Iyer** and **P.N. Bhagwati**.
- **Features:** Public interest litigation (PIL) ensures justice for the poor, focusing on public interest rather than individual rights. It addresses rights violations of disadvantaged groups, actively enforcing public duty with flexibility not found in traditional litigation.

- **Scope of PIL:** Addresses issues such as bonded labour, neglected children, police harassment, atrocities on women, environmental pollution, food adulteration, and more.
- **Exclusions from PIL:** Does not entertain matters related to:
 - **Landlord-tenant** disputes.
 - **Service matters** (e.g., pension, gratuity).
 - Complaints against **government departments**.
 - Admissions to **educational institutions**.
 - Requests for **early hearings** in pending cases.
- **Principles of PIL**
 - **Constitutional Basis:** Can be entertained under **Articles 32 and 226**.
 - **Relaxed Procedures:** Courts may relax procedural laws and the rule of **locus standi**.
 - **No State Objection:** State cannot question maintainability of the petition.
 - **Private Law Limits:** Private disputes generally not permitted as PILs.
 - **Investigative Bodies:** Courts may appoint commissions to investigate allegations.
- **Who Can File a PIL?**
 - Any citizen can file a PIL:
 - Under **Article 32** in the **Supreme Court**.
 - Under **Article 226** in the **High Court**.

- **Filing Against:** Can be filed against **State/Central Governments** and **Municipal Authorities**, not private parties.

Important Judgments Related to PIL

- **Bandhua Mukti Morcha vs. Union of India (1983):** Addressed exploitation of **bonded labourers**; ordered their release and compensation.
- **MC Mehta vs. Union of India (1987):** First PIL on environmental pollution; established **absolute liability** principle.
- **People's Union for Civil Liberties vs. Union of India (1997):** Included **right to legal aid** and **human dignity**.
- **Vishaka & Others vs. State of Rajasthan (1997):** Established guidelines against **sexual harassment** of working women, leading to relevant legislation.

Difference between Indian, American & British Judiciary

Parameter	Indian Judiciary	American Judiciary	British Judiciary
Judicial Structure	Single & integrated system	Double system (Federal and State)	Unitary system
Legal System	Constitution & Common Law	Constitution & Common Law	Common Law & Constitutional Conventions
Original Jurisdiction	Confined to federal cases	Federal cases (maritime & ambassadorial)	Not explicitly defined
Appellate Jurisdiction	Constitutional, civil & criminal cases	Primarily constitutional cases	Various civil & criminal cases
Advisory Jurisdiction	Yes	No	No (interprets law in presented cases)
Discretion	Special leave to appeal	Follows rigid structure	Crown has discretion over appointments
Judicial Review	Limited scope (ensures adherence to Constitution)	Wide scope (can declare laws unconstitutional)	Limited (focuses on statutory interpretation)
Jurisdiction and Powers	Adaptable by Parliament	Limited by Constitution	Operates within parliamentary sovereignty
Defends Rights of Citizens	"Procedure established by law"	"Due process of law"	Statutes & common law principles
Judicial Independence	Ensured by Constitution	Highly independent (lifetime appointments)	Traditionally independent (influenced by Parliament)
Appointment of Judges	President after judicial consultation	President with Senate approval	Crown (on Prime Minister's or Lord Chancellor's advice)
Tenure of Judges	Varies (Supreme Court: 65 years, High Courts: 62 years)	Lifetime unless impeached	Retire at age 70
Role of Legislature	Can overturn judicial decisions with amendments	Can pass laws, subject to judicial review	Can override judicial decisions
Legal Responsibility of Ministers	Collective & individual accountability (no legal)	No legal accountability (unless violating law)	Legal responsibility (accountable in court)



RURAL LOCAL GOVERNANCE: PANCHAYATS

- **Definition:** Panchayati Raj is a local self-governance system in rural India also known as democratic decentralisation (UPSC 2017), meaning “rule by five”, originating from the practice of five elder villagers making decisions for the community.
- **Historical Context:** It is rooted in the ancient political history of the Indian subcontinent and gained constitutional status through the 73rd Amendment (1992).
- **The principle of Subsidiarity** is a political concept advocating decentralisation and local decision-making in governance. State governments’ devolution of powers to Panchayati Raj Institutions (PRIs) and Municipalities aligns with this principle.
- PRI role IN People’s participation in development, Democratic decentralisation. [UPSC 2015]

PANCHAYATI RAJ EVOLUTION IN INDIA

British Period

- **Autonomy loss:** Village panchayats weakened under British rule.
- **Mayo’s Resolution (1870):** Expanded powers and responsibilities of local institutions.
- **Lord Ripon (1882):** Known as the Father of Local Self-Government in India.
- **Royal Commission on Decentralization (1907):** Recognized the importance of village panchayats.
- **Montagu Chelmsford Reforms (1919):** Transferred local government powers to provinces.

Post-Independence Period

- **Constitutional Mention:** Article 40 empowered state legislatures to legislate on local self-governance. Local Government is a State subject under the Seventh Schedule of the Constitution.
- **Community Development Programme (1952) & National Extension Service (1953):** Faced issues like bureaucracy and lack of participation.
- **Balwant Rai Mehta Committee (1957):** Recommended enhancements, leading to Rajasthan pioneering Panchayati Raj in 1959.

- **73rd Constitutional Amendment Act (1992):** Formalised Panchayati Raj Institutions, effective from April 24, 1993 (National Panchayati Raj Day).
- **First Panchayati Raj State:** Nagaur, Rajasthan (October 2, 1959).

IMPORTANT COMMITTEES AND THEIR RECOMMENDATIONS

1. Balwant Rai Mehta Committee (1957):

- Established to examine Community Development Programs (1952) and National Extension Services (1953).
- **Recommended a three-tier Panchayati Raj system:** Gram Panchayat (village), Panchayat Samiti (block), and Zila Parishad (district).
- **Direct elections** at the village level, **indirect elections** for higher levels.
- Zila Parishad was the advisory and coordinating body, chaired by the District Collector.
- Emphasised **district-level planning** and future devolution of powers.
- Accepted by the National Development Council in 1958.

Note: NDC is associated with ‘Planning’ in India. (UPSC 2014). NDC has no mention in the constitution. [UPSC 2013]

- **National Development Council: Members** The Prime Minister (Chairman), ministers of the Union Cabinet & Chief Ministers of the States

[UPSC 2013]

2. Ashok Mehta Committee (1977):

- Formed to revive and strengthen the Panchayati Raj system.
- Recommended a **two-tier system**: Zila Parishad (district) and Mandal Panchayat (cluster of villages).
- **District as the key point for decentralisation.**
- **Political parties** should contest Panchayat elections (West Bengal was the first to implement this).
- **Mandatory taxation powers** for Panchayats to generate resources.
- **Reservation for SCs/STs** and suggested constitutional status for PRIs.

- **Social audits** and limited state government intervention.
 - No actions were taken on its recommendations.
- 3. Dantwala Committee (1978):**
- Focused on **block-level planning**.
- 4. Hanumantha Rao Committee (1984):**
- Recommended separate **district planning bodies** under either the District Collector or a minister.
- 5. G V K Rao Committee (1985):**
- Recommended **Zila Parishad** as the principal institution for rural development.
 - Suggested Panchayats at all levels should participate in **planning, implementation, and monitoring**.
 - Creation of **District Development Commissioner** post.
 - Concluded that PRIs were becoming “**grass without roots**” due to excessive bureaucracy.
- 6. L M Singhvi Committee (1986):**
- Recommended **constitutional recognition** for PRIs by adding a new chapter in the Constitution.
 - **Nyaya Panchayats** (local judicial bodies) for villages.
 - PRIs should have more financial resources and be **directly democratic**.
 - Suggested establishment of **tribunals** for resolving Panchayat-related disputes.
- 7. Thungon Committee (1988):**
- Focused on **district planning** and recommended **three tiers** of Panchayati Raj.
 - Zila Parishad to lead district planning and development.
 - The District Collector should be **CEO of Zila Parishad**.
 - **Reservation of seats** for SCs, STs, and women, and a **fixed tenure** of five years for PRIs.
 - Suggested **State Finance Commission** and **State Planning Committee** for better coordination.
- 8. Gadgil Committee (1988):**
- Emphasised **constitutional status** for PRIs.
 - Recommended **direct elections** for all three Panchayat levels and a **five-year tenure**.
 - **Power to levy and collect taxes** for PRIs, with State Finance and Election Commissions established.
 - Became the basis for the **73rd Constitutional Amendment**.

Post-Constitutionalization Committees (After the 73rd Amendment)

- Task Force on Devolution of Powers (2001):** Chaired by Lalit Mathur.
- Expert Group on Planning at Grassroots Level (2005):** Chaired by V. Ramachandran.

- Task Force for Manual on District Planning (2008):** Chaired by Rajwant Sandhu.
- Committee on Restructuring of DRDA (2010):** Chaired by V. Ramachandran.
- Expert Committee on Leveraging Panchayats (2012):** Chaired by Mani Shankar Aiyar.

PANCHAYAT (73RD CONSTITUTIONAL AMENDMENT ACT, 1992)

Constitutional Provisions: 11th Schedule: Added with **29 functional items**; provisions from **Article ‘243-243O’** under **Part IX**.

Gram Sabha (Article 243 A)

- **Article 40:** Mandates states to organise **village panchayats as units of self-government**.
- **Symbol of direct democracy (democratic decentralisation):** Represents **direct democracy**; includes all registered voters of the village; functions defined by **state legislature**. [UPSC 2017]

Three-Tier Panchayat System: Establishes uniform structure of **Panchayati Raj** across the country.

- **Tiers:** Village, Intermediate, and District levels.
- States with **< 20 lakh** population may skip intermediate level.
- **Direct Elections:** All members elected directly at all levels; chairpersons elected as per state legislature.
- **Reservation (Article 243 D):**
 - Seats reserved for **SC/ST** based on population + **1/3rd for women**.
 - SC reservation does not apply in **Arunachal Pradesh** (83rd Amendment Act, 2000).
 - Reservation for **backward classes** is permitted.
 - Reservations for SC/STs cease after **80 years (till 2030)**.

Duration: Term is **Five years**, can be dissolved early (Art 243E).

- **Fresh Elections:** Required if dissolved within 6 months; otherwise, no new elections needed if **< 6 months** left.
- Newly reconstituted panchayat serves only the remainder of the term. [UPSC 2016]

Disqualification (Article 243 F): Disqualifications based on state laws;

- **Age limit:** Minimum **21 years** (not disqualified if under 25). [UPSC 2016]
- Disqualification authority defined by the state legislature. [UPSC 2016]

State Election Commission (Article 243 K) [UPSC 2011]

- **Conducts Elections:** Oversees all panchayat elections.
- **Appointment:** State Election Commissioner appointed by the **Governor**; removal procedure similar to an **HC judge**.

- **Tenure Conditions:** Set by the Governor; conditions cannot be worsened post-appointment.

Bar to Court Interference in Electoral Matters (Article 243 O)

- Courts cannot interfere in panchayat elections; challenges must be through state legislature-defined **election petitions**.
- Validity of laws regarding **constituency delimitation** or seat allotment can only be questioned via specified election petitions.

Powers, Functions and Finances

- **Authority:** States can grant necessary powers for panchayats to operate as **self-governing institutions**.
- The Constitution of India prescribes that Panchayats should be assigned the task of preparation of plans for economic development and social justice. [UPSC 2013]
- **Financial Powers:**
 - **Taxation:** Panchayats can levy and collect taxes, duties, tolls, and fees.
 - **Grants-in-Aid:** States may provide funds from the consolidated state fund.
 - Establishment of funds for **panchayat finances**.
- **11th Schedule:** Includes **29 matters** for panchayat administration.

1. Agriculture, including agricultural extension
2. Land improvement, implementation of land reforms, land consolidation, and soil conservation
3. Minor irrigation, water management, and watershed development
4. Animal husbandry, dairying, and poultry
5. Fisheries

6. Social forestry and farm forestry
7. Minor forest produce
8. Small-scale industries, including food processing industries
9. Khadi, village, and cottage industries
10. Rural Housing
11. Drinking water
12. Fuel and fodder
13. Roads, culverts, bridges, ferries, waterways, and other means of communication
14. Rural electrification, including distribution of electricity
15. Non-conventional energy sources
16. Poverty alleviation programme
17. Education, including primary and secondary schools
18. Technical training and vocational education
19. Adult and non-formal education
20. Libraries
21. Cultural activities
22. Markets and fairs
23. Health and sanitation, including hospitals, primary health centres, and dispensaries
24. Family welfare
25. Women and child development
26. Social welfare, including the welfare of the handicapped and mentally retarded
27. Welfare of the weaker sections, and in particular, of the scheduled castes and the scheduled tribes
28. Public distribution system
29. Maintenance of community assets

Compulsory Provisions	Voluntary Provisions
<ul style="list-style-type: none"> • Gram Sabha: Organization in villages or groups of villages. • Panchayat Structure: Establishment at village, intermediate, and district levels. • Direct Elections: All seats in panchayats at all levels are elected directly. • Indirect Elections: Chairpersons at intermediate and district levels elected indirectly. • Age Requirement: Minimum age of 21 years to contest elections. • Reservations: <ul style="list-style-type: none"> ○ One-third of seats for women at all levels. ○ Reserved seats for SCs and STs at all levels. • Tenure: Five years for panchayats; elections held within six months of supersession. • State Election Commission: Established for conducting panchayat elections. • State Finance Commission: Reviews financial status of panchayats every five years. 	<ul style="list-style-type: none"> • Gram Sabha Empowerment: Granting powers and functions to the Gram Sabha. • Chairperson Elections: States determine the election process for village panchayat chairpersons. • Representation: <ul style="list-style-type: none"> ○ Village panchayat chairpersons represented in intermediate or district panchayats. ○ Members of Parliament and state legislatures represented in respective panchayats. • Backward Classes: Provision for reserving seats in panchayats. • Autonomy: Granting powers for panchayats to operate as autonomous bodies. • Devolution of Powers: Responsibilities for economic development and social justice, including 29 functions from the Eleventh Schedule. • Financial Powers: <ul style="list-style-type: none"> ○ Ability to levy and collect taxes, duties, tolls, and fees. ○ Taxes levied by the state government assigned to panchayats. ○ Grants-in-aid from the state's consolidated fund. ○ Establishment of funds for panchayat finances.

