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*A Must for Civil Services (Pre) Examination,  
State PCS & Other Competitive Exams*

# INDIAN POLITY AND GOVERNANCE



Topical Coverage of Syllabus and Previous Years' Questions  
with more than 3000 MCQs and 5 Practice Sets

<https://t.me/eagledgedujkssbjkpsc>

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Authored By  
Janmenjay Sahni



**Arihant Publications (India) Ltd.**

<https://t.me/eagledgeujkssbjkpsc>

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## TOPICS FOCUS & TREND OF QUESTIONS

### Constitutional Development

Some of the core topics from examination perspective are Regulating Act 1773, Charter Act 1813, Charter Act 1853, Indian Councils Act 1892, Objective Resolution etc. In previous exams questions have been asked frequently on Government of India Act 1858, Indian Councils Act 1909, Government of India Act 1919, provisions related to objective resolution and members of the Drafting Committee.

### Salient Features of Indian Constitution

This is one of the most important sections of the Indian Polity, as this forms the basis of the working of the Indian Constitution. Important topics from the examination point of view are like, the sources of Indian Constitution, Federal Features, Unitary Features etc. Questions in previous exams have been asked from sources of Indian Constitution, Indian Constitution whether rigid or flexible, what do you mean by a welfare state and secular state.

### The Preamble

It is the preface of our Constitution and it is referred to in case of any confusion while interpreting the constitutional law. This is the most important topic for all competitive examinations as questions are frequently asked from Preamble. In almost all the examinations questions have been asked regarding, what do you understand by the term sovereignty, secular, democratic, republic. Some important cases are also asked like Berubari Case, Keshavananda Bharati Case and what do you understand by economic justice, equality etc.

### The Union & Its Territory

This topic deals with some important topics like the creation of new states, provisions under Articles 2 and 3, Important committees related to state reorganisation etc. Questions are frequently asked in almost all exams like, when and under what conditions a particular state was constituted, procedure for forming a new state, Fazl Ali Commission, Dhar Commission etc.

### Citizenship

Though not very important from the examination perspective, but questions are sometimes asked on procedure for Acquiring Indian Citizenship, Conditions in which the citizenship is lost, Persons of Indian Origin, Pravasi Bharatiya Divas etc.

### Fundamental Rights

This is one of the most important section from examination point of view as questions are most frequently asked in almost all the competitive examinations. Some of the important topics are equality before law, protection of life and personal liberty, prohibition of traffic in human beings and forced labour, right to constitutional remedies.

Questions are frequently asked on these topics like, definition of state, equality of opportunity in matters of public employment, protection of certain rights regarding freedom of speech, protection in respect of conviction for offences, right to education, writs issued by Supreme Court and High Court etc.

### DPSP & Fundamental Duties

DPSP and Fundamental Duties are also very important for all the competitive examinations as questions are asked frequently. Most of the questions asked from these topics are factual e.g., an Article is given and it is asked from the subject it is related. Fundamental Duties should be memorised as questions are asked.

### Union Executive

This is also one of the core sections of the Indian Polity. Some of the important topics from examination perspective are the President, Vice-President, Prime Minister, Council of Ministers. Questions are asked on regular basis from these topics in almost all the competitive examinations, Qualifications for President, Election Method of President and Vice-President, Electoral College, Impeachment Procedure, Administrative, Financial, Judicial, Emergency and Legislative Powers of President, Powers and Functions of Prime Minister, Cabinet, Cabinet Committees.

### Parliament

Some of the important topics from examination point of view are composition of Rajya Sabha and Lok Sabha, Presiding Officers, Sessions of Parliament, Budget process, Parliamentary Committees etc.

In previous years' questions have been asked from these topics, Public Accounts Committee, Estimates Committee, Anti-defection Law, Exclusive powers of Rajya Sabha and Lok Sabha, Powers and Functions of Speaker and Deputy Speaker, Joint sitting of Parliament, Parliamentary proceedings, Various motions in the Parliament.

## Judiciary

Questions are regularly asked from judiciary in various competitive examinations like, Powers of Supreme Court, types of Jurisdictions exercised by the Supreme Court and High Court, Judicial Review and Judicial Activism, Procedure for appointing the CJI and Chief Justice of High Courts, Impeachment Procedure, Writs issued by Supreme Court and High Court etc.

