



ONLY IAS
Nothing Else



UDAAN

Quick AND Comprehensive Revision Series

FOR PRELIMS 2021

Indian Polity



Online Courses Available at - video.onlyias.in

INDEX

SR.	TOPIC	PG. NO
1	MAKING OF THE CONSTITUTION	1
2	SALIENT FEATURES OF THE CONSTITUTION	3
3	PREAMBLE (PREFACE/INTRODUCTION) OF THE CONSTITUTION	6
4	UNION TERRITORIES	10
5	CITIZENSHIP	13
6	FUNDAMENTAL RIGHTS	16
7	DIRECTIVE PRINCIPLES OF STATE POLICY	29
8	FUNDAMENTAL DUTIES	32
9	AMENDMENT OF THE CONSTITUTION	34
10	BASIC STRUCTURE DOCTRINE	37
11	PARLIAMENTARY SYSTEM	39
12	CENTER STATE RELATION	42
13	INTER-STATE RELATIONS	47
14	EMERGENCY PROVISIONS	50
15	PRESIDENT AND GOVERNOR	56
16	VICE-PRESIDENT	62
17	PRIME MINISTER & CHIEF MINISTER	65
18	CENTRAL & STATE COUNCIL OF MINISTER	66
19	PARLIAMENT	68
20	PARLIAMENTARY COMMITTEE	83
21	SUPREME COURT	85
22	HIGH COURT	89
23	SUBORDINATE COURT	93
24	TRIBUNALS	95
25	STATE LEGISLATURES	97
26	LOCAL SELF-GOVERNMENT:	104
27	SCHEDULED & TRIBAL AREAS	109
28	SPECIAL PROVISIONS FOR SOME STATES	111
29	CONSTITUTIONAL BODIES	113
30	NON-CONSTITUTIONAL BODIES	117
31	CO-OPERATIVE SOCIETIES	121
32	ANTI-DEFECTION LAW	122

1. MAKING OF THE CONSTITUTION

DEMAND FOR CONSTITUENT ASSEMBLY (CA):

- 1924 → Idea first given by Swaraj Party.
- 1934 → M.N. Roy put forward the demand for C.A.
- 1935 → INC officially demanded C.A. to frame Indian Constitution.
- 1940 → Demand accepted in principle in August Offer.
- 1942 → Cripps Proposal for Constitution rejected.
- 1946 → Cabinet Mission Plan (CMP) accepted by all parties. (Lord Patrick Lawrence, Sir Stafford Cripps, A V Alexander were its members). CMP rejected two C.A. ideas.

COMPOSITION OF THE CONSTITUENT ASSEMBLY:

- C.A. **constituted in Nov 1946** under CMP. (Cabinet Mission Plan).
- Seats allotted as per population proportion.
- Voting by method of proportional representation by means of single transferable vote in case of provincial representation.
- C.A. was **partly nominated** (by heads of Princely states) & **partly elected** body (In British Provinces)
- **Indirectly elected** members.
- **Mahatma Gandhi was not part of C.A.**
- The 93 seats allotted to the princely states were not filled as they decided to stay away from the Constituent Assembly.

Total Strength			389
1.	British India	Governors Province	292
2.	Chief Commissioner Province		4
3.	Princely States		93

WORKING OF THE CONSTITUENT ASSEMBLY

- First meeting held on Dec 9, 1946 (Muslim League boycotted)
- Temporary President of the Assembly → Dr. Sachidanand Sinha, the oldest member, was elected as following the French practice.
- Dr. Rajendra Prasad was elected President of C.A. later.
- Vice - Presidents (Two) → Both H.C. Mukherjee and V.T. Krishnamachari.

OBJECTIVES RESOLUTION

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

CHANGES BY THE INDEPENDENCE ACT 1948

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

FUNCTIONS PERFORMED BY C.A.

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

MAJOR COMMITTEES

1. Union Powers Committee / Union Constitution Committee / States Committee → Jawaharlal Nehru
2. Rules of Procedure Committee / Steering Committee → Dr. Rajendra Prasad
3. Provincial Constitution Committee → Sardar Patel
4. Drafting Committee → Dr. B.R. Ambedkar
5. Advisory Committee on FRs, Minorities & Tribal & Excluded Areas → Sardar Patel

Of all the Committees of C.A. **Drafting Committee** was most important set up on Aug 29, 1947. It **consisted of 7 members**.

ENACTMENT OF THE CONSTITUTION

- After general & clause by clause reading of draft Constitution. It was **adopted on Nov 26, 1949**. At that time, it contained Preamble, 395 Articles, & 8 Schedules.
- The Preamble was enacted **after** the entire Constitution was already enacted to align with philosophy of constitution.

ENFORCEMENT OF THE CONSTITUTION

- Some provisions of Constitution came into force on Nov 26, 1949 itself, viz. Citizenship, Elections, provisional parliament, temporary and transitional provisions, and short title contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on November 26, 1949, itself.
- **Major part came into force on Jan 26, 1950** (commencement day). (**Jan 26, 1930 – Purna Swaraj Day was celebrated**)
- Indian Independence Act, 1947 & GoI Act, 1935 with all its enactments were repealed. However, **The Abolition of Privy Council Jurisdiction Act (1949) continued**.

OTHER IMPORTANT FACTS

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

STUDENT NOTE

2. SALIENT FEATURES OF THE CONSTITUTION

- 42nd Constitutional Amendment (1976) is also known as 'Mini Constitution'.
- KESAVANANDA BHARTI CASE (1973): SC ruled, constituent power of parliament doesn't allow it to change the 'basic structure' of the constitution.

IMPORTANT FEATURES OF THE CONSTITUTION:

- Lengthiest Written Constitution- The Indian Constitution is the lengthiest of all written constitution. Presently, it consists of a Preamble, about 470 articles and 12 schedules.
- Dominance of legal luminaries in the Constituent Assembly.
- Single Constitution for both the Centre and the states .
- Drawn from various sources:

Sr.	Sources	Features borrowed
1.	Govt. of India Act,1935	Federal scheme, Governor's office, Judiciary, Public Service Commission, Emergency Provisions and administrative details.
2.	British Constitution	Parliamentary govt., Rule of Law, Single Citizenship, Cabinet System, Parliamentary privileges, Bicameralism, prerogative writs.
3.	US Constitution	Fundamental Rights, Independent Judiciary, Impeachment of President, Judicial review, Removal of supreme court and high court judges and post of vice-president.
4.	Irish Constitution	DPSP, method of election of president and nomination of members to Rajya Sabha.
5.	Canadian Constitution	Federation with a strong centre, vesting Residuary powers to centre, appointment of state governors by the centre and advisory jurisdiction of the Supreme Court.
6.	Australian Constitution	Concurrent List, Joint sitting of both the Houses of Parliament.
7.	Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency
8.	USSR Constitution	Fundamental Duties and the ideal of justice (social, economic and political) in the Preamble.
9.	French Constitution	Republic and the ideals of liberty, equality and fraternity in the Preamble.
10.	South African Constitution	Procedure for amendment of the Constitution and election of members of Rajya Sabha
11.	Japanese Constitution	Procedure established by Law.

Part of Constitution	Derived From
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.

- Rigidity and Flexibility- The Indian Constitution is neither rigid nor flexible, but a blend of both.
- Federal system with unitary bias:

features of federation System	Two government, division of powers, written Constitution, bicameralism, supremacy of Constitution etc.
--------------------------------------	--

features of Unitary System	Strong centre, single constitution, single citizenship, integrated judiciary, all-India services, emergency provisions, etc.
-----------------------------------	--

- **Parliamentary form of Government**-The Indian Constitution has preferred **British Parliamentary System** of government to American Presidential System of government. **Features of Parliamentary form of government are:** Presence of nominal and real executives + Rule of majority party + Leadership of the Prime Minister or the chief minister + Membership of the ministers in the legislature + Dissolution of the lower house (Lok Sabha).
- **Synthesis of Parliamentary Sovereignty and Judicial Supremacy**- The sovereignty of parliament is associated with the British Parliament while Judicial supremacy is associated with American system. The framers of the Indian Constitution have preferred a proper synthesis between the British principle of parliamentary sovereignty and the American principle of judicial supremacy.
- **Integrated and Independent Judiciary**-The Supreme Court stands at the top of the integrated judicial system in the country followed by High courts in states and subordinate courts and other lower courts. **The Supreme Court is the highest court of appeal, the guarantor of the fundamental rights of the citizens and the guardian of the constitution.**
- **Fundamental Rights**- Part III of the constitution guarantees **6 FRs** to all the citizens → (1) **Right to equality(Article 14-18)** + (2) **Right to freedom(Article 19-22)** + (3) **Right against exploitation(Article 23-24)** + (4) **Right to Freedom of Religion(Article 25-28)** + (5) **Cultural and Educational Rights(Article 29-30)** + (6) **Right to Constitutional Remedies(Article 32)**. If a fundamental right of any Indian citizen is violated, then the aggrieved person can directly go to the Supreme Court which can issue the writs of **Habeas corpus, mandamus, prohibition, certiorari, and quo warranto** for the restoration of his rights.
- **Directive Principles of State Policy**- Mentioned in **Part IV** of the constitution. The DPSPs are meant to promote the ideals of social and economic democracy. However, unlike the FRs, the directives are non-justiciable in nature, i.e. they are non-enforceable by the courts for their violation.

NOTE- MINERVA MILLS CASE(1980): SC held that 'the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the DPSPs – Basic Structure

- **Fundamental Duties**- Added to the Constitution only after the recommendations of **Swaran Singh Committee**. The **86th CAA, 2002** added one more fundamental duty. The **duties are also non-justiciable in nature.**
- **A Secular State**- The term '**secular**' was added to the **Preamble** of the Indian Constitution by the **42nd CAA, 1976**. The Indian Constitution embodies the **positive concept of Secularism**, i.e. giving equal respect to all religions or protecting all religions equally.
- **Universal Adult Franchise**-The voting age was reduced to 18 years from 21 years in 1989 by **61st CAA, 1988**.
- **Single Citizenship**- Enjoy the same political and civil rights of citizenship all over the country.
- **Independent Bodies**-Certain Independent Bodies are envisaged by the Constitution as the bulwarks of the democratic system of Government of India. These are: **Election Commission + Comptroller and Auditor-General + Union Public Service Commission + State Public Service Commission.**
- **Emergency Provisions** - National Emergency (**Art. 352**), State Emergency or President's Rule (**Art. 356 and Art. 365**) and Financial Emergency (**Art. 360**). During an emergency, the federal structure converts into unitary one without a formal amendment of the Constitution and the Central government becomes all-powerful.
- **Three-tier Government**- The **73rd and 74th CAA, 1992** have added a third-tier of government (local) which is not found in any other constitutions of the world. The 73rd CAA of 1992 gave constitutional recognition to **Panchayats** by adding a **new part IX and a new schedule 11** to the constitution. The 74th

CAA of 1992 gave constitutional recognition to **Municipalities** by adding a **new part IX-A and a new schedule 12** to the constitution.

- **Cooperative Societies-** The **97th CAA, 2011** gave a constitutional status and protection to co-operative societies. It made the right to form co-operative societies a FR (Art. 19) + added a new DPSP on promotion of co-operative societies (**Art. 43-B**) + added a new part IX-B in the constitution entitled as "The Co-operative Societies" (Art. 243-ZH to 243-ZT).

IMPORTANT SCHEDULES TO REMEMBER

Sr.	SUBJECT MATTERS
First	Names of the states and their territorial jurisdiction + Names of the Union territories and their extent.
Second	Provisions related to emoluments, allowances, privileges of: President of India, Governors of states, the Speaker and the Deputy Speaker of the Lok Sabha and Legislative Assembly in the states, Judges of the Supreme Court and High Courts, the CAG of India, The Chairman and the Deputy Chairman of the Rajya Sabha and Legislative Council in the states.
Third	Oaths and affirmations for: Union Ministers, candidates for election to the Parliament, MPs, judges of SC and HC, the CAG, the candidates for election to the state legislature, members of State Legislatures. etc
Fourth	Allocation of seats in the Rajya Sabha to the states and the UTs.
Fifth	Provisions related to the administration and control of scheduled areas and scheduled tribes.
Sixth	Provisions related to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
Seventh	Division of powers between the Union and the States in terms of Union List, State List and Concurrent List .
Eighth	Languages recognized by the Constitution. Originally, it was 14 and currently it is 22 .
Ninth	Acts and regulations of the state legislatures dealing with land reforms and abolition of zamindari system. This schedule was added by the 1 st Amendment (1951).
Tenth	Anti-Defection Law was added by 52 nd Constitutional Amendment Act of 1985.
Eleventh	Related to Panchayats . Schedule was added by the 73rd CAA, 1992 .
Twelfth	Related to Municipalities . Schedule was added by the 74th CAA, 1992 .

PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM

हिंदी माध्यम में भी उपलब्ध

GIVE YOUR 1ST TEST FREE SCAN HERE

- 1 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- 2 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- 3 4 CSAT "20-20" TESTS.
- 4 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- 5 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- 6 COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- 7 CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- 8 DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- 9 VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- 10 DEDICATED MENTORSHIP
- 11 DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- 12 BOTH MOBILE APP & COMPUTER FRIENDLY.

To Join This Course Visit - dpp.onlyias.in
www.onlyias.com | [+91-7007-931-912](tel:+91-7007-931-912) | info@onlyias.com

TO DOWNLOAD THE APP SCAN QR CODE

3. PREAMBLE (PREFACE/INTRODUCTION) OF THE CONSTITUTION

- **American Constitution:** 1st to begin with preamble.
- Preamble of Indian Constitution is based upon **Objective Resolution** drafted & moved by Pandit Nehru on **13 December 1946** and adopted by Constituent Assembly on 22 January 1947.
- **Amended only once** by 42nd Amendment 1976: added 3 new words- Socialist, Secular & Integrity.
- The preamble embodies the basic philosophy and fundamental values- political, moral and religious on which constitution is based.
- Contains the grand and noble vision of the Constituent Assembly, and reflects the dreams and aspirations of the founding fathers of the Constitution.
- Preamble is neither a source of power to the legislature nor a prohibition on powers of legislature.
- It is non-justiciable - non enforceable in courts of law.
- Preamble resembles the Declaration of Independence of the United States of America - M. Hidayatullah.
- Preamble was enacted by the Constituent Assembly **after** the rest of the Constitution was already enacted to ensure its conformity with the Constitution.
- **“We the people of India”** - Emphasizes that the constitution is made by and for the Indian people. It emphasizes the “concept of popular sovereignty”.

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

JUSTICE, Social, Economic and Political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all; FRATERNITY assuring the dignity of the individual and the unity *and integrity* of the Nation;

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

COMPONENTS OF PREAMBLE:

Source of authority of the Constitution	Derives its authority from people of India
Nature of Indian State	Sovereign, Socialist, Secular, Democratic, Republic
Objectives of the Constitution	Justice (Russian Revolution), Liberty, Equality, Fraternity (all three from French revolution)
Date of adoption of the Constitution	26 November 1949

SIGNIFICANCE OF PREAMBLE:

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

KEYWORDS IN PREAMBLE:

Sovereign:	• Complete independent State + Not a dominion of any other country. + Sovereign in internal & external matters. + As a sovereign country, India can acquire a foreign territory or cede a part in favor of any other country.
Socialist:	• Added by 42 nd amendment (1976) + Socialist contents are implicit in DPSPs (Art 36-51) but 42 nd amendment mentioned it explicitly.

	<ul style="list-style-type: none"> Indian Socialism (Marxism + Gandhism, heavily leaning towards Gandhism) → Democratic Socialism → Adopted Mixed Economic model where both public & private sector coexists side by side. 										
Secular:	<ul style="list-style-type: none"> Added by 42nd amendment (1976) + Part of basic structure doctrine. + SC (1974): Secular State was implicitly mentioned in articles 25 to 28 Positive Secularism in India: All religions have the same status and support from the state. 										
Democratic	<ul style="list-style-type: none"> Democratic → Doctrine of popular sovereignty → possession of supreme power by the people. It embraces = political + social + economic democracy. Indian democracy: Representative Parliamentary democracy. Executive is responsible to the legislature for all its policies and actions. Manifestation of Indian Democracy: Universal adult franchise, periodic elections, rule of law, independence of judiciary and absence of discrimination on certain grounds. <table border="1"> <thead> <tr> <th colspan="2">INSTRUMENTS OF DIRECT DEMOCRACY</th></tr> </thead> <tbody> <tr> <td>1. Referendum</td><td>Procedure whereby a proposed legislation is referred to the electorate for settlement by their direct votes</td></tr> <tr> <td>2. Initiative</td><td>Method by means of which the people can propose a bill to the legislature for enactment</td></tr> <tr> <td>3. Recall</td><td>Method by means of which the voters can remove a representative or an officer before the expiry of his term</td></tr> <tr> <td>4. Plebiscite</td><td>Method of obtaining the opinion India's of people on any issue of public importance</td></tr> </tbody> </table>	INSTRUMENTS OF DIRECT DEMOCRACY		1. Referendum	Procedure whereby a proposed legislation is referred to the electorate for settlement by their direct votes	2. Initiative	Method by means of which the people can propose a bill to the legislature for enactment	3. Recall	Method by means of which the voters can remove a representative or an officer before the expiry of his term	4. Plebiscite	Method of obtaining the opinion India's of people on any issue of public importance
INSTRUMENTS OF DIRECT DEMOCRACY											
1. Referendum	Procedure whereby a proposed legislation is referred to the electorate for settlement by their direct votes										
2. Initiative	Method by means of which the people can propose a bill to the legislature for enactment										
3. Recall	Method by means of which the voters can remove a representative or an officer before the expiry of his term										
4. Plebiscite	Method of obtaining the opinion India's of people on any issue of public importance										
Republic:	<ul style="list-style-type: none"> Two Categories: Monarchy (Britain) & Republic (USA/India). Indian republic: Head of State (President) is indirectly elected. Republic means: Vesting political sovereignty in people. Absence of any privileged class and all public offices open to all without any discrimination. Article 54-55- related to the election of the President. 										
Justice:	<ul style="list-style-type: none"> Taken from the Russian Revolution (1917). Embraces three types of justice: Social, Economic, Political. Distributive Justice = Social Justice + Economic Justice <table border="1"> <tbody> <tr> <td>Social</td><td> <ul style="list-style-type: none"> Equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex etc. Absence of privileges to any particular section. Improvement in the conditions of backward classes & women. </td></tr> <tr> <td>Economic</td><td> <ul style="list-style-type: none"> Non-discrimination between people based on economic factors. Elimination of inequalities in wealth, income & property. </td></tr> <tr> <td>Political</td><td> <ul style="list-style-type: none"> All citizens should have equal political rights, equal access to all political offices & equal voice in the government. </td></tr> </tbody> </table>	Social	<ul style="list-style-type: none"> Equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex etc. Absence of privileges to any particular section. Improvement in the conditions of backward classes & women. 	Economic	<ul style="list-style-type: none"> Non-discrimination between people based on economic factors. Elimination of inequalities in wealth, income & property. 	Political	<ul style="list-style-type: none"> All citizens should have equal political rights, equal access to all political offices & equal voice in the government. 				
Social	<ul style="list-style-type: none"> Equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex etc. Absence of privileges to any particular section. Improvement in the conditions of backward classes & women. 										
Economic	<ul style="list-style-type: none"> Non-discrimination between people based on economic factors. Elimination of inequalities in wealth, income & property. 										
Political	<ul style="list-style-type: none"> All citizens should have equal political rights, equal access to all political offices & equal voice in the government. 										
Liberty:	<ul style="list-style-type: none"> Ideals of liberty, equality, fraternity: from French Revolution (1789). Absence of restraints on the activities of individuals. Providing opportunities for the development of individual personalities. Preamble secures: liberty of thought, expression, belief, faith & worship. Liberty does not mean: License to do what one likes. Need to be enjoyed within limitations 										

	mentioned in the constitution. <ul style="list-style-type: none"> Liberty ensured in preamble & Fundamental Rights is not absolute but qualified. 	
Equality:	<ul style="list-style-type: none"> Absence of special privileges to any section of society. Adequate opportunities for all without discrimination. Preamble secures: Equality of status + opportunity. 	
	Civic Equality	<ul style="list-style-type: none"> Equality before law (Art.14) Prohibition of discrimination on the grounds of religion, race, caste, sex, place of birth (Art.15) Equality of opportunity in public employment (Art.16) Abolition of untouchability (Art.17) Abolition of titles (Art.18)
	Political Equality	<ul style="list-style-type: none"> No one is ineligible for inclusion in the electoral rolls on the grounds of religion, race, caste or sex (Art.325) Lok Sabha & state assembly elections based on adult franchise. (Art.326)
	Economic Equality	<ul style="list-style-type: none"> Equal right to adequate means of livelihood & equal pay for equal work to men and women. (Art.39)
Fraternity:	<ul style="list-style-type: none"> Sense of brotherhood. + Single Citizenship promotes fraternity. Article 51-A: Fundamental duty of every citizen to promote harmony and spirit of common brotherhood transcending religious, linguistic, regional or sectional diversities. Fraternity: dignity of individual (personality of every individual is sacred) + unity & integrity of India. (Word Integrity is added through 42nd amendment). Dignity of individual is ensured in Fundamental Rights, DPSPs, Fundamental Duties. Unity & integrity of nation embraces both psychological + territorial dimensions of national integration. 	

UNION OF TRINITY = LIBERTY + EQUALITY + FRATERNITY

- All three forms union of trinity. If any of these is divorced from other 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 AND PREAMBLE:**

Case	Supreme Court View
Berubari Union Case (1960)	Preamble shows general purpose behind several provisions of the constitution. If terms used in articles are ambiguous, some assistance of preamble could be taken for interpretation. SC held that Preamble is not a part of Constitution.
Kesavananda Bharati Case (1973)	Preamble is a part of Constitution.
LIC of India Case (1995)	SC again held; preamble is an integral part of Constitution.

AMENDABILITY OF PREAMBLE:

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

STUDENT NOTE



www.onlyias.com
[+91-7007-931-912](tel:+917007931912)
info@onlyias.com

MAINS TEST SERIES

- 8 Full length papers
- Question framed in line with ongoing trend of UPSC
- Comprehensive solution with approach to the answers
- Topic wise handouts for Mains (OnlyIAS Mains study material)
- Timely and detailed evaluation of answer booklet with workable inputs and feedbacks strictly by expert faculties
- Online support to solve queries

FEE
₹ 6000
+
18%GST

JOIN NOW mains.onlyias.in

***NOTE : YOU CAN GIVE TEST ANY DAY AFTER THE TEST**

VALIDITY : TILL 30TH SEPTEMBER 2021

- Administer is an agent of the president not head of state.
- **Lieutenant Governor** → Delhi, Puducherry, Andaman And Nicobar, Jammu And Kashmir, Ladakh
- **Administrator** → Chandigarh, Dadra Nager Haveli, Daman and Diu And Lakshadweep.
- **Puducherry, Delhi, Jammu and Kashmir** → Legislative Assembly and Council of Ministers headed by chief minister.

Delhi	State legislature can make laws on state list (except public order, police and land) and concurrent list.
Jammu and Kashmir	Laws on any subject on state list (except public order and police) and concurrent list.
Puducherry	Can make law on any subject on state list and concurrent list

NOTE: Constitution does not contain any separate provisions for the administration of acquired territories.

POWER OF PARLIAMENT TO MAKE LAWS

- The Parliament can make laws on any subject of the three lists (including the State List) for the union territories.
- The President can make regulations for the peace, progress and good government of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, and Daman and Diu.
- A regulation made by the President has the same force and effect as an act of Parliament
- The Parliament can establish a high court for a union territory.

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

SPECIAL PROVISION FOR DELHI (ART. 239AA)

- **69th constitutional amendment act of 1991**- redesignated as national capital territory of Delhi
- Strength of legislative assembly **fixed at 70 Members** –**directly elected by people. Council of Ministers fixed at 10%**
- Elections conducted by Election commission of India
- In case of **difference of opinion of Lt. Governor and chief minister the Lt. Governor refer the matter to the president.**
- When a situation arises in which the administration of the territory cannot be carried on in accordance with above provision, **the president can suspend their (above provisions) and make the necessary incidental or consequential provisions for administering the territory → resembles article 356**
- **Lt. Governor empowered to promulgate ordinances → Approved by assembly within six weeks from its reassembly.**

In the case of difference of opinion between the Lt. governor and his ministers, the Lt. governor is to refer the matter to the president for decision and act accordingly.

ADVISORY COMMITTEES OF UNION TERRITORIES:

- Govt. of India (allocation of business) rules 1961 → **ministry of home affairs** is nodal ministry for all matters of union territories relating to legislation, finance and budget.

- All the **six UT's without legislature** (Andaman and Nicobar Islands, Chandigarh, Daman and Diu, Dadra and Nagar Haveli, Lakshadweep and Ladakh) → have the forum of Home Ministers Advisory Committee / Administrative Advisory Committee (AAC).
- HMAC Chaired by Union Home Minister
- AAC chaired by concerned UT's administrator

STATES	UNION TERRITORIES
Relationship with center is Federal	Relationship is Unitary
Share power distribution with center	They are under the direct control and administration of center
Have autonomy	They do not have autonomy
Uniformity in their administrative set up Executive head is Governor	There is no uniformity in administrative setup
Governor is constitutional head of state	Executive head is known by various designation: <ul style="list-style-type: none"> • Administrator • Lt. Governor • Chief commissioner
Governor is constitutional head of state	Administrator is agent of the president
Parliament cannot make laws on the subjects of state list in relation to states except under extra ordinary circumstances	Parliament can make laws on any subject of the three list in state list in relation to union territories



ONLYIAS
Nothing Else

Praarambh 2022

- Preparing from Root to pinnacle

One year Complete Comprehensive UPSC Preparation Program

हिंदी माध्यम में भी उपलब्ध

1
BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2
CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed OnlyIAS Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

4
DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

3
ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests



Website & Mobile App Friendly

Online Courses Available at - video.onlyias.in



www.onlyias.com



+91-7007-931-912



info@onlyias.com

5. CITIZENSHIP

- India has two kinds of people– citizens and aliens.
 - Citizens:** Enjoy all civil and political rights.
 - Aliens** (friendly aliens or enemy aliens): Do not enjoy all the civil and political rights.
- Citizen enjoys certain rights and privileges provided by constitution and aliens don't are:**
 - Article 15:** Right against discrimination on grounds of religion, race, caste, sex or place of birth.
 - Article 16:** Right to equality of opportunity in the matter of public employment
 - Article 19:** Right to freedom of speech and expression, assembly, association, movement, residence and profession.
 - Articles 29 and 30:** Cultural and educational rights.
 - Right to vote in elections to the Lok Sabha and state legislative assembly.
 - Right to contest for the membership of the Parliament and the state legislature.
 - Eligibility to hold certain public offices like President etc. (In India both a citizen by birth and naturalized citizen are eligible for President while in USA, only a citizen by birth is eligible)

CONSTITUTIONAL PROVISION:

- The Constitution deals with the citizenship from Articles 5 to 11 under Part II. However, it contains neither any permanent nor any elaborate provisions in this regard. It only identifies the persons who became citizens of India at its commencement (i.e., on January 26, 1950).
- It empowers the Parliament** to enact a law to provide for such matters and any other matter relating to citizenship.
 - Article 5:** Citizenship at the time of commencement of constitution
 - Article 6:** Citizenship of those whom migrated from Pakistan to India.
 - Article 7:** Citizenship of those who migrated to Pakistan and then came back to India.
 - Article 8:** Citizenship of person of Indian Origin.
 - Article 9:** Termination of citizenship (automatic termination of citizenship upon voluntary acceptance of citizenship of any other country)
 - Article 10:** Continuance of the rights of citizenship (unless parliament has made law).
 - Article 11:** Parliament to regulate the right of citizenship by law. (Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship).

CITIZENSHIP ACT, 1955: The Citizenship Act (1955) provides for **acquisition and loss of citizenship** after the commencement of the Constitution.

ACQUISITION OF CITIZENSHIP:

By Birth:	A person born in India: <ul style="list-style-type: none">Between January 26, 1950- July 1, 1987 irrespective of the nationality of his parents.After July 1, 1987 - either of his parents is a citizen.December 3, 2004 onwards - only if both or one of whose parents is a citizen of India and the other is not an illegal migrant at the time of their birth.The children of foreign diplomats posted in India and enemy aliens cannot acquire Indian citizenship by birth.
------------------	---

By Descent	A person born outside India: <ul style="list-style-type: none"> Between January 26, 1950- December 10, 1992 & Father was a citizen of India. After December 10, 1992 - either of his parents is a citizen. December 3, 2004 onwards - unless his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the period.
By Registration	The Central Government may, on an application , register as a citizen of India any person (not being an illegal migrant) if he fulfills the certain conditions and persons must take an oath of allegiance before they are registered as citizens of India.
By Naturalization	The Central Government may, on an application, grant a certificate of naturalization to any person (not being an illegal migrant) if he possesses the certain qualifications.
By Incorporation of Territory	If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become the citizens of India from the notified date .

LOSS OF CITIZENSHIP

By Renunciation	<ul style="list-style-type: none"> Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship. Upon the registration of that declaration, that person ceases to be a citizen of India. Every minor child of that person also loses Indian citizenship. However, when such a child attains the age of eighteen, he may resume Indian citizenship.
By Termination	<ul style="list-style-type: none"> When an Indian citizen voluntarily (consciously, knowingly and without duress, undue influence or compulsion) acquires the citizenship of another country, his Indian citizenship automatically terminates.
By Deprivation	It is a compulsory termination of Indian citizenship by the Central government, if: <ol style="list-style-type: none"> Obtained the citizenship by fraud; Shown disloyalty to the Constitution of India; Unlawfully traded or communicated with the enemy during a war; Within five years after registration or naturalization, been imprisoned in any country for two years; and Ordinarily resident out of India for seven years continuously.

SINGLE CITIZENSHIP

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

CITIZENSHIP AMENDMENT ACT 2019

- Definition of illegal migrants: The Act prohibits illegal migrants from acquiring Indian citizenship. It defines an illegal migrant as a foreigner: (i) who enters India without a valid passport or travel documents, or (ii) stays beyond the permitted time.
- Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan who entered India on or before December 31, 2014 will not be treated as illegal migrants and for these groups of persons, the 11 years' requirement will be reduced to five years.
- These provisions on citizenship for illegal migrants will not apply to the tribal areas of Assam, Meghalaya, Mizoram, and Tripura included in the Sixth Schedule to the Constitution
- Further, it will not apply to the "Inner Line" areas notified under the Bengal Eastern Frontier Regulation, 1873 applicable to Arunachal Pradesh, Mizoram, Manipur and Nagaland → AMiN
- Cancellation of registration of OCIs: The Act provides that the central government may cancel the registration of OCIs on certain grounds. These include: (i) if the OCI has registered through fraud, or (ii) if, within five years of registration, the OCI has been sentenced to imprisonment for two years or more, or (iii) if it becomes necessary in the interest of sovereignty and security of India, or (iv) if the OCI has violated the provisions of the Act or of any other law as notified by the central government. The orders for cancellation of OCI should not be passed till the OCI cardholder is given an opportunity to be heard.

STUDENT NOTE**PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM**

हिंदी माध्यम में भी उपलब्ध

GIVE YOUR 1ST TEST
FREE SCAN HERE

- ① 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- ② 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- ③ 4 CSAT "20-20" TESTS.
- ④ 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- ⑤ 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- ⑥ COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- ⑦ CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- ⑧ DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- ⑨ VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- ⑩ DEDICATED MENTORSHIP
- ⑪ DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- ⑫ BOTH MOBILE APP & COMPUTER FRIENDLY.