State Finance Commission (Article 243 I) (UPSC 2011)

- **Constitution:** Governor constitutes every **five years** to assess panchayat finances.
- **Recommendations:**
 - Distribution of net proceeds from state taxes among panchayats.
 - Determining taxes for panchayat assignment.
 - Grants-in-aid from the consolidated state fund.
- **Composition & Qualifications:** Defined by the state legislature.
- **Reporting:** Recommendations submitted to the state legislature with an action taken report.
- **Central Finance Commission:** Can recommend measures to enhance state funds and panchayat resources.

Other Provisions

- **Existing Laws:** Continue for **one year** post-enactment (Art. 243 N).
- **Audit & Accounts:** Governed by state legislature (Art. 243 J).
- **Applicability to UTs:** Applicable to **Union Territories**, with presidential exceptions (Art. 243 L).
- **Exemptions:** States like **Nagaland, Mizoram, Meghalaya**, and areas with existing district councils.
- **Extension to Scheduled Areas:** Parliament can extend provisions to scheduled and tribal areas via the **Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act)**.

Panchayats Extension to Scheduled Areas (PESA) Act, 1996 (UPSC 2012)

Part IX provisions of the Constitution regarding Panchayats do not automatically apply to areas under the **Fifth Schedule**. Parliament can extend these provisions with specific exceptions and modifications through the PESA Act. Created to create autonomous regions in tribal areas. [UPSC 2013]

Features of PESA Act

- **State Legislation:** Must align with **customary laws, social, and religious practices** of the communities.
- **Village Definition:** A village consists of habitation or groups managing affairs based on traditions.
- **Gram Sabha:** Mandatory in every village. Gram Sabha has the power to prevent alienation of land in the Scheduled Areas. Gram Sabha has the ownership of minor forest Produce. (UPSC 2012). Under the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**, Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both. [UPSC 2013]

Ministry of Tribal Affairs (MoTA) is the nodal agency for the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The ministry deals with forest and livelihood objectives at the national level. [UPSC 2021]

- **Composition:** Includes all persons on the electoral rolls for the village-level Panchayat.
- **Authority:** Protects community traditions and resources, Identifies beneficiaries and approves plans & Certifies fund utilisation for projects.
- **Seat Reservations:**
 - In proportion to community population, with **50%** for Scheduled Tribes.
 - Chairpersons of all Panchayat levels reserved for Scheduled Tribes.
 - States may nominate STs without representation at intermediate or district levels (up to **10%** of total members).
- **Land Acquisition and Resource Management**
 - **Consultation Requirement:** Gram Sabha or Panchayats must be consulted before land acquisition for development projects.
 - **Water Body Management:** Planning and management of minor water bodies assigned to Panchayats.
 - **Mandatory Recommendations:** Required from Gram Sabha or Panchayats for prospecting licences and mining leases for minor minerals.
- **Powers and Responsibilities**
 - **Prohibition Enforcement:** Control over the sale and consumption of intoxicants and minor forest produce.
 - **Land Management:** Prevent alienation of land in Scheduled Areas and manage village markets.
 - **Resource Control:** Authority over local plans, resources, and tribal sub-plans.
 - **Safeguards:** State laws must prevent higher-level Panchayats from usurping powers of lower-level Panchayats or Gram Sabhas.
- **Administrative Structure**
 - **Alignment:** State Legislature should aim to follow the administrative framework of the **Sixth Schedule** while formulating district-level Panchayat setups.
 - **Inconsistent Laws:** Any law relating to Panchayats in Scheduled Areas inconsistent with PESA will cease to be in force one year post-presidential assent.
- **Sources of Revenue for Panchayati Raj Institutions (According to 2nd ARC)**
 - **Grants:** From the Union Government per **Central Finance Commission** recommendations (Article 280).
 - **Devolution:** From State Government based on **State Finance Commission** recommendations (Article 243 I).
 - **Loans/Grants:** From the State Government.

- **Program-Specific Allocations:** Under **Centrally Sponsored Schemes** and **Additional Central Assistance**.
- **Internal Resource Generation:** Through taxes and non-tax revenues.

URBAN LOCAL GOVERNANCE: MUNICIPALITIES

- **Local Government:** A **State subject** under the **Seventh Schedule** of the Constitution.
- **Urban Local Government:** Regulated by the **Ministries** of Housing and Urban Affairs, Defence, and Home Affairs.
- Urban local bodies oversee city administration and development, focusing on **public services** and **infrastructure**.
- **Constitutional Mandate:** The Indian Constitution initially lacked explicit provisions for urban self-government. While **Directive Principles** mention **village Panchayats**, **municipalities** are only indirectly referenced under Entry 5 of the **State List**, designating local self-governance as a **State responsibility**.

Evolution of Urban Governance

- **Historical Roots:** Urban governance institutions stem from the **British colonial period**. Key milestones include:
 - **1688:** Establishment of the first **municipal corporation** in **Madras**.
 - **1726:** Formation of municipal corporations in **Bombay** and **Calcutta**.
 - **1870:** **Lord Mayo's** resolution aimed at financial decentralisation, promoting local self-government.
 - **1882:** **Lord Ripon's** resolution dubbed the '**Magna Carta**' of local self-government. Lord Ripon (1882) is recognized as the **Father of Local Self-Government** in India.
 - **1907:** Formation of the **Royal Commission on Decentralisation**, reporting in **1909**.
 - **1919:** **Government of India Act** introduced dyarchy, placing local self-government under an Indian minister's supervision.
 - **1924:** Passage of the **Cantonments Act** by the Central legislature.
 - **1935:** The **Government of India Act** recognized local self-government as a **provincial subject**.
 - **1989:** Introduction of the **65th Constitutional Amendment Bill** (Nagarpalika Bill) aimed to constitutionalize and strengthen municipal bodies; it was not passed by the Rajya Sabha.
 - **1992:** The **65th Amendment Bill** became the **74th Constitutional Amendment Act**, effective from **June 1, 1993**, during **P.V. Narasimha Rao's** premiership.

MUNICIPALITY (74TH CONSTITUTIONAL AMENDMENT ACT, 1992)

The **74th Constitutional Amendment Act (CAA)** came into effect on **1 June 1993**, establishing a constitutional framework for urban local governance in India.

- **Constitutional Status:** Introduced **Part IX-A** (Articles 243-P to 243-ZG) to the Constitution, granting municipalities constitutional recognition and enforceable rights.
- **Twelfth Schedule:** Added, containing **18 functional items** related to municipal governance (e.g., urban planning, sanitation, public health).
- **Types of Municipalities (Article 243Q)**
 - **Nagar Panchayat:** For transitional areas.
 - **Municipal Council:** For smaller urban areas.
 - **Municipal Corporation:** For larger urban areas.
- **Composition (Article 243R)**
 - All members are directly elected from **wards**.
 - State legislatures can provide for representation of individuals with expertise in municipal administration.
- **Wards Committees (Article 243S):** Established in municipalities with a population of **3 lakh or more**.
- **Reservation of Seats (Article 243T)**
 - **SC/ST:** Seats reserved in proportion to their population.
 - **Women:** At least **one-third** of total seats reserved for women, including those from SC/ST.
 - Reservation provisions for **OBCs** as determined by the state legislature.
- **Duration and Elections (Article 243U)**
 - Standard **five-year term** for municipalities.
 - Fresh elections must occur within **six months** of dissolution or before the end of the five-year term.
- **Powers and Functions (Article 243W)**
 - State legislatures can empower municipalities for economic development and social justice.
 - **12th schedule: 18 matters** that can be transferred to the municipalities.

1. Urban planning including town planning;
2. Regulation of land use and construction of buildings;
3. Planning for economic and social development;
4. Roads and bridges;
5. Water supply for domestic, industrial and commercial purposes;
6. Public health, sanitation, conservancy and solid waste management;
7. Fire services;
8. Urban forestry,

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

- **Finances:** State legislature may (a) authorise a municipality to levy, collect and appropriate taxes, duties, tolls and fees; (b) assign to a municipality taxes, duties, tolls and fees levied and collected by the state government; (c) provide for making grants-in-aid to the municipalities from the consolidated fund of the state; and (d) provide for the constitution of funds for crediting all money of the municipalities.
- **Audit of Accounts (Article 243 Z):** Provisions with respect to the maintenance of accounts by municipalities and the auditing of such accounts are made by the state legislature.
- **Elections to the Municipalities (Article 243ZA):** State Election Commission will be responsible for overseeing municipal elections, including electoral rolls and conduct of elections.
- **Application to Union Territories (Article 243ZB):** The provisions of the 74th CAA apply to Union territories, with potential modifications by the President.
- **Exempted Areas (Article 243 ZC):** The Act does not apply to **scheduled areas, tribal areas, or the Darjeeling Gorkha Hill Council.**
- **Bar to Court Interference (Article 243ZG):** Courts cannot interfere in municipal electoral matters; challenges must be raised via election petitions as prescribed by state legislation.

TYPES OF URBAN GOVERNMENT IN INDIA

1. Municipal Corporation

- **Establishment:** Created by state legislature acts (or Parliament for UTs).
- **Structure:** Comprises a council (headed by a Mayor), standing committees, and a municipal commissioner.
 - ◆ **Mayor:** Presides over meetings, largely ceremonial role; elected for a one-year renewable term.

- ◆ **Council:** Legislative wing with directly elected councillors and nominated experts.
- ◆ **Standing Committees:** Handle specific issues (e.g., health, finance).
- ◆ **Municipal Commissioner:** Chief executive, appointed by the state government, usually an IAS officer.

2. Municipalities

- **Establishment:** Created by state legislature acts for towns and smaller cities.
- **Structure:** Similar to municipal corporations, includes a council (headed by a president) and a chief executive officer.
 - ◆ **President:** Plays a significant role in administration, presides over meetings.
 - ◆ **Chief Executive Officer:** Manages daily operations, appointed by the state government.

3. Town Area Committee

- **Establishment:** Created by state legislature acts for small towns.
- **Functions:** Limited civic functions (e.g., drainage, roads).
- **Composition:** May be elected, nominated, or a mix of both.

4. Cantonment Board

- **Establishment:** Governed by the Cantonments Act of 2006.
- **Structure:** Partly elected and partly nominated; ex-officio president is the military officer commanding the station.
- **Executive Officer:** Appointed by the President of India to implement board decisions.

5. Notified Area Committee

- **Establishment:** Created through a gazette notification for fast-developing towns.
- **Composition:** Entirely nominated, not elected.

6. Township

- **Establishment:** Created by large public enterprises for staff amenities; lacks elected members.

7. Port Trust

- **Establishment:** Created by Parliament to protect ports and provide civic amenities.
- **Composition:** Includes both elected and nominated members; chaired by an official.

8. Special Purpose Agency

- **Establishment:** Set up for specific functions; not area-based and independent of local bodies.

Planning Committees

1. District Planning Committee (DPC) [UPSC 2011]

- **Article 243ZD:** Formed to consolidate plans from panchayats and municipalities.

- **Composition:** Mostly elected members from local bodies, with representation proportional to rural and urban populations.
- **Function:** Forwards development plans to the state government.

2. Metropolitan Planning Committee (MPC) [UPSC 2011]

- **Article 243ZE:** For areas with populations over 10 lakhs.
- **Composition:** Two-thirds elected from local bodies, one-third nominated; representation based on population ratios.
- **Function:** Prepares and forwards development plans to the state government. It Prepares the draft development plans for the metropolitan area. [UPSC 2011]

Municipal Personnel Systems

- **Separate System:** Local bodies appoint and control their personnel; promotes loyalty.
- **Unified System:** State government manages personnel; transferable across local bodies.
- **Integrated System:** Personnel from state and local bodies are part of the same service; transferable across different departments.

Municipal Revenue Sources

- **Tax Revenue:** Local taxes and cesses.
- **Non-Tax Revenue:** Rent and user charges.
- **Grants:** From central and state governments.
- **Devolution:** Fund transfers to urban local bodies from state governments.
- **Loans:** Raised from state governments and financial institutions.

Central Council of Local Governments

- **Establishment:** Formed in 1954 under Article 263 as an advisory body.
- **Composition:** Includes the Minister for Housing and Urban Affairs and state ministers for local self-government, chaired by the Union minister.

CO-OPERATIVE SOCIETIES

- **Definition:** Cooperative societies are **democratic organisations** controlled by their **members**, who participate in decision-making and policy formulation.
- **Subject:** State List Entry 32 refers to **cooperative societies** under the **Seventh Schedule** of the Constitution.
- **Membership:** Comprises individuals or groups like **farmers, artisans, small businesses, or consumers**.
- **Principles:** Governed by **cooperation, self-help, and mutual assistance** to meet common needs.
- **Recognition:** Acknowledged constitutionally in India via the **97th Constitutional Amendment Act of 2011**, akin to **Panchayati Raj Institutions**.