## State Government

Some of the important topics which need special attention are powers and functions of the Governor, duties and powers of the Chief Minister, presiding officers of the State Legislature. Questions are mostly asked regarding the powers of Governor, term of office, removal of Governor, Sarkaria Commission's Recommendation, Advocate General.

## Union State Relations

Some of the important topics from which questions are asked frequently in competitive examinations are, in which conditions can be the Central Government legislate on the matters of State List, Union State relations during emergency, Distribution of Grants and Taxes etc.

## Elections

This topic is not of much importance from the examination point of view, however sometimes a question is asked on the functions and powers of Election Commission under Article 324.

## Political Parties And Pressure Groups

Questions are not asked frequently in competitive exams however, for better understanding of the political system of a country one should have an overview of the type of party system followed in our country and how the pressure groups influence the decision making powers of the government.

## Public Service Commissions

In most of the examinations, straight questions are asked from this section of Indian Polity, like, which article deals with the composition of UPSC, powers to make rules and regulations regarding recruitment and service conditions.

## Languages

This topic is not of much importance from examination point of view, however a question is asked regarding addition of any new language in the 8th Schedule of Constitution by amendment to the Constitution.

## Emergency Provisions

Important topics from the competitive examination perspective is President's Rule (Article 356). However, one should have an idea of all the three types of emergencies in India i.e., National emergency, President's rule and Financial emergency. In most of

the examinations questions are asked from President's Rule and National Emergency.

## Scheduled and Tribal Areas

In most of the exams straight question is asked from this topic like, which article is related to the provisions for scheduled and tribal areas. So, this topic is not of much importance.

## Panchayats and Municipalities

In most of the exams straight questions are framed from this topic, e.g., which article deals with the powers, authority and responsibilities of panchayats and municipalities, composition and election of panchayats and municipalities.

## Constitutional, Statutory, Non-statutory Institutions

Some of the important topics from which questions are asked in all competitive examinations are, functions and powers of the Comptroller and Auditor General of India, Finance Commission, National Commission for Women, Powers and Functions of Attorney General of India, National Human Rights Commission, Central Vigilance Commission etc.

## Governance

Now-a-days questions are asked in competitive exams regarding the concepts like Rule of Law, Transparency, Accountability. Questions are also framed on topics like e-governance and its various models, Lokpal and Lokayuktas.

## Public Policy in India

Some of the important topics from which questions are asked in competitive examinations are Role of Bureaucracy, Functions of Cabinet Secretariat, Pressure Groups etc.

## Rights Issues in India

Some of the hot topics from which questions are asked in competitive examinations are, Rights of persons with disabilities, Women's Reservation Bill, Rights of Women in India.

## Amendment Procedure

Sometimes questions are asked from this topic regarding the amendment procedure as provided in the Constitution, Golaknath Case, sometimes questions are asked regarding the important amendment till date, e.g., 42nd Amendment Act, 44th Amendment Act, 86th Amendment Act etc.

## Miscellaneous

Some of the important topics from examination perspective and from which questions are frequently asked are, Provisions related to the Administration of Union Territories, Administrative Tribunals, Central Administrative Tribunals, Provisions of Article 370 related to J & K, Special provisions for Some States etc.

**Note :** In this book, we are unable to update some new facts. Given below is the page numberwise updation of such facts.

#### PAGE 23

The 15th Pravasi Bharatiya Divas (PBD) was held at Varanasi in January, 2019. Its Chief Guest for this year's PBD was Prime Minister of Mauritius, Pravind Jugnauth.

#### PAGE 29

The salary of the President of India has been increased from ₹1.50 Lakh to 5 Lakh per month.

#### PAGE 53

##### Speaker of Lok Sabha (As on 22 July, 2019)

Speakers	Tenures
• Sumitra Mahajan	2014-2019
• Om Birla	2019-Till Date

#### PAGE 68

##### Chief Justice of India (As on 22 July, 2019)

• Dipak Mishra	28 Aug, 2017	2nd Oct, 2018
• Ranjan Gogoi	3rd Oct, 2018	Till Date

#### PAGE 75 (As on 22 July 2019)

##### High Courts of State/Union Territory

• Telangana High Court	Telangana	Hyderabad
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#### PAGE 96

##### Chief Election Commissioners

• Achal Kumar Jyoti	6th July, 2017 to 22 Jan, 2018
• Om Prakash Rawat	23rd Jan, 2018 to 1st Dec, 2018
• Sunil Arora	2nd Dec, 2018 to Till Date

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##### Amendment of the Constitution

Number	Amendment Made	Affected Since	Objectives
• One Hundredth Two	Article 338 B	11th August, 2018	Status of Constitutional Body to National Commission of Backward Class.
• One Hundredth Three	Article 15 & 16	12th January, 2019	10% Reservation for Economically Weaker Sections.