To Join This Course Visit - dpp.onlyias.in
www.onlyias.com | [+91-7007-931-912](tel:+917007931912) | info@onlyias.com
video.onlyias.in / mains.onlyias.inTO DOWNLOAD THE APP
SCAN QR CODE@ JUST
4999/- ONLYinfo@onlyias.com / [+91-7007931912](tel:+917007931912)

6. FUNDAMENTAL RIGHTS

- Article 12-35 of Part III of constitution.
- Inspired from **Constitution of USA** (Bill of Rights) + Fundamental for **all round development**: Material, intellectual, moral and spiritual + Magna carta of india + Justiciable + Guaranteed to all **subjected to reasonable restriction** + Ideal of political democracy + Limitations on the tyranny of the executive and arbitrary of laws of legislature + Harmony between FR and DPSP is part of basic structure of the constitution.

INITIALLY, SEVEN 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 right (Articles 29-30)
6. Right to Property (Article 31) → now Article 300A- 44th Amendment Act, 1978 (Legal Right)
7. Right to Constitutional Remedies (Article 32)

At present only 6 Fundamental Rights – right to property (moved)

FEATURES OF FUNDAMENTAL RIGHTS

- Some only available to Indian citizen- Article 15, Article 16, Article 19, Article 29 and Article 30)
- Not Absolute but Qualified – Subjected to reasonable restrictions
- All are available against the arbitrary action of the state
- Some are negative in character and some are positive.
- Not sacrosanct or permanent - can be amended by parliament
- Except article 20 & 21, all other rights get suspended during National Emergency (Art. 352)
- Art. 19 can be suspended only during ground of war or external aggression (External Emergency) and not on the ground of armed rebellion (Internal Emergency).
- Scope of operation is limited by Art.31A (saving of laws providing for acquisition of estates), Art.31B (validation of certain acts and regulations included in the 9th schedule) and Art.31C (saving of laws giving effect to certain directive principles)
- Can be restricted while martial law is in force (Art. 34)
- Most are self- executory. For some law can be made only by parliament and not by state legislature.

FUNDAMENTAL RIGHTS

Right to Equality (Art. 14-18)	<ul style="list-style-type: none"> • Equality before Law - article 14 • Prohibition of discrimination based on grounds of religion, race, caste etc. (Article 15) • Equality of opportunity in matters of public employment (article 16) • Abolition of Untouchability (article 17) • Abolition of titles (article 18)
Right to Freedom (Art. 19-22)	<ul style="list-style-type: none"> • Protection of six rights regarding freedom of: (i) speech and expression (ii) assembly (iii) association (iv) movement (v) residence & (vi) profession – Art. 19 • Protection in respect of conviction for offences - Art. 20 • Protection of life and personal liberty - Art. 21

	<ul style="list-style-type: none"> • Right to elementary education - Art. 21 A • Protection against arrest and detention in certain cases - Art. 22
Right Against Exploitation (Art. 23-24)	<ul style="list-style-type: none"> • Prohibition of traffic in human beings and forced labour – Art.23 • Prohibition of employment of children in factories etc. – Art.24
Right to Freedom of Religion (Art. 25-28)	<ul style="list-style-type: none"> • Freedom of conscience and free profession, practice and propagation of religion- Article 25 • Freedom to manage religious affairs – Article 26 • Freedom from payment of taxes for promotion of any religion –Article 27 • Freedom from attending religious instruction or worship in certain educational institutions – Article 28
Cultural and Educational Rights (Art. 29-30)	<ul style="list-style-type: none"> • Protection of language, script and culture of minorities – Article 29 • Right of minorities to establish and administer educational institution- Article 30
Right to Constitutional Remedies (Art. 32)	<ul style="list-style-type: none"> • Right to move the supreme court for enforcement of fundamental rights (Part of basic structure Doctrine) – Article 32

FUNDAMENTAL RIGHTS AND CONSTITUTIONAL PROVISIONS

ARTICLES	DESCRIPTION
Article 12	<ul style="list-style-type: none"> • Art.12 has defined the term "State" includes: Govt. and parliament + Govt. and legislature of states + All local authorities that is municipalities, panchayat, district boards, improvement trust etc. + All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL etc. • ACCORDING TO SUPREME COURT: even a private body or an agency working as an instrument of the state falls within the meaning of state under the article 12
Article 13	<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. • Term "law" denotes: Permanent laws enacted by the Parliament or the state legislatures + Temporary laws like ordinances issued by the president or the state governors + Statutory instruments in the nature of delegated legislation- order, byelaw, rule, regulation or notification + Non legislative sources of law that is custom or usage having force of law. • These can be challenged in the courts as violating FR and hence can be declared as void. • Article 13 provides for judicial review • Article 13 doesn't include constitutional amendment as a law and cannot be challenged. However the supreme court held in Kesavananda Bharati case (1973) that constitutional amendment can be challenged on the ground that it violates a fundamental right that forms the "Basic structure" of the constitution and hence can be declared as void.
	<ul style="list-style-type: none"> • Article 14: Right to Equality → Equality before Law (British notion + Negative notion) + Equal Protection of laws (American concept + positive notion). • 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): Absence of any special privileges in favour of any person + Equal subjection of all persons to the ordinary law of the land administered by

Article 14	<p>ordinary law courts + No person is above law.</p> <ul style="list-style-type: none"> • EQUAL PROTECTION OF LAW (AMERICAN CONSTITUTION): Equality of treatment under equal circumstances, both in privileges conferred and liabilities imposed by the laws + Similar application of the same laws to all person who are similarly situated + Like should be treated alike without any discrimination • Confers right on all persons (citizens and foreigners) and includes Legal Persons (statutory corporation, companies, registered societies or any other type of legal person). • RULE OF LAW: The concept of 'Equality before Law' → Rule of law → A V Dicey • Rule of law → Basic Feature of the constitution. • EXCEPTIONS TO EQUALITY: <ul style="list-style-type: none"> ➤ President of India and Governor + Foreign sovereigns and diplomats + UNO and its agencies ➤ Article 31C (The Supreme Court held that where Article 31-C Comes in, Article 14 goes out) ➤ Article -361A: No person liable for any civil or criminal proceedings in any court in respect of publication in news report of true report of any proceedings of parliament or state legislature. ➤ Article -105: Parliamentary privilege of members of parliament ➤ Article -194: privileges of state legislature in the legislature or any committee thereof.
Article 15	<ul style="list-style-type: none"> • Article 15: Prohibition of Discrimination on Certain Grounds → State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. • This provision prohibits discrimination both by the State and private individuals. • Article 15(3) and 15(4) are foundational bricks of reservation in the country. • Four exception to this general rule of non-discrimination: "State is permitted to make any special provision": for women and children + for advancement of any socially and educational backward classes of citizens or for SCs and STs + for advancement of any socially and educational backward classes of citizens or for scheduled caste and schedules tribes regarding their admission to educational institutions including private educational institutions whether aided or unaided by state except minority educational institutions + for advancement of any economically weaker section of citizens. <p>RESERVATION FOR OBC IN EDUCATIONAL INSTITUTIONS: Exception in article 15 (C) → 93rd amendment act = Enacted Central Educational Institutions (reservation in admission) Act, 2006 → quota for 27% reservation for OBC in all central higher educational institutions including the IITs and the IIM.</p> <p>RESERVATION FOR EWS IN EDUCATIONAL INSTITUTIONS: The above exception (C) was added by the 103rd Amendment Act of 2019 → central government issued order in 2019→10% reservation to EWS in admission to educational institutions.</p>
Article 16	<ul style="list-style-type: none"> • Article 16: Equality of Opportunity for all citizens in matters of employment or appointment to any office under the state. No citizen can be discriminated against or be ineligible for any employment or office under the state on grounds of only religion, race, cate, sex, descent, place of birth or residence. <p>FOUR EXCEPTIONS TO GENERAL RULE OF EQUALITY OF OPPORTUNITY:</p>

1. Parliament can prescribe residence as a condition for certain employment or appointment in a state or union territory or local authority or other authority [only in Andhra Pradesh and Telangana]
2. The state can provide for reservation of appointments or posts in favour of any backward class that is not adequately represented in state services
3. A law can provide that the incumbent of an office related to religious or denominational institution or a member of its governing body should belong to the particular religion or denomination.
4. **State** → permitted to make a provision for the reservation of upto 10% of appointment of post in favour of any EWS of citizen.

Mandal commission and beyond:

1953	First backward class commission under Kaka Kalelkar → submitted 1955
1979	Second backward commission under B.P.Mandal Under article – Article 340 Submitted report -1980 <ul style="list-style-type: none"> • 52% - socially + educationally backward (excluding SC/ST) • Reservation of 27% government jobs for the other backward classes
1990	V P Singh Government declared reservation of 27% for govt jobs
1991	Two changes <ul style="list-style-type: none"> • Preference to the poorer section among OBC -27% Quota • Reservation of 10% jobs for poorer sections of higher caste – not covered under any reservation scheme
1992	<ul style="list-style-type: none"> • Mandal case –scope and extent of article 16(4) <ul style="list-style-type: none"> ○ Upheld constitutional validity of 27% reservation ○ Advanced section of OBC must be excluded ○ No reservation in promotion – existing reservation – extend only upto five years only ○ Total reserved quota shall not exceed 50% except in some extraordinary situations ○ Carry forward rule is valid – should not violate 50% rule ○ A permanent statutory body should be established to examine complaints of over inclusion and under inclusion in list of OBCs

Article 17

- **Abolition of Untouchability:** forbids untouchability in any form → Untouchability (offences) Act, 1955 = 1976 amended and renamed as Protection of Civil Rights Act.
- **Untouchability – Not defined in Constitution or in the act**
- Mysore high court: “subject matter of article 17 is not untouchability in literal or grammatical sense but the but ‘practice as it had developed historically in country’ → **social disability imposed on certain classes**
- **Does not cover social boycott of few individual or their exclusion from religious services etc.**
- Available against **private individual and the constitutional obligation of the state to take necessary action to ensure that this right is not violated.**

Article 18

- 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.
- In 1996, the Supreme Court upheld the constitutional validity of the National Awards–Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Sri.
- SC ruled that these awards do not amount to ‘titles’ within the meaning of Art. 18 that prohibits only hereditary titles of nobility.
- SC also ruled that they should not be used as suffixes or prefixes to the names of awardees.

	<p>Otherwise, they should forfeit the awards.</p> <ul style="list-style-type: none"> No citizen or foreigner holding any office of profit or trust under the State is to accept any present, emolument or office from or under any foreign State without the consent of the president.
--	---

RIGHT TO FREEDOM (ART. 19): Article 19 Guarantees to all citizen the six rights. These are:

- Originally article 19 had 7 rights → right to property deleted by 44th Amendment Act 1978 → Art. 300A
 - Right to freedom of speech and expression
 - Right to assemble peaceably and without arm
 - Right to form associations or unions or cooperatives societies
 - Right to move freely throughout the territory of India
 - Right to reside and settle in any part of the territory of India
 - Right to practice any profession or to carry on any occupation, trade or business
- These six rights are protected against **only state action and not private individuals**. Only to Citizens [not foreigners and legal entities]
- State can impose **reasonable restriction on these 6 rights solely** on the grounds mentioned in article 19 itself and **not on other grounds**.

<p>Freedom of Speech and Expression Article 19 (1):</p>	<p>THE SUPREME COURT HELD THAT FREEDOM OF SPEECH CONTAINS THE FOLLOWING:</p> <ol style="list-style-type: none"> Right to propagate one's views as well as views of others Freedom of press Freedom of commercial advertisements Right against tapping of telephonic conversation Right to telecast, that is, government has no monopoly on electronic media Right against bundh called by a political party or organization Right to know about government activities Freedom of silence Right against imposition of pre-censorship on a newspaper Right to demonstration or picketing but not right to strike <p>REASONABLE RESTRICTION: Sovereignty and integrity of India + Security of the state + Friendly relations with foreign states + Public order + Decency + Morality + Contempt of court + Defamation + Incitement to an offence.</p>
<p>Freedom of Assembly: Article 19 (2):</p>	<ul style="list-style-type: none"> Right to assemble peaceably and without arms - All Citizens Right to hold public meetings, demonstration and take out processions Only on public land + peaceful + unarmed. Does not protect violent, disorderly, riotous assemblies or one that causes breach of public peace or involves arms Does not include Right to Strike <p>REASONABLE RESTRICTION:</p> <ul style="list-style-type: none"> Sovereignty and integrity of India + Public order Section 144 - Criminal procedure Code (1973): Magistrate can restrain an assembly, meeting or procession → risk of obstruction, annoyance or danger to human life, health or safety or disturbance of public tranquility or riot or any affray.

	<ul style="list-style-type: none"> • Section 141 of IPC: Assembly of five or more persons becomes unlawful if the object: <ul style="list-style-type: none"> ➤ To resist execution of any law or legal process ➤ To forcibly occupy the property of some person ➤ To commit any mischief or criminal trespass ➤ To force someone to do an illegal act ➤ To threaten govt officials on exercising lawful powers
Freedom of association Article 19 (3):	<ul style="list-style-type: none"> • Article 19(3): All citizens have the right to form association or unions or cooperative societies: • RIGHT TO FORM: Political Parties + companies + partnership firms + societies, clubs + organizations + trade unions or anybody of persons. • Includes right to continue with the association • Includes negative right of not to form or join an association or union • Reasonable restrictions: Sovereignty of India + Integrity of India + Public order + Morality. • Right to obtain recognition of association is not a fundamental right. • Supreme Court held that trade union: <ul style="list-style-type: none"> ➤ Have no guaranteed right to effective bargaining ➤ Have no right to strike ➤ Have no right to declare lockout. Hence can be controlled by an appropriate industrial law.
Freedom of movement Article 19 (4):	<ul style="list-style-type: none"> • Every citizen right to move freely → state to state & within state • Unity of india → promote national feeling • RESTRICTIONS: Interest of general public + Protection of interests of any scheduled tribe • SUPREME COURT: movement of prostitute can be restricted on ground of public health and morals. • Internal freedom of movement: right to move inside the country → art. 19 • External freedom of movement: right to move out of the country → art. 21
Freedom of residence Article 19 (5):	<ul style="list-style-type: none"> • Right to reside and settle in any part of territory of India. • Intended to remove internal barriers within the country • RESTRICTIONS: Interest of general public + Protection of interests of any scheduled tribe. • In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws • Right to residence and right to movement are complementary to each other.
Freedom of profession Article 19 (6):	<ul style="list-style-type: none"> • All citizens are given the right to practice any profession or to carry on any occupation, trade and business. • Very wide → all means of earning one's livelihood • STATE IS EMPOWERED TO: <ul style="list-style-type: none"> ➤ Prescribe professional / technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business; ➤ Carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise.

	<ul style="list-style-type: none"> 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 them through licensing.
Article 20	<ul style="list-style-type: none"> Article 20- Protection against arbitrary and excessive punishment to an accused person—Citizen, or foreigner or legal person like a company or a corporation. <p>NO EX-POST –FACTO LAW: 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 commission of offence + only on criminal law not on civil laws or tax laws + cannot be claimed in case of preventive detention or demanding security from person.</p> <p>NO DOUBLE JEOPARDY: No one shall be prosecuted punished for same offence more than once.</p> <p>Note: Only on proceedings before a court of law or judicial tribunal i.e. For bodies which are judicial in nature.</p> <p>NO SELF INCRIMINATION: No person accused of any offence shall be compelled to be a witness against himself [extends to both oral and documentary evidence. Do not extend to civil proceedings or proceedings which are not of criminal nature].</p>
Article 21	<ul style="list-style-type: none"> Article 21: no person shall be deprived of his life or personal liberty except according to procedure established by law. GOPALAN CASE (1950): SUPREME COURT – <ul style="list-style-type: none"> ➤ Protection under article 21 is available against arbitrary executive action and not from arbitrary legislative action. ➤ Personal liberty = only liberty relating to person or body of individual. MANEKA GANDHI CASE (1978): wider interpretation of article 21 - <ul style="list-style-type: none"> ➤ Right to life and personal liberty of person cannot be deprived by law provided the procedure prescribed by that law is reasonable, fair and just. ➤ Right to life = right to live with human dignity ➤ Personal liberty = widest amplitude and it covers a variety of rights that go to constitute personal liberties of a man.
Article 21A	<ul style="list-style-type: none"> Article 21A – state shall provide free and compulsory education to all children of the age of six to fourteen years – in such manner state may determine. 86th Amendment act – 2002 - Education for All – “Dawn of the second revolution in chapter of citizens right “ Article 45 in part IV – directive principles of state policy – provision for free education Now changed – state shall endeavor to provide early childhood care and education to his children until they complete age of 6 years Article 51 a – shall be duty of every citizen of India to provide opportunities for education to his child or ward between the age of six and fourteen years 1993 – Supreme court recognized right to free education under article 21
Article 22	<ul style="list-style-type: none"> Article 22: grants protection to persons who are arrested or detained Preventive detention→ without trial and conviction by court Punitive detention→ punishment after trial and conviction

	<ul style="list-style-type: none"> • Art. 22 (1) – This first part of Art. 22 confers the following rights on a person who is arrested or detained under an ordinary law: Right to be informed of the grounds of arrest + Right to consult and be defended by a legal practitioner + Right to be produced before a magistrate within 24 hour including 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. • Art. 22(2) – This second part of grants protection to persons who are arrested or detained under a preventive detention law. • This protection is available to both citizens as well as aliens. • The detention of a person cannot exceed three months unless advisory board reports sufficient cause for extended detention. The board is to consist of judges of a high court. • Art. 22 also authorises the Parliament to prescribe: circumstances and the 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 in any classes of cases under a preventive detention law + procedure to be followed by an advisory board in an inquiry. • The Parliament has exclusive authority to make a law of preventive detention for reasons connected with defence, foreign affairs and the security of India.
Article 23	<ul style="list-style-type: none"> • Article 23: Prohibition of traffic in human beings and forced labour • This right is available to both citizens and non-citizens. • It protects the individual from both, against the State and private persons. • Art. 23 permits the State to impose compulsory service for public purposes E.g. military service or social service, for which it is not bound to pay. • NOTE: The 'Age' is not mentioned in Article 23. • The expression 'traffic in human beings' include: Selling and buying of men, women and children like goods + Immoral traffic in women and children, including prostitution + Devadasis + Slavery.
Article 24	<ul style="list-style-type: none"> • Art. 24 prohibits the employment of children below the age of 14 years in any factory, mine or other hazardous activities like construction work or railway. • It does not prohibit their employment in any harmless or innocent work. • The Commissions for Protection of Child Rights Act, 2005 was enacted to provide for the establishment of a National Commission 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.
Article 25	<ul style="list-style-type: none"> • Article 25: Right to freedom of religion: All persons are equally entitled to freedom of conscience and right to freely profess, practice and propagate religion. • Right to propagate does not include a right to convert another person to one's own religion. • Art. 25 covers religious beliefs (doctrines) + religious practices (rituals) • EXCEPTIONS: public order + morality + health + other provisions relating to fundamental rights + Right to propagate does not include right to convert.

Article 26	<ul style="list-style-type: none"> Art. 26 - every religious denomination or any of its section 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.
-------------------	--

Art -25	Art -26
Freedom of Conscience and Free Profession, Practice and Propagation of Religion.	Freedom to Manage Religious Affairs.
Art. 25 guarantees rights of individuals.	Art. 26 guarantees rights of religious denominations or their sections.
Art. 26 protects individualistic freedom of religion	Art. 26 protects collective freedom of religion
Rights under Art. 25 are subject to public order, morality and health but not subject to other provisions relating to the Fundamental Rights.	Like Art. 25, the rights under Art. 26 are also subject to public order, morality and health but not subject to other provisions relating to the Fundamental Rights.

Article 27	<ul style="list-style-type: none"> Article 27- freedom from taxation for promotion of religion: No person shall be compelled to pay any taxes for promotion or maintenance of any particular religion or religious denomination. Provision prohibits the state from favoring, patronizing and supporting one religion over the other → taxes can be used for promotion or maintenance of all religion. Prohibit Tax Not Fee.
Article 28	<ul style="list-style-type: none"> Article 28 - Freedom from attending religious instruction: No religious instruction shall be provided in any educational institution wholly maintained out of state funds. Not apply to an educational institution administered by the state but established under any endowment or trust, requiring imparting of religious instruction in such institution. Article 28 distinguishes four types of educational institutions: <ol style="list-style-type: none"> 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 Institution receiving aid from the state
Article 29	<ul style="list-style-type: none"> Article 29 – Any section of the citizen residing in any part of India having a distinct language, script or culture of its own, shall have right to conserve the same. 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. Art. 29(1) - Provision protects the right of a group Art. 29(2) - Provision guarantees the right of a citizen as an individual irrespective of the community to which he belongs. Article 29 grants protection to both religious minorities as well as linguistic

Religious instruction is permitted on a voluntary basis

	<p>minorities.</p> <ul style="list-style-type: none"> Constitution of India does not define "minorities". SC HELD THAT: <ol style="list-style-type: none"> The right to conserve the language includes the right to agitate for the protection of the language. The scope of this article is not necessarily restricted to minorities only. This is because of the use of words 'section of citizens' in the Art. 29 that include minorities as well as majority.
Article 30	<ul style="list-style-type: none"> Article 30 - Right of Minorities to Establish and Administer Educational Institutions. Art. 30 grants the following rights to minorities (religious or linguistic): <ul style="list-style-type: none"> All minorities have right to establish and administer educational institutions of their choice Compensation amount fixed by state for compulsory acquisition of any property of a minority educational institution shall not restrict or abrogate right guaranteed to them- added by 44th amendment act. In granting aid state shall not discriminate against any educational institution managed by a minority. Protection guaranteed under article 30 is confined only to minorities and don't extend to any section of citizen as under article 29. NOTE: Protection under Art. 30 is confined only to minorities (religious or linguistic) and does not extend to any section of citizens (as under Art. 29).
Article 32	<ul style="list-style-type: none"> Article 32: Right to constitutional remedies for the enforcement of the fundamental of an aggrieved citizen + Part of Basic feature. The right to get the FR protected is in itself a fundamental right, it makes FR real. The SC has been constituted as the defender and guarantor of the FR of the citizens. Ambedkar: "an article without which this constitution be a nullity. It's the very soul of the constitution and the very heart of it". Four provisions in Article 32: Right to move to SC + SC have power to issue writ + Parliament can empower any other court to issue directions, or order and writs of all kind + Right to move the supreme court shall not be suspended except as otherwise provided by the constitution.

SUPREME COURT	HIGH COURT
<ul style="list-style-type: none"> Article 32: Original jurisdiction, not exclusive Party should first move to High Court Only fundamental right can be enforced Territorial jurisdiction is wider than high court. Cannot refuse to exercise its writ jurisdiction. Hence defender and guarantor of fundamental rights of citizen. 	<ul style="list-style-type: none"> Article 226: Exclusive and original jurisdiction Legal and constitutional right, customary right Wider writ jurisdiction Narrower territorial jurisdiction May refuse

WRIT - TYPES AND SCOPE

- Supreme Court and High court can issue: Habeas corpus, Mandamus, Prohibition, Certiorari & Quo-warranto

- Borrowed from English → prerogative writs = fountain of justice

HABEAS CORPUS	<ul style="list-style-type: none"> Meaning: "to have the body of" + Order issued by court to the person who has detained another person, to produce the body of latter before it. Bulwark of individual liberty against arbitrary detention + Only against illegal detention + Against both private and public Not issued when: Detention is lawful + Proceedings for contempt of court + Detention is by competent court + Detention is outside the jurisdiction of court.
MANDAMUS	<ul style="list-style-type: none"> Meaning: "we command" Directs activity + Command issued by the court to public official asking him to perform his official duties that he has failed or refused to perform. Against any public body, corporation, inferior court, tribunal or government for the same purpose. Cannot be issued: Against private individual or body + To enforce departmental instruction that does not possess statutory force + When duty is discretionary + To enforce contractual obligation + Against president or governor + against chief justice of high court acting in judicial capacity.
PROHIBITION	<ul style="list-style-type: none"> Meaning: "to forbid" Issued by higher court to lower court + Prohibition directs inactivity + Issued only against judicial and quasi-judicial authorities Not available against: Administrative Authorities + Legislative bodies + Private individual and bodies.
CERTIORARI	<ul style="list-style-type: none"> Meaning: 'To be certified or informed' Issued by higher court to lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of latter in the case Both preventive and curative Can be issued against: Judicial and quasi-judicial authority 1991 supreme court ruled: can be issued against administrative authority also – when it effects right of individual. Not against: Legislative bodies + Private individual or bodies.
QUO WARRANTO	<ul style="list-style-type: none"> Meaning: "By what authority or warrant" Issued by court to enquire into legality of claim of person to public office Prevents illegal usurpation of public office by person Issued only in case of substantive public office by person Cannot be issued: Ministerial office Private office Can be sought by any interested person, not necessarily by aggrieved person.
Article 33	<ul style="list-style-type: none"> Art. 33 empowers the Parliament to restrict or abrogate the FR of the members of armed forces, para-military forces, police forces, intelligence agencies and analogous forces. The power to make laws under Art. 33 is conferred only on Parliament and not on state legislatures. Any such law made by Parliament cannot be challenged in any court on the ground of contravention of any of the fundamental rights. A parliamentary law enacted under Art. 33 can also exclude the court martial (tribunals

	established under the military law) from the writ jurisdiction of the SC and HC, as far as the enforcement of FR is concerned.
Article 34	<ul style="list-style-type: none"> • Art. 34 - Provides for the restrictions on fundamental rights while martial law is in force in any area within the territory of India. • It empowers the Parliament to indemnify any government servant or any other person for any act done by him in connection with the maintenance or restoration of order in any area where martial law was in force. • Martial law implies the suspension of ordinary law and the government by military tribunals. • The concept of martial law has been borrowed from the English common law. • Expression "martial law" (military rule) has not been defined anywhere in the Constitution. • It is implicit in Art. 34 under which martial law can be declared in any area within the territory of India.
Article 35	<ul style="list-style-type: none"> • Art. 35 - The power to make laws, to give effect to certain specified FR shall vest only in the Parliament and not in the state legislatures. • This provision ensures uniformity throughout India with regard to the nature of those FR and punishment for their infringement. • The Parliament shall have (and the legislature of a state shall not have) power to make laws with respect to: Prescribing residence as a condition for certain employments or appointments (Art. 16) + Empowering courts other than the SC and HC to issue directions, orders and writs of all kinds for the enforcement of FR (Art. 32) + Restricting or abrogating the application of FR to members of armed forces, police forces, etc. (Art. 33) + Indemnifying any government servant or any other person for any act done during the operation of martial law in any area (Art. 34). • Parliament shall have (and the legislature of a state shall not have) powers to make laws for prescribing punishment for those acts that are declared to be offences under the FR. These include the following: Untouchability (Art. 17) + Traffic in human beings and forced labour (Art. 23) • Art. 35 extends the competence of the Parliament to make a law on the matters specified above although some of those matters may fall within the sphere of the state legislatures (State List).

MARTIAL LAW	NATIONAL EMERGENCY (ART- 352)
It affects only Fundamental Rights.	It affects not only Fundamental Rights but also Centre-state relations, distribution of revenues and legislative powers between centre and states and may extend the tenure of the Parliament.
It suspends the government and ordinary law courts.	It continues the government and ordinary law courts.
It is imposed to restore the breakdown of law and order due to any reason.	It can be imposed only on three grounds—war, external aggression or armed rebellion.
It is imposed in some specific area of the country.	It is imposed either in the whole country or in any part of it.
It has no specific provision in the Constitution. It is implicit.	It has specific and detailed provision in the Constitution. It is explicit.

EXCEPTIONS TO FUNDAMENTAL RIGHTS:

- Saving of laws providing for acquisition of estates
- Variation of certain acts and regulations: 9th schedule
- Saving of laws giving effect to certain directive principles

CRITICISM OF FUNDAMENTAL RIGHTS	SIGNIFICANCE OF FUNDAMENTAL RIGHTS
Excessive limitations + No social and economic rights + No clarity + No permanency + Suspension during emergency + Expensive remedy + Preventive detention + No consistent philosophy	Bedrock of democratic system in the country + Formidable bulwark of individual liberty + Ensure dignity and respect of individual + Strengthen secular fabric of Indian state + Protect the interest of minority

RIGHTS OUTSIDE PART III

- No tax shall be levied or collected except by authority of law- article 265 (part XII)
- No person shall be deprived of his property save by authority of law- article 300-A (part XII)
- Trade, commerce and intercourse throughout the territory of india shall be free –article-301 (Part XIII)

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

STUDENT NOTE:

7. DIRECTIVE PRINCIPLES OF STATE POLICY

- Borrowed from Irish Constitution of 1937.
- Dr. B.R. Ambedkar: DPSPs=Novel Features
- Granville Austin: DPSP + FR= Conscience of the Constitution.
- DPSP+FR= Philosophy & Soul of the Constitution.
- Part IV; Articles 36 to 51
- Impose moral obligation on the state authorities for their application, but the real force behind them is political, that is public opinion.
- Enshrines Socio-economic democracy (positive in nature, unlike FR which are negative in nature)
- They are **supplementary** to the fundamental rights of the citizens. They are intended to fill in the vacuum in Part III by providing for social and economic rights.

Minerva Mills case (1980)	Harmony and balance between FR and DPSP are an essential feature of the basic structure of the Constitution.
Exceptions to DPSP (Golaknath case):	Laws giving effect to Art 39 (b) and (c) of DPSPs should not be declared as unconstitutional and void on ground of violation or contravention of Art 14 and 19.

Sir B.N. Rau, the Constitutional Advisor to the Constituent Assembly, recommended that the rights of an individual should be divided into two categories—**justiciable and non-justiciable**, which was **accepted** by the Drafting Committee.

FEATURES OF DPSPs:

- Constitutional instructions or recommendations to the State in legislative, executive and administrative matters.
- DPSPs resemble the ‘Instrument of Instructions’ enumerated in GoI Act 1935.
- DPSPs constitutes very comprehensive economic, social & political programme for a modern democratic state.
- DPSPs embody Welfare State and not Police State.
- DPSP aim at realizing justice, liberty, equality & fraternity as mentioned in the Preamble.
- Non-justiciable. Not legally enforceable by the courts for their violation or non-implementation.
- DPSPs help the courts in examining and determining the constitutional validity of a law.
- SC: Any law for implementing DPSPs need to be reasonable in relation to Article 14 & 19.

CLASSIFICATION OF DPSPs:

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

1. SOCIALIST:

Reflects ideology of Socialism. Framework of democratic socialist state. To Provide social & economic justice.

ARTICLE	DESCRIPTION
Article 38	<ul style="list-style-type: none"> • Promote the welfare of the people by securing a social order permeated by justice-social, economic and political and to minimize inequalities in income, status, facilities and opportunities (Added by 44th Amendment)

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

2. GANDHIAN:

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

Article	Description
Article 40	To organize village Panchayats (grass root level democracy).
Article 43	Promote cottage industries on an individual or cooperation basis in rural areas.
Article 43B	To promote voluntary formation, autonomous functioning, democratic control & professional management of Co-operative Societies (97th Amendment 2011).
Article 46	To promote educational and economic interests of SCs, STs and other weaker sections of society + to protect them from social injustice and exploitation.
Article 47	Prohibit the consumption of intoxicating drinks and drugs
Article 48	Prohibit the slaughter of cows and improve their breeds

3. LIBERAL-INTELLECTUAL:

Article	Description
Article 44	Uniform Civil Code
Article 45	To provide early childhood care & education for all children until they complete the age of 6 years (86 th amendment 2002).
Article 48	To organize agriculture and animal husbandry on modern & scientific lines.
Article 48A	To protect & improve the environment and to safeguard forests & wild life (42 nd Amendment 1976).
Article 49	Protect monuments or historic interests which are declared to be of national importance.
Article 50	Separation of Judiciary from Executive.
Article 51	To promote International peace, maintain honorable relations between nation's, foster respect for international laws and treaty obligations and encourage peaceful settlements.