BRIEF HISTORY OF COOPERATIVES IN INDIA

Pre-Independence Phase

- **Late 19th Century:** Originated to alleviate **financial burdens** on farmers from **money lenders**.
- **1901:** Committee chaired by **Sir Edward Law** recommended establishing **Cooperative Credit societies**.
- **1904:** Introduction of the **Cooperative Societies Act**, leading to the first cooperative, the **Agricultural Credit Cooperative Society in Kanaginahal, Karnataka**.
- **1914-1915:** Assessment by **Sir E.D. MacLagan** proposed significant advancements in the cooperative movement.
- **1919:** The **Government of India Act** transferred cooperation to a provincial subject, supervised by a minister.

Post-Independence Phase

- **1947 Onwards:** Emphasis on cooperation as a tool for **planned economic development**.
- **Nehru's Vision:** First Prime Minister **Jawaharlal Nehru** promoted a culture of cooperation, prioritising the **agricultural sector** in five-year plans.
- **Current Status:** India boasts around **8.19 lakh cooperative societies** across 29 sectors, with a **membership of more than 29 crores**, covering 91% of villages. It includes 19 National federations, 228 State federations, 485 District federations, and 1,03,304 Primary Agriculture Credit Societies. (National Cooperative Database 2023).
- **Notable Cooperatives:** Renowned societies include **AMUL, Lijjat Papad, PMC Bank, and IFFCO**.

97TH CONSTITUTIONAL AMENDMENT ACT OF 2011

- **Constitutional Status:** Accorded **constitutional status** and protections to cooperative societies.
- **Key Changes:**
 - **Fundamental Right:** Right to form cooperative societies recognized as a **fundamental right** (Article 19).
 - **Directive Principles:** New **Directive Principle of State Policy** (Article 43B) promotes the establishment of cooperative societies.
 - **New Part IX-B:** Introduced titled "**The Cooperative Societies**" (Articles 243ZH to 243ZT).

Constitutional Provisions

- **Incorporation of Cooperative Societies (Article 243ZI):** State legislature can regulate incorporation, management, and winding up of cooperatives.
- **Board Composition and Term (Article 243ZJ):**
 - **Directors:** Maximum of **21 directors** as determined by state legislature.

- **Term:** 5-year term; elections must occur before the current term expires.
- **Reservation:** One seat for SC/ST and two seats for **women** on boards with eligible members.
- **Co-opted Members:** Up to **two co-opted members** allowed without voting rights.
- **Supersession and Suspension (Article 243ZL):**
 - Boards can be suspended for a maximum of **six months** (one year for cooperative banks).
 - No supersession if there is no **government shareholding** or financial aid.
- **Audit of Accounts (Article 243ZM):**
 - State legislature may require annual audits within **six months** of the financial year-end.
 - Auditor appointed from a state-approved panel; audit reports for apex societies presented to the state legislature.
- **Filing Returns:** Cooperatives must file returns within **six months** post financial year, covering operational aspects and audit reports.
- **Annual General Body Meetings (Article 243ZN):** Mandated within **six months** of the financial year's close.
- **Promoting Transparency (Article ZO):** Members entitled to access books, accounts, and information; cooperative education encouraged.
- **Offences and Penalties (Article 243ZQ):** State legislatures can define offences and penalties regarding cooperative management and elections.
- **Application to Multi-State and Union Territories**
 - **Multi-State Cooperatives (Article 243ZR):** Provisions apply with modifications replacing state references with **Parliament** and **Central Government**.
 - **Union Territories (Article 243ZS):** Provisions applicable unless specified otherwise by the **President**.

- **Continuance of Existing Laws (Article 243ZT):** Existing state laws on cooperatives remain effective until amended or for one year after the amendment's commencement.

Cases Related to Co-operative Societies

- In **Rajendra Shah case (2013)**, the Gujarat High Court declared that the 97th Constitutional Amendment Act (2011) inserting Part IX-B is ultra vires the Constitution of India for want of the requisite ratification by the states under Article 368.
- In 2021, the **Supreme Court**, upon an appeal by the Union of India, affirmed the judgement of the **Gujarat High Court**, except for the part that invalidated the entirety of Part IX-B of the Constitution of India. Additionally, the Supreme Court specified that Part IX-B is **applicable solely to multi-state co-operative societies** within states and union territories.

MINISTRY OF COOPERATION (2021)

Established by the **Government of India** in 2021, the **Ministry of Cooperation** aims to promote "**Sahakar se Samridhhi**" (Prosperity through Cooperation) by revitalising the cooperative movement. It was created by transferring responsibilities from the **Ministry of Agriculture**.

Objectives:

- **Strengthen the Cooperative Framework:** Develop a supportive administrative and legal structure.
- **Promote Grassroots Development:** Foster a people-centric cooperative movement.
- **Enhance Ease of Doing Business:** Simplify processes for cooperatives and Multi-State Societies.
- **Ensure Transparency & Modernization:** Boost transparency and competitiveness, benefiting rural communities and connecting villages with cooperatives for national prosperity.



SCHEDULED AND TRIBAL AREAS

Constitutional Provisions

- **Article 244 & Part X:** Special Administration for **Scheduled Areas (SAs) & Tribal Areas (TAs)**.
- **5th Schedule:** Governs **scheduled areas** and **tribes** in all states except Assam, Meghalaya, Tripura, and Mizoram (AMTM). [UPSC 2015]
- **6th Schedule:** Governs **tribal areas** in Assam, Meghalaya, Tripura, and Mizoram. [UPSC 2015]
- **The provisions in the Fifth Schedule and Sixth schedule in the Constitution of India are made in order to protect the interests of Scheduled Tribe** [UPSC 2015]

Aspect	Fifth Schedule	Sixth Schedule
Purpose	Supervision and administration of Scheduled Areas.	Constitution, powers, and functions of District and Regional Councils in autonomous districts.
Coverage	Protects tribal interests in all scheduled territories, excluding Assam, Meghalaya, Tripura, and Mizoram.	Addresses scheduled regions not covered by the Fifth Schedule.
Special Areas	Safeguards tribal communities in states except Assam, Mizoram, Tripura, and Meghalaya.	Focuses on welfare of tribal communities in in the northeastern states of Assam, Meghalaya, Tripura and Mizoram..
Advisory Council	Establishes a Tribal Advisory Council.	Defines the authority and functions of District and Regional Councils in autonomous districts.
Governor's Role	Empowers the Governor to adapt legislation for unique local needs.	Allows the Governor to designate regions autonomous district council jurisdiction as per the Sixth Schedule.

ADMINISTRATION OF SCHEDULED AREAS (5TH SCHEDULE)

- Due to their distinct socio-economic profile, **scheduled areas** require special attention, with the **Central Government** having a greater role.
- The **President** appoints a commission to report on **Scheduled Areas and Scheduled Tribes (STs)**, at least once every 10 years.
 - **Notable Commissions:** U N Dhebar (1960) & Dilip Singh Bhuria (2002).
- As of 2024, **scheduled areas** exist 10 states namely Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha, and Rajasthan.
- **Declaration of Scheduled Areas:** The **President** can declare, modify, or redesignate **Scheduled Areas** after consulting the state's **Governor**. [UPSC 2023]
- **Executive Power:** State's executive power extends to **Scheduled Areas**, but the **Governor** has special authority.
 - The **Governor** must report to the President on the area's administration.
 - The **Centre** can issue directives to the state regarding these areas.
- **Tribes Advisory Council (TAC):** Each state with **Scheduled Tribes (STs)** must establish a **TAC** to advise on welfare measures.
 - The **TAC** has 20 members, 3/4th of whom represent **STs** from the State Legislative Assembly.
 - States without **Scheduled Areas** can have a **TAC** if directed by the **President**.
- **Laws for Scheduled Areas:** The **Governor** decides whether state or central laws apply to **Scheduled Areas**, with or without modifications.
 - The **Governor** can make regulations for the governance of **Scheduled Areas**, including restrictions on land transfers among **STs**. Such regulations may prohibit or restrict the transfer of land by or among members of the **STs**, regulate the allotment of land to members of the **STs** and regulate the business of money lending in relation to the **STs**. [UPSC 2022]

- In the *Samatha v. State of Andhra Pradesh & Ors* (1997) judgement the Supreme Court held that the transfer of **tribal land to private parties for mining** was null and void under the Fifth Schedule. [UPSC 2019]

ADMINISTRATION OF TRIBAL AREAS (6TH SCHEDULE)

- **6th Schedule:** Administration of **tribal areas** in 4 North Eastern states of **Assam, Meghalaya, Tripura & Mizoram (AMTM)**.
- **Rationality behind the arrangement:** To protect the culture, customs & civilizations of people of such areas, who still need to assimilate with the majorities in such areas.

States	Tribal Areas
Assam	1. The North Cachar Hills District. 2. The Karbi Anglong District. 3. The Bodoland Territorial Areas District
Tripura	Tripura Tribal Areas District.
Meghalaya	1. Khasi Hills District. 2. Jaintia Hills District. 3. The Garo Hills District
Mizoram	1. The Chakma District. 2. The Mara District. 3. The Lai District.

Features of Administration as per 6th Schedule

- **Autonomous Districts (ADs):** Tribal areas in **Assam, Meghalaya, Tripura, and Mizoram (AMTM)** are governed as **Autonomous Districts (ADs)** under the **state executive authority**.
 - The **Governor** has the power to organise, reorganise, and divide ADs into **autonomous regions** if multiple tribes inhabit them.
- **District Councils:** Each **Autonomous District** has a **District Council** with 30 members:
 - **26 elected members** (5-year term).
 - **4 nominated members** (at the pleasure of the **Governor**).
 - Each autonomous region has its own **Regional Council**.

Powers & Functions of District & Regional Councils

- **Legislative Authority:** Councils can make laws on **land, forests, water**, etc., but require the **Governor's assent**.
- **Judicial Authority:** Councils can establish **Village Councils/Courts** to adjudicate tribal disputes, with oversight from the **High Courts**, as directed by the **Governor**.

Administrative Functions:

- Councils manage **primary schools, dispensaries, markets, ferries, and roads**.
- They can regulate **money lending and trading** by non-tribals, with the **Governor's approval**.
- **Revenue Powers:** Councils can assess and collect **land revenue** and impose **specific taxes**.
- **Application of Central and State Laws:**
 - **Central/State Acts** apply to autonomous districts/regions with **modifications or exceptions**:
 - ◆ In **Assam**, the **Governor** decides on both Central and State Acts.
 - ◆ In **Meghalaya, Tripura, and Mizoram**, the **President** decides on Central Acts and the **Governor** on State Acts.
- **Commissions:** The **Governor** can appoint a **commission** to review the administration of autonomous regions and dissolve District or Regional Councils based on its recommendations.

SPECIAL PROVISIONS FOR SOME STATES

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

Special Provisions

Articles	Article 371 to 371 J, Part XXI
12 States	Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa, Karnataka.
Objectives	<ul style="list-style-type: none"> ● To meet the aspiration of the people of the backward region; ● To protect Cultural and economic interest of tribal People; ● To protect the interest of local people of the state; ● Deal with disturbed law and order conditions in some parts of the state.

CONSTITUTIONAL PROVISIONS UNDER ARTICLE 371

Maharashtra and Gujarat (Article 371)

- **Governor's Responsibilities:**
 - **Establish Development Boards** for Vidarbha, Marathwada, Saurashtra, and Kutch.
 - **Equitable Allocation** of funds for development.
 - **Facilities for Technical Education** and vocational training.

- **Employment Opportunities** in state services for these regions.
- **Annual Performance Reports** to the State Legislative Assembly.

Nagaland (Article 371A)

- **Introduced by the 13th Amendment (1962):**
 - **Governor's Role** in maintaining law and order until disturbances cease. Governor's decision is final in this regard. This special responsibility of the Governor shall cease when President so directs.
 - **Central Funds** must be included in Demand for Grants.
 - **Tuensang District:**
 - ◆ **Regional Council** with 35 members.
 - ◆ **Special Provisions** for ten years under the Governor's administration.
 - ◆ The acts of Parliament relating to Naga customary law, religious and social practices, administration of civil and criminal justice and ownership and transfer of land would not apply unless the State Legislative Assembly so decides.

Assam (Article 371B)

- **Introduced by the 22nd Amendment (1969):**
 - **The President can form a Committee** of the Legislative Assembly with members from tribal areas.

Manipur (Article 371C)

- **Introduced by the 27th Amendment (1971):**
 - **President is authorised to provide for Committee for Hill Areas** in the Legislative Assembly.
 - **Governor's Special Responsibility** for committee functioning and annual reports.

Andhra Pradesh and Telangana (Article 371D & 371E)

- **Article 371D: President is empowered to provide for equitable Opportunities** in public employment and education.
 - **Local Cadres for Civil Posts** and establishment of an Administrative Tribunal.
- **Article 371E: Parliament can establish a Central University** in Andhra Pradesh.

Sikkim (Article 371F)

- **Introduced by the 36th Amendment (1975):**
 - **The Legislative Assembly** must have at least 30 members.
 - **One Lok Sabha seat** allocated to Sikkim.
 - **Governor's Role** in maintaining peace and advancing social and economic interests.
 - The President can extend any law (which is in force in any state of the Indian Union) with modifications and restrictions into Sikkim.

Mizoram (Article 371G)

- **Introduced by the 53rd Amendment (1986):**
 - **Parliament Acts** on certain matters apply only if the State Assembly agrees.
 - **The Legislative Assembly** must have at least 40 members.