# Chapter one

## Constitutional Development

*Constitution is the fundamental law of a country which enshrines the fundamental principles on which values and institutions regarding governance are based. Indian Constitution evolved through a series of acts passed by British Parliament and implemented in India, either in the interest of Britain or under pressure from Indian people's socio-political movements.*

### Constitutional Development Under British Rule

- The Indian Constitution was framed by the Constituent Assembly set-up for this purpose in 1946 and the Constitution came into being on 26th January, 1950. However, the various provisions and features of Constitution have their roots in the British administration, which introduced modern governance structure in India.
- Beginning from 1765, when the East India Company obtained the 'diwani' (i.e. rights over revenue and civil justice of Bengal, Bihar and Orissa) till 1947, the British rule during the various periods laid down the legal framework for the organisation and functioning of government and administration in India.

### Regulating Act, 1773

- This was the first step taken by the British Government to control and regulate the affairs of the East India Company in India. It designated the Governor of Bengal as the **Governor-General** of Bengal.
- The first Governor-General was **Lord Warren Hastings**.
- It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal. This led to concentration of powers under the Governor-General and his subordinates resulting in rampant corruption and weakening of command structure at lower levels.
- The **Supreme Court** was established at Fort Williams in Calcutta, 1774. Comprising one Chief Justice and three other judges. Sir Elijah Impey was the first Chief Justice.
- It prohibited the servant of the company from engaging in any private trade or accepting presents or bribes from the native Indian.

### Pitt's India Act, 1784

- It was introduced to remove the drawbacks of the Regulating Act and was named after the British Prime Minister William Pitt.
- The Act placed the Indian affairs under the direct control of the British Government. The act clearly distinguished the commercial and political function of the company.
- It established a **Board of Control** over the Board of Directors of the Company. The board were to report to the British Parliament. The Board of Control were to manage the political affairs in India.
- The Governor-General's additional powers were curtailed and restored back to the provincial Governors.
- It was in the Pitt's India Act 1784 that the company's territories in India were called the **British Possessions in India** for the first time.

### Charter Act, 1813

- This Act renewed the Company's Charter for a further 20 years. It however deprived the company of its **monopoly of trade** with India.
- It subjected the three Councils of the Governors to greater control of Parliament by requiring them to place all their regulations before the British Parliament.
- The Christian Missionaries were allowed to spread their religion in India.

## Charter Act, 1833

- It made the Governor-General of Bengal as the **Governor-General of India** and his council as the Indian Council. First Governor-General of India was **Lord William Bentick**.
- Governor-General's Council were separated into executive and legislative functions.
- This Act for the first time created a Government of India with the Governor-General or the head, having authority over the entire territorial area possessed by the British in India.
- The East India Company was reduced to an administrative and political entity.

## Charter Act, 1853

- It provided for a new Legislative Council of Governor-General comprising of 6 new members called **Legislative Councillors**. This council came to be known as **Indian (central) Legislative Council**.
- It introduced a system of open competition on the basis for the recruitment civil servants.
- A separate Governor for Bengal was to be appointed.
- British Parliament was empowered to put company's governance in India to an end at any suitable time.

## Government of India Act, 1858

- The act was enacted in the wake of the **Revolt of 1857**. This act transferred the government territories and revenues of India from the East India Company to the British Crown. In other words, the **rule of company** was replaced by the **rule of the crown** in India.
- India was, for the purpose of administration, classified to **British India** and **Princely States**. The Princely States were to show allegiance to the Crown. The powers of the British Crown were to be exercised by new office the **Secretary of State for India**.
- The **Secretary of State** was a member of the British Cabinet. He was assisted by the Council of India, having **15 members**. He was vested with complete authority and control over the Indian administration through the Governor-General as his agent. He was responsible ultimately to the British Parliament. The Governor-General was made the Viceroy of India. **Lord Canning** was the first Viceroy of India.