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.

CONFLICT BETWEEN FUNDAMENTAL RIGHTS & DPSPs:

Supreme Court Case	SC View
Champakam Dorairajan Case 1951	<ul style="list-style-type: none"> If any conflict between FR & DPSPs, FR would prevail over DPSPs. DPSPs can be amended by the Parliament by enacting Constitutional amendment.
Golaknath Case 1967	<ul style="list-style-type: none"> Parliament cannot take away any of the FR which are sacrosanct. FR cannot be amended for the implementation of DPSPs.
24th Amendment 1971	<ul style="list-style-type: none"> Parliament has the power to take away any FR by enacting Constitutional Amendment. Inserted Article 31C-Any law for implementation of A.39(b) & 39(c) shall not be void if it violates A.14 & A.19. Such laws cannot be questioned in courts.
Kesavananda Bharati Case 1973	<ul style="list-style-type: none"> Above second provision declared invalid. Judicial review is basic structure.
42nd Amendment 1976	<ul style="list-style-type: none"> Any law for implementation of any DPSP shall not be void if it violates A.14 & A.19. DPSPs accorded primacy over A.14 & A.19.
Minerva Mills Case 1980	<ul style="list-style-type: none"> Above provisions under 42nd amendment declared invalid. Indian Constitutional is founded on the bedrock of balance between FR & DPSP.

IMPORTANCE OF DPSP:

Facilitate stability and continuity in domestic and foreign policies + supplementary to the fundamental rights + enables a favourable atmosphere for the full and proper enjoyment of the fundamental rights + enable the opposition to exercise influence and control over the operations of the government + serve as a crucial test for the performance of the government + serve as common political manifesto.

STUDENT NOTES:

8. FUNDAMENTAL DUTIES

- The original constitution contained only the F. Rights and not the F. Duties.
- In 1976, Fundamental Duties were added to the Constitution by 42nd CAA, 1976. One more FD was added by 86th CA 2002.
- The Fundamental Duties are inspired by the Constitution of erstwhile USSR.
- Japanese Constitution is the only democratic constitution in the world with a list of duties of citizens.
- Supreme Court (1992) ruled - In determining the constitutional validity of any law, if law in question seeks to give effect to FDs, it may consider such law to be 'reasonable' in relation to Art. 14 or Art. 19 and thus saving such law from unconstitutionality.
- Paying taxes (Recommended by Swaran Singh) and voting in elections are not included in Fundamental Duties.
- FDs help the courts in examining and determining the constitutional validity of a law.

SWARAN SINGH COMMITTEE RECOMMENDATIONS

- In 1976, the Fundamental Duties were first recommended by Swaran Singh Committee, its need was felt during the internal emergency (1975-77).
- The 42nd CAA, 1976 added a new Part IV-A to the Constitution consists of single Article 51A, which contains ten fundamental duties of citizens – Presently 11 duties.
- The committee suggested eight Fundamental Duties, the 42nd CAA, 1976 included ten Fundamental Duties.
- Swaran Singh Committee had suggested for penalty or punishment for the non-performance of Fundamental Duties.

LIST OF FUNDAMENTAL DUTIES

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

NOTE:- 11th Fundamental Duty was added after 86th Constitutional Amendment Act, 2006 which made education compulsory for all children between the age 6 and 14 years. (Note: In DPSP, it is upto six years).

IMPORTANT FEATURES OF THE FUNDAMENTAL DUTIES

- FDs are confined to citizens only & not to foreigners.
- FDs are non-justiciable by courts. However, Parliament can enforce through suitable legislation.
- **NOTE:** Duty to pay taxes and Duty to vote are not part of FDs.

VERMA COMMITTEE ON FDs OF THE CITIZENS (1999)

- Identified the existence of legal provisions for the implementation of some FDs. Ex :- Wildlife Protection Act, 1972.

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

STUDENT NOTES:



Praarambh 2022

- Preparing from Root to pinnacle

One year Complete Comprehensive UPSC Preparation Program

हिंदी माध्यम में भी उपलब्ध

Website & Mobile App Friendly

Online Courses Available at - video.onlyias.in

www.onlyias.com | [+91-7007-931-912](https://t.me/tnpscfree) | info@onlyias.com

1 BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2 CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed OnlyIAS Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

3 ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests

4 DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

9. AMENDMENT OF THE CONSTITUTION

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

IMPORTANT JUDGEMENT: Kesavananda Bharati Case 1973, Supreme Court ruled that Parliament cannot alter the 'basic structure' of the Constitution

PROCEDURE FOR THE AMENDMENT (Art. 368)

Introduction of bills	Amendment bill can be introduced only in either house of parliament.
Who can introduce?	Either by a minister or private member.
President's role in introduction of bill	Prior permission of President is not required to introduce the bill.
Type of Majority	Special Majority → Majority of the total membership of that house + by a majority of not less than 2/3 of the members of that house present and voting. (50% + 2/3 of P&V)
Bill in houses	Both the houses need to pass the bill with special majority.
Joint seating (Art. 108)	There is no provision for a joint sitting in case of disagreement between the two Houses.
Amending federal provisions	Special majority + ratification by the legislatures of half of the states by a simple majority.
Role of President in assenting the bill	24th constitutional amendment -- It also amended article 368 to provide expressly that Parliament has power to amend any provision of the Constitution. The amendment further made it obligatory for the President to give his assent, when a Constitution Amendment Bill was presented to him.
Role of state legislature in introducing bill	State legislature cannot introduce such bill.

TYPES OF MAJORITY:

Simple Majority	Special Majority	Special Majority of parliament & Consent of States
<ul style="list-style-type: none"> Majority of members of each house present and voting. This is similar like ordinary law-making process. Such amendments are not considered under Art 368. 	<ul style="list-style-type: none"> Majority of total (irrespective of vacancies/absentees) membership of each house (more than 50%) and majority of two-thirds of the members of each house present and 	<ul style="list-style-type: none"> Special majority + Ratification of half of the state legislatures by a simple majority. Most of the Federal provisions amended by this method. Example: 101st amendment

<ul style="list-style-type: none"> Example: Recently number of SC judges increased from 31 to 34. 	voting. <ul style="list-style-type: none"> Example: 103rd amendment to provide 10% reservation to EWS. 	related to GST
--	---	----------------

VARIOUS PROVISIONS & TYPE OF MAJORITY REQUIRED:

Simple Majority	<ul style="list-style-type: none"> Admission/ establishment of new states (Art.2) Formation of new states & alteration of area, boundaries or names of existing states (Art.3) Second Schedule (emoluments, allowances, privileges) Abolition/creation of legislative councils in states (Art.169) Quorum in parliament (Art.100) Salaries & allowances of members of the parliament (Art.106) Rules of procedure in parliament (Art.118) Use of English in parliament Number of puisne judges in SC Privileges of parliament, its members and committees (Art.105) Conferment of more jurisdiction to SC (Art.138) Use of official language (Art.343) Citizenship (Art. 5 - 11) Elections to parliament and state legislatures Delimitation of constituencies (Art.82) Six Schedule [Art. 244] UTs Fifth Schedule [Art. 244 (1)]
Special Majority	<ul style="list-style-type: none"> Fundamental Rights DPSPs Any other provisions not covered under other 2 types
Special Majority + Ratification of States	<ul style="list-style-type: none"> Election of the President and its manner (Art 54, 55) Extent of executive power of the Union and the states Supreme Court and High Courts (Art.124 & 214) Distribution of legislative powers between the Union & the states Seventh Schedule (3 lists) – Art. 246 Representation of states in parliament Article 368

RECENT CONSTITUTIONAL AMENDMENTS:

99th Amendment 2014	Formation of a National Judicial Appointments Commission.
100th Amendment 2015	Related to the Land Boundary Agreement (LBA) between India and Bangladesh.
101th Amendment 2017	Introduced the Goods and Services Tax in the country since 1 July 2017.
102th Amendment 2018	Constitutional status to National Commission for Backward Classes.

103th Amendment 2019	Provided a maximum of 10% Reservation for Economically Weaker Sections (EWSs).
104th Amendment 2020	Extended the reservation of seats for SCs and STs in the Lok Sabha and states assemblies.

CRITICISM OF AMENDMENT PROCEDURE:

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

STUDENT NOTES:**PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM**

हिंदी माध्यम में भी उपलब्ध

- ➊ 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- ➋ 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- ➌ 4 CSAT "20-20" TESTS.
- ➍ 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- ➎ 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- ➏ COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- ➐ CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- ➑ DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- ➒ VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- ➓ DEDICATED MENTORSHIP
- ➑ DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- ➒ BOTH MOBILE APP & COMPUTER FRIENDLY.

GIVE YOUR 1ST TEST
FREE SCAN HERETO DOWNLOAD THE APP
SCAN QR CODE@ JUST
4999/- ONLYTo Join This Course Visit - dpp.onlyias.in
www.onlyias.com | +91-7007-931-912 | info@onlyias.com
[video.onlyias.in /mains.onlyias.in](http://video.onlyias.in/mains.onlyias.in)info@onlyias.com / +91-7007931912

10. BASIC STRUCTURE DOCTRINE

- Basic Structure encompasses basic and core values which forms bedrock of the Indian Constitution. Basic Structure cannot be amended by parliament under Art 368.
- Basic Structure Doctrine** → Judicially innovated doctrine + Not defined under Constitution + Not defined by Supreme Court or any other court. Various judgments of Supreme Court form the bedrock of Basic Structure Doctrine.

EVOLUTION:

SC Case and Amendments	Description
Shankari Prasad Case 1951	<ul style="list-style-type: none"> Whether parliament can curtail FR under Article 368 was dealt under this case. Constitutional validity of First Amendment Act (1951) which curtailed Right to Property was challenged. Supreme Court: Under Article 368, Parliament can amend FR. Article 13 includes only ordinary law and not constitutional amendment law. Amendments abridging FR cannot be void under Article 13.
Golak Nath Case 1967	<ul style="list-style-type: none"> Seventeenth Amendment which inserted certain state laws in Ninth Schedule was challenged. Supreme Court: FRs are transcendental & immutable. Parliament can 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 Golakh Nath Case	<ul style="list-style-type: none"> 24th Amendment: Parliament can take away any FR under Article 368 and such acts are not laws under Article 13.
Kesavananda Bharati Case 1973	<ul style="list-style-type: none"> Supreme Court overruled its judgment in Golaknath Case (1967) and upheld 24th Amendment. Basic Structure Doctrine was laid down by SC. Parliament cannot alter basic structure of the Constitution. Parliament cannot take away FR that forms Basic Structure Doctrine.
39th Amendment	<ul style="list-style-type: none"> Election disputes of PM and Speaker of LS kept outside the jurisdiction of court.
Indira Gandhi Case 1975	<ul style="list-style-type: none"> Supreme Court: Invalidated 39th Amendment. Judicial review is a basic structure.
42nd Amendment	<ul style="list-style-type: none"> Amended Article 368. No limitations on constituent power of parliament and no amendment can be questioned in courts.
Minerva Mills Case 1980	<ul style="list-style-type: none"> Invalidated above changes under 42nd Amendment. Judicial review is basic structure.
Waman Rao case 1981	<ul style="list-style-type: none"> Again, the Supreme Court adhered to the doctrine of the 'basic structure' and clarified that it would apply to constitutional amendments enacted after April 24, 1973 (Kesavananda Bharati case).

ELEMENTS OF BASIC STRUCTURE:

Supremacy of Constitution + Sovereign, democratic & republican nature of Indian Polity + Secularism + Separation of powers + Federal character + Unity & integrity + Welfare State + Judicial review + Freedom & dignity of individual + Parliamentary system + Rule of law + Equality + Harmony & balance between FR & DPSP + Free & fair elections + Independent judiciary + Effective access to justice + Limited power of parliament to amend constitution + Powers of HC under Article 226 & 227.

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

STUDENT NOTES:



Praarambh 2022

- Preparing from Root to pinnacle

One year Complete Comprehensive UPSC Preparation Program

हिंदी माध्यम में भी उपलब्ध

1 BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2 CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed OnlyIAS Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

3 ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests

4 DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

Online Courses Available at - video.onlyias.in

Website & Mobile App Friendly



 www.onlyias.com |  +91-7007-931-912 |  info@onlyias.com

11. PARLIAMENTARY SYSTEM

- Articles for parliamentary system: **Centre:** 74 & 75 + **States:** 163 & 164.
- Parliamentary government = cabinet govt = responsible govt = Westminster type of govt.

FEATURES OF PARLIAMENTARY GOVERNMENT AND PRESIDENTIAL GOVERNMENT:

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

of term on the recommendation of PM.	
Secrecy: <ul style="list-style-type: none"> Ministers follow principle of secrecy about their proceedings, policies & decisions. Ministers take oath of secrecy administered by President. 	-----
Fusion of powers.	Separation of powers.

MERITS & DEMERITS OF PARLIAMENTARY SYSTEM:

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

REASONS FOR ADOPTING PARLIAMENTARY SYSTEM:

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

DISTINCTION BETWEEN INDIAN & BRITISH MODELS:

INDIAN MODEL	BRITISH MODEL
Republican system: Head of State (President) is indirectly elected.	Monarchical system: Head of State (King/Queen) is hereditary.
Constitutional supremacy	Parliamentary sovereignty

PM may be a member of any of the house.	PM should be member of Lower House.
A person who is not a member of any house can be appointed as minister, but only for six months.	Usually members of parliament are appointed as minister.
No system of legal responsibility of ministers. Ministers are not required to countersign the official acts.	System of legal responsibility of minister. Ministers are required to countersign the official acts.
No Shadow Cabinet	Shadow Cabinet by opposition: to balance ruling cabinet and prepare its members for future ministerial office.

STUDENT NOTES:

OnlyIAS

12. CENTER STATE RELATION

LEGISLATIVE RELATIONS – (Art. 245 to 255); Part XI

Territorial extent of Central and state legislation:	<ul style="list-style-type: none"> Parliament/ State legislature can make laws for the whole or any part of the territory of India/ State. Extraterritorial legislation (Indian citizens and their property in any part of the world) = By parliament alone Constitution restrictions on the territorial jurisdiction of the parliament. The President can make regulations for the peace, progress and good governance of the four UTs - Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu. A regulation so made has the same force and effect as an act of Parliament. It may also repeal or amend any act of Parliament in relation to these union territories. The Governor is empowered to direct that an act of Parliament does not apply to a Scheduled Area in the state or apply with specified modifications and exceptions. The Governor of Assam may likewise direct that an act of Parliament does not apply to a Tribal Area (autonomous district) in the state or apply with specified modifications and exceptions. President enjoys the same power with respect to Meghalaya, Tripura and Mizoram. 										
Distribution of legislative subjects:	<ul style="list-style-type: none"> Center list → 97 (Present - 100) State list → 66 (Present - 61) Concurrent list → 47 (Present - 52) <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 50%;">COUNTRY/ACT</th><th style="width: 50%;">RESIDUARY POWERS</th></tr> </thead> <tbody> <tr> <td>1935 act</td><td>Governor General</td></tr> <tr> <td>India at present</td><td>Parliament</td></tr> <tr> <td>Canada</td><td>Center</td></tr> <tr> <td>US</td><td>States</td></tr> </tbody> </table> <p>Which laws prevails?</p> <ul style="list-style-type: none"> Union list > Concurrent list > State list Normally, Central law prevails over the state law. But there is an exception. If the state law has been reserved for the consideration of the president and has received his assent, then the state law prevails in that state. 	COUNTRY/ACT	RESIDUARY POWERS	1935 act	Governor General	India at present	Parliament	Canada	Center	US	States
COUNTRY/ACT	RESIDUARY POWERS										
1935 act	Governor General										
India at present	Parliament										
Canada	Center										
US	States										
Parliamentary legislation in the state field	<p>When Rajya Sabha Passes a Resolution:</p> <ul style="list-style-type: none"> Necessary in the national interest Must be supported by 2/3 of the members present and voting Remains in force for one year Does not restrict the power of a state legislature to make laws <p>During presidents' rule (Art 356):</p> <ul style="list-style-type: none"> Parliament empowered to make laws with respect to any matter in the State List in relation to that state. Even after the president's rule, Parliament law continues to be operative Such law can be repealed or altered or re-enacted by state legislature <p>During a National Emergency (Art 352):</p> <ul style="list-style-type: none"> Parliament acquires power to legislate with respect to State List state legislature can make laws on same subject, but center law will prevail Ceased to exist after 6 months <p>When States Make a Request:</p> <ul style="list-style-type: none"> When two or more state legislature pass resolutions Law enacted applies only to concerned states. Amended or repealed only by Parliament and not by state legislature. EX: Wild Life Act, 1972; Water Act, 1974 <p>To Implement International Agreements:</p>										

Centre's control over state legislation:	<ul style="list-style-type: none"> Can make laws on any matter in the State List for implementing the international treaties, agreements or conventions. EX: Geneva Convention Act, 1960; TRIPS. Governor can reserve certain types of bills passed by State Legislature for consideration of the President. President enjoys absolute veto over them. Bills on certain matters in State List can be introduced in state legislature only with previous sanction of the president. EX: Bills imposing restrictions on freedom of trade and commerce – Art. 301). Reserve money bills and other financial bills passed by state legislature for President's consideration during a financial emergency
---	---

ADMINISTRATIVE RELATIONS (Art. 256 - 263; PART XI)

Distribution of executive power	<ul style="list-style-type: none"> Co-extensive with legislative power. On concurrent list, parliament law can override state law. (exception-president assent on reserved bill) However, laws on concurrent list are executed by states. Centre's Directions to the States (Art. 257) Mutual delegation of states: <div style="text-align: center;"> <p>Centre → ^{Legislative power} ✗ To State</p> <p>Entrustment of Executive power</p> <p>1) President → ^{With consent} State government</p> <p>2) Governor → ^{With consent} Central government</p> <p>3) Parliament → ^{Without consent} State government</p> </div> <p>Cooperation between Center and state</p> <p style="text-align: center;">Full faith and credit to public acts records and judicial proceedings of Centre and state Art 261</p> <div style="text-align: center;"> <p>Parliament → ^{Adjudication of any dispute} Interstate River (Art 262)</p> <p>President → ^{Establish} Interstate Council (Art 263)</p> <p>Parliament → ^{Can appoint} - Interstate freedom of trade, commerce and intercourse (Art 301) - No authority appointed yet</p> </div> <p>Constitutional restrictions on the executive power of the state:</p> <ul style="list-style-type: none"> Art. 256 – Power of state should be exercised to ensure compliance to laws of the Parliament and GOI can also give direction for that. <p>Two restrictions on the executive power of the states:</p> <ol style="list-style-type: none"> to ensure compliance with the laws made by the Parliament not to impede or prejudice the exercise of executive power of the Centre.
All India Services (Art 312)	<ul style="list-style-type: none"> Art 312: Constitution authorises the Parliament to create new All-India Services (AIS) on the basis of a Rajya Sabha resolution. AIS are controlled jointly by the Centre and the states. The ultimate control lies with the Central government while the immediate control vests with the state governments.
Integrated Judicial System	<ul style="list-style-type: none"> Dual polity – Centre and state No dual system of administration of justice Parliament can establish a common high court for two or more states. EX: Maharashtra and Goa or Punjab and Haryana.

Relations During Emergencies:	<ol style="list-style-type: none"> National Emergency (Art.352) - the Centre becomes entitled to give executive directions to a state on 'any' matter. Thus, the state governments are brought under the complete control of the Centre, though they are not suspended. President's Rule (Art. 356) - The President can assume to himself the functions of the state government and powers vested in the Governor or any other executive authority in the state. Financial Emergency (Art. 360) - the Centre can direct the states to observe canons of financial propriety and can give other necessary directions including the reduction of salaries of persons serving in the state.
Other provisions:	<ul style="list-style-type: none"> Article 355: To protect states against external aggression and internal disturbance + To ensure state governments should be carried on in accordance with the provisions of the Constitution. Governor- Appointed by President + Acts as an agent of Centre. State election commissioner: Appointed by Governor + Removed by President.
Extra-Constitutional Devices	NITI Aayog + National Integration Council + Zonal Councils + North-Eastern Council

FINANCIAL RELATIONS (Art. 268 - 293; Part XII)

- Art. 265** - Taxes not to be imposed save by authority of law – "No tax shall be levied or collected except by authority of law".
- No tax can be imposed by an executive order.

Consolidated Fund (Art. 266):	<ul style="list-style-type: none">• Art. 266- There will be Consolidated fund for India and Consolidated fund of State.• Consolidated Fund of India is related to all revenues received by the government and expenses made by it, excluding the exceptional items.• No money can be withdrawn from this fund without the Parliament’s approval.	
Contingency Fund (Art. 267):	<ul style="list-style-type: none">• It is in the nature of an imprest (money maintained for a specific purpose). Accordingly, Parliament enacted the Contingency fund of India Act 1950.• The fund is held by the Finance Secretary (Department of Economic Affairs) on behalf of the President of India and it can be operated by executive action.	
Allocation of taxation powers:	<ul style="list-style-type: none">• Constitution divides the taxing powers also placed some restrictions between the Centre and states.• The residuary power of is vested in the Parliament. Under this provision, the Parliament has imposed gift tax, wealth tax and expenditure tax.• There are no tax entries in the Concurrent List. In other words, the concurrent jurisdiction is not available with respect to tax legislation.• The 101st Amendment Act of 2016 has made an exception by making a special provision with respect to GST. This Amendment has conferred concurrent power upon Parliament and State Legislatures to make laws governing GST.	
Grants in aid to states:	STATUTORY GRANTS	DISCRETIONARY GRANTS
	Art. 275 empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state. These sums are charged on the Consolidated Fund of India every year.	Art 282 empowers both the Centre and the states to make any grants for any public purpose, even if it is not within their respective legislative competence.
	The Constitution also provides for specific grants for promoting the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state (including the State of Assam)	These grants are also known as discretionary grants, the reason being that the Centre is under no obligation to give these grants and the matter lies within its discretion.

	The statutory grants under Art. 275 are given to the states on the recommendation of the Finance Commission.	These grants are to help the state financially to fulfil plan targets and to give some leverage to the Centre to influence and coordinate state action to effectuate the national plan.
Other Grants	<ul style="list-style-type: none"> The Constitution also provided for a third type of grants-in-aid, but for a temporary period. A provision was made for grants in lieu of export duties on jute and jute products to the States of Assam, Bihar, Orissa and West Bengal. These grants were to be given for a period of ten years from the commencement of the Constitution. These sums were charged on the Consolidated Fund of India and were made to the states on the recommendation of the Finance Commission. <p>PROTECTION OF THE STATE'S INTEREST: Following bills can be introduced in the Parliament only on the recommendation of the President:</p> <ol style="list-style-type: none"> bill which imposes or varies any tax or duty in which states are interested; bill which varies the meaning of the expression "agricultural income" bill which affects the principles on which moneys are or may be distributable to states; bill which imposes any surcharge on any specified tax or duty for the purpose of the Centre. 	
Borrowing by the Centre and the States:	<p style="text-align: center;">CENTER</p> <ul style="list-style-type: none"> Can borrow on CFI (Within + Outside India) within limits fixed by parliament. Can make loans to any state or give guarantees in respect of loans raised by any state. 	<p style="text-align: center;">STATE</p> <ul style="list-style-type: none"> Cannot raise any loan without center consent (If remaining outstanding loan to center) Can borrow on CFS (Within but, NOT Outside India) within limits fixed by parliament
Exemption of Union property from taxation of state (Art. 285)	<ul style="list-style-type: none"> Centre's property is exempted from all taxes imposed by a state or any authority within a state like municipalities, district boards, panchayats and so on. But, the Parliament is empowered to remove this ban. The property may be used for sovereign (like armed forces) or commercial purposes. The corporations or the companies created by the Central government are not immune (as they are separate legal entity) from state taxation or local taxation. 	
Exemption of State property from central taxation (Art. 289)	<ul style="list-style-type: none"> The property and income of a state is exempted from Central taxation. Such income may be derived from sovereign functions or commercial functions. But the Centre can tax the commercial operations of a state if Parliament provides so. The property and income of local authorities situated within a state are not exempted from the Central taxation. Likewise, the property or income of corporations and companies owned by a state can be taxed by the Centre. The Centre can impose customs duty on goods imported or exported by a state, or an excise duty on goods produced or manufactured by a state - advisory opinion of the Supreme Court, 1963. 	
Effects of Emergency	<p style="text-align: center;">NATIONAL EMERGENCY (ART. 352)</p> <ul style="list-style-type: none"> President can modify the constitutional distribution of revenues between the Centre and the states Can either reduce or cancel the transfer of finances (both tax sharing and 	<p style="text-align: center;">FINANCIAL EMERGENCY (ART. 360)</p> <p>Centre can give directions to the states:</p> <ol style="list-style-type: none"> To observe the specified canons of financial propriety. To reduce the salaries and allowances of all class of persons serving in the state; and

	grants-in-aid) from the Centre to the states. • Such modification continues till the end of the financial year in which the emergency ceases to operate.	3. To reserve all money bills and other financial bills for the consideration of the President.
--	---	---

DISTRIBUTION OF TAX REVENUES:

Article	Levy	Collection	Appropriation	Various Taxes
268	Centre	States	States	Stamp duties on shares, cheques, promissory notes, insurance etc.
269	Centre	Centre	States	Taxes on interstate trade and commerce. Revenues do not form part of consolidated fund of India.
270	Centre	Centre	Shared between Centre and states	All taxes in union list –income tax(other than agricultural income), corporate tax, etc.
271	Centre	Centre	Centre	Surcharge on taxes under Art 268,269,270.
NA	State	State	state	Sales tax, excise duty on liquor and Narcotics, octroi, professional tax (max of Rs 2500 – limit kept by constitution)

COMMITTEES ON CENTER-STATE RELATIONS:

BY CENTER	BY STATE
Sarkaria commission (1983)	Rajamannar committee – Tamilnadu
Punchhi commission (2007)	Anandpur Sahib resolution – Akali dal of Punjab
Administrative Reforms Commission I and II	

STUDENT NOTES:

13. INTER-STATE RELATIONS

- Inter-State Water Dispute (Article 262)
- Inter-State Councils (Article 263)
- Public Acts, Records and Judicial Proceedings.
- Inter-State Trade and Commerce (Article 301 to 307)
- Zonal Councils under States Reorganisation Act 1956

INTER-STATE WATER DISPUTES (Art. 262):

Article 262	<ul style="list-style-type: none"> • Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley. • Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.
--------------------	---

Parliament enacted two laws under these provisions:

River Boards Act 1956:	A river board is established by the Centre on the request of state to advise them.
Inter-State Water Disputes Act 1956:	Empowers Centre to setup an ad hoc tribunal for the adjudication of an inter-state water dispute between 2 or more states + Decisions of the tribunal are binding + No courts have jurisdiction over such disputes.

Tribunals established till now:

NAME	YEAR	STATES INVOLVED
Krishna Water Dispute	1969	MH, KR, AP
Godavari Dispute	1969	MP, KR, AP, MH, OD
Narmada	1969	RJ, GJ, MP, MH
Ravi & Beas	1986	PB, HR, RJ
Cauvery	1990	KR, KL, TN, Puducherry
Second Krishna Water Dispute	2004	MH, KR, AP
Vansadhara	2010	OD, AP
Mahadayi	2010	Goa, KR, MH

Inter-State Council (Art.263):

Purpose	<ul style="list-style-type: none"> • To bring coordination between states and between states and Centre
Status	<ul style="list-style-type: none"> • Constitutional body under Art. 263
Setup	<ul style="list-style-type: none"> • It was set up for first time in 1990 through a Presidential order as per the recommendations of the Sarkaria Commission (on Inter-State Relations) under the Ministry of Home affairs.
Role of President	<ul style="list-style-type: none"> • President can establish. • President can define the duties, organisation and procedure.
Functions	<ul style="list-style-type: none"> • To enquire and advice upon inter-state disputes (Complimentary to SC's jurisdiction under

	A.131) + Investigating & discussing subjects in which states or the Centre and the states have a common interest + Recommending on any matter for better coordination of policy & action.
Decisions	• Decisions are not binding. Purely advisory body
Composition	• PM as Chairman + CMs of all states + CMs of all UTs having legislative assemblies + Administrators of all UTs not having Legislative Assemblies + Governors of states under President's Rule + Six Central Cabinet Minister including Home Minister (Nominated by PM) + Five ministers of cabinet rank/ Minister of State (Independent Charge) nominated by PM are permanent invitees.
Meetings	Council may meet at least thrice in a year. All questions are decided by consensus .

STANDING COMMITTEE OF THE COUNCIL:

- Set up in 1996 + For continuous consultation and processing of matters for the consideration of council.
- **Members of the Committee:** Union Home Minister as Chairman + Five Union Cabinet Ministers + Nine CMs
- The Council is assisted by **Inter-State Council Secretariat:** Set up in 1991 + Headed by Secretary to the Government of India.

INTER-STATE TRADE & COMMERCE:

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

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

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

ZONAL COUNCILS:


- **Statutory** (Extra-constitutional) body + Established under Reorganisation of States Act 1956 (7th CAA 1956)

- They are **only deliberative and advisory** bodies; recommendations are **not binding**.
- The Zonal Councils should meet at least twice a year
- **Members of Zonal Councils:** → Union Home Minister as Chairman + CMs of all the states in the zone + CMs of all the states in the zone + Administrator of each UT in the zone

NORTH-EASTERN COUNCIL:

- **Statutory body Created by separate act:** North-Eastern Council Act, 1971.
- **Members:** all North Eastern states.
- **Composition:**
 - Ex-officio Chairperson – Union Home Minister
 - Vice-Chairperson - Minister of State (Independent Charge), Ministry of DoNER.
 - Members - Governors and Chief Ministers of all the eight States and 3 members nominated by President.
- Sikkim was added in 2002 as the eighth member of the North-Eastern Council

STUDENT NOTES:



Praarambh 2022
- Preparing from Root to pinnacle

One year Complete Comprehensive UPSC Preparation Program
हिंदी माध्यम में भी उपलब्ध

1 BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2 CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed Onlyias Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

3 ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests

4 DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

Online Courses Available at - video.onlyias.in

Website & Mobile App Friendly



 www.onlyias.com |  +91-7007-931-912 |  info@onlyias.com

14. EMERGENCY PROVISIONS

- Constitutional provisions: Part XVIII- Articles 352 to 360
- Emergency converts the federal structure into a unitary one without a formal amendment of the Constitution.
- Emergency provisions are borrowed from the Govt. Of India Act 1935
- Why these provisions: To safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.

NOTE: "Suspension of Fundamental Rights during proclamation of emergency" provision borrowed from Weimer constitution (Now Russia)

THREE TYPES OF EMERGENCIES:

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

NATIONAL EMERGENCY (ART. 352):

- External Emergency - Declared on the ground of 'war' or 'external aggression'.
- Internal Emergency - Declared on the ground of 'armed rebellion'.