Arunachal Pradesh (Article 371H)

- **Introduced by the 55th Amendment (1986):**
 - **Governor's Responsibility** for law and order with final decision-making authority.
 - **The Legislative Assembly** must have at least 30 members.

Goa (Article 371I)

- **Introduced by the 56th Amendment (1987):**
 - **The Legislative Assembly** must consist of not less than 30 members.

Karnataka (Article 371J)

- **Introduced by the 98th Amendment:**
 - **Development Board for Hyderabad-Karnataka Region:**
 - ◆ **Oversee Development Initiatives.**
 - ◆ **Annual Reports** for transparency.
 - **Equitable Fund Allocation and Reservations** in education and vocational training institutions and state government posts for local residents.

SPECIAL CATEGORY STATUS (SCS) IN INDIA

The Indian constitution does not make provisions for SCS. It was introduced by 5th finance commission in 1969 which includes special provisions for certain states to address unique needs, preserve cultural distinctiveness, and ensure administrative autonomy.

Criteria for SCS

1. **Hilly Terrain:** States with difficult geography, e.g., Himachal Pradesh.
2. **Low Population Density/Significant tribal Population:** Areas needing socio-economic development, e.g., Arunachal Pradesh.
3. **Strategic Border Locations:** Essential for national security, e.g., Jammu and Kashmir (pre-2019 changes).
4. **Economic Backwardness:** States lacking infrastructure and development, e.g., Uttarakhand.
5. **Weak Finances:** States struggling financially, e.g., Manipur.

Recent Changes: The 14th Finance Commission abolished SCS for most states, retaining it only for the Northeastern states and three hill states. It increased tax devolution from 32% to 42% to fill the resource gap.

OFFICIAL LANGUAGE IN INDIA

Constitutional Provisions on Official Languages

Languages of the Union

- **Article 343:** **Hindi** (Devanagari script) is the official language of the Union; **English** continues for official purposes, extendable by Parliament.
- **Article 344:** Commission and **Parliamentary Committee** to recommend the use of Hindi and restrictions on English.
- **President-appointed commissions** recommend Hindi usage and restrictions on English every 5 and 10 years.
- **Official Languages Act (1963):** Continued **English use**; amended in 1967 to make English and Hindi compulsory in some cases.
- **Key Commissions:** **B.G. Kher Commission (1955) & Parliamentary Committee under G.B. Pant (1957)**

Regional Languages

- **Article 345:** States may adopt any **language(s)** or Hindi as their official language.
- **Article 346:** **English** serves for communication between **Union and States**.
- **Article 347:** President can recognize **minority languages** in states.

Language of Judiciary & Legal Texts

- **Article 348:** **English** for all **judicial proceedings** and legal documents.
- **Article 349:** Special procedure for language laws.
- **State languages** can be authorised in High Courts (except for judgments) with the President's approval.
- Parliament has not mandated **Hindi** use in the Supreme Court.

Official Languages Act (1963)

- **Hindi translations** of official documents are authoritative.
- **Bills** require **Hindi translations**.
- Governors with prior consent of President may authorise **Hindi** in High Courts, with English translations.

Special Directives

- **Article 350:** Language for **grievances**.
- **Article 350A:** **Mother tongue education** for linguistic minorities.
- **Article 350B:** **Special officer** to monitor safeguards for linguistic minorities.
- **Article 351:** Promote **Hindi** to represent India's cultural heritage.

Other Constitutional Provisions on Languages

- **Eighth Schedule:** Lists **22 official languages**; Classical languages are not separately mentioned under the Eighth schedule.
- **Article 120:** Parliament conducts business in **Hindi or English**; members may speak in native languages with permission.
- **Article 210:** Allows **Hindi, English**, or state languages in legislative matters.
- **Article 345:** States may adopt one or more languages for **official purposes**; **English** continues until a decision is made.
- **Classical Language Status**
 - **Classical Languages (Shastriya Bhasha):** Languages with a **deep historical background**, rich **literary traditions**, and **cultural heritage**.
 - **Contributions:** These languages significantly contribute to **intellectual and cultural development**, providing insights into **literature, philosophy, and religion**.
 - Established in **2004** for languages with high antiquity and **rich cultural heritage**.
 - **Benefits:** Financial aid, awards, and university chairs for scholars.
 - **Languages with Classical Status:** **Tamil (2004)**, **Sanskrit (2005)**, **Telugu (2008)**, **Kannada (2008)**, **Malayalam (2013)**, **Odia (2014)**.
 - Marathi, Pali, Prakrit, Assamese, and Bengali have been added to the Classical Language list recently in October 2024.
- **Revised Classical Language Status (2024)**
 - **Linguistics Expert Committee (July 2024):** revised the criteria for classical status. It includes members from the **Ministries of Home and Culture** and is chaired by the President of **Sahitya Akademi**.
- **Criteria for Classical Language Status**
 - **Ancient Origin:** High **antiquity** of early texts or recorded history, spanning **1,500-2,000 years**.
 - **Literary Heritage:** A body of ancient texts considered **valuable heritage** by generations.
 - **Originality:** **Distinct literary tradition**, not borrowed from other communities.
 - **Discontinuity:** Clear separation between the **classical language** and its **modern forms**.
 - **Newly Approved Classical Languages (2024):** **Marathi, Bengali, Assamese, Pali, and Prakrit**.



TYPES OF BODIES/AUTHORITIES IN INDIA

Type of Body	Formation	Examples	Powers
Constitutional Bodies [UPSC 2023]	Established by the Constitution itself	Election Commission, Finance Commission, UPSC, CAG	Powers defined in the Constitution
Extra/Non-Constitutional Bodies	Created by the administrative decisions	National Development Council, various advisory bodies	Varies based on the governing framework
Statutory Bodies	Established by an Act of Parliament or state legislature	Reserve Bank of India, Securities and Exchange Board of India (SEBI)	Powers defined by the enabling statute
Judicial Bodies	Established under the Constitution or legislation	Supreme Court, High Courts, Subordinate Courts	Adjudicative powers; interprets laws and resolves disputes
Executive Bodies	Established by the Constitution or legislation	Council of Ministers, various ministries	Executes laws and administers governance
Quasi-Judicial Bodies	Created by statutes or regulations	Central Administrative Tribunal, State Consumer Disputes Redressal Commissions	Limited judicial powers; can make decisions based on law and facts

SALIENT FEATURES OF CAG, ELECTION COMMISSION (ECI), UPSC AND SPSC

Category	Comptroller and Auditor General	Election Commission	Union Public Service Commission	State Public Service Commission
Articles/Acts	Articles 148 to 151, Part V	Article 324, Part XV	Article 315 to 323, Part XIV	Article 315 to 323, Part XIV
Head	Comptroller General	Chief Election Commissioner (CEC)	Chairman	Chairman
Members	Single Member	2 Election Commissioners [UPSC 2017]	10 Members	5 Members
Appointment	President	President	President	Governor
Qualification	Not specified	Not specified	50% must hold 10 years of service in GoI/State	50% must hold 10 years of service in GoI/State
Term	6 years or till 65 years	6 years or till 65 years	6 years or till 65 years	6 years or till 62 years
Conditions to Resign	Addressed to the President	Addressed to the President	Addressed to the President	Addressed to the Governor
Renewal	Not allowed	Not Allowed	Not allowed	Not allowed
Future Employment	Not allowed	If Election Commissioner is appointed as Chief Election Commissioner, his/her term of office shall not be more than six years in aggregate as the Election Commissioner and the Chief Election Commissioner.	Members not eligible for reappointment but can become Chairman of UPSC	Members not eligible for reappointment but can become Chairman of UPSC/SPSC

Expenses	Charged on Consolidated Fund of India (CFI) Salary = SC Judge	Charged on Consolidated Fund of India (CFI) Salary = SC Judge	Charged on Consolidated Fund of India (CFI) Salary = SC Judge	Not charged on Consolidated Fund of State (CFS) Salary = HC Judge
Functions	Audits expenditures from the Consolidated and Contingency Fund of India and State, along with public accounts. Audits government transactions related to debt, and issues reports to the President and Parliament. Guides the Public Accounts Committee of Parliament. [UPSC 2012]	Determines boundaries based on the Delimitation Commission Act . Election Management: Notifications, scrutiny of nominations, and recognizing political parties. Conduct of Elections: Cancels polls due to irregularities; advises on disqualifications. Publicity: Manages publicity rosters for political parties.	Ensures merit-based recruitment. Recommendations on civil service recruitment methods, candidate suitability, disciplinary matters, etc. Submits reports to the President, which are then presented to Parliament.	Consulted by the Governor for state judicial service appointments. Submits annual reports to the Governor for presentation to the state legislature.
Limitations	Secret Service Expenditure: Limits CAG's auditing role. CAG has no authority over the issuance of money from the Consolidated Fund.	Not applicable	Excluded from reservations, tribunal selections, and group C and D services; temporary appointments UPSC cannot select for temporary appointments exceeding one year.	Excluded from reservations, tribunal selections, and group C and D services; temporary appointments
Removal	By President on the basis of resolution passed by both houses of the parliament with special majority either on ground of proved misbehaviour or incapacity.	The CEC is removed in the procedure similar to that of a Supreme court Judge. The other Election Commissioners are removed on recommendation made by the CEC.	By President on grounds of insolvency, infirmity, or misbehaviour (Supreme Court advice binding)	By President on grounds of insolvency, infirmity, or misbehaviour (Supreme Court advice binding)

Note: Election Commission resolves the disputes relating to splits/mergers of recognized political parties. **[UPSC 2017]**
For recent updates concerning the appointment of Election commissioners please refer to '**Additional Information**' provided on page 121.

JOINT STATE PUBLIC SERVICE COMMISSION (JSPSC)

- **Creation:** By Parliament on request of state legislatures.
- **Status:** Statutory, not constitutional.
- **Appointment:** Chairman and members appointed by the President.
- **Term:** 6 years or until age 62 years.
- **Annual Reporting:** Reports to concerned state governors.

SALIENT FEATURES OF ATTORNEY AND ADVOCATE GENERALS

Category	Attorney General	Advocate General
Articles/Acts	Article 76, Part – V. Part of the Union Executive. Highest law officer in the country.	Article 165, Part -VI. Part of the State Executive. Highest law officer in the state.
Head	Attorney General	Advocate General
Members	Single Member	One per State

Appointment	President	Governor
Qualification	Qualified to be Judge of SC i.e. Citizen of India, Must have been a judge of some HC for 5 years or An advocate of some HC for 10 years or An eminent jurist , in the opinion of the president.	Qualified to be Judge of HC i.e. Citizen of India, Must have been in judicial service of the State for 10 years or An advocate of HC for 10 years .
Term	Pleasure of President	Pleasure of Governor
Conditions to Resign	By President [UPSC 2022]	By Governor
Renewal	Allowed	Allowed
Future Employment	Allowed	Allowed
Tenure Extension	Allowed	Allowed
Expenses	Not charged on Consolidated Fund of India (CFI)	Not charged on Consolidated Fund of the State
Independence	Cannot be varied	Cannot be varied
Functions	Chief legal advisor to the Union	Chief legal advisor to the state
Limitations	Cannot practice law	Cannot practice law
Removal	Resignation to the President. Conventionally, he/she resigns when the government (council of ministers) resigns or is replaced. [UPSC 2022]	Resignation to the Governor. Conventionally, he/she resigns when the government (council of ministers) resigns or is replaced.

Note: The Attorney General and the Advocate General both possess the **right to participate in the proceedings of the legislature, or their committees** of which they are a member. However they **do not enjoy the right to vote** in such proceedings. Also they **enjoy the privileges and immunities** available to members of legislatures. [UPSC 2013]

SALIENT FEATURES OF NCSC, NCST AND NCBC

Category	National Commission for SCs (NCSC)	National Commission for STs (NCST)	National Commission for BCs (NCBC)
Articles/Acts	Article 338, Part XVI	Article 338A, Part XVI	Article 338B, Part XVI
Background	<ul style="list-style-type: none"> • Originally: Art.338 provided for Special officers for SC & ST. • 1978: Non-statutory multi-member commission for SCs and STs (through resolution). • 1987: Commission renamed as National Commission for SCs & STs (through resolution). • 65th CAA 1990: Multi-member National Commission for SCs & STs with constitutional status. • 89th CAA 2003: Single commission separated into NCSC (Art. 338) & NCST (Art. 338 A). • The separate National Commission for SCs and STs came into existence in 2004. 		<ul style="list-style-type: none"> • Originally: NCBC was set up in 1993 as a Statutory body according to the Mandal case judgement of SC (1992). • 102nd CAA, 2018: accorded Constitutional status with the insertion of new Art.338 B. [UPSC 2023]
Head/Members	Chair + Vice-Chair + 3 Members	Chair + Vice-Chair + 3 Members	Chair/Vice-Chair, 5 Members
Appointment	President	President	President
Qualification	Not specified	Not specified	Not specified
Term	3 years	3 years	3 years (not specified in the constitution but in NCBC Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2018.)

Removal	By President	By President	By President
Renewal	Not allowed	Not allowed	Not allowed
Future Employment	Not allowed	Not allowed	Not allowed
Tenure Extension	Not allowed	Not allowed	Not allowed
Expenses	Consolidated Fund of India	Consolidated Fund of India	Consolidated Fund of India
Independence	Cannot be varied	Cannot be varied	Cannot be varied
Functions	Safeguards rights of SCs	Safeguards rights of STs	Safeguards rights of OBCs
Limitations	Not applicable	Not applicable	Not applicable
Removal	By President	By President	By President
Other Aspects	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure. Discharges similar functions regarding the Anglo-Indian Community. Till 2018, the commission was also required to discharge similar functions with regard to OBCs. It was relieved by the creation of NCBC (Art.338B). 	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure. Measures for the implementation of the PESA Act, 1996. <ul style="list-style-type: none"> Reduce and eliminate the shifting cultivation practice by tribals. Improve relief and rehabilitation measures. Prevent alienation of tribal people. Conferring ownership rights in respect of MFPs. 	<ul style="list-style-type: none"> Power of civil court in certain matters. The Commission is vested with the power to regulate its own procedure. Participate and advise on the socio-economic development of Socially and Educationally Backward Classes.