## Indian Councils Act, 1861

- It introduced first time, the representative institutions in India. It provided that the Governor-General's Executive Council should have some Indians as the non-official members while transacting the legislative businesses. However, the non-official members appointed were traders, zamindars and British loyalists.

- It resolved the legislative power to **Bombay** and **Madras** Presidencies. It thus reversed the centralising tendencies that started from the Regulating Act of 1773.

## Indian Councils Act, 1892

- The Act provided for the first time, the establishment of an elected Legislative Council at the provinces. The members were to be elected by a municipalities, merchant bodies, universities etc.
- A Legislative Council at the centre was to be constituted by members elected by the Provincial Councils. However, they had no right to vote and raise questions in Councils.
- Official member remained as majority both at the provincial and Central Legislative Councils.

## Indian Councils Act, 1909

- The Act of 1909 is commonly known as the **Morley-Minto Reforms**. The following were the main features of the Act of 1909 :
  - The number of members of the Legislative Council at the centre was increased from 16 to 60.
  - The right of **separate electorate** was given to the **Muslims**.
  - Official members were to form the majority, but in provinces, non-official members would be in majority.
  - The members of the Legislative Councils were permitted to discuss the budgets, suggest the amendments and even to vote on them; excluding those items that were included as non-vote items. They were also entitled to ask supplementary questions during the legislative proceedings.
  - Two Indians were nominated to the Council of the Secretary of State for Indian affairs. The viceroy was empowered to nominate one Indian member to his Executive Council. **Satyendra Prasad Sinha** became the first Indian to join the Viceroy's Executive Council.
  - The members of the Legislative Councils, both at the centre and in the provinces, were to be of four categories i.e. ex-officio members (Governor-General and the members of their Executive Councils), nominated official members (those nominated by the Governor-General and were government officials), nominated non-official members (nominated by the Governor-General, but were not government officials) and elected members (elected by different categories of Indian people).

## The Government of India Act, 1919

- The Act of 1919 embodied the reforms recommended in the report of the Secretary of State for India, **Edwin Montague** and the Viceroy, **Lord Chelmsford**.
- Following were the main features of the act of 1919 :
  - The Act provided a dual form of government (**dyarchy**) for the provinces. In each such province, control of some areas of government, the **'transferred list'**, were given to a Government of Indian ministers nominated by the Governor and answerable to the Provincial Council. The 'transferred list' included agriculture, health and education.

- At the same time, all other areas of government (*reserved list*) remained under the control of the viceroy. The 'reserved list' included defence (the military), foreign affairs and communications.
- The Imperial Legislative Council was enlarged and reformed. It became a bicameral legislature for all India. The Lower House was the Legislative Assembly of 144 members, of which 104 were elected and 40 were nominated and tenure of 3 years. The Upper House was the Council of States consisting of official member remained or majority both at the provincial and central legislative council. 34 elected and 26 nominated members and tenure of 5 years.
- The act also provided for a **High Commissioner for India** who resided in London, representing India in Great Britain.
- Three of the six members of Viceroy's Executive Council were to be Indian.
- It extended the separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans.

## Simon Commission, 1927

- The Act of 1919, had provided for the appointment of a Commission to review the provisions of the act. The British Government announced the appointment of a **Seven-Member Statutory Commission** under the Chairmanship of **Sir John Simon**. All the members of the commission were British and hence, all the parties of India boycotted the Commission.
- The Commission submitted its report in 1930 and recommended the abolition of dyarchy, extension of responsible government in the provinces, establishment of a federation of British India and Princely States, continuation of communal electorate and so on.

## Nehru Report, 1928

- The Nehru Report was memorandum outlining a proposed new dominion status Constitution for India. It was prepared by a committee of the All Parties Conference chaired by **Motilal Nehru in Delhi. (February, 1928)**
- The Constitution outlined by the Nehru report was for India enjoying dominion status within the British Commonwealth. *Some of the Important elements of the report were as follows :*
  - It contained a Bill of Rights.
  - All power of government and all authority legislative, executive and judicial are derived from the people and the same shall be exercised through organisations established by, or under, and in accord with, this Constitution.
  - There shall be no state religion; men and women shall have equal rights as citizens.
  - There should be federal form of government with residuary powers vested in the center.
  - It included a suggestion that the provinces should be linguistically determined.
  - It did not provide for separate electorates for any community or weight age for minorities.