Features	Description	38th Amendment	42nd Amendment	44th Amendment
Grounds of declaration	Article 352: President can declare. If the security of India or part of it is threatened by war or external aggression or armed rebellion. He can declare even before the occurrence of above events if he satisfies that there is eminent danger	President can issue different proclamations on above mentioned grounds, whether or not there is a proclamation already issued by him.	This enabled president to limit the operation of a National Emergency to a specified part of India or whole country	'Internal Disturbance' replaced by 'Armed Rebellion'. No longer possible to declare national emergency on the grounds of internal disturbance.
Role of cabinet	In original constitution, there is no mention of role of cabinet	---	---	President can proclaim only after written recommendation (Earlier only concurrence) from cabinet.
Judicial review	There was no explicit mention of judicial review regarding National Emergency	Made national emergency immune from judicial review		Provision under 38th amendment was deleted. (Minerva Mills Case: Supreme Court- proclamation

			---	of national emergency can be challenged in the court on the grounds of malafide or that the declaration is based on wholly extraneous or irrelevant facts or is absurd or perverse)
Parliamentary approval	Approval by both the houses within one month (originally 2 months) (Note: Two months for Art. 356 & 360.)	---	---	Period for Approval by both the houses reduced to one month from two months.
Duration	After approval emergency continues for 6 months. (Originally once approved, emergency could remain as long as executive desires)	---	---	Emergency can be extended indefinitely but with an approval of parliament for every six months.
Type of majority for approval	Originally simple majority	---	---	Introduced special majority for the approval
Revocation of emergency	President can revoke. Parliamentary approval not necessary.	---	---	President must revoke the emergency if Lok Sabha passes a resolution disapproving its continuation. (Earlier Lok Sabha had no role in revocation). One tenth LS members need to give written notice to speaker or president (if LS is not in session). A special session is held within 14 days to consider such resolution
Type of	---	---	---	Simple majority in

majority for disapproval				Lok Sabha for disapproval.
--------------------------	--	--	--	----------------------------

EFFECTS OF NATIONAL EMERGENCY:**1. EFFECT ON CENTRE-STATE RELATIONS:**

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

2. EFFECT ON LIFE OF LOK SABHA & STATE ASSEMBLY:

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

3. EFFECTS ON FUNDAMENTAL RIGHTS:

- Article 358 & 359 deals with this effect.
- Article 358: Deals with the suspension of Fundamental Rights under Art. 19
- Article 359: Deals with the suspension of other Fundamental Rights (except Art. 20 & 21).

Suspension of Fundamental Rights under Article 358 & 359:

Article 358	Article 359
<ul style="list-style-type: none"> Six FR under Article 19 are automatically 	<ul style="list-style-type: none"> It authorizes president to suspend the right to

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

- Declarations made till now:** National Emergency has been declared three times- 1962 (Chinese aggression), 1971 (Pakistan war), 1975 (internal disturbances).
- Shah Commission:** Enquired 1975 emergency and did not justify declaration of Emergency.

PRESIDENT'S RULE (ART. 355, 356 & 365):

Article 355	Duty of the Centre to ensure that the government of every state is carried on in accordance with the provisions of the Constitution.
Ground for declaration	<ol style="list-style-type: none"> Article 356: President can proclaim if he is satisfied that state government cannot be carried on in accordance with the provisions of the Constitution. (President can act on the report of the governor or otherwise). Article 365: If a state fails to give effect or comply with any direction from the Centre, then it is lawful for the president impose president's rule.
Parliamentary approval	Must be approved by both the houses within two months (One month in case of Art. 352) of such issue.
Duration	6 months. It can be extended for a maximum period of 3 years with parliamentary approval every 6 months.
Type of majority	Simple majority in both the houses.

Revocation	May be revoked by the President at any time by a subsequent proclamation. Such a proclamation does not require the parliamentary approval .
44th Amendment	Beyond one year, the president's rule can be extended by 6 months a time only if following conditions are met: 1. If national emergency is in operation in whole India or whole or any part of state. 2. If Election Commission certifies that elections cannot be held due to difficulties.
Judicial review	38th Amendment: President's satisfaction under Article 356 made immune from judicial review. 44th Amendment: above provision was deleted.
Imposition	<ul style="list-style-type: none"> First time, the President's Rule was imposed in Punjab in 1951. Maximum times imposed in Manipur (10 times) followed by UP (9 times)

CONSEQUENCES OF PRESIDENT'S RULE:**President acquires following extraordinary powers:**

1. President can take up the functions of the state government and powers vested in governor or any other executive authority.
2. He can declare that powers of state legislature are to be exercised by the parliament.
3. He can take all necessary steps including the suspension of constitutional provisions relating to any body or authority in the state.

During President's Rule, president dismisses the Council of Minister headed by Chief Minister and parliament passes the state bills and budgets. The state administration is carried on by governor with help of Chief Secretary on behalf of President.

NOTE: The laws made by the parliament or president or any other authority continues to operate even after the President's Rule. The Constitutional position, status, powers and functions of the State High Court remain same even during President's Rule.

SR BOMMAI CASE (1994): SUPREME COURT GUIDELINES

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

CASES OF PROPER AND IMPROPER IMPOSITION (BASED UPON SARKARIA COMMISSION RECOMMENDATIONS):

Proper Imposition of President's Rule	Improper Imposition of President's Rule
Hung assembly (No party has majority)	If ministry resigns or lost majority and governor recommends imposition without assessing possibility of alternative government
Party having majority declines to form ministry and governor cannot find a coalition having majority.	If governor does not allow ministry to prove its majority and recommends the rule.

If ministry resigns after its defeat in assembly and no other party has majority	If ruling party is lost in general elections to the Lok Sabha.
If state disregards constitutional direction given by Centre.	Maladministration in the state.
If government is acting against constitution and the law or is fomenting a violent revolt.	Internal disturbances not amounting internal subversion or physical breakdown.

FINANCIAL EMERGENCY: ARTICLE 360

Art. 360 more or less follows the pattern of what is called the **National Recovery Act of the United States** passed in 1933.

Who proclaims?	President
When?	If financial stability or credit of India or any part of its territory is threatened.
Judicial review	38th Amendment: Satisfaction of president in declaring financial emergency made immune from judicial review. 44th Amendment: Provisions made under 38th Amendment deleted, so subject to Judicial Review.
Parliamentary approval & duration	Approval of both the houses within two months (One month in case of Art. 352) from the date of its issue. Once approved emergency continues indefinitely until revoked.
Majority type for approval	Simple majority
Revocation	Revoked by president. No parliamentary approval required

Note: In India, no Financial Emergency has been declared so far, though there was a financial crisis in 1991.

EFFECTS OF FINANCIAL EMERGENCY:

- Executive authority of Centre extends to directing any state to observe such canons of financial propriety as are specified by it.
- President can direct:**
 - The reduction of salaries and allowances of all or any class of persons serving the state or union and the judges of Supreme Court and high court.
 - Reservation of all money bills or other financial bills for the consideration of the President after they are passed by the state legislatures.

BASIC DIFFERENCE BETWEEN THREE EMERGENCIES:

Article	Approval	Majority	Revocation	Period
Article 352	Within one month	Special	By President (Lok Sabha only). No Parliamentary approval required.	Unlimited
Article 356	Within two months	Simple	By President. No Parliamentary approval required.	Maximum 3 years
Article 360	Within two months	Simple	By President. No Parliamentary approval required.	Unlimited (Repeated approval not required)

15. PRESIDENT AND GOVERNOR

ARTICLE	PRESIDENT	GOVERNOR
	<ul style="list-style-type: none"> Article 52 to 78 in Part V. Article 123 Ordinance Making. Union Executive: President, VP, PM, CoM, AGI. 	<ul style="list-style-type: none"> Article 153 to 167 in Part VI. Article 213 Ordinance Making (Rule 89). State Executive: Governor, CM, CoM, AGS.
ELECTION OF PRESIDENT:	<ul style="list-style-type: none"> Elected indirectly by people of India. Reasons for Indirect Election: <ol style="list-style-type: none"> President is only a nominal executive and the real executive is PM. The direct election would have been very costly and time- and energy-consuming. Members of Electoral College Consist: <ol style="list-style-type: none"> Elected members of both House of Parliament (LS + RS). Elected members of State Legislative Assemblies. (Neither Elected nor nominated member of Legislative Council are part of college). Elected members of UT of Delhi and Puducherry. The present system where members of electoral college are from Union and State both so it makes the President a representative of the Union and the states equally. To provide uniformity in the scale of representation of different states as well as parity between the states as a whole and the Union at the election of the President, Value of Vote determined in the following manner: <ol style="list-style-type: none"> Value of Vote of an MLA: $\frac{\text{Total Population of State}}{\text{Total No. of elected members in SLA}} \times \frac{1}{1000}$ Value of Vote of an MP: $\frac{\text{Total Value of votes of all MLAs of all states}}{\text{Total No. of elected members of Parliament}}$ Election by system of Proportional representation by means of the single transferable vote and the voting is by secret ballot. A candidate, in order to be declared elected to the office of President, must secure a fixed quota of votes. $\text{Electoral Quota} = \frac{\text{Total No of valid votes polled}}{1+1} + 1$ All doubts and disputes in connection with election are inquired into and decided by the Supreme Court whose decision is final. If the election is declared void by the Supreme Court, acts done by him before the date of such declaration are not invalidated and continue to remain in force. 	

Point to Remember: Nominated members do not participate in Election but participate in Impeachment procedure. If 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.

PARAMETERS	PRESIDENT	GOVERNOR
APPOINTMENT	Elected indirectly by people of India.	<ul style="list-style-type: none"> Appointed by the PRESIDENT. He is neither elected directly by the people nor indirectly elected by a specially constituted electoral college. (Canadian Model) Independent constitutional office, not under the control of or subordinate nor an employment under the Central government.
QUALIFICATION	<ul style="list-style-type: none"> Citizen of India. (Naturalized or Registration) Completed 35 years of age. Qualified for election as a member of the Lok Sabha. Further, the nomination must be subscribed by at least 50 electors as proposers and 50 as seconders and make a security deposit of 15,000 in the RBI. If fails to secure one-sixth votes polled security deposit will be forfeited. 	<ul style="list-style-type: none"> Citizen of India. (Naturalized or Registration) Completed 35 years of age. Two other conventions: <ol style="list-style-type: none"> 'Outsider' should not belong to the state where he is appointed. While appointing the governor, the president is required to consult the CM of the state concerned. However, both the conventions have been violated in some of the cases.
OATH	Administered by the CJI and in his absence, the senior most judge of the SC available	Administered by the Chief Justice of state HC and in his absence, the senior-most judge of that court available.
CONDITIONS	BY CONSTITUTION: <ul style="list-style-type: none"> Not be a member of either House of Parliament or a House of the state legislature. If elected have to vacate his seat. Not hold any other office of profit. Emoluments, allowances and privileges as may be determined by Parliament. Emoluments and allowances cannot be diminished during his term of office. When appointed as Governor of two or more state allowances shared by the states in such proportion as determined by the president. PRIVILEGES AND IMMUNITIES: <ul style="list-style-type: none"> Enjoys personal immunity from legal liability for his official acts. Immune from any criminal proceedings, even in respect of his personal acts. Cannot be arrested or imprisoned. Civil proceedings can be instituted against him after giving two months' notice in respect of his personal acts .	
TERM	<ul style="list-style-type: none"> Term – 5 years Resignation to Vice President. Eligible for Re-election for any no. of times (USA only two times). Hold office beyond his term until his successor assumes charge to prevent 'Interregnum'. 	<ul style="list-style-type: none"> Term – 5 years, subject to the pleasure of the President. Pleasure of the President is not justifiable so no security of tenure and no fixed term of Office. Resignation to President.

		<ul style="list-style-type: none"> • Hold office beyond his term until his successor assumes charge to prevent 'Interregnum'.
IMPEACHMENT	<ul style="list-style-type: none"> • Impeachment for 'Violation of the Constitution' (meaning of phrase not defined in constitution). • Can be initiated by either House of Parliament. • Charges should be signed by one-fourth members of the House and a 14 days' notice should be given. • Resolution shall be passed by BOTH the house by a majority of two-thirds of the TOTAL membership of that House • President has the right to appear and to be represented at such investigation. If • Quasi-judicial procedure in the Parliament. <ul style="list-style-type: none"> ○ Nominated members of both (LS+RS) house participate though they do not participate in his election; ○ Elected members of the legislative assemblies of states and the UT of Delhi and Puducherry do not participate though they participate in his election. 	<ul style="list-style-type: none"> • Constitution does not lay down any grounds upon which a governor may be removed by the President.
VACANCY (Only for President)	<ul style="list-style-type: none"> • Any of the following ways: Expiry of tenure + By Resignation + Removal by Impeachment + Death + Otherwise (Example- Disqualified to hold office or Election is declared void). • Election to fill the vacancy must be held before the expiration of the term. Vice President does not get the opportunity to act as President. • Office falls vacant by resignation, removal, and death or otherwise, election should be held within six months from the date of the occurrence of such a vacancy (Vice-President acts as the President until a new President is elected). • The newly-elected President remains in office for a full term of five years from the date he assumes charge of his office. • President is unable to discharge his functions due to absence, illness or any other cause, the (VP → CJI → senior most judge of SC) discharges his functions until the President resumes his office. 	
VETO POWER	<ul style="list-style-type: none"> • Absolute Veto (AV): Withholding of assent to the bill passed by the legislature. • Qualified veto (QV): Overridden by the legislature with a higher majority. (USA President) • Suspensive veto (SV): Overridden by the legislature with an Ordinary majority + Not for Money bill. 	

	<ul style="list-style-type: none"> • Pocket veto (PV): Taking no action on the bill passed by the legislature. + Not for Constitutional amendments (44th CAA, 1978 made it obligatory for president to give his assent to Constitutional amendment bills). <p>VETO OVER PARLIAMENTARY LEGISLATION UNDER ARTICLE 111:</p> <ul style="list-style-type: none"> • May give his assent to the bill, or • May withhold (AV) his assent to bill, or • May return (SV) the bill (if it is not a Money bill) for reconsideration. However, if the bill is passed again with or without amendments then President must give his assent to the bill. <p>VETO OVER STATE LEGISLATION UNDER ARTICLE 201:</p> <ul style="list-style-type: none"> • May give his assent to the bill, or • May withhold (AV) his assent to bill, or • May direct the governor to return (SV) the bill (if it is not a Money bill) for reconsideration of SLA. However, if the bill is passed again with or without amendments and President is not bound to give his assent to the bill. • Further, the Constitution has not prescribed any time limit to take decision regard to a bill reserved by the governor for his consideration. Hence, the President can exercise pocket veto in respect of state legislation also. <p>VETO OVER STATE LEGISLATION UNDER ARTICLE 200:</p> <ul style="list-style-type: none"> • May give his assent to the bill, or • May withhold (AV) his assent to bill, or • May return (SV) the bill (if it is not a Money bill) for reconsideration. However, if the bill is passed again with or without amendments then Governor must give his assent to the bill. • May reserve the bill for the consideration of the President.
<p>ORDINANCE MAKING POWER</p>	<ul style="list-style-type: none"> • Article 123/213 empowers the President/Governor to promulgate ordinances during the recess of Parliament/State Legislature (SL). • Promulgate an ordinance only when any one or both houses of Parliament/SL are not in session. • Ordinances have the same force and effect as an act of Parliament/SL, but are in the nature of temporary laws (expiry of six weeks from the reassembly of Parliament/SL). • Maximum life of an ordinance can be six months and six weeks, in case of non-approval by the Parliament/SL (Six months maximum gap between two sessions of parliament/SL). • Issued only on those subjects on which the Parliament/SL (not all) can make laws and it cannot abridge or take away any of the fundamental rights. • The president/Governor's satisfaction is justiciable on the ground of malafide. It is not a parallel power of legislation.

	<ul style="list-style-type: none"> President/Governor can withdraw an ordinance at any time and may also cease to operate even earlier than the prescribed six weeks, if both the Houses (one in case of unicameralism at state) of Parliament/SL pass resolutions disapproving it. Not a discretionary power, and he can promulgate or withdraw an ordinance only on the advice of the council of ministers headed by the PM/CM. <p>It can alter or amend a tax law or any act of Parliament/SL or another ordinance, can be retrospective, However, it cannot be issued to amend the Constitution.</p>
PARDONING POWER	<div> <div> <p>Article 72 Empowers the President to grant pardons to persons who have been tried and convicted of any offence in cases where the:</p> <ul style="list-style-type: none"> Punishment or sentence is for an offence against a Union Law; Punishment or sentence is by a court martial (military court); and Sentence is a sentence of death. </div> <div> <p>Article 161 Empowers the Governor of a state so he can also grant pardons, commute, respites, reprieves and remissions of punishment and the sentence of any person convicted of any offence against a state law. But, the pardoning power of the governor differs from that of the President in following two respects:</p> <ul style="list-style-type: none"> The President can pardon sentences inflicted by court martial (military courts) while the governor cannot. The President can pardon death sentence while governor cannot. Even if a state law prescribes death sentence, the power to grant pardon lies with the President and not the governor. </div> </div>
	<ul style="list-style-type: none"> Pardon: Removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications. Commutation: Substitution of one form of punishment for a lighter form. Remission: Reducing the period of sentence without changing its character. Respite: It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of a convict or the pregnancy of a woman offender. Reprieve: Implies a stay of the execution of a sentence (especially that of death) for a temporary period. It is an executive power independent of the Judiciary. Power is to be exercised by the President/Governor on the advice of the Cabinet. The President/Governor is not bound to give reasons for his order. The exercise of power by the President/Governor is not subject to judicial review except where the presidential decision is arbitrary, irrational, mala fide or discriminatory.
DISCRETION (acting without the advice of the ministers)	<p>Situational discretion under the following situations:</p> <ul style="list-style-type: none"> Appointment of PM/CM when no party has a clear majority in the Lok Sabha /SLA or when the PM/CM in office dies suddenly and there is no obvious successor. Dismissal of the Council of minister when it cannot prove the confidence of the Lok Sabha/SLA.

	<ul style="list-style-type: none"> • Dissolution of the Lok Sabha/SLA if the council of ministers has lost its majority. • No Constitutional Discretion • Constitutional Discretion: <ul style="list-style-type: none"> ○ Reservation of a bill for the consideration of the President. ○ Recommendation for the imposition of the President's Rule in the state. ○ While exercising his functions as the administrator of an adjoining union territory (in case of additional charge). ○ Determining the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council (6th scheduled areas) as royalty accruing from licenses for mineral exploration. <p>Seeking information from the chief minister with regard to the administrative and legislative matters of the state.</p>
--	--

STUDENT NOTES:

PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM

- ➊ 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- ➋ 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- ➌ 4 CSAT "20 -20" TESTS.
- ➍ 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- ➎ 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- ➏ COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- ➐ CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- ➑ DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- ➒ VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- ➓ DEDICATED MENTORSHIP
- ➔ DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- ➕ BOTH MOBILE APP & COMPUTER FRIENDLY.



**GIVE YOUR 1ST TEST
FREE SCAN HERE**



हिंदी माध्यम में भी उपलब्ध

To Join This Course Visit - dpp.onlyias.in

www.onlyias.com
[+91-7007-931-912](tel:+917007931912)
info@onlyias.com





@ JUST
4999/- ONLY

16. VICE-PRESIDENT

- **Article 63:** There shall be a Vice-President of India.
- Vice-President occupies the second highest office in the country + Ranked second in the table of precedence + Office is modelled on the lines of the American Vice President.

ELECTION OF VICE PRESIDENT (Article 66)

- Vice President is **elected indirectly** and Electoral College consists of members of both houses of Parliament.
- Electoral college for Vice President is different from the electoral college for the election of the President in the following two respects:
 1. It consists of both elected and nominated members of the Parliament (in the case of president, only elected members).
 2. It does not include the members of the state legislative assemblies (in the case of President, the elected members of the state legislative assemblies are included).
- Vice President's election, like that of the President's election, is held in accordance with the system of proportional representation by means of the single transferable vote and the voting is by secret ballot.
- The original Constitution provided that the Vice-President would be elected by the two Houses of Parliament assembled at a joint meeting. This cumbersome procedure was done away by the 11th Constitutional Amendment Act of 1961.
- All doubts and disputes in connection with election of the Vice-President are inquired into and decided by the Supreme Court whose decision is final.
- Four Vice Presidents have been elected unopposed so far.

Qualification for election of Vice President:	<p>To be eligible for election as Vice-President, a person should fulfil the following qualifications:</p> <ol style="list-style-type: none"> 1. He should be a citizen of India. 2. He should have completed 35 years of age. 3. He should be qualified for election as a member of the Rajya Sabha. 4. He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority. <p>NOTE: A sitting President or Vice-President of the Union, the governor of any state and a minister for the Union or any state is not deemed to hold any office of profit and hence qualified for being a candidate for Vice-President.</p>
Nomination of a candidate for election to the office of Vice President requires:	<ul style="list-style-type: none"> • At least 20 electors as proposers and 20 electors as seconders. • A security deposit of ₹ 15,000 in the RBI.
Oath or Affirmation by the Vice President (Article 69)	<ul style="list-style-type: none"> • Before entering upon his office, the Vice-President has to make and subscribe to an oath or affirmation. In his oath, the Vice-President swears. • The oath of office to the Vice-President is administered by the President or some person appointed in that behalf by him.

CONDITION OF THE VICE PRESIDENT'S OFFICE

The Constitution lays down the following two conditions of the Vice President's office:

1. He **should not be a member of either House of Parliament or a House of the state legislature**. If any such person is elected Vice-President, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.
2. He **should not hold any other office of profit**.

TERM OF VICE PRESIDENT'S OFFICE (Article 67)

- 5 years from date on which he enters office.
- Can hold office beyond his term of five years until his successor assumes charge.
- He is also eligible for re-election to that office any number of times.
- Resignation to: President
- Can also be removed from the office before completion of his term. A formal impeachment is not required for his removal.
- Can be removed from his office by a resolution passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha (by simple majority). But no such resolution can be moved unless at least 14 days' advance notice has been given.
- No ground has been mentioned in the Constitution for his removal.

VACANCY IN VICE PRESIDENT'S OFFICE

- A vacancy in the Vice-President's office can occur in any of the following ways: On the expiry of his tenure of five years + By his resignation + On his removal + By his death.
- Otherwise, for example, when he becomes disqualified to hold office or when his election is declared void.
- When the vacancy is going to be caused by the expiration of the term of the sitting vice-president, an election to fill the vacancy must be held before the expiration of the term.
- If the office falls vacant by resignation, removal, death or otherwise, then election to fill the vacancy should be held as soon as possible after the occurrence of the vacancy. The newly-elected vice-president remains in office for a full term of five years from the date he assumes charge of his office.

POWERS AND FUNCTION OF VICE PRESIDENT

The functions of Vice-President are two-fold:

VP acts as the Ex-officio Chairman of Rajya Sabha (Art. 64):	<ul style="list-style-type: none"> • In this capacity his powers are similar to those of Speaker of Lok Sabha. • In this respect, he resembles the American vice president who also acts as chairman of upper house of American legislature called senate.
VP acts as President when a vacancy occurs in the office of the President due to his resignation, removal, death or otherwise. (Art. 65)	<ul style="list-style-type: none"> • When two Presidents, Dr Zakir Hussain and Fakhruddin Ali Ahmed, died in office, the then respective Vice-Presidents, V V Giri and B D Jatti acted as President. • He can act as President only for a maximum period of six months within which a new President has to be elected. • When the sitting President is unable to discharge his functions due to absence, illness or any other cause, the Vice-President discharges his functions until the President resumes his office. • While acting as President or discharging the functions of President, the Vice-President does not perform the duties of the office of the chairman of Rajya Sabha.

	During this period, those duties are performed by the Deputy Chairman of Rajya Sabha.
--	---

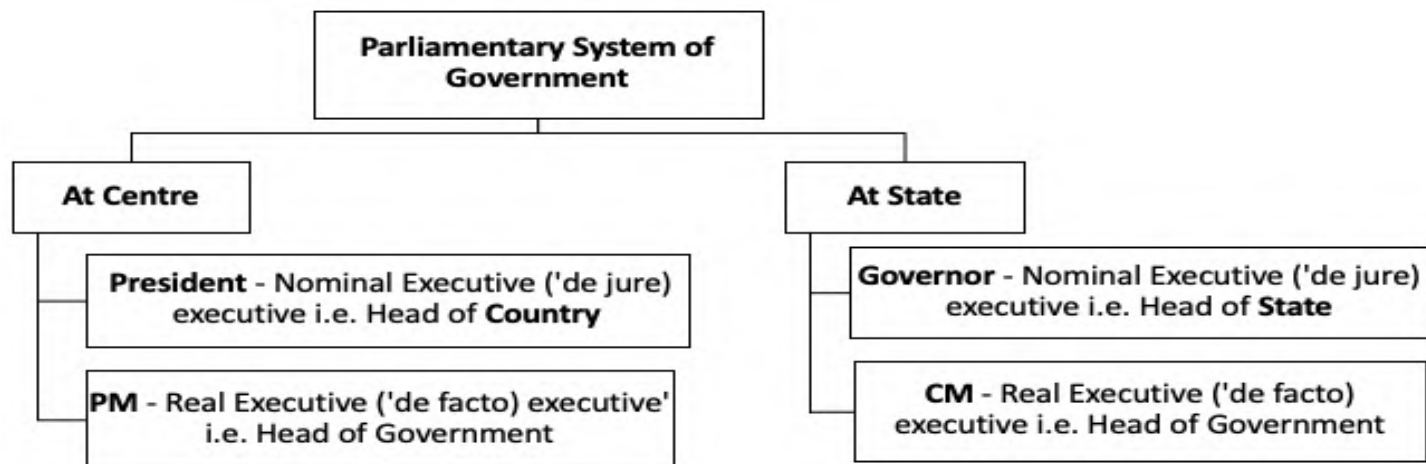
- The **Constitution has not fixed any emoluments for the Vice-President** in that capacity. He draws his regular salary in his capacity as the ex-officio Chairman of the Rajya Sabha.

INDIAN Vs. AMERICAN VICE-PRESIDENTS

- Though the office of the Indian Vice-President is modelled on the lines of the American Vice-President, there is a difference. The American Vice-President succeeds to the presidency when it falls vacant, and remains President for the unexpired term of his predecessor. The Indian Vice-President, on the other hand, merely serves as an acting President when office of President falls vacant until the new President assumes charge.
- Constitution has not assigned any significant function to the Vice-President in that capacity. This office was created with a view to maintain the political continuity of the Indian State.

STUDENT NOTES:

18. PRIME MINISTER & CHIEF MINISTER



PARAMETERS	PRIME MINISTER (PM)	CHIEF MINISTER (CM)
APPOINTMENT & OATH	<ul style="list-style-type: none"> Article – 75. By President. 	<ul style="list-style-type: none"> Article – 164. By Governor.
	<ul style="list-style-type: none"> Constitution does not contain any specific procedure. Convention of Parliamentary system Leader of majority party is appointed as PM/CM. In case of no clear majority President/Governor may exercise their personal discretion in the selection and appoints PM/CM respectively. PM/CM has to seek vote of confidence within a Month in their respected House. When the PM/CM in office dies suddenly and there is no obvious successor the President/Governor may have to exercise his individual judgement in the selection and appointment of the PM/CM. Constitutionally, the PM/CM may be a member of any of the two Houses of a Parliament/State Legislature. A person who is not a member of the Parliament/State legislature can be appointed as PM/CM for six months, within which time, he should be elected to the Parliament/State legislature. (Provided by Supreme Court in one of the judgments). 	
TERM	<ul style="list-style-type: none"> Not fixed, holds office during the pleasure of the President. 	<ul style="list-style-type: none"> Not fixed, holds office during the pleasure of the Governor.
SALARY	<ul style="list-style-type: none"> Determined by Parliament. 	<ul style="list-style-type: none"> Determined by State legislature.
POWERS & FUNCTIONS	<ul style="list-style-type: none"> Article 74/163: Council of ministers with the PM/CM as the head to aid and advice the President/Governor on the exercise of his functions. Article 75/164: Other ministers shall be appointed by the President/Governor on the advice of the PM/CM, all ministers shall hold office during the pleasure of the President/Governor and shall be collectively responsible to the House of people/legislative assembly of the state. Resignation or Death of PM/CM automatically dissolves the council of ministers. 	

Trick to Remember Articles- Difference of '89' between Central and State Government i.e. Executive + Legislative organ in most of the case (not all). Ex- Appointment of PM/CM – 75 + 89 = 164.

18. CENTRAL (Part V) & STATE COUNCIL OF MINISTER (Part VI)

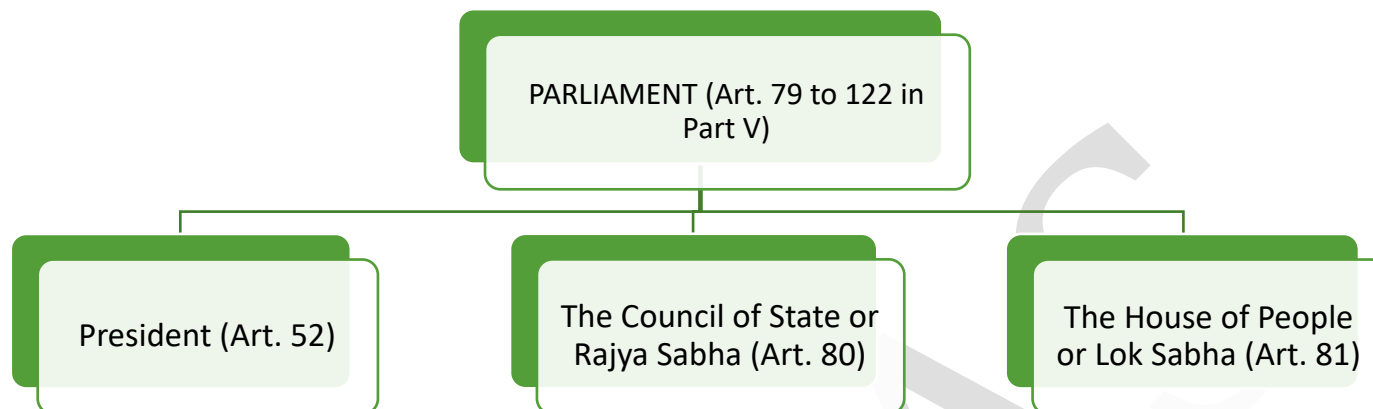
UNION/STATE CoM

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

PARAMETER	CENTRAL COUNCIL OF MINISTER (CCOM)	STATE COUNCIL OF MINISTER (SCOM)
APPOINTMENT, OATH & SALARY	<ul style="list-style-type: none"> • PM shall be appointed by President (Art. 75) • Other ministers are appointed by President on the advice of Prime Minister. • The oath to every new minister is administered by the President. • Salary is determined by Parliament. 	<ul style="list-style-type: none"> • CM shall be appointed by Governor (Art. 164) • Other ministers are appointed by Governor on the advice of Chief Minister. • The oath to every new minister is administered by the Governor of State. • Salary is determined by State legislature.
CONSTITUTIONAL PROVISIONS	Article 74 (CoM to aid and advise President) /163 (CoM to aid and advise Governor): <ul style="list-style-type: none"> • President/Governor shall act in accordance to advice of CCoM/SCoM with the PM/CM as the head. • President can ask for reconsideration of advice tendered but then reconsidered advice is binding. • Advice tendered by CCOM/SCOM cannot be inquired by any court. • Even after the dissolution of the Lok Sabha/State Legislative Assembly the CCOM/SCOM does not cease to hold office (by SC in 1971). • Wherever the Constitution requires the satisfaction of the President/Governor, the satisfaction is of the CCOM/SCOM (by SC in 1974) not of president/governor alone. 	
	Article 75/164: <ul style="list-style-type: none"> • Ministers are appointed by President/Governor on the advice of PM/CM and holds office during the pleasure of the President/Governor. • Oaths of office and secrecy to a minister by President/Governor. • Salary is determined by Parliament/State Legislative Assembly. • Total no. of CCOM/SCOM including PM/CM should not be more than 15% of total strength of Lok Sabha (91st CAA, 2003). Exact size and classification not mentioned in the Constitution determined by the PM/CM as per time and requirements of the situation. • The number of ministers in state legislature, including the CM, in a state shall not be less than 12 (91st CAA, 2003) • CCOM/SCOM collectively responsible to the Lok Sabha (not Parliament)/State Legislative Assembly. • Person, not a member of any house of parliament can become minister maximum for duration of six months. • A member who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister (91st CAA, 2003). 	