SALIENT FEATURES OF FINANCE COMMISSION, GST COUNCIL AND SPECIAL OFFICER FOR LINGUISTIC MINORITIES

Category	Finance Commission (UPSC 2011)	GST Council	Special Officer for Linguistic Minorities
Article/Act	Article 280, Part XII	Article 279A, Part XII	Article 350B, Part XVII
Establishment	Quasi-judicial body, created every 5 years	101st Constitutional Amendment Act (2016)	7th Constitutional Amendment Act (1956)
Head	Chairman	Union Finance Minister	Commissioner for Linguistic Minorities
Members	Chairman + 4 members	State Finance Ministers & Union Minister of State for Finance	Assistant Commissioners in regional offices
Appointment	By President	By Presidential Order	By President
Term	5 years	Not applicable	Not specified
Resign	The President	Not applicable	Not specified
Renewal	Eligible for reappointment	Not applicable	Not specified
Future Employment	Not allowed	Not applicable	Not applicable

Expenses	Not charged on Consolidated Fund of India	State/Central Government	Central Government
Independence	Cannot be varied	Not applicable	Ministry of Minority Affairs
Quorum	Not applicable	50% of total members	Not applicable
Decision-Making	Advisory capacity only	3/4th majority of members present and voting	Not applicable
Vote Weight	Not applicable	Centre: 1/3rd; States: 2/3rd	Not applicable
Functions	Allocation of tax proceeds between the Centre and States. Recommends principles for grants to States from the Consolidated Fund of India. Suggests measures to augment a State's Consolidated Fund based on State Finance Commission recommendations. Advises on financial issues referred by the President.	Recommendations on taxes, cesses, and surcharges that should be merged into GST. Proposing special rates to raise additional resources during natural calamities or disasters. Making special provisions for certain northeastern and hilly states, including Arunachal Pradesh, Assam, Jammu & Kashmir , and others.	Safeguards the rights of linguistic minorities.
Reporting	Submits report to the President	Recommendations to Centre and States	Submits reports to the President through Union Minority Affairs Minister
Limitations	Recommendation advisory	Not applicable	Not specified
Removal	By President	Not applicable	Not specified
Location of Headquarters	Not specified	New Delhi	New Delhi, with regional offices in Belgaum, Chennai, and Kolkata
Special Provisions	Constitutionally mandated	Special provisions for hilly and northeastern states	Not applicable
Other Aspects	Balances fiscal federalism	Permanent invitee: Chairperson of Central Board of Indirect Taxes and Customs-CBIC (non-voting)	Oversees compliance with constitutional provisions for linguistic minorities

Additional Information:

- 1st Finance Commission Chairperson (1951): **K C Neogy**.
- 15th Finance Commission Chairperson (2021): **N K Singh**.
- Criteria** for devolution of the 15th Finance Commission:
 - 12.5% weightage to **demographic performance**,
 - 45% to **income**.
 - 15% each to **population**
 - 15% to the **area**.
 - 10% to **forest and ecology**.
 - 2.5% to **tax and fiscal efforts**. [UPSC 2023]

Appointment of Chief Election Commissioner (CEC) and Other Election Commissioners (ECs)

- Previous System:** CEC and ECs appointed by the President on the Central Government's recommendation.

- Anoop Baranwal vs Union of India (2023):** SC recommended independent Selection Committee for CEC and ECs, based on Dinesh Goswami Committee (1990) & Law Commission's 255th Report (2015): Comprising Prime Minister, Chief Justice of India, Leader of Opposition (or largest opposition party in Lok Sabha).
- Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service, and Term of Office) Act, 2023:** Replaces Election Commission Act (1991), covering appointments, salaries, and dismissal procedures.
 - Selection Process:** President appoints CEC and ECs based on a three-member Selection Committee (Prime Minister, Union Minister, Leader of Opposition).
 - Search Committee:** Headed by Cabinet Secretary, suggests five candidates to the Selection Committee, which can consider other names.



LOKPAL

- Recommended by **First Administrative Reforms Commission (1966-1970)**. Maharashtra appointed first Lokayukta (1971).
- **Statutory bodies** under Lokpal and Lokayukta Act, 2013. **Lokpal** at Centre, **Lokayukta** in States.
- **Members: Multi-member body:** Chairperson and up to 8 members (50% judicial). Minimum 50% from SC, ST, OBC, Minorities, and Women.
- **Appointment: Lokpal:** By President; **Lokayukta:** By Governor
- **Term:** 5 years or age of 70; **Removal and resignation:** By President.
- **Selection Committee:** PM, Speaker, Opposition Leader, CJI/His Nominee, eminent jurist
- **Search Committee:** Assists selection (50% from marginalised groups)
- **Qualification: Judicial Members:** Current/former SC judges or HC Chief Justices
 - **Non-Judicial Members:** Experts with 25+ years in anti-corruption, public administration, etc. Chairperson salary equivalent to CJI, members to SC judges.
- **Function: Superintendence over investigating agencies**, including CBI. **Property attachment and confiscation powers** **Timeline** for enquiry, investigation, and trial. **Enhanced punishment** under Prevention of Corruption Act. Power to grant **prosecution sanction**.
- **Jurisdiction:** Covers **PM, Ministers, MPs, Group A-D officers** and includes **government-financed institutions**. Powers of a civil court; Concept originated in Sweden (1809).

Salient Features of CVC, CIC, & SIC

Attribute	Central Vigilance Commission (CVC)	Central Information Commission (CIC)	State Information Commission (SIC)
Provisions	CVC Act, 2003. As recommended by Santhanam Committee	Statutory bodies under RTI Act 2005	
Head	Chief Vigilance Commissioner	Chief Information Commissioner	State Chief Information Commissioner
Members	Multi-member body: Central Vigilance Commissioners (not more than 2)	CIC + Information Commissioners (not more than 10)	State Chief Information Commissioner & Information Commissioners (not more than 10)
Appointment	By the President on the recommendation of a 3-member committee (PM, Leader of Opposition (LS), and Union Home Minister).	By the President based on a 3-member committee (PM, Leader of Opposition (LS), Union Cabinet Minister nominated by PM)	By the Governor based on a 3-member committee (CM, Leader of Opposition (SLA), State Cabinet Minister nominated by CM).
Term	4 years or age of 65 years, whichever is earlier; not eligible for further appointment	Prescribed by the Central Government or age of 65 years; no reappointment.	Term as prescribed by the State Government; no reappointment.
Qualifications & Salary	Same as UPSC Chairman ; Vigilance Commissioners similar to UPSC members . (cannot be varied detrimentally)	Must be eminent in public life with expertise in law, technology, social service, media, or governance . Cannot be a Member of Parliament , legislature, or hold any office of profit . Salary is determined by the Central Government and cannot be changed to their disadvantage.	
Resignation	To the President	To the President	To the Governor

Removal	By the President on grounds of insolvency, moral turpitude , or infirmary ; requires Supreme Court inquiry for misconduct	By the President on grounds of insolvency, moral turpitude, paid employment outside office , or incapacity (mental/physical).	By the Governor for specific grounds, including misconduct or incapacity
Functions	<p>Supervises CBI in corruption cases.</p> <p>Advises the government on corruption-related investigations.</p> <p>Receives whistleblower complaints under the WhistleBlowers Protection Act (2014) [Protects identity of whistleblowers, imposes penalties for false complaints (up to 2 years imprisonment, Rs. 30,000 fine), requires complainant identification for action]</p>	<p>Receive and investigate complaints related to:</p> <ul style="list-style-type: none"> Unavailability of information Denied requests Delayed responses Unreasonable fees Incomplete/false information <p>Suo-moto inquiry power. Civil court powers during inquiries</p> <p>Enforce compliance of decisions. Impose penalties (up to Rs. 25,000) on Public Information Officers</p> <p>Recommend disciplinary action against errant officials</p> <p>Submit annual reports to respective governments (CIC to Central Government, placed before Parliament, SIC to State Government, placed before State Legislature)</p>	
Additional Points	Powers of a civil court; All India Services, Group A Central Government officers , senior officials in PSUs, Banks, RBI, LIC, etc.	Powers to receive complaints regarding RTI violations and impose penalties	Powers to receive complaints regarding RTI violations and impose penalties

CENTRAL BUREAU OF INVESTIGATION

- **CBI:** Established in 1963 by a resolution of Ministry of Home Affairs, as recommended by the Santhanam Committee (1962-64). **Non-statutory body**, under the **Ministry of Personnel as Attached office**. It derives its powers from the Delhi Special Police Establishment Act.
- **Head: Director**
- **Members:** Includes **joint directors, deputy inspector generals, superintendents of police**, forensic scientists, and law officers. **Lokpal and Lokayuktas Act (2013)** introduced: **Directorate of Prosecution** to handle cases under the Act, appointed by the Central Govt. on **CVC recommendation**. Appointment of SP and above based on **CVC-chaired committee** recommendations.
- **Appointment: 3-member committee: PM (Chair), Leader of Opposition (LS), CJI or SC Judge.** In the absence of a recognized opposition leader, the **largest opposition party leader** becomes a member.
- **Term:** The Director has a Fixed tenure of **2 years** (CVC Act, 2003), extendable up to **5 years** (annual extensions).
- **Function:** Investigates **Corruption, economic offences, serious organised crimes** (not terrorism).
- Functions as **National Central Bureau for Interpol India**. Assists CVC, Lokpal, and Lokayukta.

- **General Consent:** State consent required for jurisdiction; general consent allows CBI to operate without fresh approval for every case.

NATIONAL INVESTIGATION AGENCY (NIA)

- **Founded:** 2009, under National Investigation Agency Act, 2008
- **Nodal Ministry: Ministry of Home Affairs.**
- **Head:** Director-General powers similar to the Director-General of Police,
- **Appointed** by the central government; 5 years or as prescribed; officers' powers extend beyond India for scheduled offences.
- **Function:** Collects and analyses counter-terrorism data. Investigates offences listed in the NIA Act. Works with other intelligence agencies. Ensures effective enforcement of the NIA Act. **TFFC(Terror Funding and Fake Currency)** for dealing with fake currency and terror funding Conduct professional investigations using scientific methods. Ensure speedy trials. Covers terror attacks, human trafficking, counterfeit currency, and cyber-terrorism. NIA (Amendment) Act, 2019, Extends jurisdiction to offences committed outside India against Indian citizens. Allows designation of **Special Courts** for NIA-related trials.

Salient Features of Disaster Management Authorities

Attribute	National Disaster Management Authority	State Disaster Management Authority	District Disaster Management Authority
Acts	History: <ul style="list-style-type: none"> 1999: High Powered Committee formed. 2001: National Committee post-Gujarat Earthquake. 2005: Disaster Management Act enacted after the 2004 Tsunami. Formation: NDMA constituted in 2005 via executive order; notified in 2006. Nodal Ministry: Ministry of Home Affairs.		
Head	Prime Minister (ex-officio chairperson)	Chief Minister (ex-officio chairperson)	Collector/District Magistrate (ex-officio chairperson)
Members	9 Members (not exceeding, with Chairperson and Vice-Chairperson)		Up to 7 Members (with Chairperson) include the chief executive officer, superintendent of police, chief medical officer, and up to two district-level officers.
Appointment	Nominated by the Prime Minister	Nominated by the Chief Minister	Appointed by the state government
Term	Not specified	Not specified	Not specified
Salary	CFI	CFS	Consolidated Fund of State
Functions	Approve National Plan and departmental plans. Establish guidelines for State Disaster Management Authorities (SDMAs). Coordinate policy enforcement and recommend funding for mitigation. Provide international disaster relief and establish minimum standards for disaster relief.		Prepare district disaster management and response plans. Monitor implementation of policies and plans. Identify vulnerable areas and preventive measures. Identify buildings for use as relief centres.
Additional Points	Enhance prevention, preparedness, and resilience at all levels. Identify and monitor disaster risks. Utilise technology and traditional wisdom for mitigation. Integrate disaster management into planning processes. Foster collaboration with the media.		

Salient Features of NHRC & SHRC:

Attribute	National Human Rights Commission (NHRC)	State Human Rights Commission (SHRC)
Acts	Protection of Human Rights Act, 1993	Protection of Human Rights Act, 1993
Head	Chairperson: Retired CJI or Judge of the SC.	Chairperson: Retired CJ or Judge of HC.
Members	5 Members: Serving/retired SC Judge. Serving/retired CJ of HC. 3 others (one woman mandatory) with knowledge/experience in human rights. Ex-officio Members: Chairpersons of NCBC, NCW, NCSC, NCST, NCPDR, NC for Minorities, & Chief Commissioner for PwDs.	2 Members: Serving/retired HC Judge or District Judge (7 years of experience). Expert in human rights.
Appointment	By President. Selection Committee: PM (Chair), Speaker (LS), Deputy Chairman (RS), Opposition Leaders (LS & RS), and Union Home Minister. Consultation with CJI for SC or HC Judge appointments.	By Governor. Selection Committee: CM (Chair), Speaker (SLA), Chairman (SLC), Opposition Leaders (SLA & SLC), and State Home Minister. Consultation with HC Chief Justice.
Term	3 years or until 70 years , whichever earlier.	3 years or until 70 years , earlier.
Salary	Central Govt. determined. Not to vary post-appointment.	State Govt. determined. Not to vary post-appointment.