## Government of India Act, 1935

- This act was passed after three Round Table Conferences held in London.
- *The provisions of this Act were as follows :*
  - The Act provided for the establishment of an All India Federation consisting of the provinces and the Princely States as the units. The federation never came into being as the Princely States did not gain.
  - The Act divided the powers between the centre and the provinces in terms of three lists, namely the **Federal List**, the **Provincial List** and the **Concurrent List**.
  - The Federal List for the centre consisted of 59 items, the Provincial List for the provinces consisted of 54 items and the Concurrent List for both consisted of 36 items. The residuary powers were vested with the Governor-General.
  - The Act abolished the diarchy in the provinces and introduced **Provincial Autonomy**.
  - It provided for the adoption of **dyarchy** at the centre.
  - Introduced bicameralism in 6 out of 11 provinces. These 6 provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.
  - It provided for the establishment of **Reserve Bank of India**. It also provided for the establishment of Federal Public Service Commission and Provincial Public Service Commission.

## August Offer, 1940

- On 8th August, 1940 the Viceroy of India **Lord Linlithgow** made the Offer which is generally called **August Offer**.
- *The following proposals were put in :*
  - After the war a representative Indian body would be set-up to frame a Constitution for India. Viceroy's Executive Council would be expanded without delay.
  - The minorities were assured that the government would not transfer power "to any system of government whose authority is directly denied by large and powerful elements in Indian national life."

## Cripps Mission, 1942

- In March, 1942 **Sir Stafford Cripps**, a member of the British Cabinet came with a draft declaration on the proposals of the British Government. These proposals were to be adopted at the end of the 2nd World War, provided Congress and the Muslim League could accept them.
- *The proposals of Cripps Mission were as follows :*
  - The Constitution of India was to be framed by an elected Constituent Assembly by the Indian people. The Constitution should give India Dominion Status. There should be one Indian Union comprising all the Provinces and Indian States.
  - Any Province (or Indian State) not accepting the Constitution would be free to retain its constitutional position existing at that time and with such non-acceding Province British Government could enter into separate constitutional arrangements.

## The Cabinet Mission, 1946

- British Prime Minister **Clement Attlee** formulated a Cabinet Mission to India to discuss and finalise plans for the transfer of power from the British Raj to Indian leadership as well as provide India with independence under dominion status in the commonwealth of the nations.
- In March, 1946, Lord Attlee sent a Cabinet Mission to India consisting of three Cabinet Ministers, namely **Lord Pethick Lawrence**, **Sir Stafford Cripps** and **Mr AV Alexander**. The Mission discussed the framework of the Constitution and laid down in some detail, the procedure to be followed by the Constitution drafting body. *Cabinet Mission proposal were as follows :*
  - The Cabinet Mission rejected the claim for a separate Constituent Assembly and a separate electorate for the Muslim.
  - According to Cabinet Mission Plan there was to be a Union of India, comprising both British India and the States, having jurisdiction over the subjects of Foreign Affairs, Defence and Communication. All residuary powers were to be vested in the Provinces and the States.
  - The Union was to have an Executive and a Legislature consisting of representatives of the Provinces and the States.
  - Any decision involving a major communal issue in the legislature was to require a majority support of representatives of each of the two major communities present and voting.
  - The provinces could form groups with executives and legislatures, and each group could be competent to determine the provincial subjects.

## Mountbatten Plan, 1947

- This was also known as the **Mountbatten Plan**. The British government proposed a plan announced on **3rd June, 1947** that included following principles :
  - Principle of Partition of India was accepted by the British Government.
  - Successor governments would be given dominion status.
  - Implicit right to secede from the British Commonwealth.
  - The Indian Independence Act, 1947 was the implementation of 3rd June, Plan.

## Indian Independence Act, 1947

- The Indian Independence Act which came into force on 18th July, 1947, divided British Indian territory into two new states: India and Pakistan, which were to be **dominions** under the Commonwealth of Nations until their constitutions came into effect. The Constituent Assembly was divided into two separate states.
- To demarcate boundary line between India and Pakistan a commission was constituted under the chairmanship of **Sir Cyril Radcliffe**.
- The Act abolished the office of viceroy and provided for each dominion, a Governor-General.