	<p>Article 88/177:</p> <ul style="list-style-type: none"> • Every Minister have right to speak and take part in proceedings of both the house but can only vote where he is a member. • A minister who is a member of one House of the Parliament/state legislature has the right to speak and to take part in the proceedings of the other House. But he can vote only in the House of which he is a member.
RESPONSIBILITY OF MINISTER	<p>Collective Responsibility:</p> <ul style="list-style-type: none"> • CCOM/SCOM work as a team swims or sinks together. • If Lok Sabha/State Legislative Assembly passes a no-confidence motion, entire CCOM/SCOM has to resign including ministers from the Rajya Sabha/State Legislative Council. • Cabinet decisions are binding on all cabinet ministers (and other ministers). If any minister disagrees with a cabinet decision and is not prepared to defend it, he must resign. (Recent Ex: Akali dal MP resigns as minister on Farm Law issue) <p>Individual Responsibility:</p> <ul style="list-style-type: none"> • States that the ministers hold office during the pleasure of the president, which means that the President can remove a minister even at a time when the CoM enjoys the confidence of the Lok Sabha on the advice of the Prime Minister. <p>No Legal Responsibility:</p> <ul style="list-style-type: none"> • Unlike Britain, there is no provision in the Constitution for the system of legal responsibility of a Minister.
OTHERS	<p>Union Council of Minister:</p> <ul style="list-style-type: none"> • Constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution. • Wider body 60 to 70 ministers. • Includes all the three categories cabinet ministers, ministers of state, and deputy ministers. • Does not meet, as a body, to transact government business. • Implements the decisions taken by the cabinet. <p>Cabinet:</p> <ul style="list-style-type: none"> • Inserted through 44th CAA, 1978 in Article 352, which only defines the cabinet and does not describe its powers and functions. • Smaller body - 15 to 20 ministers. • Includes the cabinet ministers only. • Meets, as a body, frequently and take decisions regarding the transaction of government business. • Supervises the implementation of its decisions by the council of ministers. <p>Kitchen Cabinet:</p> <ul style="list-style-type: none"> • Informal body consists of the PM and two to four influential colleagues in whom he has faith and with whom he can discuss every problem called the 'Inner Cabinet' or 'Kitchen Cabinet' has become the real centre of power. • Composed of not only cabinet ministers but also outsiders like friends and family. • Phenomenon of 'kitchen cabinet' is not unique to India it also exists in USA and Britain.

19. PARLIAMENT



<ul style="list-style-type: none"> • President, not a member of either house but he is an integral part of the parliament. In these respect framers of the Indian constitution relied on British system rather than American system. • Unlike Britain and India, American president is not an integral part of the legislature. • President can: summons and pro-rogues both the Houses, dissolves the Lok Sabha, addresses both the Houses, issues ordinances when they are not in session, and so on. • President can dissolve Lok Sabha before completion of 5 years and this cannot be challenged in any court of law. 	<ul style="list-style-type: none"> • Hindi names Rajya Sabha and Lok Sabha were adopted in 1954. • Maximum Strength – 250 (238 from States & UTs, elected indirectly and 12 Nominated by President). • Present Strength – 245 members of these, 229 members represent the states, 4 members represent the UTs and 12 members (art, literature, science and social service) are nominated by the president. • In The USA all states are given equal representation in the Senate irrespective of their population. • Fourth Schedule of the Constitution Allocation of seats in the Rajya Sabha to the States and Union Territories. • Note: Only Delhi, Puducherry and Jammu & Kashmir have representation in Rajya Sabha (total nine union territories). • American Senate (Upper House) has no nominated members. • Members are elected by the elected members of state legislative assemblies by the system of proportional 	<ul style="list-style-type: none"> • Maximum Strength - 552 (530 from States & 20 members from UTs and 2 nominated members from Anglo-Indian community by president). • Present Strength – 545 members of these, 530 members represent the states, 13 members represent the UTs and 2 Anglo-Indian (Art. 331) members are nominated by the President. • In current 17th Lok Sabha, no member has been nominated from the Anglo-Indian community. <p>NOTE: The Anglo-Indian reserved seats in the Parliament and State Legislatures of India was discontinued by 104th Constitutional Amendment Act, 2019</p> <ul style="list-style-type: none"> • Members are directly elected by the people from the territorial constituencies in the states and election is based on the principle
--	--	--

	<p>representation by means of the single transferable vote.</p> <ul style="list-style-type: none"> The seats are allotted to the states in the Rajya Sabha on the basis of population. 	<p>of universal adult franchise.</p> <ul style="list-style-type: none"> Members of Lok Sabha from the UTs are also chosen by direct election. 61st Constitutional Amendment Act, 1988 - voting age reduced to 18 from 21 years.
	<ul style="list-style-type: none"> It is a continuing chamber, i.e. it is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. The retiring members are eligible for re-election and renomination any number of times. 	<ul style="list-style-type: none"> It is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves. Term can be extended one year at time for any length of time during National Emergency (Art. 352).

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

Proportional Representation system for the election of: President + Vice-President + Election to the Rajya Sabha + Election to the Legislative Council.

MEMBERSHIP OF PARLIAMENT

Qualifications:	<p>AS LAID DOWN IN CONSTITUTION: Citizen of India.</p> <ol style="list-style-type: none"> Make and subscribe to oath or affirmation → Schedule 3 Not less than 30 years of age in the case of the Rajya Sabha. Not less than 25 years of age in the case of the Lok Sabha. Any other provided by Parliament through Legislation. i.e. RPA 1951 <p>AS PER PROVISIONS OF RPA, 1951:</p> <ol style="list-style-type: none"> Must be registered as an elector for parliamentary constituency. Must be member of SC-ST community in any state or UT if contesting on reserved seat. <p>MINIMUM AGE FOR CONTESTING ELECTIONS (ART. 84):</p> <ul style="list-style-type: none"> Panchayats and Urban Local Bodies → 21 years Legislative Assembly and Lok Sabha → 25 years Legislative Council and Rajya Sabha → 30 years
Disqualification	<ul style="list-style-type: none"> AS LAID DOWN IN CONSTITUTION → Holds any office of profit + Unsound mind and stand so declared by court + An undischarged insolvent + Not a citizen of India + Any other provided by Parliament through Legislation (RPA 1951). AS PER PROVISIONS OF RPA, 1951 → Found guilty of certain election offences or corrupt practices + Convicted for any offence resulting in imprisonment for two or more years + Failed to lodge an account of his election expenses within the time +

	<p>Interested in government Contracts, Works or Services + Dismissed from government service for Corruption or Disloyalty + Preaching and practicing social crimes + Convicted for promoting enmity between different groups or for the offence of bribery + Director or managing agent or hold an office of profit in a corporation in which the government has at least 25% share.</p> <ul style="list-style-type: none"> • ON GROUND OF DEFECTION → Voluntarily gives up party membership + Votes or abstains from voting contrary to given direction + Independently elected member joins any party + Nominated members join any party after expiry of 6 months. <p>NOTE: Decision of the President is final on the question, whether a member is subject to any of the above disqualifications. President should obtain the opinion of the election commission and act accordingly.</p> <p>NOTE: The question of disqualification under the Tenth Schedule is decided by the Presiding officer of the house (Chairman in Rajya Sabha and Speaker in Lok Sabha) (not by the president of India).</p>
Vacating of Seats:	<p>Double Membership</p> <ul style="list-style-type: none"> • Elected to both houses then must inform within 10 days else in default Rajya Sabha become vacant. • Sitting member elected to another house first house become vacant. • Elected to two seats, should opt one else both become vacant. • A person cannot be member of both parliament and state legislature, his parliament seat become vacant if not resign in state within 14 days.
	<p>Disqualification</p> <ul style="list-style-type: none"> • Specified in the Constitution and on the grounds of defection under Tenth Schedule of the Constitution.
	<p>Resignation/ death</p> <ul style="list-style-type: none"> • To Presiding officer of house.
	<p>Absence</p> <ul style="list-style-type: none"> • Absent for more than 60 days without permission.
	<p>Other Cases</p> <ul style="list-style-type: none"> • if election is declared void by the court; • if he is expelled by the House; • if he is elected to the office of President or Vice-President; and • if he is appointed to the office of governor of a state.
Oath/ Affirmation:	<ul style="list-style-type: none"> • Before President or some person appointed by him. • Before taking and subscribing to the prescribed oath or affirmation he cannot vote and participate in the proceedings of the House and does not become eligible to parliamentary privileges and immunities and if do so liable for penalty.
Salaries and Allowances:	<ul style="list-style-type: none"> • Members of either House of Parliament are entitled to receive such salaries and allowances as may be determined by Parliament, and there is no provision of pension in the Constitution. • Salaries of Speaker, Deputy Speaker of Lok Sabha and Chairperson, Deputy chairperson of Rajya Sabha are determined by parliament, however they are charged on consolidated fund of india.

NOTE: The Speaker and the Deputy Speaker, while assuming their offices, do not make and subscribe any separate oath or affirmation.

PRESIDING OFFICERS OF PARLIAMENT

SPEAKER OF LOK SABHA (ART. 93)	CHAIRPERSON OF RAJYA SABHA (ART. 89)
<ul style="list-style-type: none"> • Institutions originated under the GoI Act of 1919. • G.V. Mavalankar → first Speaker of the Lok Sabha. • Elected by the Lok Sabha from amongst its members. • Date of election is fixed by the President. • Remains in office during the life of the Lok Sabha. • Resignation to Deputy Speaker. • Resolution of removal shall be moved only after giving 14 days' advance notice. Such resolution shall be passed by the Lok Sabha by an absolute majority (i.e. a majority of all the then members of the House) and motion of removal can be considered and discussed only when it has the support of at least 50 members. • When a resolution of removal is under consideration of the House, he cannot preside at the sitting of the house. However, he can vote in first instance not in case of equality of votes. • If the Lok Sabha is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets. 	<ul style="list-style-type: none"> • Vice-president of India is the ex-officio Chairman of the Rajya Sabha. • Can be removed from his office only if he is removed from the office of the Vice-President. • Unlike the Speaker the Chairman is not a member of the House. • Like Speaker, chairperson of RS cannot vote in first instance but can cast vote in case of equality of vote. i.e. Casting Vote. • When a resolution of removal is under consideration of the House, he can take part in proceedings as a normal member without right to vote. • Salary and allowance fixed by parliament charged on consolidated fund of India.
POWERS AND DUTIES: <ul style="list-style-type: none"> • Maintains order and decorum in the House. • Final interpreter of the provisions of the Constitution of India, the Rules of Procedure and Conduct of Business of Lok Sabha, and the parliamentary precedents, within the House. • Does not vote in the first instance but can exercise a casting vote in the case of a tie. • He presides over a joint setting (Art. 108) of the two Houses. • Allow a 'secret' sitting of the House at the request of the Leader of the House. • Decides whether a bill is a money bill or not and his decision on this question is final. Endorses on the bill his certificate that it is a money bill. • Decides the questions of disqualification of a member of the Lok Sabha, arising on the ground of defection. Decision is subject to judicial review (Kihoto Hollohan case) 	Powers and duties similar to Speaker, except two special power which are mentioned as: <ol style="list-style-type: none"> 1. Speaker decides whether a bill is a money bill or not and his decision on this question is final. 2. The Speaker presides over a joint sitting of two Houses of Parliament.

- Appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their function.
- Ex-officio chairman of the Business Advisory Committee, the Rules Committee and the General-Purpose Committee.

INDEPENDENCE AND IMPARTIALITY ENSURED BY:

Provided with security of tenure + Salaries and Allowances are fixed by Parliament and are charged on the Consolidated Fund of India + Work and conduct cannot be discussed and criticized except on a substantive motion + Very high position placed at seventh rank, along with the Chief Justice of India + Ranks higher rank than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.

SPEAKER PRO – TEM (Article - 95): Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly-elected Lok Sabha. Speaker pro-Tem institution (temporary office) facilitates the transition of the institution from old ones to newly elected members. He also enables the House to elect the new Speaker. President appoints (also administers oath) a member of the Lok Sabha as the Speaker Pro-Tem. Usually, the senior most member is selected for this.

LEADERS IN PARLIAMENT

DEPUTY SPEAKER OF LOK SABHA AND OTHERS (ART. 93)	DEPUTY CHAIRMAN OF RAJYA SABHA AND OTHERS (ART. 89)
<ul style="list-style-type: none"> • Since the 11th Lok Sabha, there has been a consensus that the Speaker comes from the ruling party (or ruling alliance) and the post of Deputy Speaker goes to the main opposition party. • Deputy Speaker is elected after the election of the Speaker has taken place. 	<ul style="list-style-type: none"> • Deputy-Chairman submits his/her resignation to Chairman (VP) of Rajya Sabha. • Chairman (VP) of Rajya Sabha submits his/her resignation to the President of India.
<ul style="list-style-type: none"> • Elected by respective house amongst its members and date of election is fixed by Speaker/Chairman. • Not subordinate to the Speaker/Chairman directly responsible to the House. • Entitled to a regular salary and allowance fixed by Parliament and charged on the Consolidated Fund of India. • Removal procedure - similar to speaker/ Chairperson. 	
<ul style="list-style-type: none"> • Presides joint sitting (Art. 108) in case the Speaker is absent. • If appointed as member in parliamentary committee automatically becomes its chairman. 	-----
PANEL OF CHAIRPERSONS OF LOK SABHA/ VICE-CHAIRPERSONS RAJYA SABHA: <ul style="list-style-type: none"> • Nominated by Speaker/Chairperson. • Not more than 10 members. • Presides when speaker/chairman and Deputy speaker/chairman are absent. • In case both speaker/chairman and deputy speaker/chairman seats are vacant president appoints members 	

from panel does not presides.

- Salaries and Allowances are fixed by Parliament and are charged on the Consolidated fund of India.

Leader of the House: Under the **Rules of House** (i.e. Lok Sabha or Rajya Sabha) (**not mentioned in the Constitution**), the prime minister where he is the member, he is the leader of the House and for other house a minister who is nominated by the prime minister to function as the Leader of that House (i.e. Lok Sabha or Rajya Sabha).

Leader of the Opposition (LoP): Under the Parliamentary Statute (not mentioned in the Constitution) the leader of the largest Opposition party having **not less than one-tenth seats** of the total strength of the House is recognised as the LoP in that House. He enjoys the **status of a minister** and is paid by the government. LoP recognised for the **first time in 1969**. Got **statutory recognition in 1977**. Called as "Alternative Prime Minister" by Ivor Jennings.

Whip: The office of 'whip' is neither mentioned in the Constitution of India nor in the Rules of the House nor in a Parliamentary Statute, it is based on the conventions of the parliamentary government. Every political party has its own whip in the Parliament to serve as an assistant floor leader. Ensuring the attendance of his party members in large numbers. Securing their support in favour of or against a particular issue. Regulates and monitors their behaviour in the Parliament.

SESSIONS OF PARLIAMENT

Summoning (Art. 85):	<ul style="list-style-type: none"> President summons each House of Parliament to meet. Parliament should meet at least twice a year. 'Session' is the period spanning between the first sitting of a House and its prorogation. 'Recess' period spanning between prorogation of a House and its reassembly.
Adjournment:	<ul style="list-style-type: none"> A sitting of Parliament can be terminated by Presiding officer through adjournment, which suspends the work in a sitting for a specified time, which may be hours, days or weeks. It only terminates sitting of the house for a specified time.
Adjournment Sine Die:	<ul style="list-style-type: none"> It means terminating a sitting of Parliament for an indefinite period by Presiding Officer of the house.
Prorogation:	<ul style="list-style-type: none"> The President issues a notification for prorogation of the session whether the house is adjourned, adjourned sine die or in session. It terminates sitting and session of the house.
Dissolution:	<ul style="list-style-type: none"> Only the Lok Sabha is subject to dissolution. Unlike a prorogation, dissolution ends the very life of the existing House. Dissolution is irrevocable. Dissolution of the Lok Sabha may take place in either of two ways: <ol style="list-style-type: none"> Automatic dissolution, that is, on the expiry of its tenure or Whenever the President decides to dissolve the House, which he is authorized to do. When the Lok Sabha is dissolved, all business including bills, motions, resolutions and so on pending before it or its committees lapse. The position with respect to lapsing of bills is as follows.
	<ul style="list-style-type: none"> It is the last session of the existing Lok Sabha, after a new Lok Sabha has been

Lame Duck Session	elected. • Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks.
Quorum:	• It is the minimum number of members required to be present in the House before it can transact any business. • It is one tenth of total members of house including presiding officer.
Language in Parliament:	• Constitution has declared Hindi and English to be the languages for transacting business in the Parliament. • Members can address the House in his mother-tongue with prior permission of the presiding officer .
Rights of Minister and Attorney General	• Every minister and the attorney general of India have the right to speak and take part in the proceedings of both the House , any joint sitting of both the Houses and any committee of Parliament of which he is a member, without vote .

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

PRESIDENT → Address, Summon, Prorogue, Dissolution.

PRESIDING OFFICER → Adjournment, Adjournment sine-de

DEVICES OF PARLIAMENTARY PROCEEDINGS

Question Hour:	• 1st Hour of parliamentary sitting usually member ask question and minister give answer but sometime question can be asked to private members too. • It was initially given by Indian Council Act 1892 . • Mentioned in the Rules of Procedure . • Starred Question: Require oral answer and Supplementary question can be asked. • Unstarred Question: Require written answer and Supplementary question cannot be asked. • Short Notice Question: Answered orally and asked on short notice of less than 10 days.
Zero Hour:	• Informal device to raise matters without any prior notice . Starts immediately after the question hour and lasts until the agenda for the day. • Indian innovation (since 1962) + Not mentioned in the Rules of Procedure . • Starts immediately after the question hour .
Motions:	• Every discussion on matter of public importance starts with the motion with the consent of presiding officer. • Motions are of three categories. 1. SUBSTANTIVE MOTION: Self-contained , Independent proposal dealing with a very

	<p>important matter. (Substantive means Important)</p> <p>2. SUBSTITUTE MOTION: Proposes an alternative, If adopted by the House, it supersedes the original motion. (Substitute means Replacement)</p> <p>3. SUBSIDIARY MOTION: By itself has no meaning needs reference to the original motion or proceedings of the House else it cannot state the decision of the House.</p> <p>4. SUB-CATEGORIES: Ancillary Motion, Superseding Motion, Amendment.</p>
Closure Motion:	<ul style="list-style-type: none"> Moved by a member to cut short the debate It approved debate is stopped and the matter is put to vote. FOUR KINDS OF CLOSURE MOTIONS: <ol style="list-style-type: none"> Simple Closure: Matter sufficiently discussed is now put to vote. Closure by Compartments: Clauses of a bill or resolution are grouped to debate and then after debate entire group is put to vote. Kangaroo Closure: Only important clauses are taken up for debate and voting and the other clauses are skipped and taken as passed. Guillotine Closure: If the time allotted for the discussion is over the undiscussed clauses or a resolution are also put to vote along with the discussed ones due to want of time.
Privilege Motion:	<ul style="list-style-type: none"> Moved by a member if he feels that a minister has committed a breach of privilege of the House.
Calling Attention Motion:	<ul style="list-style-type: none"> Moved by a member to call the attention of a minister to a matter of urgent public importance. Indian Innovation and Mentioned in rules of procedure.
Adjournment Motion:	<ul style="list-style-type: none"> It is introduced to draw attention of the House to a definite matter of urgent public importance which is definite, factual, urgent, matter of recent occurrence. An extraordinary device, it interrupts the normal business of the House. Rajya Sabha is not permitted to use because it involves an element of censure against the government. It should not cover more than one matter and not discussed earlier in the same session and needs the support of 50 members to be admitted.
Confidence Motion:	<ul style="list-style-type: none"> Sometime called upon by the President then government of the day need to prove their majority on the floor of the House. If the confidence motion is not passed, it results in the fall of the government.
No-Confidence Motion (Art. 75)	<ul style="list-style-type: none"> Art. 75- The council of ministers shall be collectively responsible to the Lok Sabha. This principle is the bedrock of parliamentary democracy. Not mentioned in Constitution, is moved under Rule 198 of rules of procedure and can be moved only in Lok Sabha. Ministry stays in office so long as it enjoys confidence of the majority of the members of the Lok Sabha Needs the support of 50 members to be admitted but no need to state the reasons for its adoption. Moved only against the entire council of ministers (Not against individual/ group of ministers) and If passed, the council of ministers must resign from office.
Censure Motion:	<ul style="list-style-type: none"> Moved to seek the disapproval of certain policy of the government power. Need to state the reasons for its adoption.

	<ul style="list-style-type: none"> Can be moved against an individual minister or a group of ministers or the entire council of ministers If it is passed in the Lok Sabha, the council of ministers need not resign from the office but government to seek the confidence of the house immediately.
Motion of Thanks	<ul style="list-style-type: none"> The first session after each general election and the first session of every fiscal year is addressed by the president. This address is discussed in both the Houses of Parliament on a motion called the 'Motion of Thanks'. After discussion, the motion is put to vote if the motion is not passed it amounts to the defeat of the government.
No-Day-Yet-Named Motion:	<ul style="list-style-type: none"> Motion that has been admitted by the Speaker but no date has been fixed for its discussion.
Dilatory Motion:	<ul style="list-style-type: none"> It is a motion for the adjournment of the debate on a bill / motion / Resolution. It can be moved by a member at any time after a motion has been made. Debate must be restricted to the matter contained in motion. This motion is to retard or delay the progress of a business under consideration of the House.
Point of Order:	<ul style="list-style-type: none"> Usually Opposition member raise a point of order when the proceedings of the House do not follow the normal rules of procedure in order to control the government. An extraordinary device as it suspends the proceedings before the House and debate is not allowed on a point of order.
Half-an-Hour Discussion:	<ul style="list-style-type: none"> It is meant for discussing a matter of sufficient public importance. There is no formal motion or voting before the House.
Short Duration Discussion:	<ul style="list-style-type: none"> Also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. There is neither a formal motion before the house nor voting.
Special Mention:	<ul style="list-style-type: none"> A matter which is not under any rule of the House can be raised under the special mention in the Rajya Sabha.
Resolutions:	<ul style="list-style-type: none"> Members move resolutions to draw the attention of the House or the government to matters of general public interest and discussion is strictly relevant to and within the scope of the resolution. A member who has moved a resolution or amendment to a resolution cannot withdraw it without the Permission of house. All resolutions come in the category of substantive motions whereas all motions need not necessarily be substantive. So, all motions are not necessarily put to vote of the House, whereas all the resolutions are required to be voted upon. There are Three types of Resolution: <ol style="list-style-type: none"> Private Member's Resolution: Moved by Private members and discussed on alternate Fridays only in afternoon sitting. Government Resolution: Moved by a minister and discussed on any day from Monday to Thursday Statutory Resolution: Moved by anyone private member or a minister.

LEGISLATIVE PROCEDURE IN PARLIAMENT

- The legislative procedure is same in both the Houses of Parliament. Every bill has to pass through the same stages in each House.

BASED ON INTRODUCTION:	PUBLIC BILL: Introduced by Minister in Parliament + Introduction requires 7 days' notice + Drafted by concerned department. PRIVATE BILL: Introduced by any member other than a minister + Introduction requires 1-month notice + Drafting is the responsibility of the concerned member.
BASED ON SUBJECT MATTER	ORDINARY BILL: <ul style="list-style-type: none"> Any matter other than financial subjects. Every ordinary bill has to pass through the 5 stages in the Parliament as shown in flow chart below this table. Can be introduced in both Lok Sabha and Rajya Sabha and by minister and members. Can be introduced without president's recommendation. Can be amended or rejected by Rajya Sabha. Rajya Sabha can keep it for a maximum period of six months. Does not require the certification of the Speaker. Sent to President for assent if passed by both the house and in case of dead lock, Joint sitting can be called by president. Defect in the Lok Sabha may lead to resignation of government if it is introduced by minister. President can reject, approve or can return it for reconsideration. MONEY BILL (ARTICLE 110): <ul style="list-style-type: none"> Matter concerned with financial matter like taxation. Can be introduced Only in Lok Sabha. Introduced only on the recommendation of the President. Cannot be amended or rejected by the Rajya Sabha should return the bill with or without recommendation Lok Sabha may accept or reject recommendation. Rajya Sabha can keep it for a maximum period of 14 days. Requires the certification of the Speaker. Rajya Sabha has limited power with respect to money bill so no chance of any disagreement. President can reject or approve but cannot return it to parliament for reconsideration. FINANCIAL BILL - ARTICLE 117 (1) AND 117 (3) <ul style="list-style-type: none"> Matter concerned with financial matter other than the matters of money bill. All Money bills are financial bill but all financial bills are not money bills. CONSTITUTIONAL AMENDMENT BILL: <ul style="list-style-type: none"> Matter concerned with the amendment of the provisions of the Constitution (Art. 368).

STAGES OF ENACTMENT

FIRST READING	<ul style="list-style-type: none"> Member has to ask for leave of the house for introduction. No discussion on the bill at this stage.
----------------------	--

SECOND READING	<ul style="list-style-type: none"> • Most Important Stage • Three More Sub Stage: <ol style="list-style-type: none"> 1. Stage of General Discussion: Principles of bill and its provisions discussed generally and refer it to committee. 2. Committee Stage 3. Consideration Stage: Consider the provision of bills clause by clause and each clause is discussed and voted separately.
THIRD READING	<ul style="list-style-type: none"> • Debate is confined to acceptance or rejection of the bill as a whole. No amendment is allowed. • If passed transmitted to other house for consideration and approval.
BILL IN THE SECOND HOUSE	<ul style="list-style-type: none"> • If the second House passes the bill without any amendments or the first House accepts the amendments suggested by the second House, the bill is deemed to have been passed by both the Houses and the same is sent to the president for his assent.
ASSENT OF PRESIDENT	<ul style="list-style-type: none"> • If the president gives his assent to the bill, the bill becomes an act and is placed on the Statute Book.

DIFFERENCE BETWEEN FINANCIAL BILL (I) and FINANCIAL BILL (II)

FINANCIAL BILL (I)	FINANCIAL BILL (II)
<ul style="list-style-type: none"> • Bill that not contain exclusively matters of Article 110, but also contains other matters of general legislation. 	<ul style="list-style-type: none"> • Bill contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110.
<ul style="list-style-type: none"> • In two aspects is similar to a money bill: <ol style="list-style-type: none"> 1. Can be introduced only in the Lok Sabha and 2. Introduced only on the recommendation of the president. 	<ul style="list-style-type: none"> • Can be introduced in both House of Parliament. • Recommendation of the President is not necessary for its introduction but is required at the consideration stage.
<ul style="list-style-type: none"> • Governed by the same legislative procedure applicable to an ordinary bill. 	
<ul style="list-style-type: none"> • In case of a disagreement president can summon a joint sitting of the two Houses to resolve the deadlock 	
<ul style="list-style-type: none"> • President can either give his assent to the bill or withhold his assent to the bill or return the bill for reconsideration of the Houses. 	

JOINT SITTING (Art. 108) OF TWO HOUSE

- It is extraordinary machinery provided by the Constitution to resolve a deadlock between the two Houses over the passage of a bill.
- The **president can summon** joint sitting for the purpose of deliberating and voting on the bill.
- Provision of joint sitting is applicable to **ordinary bills or financial bills only and not to money bills or Constitutional amendment bills**.
- Bill in dispute needs to be passed by a **majority of the total number of members of both the Houses present and voting** in the joint sitting, then bill is deemed to have been passed by both the houses.
- After the President notifies his intention to summon a joint sitting of the two Houses, none of the Houses can proceed further with the bill nor will that bill lapse on the dissolution of Lok Sabha.

- The Speaker of Lok Sabha presides over a joint sitting of the two Houses and the Deputy Speaker, in his absence. **Chairman of Rajya Sabha does not preside over a joint sitting** as he is not a member of either House of Parliament but deputy chairman of Rajya Sabha can.
- The quorum to constitute a joint sitting is one-tenth of the total number of members of the two Houses but governed by the Rules of Procedure of Lok Sabha and not of Rajya Sabha.
- Since 1950, the provision regarding the joint sitting of the two Houses has been invoked only thrice i.e.
 1. Dowry Prohibition Bill, 1960
 2. Banking Service Commission (Repeal) Bill, 1977
 3. Prevention of Terrorism Bill, 2002

BUDGET (Art. 112) IN PARLIAMENT

- The Constitution refers to the budget as the 'Annual Financial Statement', been dealt with in **Article 112** of the Constitution.
 - The budget is a statement of the **estimated receipts and expenditure** of the Government of India in a financial year.
 - The Constitution of India contains the following provisions with regard to the enactment of budget:
 1. The President laid before both the Houses of Parliament a statement of estimated receipts and expenditure of the Government of India for that year.
 2. No demand for a grant shall be made except on the **recommendation of the President**.
 3. **No money** shall be withdrawn from the Consolidated Fund of India (CFI) except under **appropriation made by law**.
 4. No tax shall be levied or collected except by authority of law and **parliament can reduce or abolish a tax but cannot increase it**.
 5. The **Rajya Sabha has no power to vote on the demand for grants**; it is the exclusive privilege of the Lok Sabha.
 6. The expenditure **charged on the CFI** shall **not be voted** in Parliament but it can be discussed by the Parliament.
 - The budget consists of two types of expenditure – the expenditure '**charged**' upon the Consolidated Fund of India and the expenditure '**made**' from the Consolidated Fund of India.
- Few examples of Charged expenditure are Salaries and allowances of President, Chairman and Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of Lok Sabha and Judges of Supreme Court etc.
 - Any sum required to satisfy any judgement, decree or award of any court or arbitral tribunal.
 - Any other expenditure declared by the Parliament to be so charged.
- **Stages in Enactment:** Presentation of Budget → General discussion → Scrutiny by departmental committees → Voting on demands for Grant → Passing of appropriation bill → Passing of finance bill.
 - Few motions during voting on demand for grant used by members of parliament to reduce any demand for grant are called '**Cut Motion**', they are:

Policy Cut Motion:	It represents the disapproval of the policy underlying the demand the amount of the demand be reduced to Re 1.
Economy Cut Motion:	It states that the amount of the demand be reduced by a specified amount (which may be either a lump sum reduction in the demand or omission or reduction of an item in the demand).
Token Cut Motion:	It states that the amount of the demand be reduced by 100 INR.

- In addition, income and expenditure for one financial year, various other grants are made by the Parliament under extraordinary or special circumstances:

Supplementary Grant:	It is granted when the amount authorized for particular service for the current financial year is found to be insufficient for that year.
Additional Grant:	It is granted for additional expenditure upon some new service not contemplated in the budget for that year. (It's like when we are paying additional charges which are not included in our original package)
Excess Grant:	When money has been spent on any service during a financial year in excess of the amount granted for that service in the budget for that year.
Vote of Credit:	It is granted for meeting an unexpected demand upon the resources of India, when on account of the magnitude or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget.
Exceptional Grant:	It is granted for a special purpose and forms no part of the current service of any financial year.
Token Grant:	It is granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation. Reappropriation involves transfer of funds from one head to another. It does not involve any additional expenditure.