Resignation	To President	To Governor
Functions	Inquiry into human rights violations or negligence - Suo motu or by petition. Visits to jails and detention centres. Review Constitutional and other legal safeguards and promote human rights literacy. Report Submission to Central/State governments, laid before legislatures. Judicial Powers: Powers of a civil court . Investigative Authority: Own staff and utilisation of government agencies.	
Key Powers	Powers to investigate human rights violations and recommend actions	Powers to investigate human rights violations at the state level
Additional Points	Human Rights Courts: Protection of Human Rights Act (1993) provides for Human Rights Courts in each district for speedy trials. Set up by the State Government with HC Chief Justice's approval. Public Prosecutor: Appointed for these courts (7 years of legal practice mandatory). Removal: NHRC/SHRC Chairperson/Members can be removed by President if: <ul style="list-style-type: none"> Declared insolvent. Engages in paid employment during tenure. Unsound mind or convicted for an offence. Misbehaviour/incapacity (based on SC inquiry recommendation). Limitations: Cannot inquire into matters after 1 year of occurrence. Recommendatory in nature; must be informed about action taken within 1 month . No punitive powers or power to grant relief/compensation . Armed Forces Violations: Limited role; recommendations only.	

Salient Features of NCW, NCPDR & NCM:

Attribute	National Commission for Women (NCW)	National Commission for Protection of Child Rights	National Commission for Minorities (NCM)
Acts	National Commission for Women Act, 1990. Nodal Ministry: Ministry of Women and Child Development. Recommended by Committee on Status of Women in India (1974) and National Perspective Plan for Women (1988) .	National Commissions for Protection of Child Rights Act, 2005. Established in 2007 , based on UN Convention on the Rights of the Child Nodal ministry: Ministry of Women and Child Development.	National Commission for Minorities Act, 1992. The Act does not define 'minority' but allows the Central Government to notify 'minorities' for the Act's purposes. Nodal ministry: Ministry of Minority Affairs.
Head	Chairperson	Chairperson (A person of eminence with contributions to child welfare)	Chairperson
Members	5 Members: Experts in law, legislation, women's employment, social welfare, health, etc. At least one member must belong to the SC and ST community respectively. Member Secretary: Either an expert in management or an officer from Civil Services.	6 Members: Experts in fields like education, child healthcare, juvenile justice, child psychology, and laws related to children, with at least 2 members being women .	7 Members (Chairperson, Vice-Chairperson, 5 members including Chairperson from minority communities) Section 3(2) of NCM Act, 1992
Appointment	Nominated by the Central Government (MoWCD)	Nominated by the Central Government Chair appointed on recommendation of a 3-member selection committee	Nominated by the Central Government from among persons of eminence
Term	3 years	3 years (not more than 2 terms); Chairperson: max 65 years, Members: max 60 years	3 years
Salary	Prescribed by the Central Government	By Central Government; cannot be varied detrimentally	Prescribed by the Central Government

Functions	Reviews legal safeguards for women, recommends legislative measures, facilitates grievance redressal, advises government on policy matters affecting women, Annual reports to the government, with recommendations on safeguards for women, Inspect jails, remand homes , and women's institutions, Fund litigation for cases affecting a large body of women.	Reviews constitutional and legal safeguards for children; examines violations; facilitates grievance redressal; Conduct research and promote awareness Inspect juvenile homes Inquire into child rights violations	Evaluate minority development progress Monitor constitutional and legal safeguards Make recommendations for effective implementation of safeguards Section 9 of the Act. Address specific complaints of rights deprivation. Conduct studies on discrimination and development issues Present periodic reports to Central Government
Key Powers	Appoint committees and regulate procedures. Government must consult NCW on major policy matters. Powers to call for information, summon witnesses, and require production of documents	Powers to inquire into complaints and recommend remedial measures; summon witnesses & documents. Responsibilities Under RTE Act 2009, POCSO Act 2012, and Juvenile Justice Act 2015	Powers of a civil court; can summon and examine witnesses, require document production
Additional Points	Accepts complaints verbally or in writing. Issues addressed include rape, harassment, and domestic violence . Monitors police action and provides counselling. Parivarik Mahila Lok Adalat Established by NCW to assist the District Legal Service Authority in resolving family disputes. Follows the model of Lok Adalat , offering speedy, cost-free justice. NCW provides financial aid to NGOs and State Women's Commissions to organise these Adalats.	Review and ensure child rights safeguards Facilitate grievance redressal . The Commission cannot inquire into matters pending before State Commissions or other statutory commissions. Children's Court: Established under 2005 Act For speedy trials . Designated by state government with High Court Chief Justice's concurrence. Special public prosecutor appointed for each court	Recognized Minorities: Muslims, Christians, Sikhs, Buddhists, Zoroastrians (1993) Jains added in 2014 Annual and special reports to Centre Presented before Parliament with action-taken memorandum State-related reports forwarded to respective state governments. Removal Grounds (Similar to other commissions): Misbehaviour, incapacity, insolvency, conviction, etc.

NITI AAYOG

Extra Constitutional Body, replaced Planning Commission in 2015 (not mentioned in constitution **UPSC 2013**) via a resolution of the Union Cabinet.

- **Head:** Prime Minister of India
- **Member: Governing Council:** Chief Ministers of States and UTs with legislatures, and Lt. Governors of UTs. Salary: Consolidated Fund of India (CFI)
- **Regional Councils:** Address region-specific issues.
- **Special Invitees:** Experts nominated by the Prime Minister.
- **Vice Chairperson:** Appointed by the Prime Minister, with the rank of Cabinet Minister.
- **Full-time Members:** Rank of Minister of State.
- **Part-time Members:** Max 2, from universities/research organisations.
- **Ex-Officio Members:** Max 4, from the Union Council of Ministers.
- **CEO:** Appointed by the Prime Minister.
- **Functions:** Designs policy frameworks, monitors progress, fosters cooperative federalism and a **bottom-up approach**, acts as a think tank. **Policy and programme design** and framework. **Monitoring and evaluation** of schemes and policies. A hub for **knowledge and innovation**.
- **Governance Based on 7 Pillars:** Pro-people, Pro-activity, Participation, Empowering: Inclusion of all, Equality & Transparency
- **NITI Aayog Hubs: Team India Hub:** Interface between Centre and States & **Knowledge and Innovation Hub:** Think-tank focus.
- **Initiatives by NITI Aayog:** 15-year roadmap and 7-year strategy, India@75 vision, Digital India, Atal Innovation Mission, SDG India Index, Composite Water Management Index, SATH Programme, Aspirational Districts Programme, Health Index.

- **Guiding Principles:** Antyodaya, Inclusion, Village Integration, Demographic Dividend, People's Participation, Governance, & Sustainability.

LAW COMMISSION OF INDIA

Non-statutory advisory body established by the Central Government for fixed tenures.

- **Head:** Typically a serving/retired judge or legal expert
- **Members:** Includes full-time members, a member-secretary, and part-time members. Term: 3 years and salary from CFI.
- **Member-Secretary:** Typically an Indian Legal Service officer holding the rank of Additional Secretary/Secretary to the Government.

- **Part-Time Members:** Eminent legal professionals, scholars, or specialists in specific law areas.
- **Function:** Recommend legislative measures for law consolidation and codification. Identify and recommend repeal of outdated laws. Review laws. Advise the government on legal and judicial matters. Provide legal research for foreign countries. Powers to recommend legislative measures, summon witnesses, and require the production of documents. Reports undergo scrutiny by the full Commission before finalisation. Final reports are submitted to the **Ministry of Law and Justice** and then to Parliament.
- To date, the Commission has submitted **289 reports** on various legal issues. **1st Law Commission 1955** under **M.C. Setalvad**. **22nd Law Commission** currently headed by **Justice Ritu Raj Awasthi (2020-2024)**

Salient Features of Bar Councils:

Attribute	Bar Council of India (BCI)	State Bar Councils (SBC)
Acts	Statutory, autonomous body under the Advocates Act, 1961 . Nodal Ministry: Ministry of Law and Justice (Department of Legal Affairs).	Formed under the Advocates Act, 1961 ; 24 SBCs currently exist.
Members	Consists of elected and ex-officio members; includes Attorney-General, Solicitor-General (ex-officio) and one from each State Bar Council (elected).	Elected and ex-officio members. Size based on electorate: 15 (5,000-10,000 voters), 20 (>10,000), 25 (over 10,000). Advocate-General of the state is an ex-officio member.
Functions	Set professional conduct standards for advocates. Supervise SBCs and handle referrals from them. Promote legal education and set educational standards. Recognize universities for law degree qualifications. Conduct legal seminars and provide legal aid for the poor. Acknowledge foreign legal qualifications.	Admit advocates and maintain their roles. Handle misconduct cases against advocates. Promote rights and interests of advocates and bar associations. Conduct seminars, manage funds, and oversee legal aid initiatives.
Additional Points	Powers of a civil court; can summon and examine witnesses, require document production. Funds and Grants: May establish funds for welfare schemes, legal aid, and law libraries. Can receive grants, donations, and memberships in international legal bodies	Powers to regulate legal education and practice in India Funds and Grants: May establish funds for welfare, legal aid, and law libraries. Can receive financial support through grants, donations, and gifts.

Salient Features of CCI & TRAI:

Attribute	Competition Commission of India (CCI)	Telecom Regulatory Authority of India
Articles/Acts	Competition Act, 2002	TRAI Act, 1997
Head	Chair	Chair
Members	5 Members (State & National)	6 Members
Functions	Promotes fair competition; investigates anti-competitive practices; advises on regulations; conducts market studies	Regulates telecommunications; ensures compliance with quality standards; promotes consumer interests
Key Powers	Powers to investigate and prohibit anti-competitive practices	Powers to regulate telecom services and ensure compliance

Salient Features of NIC & NDC:

Aspect	National Integration Council (NIC)	National Development Council (NDC)
Established	1961	1952
Objective	Promote national integration and communal harmony	Facilitate economic development and cooperative federalism
Composition	Chaired by the Prime Minister; includes political leaders and social activists	Chaired by the Prime Minister; includes Chief Ministers and Planning Commission members
Functions	Address issues of national integration, recommend policies for social cohesion	Review and approve Five-Year Plans, discuss socio-economic measures
Focus	Social issues, integration, and harmony	Economic planning and development
Nature	Executive body	Executive body

HOME GUARDS IN INDIA

- **Establishment:** Formed in December 1946 to assist police in civil disturbances and communal riots. The concept was adopted by various states.
- **Central Directive:** Post-1962 Chinese aggression, the Centre advised states to unify existing voluntary organisations into the Home Guards.
- **Raising Authority:** Home Guards are established by state governments under respective state acts, not directly by the Central Government.
- **Roles and Responsibilities**
 - **Auxiliary Support:** Assist police in maintaining internal security.
 - **Emergency Response:** Aid in natural disasters (air raids, fires, cyclones, etc.).
 - **Community Services:** Help maintain essential services, promote communal harmony, and assist vulnerable sections of society.

- **Socio-economic Involvement:** Participate in welfare activities and perform **civil defence duties.**(UPSC 2023)

BORDER WING HOME GUARDS (BWHG)

- **Formation:** 15 battalions raised in border states (e.g., Punjab, Rajasthan, Gujarat) to assist the Border Security Force.
- **Purpose:** Prevent infiltration and safeguard vulnerable areas during external aggression.

CONSUMER COMMISSION

- **Appointment:** Members appointed by the government on Chief Justice's recommendations.
- **Tenure:** 4 years or until age limits are reached.
- **Administrative Control:** National Commission oversees State Commissions.

The **Consumer Protection Act, 2019** establishes a **3-tier redressal system**:

District Consumer Disputes Redressal Commission	State Consumer Disputes Redressal Commission	National Consumer Disputes Redressal Commission
<ul style="list-style-type: none"> • Setup: Formed by state governments; multiple commissions can exist in one district. • Jurisdiction: Complaints ≤ ₹1 crore (reduced to ₹50 lakhs in 2021). • Composition: President + 2 + members. • Powers: Review orders for errors; function at district headquarters. 	<ul style="list-style-type: none"> • Setup: Established by state governments, typically in state capitals. • Jurisdiction: Complaints between ₹1 crore and ₹10 crores (now ₹50 lakhs to ₹2 crores as of 2021). • Composition: President + 4+ members. • Powers: Declare unfair contracts void; review orders; transfer complaints. 	<ul style="list-style-type: none"> • Setup: Formed by the central government, based in the national capital. • Jurisdiction: Complaints > ₹10 crores (now ₹2 crores in 2021). • Composition: President + 4-11 members (at least one woman). • Powers: Review orders; transfer complaints; appeals to the Supreme Court within 30 days.

Commission	2021 Rules	2019 Act	1986 Act
District Commission	Up to ₹50 lakhs	Up to ₹1 crore	Up to ₹20 lakhs
State Commission	₹50 lakhs to ₹2 crores	₹1 crore to ₹10 crores	₹20 lakhs to ₹1 crore
National Commission	Above ₹2 crores	Above ₹10 crores	Above ₹1 crore



A **political party** is a **voluntary association** or organised group of individuals with shared **political views** or ideologies. They seek to achieve **political power** through **constitutional means** and work to promote the **national interest**.