- Lord Mountbatten became the first Governor-General of dominion India. Later, the Constituent Assembly elected **C Rajagopalachari** as the Governor-General of independent India.

## Framing of the Constitution of India

- The idea of Constituent Assembly for India was put forward for the first time by **MN Roy** in 1934.
- The demand for the Constituent Assembly was first accepted by the British in **August Offer**. However, it was in Cripps Mission, that the British accepted for the Constituent Assembly consisting entirely of Indians. The Constituent Assembly was set-up in November, 1946 as per the **Cabinet Mission Plan** of 1946. The elections to the Constituent Assembly was **indirect**.
- There were a total of 389 members in the Constituent Assembly of which 296 were elected by the members of the provincial assemblies and the rest were nominated by the Princely States.
- After the partition, the strength of Constituent Assembly was reduced to 299. Its first meeting was held on 9th December, 1946 with **Sachidanand Sinha** as the interim President.
- On 11th December, 1946, **Dr Rajendra Prasad** was elected as the President of the Constituent Assembly. Objective Resolution was moved by **Jawaharlal Nehru**.
- The Drafting Committee was appointed on 29th August, 1947, with **Dr BR Ambedkar** as the Chairman.
- The Constituent Assembly took almost 3 years (2 years, 11 months and 18 days to be precise) to complete its historic task of drafting the Constitution for Independent India.
- On **26th November, 1949**, the people of India through the Constituent Assembly adopted, enacted and gave themselves the Constitution of India.
- The Constitution was finally signed by the members of the Constituent Assembly on 24th January, 1950, which was the last day of the Assembly. The Constitution came into full operation with effect from 26th January, 1950.
- When the Constitution of India came into force on 26th January, 1950, it repealed the Indian Independence Act. India ceased to be a dominion of the British Crown and became a sovereign, democratic and republic. According to **Article 394**, provisions relating to the citizenship, elections, provisional Parliament and temporary and transitional provisions contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on the day of adoption (i.e. 26th November, 1949) of the Constitution and the remaining provisions of the Constitution came into being on the day of the commencement (i.e. 26th January, 1950) of the Constitution.

## Phases of the Constituent Assembly

- **First Phase** As Constituent Assembly, under the limitations of Cabinet Mission Plan from 6th September, 1946 to 14th August, 1947.
- **Second Phase** As Constituent Assembly, a sovereign body provisional Parliament from 15th August, 1947 to 26th November, 1949.
- **Third Phase** As a provisional Parliament from 27th November, 1949 to March, 1952.

### Other Functions Performed by the Constituent Assembly

- It adopted the National flag on 22nd July, 1947.
- It ratified India's membership of Commonwealth in May, 1949.
- It adopted the National Anthem and National Song on 24th January, 1950.
- It ratified the India's membership of the Commonwealth in May, 1949.
- It elected Dr Rajendra Prasad as the first President of India on 24th January, 1950.

## Committees of Constituent Assembly

### Drafting Committee

**Chairman - Dr BR Ambedkar**

#### Members

- N Gopalaswami Ayyangar
- Alladi Krishnaswami Ayyar
- KM Munshi
- Mohammad Saadullah
- N Madhav Rau (replaced BL Mitter)
- TT Krishnamachari (replaced DP Khaitan)

### Other Committees

- Committee for Negotiating with States (*Chairman: Dr Rajendra Prasad*)
- Union Constitution Committee (*Chairman: Jawaharlal Nehru*)
- Provincial Constitution Committee (*Chairman: Sardar Patel*)
- Special Committee to Examine the Draft Constitution (*Chairman: Sir Alladi Krishnaswamy Ayyar*)
- Union Powers Committee (*Chairman: Jawaharlal Nehru*)
- Committee on Fundamental Rights and Minorities (*Chairman: Sardar Patel*)
- Steering Committee (*Chairman: Dr Rajendra Prasad*)
- Rules of Procedure Committee (*Chairman: Dr Rajendra Prasad*)