DIFFERENT FUNDS:

CONSOLIDATED FUND OF INDIA	PUBLIC ACCOUNT OF INDIA	CONTINGENCY FUND OF INDIA
<ul style="list-style-type: none"> Article 266 It is a fund to which all receipts are credited and all payments are debited. All the legally authorized payments on behalf of the Government of India are made out of this fund. No money out of this fund can be issued except in accordance with a parliamentary law. 	<ul style="list-style-type: none"> Article 266 All public money other than those which are credited to the CFI shall be credited here. Includes provident fund deposits, judicial deposits, savings bank deposits, departmental deposits, remittances and so on. Operated by executive action. 	<ul style="list-style-type: none"> Article 267 Amounts determined by parliament by law are paid time to time into this fund. Fund is 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.

ROLE OF PARLIAMENT

It enjoys extensive powers and performs a variety of functions towards the fulfilment of its constitutionally expected role. Its powers and functions can be classified under the following heads: Legislative Powers and Functions + Executive Powers and Functions + Financial Powers and Functions + Constituent Powers and Functions + Judicial Powers and Functions + Electoral Powers and Functions + Other powers and functions

SPECIAL POWERS OF RAJYASABHA

The Rajya Sabha has been given four exclusive or special powers that are not enjoyed by the Lok Sabha:

- It can authorise the Parliament to make a law on a subject enumerated in the State List (Article 249).
- It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

3. Resolution for the removal of the vice-president can be introduced only in the Rajya Sabha not in the Lok Sabha (Article 67).
4. If a proclamation for imposing national emergency or president's rule or financial emergency (Articles 352, 356 and 360) can remain effective even it is approved by the Rajya Sabha alone if Lok Sabha is dissolved before or during the emergency period.

PARLIAMENTARY PRIVILEGES

- Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members.
- The Constitution has also extended the parliamentary privileges 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.

COLLECTIVE PRIVILEGES:	<p>THE PRIVILEGES BELONGING TO EACH HOUSE OF PARLIAMENT COLLECTIVELY ARE:</p> <ul style="list-style-type: none"> • It has the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same. • They hold secret sittings to discuss some important matters and can exclude strangers from its proceedings. • It can make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters. • It can punish members as well as outsiders for breach of its privileges or its contempt. • It has the right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member. • It can institute inquiries and order the attendance of witnesses and send for relevant papers and records. • The courts are prohibited to inquire into the proceedings of a House or its committees. • No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the Presiding officer.
INDIVIDUAL PRIVILEGES:	<p>THE PRIVILEGES BELONGING TO THE MEMBERS INDIVIDUALLY ARE:</p> <ul style="list-style-type: none"> • They 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. • They have freedom of speech in Parliament. No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees. • They are exempted from jury service. They can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.
BREACH OF PRIVILEGE AND CONTEMPT OF THE HOUSE:	<ul style="list-style-type: none"> • When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offence is termed as breach of privilege and is punishable by the House.
	Originally, the Constitution (Article 105) mentioned two privileges, that is, freedom

SOURCES OF PRIVILEGES:

of speech in Parliament and right of publication of its proceedings. Till now parliament has not made any special law to exhaustively codify all the privileges. They are based on five sources, namely:

1. Constitutional provisions
2. Various laws made by Parliament
3. Rules of both the Houses
4. Parliamentary conventions and
5. Judicial interpretations.

SOVEREIGNTY OF PARLIAMENT

- Sovereignty means the supreme power within the State. There are 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.
- The Indian Parliament, on the other hand, cannot be regarded as a sovereign body in the similar sense as there are 'legal' restrictions on its authority and jurisdiction.
- The factors that **limit the sovereignty** of Indian Parliament are:
 1. Written Nature of the Constitution
 2. Federal System of Government
 3. System of Judicial Review
 4. Fundamental Rights
- In this regard, the Indian Parliament is **similar to the American Legislature** (known as Congress). In USA also, 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.

STUDENT NOTES:

20. PARLIAMENTARY COMMITTEE

- The Constitution of India makes a mention of these committees at different places, but without making any specific provisions regarding their composition, tenure, functions, etc. All these matters are dealt by the rules of two Houses.
- Committee that is:** Appointed or elected by the house or nominated by speaker or chairman + Works under speaker /chairman + Presents its report to house or to the speaker /chairman + Has a secretariat provided by Lok Sabha /Rajya Sabha.

Criteria	Estimates Committee	Public Accounts Committee	Committee on Public Undertakings	Departmental Standing Committee (24 Committees)
Origin	1950-recommendation of John Mathai	set up first in 1921 under Govt. of India Act 1919	Krishna Menon Committee 1964	Rules committees of Lok Sabha 1993
Composition	30 members all from Lok Sabha (largest committee) Minister cannot be member	22 (15 Lok Sabha + 7 Rajya Sabha) Elected for one year – proportional representation by single transferable vote. Chairman – from Opposition Minister cannot be member	Same as PAC Minister cannot be member	31 members (21 from Lok Sabha + 10 from Rajya Sabha) Nominated by respective presiding officers. The term of office of each standing committee is one year from the date of its constitution.
Function	To examine budget –suggest economies of public expenditure	Examine CAG Audit report and discover the irregularities	To examine reports and accounts public sector undertakings. Don't involve day to day affairs of PSU	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.
Supportive officer	NO	Available. CAG - friend philosopher, guide for PAC	NO	NO
Involvement in policy	Suggest alternative policy of bringing policy of economies	NO	NO	NO

CABINET COMMITTEE:

- Extra constitutional in emergence.

- The executive in India works under the **Government of India Transaction of Business Rules, 1961**.
- These **Rules emerge out of 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 Ministers of the said business."
- Two types: standing and Ad-hoc:
 1. Standing → Permanent committee
 2. Adhoc committee → temporary for special purpose
- Set up by prime minister (PM) + Varies membership from 3-8 + Includes minister in charge + senior ministers + Take decisions which are reviews by cabinet + To reduce workload of cabinet.

CABINET COMMITTEE WHICH ARE FUNCTIONAL

- Cabinet committee on political affairs (called as SUPER CABINET): deals with all policy matters pertaining to foreign and domestic affairs → chaired by prime minister
- Cabinet committee on Economic affairs: direct and coordinates the governmental activities on economic sphere → chaired by prime minister.
- Appointment committee of cabinet: decides all higher-level appointments in the central secretariat, public enterprises banks and financial institutions → chaired by prime minister.
- Cabinet committee on security → The Prime Minister chairs the CCS.
- Cabinet committee on parliamentary affairs: looks after progress of government business in the parliament → chaired by home minister
- Cabinet committee on Accommodation
- Cabinet committee on investment and growth → headed by the Prime Minister
- Cabinet committee on employment and skill development → headed by the Prime Minister



ONLYIAS
Nothing Else

Praarambh 2022

- Preparing from Root to pinnacle

1 BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2 CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed Onlyias Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

4 DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

One year Complete Comprehensive UPSC Preparation Program

हिंदी माध्यम में भी उपलब्ध

3 ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests



Website & Mobile App Friendly

Online Courses Available at - video.onlyias.in

 www.onlyias.com

 [+91-7007-931-912](tel:+91-7007-931-912)

 info@onlyias.com

21. SUPREME COURT

ORGANISATION OF SC: (ART. 124)

- Article 124 to 147 –Part V of the constitution.
- Integrated single system of judicial system adopted from govt of India act 1935 + enforces both central and state laws
- Inaugurated January 28, 1950 succeeded the federal court of India but replaced British Privy council as **highest court of appeal**.
- Total 34 judges (CJI + 33 other judges)
- Supreme court (number of judges) amendment act 2019—increased number of judges from 31 to 34
- Chief justice is appointed by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary.
- Other Judges of the SC are appointed by president after consultation with chief justice and such other judges as he deems necessary
- Consultation of chief justice is Obligatory for appointment of judges other than Chief justice.

CONCURRENCE Vs CONSULTATION:

- 1st judges case (1982):only implies exchange of views
- 2nd judges case (1993): consultation = concurrence advice by CJI is binding on president(but CJI will tender his advice after consulting his two senior most colleagues
- 3rd judges case: consultation of plurality of judges- CJI should consult collegium of 4 senior most judges (even if two gave adverse opinion that recommendation cannot be forwarded)
- 99th CAA 2015- declared National judicial appointments commission (NJAC) act unconstitutional and void.

APPOINTMENT OF CJI	Appoint senior most (1950-1973) → Later discontinued → 2nd judges case: held senior most must alone be CJI.
QUALIFICATION OF JUDGES	<ul style="list-style-type: none"> • He should be a citizen of India • He should have been judge of High Court for 5 years or • he should have been an advocate of high court for 10 years or 3) distinguished jurist in the opinion of president (no such condition in case of HC) • No minimum age prescribed
OATH OR AFFIRMATION	<ul style="list-style-type: none"> • A person appointed as a judge of the Supreme Court has to subscribe an oath before the President, or some person appointed by him for this purpose.
SALARIES AND ALLOWANCES	The salaries, allowances, privileges, leave and pension of the judges of the Supreme Court are determined from time to time by the Parliament.
TENURE OF JUDGES	<ul style="list-style-type: none"> • Constitution no fixed tenure of judges of supreme court • Three provisions: Holds office until he attains the age of 65 years (manner prescribed by parliament) + Resign by writing to president + Removed from office by president on recommendation of parliament.
REMOVAL OF JUDGES	<ul style="list-style-type: none"> • Removed by order of president • But only after an address by parliament has been presented to him in same session for such removal • Ground of removal : Proved misbehavior or/and Incapacity • Procedure relating to the removal of a judge of a Supreme court is govern by The Judges Enquiry Act (1968).

JUDGES ENQUIRY ACT 1968:	<ul style="list-style-type: none"> Removal motion : signed by 100 members (Lok Sabha) or 50 members (Rajya Sabha) → given to chairperson of the respective houses If admitted by chairperson → three member committee to enquire into charges Committee: Chief justice /judge of supreme court + chief justice of high court + distinguished jurist. If they find guilty → house take up for consideration Motion passed in each house by special majority , and then an address presented to president for removal of judge Order passed by president No judge has been impeached so far.
ACTING CHIEF JUSTICE :	<ul style="list-style-type: none"> President can appoint a judge of supreme court as the office of chief justice of India is: vacant; temporarily absent; Unable to perform the duties of office.
AD HOC JUDGE:	<ul style="list-style-type: none"> when lack of quorum of permanent judges to hold or continue any session of the supreme court, → CJI can appoint a judge of HC as Ad hoc judges (only with consent of chief justice in High court +previous consent of president) Ad hoc judge = all jurisdiction, power and privileges of judge of supreme court.
RETIRED JUDGE:	<ul style="list-style-type: none"> At any time chief justice of India can request any retired judge (qualified to be) of supreme court to act as supreme court for temporary period.
SEAT OF SUPREME COURT (ART. 130):	<ul style="list-style-type: none"> Delhi (by constitution) + Authorizes chief justice of India to appoint other places as seat of supreme court + approval of president.
PROCEDURE OF THE COURT:	<ul style="list-style-type: none"> Supreme court + approval of president can make rules for regulating generally the practice and procedure of the court Constitutional case + article 143 = decided by bench of at least five judges All judgment = majority voting Dissenting judgments can also be given if differed
INDEPENDENCE OF SUPREME COURT	<ul style="list-style-type: none"> Mode of appointment: Judges appointed by judiciary itself Security of tenure: Judges are removed only on the manner prescribed by the constitution Fixed service conditions: Cannot be changed to their disadvantage after their appointment except during a financial emergency (Art.360) Expenses charged on consolidated fund of India Conduct of judges cannot be discussed: Except when impeachment motion is in consideration of parliament Ban on practice after retirement: Except the SC and the other high courts. Freedom to appoint its staff Jurisdiction cannot be curtailed: But can be extended by parliament. Separation from executive

JURISDICTION AND POWER OF SUPREME COURT

ORIGINAL JURISDICTION (ART.131):	<p>DISPUTE BETWEEN:</p> <ol style="list-style-type: none"> State and center State and other states Centre and state on one side and other state on other side <ul style="list-style-type: none"> Only supreme court have power to hear such cases]-exclusive jurisdiction Questions of political nature is avoided Dispute must involve a question (whether of law or fact)
---	--

	<ul style="list-style-type: none"> • A dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, Sanad or other similar instrument • A dispute arising out of any treaty, agreements etc. which specifically provide that such jurisdiction don't extend to such a dispute. • Interstate water dispute • Matters referred to Finance Commission Etc.
WRIT JURISDICTION (ART. 32):	<ul style="list-style-type: none"> • Aggrieved can go directly to supreme court • But it's not exclusive (high courts can also issue writ) • Only for enforcement for Fundamental rights (not for legal rights – Narrower than HC) • Writ jurisdiction of high court is wider than supreme court. • NOTE - SC can issue writs only for FR and not "for any other purpose". This makes writ jurisdiction of HC wider than SC.
APPELLATE JURISDICTION :	<p>APPEALS IN: Constitutional matters: appeal against judgment of high court + Civil matters + Criminal matters + Special leave Petition.</p> <p>CONSTITUTIONAL MATTERS: Against judgment of High Court: If case involves substantial question of law that requires the interpretation of constitution.</p> <p>CIVIL MATTERS: Appeal lies to supreme court if: Case involves substantial question of law + That the question needs to be decided by the supreme court</p> <p>CRIMINAL MATTERS: Supreme court hears appeals against judgment in a criminal proceedings of high court if high court :</p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid green; padding: 5px; margin-right: 10px;">Matter of right</div> <div style="font-size: 2em;">{</div> <ul style="list-style-type: none"> ○ Has on appeal reversed an order of acquittal of an accused person and sentenced him to death ○ Has taken before itself any case from any subordinate court and convicted the accused person and sentenced him to death ○ Certifies that the case fit one for appeal to the supreme court </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;">If court has reversed order of conviction to acquittal then no right to appeal</div>
APPEAL BY SPECIAL LEAVE (ART. 136)	<ul style="list-style-type: none"> • Special leave to appeal from any judgment in any matter passed by any court or tribunal in the country. • Exception: court martial or military tribunal • FOUR ASPECT : discretion and not a right + granted in Final or interlocutory judgment + Related to any matter: constitutional, civil, criminal, income tax, labour revenue, advocates etc. + granted against any tribunal and not necessarily be high court exceptional and overriding power → exercised sparingly and only in exceptional times.
ADVISORY JURISDICTION (ART. 143)	<p>President → supreme court (advice given) → President</p> <p>Two categories of matter :</p> <ol style="list-style-type: none"> 1. On any question of law or fact of public importance which has arisen or which is likely to arise → SC may or may not give advice 2. On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, Sanad or other similar instrument → SC must give advice.

	NOTE: President may or may not follow the opinion.
COURT OF RECORD:	Judgment, proceedings and acts of supreme court are recorded for perpetual memory and testimony: 1. Evidentiary value + cannot be questioned by any court 2. Legal precedents + references
POWER TO PUNISH FOR CONTEMPT OF COURT:	Simple imprisonment up to 6 month + /fine up to Rs.2000/-
CONTEMPT OF COURT:	<ul style="list-style-type: none"> • CIVIL CONTEMPT: willful disobedience to any judgment ,order ,writ or other process of court or willful breach of an undertaking given to a court • CRIMINAL CONTEMPT: publication of any matter or doing an act which → Scandalizes or lowers the authority of court + Prejudices or interferes with the due course of judicial proceedings + Interferes or obstructs the administration of justice in any other manner. • NOT AMOUNT TO THE CONTEMPT OF COURT: Innocent publication and distribution of some matter + fair and accurate report of judicial proceedings + fair and reasonable criticism of judicial acts + comment on administrative side.
CONSTITUTIONAL INTERPRETATION:	Supreme Court is the ultimate interpreter of the Constitution.
OTHER POWERS:	<ul style="list-style-type: none"> • It decides the disputes regarding the election of the president and the vice-president. In this regard, it has the original, exclusive and final authority. • Enquires into the conduct and behaviour of the chairman and members of the UPSC on a reference made by the president → Advice by SC binding on the president. • power to review its own judgement or order. • Its law is binding on all courts in India. <p>NOTE: The Supreme Court's jurisdiction and powers with respect to matters in the Union list can be enlarged by the Parliament.</p>

STUDENT NOTES:

22. HIGH COURT

ORGANISATION OF HC: (ART. 216)

- Article 214 to 231 (part VI) of the constitution
- The institution of HC originated in India in 1862 when the HC were set up at Calcutta, Bombay and Madras.
- High Court is the highest judicial court in a state in single integrated judicial system of India.
- State judiciary = High court + subordinate courts
- Constitution originally provided for one high court for each state → amended by 7th Amendment Act 1956 – common high court for two or more states and union territory.
- Parliament can extend the jurisdiction of a high court to include or exclude union territory
- Delhi and Jammu & Kashmir are the only UTs in India having high court of their own (since 1966).
- Constitution does not specify strength of HC and leaves it to the discretion of the President.
- Chief justice appointed by president after consultation with chief justice of India and governor of state concerned (in case of more than one state all those governors are consulted).
- For other judges' appointment the concerned high court chief justice is also consulted.
- **First Judges case (1982)**- SC opined that “consultation” does not mean “concurrence” and it only implies exchange of views.
- **Second Judges case (1993)**- SC reversed its earlier ruling and changed the interpretation of the word “consultation to concurrence”.
- **Third Judges case (1998)**- SC opined that the consultation process to be adopted by the CJI requires “consultation of plurality judges” (Not CJI alone). In case of the appointment of HC judges, collegium of two senior most judges of SC must be consulted.
- **Fourth judges case (2015)** - 99th constitutional amendment acts invalidated NJAC on the grounds of interference –NJAC case

Qualification of judges	<ul style="list-style-type: none"> • He should be a citizen of India + He should have held judicial office in Indian territory for 10 years or He should have been an advocate of high court for 10 years. • No minimum age prescribed • Constitution makes no provision for appointment of a “distinguished jurist” as a judge of a HC in the opinion of president. (unlike in the case of the SC)
Oath or affirmation:	<ul style="list-style-type: none"> • A person appointed as a judge of a high court, before entering upon his office, has to make and subscribe an oath or affirmation before the governor of the state or some person appointed by him for this purpose.
Salaries and allowances:	<ul style="list-style-type: none"> • The salaries, allowances, privileges, leave and pension of the judges of a high court are determined from time to time by the Parliament. • They cannot be varied to their disadvantage after their appointment except during a financial emergency (Art.360) • NOTE - Salaries of judges of HC are charged upon “consolidated fund of state”. However, pensions of judges of HC are charged upon “consolidated fund of India”.
Tenure :	<ul style="list-style-type: none"> • Constitution no fixed tenure of judges of supreme court • Four provisions: Until 62 years (65 in case of SC) + Resign by writing to president + Removed from office by president on recommendation of parliament + He vacates his office when he is appointed as supreme court judge or when he is transferred to another high court.

Removal of judges	<ul style="list-style-type: none"> Judge of a high court can be removed in the same manner and on the same grounds as a judge of the Supreme Court. Removed by order of president on recommendations of parliament. The address must be supported by a special majority of each House of Parliament. Ground of removal : <ol style="list-style-type: none"> Proved misbehavior Incapacity Procedure relating to the removal of a judge of a high court is governed by The Judges Enquiry Act (1968).
Judges enquiry act 1968:	<ul style="list-style-type: none"> Removal motion : signed by 100 members (Lok Sabha) or 50 members (Rajya Sabha) → given to speaker/ chairman of the respective houses. Speaker/chairman may admit /refuse the motion If admitted – three member committee to enquire into charges: Committee of Chief justice /judge of supreme court ,chief justice of high court , and distinguished jurist. If they find guilty—house take up for consideration Motion passed in each house by special majority , and then an address presented to president for removal of judge. Order passed by president No judge has been impeached so far
Acting chief justice of HC (Art. 223):	<ul style="list-style-type: none"> President can appoint a judge of high court as an acting chief justice of high court, when office of high court chief justice: vacant + temporarily absent + Unable to perform the duties of office.
Additional and acting judges of HC (Art. 224):	<ul style="list-style-type: none"> President can appoint duly qualified persons as additional judges of a HC for a temporary period not exceeding two years when: Temporary increase in high court business + There are arrears of work in high court.
Acting Judge:	<ul style="list-style-type: none"> When a judge: Unable to perform duties due to absence or any other reasons + Appointed to act temporarily as chief justice of that high court. However, both the additional or acting judge cannot hold office after attaining the age of 62 years.
Retired judge (Art. 224A):	<ul style="list-style-type: none"> At any time chief justice of India can request any retired judge (qualified to be) of supreme court to act as supreme court for temporary period. He can do so only with the previous consent of the President and also of the person to be so appointed.
Independence of high court	<ul style="list-style-type: none"> Mode of appointment: Judges appointed by judiciary itself Security of tenure: Judges are removed only on the manner prescribed by the constitution Fixed service conditions: Cannot be changed to their disadvantage after their appointment except during a financial emergency (Art.360) Expenses charged on consolidated fund of India Conduct of judges cannot be discussed: Except when impeachment motion is in consideration of parliament Ban on practice after retirement: Except the SC and the other high courts. Freedom to appoint its staff Jurisdiction cannot be curtailed: But can be extended by parliament. Separation from executive

JURISDICTION AND POWER OF HIGH COURT (ART. 225)

Original jurisdiction: (Narrower than SC)	Matters of admiralty and contempt of court + Elections of member of parliament and state legislature – disputes + Revenue matter + Enforcement of fundamental right of citizen + Cases ordered to be transferred from a subordinate court involving the interpretation of constitution.
Writ jurisdiction: (article 226)	<ul style="list-style-type: none"> Wider than SC - for both FR + other legal rights All five writs + Includes ordinary legal right. Unlike supreme court + If cause of action within its territory it can issue writ + High court >> supreme court. NOTE - SC can issue writs only for FR and not “for any other purpose”. This makes writ jurisdiction of HC wider than SC.
Appellate jurisdiction	<ul style="list-style-type: none"> Both civil + criminal matters
Supervisory jurisdiction:	<ul style="list-style-type: none"> Superintendence over all other courts, tribunals in state (except military court or tribunal) Covers both administrative and judicial superintendence Provisional jurisdiction Suo – motu powers Only used in extraordinary cases limited to: Excess of jurisdiction, gross violation of natural justice, error of law, disregard to law of superior court, perverse findings and manifest injustice.
Control over subordinate courts:	<ul style="list-style-type: none"> Consulted by governor in the matters of appointment, posting and promotion of district judges and in the appointment of persons to the judicial service of the state. Posting, promotion etc. of judicial service of state (other than district judges). Withdraw case pending in a subordinate court if it involves a substantial question of law that require interpretation of constitution. Its law is binding on all subordinate court in its jurisdiction.
Court of record (Art. 215):	<p>Two power to high court:</p> <ul style="list-style-type: none"> Judgment, proceedings and acts of supreme court are recorded for perpetual memory and testimony → Evidentiary value + cannot be questioned by any court + Legal precedents + references. Power to punish for contempt of court As court of record high court have power to review and correct its own judgment.
Judicial Review:	<ul style="list-style-type: none"> Phrase “judicial review” has nowhere been mentioned in the Constitution. Constitutional provisions → Art.13, 32, 131-136, 143, 226, 246, 256 etc. Constitutional validity of legislative or executive enactments can be challenged To examine constitutionality of legislation and executive orders of both state and central governments challenged on : <ol style="list-style-type: none"> Infringes fundamental rights Outside the competence of the authority which has framed it. Repugnant to constitutional provisions

HCS HAVING COMMON JURISDICTION WITH 2 OR MORE STATES AND/OR UTs:

HIGH COURT	JURISDICTION
Bombay HC	Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu
Guwahati HC	Assam, Nagaland, Mizoram and Arunachal Pradesh
Punjab and Haryana HC	Punjab, Haryana, Chandigarh

Calcutta HC	West Bengal, Andaman and Nicobar Islands
Tamil Nadu HC	Tamil Nadu, Puducherry
Kerala HC	Kerala, Lakshadweep

STUDENT NOTES:



MAINS TEST SERIES

- 8 Full length papers
- Question framed in line with ongoing trend of UPSC
- Comprehensive solution with approach to the answers
- Topic wise handouts for Mains (OnlyIAS Mains study material)
- Timely and detailed evaluation of answer booklet with workable inputs and feedbacks strictly by expert faculties
- Online support to solve queries

FEE
₹ 6000
+
18%GST

JOIN NOW mains.onlyias.in

***NOTE : YOU CAN GIVE TEST ANY DAY AFTER THE TEST**

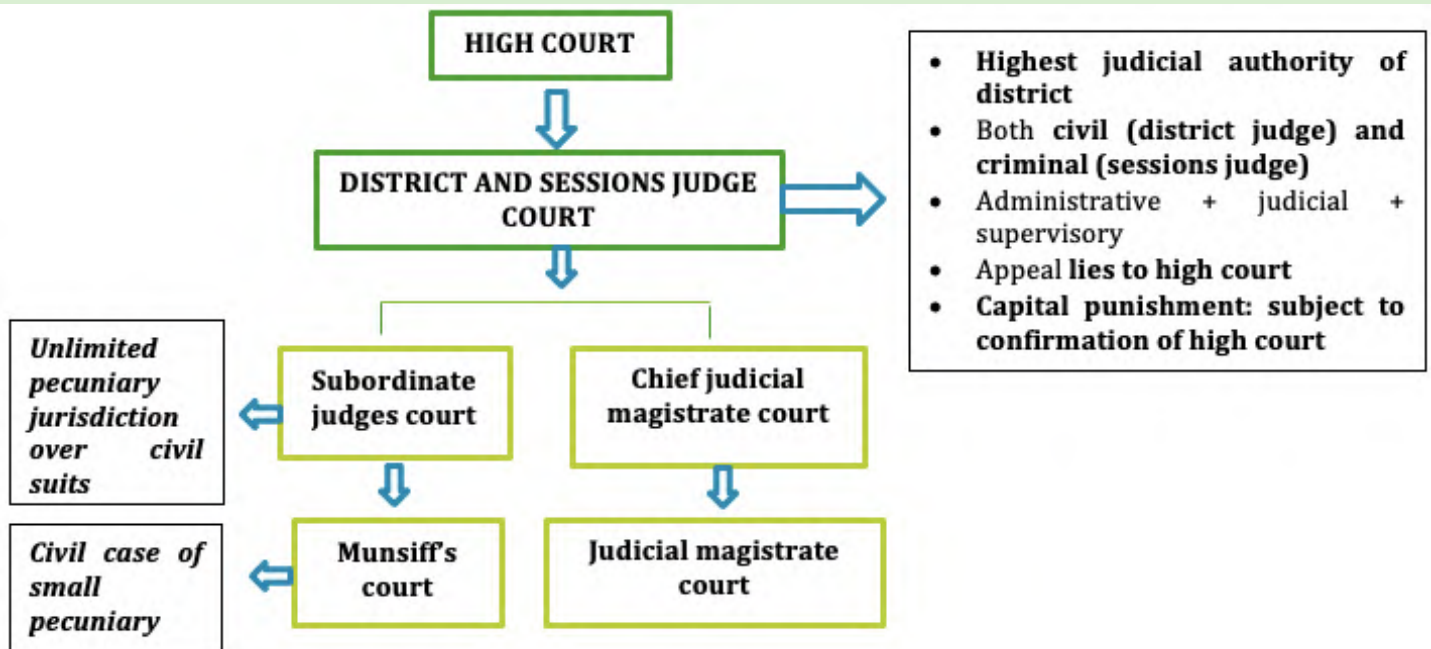
VALIDITY : TILL 30TH SEPTEMBER 2021

23. SUBORDINATE COURT (Part VI; Article 233-237)

State judiciary = High court + subordinate courts

Appointment of district judges	Made by governor in consultation with high court Qualifications: <ul style="list-style-type: none"> Not already in service of Centre or state government Have been advocate /pleader for seven years Recommended by High court for appointment
Appointment of persons (other than district judges)	Made by governor in consultation with state public service commission and high court.
Control over subordinate court	By High court
District judge	Include any judge of: city civil court + additional district judge + joint district judge + assistant district judge + chief judge of small cause court + chief presidency magistrate + additional chief presidency magistrate + sessions judge + additional sessions judge + assistant sessions judge
Judicial services	Service consisting exclusively of persons intended to fill the post of district judge

STRUCTURE AND JURISDICTION



NATIONAL LEGAL SERVICES AUTHORITY

- Article 39A (DPSP)- free legal aid to the poor and weaker sections of society and ensures justice for all
- Article 14 and 22(1)- ensure equality before law and legal system which promotes justice on basis of equality of opportunity to all
- 1987- Legal services authority act was enacted by parliament → came into force on 9th November 1995

- **NALSA:** To **monitor and evaluate implementation** of legal aid programmes + To **lay down policy and principles** for making legal services available under the act throughout the country + In Every state → State legal services authority.
- **FUNCTIONS:** Provide free and competent legal services to eligible ones + Organize Lok Adalat + Organize legal awareness camps.

LOK ADALAT:

- **Pre litigation stages** + based on Gandhian principles + One of component of ADR (Alternative Dispute Redressal) + Informal, cheap, expeditious + **First Lok Adalat – Gujarat in 1982**

ACCORDING TO LEGAL SERVICES AUTHORITY ACT 1987:

- State legal services authority or district legal service authority or supreme court legal services committee or high court legal services committee or taluk legal services may organize Lok Adalat
- Every Adalat consists of such number of serving or retired judicial officers and other persons of the area as may be specified by the agency.
- Lok Adalat have power to determine and to arrive at compromise or settlement between parties to a dispute in respect:
 - Of any case pending before any court
 - Any matter which is falling within jurisdiction of any court and not brought before such court
- No jurisdiction for non-compoundable offences
- Same power as are vested in civil court and criminal court under code of civil procedure and code of criminal procedure respectively
- Award of Lok Adalat = decree of civil court / order of any court
- No appeal lies to award

PERMANENT LOK ADALAT

- **Amended legal service author act 1987** → In 2002 to provide for establishment of permanent Lok Adalat
- Feature:
 - Chairman: is/has been district judge or additional district judge or has held judicial officer rank higher than that of district judge
 - In respect of one or more utility service (transport, telephone services etc.)
 - Pecuniary jurisdiction – upto 10 lakh
 - No jurisdiction – Non compoundable cases
 - Award: Final and binding

FAMILY COURT

- Family court act 1984 → conciliation and speedy settlement of disputes related to marriage and family issues
- Features:
 - Establishment of family court by state government with consultation with high court
 - Obligatory to constitute family court – in population exceeds 1 million
 - Enable state govt to establish family court in other areas if deem necessary
 - Exclusive jurisdiction: Matrimonial relief + Property of spouses + Declaration of legitimacy of one person + Guardianship of a person or custody of any minor + Maintenance of wife, children and parents
 - Obligation for first a reconciliation from side of family court
 - No right to be represented by legal practitioner.
 - Only one right to appeal → HIGH COURT

24. TRIBUNALS

- Tribunals were not part of the original constitution.
- Added by 42nd Constitutional Amendment Act, 1976 with a new Part XIV-A and Article 323A and 323B to the Constitution on recommendation of Swaran Singh Committee. (Committee also recommended Fundamental Duties).
- They enjoy some of the powers of a civil court.
- Tribunals work upon the principle of natural justice, not abide by civil procedure code.

ARTICLE 323A	ARTICLE 323B
<ul style="list-style-type: none"> • Establishment of tribunals for Public Service Matters only. • Can be established only by Parliament and not by state legislatures. • Only one tribunal for the Centre and one for each state or two or more states may be established. • No question of the hierarchy of tribunals arises. 	<ul style="list-style-type: none"> • Establishment of tribunals for certain other matters. E.g. Taxation, Land reforms etc. • Can be established both by Parliament and state legislatures with respect to matters falling within their legislative competence • Hierarchy of tribunals may be created.