Types of Party Systems

1. **One-Party System:** Only one ruling party, **no opposition** (e.g., former USSR, **Chinese Communist Party (CCP)**).
2. **Two-Party System:** Two major parties dominate (e.g., USA ((Democratic, Republican), Britain).
3. **Multi-Party System:** Numerous parties leading to **coalition governments** (e.g., India, France, Switzerland, Italy, **German (Multi-Party System with proportional representation)** , **India: Multi-Party System** with strong **regional parties**, **South Africa: Multi-Party System** with ANC dominance post-apartheid).

PARTY SYSTEM IN INDIA

Multi-Party System: India has a **large number of political parties** due to its **continental size**, **diverse society**, and **universal adult franchise**.

Current status: 6 National Parties, 54 State Parties & 2,597 Registered-Unrecognised Parties

Recognition of Parties

- **National and State Parties:** The **Election Commission of India (ECI)** grants recognition based on **poll performances**.
- **Registered-Unrecognised Parties:** Do not meet the criteria for national or state status.

Benefits of Recognition

- **Access to electoral rolls.**
- **Time for political broadcasts** on state media.
- **Exclusive party symbols.**

Party Symbols Allocation

- **National Party:** Has a **symbol** reserved for use across India.
- **State Party:** Exclusive symbol for the state(s) where recognized.
- **Registered-Unrecognized Party:** Chooses from a **list of free symbols**.

Proposers and Star Campaigners

- **Recognized Parties:** Need only **1 proposer** and can have **40 star campaigners**.
- **Registered-Unrecognised Parties:** Can have **20 star campaigners**.
- **Campaign expenses** for star campaigners are **not included** in individual candidate expenditures.

CRITERIA FOR RECOGNITION AS A NATIONAL PARTY

Fulfillment of any one of the following conditions:

- **6% valid votes** in **4 or more states** plus **4 Lok Sabha seats**.
- **State party status** in **4 states**.
- **2% Lok Sabha seats** from **3 states**.
- **Current National Parties:** As India has a multi-party system, there are six national parties in the country - AAP, BSP, BJP, INC, CPI-M, and National People's Party (the first national party from the North-East region).

CRITERIA FOR RECOGNITION AS A STATE PARTY

Fulfillment of any of the following conditions

- **8% votes** in the last Lok Sabha or state assembly elections.
- **1 Lok Sabha seat** for every 25 seats in the state.
- **3% of assembly seats** or **3 seats**, whichever is higher.
- At the last general election to the Legislative Assembly of the State, the candidates set up by the party have secured not less than six percent of the total valid votes polled in the State; and, in addition, the party has returned at least two members to the Legislative Assembly of that State at such general election; or
- At the last general election to the House of the People from that State, the candidates set up by the party have secured not less than six percent of the total valid votes polled in the State; and, in addition, the party has returned at least one member to the House of the People from that State at such general election;

The Communist Party of India (CPI) was the single largest opposition party in the First general Election. CPI won in 16 seats. The Indian National Congress (INC) won a landslide victory, winning 364 of the 489 seats and 45% of the total votes polled. Jawaharlal Nehru became the first democratically elected PM of the country. [UPSC 2018]

Deregistration of Political Parties

- **Section 29A of the Representation of People Act, 1951** governs **registration** of parties with the ECI.
- **Deregistration** can occur if: Obtained registration through **fraud**, **Illegal declaration** by the Central Government & **Violation** of the Indian Constitution.
- **Representation of People Act, 1951 (RPA)**: Regulates **elections**, **by-elections**, **party registration**, and **qualifications/disqualifications**. Manages **election expenditure** and **administrative machinery** for elections. RPA does **not allow deregistration** of parties by the ECI.

ELECTIONS

Elections are a formal process where citizens select their representatives. The Indian Constitution's **Part XV (Articles 324-329)** lays down the provisions for conducting elections and establishes the **Election Commission** for this purpose.

Electoral Constituency: An electoral constituency is a designated geographical area from which voters elect a representative to a legislative body. It is essential for ensuring representative democracy, allowing citizens to choose individuals who will advocate for their interests in various legislative bodies (e.g., parliaments, assemblies).

Types of Constituencies Include parliamentary, assembly, and local government constituencies.

Methods of Election

1. First-Past-the-Post System:

- Used for elections to the **Lok Sabha** and **Vidhan Sabha**.
- Electors vote for one candidate; the candidate with the most votes wins.
- Suitable for a multiparty system, ensuring each party's representation regardless of size.

2. Proportional Representation:

- Votes are distributed proportionally among legislative members.
- Ensures that parties receive seats in accordance with their overall vote share, reflecting a more accurate representation in the legislature.

Key Constitutional Articles on Elections

- **Article 324**: Establishes the **Election Commission** to supervise elections to Parliament, State Legislatures, and the offices of the President and Vice-President.

- **Article 325**: Prohibits exclusion from electoral rolls on the grounds of **religion, race, caste, or sex**.
- **Article 326**: Provides for elections to the **House of the People** and **State Legislative Assemblies** based on **adult suffrage**.
- **Article 327**: Empowers **Parliament** to legislate on matters related to elections, including **electoral rolls** and **delimitation of constituencies**.
- **Article 328**: Empowers **State Legislatures** to legislate on elections, subject to the provisions of the Constitution.
- **Article 329**: Prevents **court interference** in electoral matters, except through **election petitions**.

Other Constitutional Provisions

- **Election Commission of India** handles elections to **Parliament**, **State Legislatures**, the **President**, and **Vice-President**. The **State Election Commission** manages elections to **Panchayats** (Article 243K) and **Municipalities** (Article 243ZA).
- No discrimination based on **religion, race, caste, or sex** is allowed for inclusion in electoral rolls (Article 325).
- All Indian citizens who meet the age requirement have the right to vote, with exceptions for **non-residence**, **unsound mind**, **criminal acts**, or **corrupt practices**.
- **Universal Adult Franchise** (Article 326) ensures voting rights for all eligible adults, promoting equality.
- **Election Disputes**: **Article 323B** allows the creation of tribunals to handle **election disputes**. However, no such tribunal exists yet. The **Chandra Kumar case (1997)** declared the exclusion of **court jurisdiction** in election disputes unconstitutional. If a tribunal is created, the **High Court** will have appellate jurisdiction.

Types of Elections in India

1. Rajya Sabha Elections

- **Method**: Proportional representation by **single transferable vote**.
- **Term**: Members serve **six years**; one-third retire every two years.
- **Dissolution**: Rajya Sabha is **permanent**.

2. Lok Sabha Elections

- **Method**: Direct elections by **adult citizens**; **first-past-the-post** system.
- **Frequency**: Every **five years**.
- **Composition**: **543 seats**; **131 reserved** for Scheduled Castes (84) and Scheduled Tribes (47).

3. State Assembly Elections (Vidhan Sabha)

- **Members**: Called **Members of the Legislative Assembly (MLAs)**.
- **Term**: **Five years**; directly elected.

4. State Legislative Council

- **Members**: Elected **indirectly**.

- **Strength:** Maximum one-third of the State Assembly; minimum of **40 members**.
- **Electoral College composition:** Graduates: **1/12**, Teachers: **1/12**, Local Body Members: **1/3**, MLAs: **1/3**, & Nominations by the Governor: **1/6**

5. Bye-Elections

- **Purpose:** Fill vacancies between regular elections.
- **Conduct:** Must occur within **six months** of vacancy, except in specific cases.
- **Participation:** Allows political parties to test electoral strength.

Components of Election Machinery in India

- **Independent Election Commission**
 - **Constitutional Authority:** Autonomous body independent of government influence.
 - **Chief Election Commissioner (CEC):** Appointed by the President; removal requires the same process as for a Supreme Court judge.
- **Key Electoral Officers**
 - **Chief Electoral Officer (CEO):** Nominated by the Election Commission and supervises elections in a State/Union Territory (Representation of the People Act, 1950).
 - **District Election Officer (DEO):** Manages elections at the district level and reports to the CEO (Representation of the People Act, 1950).
 - **Returning Officer (RO):** Conducts elections in a parliamentary or assembly constituency (Representation of the People Act, 1951).
 - **Electoral Registration Officer (ERO):** Prepares electoral rolls for constituencies.
 - **Presiding Officer:** Oversees polling at stations; appointed by DEO or Returning Officer in Union Territories.
 - **Observers:** Nominated by the Election Commission to monitor elections & includes General, Election Expenditure, and Awareness Observers, with statutory powers established by amendments in 1996.

- **Formal Notification:** Issued by the President (for Lok Sabha) or Governor (for State Assembly), starting the election process.
- **Filing of Nomination Paper:** Must include candidate details and signatures from two registered voters.
- **Oath and Affirmation:** Candidates take an oath before authorised officers.
- **Security Deposit:** Required; forfeited if less than 1/6 of valid votes are received.
- **Examination:** Returning Officer checks nominations for compliance.
- **Withdrawal:** Candidates can withdraw within two days after scrutiny.
- **Campaigning:** Candidates promote themselves to voters; recognized parties can access state-owned media.
- **Model Code of Conduct**
 - ◆ **Guidelines:** Set by ECI to ensure fair conduct by political parties during elections. Not legally enforceable.
 - ◆ **Effect:** Begins upon election announcement and lasts until results are declared; violations can be reported via the C-vigil app.
- **Voting System**
 - ◆ **Electoral Roll:** Official voter list, revised every five years.
 - ◆ **Voting Rights of Prisoners:** Convicted individuals and undertrial prisoners cannot vote; those under preventive detention may use postal ballots.
- **Polling Process**
 - ◆ **Timetable:** ECI sets polling days.
 - ◆ **Polling Stations:** Located in public venues; max 1,500 voters per station.
 - ◆ **Voting Method:** Secret ballot via Electronic Voting Machines (EVMs).
 - ◆ **Counting of Votes:** Conducted by the Returning Officer and Observers; winner is the candidate with the most votes.

ELECTORAL PROCESS IN INDIA

- **Qualification for Contesting Polls**
 - ◆ **Citizenship:** Must be an Indian citizen.
 - ◆ **Age:** Minimum 25 for Lok Sabha/State Assembly; 30 for Rajya Sabha/State Council; 21 for panchayat and municipality elections.
 - ◆ **Additional Qualifications:** As per the Representation of People Act, 1951.
- **Schedule of Elections:** Lok Sabha and State Assembly elections every five years, unless dissolved earlier.
- **Election Announcement:** ECI announces election schedule weeks prior, activating the Model Code of Conduct.

REPRESENTATION OF THE PEOPLE ACT, 1950

The Representation of the People Act (RPA), 1950, governs the allocation of seats and delimitation of constituencies for elections to the House of the People and State Legislatures, establishing voter qualifications and electoral rolls.

Key Provisions

- **Seat Allocation and Delimitation:** Defines procedures for allocating seats in Parliament and State Legislatures based on census figures and empowers the President to amend delimitation orders after consulting the Election Commission of India (ECI).



- **Voter Qualifications:** Requires voters to be:
 - Permanent residents of India.
 - At least 18 years old.
 - Not disqualified by law for reasons such as non-residence, unsoundness of mind, or criminal activities.
- **Electoral Roll Preparation:** Outlines procedures for creating electoral rolls, appointing officers like the Chief Electoral Officer (CEO), District Election Officer (DEO), and Electoral Registration Officer (ERO), with the ERO responsible for electoral rolls in each constituency.
- **Reservation of Seats:** Mandates reservation for Scheduled Castes (SC) and Scheduled Tribes (ST) in the Lok Sabha and State Assemblies, allowing the ECI to determine reserved constituencies, especially in specific northeastern states
- **Electoral Registration Officers ERO's Role:** Prepares electoral rolls for constituencies.
- **Returning Officers RO's Role:** Conducts elections and supervises the counting process.
- **Voting Rights for NRIs:** Extended voting rights to Indian citizens living abroad in 2010.
- **Schedules of RPA, 1950**
 - **First Schedule:** Allocates seats in the House of the People.
 - **Second Schedule:** Lists total seats in Legislative Assemblies.
 - **Third Schedule:** Allocates seats in Legislative Councils.
 - **Fourth Schedule:** Defines local authorities for Legislative Council elections

REPRESENTATION OF THE PEOPLE ACT, 1951

The Representation of the People Act, 1951, was enacted to address provisions not covered by the Representation of the People Act, 1950, including the conduct of elections, membership qualifications and disqualifications, election offences, and dispute resolutions.

Key Provisions

- **Administrative Machinery:** Establishes the framework for conducting elections, including the roles and responsibilities of the Election Commission of India (ECI).
- **Election Offences:** Defines various corrupt practices and electoral offences to ensure fair elections.
- **Election Disputes:** Outlines procedures for resolving election-related disputes.
- **Bye-Elections:** Specifies rules for conducting bye-elections and timelines for filling vacancies.
- **Political Parties Registration:** Mandates the registration of political parties, classifying them as national, state, or unrecognised after elections.