### Interim Government (1946)

Minister	Portfolios Held
Pt Jawaharlal Nehru	External Affairs and Commonwealth Relations
Sardar Vallabhbhai Patel	Home, Information and Broadcasting
Dr Rajendra Prasad	Food and Agriculture
Dr John Mathai	Industries and Supplies
Jagjivan Ram	Labour
Sardar Baldev Singh	Defence
CH Bhabha	Works, Mines and Power
Liaquat Ali Khan	Finance
Abdur Rab Nishtar	Posts and Air
Asaf Ali	Railways and Transport
C Rajagopalachari	Education and Arts
II Chundrigar	Commerce
Ghaznafar Ali Khan	Health

© *The members of the Interim Government were members of the Viceroy's Executive Council. The viceroy continued to be the head of the Council. But, Jawaharlal Nehru was designated as the Vice-President of the Council.*

### First Cabinet of Free India (1947)

Minister	Portfolios Held
Pt Jawaharlal Nehru	Prime Minister, External Affairs and Commonwealth Relation; Scientific Research
Sardar Vallabhbhai Patel	Home, Information and Broadcasting; States
Dr Rajendra Prasad	Food and Agriculture
Maulana Abul Kalam Azad	Education
Dr John Mathai	Railways and Transport
R K Shanmugham Chetty	Finance
Dr BR Ambedkar	Law
Jagjivan Ram	Labour
Sardar Baldev Singh	Defence
Rajkumari Amrit Kaur	Health
CH Bhabha	Commerce
Dr Shyam Prasad Mukherji	Industries and Mines

**Note** *Part-VII (Article 238) deals with states was repealed in 1956 by the 7th Constitutional Amendment Act. Part IV-A and part-XIV-A were added*

## Schedules of the Constitution

- **First Schedule** The States and the Union Territories of India
- **Second Schedule** Salaries and emoluments
- **Third Schedule** Oath and affirmation
- **Fourth Schedule** Allocation of seats in the Council of States
- **Fifth Schedule** Scheduled areas
- **Sixth Schedule** Tribal areas
- **Seventh Schedule** Distribution of powers between Union and States
- **Eighth Schedule** Languages
- **Ninth Schedule** Special laws beyond the jurisdiction of courts but now under 11nd Review.
- **Tenth Schedule** Anti-defection Law
- **Eleventh Schedule** Panchayats
- **Twelfth Schedule** Municipalities

**Note** *Under Fifth Schedule the transfer of tribal land to private parties for mining can be declared null and void.*

## Sources of Indian Constitution

- UK Constitution *Law-making procedures, parliamentary government, rule of law, single citizenship, cabinet system*
- US Constitution *Fundamental Rights, independent judiciary, judicial review, procedure for the removal of the judges of the Supreme Court and High Courts.*
- Canadian Constitution *Federation with strong centre, residuary powers in the centre. Appointment of State Governors by centre, and advisory jurisdiction of the Supreme Court.*
- Irish Constitution *Directive Principles of State Policy, The method of the presidential election, nominating members of Rajya Sabha.*
- Weimar Constitution of Germany *Emergency powers to be enjoyed by the union, suspension of Fundamental Rights during emergency.*
- Australian Constitution *Principle of cooperative federalism, freedom of inter-state trade, commerce and intercourse, Concurrent list.*
- Constitution of South Africa *Procedure for amendment of the Constitution and election of members of Rajya Sabha.*
- Constitution of France *Ideals of liberty, equality and fraternity.*
- Japanese Constitution *Procedure established by law.*

## Constitution at a Glance

Part	Subject Matter	Articles Covered
I	The Union and its Territory	1 to 4
II	Citizenship	5 to 11
III	Fundamental Rights	12 to 35
IV	Directive Principles of State Policy	36 to 51
IV A	Fundamental Duties	51 A
V	The Union	52 to 151
	<b>Chapter I</b> The Executive	52 to 78
	<b>Chapter II</b> Parliament	79 to 122
	<b>Chapter III</b> Legislative Powers of the President	123
	<b>Chapter IV</b> The Union Judiciary	124 to 147
	<b>Chapter V</b> Comptroller and Auditor General of India	148 to 151
VI	The States	152 to 237
	<b>Chapter I</b> General	152
	<b>Chapter II</b> The Executive	153 to 167
	<b>Chapter III</b> The State Legislature	168 to 212
	<b>Chapter IV</b> Legislative Powers of the Governors	213
	<b>Chapter V</b> The High Courts	214 to 232
	<b>Chapter VI</b> Subordinate Courts	233 to 237
VIII	The Union Territories	239 to 242
IX	The Panchayats	243 to 243-0
IX A	The Municipalities	243 P to 243 ZG
IX B	Cooperatives	243 ZG to 243ZT
X	The Scheduled and the Tribal Areas	244 to 244 A
XI	Relations between the Union and the States	245 to 263
	<b>Chapter I</b> Legislative Relations	245 to 255
	<b>Chapter II</b> Administrative Relations	256 to 263