In accordance to Article 323A, Parliament has passed The Administrative Tribunals Act, 1985 which **authorises the Central government to establish one CAT and SAT.**

PARAMETER	Central Administrative Tribunal (CAT)	State Administrative Tribunal (SAT)
APPOINTMENT	<ul style="list-style-type: none"> • By President on the basis of recommendations of a high-powered Selection Committee. • Selection Committee Chaired by a sitting Judge of SC who is nominated by CJI. • After obtaining the concurrence of CJI, appointments are made with the approval of Appointments Committee of the Cabinet which is headed by PM. 	<ul style="list-style-type: none"> • Appointed by the president after consultation with the governor of the state concerned. • Provision for setting up of joint administrative tribunal (JAT) for two or more states.
COMPOSITION	<ul style="list-style-type: none"> • Multimember Body consists of 1 Chairperson and 65 members (as of 2019). 	-----
TERM	<ul style="list-style-type: none"> • Chairperson- 5 years or age of 65 years. • Members - 5 years or age of 62 years. 	-----
MISCELLANEOUS	<ul style="list-style-type: none"> • Principal bench at Delhi and additional 17 regular benches. (15 at the seats of HC + 2 at Jaipur and Lucknow). • Not bound by the CrPC. It is guided by the Principles of Natural Justice. • Members drawn from both Judicial and Administrative Streams. • Allows applicant to appear either in person or through a lawyer. 	<ul style="list-style-type: none"> • SATs have been set up in the 9 states of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Kerala. • Jurisdiction extends to recruitment and all service matters of state government employees.

- **Jurisdiction** extends to the all-India services, Central civil services and civil posts under the Centre and Civilian employees of defense services.

- **Article 323 A**- Enables the Parliament to take out the adjudication of disputes relating to service matters from the civil courts and the high court and place it before the administrative tribunals.
- In **Chandra Kumar case**, the Supreme Court declared those provisions of these two articles which excluded the jurisdiction of the high court and the Supreme Court as unconstitutional. Hence, the **judicial remedies are now available** against the orders of these tribunals.
- It laid down that **appeals against the orders** of the CAT shall lie before the division bench of the **concerned high court**.

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

STUDENT NOTES:

25. STATE LEGISLATURES: Part VI- Articles 168 to 212.

ORGANISATION OF STATE LEGISLATURES:

- No uniformity in state legislatures
- **6 states with Bicameral Legislature:** (Andhra Pradesh, Telangana, Maharashtra, Karnataka, Uttar Pradesh, Bihar)
- State legislature consist of → governor + legislative assembly (Vidhan Sabha) + legislative council (Vidhan Parishad) (in case of bicameral).

=

Article 169: Parliament can **abolish** a Legislative Council **or create** it, if the legislative assembly of the concerned state passes a resolution by a **Special Majority** to that effect. This Act of Parliament is **not** to be deemed as an **amendment of the Constitution for the purposes of Art. 368** and is passed like an ordinary piece of legislation (by **Simple Majority**).

COMPOSITION OF ASSEMBLY

Strength	<ul style="list-style-type: none"> • Representatives directly elected on the basis of universal adult franchise. • Maximum strength: 500, Minimum strength:60. • Arunachal P., Sikkim, Goa-Min strength-30 • Mizoram-40, Nagaland-46 • Some members of Sikkim & Nagaland- indirectly elected. • Note: In all state assemblies, not all members are directly elected (exception Sikkim & Nagaland).
Nominated members	<ul style="list-style-type: none"> • Earlier one Anglo-Indian could be nominated by Governor to the assembly (A.334). 104th Constitutional Amendment (2019) abolished this reservation to Anglo-Indians.
Territorial Constituencies	<ul style="list-style-type: none"> • For conducting direct elections. • Demarcation of these constituencies: ratio between population of each constituency and the number of seats allotted to it is same throughout the state.
Readjustment after each census	<ul style="list-style-type: none"> • Readjustment in the total number of seats in the assembly and division of each state in territorial constituencies. • The Parliament is empowered to determine the authority and its manner.
Reservation of seats for SCs & STs	<ul style="list-style-type: none"> • Reservation of seats for SCs & STs in assembly of each state based on their population ratios. • Originally this reservation for 10 years, but extended by 10 years thereafter continuously. • 104th Constitutional Amendment: reservation extended for another 10 years till 2030. • Note: SCs & STs reservation only in Lok Sabha and State Assemblies & not in Rajya Sabha and State Legi. Council.
Duration	<ul style="list-style-type: none"> • Normal term: 5 years (can be extended by parliament during national emergency under Article 352) • Governor can dissolve at any time

COMPOSITION OF COUNCIL:

Strength	<ul style="list-style-type: none"> • Max strength: One third of total strength of assembly • Min strength: 40 • Members are indirectly elected.
-----------------	--

	<ul style="list-style-type: none"> The constitution has fixed the maximum and minimum limits but actual strength is fixed by Parliament.
Manner of election:	<p>5/6 of the total number of members of a legislative council are INDIRECTLY ELECTED:</p> <ul style="list-style-type: none"> 1/3: by the members of the local bodies like municipalities, district board etc. 1/3: by members of Legi. Assembly. 1/12: by graduates of three years standing & residing in the state. 1/12: teachers of three years standing in the state, not lower in standard than secondary school. 1/6 NOMINATED by the Governor having knowledge & experience in Cooperative Movement, Literature, Arts, Social Service, Science (Pneumonic: CLASS) Members other than nominated are elected in accordance with the system of proportional representation by means of single transferrable vote.
Duration	<ul style="list-style-type: none"> Continuing chamber (permanent body) One third members retire on the expiration of every second year. Retiring members are eligible for re-election and re-nomination by the Governor.

MEMBERSHIP OF STATE LEGISLATURE:

Qualification	<p>QUALIFICATION ACCORDING TO THE CONSTITUTION:</p> <ol style="list-style-type: none"> Citizen of India Make and subscribe to an oath or affirmation before the person authorized by the Election Commission. Age: Not less than 30 years for Legi. Council Not less than 25 years for Legi. Assembly. Must possess other qualifications prescribed by the Parliament. <p>QUALIFICATION ACCORDING TO RPA 1951 (BY PARLIAMENT):</p> <ol style="list-style-type: none"> To be elected to Legislative Council, he must be an elector for the assembly constituency in that state & to be nominated by the governor, must be a resident that state. To be elected to the Legislative Assembly, must be an elector for the assembly constituency in that state. He must be a member of SC/ST if he wants to contest a seat reserved for them. However, SC/ST member can contest a seat not reserved for them.
Disqualification	<p>ACCORDING TO THE CONSTITUTION:</p> <ol style="list-style-type: none"> If he holds office of profit (not defined under Consti. Or any law) under Union Govt or any State Unsound mind and so declared by the court Undischarged insolvent Not citizen of India or voluntarily acquired the citizenship of other country If disqualified under any law made by the Parliament. <p>Note: Governor's decision is final on above disqualifications and governor should obtain the opinion of ECI</p>
Disqualification on the ground of defection	<ul style="list-style-type: none"> Disqualified under the provisions of the 10th schedule of the Constitution. Note: Disqualification under 10th schedule is decided by the Chairman in case of Legi. Council & Speaker in case of Legi. Assembly.

	<ul style="list-style-type: none"> Kihota Hollohan vs. Zachilhu Case: SC said that decision of Chairman/Speaker is subject to judicial overview.
Oath or affirmation	<ul style="list-style-type: none"> Before taking seat in any of the house, member has to make & subscribe an oath or affirmation before the Governor or some appointed by him for this purpose. Without taking oath, he cannot vote & participate in the proceedings of the house and no privileges & immunities are available.
Vacation of seats	<ul style="list-style-type: none"> DOUBLE MEMBERSHIP: Cannot be a member of both the houses at same time. One seat becomes vacant as per the law made by state Legi. DISQUALIFICATION: As per Constitution or RPA 1951 or Tenth Schedule. RESIGNATION: Resign letter to Chairman of Council or Speaker of Assembly as per the case. ABSENCE: If he is absent for 60 days without permission of the house. OTHER CASES: Election declared void by the court, expelled by the house, elected as President or VP, appointed as governor.

PRESIDING OFFICERS OF STATE LEGISLATURE:

- Legislative Assembly: Speaker & Deputy Speaker, Panel of Chairmen
- Legislative Council: Chairman & Deputy Chairman, Panel of Vice-Chairmen

SPEAKER & DEPUTY SPEAKER OF ASSEMBLY:

Elected by the assembly from amongst its members. Remains in office during the life of the assembly. Election of Deputy Speaker takes place after the election of Speaker. He vacates his office earlier in three cases (Applicable to both):

- If he ceases to be a member of the assembly.
- Speaker Resigns by writing to the deputy speaker and vice versa.
- Removed by the resolution passed by a majority of all the then members of the assembly. Such resolution can be moved only after giving 14 days advance notice.

Powers & duties of Speaker:	<ul style="list-style-type: none"> Maintains order & decorum of assembly Final interpreter of Constitution, rules of procedure and conduct of business of assembly, legislative precedents within the assembly. Adjourns the assembly or suspends the meeting in the absence of quorum. Does not vote in first instance. Vote in case of tie. Allows secret sitting of the house at the request of the leader of the house. Whether a bill is money bill or not is decided by speaker and his decision is final. Decides disqualification under Tenth Schedule. Appoints the chairman of all committees of the assembly. He himself is a chairman of the Business Advisory Committee, Rules Committee and General-Purpose Committee.
Deputy Speaker:	<ul style="list-style-type: none"> Performs duties of speaker when it is vacant or speaker is absent from the sitting.
Panel of Chairmen:	<ul style="list-style-type: none"> Members are nominated by the Speaker. Member of Panel presides over sitting if both speaker & deputy speaker are absent from the sitting. He has the same powers of speaker while presiding. Note: Member of the Panel cannot preside over sitting if both seats of speaker & deputy speaker are vacant. In that case, house must elect speaker and deputy speaker.

The salaries and allowances of the Speaker and the Deputy Speaker of the assembly are **fixed by the state legislature**. They are **charged on the Consolidated Fund of the State** and thus are **not subject to the annual vote** of the state legislature.

CHAIRMAN AND DEPUTY CHAIRMAN OF COUNCIL:

- Elected by the Council from amongst its members. He vacates his office earlier in three cases (Applicable to both):
 - If he ceases to be a member of the Council
 - Chairman resigns by writing to the deputy Chairman and vice versa
 - Removed by the resolution passed by a majority of all the then members of the Council. Such resolution can be moved only after giving 14 days advance notice.
- All the powers and duties of Speaker & Chairman are same. Speaker has one special power regarding Money Bill which Chairman do not possess.

Deputy Chairman:	<ul style="list-style-type: none"> Performs duties of Chairman when it is vacant or Chairman is absent from the sitting.
Panel of Vice-Chairmen:	<ul style="list-style-type: none"> Members are nominated by the Chairman. Member of Panel presides over sitting if both Chairman & Deputy Chairman are absent from the sitting. He has the same powers of Chairman while presiding. Note: Member of the Panel cannot preside over sitting if both seats of Chairman & Deputy Chairman are vacant. In that case, house must elect Chairman and Deputy Chairman.

The salaries and allowances of the Chairperson and the Deputy Chairperson of the Council are **fixed by the state legislature**. They are **charged on the Consolidated Fund of the State** and thus are **not subject to the annual vote** of the state legislature.

SESSIONS OF STATE LEGISLATURE:

Summoning	<ul style="list-style-type: none"> Governor summons from time to time. Max gaps between two sessions: not more than 6 months
Adjournment	<ul style="list-style-type: none"> Suspends the work in sitting for a specified time which may be hours, days or weeks. Adjournment sine die → terminating a sitting for an indefinite time. Power to adjourn and adjournment sine die lie with presiding officer of the house.
Prorogation	<ul style="list-style-type: none"> After adjournment sine die, governor issues notification for prorogation. This means completion of current session.
Dissolution	<ul style="list-style-type: none"> Dissolution ends the life of the existing house.
Lapsing of bills on dissolution	BILLS WHICH LAPSE: <ul style="list-style-type: none"> Bill pending in assembly lapses (whether originating in assembly or transmitted to it by the Council) Bill passed by assembly but pending in Council lapses
	BILLS WHICH DOES NOT LAPSE: <ul style="list-style-type: none"> Bill pending in Council but not passed by assembly does not lapse. Bill passed by assembly (unicameral) or both the houses (bicameral) but pending assent of governor or president does not lapse. Bill returned by the president for the consideration of the house does not lapse

Quorum	<ul style="list-style-type: none"> 10 members or one tenth of the total number of members of the house (including presiding officer) whichever is greater. If no quorum, presiding officer either adjourns or suspends the meeting until there is quorum.
Voting in House	<ul style="list-style-type: none"> Simple majority for all matters. Special majority: Resolution for creation or abolition of Legi. Council Absolute Majority: Removal of speaker or chairman Speaker & chairman does not vote in first instance – casting vote
Language in state legislature	<ul style="list-style-type: none"> Acc to Constitution: Language for transacting business in legislature to be official languages of the state or Hindi or English. Presiding officer can permit the member to address the house in his mother tongue. State legi. is authorized to decide whether to continue or discontinue English as floor language after completion of 15 years from the commencement of the Constitution.
Rights of ministers & Advocate General	<ul style="list-style-type: none"> Every minister & Advocate General have the right to speak in either house or its committees without being entitled to vote.

LEGISLATIVE PROCEDURE IN STATE LEGISLATURE:

1. ORDINARY BILLS:

Bill in the originating house	<ul style="list-style-type: none"> Can be introduced in either house and by minister or private member. The bill passes through- first reading, second reading, third reading. If a bill in second house passed by without any amendments then it is sent to Governor for his assent
Bill in second house	<ul style="list-style-type: none"> Passes through 3 readings again. Four options available with Council: <ol style="list-style-type: none"> Pass without amendments Pass with amendments and return it to assembly for reconsideration. Reject the bill altogether May not any action & keep it pending for 3 months. If passed without any amendments then sent to governor for his assent. In 2nd, 3rd & 4th option, assembly may pass the bill again and transmit it to Council again. If Council, passes the bill with amendments not acceptable to the assembly or rejects the bill altogether or keeps pending for 1 month, then the bill is considered as passed by both the houses. Ultimate power to pass the law lies with the assembly and council can keep it pending for max 4 (3 + 1) months. Constitution does not provide for joint sitting to resolve the disagreement over the bill.
Assent of Governor	<ul style="list-style-type: none"> Governor has 4 alternatives: <ol style="list-style-type: none"> Give assent to the bill Withhold assent Return the bill for the reconsideration of the house Reserve the bill for the consideration of president If governor gives the assent then bill becomes law.

	<ul style="list-style-type: none"> If governor withholds his assent, then bill ends. If bill returned by the Governor is again passed by the house with or without amendments then governor must give his assent (Governor has only suspensive veto).
Assent of President	<ul style="list-style-type: none"> President has 3 alternatives: <ol style="list-style-type: none"> Give assent to the bill Withhold assent Return the bill for the reconsideration of the house If the bill returned by the President for reconsideration of the house then the house must reconsider it within 6 months. It is not mentioned in the Constitution that whether it is obligatory on the President to give assent or not to such reconsidered bill.

2. MONEY BILLS (ARTICLE 198, 199):

Money bills introduction:	<ul style="list-style-type: none"> Cannot be introduced in Council. Can only be introduced in Assembly on the recommendation of Governor. Can only be introduced by minister as it is government bill.
Procedure:	<ul style="list-style-type: none"> After Legislative Assembly passed the bill; it is transmitted to the Legislative Council for its consideration. Legislative Council has restricted powers with regards to money bill. Council cannot reject or amend a money bill. Council can only make recommendations and must return the bill within 14 days. If the Assembly accepts the recommendations of Council, the bill is considered as passed in the modified form. If it rejects the recommendations then bill is considered as passed in the original form. If the Council does not return the bill in 14 days, then bill is considered as passed by both the houses in the original form.
Assent of Governor:	Give assent; Withhold assent; Reserve the bill for presidential assent; Governor cannot return the bill for the reconsideration of the house.
Assent of president:	If the money bill is reserved for consideration of the president, he can: Give assent; Withhold assent; President cannot return the bill for the reconsideration of the House.

POSITION OF LEGISLATIVE COUNCIL:

EQUAL WITH ASSEMBLY	<ul style="list-style-type: none"> Introduction & passage of ordinary bills. But in case of disagreement, the will of assembly prevails over council. Approval of ordinances issued by Governor (A. 213). Selection of ministers including CM. But ministers are responsible only to assembly irrespective of their membership. Consideration of reports of constitutional bodies like State Finance Commission, CAG. Enlargement of the jurisdiction of state public service commission.
UNEQUAL WITH ASSEMBLY	<ul style="list-style-type: none"> Money bill can only be introduced in the assembly, council cannot amend or reject the bill. The final power to decide whether the bill is money bill or not is vested with the Speaker of Assembly. The final power of passing ordinary bills lies with the assembly. The council can delay

	<p>the bill for maximum 4 months (3 + 1).</p> <ul style="list-style-type: none"> • The council can only discuss the budget but cannot vote on demands. • The council cannot remove CoM by passing a no-confidence motion. • If the ordinary bill originated in council is rejected by assembly, then the bill ends there. • The council does not participate in the election of the president and representatives of the state in the Rajya Sabha. • The council does not have effective say in the ratification of a constitutional amendment bill and will of assembly prevails over council. • Existence of council depends on the will of assembly. The council can be abolished by the parliament on the recommendation of the assembly.
--	---

PRIVILEGES OF STATE LEGISLATURE:

- Privileges = special rights+ immunities + exemptions enjoyed by the houses, their committees & members.
- Privileges are important to secure the independence & effectiveness of their actions.
- Constitution has also extended these privileges to those persons who are entitled to speak & take part in the proceedings of the House of state legi. or any of its committees. These include advocate general of state and ministers.

NOTE: The privileges of the state legislature do not extend to the governor who is also an integral part of state legislature.

Collective Privileges	<ol style="list-style-type: none"> 1. Right to publish reports, debates & proceedings and also the right to prohibit others from publishing the same. 2. It can exclude strangers from its proceedings and hold secret sittings to discuss important matters. 3. It can make rules to regulate its own procedure and the conduct of its business & to adjudicate upon such matters. 4. It can punish members as well outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment. 5. It has the right to receive immediate information of arrest, detention, conviction, imprisonment and release of members. 6. It can institute inquiries and order the attendance of witnesses & send for relevant papers and records. 7. The courts are prohibited to inquire into the proceedings of the house or its committees. 8. No person (either a member or outsider) can be arrested and no legal process (civil/criminal) can be served within the precincts of the house without the permission of the presiding officer.
Individual privileges	<ol style="list-style-type: none"> 1. Members cannot be arrested during the session of the state legislature & 40 days after the end of such session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases. 2. Members have freedom of speech in state legi. No member is liable to any proceedings in any court for anything said or any vote given by him in the state legi or its committees. 3. Members are exempted from jury service. They can refuse to give evidence & appear as witness in a case pending in a court when the state legislature is in session.

26. LOCAL SELF-GOVERNMENT: PANCHAYAT & MUNICIPALITIES

- Constitutional status: 73rd and 74th amendment act 1992
- Local Government is **state subject** under seventh schedule.
- **Article 40** - reads 'the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government'.
- **Rajasthan** was the first state to establish Panchayati Raj. The scheme was inaugurated by the prime minister Jawaharlal Nehru on October 2, 1959, in Nagaur district.
- Subject of 'urban local government' is dealt with: -Ministry of Housing and Urban Affairs + Ministry of Defence + Ministry of Home Affairs.

EVOLUTION OF PANCHAYAT:

YEAR	COMMITTEE	RECOMMENDATIONS
1957	Balwant Rai Mehta Committee: To examine working of community development programs and national extension services	<ul style="list-style-type: none"> • Three-tiers • Planning and development at district level • District collector should be chairman of zila parishad
1977	Ashok Mehta committee (committee on Panchayati raj institutions)	<ul style="list-style-type: none"> • 2 tiers • Executive body: zila parishad • Recommended constitutionality • Recommended Nyaya Panchayat • Planning and development at district level • Developmental function shall be transferred CEO of zila parishad. district collector as regulator, revenue functions of state govt. • Minister for Panchayati raj in the state council of ministers. • Reservation of Seats for SCs and STs on the basis of their population. • Constitutional recognition should be accorded to the PRIs - Will ensure sanctity and stature and an assurance of continuous functioning.
1978	Dantewala Committee:	<ul style="list-style-type: none"> • On Block level planning
1984	Hanumanth Rao Committee	<ul style="list-style-type: none"> • On District Planning
1985	G V K Rao Committee: To examine programs of rural development and poverty alleviation	<ul style="list-style-type: none"> • Zila parishad –pivotal importance • Panchayat raj institution at district and lower levels should be assigned planning and development • Post of District Development Commissioner should be created – CEO of zila parishad
1986	L M Singhvi Committee: Revitalization of panchayat raj for democracy and development.	<ul style="list-style-type: none"> • 3 tiers • Zila parishad integrated administrative structures for planning and development • District development officer must be CEO of zila parishad • Constitutional recognition to PRI with addition of new chapter

		<p>in the Constitution of India.</p> <ul style="list-style-type: none"> Planning and development at district level <p>The Committee concluded that the developmental process was gradually bureaucratized and divorced from the Panchayati Raj and called PRIs as 'grass without roots'.</p>
1988	Thungon Committee: District planning	<ul style="list-style-type: none"> Three tiers Zila parishad: planning and development Fixed tenure of 5 years Reservation for women District collector – CEO of zila parishad
1988	Gadgil Committee: Committee on policy and programs	<ul style="list-style-type: none"> 3 tiers Executive body: panchayat committee Recommended constitutionality Planning and development at district level Direct elections for members of the Panchayats at all the three levels. Fixed five years term of Panchayati Raj institutions.

EVOLUTION OF MUNICIPALITY:

1687	Madras first municipal corporation
1726	Municipal corporation of Bombay and Calcutta
1870	Lord Mayo's resolution on financial decentralization
1882	Lord Ripon resolution –Magna Carta of local self-government
1907	Royal commission on Decentralization
1919	Govt of India act, local self govt. become transferred subject
1924	Cantonments Acts
1935	Govt. of India act - local govt. become provincial subject

PANCHAYAT (73RD AMENDMENT ACT 1992)

CONSTITUTIONAL PROVISIONS:	<ul style="list-style-type: none"> Rural local self govt. Schedule 11 – (29 functions) + Part IX; Article 243-243 O Important articles: <ul style="list-style-type: none"> 243 G - Authority 243 H – Representation 243 I - Finance commission
GRAM SABHA:	Symbol of direct democracy + All voters of the village are its members + Functions are determined by state legislature.
THREE-TIER PANCHAYAT SYSTEM:	<ul style="list-style-type: none"> Bring uniformity in structure of Panchayati raj throughout the country Village, Intermediary, district levels-panchayats State having population not exceeding 20 lakh may not constitute panchayat at intermediate level All members are directly elected at all institute of local government

	<ul style="list-style-type: none"> • Chairperson: elected in such manner state legislature may prescribe. • Reservation at all three levels – Seats are reserved for SC/ST (based on population) + Women (1/3rd reservation) • Reservation for scheduled caste not applicable to Arunachal Pradesh. • Duration: five years. • Panchayat reconstituted after premature dissolution does not enjoy the full period of five years but remains in office only for remainder of period.
DISQUALIFICATION:	<p>A person disqualified to be member under:</p> <ol style="list-style-type: none"> 1. Any law for the time being in force for purpose of elections to the legislature of state concerned 2. Under any law of state legislature 3. No person shall be disqualified on the ground that he is less 25 years of age if he has attained the age of 21 years.
STATE ELECTION COMMISSION (Art. 243 K):	<ul style="list-style-type: none"> • Conduct of all election to panchayat shall be vested in state election commission • Conditions and tenure of office of state election commissioner shall also be determined by governor. • With regard to state election commissioner: Conditions of service may not be varied to his disadvantage after his appointment.
POWERS, FUNCTIONS AND FINANCES DETERMINED BY STATE LEGISLATURE:	<ul style="list-style-type: none"> • 29 matters that can be transferred to panchayat there in 11th schedule. • Preparation of plans and implementation of plans for economic development and social justice. • Finances: state legislature may authorize panchayat to levy taxes, assign from collected revenue of state, grants in aid by states.
STATE FINANCE COMMISSION:	<ul style="list-style-type: none"> • Governor constitutes once in five year • Composition + qualification: determined by state legislature • Central finance commission can recommend measures to augment the consolidated fund of state and supplement the resources of the panchayat in the state.
OTHER PROVISIONS	<ul style="list-style-type: none"> • Audit and accounts: state legislature determines • Election petitions: state legislature determines • Application to UT: President shall apply the provision of the act • Certain areas are exempted – Nagaland, Mizoram, Meghalaya and others (hill areas of Manipur and Darjeeling).
PESA ACT OF 1996:	<ul style="list-style-type: none"> • PART IX provision is not applicable to fifth schedule areas. Extension of these provisions with certain modification in scheduled area. • Self-rule with administrative framework consistent with traditional practices.

MUNICIPALITY (74TH AMENDMENT ACT 1992)

CONSTITUTIONAL PROVISIONS:	<ul style="list-style-type: none"> • Urban local self govt • Schedule 12- (18 functions) + Part IX A + Article 243 P -243 ZG • Important articles: <ul style="list-style-type: none"> ○ 243 W-authority ○ 243 X-representation
-----------------------------------	--

	<ul style="list-style-type: none"> ○ 243 Y-finance commission ○ 243 ZD- district planning committee ○ 243 ZE-Metropolitan planning committee.
THREE TYPES OF MUNICIPALITY:	<ol style="list-style-type: none"> 1. Nagar panchayat (rural to urban transition area) 2. Municipal council (small urban area) 3. Municipal corporation (large urban area) <p>Ward committee: exists if population of municipality is more than 3 lakhs, remaining all as panchayat.</p>
ELECTIONS:	<ul style="list-style-type: none"> • Municipalities can have nominated members it's decided by state legislature. • Seats are reserved for SC/ST (based on population) • Women – 1/3rd reservation • Manner of reservation of chairpersons and OBC are determined by state legislature.
FUNCTIONS:	<ul style="list-style-type: none"> • 12th schedule – 18 functions that can be transferred by state legislature to municipalities • Other function: same as panchayat.
TYPES OF URBAN GOVT:	<ul style="list-style-type: none"> • MUNICIPAL CORPORATION: administration of big cities, created by acts of state legislature (in case of UT by parliament) → Administrative framework: council headed by Mayor, standing committee, municipal commissioner • MUNICIPALITIES: administration of towns and smaller cities, created by acts of state legislature → Administrative framework: council headed by president, standing committees, CEO. • NOTIFIED AREA COMMITTEE: administration of fast developing towns or which doesn't fulfill conditions for a municipality created through gazette notification. Entirely nominated body. • TOWN AREA COMMITTEE: small town administration, semi municipal authority with limited functions, created by state legislature. May be wholly elected or wholly nominated or partly elected and partly nominated as provided by state government. • CANTONMENT BOARD: It is set up under the provisions of the Cantonments Act of 2006—a legislation enacted by the Central government + Civilian administration in cantonment area, works under defense ministry partly elected and partly nominated. • TOWNSHIP: Established by the large public enterprises to provide civic amenities to its staff and workers + no elected members • PORT TRUST: established by act of parliament for civil administration in and round ports. Consists of both elected and nominated members. • SPECIAL PURPOSE AGENCY: Set up by state for specific purpose i.e. function based organization not area based.

DISTRICT PLANNING COMMITTEE (DPC):

- State legislature determine the mode of elections.
- Article 243ZD: to consolidate plans of panchayat and municipalities and to prepare a draft development plan.
- 4/5th members of DPC should be elected by the elected members of the district panchayat and municipalities in the district from amongst themselves.
- 1/5th members are nominated
- Elected member is proportionate to rural: urban population.

METROPOLITAN PLANNING COMMITTEE (243ZE):

- Metropolitan area - An area in the country where population is above 10 Lakh (Article 243P)
- To prepare a draft development plan.
- 2/3rd members of MPC should be elected by the elected members of the municipalities and chairpersons of the panchayats in the metropolitan area from amongst themselves.
- 1/3rd nominated
- Elected member is proportionate to rural: urban population.

CENTRAL COUNCIL OF LOCAL GOVERNMENTS:

- Set up in 1954. It was constituted under Article 263 (Inter-state council) of the Constitution of India by an order of the President of India as an advisory body.
- **Chairperson** - Union minister for Urban Development
- **Composition** - It consists of the Minister in the Government of India and the ministers for local self-government in states.

STUDENT NOTES:

PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM



हिंदी माध्यम में भी उपलब्ध



GIVE YOUR 1ST TEST
FREE SCAN HERE

- 1 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- 2 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- 3 4 CSAT "20 -20" TESTS.
- 4 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- 5 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- 6 COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- 7 CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- 8 DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- 9 VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- 10 DEDICATED MENTORSHIP
- 11 DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- 12 BOTH MOBILE APP & COMPUTER FRIENDLY.

To Join This Course Visit - dpp.onlyias.in

www.onlyias.com | [+91-7007-931-912](tel:+91-7007-931-912) | info@onlyias.com

video.onlyias.in / mains.onlyias.in

info@onlyias.com / [+91-7007931912](tel:+91-7007931912)

27. SCHEDULED & TRIBAL AREAS

CONSTITUTIONAL PROVISIONS

- Article 244 in Part X envisages special system of administration for ‘Scheduled Areas’ & ‘Tribal Areas’.
- 5th Schedule deals with administration & control of scheduled areas & scheduled tribes in any state except 4 states of Assam, Meghalaya, Tripura & Mizoram. (AMTM)
- 6th Schedule deals with administration of tribal areas in 4 NE states of Assam, Meghalaya, Tripura & Mizoram. (NOT MANIPUR)

ADMINISTRATION OF SCHEDULED AREAS (5th Schedule)

Because of different socio-economic profile of scheduled areas these areas need special attention & Central Government has greater responsibility for such areas.

Features of administration as per 5th Schedule:

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

President as per Constitutional obligation **appoints a commission** to report on administration of SAs & welfare of STs in states. **Two such Commissions** has been appointed – **U N Dhebar (1960) & Dilip Singh Bhuria Committee (2002)**.

At present (2019), **ten states** of India have scheduled areas. These are: Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha and Rajasthan.

ADMINISTRATION OF TRIBAL AREAS (6th Schedule):

- 6th Schedule of Constitution provides for administration of tribal areas in 4 NE states of **Assam, Meghalaya, Tripura & Mizoram (AMTM)** – NOT Manipur.
- Such arrangements have been made to protect the culture, customs & civilizations of peoples of such areas who still have not assimilated the life of majorities in such areas.

FEATURES OF ADMINISTRATION AS PER 6TH SCHEDULE: -

1. Tribals areas in states of **AMTM** have been constituted as **autonomous districts (ADs)**. These ADs fall under state executive authority.
2. **Governor can organize & reorganize** the autonomous districts (ADs). Governor can even divide the ADs into several autonomous regions.
3. Each ADs have **District Council of 30 members** for 5-year term. (26 elected + 4 nominated by Governor). Each autonomous region has separate regional council.
4. **Powers & Functions of District & Regional Councils: -**
 - District & Regional Council administer the areas under their jurisdiction. They can make laws on certain matters like land, forests, canal water, inter alia, but such laws require Governor assent.
 - District & Regional Council can constitute **Village Councils/** courts for trial of suits & cases between tribes. Jurisdiction of High Courts over such suits & cases is specified by Governor.
 - District Council can establish primary schools, dispensaries, markets, ferries, roads in the district. It can also make regulations for control of money lending & trading by non-Tribals. But **such regulations require assent of Governor**.