Qualifications and Disqualifications

- **Qualifications:**
 - **Elector Status:** Must be an elector in the relevant constituency.
 - **Reserved Seats:** Scheduled Caste or Scheduled Tribe members must contest from reserved seats.
 - **Age:** Minimum age is 25 years for Lok Sabha and 21 years for panchayat and municipality elections.
- **Disqualifications Under the Representation of the People Act, 1951 [UPSC 2020]**
 - **Conviction for Certain Offences (Section 8):** Disqualified if sentenced to:
 - ◆ **2+ years** for specified offences.
 - ◆ **6+ months** for bribery, election-related offences, etc.
 - **Corrupt Practices (Section 8A):** Disqualified for **6 years** post-conviction.
 - **Dismissal from Government Service (Section 9):** Disqualified if dismissed for corruption or disloyalty.
 - **Government Contracts (Section 9A):** Disqualified if holding existing government contracts without severing ties.
 - **Managing Agent/Manager of Corporation (Section 10):** Disqualified if in a managerial position in government-affiliated companies.
 - **Failure to Lodge Election Expenses (Section 10A):** Disqualified for **3 years** for not submitting election expense accounts on time.
- **Powers of the ECI:** Inquiries into disqualifications of members.
- **Checks and Balances**
 - **Election Dispute Management:** Handles disputes and checks for corrupt practices.
 - **Civil Court Jurisdiction:** Bars the jurisdiction of civil courts over electoral matters.
- **Election Dispute Provisions**
 - **Trial of Election Petitions:** Establishes procedures for the trial of election petitions.
 - **Withdrawal and Abatement:** Outlines conditions for withdrawal and abatement of election petitions.
 - **Costs and Security:** Specifies costs associated with election petitions and security for costs.
 - **Appeals:** Provides for appeals to the Supreme Court regarding election matters.

DELIMITATION COMMISSION

Definition: Delimitation is the process of fixing the boundaries of electoral constituencies to reflect population changes. In India, it involves redrawing Lok Sabha and Legislative Assembly constituencies, affecting the allocation of seats. **Example:** Delhi has 7 Lok Sabha and 70 Legislative Assembly constituencies.

- **Constitutional Provisions**
 - **Article 82:** Parliament must enact a Delimitation Act after each Census, establishing a Delimitation Commission.
 - **Article 170:** States are similarly divided into constituencies after every Census.
- **Historical Background**
 - **In India, such Delimitation Commissions have been constituted four times.** [UPSC 2024]
 - **First Exercise:** Conducted in 1950-51; **Delimitation Commission Act** enacted in 1952.
 - **Subsequent exercises: 1963, 1973, 2002.**
 - **42nd Amendment Act (1976):** Frozen seat allocations until 2000.
 - **84th Amendment Act (2001):** Extended the freeze to 2026.
 - **87th Amendment Act (2003):** Provided delimitation based on the 2001 Census, not altering seat numbers.
 - Future delimitation will follow the next Census post-2026.
- **Composition and Appointment: Chairperson:** A retired Supreme Court judge, Chief Election Commissioner, and State Election Commissioners. Appointed by the President of India, established through a parliamentary act.
- **Functions:** Equalizes constituency populations. Identifies seats for Scheduled Castes (SCs) and Scheduled Tribes (STs).
- **Powers:** Orders are presented to Lok Sabha and state assemblies but are immutable. Majority opinion prevails in case of disputes. Orders have the force of law and are not subject to court challenge.
- **Process:** Every ten years, a Delimitation Act is enacted. The Commission reviews demographic data and current constituencies, consulting stakeholders. Feedback is incorporated, and the final report is published in official gazettes. The final order takes effect upon presidential communication, serving as the basis for upcoming elections.
- **Note:** Delimitation Commission, the orders of the Delimitation Commission cannot be challenged in a Court of Law. When the orders of the Delimitation Commission are laid before the Lok Sabha or State Legislative Assembly, they cannot effect any modifications in the orders. [UPSC 2012]

Delimitation Commission for Jammu & Kashmir

- **Historical Background**
 - **Previous Governance:** Lok Sabha seat delimitation followed the Indian Constitution; Assembly seat delimitation was governed by the Jammu and Kashmir Constitution.

- **Establishment of Commission:** In March 2020, a Delimitation Commission headed by **Justice Ranjana Prakash Desai**, under the **Delimitation Act, 2002** was formed to redraw boundaries for the Union Territory after the abrogation of Article 370 on 5th August 2019.

Key Recommendations

- **Assembly Seats:** Increased from 83 to 90 (6 additional for Jammu, 1 for Kashmir).
- **Parliamentary Constituencies:** Five constituencies divided equally, each with 18 assembly segments.
- **Reserved Seats:** Seven for Scheduled Castes (SCs), nine for Scheduled Tribes (STs), plus two for Kashmiri migrants and one for displaced persons from Pakistan-occupied Kashmir.
- **Constituency Adjustments:** 28 new constituencies were created; 19 existing ones were deleted.
- **Legal Validation:** The Supreme Court upheld the Commission's establishment as lawful.

OTHER LEGISLATIONS RELATED TO ELECTIONS

- **Presidential and Vice-Presidential Elections Act, 1952:** Governs elections for the President and Vice-President of India.
- **Parliament (Prevention of Disqualification) Act, 1959:** Exempts certain government offices from disqualification for Parliament membership.
- **Government of Union Territories Act, 1963:** Establishes Legislative Assemblies and Councils of Ministers for certain Union Territories.
- **Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976:** Manages caste and tribe listings for parliamentary representation.
- **Government of National Capital Territory of Delhi Act, 1991:** Supports legislative provisions for Delhi's Assembly and Council of Ministers.

RULES RELATED TO ELECTIONS

- **Registration of Electors Rules, 1960:** Prepares and publishes electoral rolls.
- **Conduct of Elections Rules, 1961:** Ensures free and fair elections.
- **Prohibition of Simultaneous Membership Rules, 1950:** Regulates membership in multiple legislative bodies.
- **Disqualification Rules for Lok Sabha and Rajya Sabha (1985):** Enforces defection provisions.
- **Presidential and Vice-Presidential Elections Rules, 1974:** Governs election procedures.
- **Asset Declaration Rules (2004):** Mandates asset disclosure for parliamentary members.

ANTI-DEFECTION LAW

The **Anti-Defection Law**, enacted through the **52nd Amendment** in **1985**, aims to prevent political defections and ensure party discipline within the Indian Parliament and state legislatures.

52nd Amendment Act (1985)

- **Articles Amended:** 101, 102, 190, 191.
 - **Article 101:** Vacation of seats (Parliament).
 - **Article 102:** Disqualifications for membership (Parliament).
 - **Article 190:** Vacation of seats (State Legislature).
 - **Article 191:** Disqualifications for membership (State Legislature).
- **Addition:** **Tenth Schedule** detailing grounds for disqualification due to defection. [UPSC 2014]

Provisions of the Anti-Defection Law

- **Disqualification Criteria:**
 - **Political Party Members:** Disqualified if they:
 - ◆ Voluntarily resign from the party.
 - ◆ Vote against party directives without prior permission, unless condoned within **15 days**.
 - **Independent Members:** Disqualified if they join a political party post-election.
 - **Nominated Members:** Disqualified if they join a political party after **six months** from their appointment. [UPSC 2022]
- **Exceptions:**
 - **Merger:** Disqualification does not apply if a member exits due to a merger agreed by **two-thirds** of the party.
 - **Presiding Officer:** Members may resign after being elected as the presiding officer.
- **Adjudication and Authority:** The presiding officer of the House (Chairperson in RS, Speaker in LS) decides disqualification cases with no stipulated time limit for decisions (UPSC 2022). **Supreme Court ruling (Kihoto Hollohan Case, 1993):** Speaker's decisions are subject to judicial review.
- **Rule-Making Power:** The presiding officer can create rules for the Tenth Schedule, subject to House approval within **30 days**. Complaints must be addressed, giving the accused member a chance to respond before a decision is made.

- **Role of the Whip:** Responsible for ensuring party attendance and monitoring member behaviour in the House. Members defying the whip face disciplinary actions under the anti-defection law.

91st Amendment Act (2003)

- **Article 75 (1A):** Central ministers, including the Prime Minister, must not exceed **15%** of Lok Sabha's total strength.
- **Article 75 (1B):** Members disqualified for defection cannot be appointed as ministers until re-elected.
- **Article 164 (1A):** State ministers, including the Chief Minister, must not exceed **15%** of the Legislative Assembly's total strength, with a minimum of **12 ministers** (in Delhi, **10%**).
- **Article 164 (1B):** State legislature members disqualified due to defection are ineligible for ministerial positions.
- **Article 361B:** Members disqualified for defection cannot hold any **remunerative political position**.
- **Tenth Schedule:** The exemption from disqualification due to a split by **1/3rd** of the legislature party members has been **deleted**.

Related Supreme Court Cases

- **Kihoto Hollohan vs. Zachillhu (1992):** Affirmed the judicial review of the Speaker's decisions.
- **Ravi S. Naik vs. Union of India (1994):** Clarified the meaning of "voluntarily giving up membership."
- **G. Viswanathan vs. Speaker, Tamil Nadu (1996):** Members expelled from parties retain status as unattached members.
- **Shrimant Balasaheb Patil vs. Karnataka (2019):** MLAs not bound by the whip during trust votes; recommended a tribunal for disqualification cases.
- **Keisham Meghachandra Singh vs. Speaker, Manipur (2020):** Suggested constitutional amendments for a more independent adjudication process.

Global Perspective

Anti-defection laws exist in several countries, including:

- **Bangladesh:** Article 70 mandates resignation for voting against party directives.
- **Kenya:** Section 40 requires resignation upon party departure.
- **Singapore:** Articles 46 and 48 outline disqualification conditions upon resignation or expulsion.
- **South Africa:** Section 47 stipulates loss of membership if a member leaves their nominating party.

Important Committees Related to Electoral Reforms

Year	Committee/Commission	Focus/Recommendations
1974	Tarkunde Committee	Curbing electoral malpractice
1975	J.P. Committee	Established by Jayaprakash Narayan to address electoral reforms
1983	Vohra Committee	Nexus between crime and politics; recommended disqualification of candidates with criminal backgrounds
1990	Dinesh Goswami Committee	Electoral reforms emphasising transparency in election funding
1993	Vohra Committee	Focused on the relationship between crime and politics; recommended measures to curb criminal influence in elections
1998	Indrajit Gupta Committee	Recommended partial state funding of elections to reduce money power influence
2000	National Commission to Review the Working of the Constitution	Headed by M.N. Venkatachaliah; addressed electoral reforms in constitutional review
2004	Jeevan Reddy Committee	Reviewed electoral laws and made recommendations for reforms
2005	Second Administrative Reforms Commission	Headed by Veerappa Moily; addressed issues related to electoral reforms and ethics in governance
2010	Tankha Committee	Election Laws and Reforms
2012	J.S. Verma Committee	Suggested amendments to criminal laws concerning electoral candidates
2023	Ramnath Kovind Committee	High-level Committee on Simultaneous Elections

Notable SC Judgments on Elections, ECI & Electoral Reforms

Candidate Eligibility:

- **ADR vs UOI (2002):** Disclosure of criminal records, assets, liabilities.
- **K. Prabhakaran vs P. Jayarajan (2005):** Disqualification for >2 years' conviction.
- **Lily Thomas vs UOI (2013):** Automatic disqualification on conviction under RPA Section 8(4).
- **Rajbala vs State of Haryana (2015):** Upheld educational criteria for local elections.

Election Commission Independence:

- **Mohinder Singh Gill vs CEC (1978):** ECI's **plenary powers** under Article 324.
- **T.N. Seshan vs UOI (1995):** Equal powers for CEC, ECs.
- **Anoop Baranwal vs UOI (2023):** Independent **Selection Committee** for CEC, ECs.

Electoral Processes:

- **PUCL vs UOI (2013):** Introduced **NOTA**.
- **Subramanian Swamy vs ECI (2013):** Made **VVPAT** mandatory.
- **Abhiram Singh vs C.D. Commachen (2017):** Banned campaigns based on **religion, race, caste, community and language**.

Electoral Reforms:

- **Jan Chaukidar vs UOI (2014):** Barred custodial **candidates**.
- **Ashok Chavan vs Madhavrao (2014):** Non-disclosure of **poll expenses** as corruption.

RPA & Campaigning:

- **Kuldip Nayar vs UOI (2006):** Allowed **open ballot** for Rajya Sabha.
- **Union of India vs Harbans Singh (2001):** ECI powers to cancel polls for **booth capturing**.

Model Code of Conduct (MCC):

- **Vikas Singh vs ECI (2004):** Enforced MCC guidelines.
- **Ministry of I&B vs ECI (2019):** Media adherence to MCC upheld.





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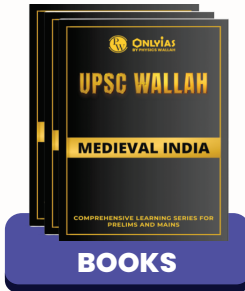


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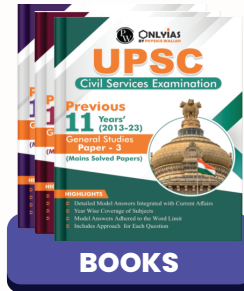
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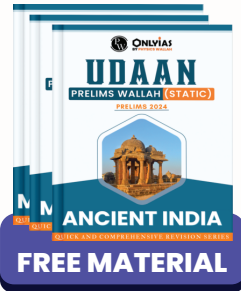
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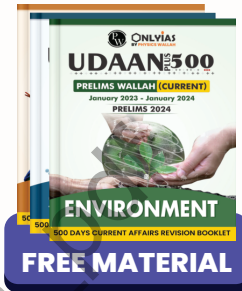
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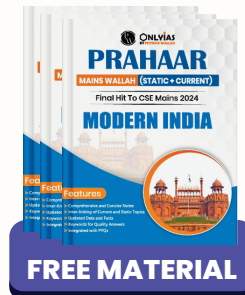
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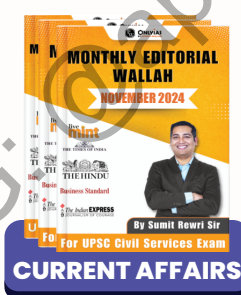
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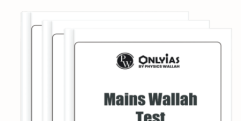
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