- They are empowered to assess & collect land revenue & to impose certain specified taxes.
5. **Central or State Acts do not apply to autonomous districts & autonomous regions or apply with specified modifications & exceptions.** Governor directs in case of Assam for both Central & State Acts. President directs in case of Meghalaya, Tripura & Mizoram for Central Acts & Governor in respect of State Acts.
6. **Governor can appoint a commission** to examine & report on any matter relating to administration of autonomous regions & can even dissolve District & Regional Council on recommendation of such commission.

STUDENT NOTES:



Praarambh 2022

- Preparing from Root to pinnacle

One year Complete Comprehensive UPSC Preparation Program

हिंदी माध्यम में भी उपलब्ध

1 BASIC

- NCERT Chapter wise - Book wise Video Lessons (Class 6th to 12th)-
- NCERT Book wise Test Series
- Basic Answer Writing Classes

2 CORE

- 500+ Hours of Video Lessons on Prime Subjects
- Printed OnlyIAS Comprehensive Materials at your door step
- CSAT classes on every Sunday
- Extra marks booster topics for Prelims
- Prelims Test series

3 ADVANCE

- 300+ Hours of Video Lessons on Mains Subjects
- Special Answer Writing Classes
- Essay writing Classes & Tests (2+1)
- 12 (8 Sectional + 4 Full Length) Mains-Tests

4 DAF & INTERVIEW

- Dedicated Mentorship
- Personal Guidance on DAF Filling
- Interview Sessions from the Expert Panel

Online Courses Available at - video.onlyias.in

Website & Mobile App Friendly

www.onlyias.com | [+91-7007-931-912](tel:+917007931912) | info@onlyias.com

28. SPECIAL PROVISIONS FOR SOME STATES

- Article 371 to 371 J → 12 STATES → Maharashtra + Gujarat + Nagaland + Assam + Manipur + Andhra Pradesh + Telangana + Sikkim + Mizoram + Arunachal Pradesh + Goa + Karnataka.
- OBJECTIVE: To meet the aspiration of the People of 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 part of state.

STATE	CONSTITUTIONAL PROVISIONS
Maharashtra and Gujarat (Art. 371)	<p>Article 371: Governor has special responsibility for:</p> <ul style="list-style-type: none"> • Establishment of separate development boards for: <ul style="list-style-type: none"> ○ Vidarbha, Marathwada and rest of Maharashtra ○ Saurashtra, Kutch and rest of Gujarat • Making provision that a report on the working of these boards would be placed every year before the state legislative assembly • The equitable allocation of fund for development expenditure over the above-mentioned areas <p>An equitable arrangement providing adequate facilities for technical education and vocational training etc.</p>
Nagaland (Art. 371A)	<p>Article 371A: makes following provisions:</p> <ul style="list-style-type: none"> • Acts of parliament relating to the following matter would not apply to Nagaland unless state legislative assembly so decides: <ul style="list-style-type: none"> ○ Religious or social practices ○ Naga customary law and procedure ○ Administration of civil and criminal justice ○ Ownership and transfer of land and its resources. • Governor of Nagaland has special responsibility for law and order in the state so long as internal disturbances caused by hostile Nagas continue: <ul style="list-style-type: none"> ○ Individual judgment and decision are Final. • Governor has to ensure money provided for special purpose is included in Demand for grant • Regional council consisting of 35 members → Tuensang district of state • Administration of Tuensang district shall be carried on by Governor: <ul style="list-style-type: none"> ○ Any act of Nagaland legislature shall not apply to Tuensang district unless governor so recommends ○ There shall be a minister for Tuensang affairs in state council of ministers.
Assam (Art. 371B)	Under article 371B – President is empowered to provide for the creation of committee of the Assam legislative Assembly
Manipur (Art. 371C)	<p>Article 371 C –</p> <ul style="list-style-type: none"> • President is authorised to provide for creation of a committee of the Manipur legislative assembly consisting of the members elected from hill areas of the state • President can also direct that governor shall have special responsibility to secure the proper functioning of that committee • The governor should submit an annual report to the president regarding the administration of hill areas

	<ul style="list-style-type: none"> Central government can give direction to the state government to administration of hill areas
Andhra Pradesh or Telangana (Art. 371D)	<p>Article 371 D - extended to Telangana by state reorganization act 2014. President is:</p> <ul style="list-style-type: none"> Empowered to provide for equitable opportunities and facilities for the people belonging to different parts of state President may require the state government to organize civil post in local cadres for different parts of state. Can also extend reservation President may provide for the establishment of an administrative tribunal in the state to deal with certain disputes and grievances related to appointment, allotment or promotion to civil posts in state. <ul style="list-style-type: none"> Tribunal is outside the purview of State High court Article 371 E → parliament to provide for the establishment of a central university in state of Andhra Pradesh
Sikkim (Art. 371F)	<p>36th constitutional amendment act of 1975 → Article 371 F:</p> <ul style="list-style-type: none"> Sikkim legislative assembly is consisting of not less than 30 members One seat is allotted to Sikkim in the Loksabha For the purpose of protecting the rights and interest of different sections of Sikkim population Governor shall have special responsibility for peace and for ensuring the social and economic advancement of the different sections of the Sikkim The president can extend to Sikkim any law which is in force in a state of the Indian union
Mizoram (Art. 371-G)	<p>Article 371-G:</p> <ul style="list-style-type: none"> Acts of parliament relating to the following matter would not apply to Mizoram unless state legislative assembly so decides: Religious or social practices + Naga customary law and procedure + Administration of civil and criminal justice + Ownership and transfer of land and its resources. Mizoram legislative assembly consists of not less than 40 members.
Arunachal Pradesh (Art. 371 H)	<p>Article 371 -H:</p> <ul style="list-style-type: none"> The governor of Arunachal Pradesh shall have special responsibility for law and order in the state Arunachal Pradesh legislative assembly is to consist not less than 30 members
Goa	<p>Article 371- I</p> <ul style="list-style-type: none"> Legislative assembly is to consist not less than 30 members
Karnataka	<p>Article 371-J</p> <ul style="list-style-type: none"> Establishment of separate development board for Hyderabad –Karnataka region Report on working of the board would be placed every year before state legislative assembly Equitable allocation of funds for developmental expenditure over the region The reservation of seats in educational and vocational training institutions in the region for persons who belong to the region.

29. CONSTITUTIONAL BODIES

UPSC & STATE PSC

BODY	UPSC	SPSC
ARTICLE	• Article 315 to 323, Part -XIV	• Article 315 to 323, Part -XIV
APPOINTMENT	• By PRESIDENT	• By GOVERNOR + Appointed by Governor but can only be removed by PRESIDENT
QUALIFICATION	• Qualification not mentioned except half members should held office at least 10 years under Government of India (GOI) or State.	• Qualification not mentioned except half members should held office at least 10 years under Government of India (GOI) or State.
MEMBERS	<ul style="list-style-type: none"> • Strength not specified on discretion of PRESIDENT. • Consist of 9 to 11 members including Chairman. 	<ul style="list-style-type: none"> • Strength not specified on discretion of GOVERNOR.
TENURE	<ul style="list-style-type: none"> • 6 years or age of 65 years. • Chairman - Not eligible for further appointment in GOI or State. • Members - Not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman of UPSC or SPSC. 	<ul style="list-style-type: none"> • 6 years or age of 62 years. • Chairman - Not eligible for reappointment (i.e. for 2nd term) or any other appointment in GOI or State but eligible to be chairman or member of UPSC. • Members - Not eligible for reappointment (i.e. for 2nd term as member) or any other appointment in GOI or State but eligible to be chairman or member of UPSC and Chairman of same SPSC or other SPSC.
SALARY	• Charged on Consolidated fund of India .	• Charged on Consolidated fund of State .
RESIGNATION	• To PRESIDENT .	• To GOVERNOR .
REMOVAL PROCEDURE	<ul style="list-style-type: none"> • As manner provided in constitution by PRESIDENT from the office under the following circumstances: <ol style="list-style-type: none"> 1. Is adjudged an insolvent or 2. Engages during his term of office in any paid employment outside the duties of his office; or 3. Is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body. • President can also remove the chairman or any other member of UPSC/SPSC for misbehavior. However, in this case, the president has to refer the matter to the Supreme Court for an enquiry. • Supreme Court, after enquiry advice the president, advice tendered by the Supreme Court in this regard is binding on the president. • During the course of enquiry, the president can suspend the chairman or the member of UPSC and Joint State Public Service Commission (JSPSC). (Governor can suspend in case of Chairman or Member of SPSC). • 'Misbehavior' Defined in Constitution, if he (a) is concerned or interested in any Government contract or (b) participates in any way in the profit of such contract. 	
MISCELLANEOUS	UPSC: <ul style="list-style-type: none"> • Watchdog of 'Merit System' • Assist states in joint recruitment if more than 2 states asks. • The President can exclude posts, services and matters from the purview of the UPSC. 	

	<ul style="list-style-type: none"> The UPSC presents report to the president annually. The President places this report before both the Houses of Parliament. All cases of non-acceptance must be approved by the Appointments Committee of the Union cabinet. An individual ministry or department has no power to reject the advice of the UPSC.
	STATE PCS: <ul style="list-style-type: none"> Consulted by Governor while framing rules for appointment to judicial service of state other than district judge. The governor can exclude posts, services and matters from the purview of the SPSC.
JOINT STATE PUBLIC SERVICE COMMISSION: By an act of Parliament, so Statutory body + Appointed by PRESIDENT + Tenure: 6 years & 62 years.	

ELECTION COMMISSION & COMPTROLLER AND AUDITOR GENERAL (CAG)

BODY	ELECTION COMMISSION	COMPTROLLER & AUDITOR GENERAL
ARTICLE	• Article 324, Part - XV	• Article 148 to 151, Part - V
APPOINTMENT	• By PRESIDENT .	
QUALIFICATION	• Qualification not prescribed by Constitution.	
MEMBERS	<ul style="list-style-type: none"> Strength not specified on discretion of PRESIDENT. Currently, 3 Members. 	• Single member body.
TENURE /SALARY	<ul style="list-style-type: none"> Condition of Service, Tenure of office shall be determined by PRESIDENT. Salary equal to judge of SC. Currently 6 years or age of 65 years. Constitution not debarred from further appointment. 	<ul style="list-style-type: none"> Salary, Service condition determined by PARLIAMENT. Salary equal to judge of SC. 6 years or age of 65 years. Not eligible for further appointment in GOI or State.
RESIGNATION	• To PRESIDENT .	
REMOVAL PROCEDURE	<ul style="list-style-type: none"> The chief election commissioner and CAG are provided with the security of tenure. Removal is in same manner and on the same grounds as a judge of the Supreme Court i.e. removed by the president on the basis of a resolution passed by both the Houses of Parliament with special majority, on the ground of proved misbehavior or incapacity. He does not hold office during the pleasure of the PRESIDENT. 	
MISC.	<ul style="list-style-type: none"> Members can be removed on recommendation of chief election commission. Advice president and governor on matters of disqualification of MP and MLA respectively. 	----

NATIONAL COMMISSION FOR SCs, STs & BCs

BODY	NATIONAL COMMISSION FOR		
	SCHEDULED CASTES	SCHEDULED TRIBES	BACKWARD CLASSES
ARTICLE	Originally Special officer for SC & ST later in 1978, through resolution Non statutory multi member commission and in 1990, constitutional status through 65 th Constitutional Amendment Act and in 2003, separated NCNC & NCST through 89 th Constitutional Amendment Act.		Originally Statutory body, Constitutional status through 102 nd CAA, 2018

	<ul style="list-style-type: none"> Article 338, Part - XVI Article 338A, Part - XVI Article 338B, Part - XVI
APPOINT	<ul style="list-style-type: none"> By PRESIDENT by warrant under his hand and seal.
MEMEBRS	<ul style="list-style-type: none"> Chair Person, Vice Chair Person and 3 others appointed by PRESIDENT.
TENURE	<ul style="list-style-type: none"> Tenure and conditions of service of office are determined by the PRESIDENT. Usually 3 years, under the rules.
MISC.	<ul style="list-style-type: none"> It has power of civil court in certain matters. Discharge similar functions with regard to the Anglo-Indian Community. It has power of civil court in certain matters. Measures for the implementation of the PESA Act, 1996. Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal. It has power of civil court in certain matters. Participate and advise on the socio-economic development of the socially and educationally backward classes.
REPORTS	<ul style="list-style-type: none"> Presents an annual report to the President and can also submit a report as and when it thinks necessary. The President places all such reports before the Parliament; also forwards any report of the Commission pertaining to a state government to the state GOVERNOR the governor places it before the state legislature.

ATTORNEY GENERAL OF INDIA AND ADVOCATE GENERAL OF STATE

BODY	ATTORNEY GENERAL OF INDIA	ADVOCATE GENERAL OF STATE
ARTICLE	<ul style="list-style-type: none"> Article 76, Part - V 	<ul style="list-style-type: none"> Article 165, Part -VI
APPOINTMENT	<ul style="list-style-type: none"> By PRESIDENT. 	<ul style="list-style-type: none"> By GOVERNOR.
QUALIFICATION	<ul style="list-style-type: none"> Qualified to be Judge of Supreme Court (i.e. Citizen of India and must have been a judge of some high court for 5 years or an advocate of some high court for 10 years) or an eminent jurist, in the opinion of the president. 	<ul style="list-style-type: none"> Qualified to be Judge of High Court (i.e. Citizen of India and must have been in judicial Service of State for 10 years or an advocate of high court for 10 years) or an eminent jurist, in the opinion of the president.
TENURE	<ul style="list-style-type: none"> Not fixed by Constitution (Conventionally till Council of minister have vote of confidence in parliament) 	<ul style="list-style-type: none"> Not fixed by Constitution (Conventionally till Council of minister have vote of confidence in state legislature)
SALARY	<ul style="list-style-type: none"> Not Fixed by constitution as PRESIDENT may determine. 	<ul style="list-style-type: none"> Not Fixed by constitution as Governor may determine.
RESIGNATION	<ul style="list-style-type: none"> To PRESIDENT. 	<ul style="list-style-type: none"> To GOVERNOR.
REMOVAL PROCEDURE	<ul style="list-style-type: none"> Constitution does not contain the procedure and grounds for his removal. He holds office during the pleasure of the PRESIDENT. 	<ul style="list-style-type: none"> Constitution does not contain the procedure and grounds for his removal. He holds office during the pleasure of the GOVERNOR.

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

GST COUNCIL, FINANCE COMMISSION & SPECIAL OFFICER FOR LINGUISTIC MINORITY

BODY	GST COUNCIL	FINANCE COMMISSION	SPECIAL OFFICER FOR LINGUISTIC MINORITY
ARTICLE	• Article 279A, Part - XII	• Article 280, Part - XII	• Article 338B, Part - XVI
APPOINTMENT	Constituted by PRESIDENTIAL order.	Constituted by PRESIDENTIAL order.	By PRESIDENT .
COMPOSITION	• Finance Minister and Ministers of state I/C of finance.	• Chairman + 4 other members.	• Constitution does not specified Qualification, Tenure, Salaries, allowances, Service condition and procedure for removal.
QUALIFICATION	----	• Determined by PARLIAMENT .	
TENURE	----	• Usually 3 years, under the rules.	
MISC.	<ul style="list-style-type: none"> • Quorum - Half of Total Members. • Every decision by majority of 3/4th of members present & voting. • Centre- 1/3rd and States- 2/3rd of votes casted. 	<ul style="list-style-type: none"> • Recommendations are advisory in nature. • Balancing wheel of fiscal federalism. 	----

STUDENT NOTES:

30. NON-CONSTITUTIONAL BODIES

NHRC & SHRC

BODY →	NHRC	SHRC
ESTABLISHMENT	<ul style="list-style-type: none"> By an Act of Parliament (Protection of Human Rights Act 1993). Statutory Body. 	
COMPOSITION	<ul style="list-style-type: none"> Multimember Body Chairperson + Five Members. 	<ul style="list-style-type: none"> Multimember Body Chairperson + Two Members.
QUALIFICATION	<ul style="list-style-type: none"> Chairperson - Retired CJI or Judge of the SC. Members- <ol style="list-style-type: none"> Serving or retired judge of SC; Serving or retired CJ of a HC and 3 others (at least one woman) having knowledge or practical experience of human rights. Chairpersons of the NCBCs and the NC for Protection of Child Rights as well as the Chief Commissioner for PwDs as the ex-officio members of the National Human Rights Commission. 	<ul style="list-style-type: none"> Chairperson - Retired CJ or Judge of the HC. Members- <ol style="list-style-type: none"> Serving or retired judge of HC or District Judge With 7 years of experience; Person having knowledge or practical experience of human rights.
APPOINTMENT	<ul style="list-style-type: none"> By PRESIDENT NHRC Selection Committee (6 Members): PM + Speaker (LS) + Deputy Chairman (RS) + Leader of opposition (LS & RS both) + Union HM. 	<ul style="list-style-type: none"> By GOVERNOR SHRC Selection Committee (6 Members): CM + Speaker (SLA) + Deputy Chairman (SLC) + Leader of opposition (SLA & SLC both) + State HM.
TENURE	<ul style="list-style-type: none"> 3 years or age of 70 years. Eligible for re-appointment but not eligible for further appointment in GOI or State. 	
SALARY	<ul style="list-style-type: none"> Determined by Central/State Government. Cannot be varied to his disadvantage after their appointment. 	
RESIGNATION	<ul style="list-style-type: none"> To PRESIDENT. 	<ul style="list-style-type: none"> To GOVERNOR.
REMOVAL PROCEDURE	<ul style="list-style-type: none"> PRESIDENT can remove from the office under the following circumstances: <ol style="list-style-type: none"> Is adjudged an insolvent or Engages during his term of office in any paid employment outside the duties of his office; or Is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body. If he is of unsound mind and stand so declared by a competent court; or If he is convicted and sentenced to imprisonment for an offence. (Similar to UPSC) President can also remove the chairman or any other member for misbehavior. However, in this case, the president has to refer the matter to the SC for an enquiry. SC after enquiry advice the president, then the president can remove the 	

	chairperson or a member.
MISC.	<ul style="list-style-type: none"> Power to regulate its own procedure and all the powers of a civil court and its proceedings have a judicial character. Own Investigation Staff + Help from Govt. Agency. No inquire into any matter after the expiry of one year from the date of violation. Functions are mainly recommendatory in nature (Not binding). It has no power to punish the violators nor to award any relief including monetary relief to the victim. Limited role, powers and jurisdiction with respect to members of the armed forces. Secretary of the NHRC/SHRC shall exercise all administrative and financial powers of the Commission, subject to control of the chairperson. NHRC- Submits its annual or special reports to the Central government and to the state government concerned (SHRC only to State Government). SHRC- Inquire into only in respect of subjects mentioned in the State List and the Concurrent List of the Seventh Schedule. Central government may confer upon the SHRC the functions relating to human rights being discharged by the union territories, except the UT of Delhi Functions relating to human rights in case of UT of Delhi are to be dealt with by the NHRC.

CENTRAL BUREAU OF INVESTIGATION

- On recommendation of **Santhanam Committee** on corruption. CBI as setup through resolution. It derives its powers from **DPSE Act, 1946**.
- It is **not a statutory body**. It comes under **Ministry of Personnel** and now it enjoys the status of an **attached office**.
- Composition**: Headed by **DIRECTOR**, Provide with security of 2 years Tenure in office by CVC Act, 2003. Additionally, it has a number of joint directors, deputy inspector generals, superintendents of police and all other usual ranks of police personnel.
- Appointment of Director**: By Central Government on recommendation of a **3-member** committee consisting of the **PM** as Chairperson, the **Leader of Opposition (LS)** and the **CJI or Judge of the SC** nominated by him.
- CBI investigates** crime of corruption, economic offences and serious and organized crime **other than terrorism** while NIA investigate terror related crime such as incidents of terrorist attacks, funding of terrorism and it also Provide assistance to CVC & Lokpal in investigation.
- It acts as the "National Central Bureau" of Interpol in India.

CENTRAL & STATE IC and CENTRAL VIGILANCE COMMISSIONER

BODY →	CIC/SIC	CVC
ESTABLISHMENT	<ul style="list-style-type: none"> Under an act of Parliament (Right to Information Act 2005). Statutory Body. 	<ul style="list-style-type: none"> By an act of Parliament (Central Vigilance Commission Act, 2003.). Statutory Body.
COMPOSITION	<ul style="list-style-type: none"> Multimember body Chief Information Commissioners & Other ICs (Not more than 10). CIC- At Present Chief + 6 Others ICs. 	<ul style="list-style-type: none"> Multimember body Central Vigilance Commissioners & Other Vigilance Commissioner (Not more than 2).
APPOINTMENT	<ul style="list-style-type: none"> By PRESIDENT/GOVERNOR. CIC Selection Committee (3 Members): 	<ul style="list-style-type: none"> By PRESIDENT. Selection Committee (3 Members): PM,

	PM, Leader of Opposition (LS) and Union Minister nominated by PM. • SIC Selection Committee (3 Members): CM, Leader of Opposition (SLA) and State cabinet minister nominated by CM.	Leader of Opposition (LS) and Union Home Minister.
TENURE	• Term as prescribed by the Central Government or age of 65 years . • Not eligible for reappointment (Information commissioners are eligible for respective Chief IC but total term not more than 5 years).	• Term – 4 Years or age of 65 years . • Not eligible for further appointment under State or Central Government.
QUALIFICATION / SALARY	• Persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. • Not be a Member of Parliament or Member of the Legislature of any State or Union Territory. • Not hold any other office of profit or connected with any political party or pursuing any profession. • Salary decided by the Central Government and cannot be varied to his disadvantage during service.	• Salary - allowances of the Central Vigilance Commissioner are similar to those of the Chairman of UPSC and that of the vigilance commissioner are similar to those of a member of UPSC .
RESIGNATION	• To PRESIDENT/GOVERNOR .	• To PRESIDENT .
REMOVAL PROCEDURE	• CIC/CVC - Removed by PRESIDENT and procedure is similar to NHRC • SIC – Removed by GOVERNOR and procedure is similar to NHRC.	

LOKPAL

BODY →	LOKPAL
ESTABLISHMENT	• Under an act of Parliament (Lokpal and Lokayukta Act, 2013) Lokpal at Centre and Lokayukta at State. • Statutory Body.
COMPOSITION	• Multimember body • Chairperson with a maximum of 8 members (50% judicial members) . • Minimum 50% members shall be from SCs, STs, OBCs, Minorities and Woman .
QUALIFICATION	• Judicial Member - Current or former judges of SC or CJ of HC. • Non-Judicial Member – Eminent person min. 25 years expertise & special knowledge of Anticorruption Policy, Public Administration, Vigilance, Finance, Insurance Banking, Law & Management.
APPOINTMENT	• By PRESIDENT (Lokpal), GOVERNOR (Lokayukta) . • Selection Committee (3 Members): PM, Speaker, Leader of the Opposition (LS), the CJI or

	<p>CJI Nominee from SC and an eminent jurist to be nominated by the President of India on the recommendations of the first four members of the selection committee.</p> <ul style="list-style-type: none"> • Search Committee- To assist the Selection Committee (50% of the members shall be from SCs, STs, OBCs, Minorities and women.
TENURE/ SALARY	<ul style="list-style-type: none"> • Term - 5 Years or age of 70 years. • Salary Allowance Chairperson equivalent to CJI and Member-Judge of SC.
RESIGNATION	<ul style="list-style-type: none"> • To PRESIDENT.
MISC.	<ul style="list-style-type: none"> • Lokpal's jurisdiction will cover all categories of public servants, including PM except armed forces. • Lokpal will have the power of superintendence and direction over any investigating agency, including the CBI, for cases referred to them by the Lokpal. • Institutions which are financed fully or partly by Government are under the jurisdiction of Lokpal, but institutions aided by Government are excluded. • Incorporates provisions for attachment and confiscation of property of public servants acquired by corrupt means, even while the prosecution is pending. • State will have to institute Lokayukta within 1 year. • CBI officer appointed for the investigation by Lokpal cannot be transferred without permission of Lokpal.

STUDENT NOTES:

PRELIMS 2021 SUPERSONIC TEST SERIES PROGRAM



हिंदी माध्यम में भी उपलब्ध



GIVE YOUR 1ST TEST
FREE SCAN HERE

- ① 50 FULL LENGTH "FINAL ONE DAY" UPSC PRELIMS TESTS
- ② 4000+ EXTRA "NET PRACTICE" MCQS TOPICWISE
- ③ 4 CSAT "20 -20" TESTS.
- ④ 42+ NCERT "COACH TRAINING" BOOKWISE TESTS [FROM CLASS 6 TO 12]
- ⑤ 4 MOCK "WORLD CUP" TEST BEFORE UPSC, PRELIMS 2021
- ⑥ COMPREHENSIVE DETAILED SCHEDULE FOR YOUR 5-6 MONTHS RIGOROUS PREPARATION
- ⑦ CLASS 6-12 CHAPTERWISE - BOOKWISE NCERT VIDEOS
- ⑧ DEDICATED COMPLETE STUDY MATERIALS [FOR PRE & MAINS BOTH]
- ⑨ VIDEO SOLUTION OF 50 FULL LENGTH "FINAL ONE DAY" TESTS
- ⑩ DEDICATED MENTORSHIP
- ⑪ DETAILED ANALYSIS INCLUDING ALL INDIA RANK (AIR) AFTER EACH TEST.
- ⑫ BOTH MOBILE APP & COMPUTER FRIENDLY.

To Join This Course Visit - dpp.onlyias.in

www.onlyias.com | [+91-7007-931-912](tel:+917007931912) | info@onlyias.com



@ JUST
4999/- ONLY

31. CO-OPERATIVE SOCIETIES

The 97th Constitutional Amendment Act of 2011 gave a constitutional status and protection to co-operative societies. In this context, it made the following three changes in the constitution:

1. It made the right to form co-operative societies a fundamental right (Article 19).
2. It included a new DPSP on promotion of cooperative societies (Article 43-B).
3. It added a new Part IX-B in the Constitution which is entitled “The Cooperative Societies” (Articles 243-ZH to 243-ZT).

CONSTITUTIONAL PROVISIONS

Part IX-B of the constitution contains the following provisions:

Incorporation of Co-operative Societies:	<ul style="list-style-type: none"> The state legislature may make provisions for the incorporation, regulation and winding-up of co-operative societies. (Article 243ZI).
Number and Term of Members of Board and its Office Bearers: (Article 243 ZJ)	<ul style="list-style-type: none"> The board shall consist of such number of directors as may be provided by the state legislature but it shall not exceed twenty-one. The term of office of elected members of the board and its office bearers shall be five years from the date of election and election of a board shall be conducted before the expiry of the term of the current board (Article 243 ZK) by such body, as may be provided by the state legislature.
Reservation of seats:	<ul style="list-style-type: none"> The state legislature shall provide for the reservation of one seat for the SC or the ST and two seats for women on the board of every co-operative society having members from such a category of persons.
Co-opted members:	<ul style="list-style-type: none"> The state legislature shall make provisions for co-option of persons having experience in the field of banking, management, finance etc. to the board whose numbers shall not exceed two (in addition to twenty-one directors) without any right to vote.
Supersession and Suspension of Board and Interim Management (Article 243 ZL)	<ul style="list-style-type: none"> No board shall be superseded or kept under suspension for a period exceeding six months. (In case of cooperative banks, other than multi-state cooperative banks, this period cannot exceed one year). However, the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government.
Audit of Accounts of Co-operative Societies (Article 243 ZM)	<ul style="list-style-type: none"> The state legislature may make provisions for the maintenance and auditing of accounts the co-operative societies (within six months of the close of the financial year) at least once in each financial year.
Application to Multi-state Co-operative Societies:	<ul style="list-style-type: none"> The provisions of this part shall apply to the multi-state co-operative societies and these will come under ambit of central government.
Application to Union Territories:	<ul style="list-style-type: none"> The provisions of this part shall apply to the Union territories. But the President may direct that the provisions of this part shall not apply to any Union territory or part thereof as he may specify in the notification. (Article 243 ZS)

32. ANTI-DEFECTION LAW

- The **52nd amendment act of 1985** is often referred to as "Anti-defection law". it made changes in four Articles of the Constitution i.e. Articles 101, 102, 190 and 191 which relate to the vacation of seats and disqualification from membership of Parliament and the state legislatures.
- This amendment added a new schedule (the **Tenth Schedule**) to the constitution.
- It provided for the disqualification of the members of Parliament and State legislatures on the ground of defection from one party to another.

91ST AMENDMENT ACT (2003):

The 91st Amendment Act of 2003 has made the following provisions to limit the size of Council of Ministers, debar defectors from holding public offices, and to strengthen the anti-defection law:

- The total number of ministers, including the PM, in the Central Council of Ministers and total number of ministers, including the Chief Minister, in the Council of Ministers in a state **shall not exceed 15 per cent** of the total strength of the Lok Sabha (**Article 75**) and Legislative Assembly of that state (**Article 164**) respectively. **But, the number of ministers, including the Chief Minister, in a state shall not be less than 12.**
- A member of either House of Parliament (**Article 75**) or either house of state legislature (**Article 164**) belonging to any political party who disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- A member of either House of Parliament or either House of a State Legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to hold any remunerative political post.
- The **provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted.** It means that the defectors have no more protection on grounds of splits.

PROVISIONS OF THE ANTI-DEFECTION LAW

DISQUALIFICATIONS	
Members of Political Parties:	<p>A member of House belonging to any political party becomes disqualified for being a member of the house:</p> <ol style="list-style-type: none"> If he voluntarily gives up his membership of such political party; or If he votes or abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within 15 days.
Independent Members:	An independent member of a House (elected without being set up as a candidate by any political party) becomes disqualified to remain a member of the House if he joins any political party after such election.
Nominated Members:	A nominated member of a House becomes disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat in the House. This means that he may join any political party within six months of taking his seat in the House without inviting this disqualification.
Exceptions:	The above disqualification on the ground of defection does not apply in the following two cases:

	<ul style="list-style-type: none"> a. If a member goes out of his party as a result of a merger of the party with another party. A merger takes place when two-thirds of the members of the party have agreed to such merger. b. If a member, after being elected as the presiding officer of the House, voluntarily gives up the membership of his party or rejoins it after he ceases to hold that office.
Deciding Authority:	<ul style="list-style-type: none"> • Any question regarding disqualification arising out of defection is to be decided by the presiding officer of the House. • However, Supreme Court in Kihoto Hollohan Case (1993) declared finality of decision of Speaker under tenth schedule as unconstitutional and open to judicial review on the grounds of mala fides, perversity, etc.
Rule-Making Power:	<ul style="list-style-type: none"> • The presiding officer of a House is empowered to make rules to give effect to the provisions of the Tenth Schedule. All such rules must be placed before the House for 30 days. The House may approve or modify or disapprove them. • Presiding officer can take up a defection case only when he receives a complaint from a member of the House. • He may also refer the matter to the committee of privileges for inquiry. Hence, defection has no immediate and automatic effect.



www.onlyias.com

+91-7007-931-912

info@onlyias.com



MAINS TEST SERIES

- 8 Full length papers
 - Question framed in line with ongoing trend of UPSC
 - Comprehensive solution with approach to the answers
 - Topic wise handouts for Mains (OnlyIAS Mains study material)
 - Timely and detailed evaluation of answer booklet with workable inputs and feedbacks strictly by expert faculties
 - Online support to solve queries
- FEE**
₹ 6000
+ 18%GST

JOIN NOW mains.onlyias.in

***NOTE : YOU CAN GIVE TEST ANY DAY AFTER THE TEST**

VALIDITY : TILL 30TH SEPTEMBER 2021



<https://t.me/tnpscfree>

Join Telegram

Channel :

@tnpscfree

<https://t.me/sasiclasses>