Part	Subject Matter	Articles Covered
XII	Finance, Property, Contracts and Suits	264 to 300 A
	<b>Chapter I</b> Finance	264 to 291
	<b>Chapter II</b> Borrowing	292 to 293
	<b>Chapter III</b> Property, Contracts, Rights Liabilities, Obligations and Suits	294 to 300
	<b>Chapter IV</b> Right to Property	300 A
XIII	Trade, Commerce and Intercourse within the Territory of India	301 to 307
XIV	Services under the Union and the States	308 to 323
	<b>Chapter I</b> Services	308 to 314
	<b>Chapter II</b> Public Service Commission	315 to 323
XIVA	Tribunals	323 A to 323 B
XV	Elections	324 to 329 A
XVI	Special Provisions Relating to Certain Classes	330 to 342
XVII	Official Language	343 to 351
	<b>Chapter I</b> Language of the Union	343 and 344
	<b>Chapter II</b> Regional Languages	345 to 347
	<b>Chapter III</b> Language of the Supreme Court, the High Courts and so on	348 and 349
	<b>Chapter IV</b> Special Directives	350 to 351
XVIII	Emergency Provisions	352 to 360
XIX	Miscellaneous	361 to 367
XX	Amendments of the Constitution	368
XXI	Temporary, Transitional and Special Provisions	369 to 392
XXII	Short Title, Commencement, Authoritative Text in Hindi and Repeals	393 to 395

by the 42nd Amendment Act, 1976, part IX-A was added by the 74th Amendment Act, 1992 and IX-B was added by the 97th Amendment Act, 2011.

# Self Check

## Build Your Confidence

1. Which of the following statement(s) is/are correct regarding the Pitt's India Act of 1784?

1. It established the Supreme Court in Calcutta.
2. It designated the Governor of Bengal as the Governor-General of India.
3. It established a board of control over the Board of Directors of the Company.

Select the correct answer using the codes given below

- (a) 1 and 2 (b) 2 and 3 (c) Only 1 (d) Only 3

2. The distribution of powers between the Centre and the States in the Indian Constitution is based on the scheme provide in the [IAS 2012]

- (a) Marley-Minto reforms, 1909
- (b) Montagu Chelmsford Act, 1919
- (c) Government of India Act, 1935
- (d) Indian Independence Act, 1947

3. Which of the following pair(s) is/are correctly matched?

1. Fundamental Rights – USA
2. Procedure for Amendment of Constitution – Canada
3. Directive Principles of State Policy – Ireland

Select the correct answer using the codes given below

- (a) Only 1 (b) 1 and 3 (c) 2 and 3 (d) All of these

4. Which of the following is/ are the principal feature(s) of the Government of India Act, 1919? [IAS 2012]

1. Introduction of dyarchy in the executive government of the provinces.
2. Introduction of separate communal electorates for Muslims.
3. Devolution of legislative authority by the centre to the provinces.

Select the correct answer using the codes given below

- (a) Only 1 (b) 2 and 3 (c) 1 and 3 (d) All of these

5. Consider the following statements.

1. The objectives resolution of the Constituent Assembly was moved by Jawaharlal Nehru in 1946.
2. Dr Rajendra Prasad was the President of the Constituent Assembly of India.
3. The Constitution was finally signed by the members of the Constituent Assembly on 24th January, 1950.

Which of the statement(s) given above is/are correct?

- (a) 2 and 3 (b) Only 1 (c) 1 and 3 (d) All of these

6. With reference to Indian History, the Members of the Constituent Assembly from the Provinces were [IAS 2013]

- (a) directly elected by the people of those Provinces
- (b) nominated by the Indian National Congress and the Muslim League
- (c) elected by the Provincial Legislative Assemblies
- (d) selected by the government for their expertise in constitutional matters



1. (d) 2. (c) 3. (b) 4. (c) 5. (d)  
11. (b)

7. Which of the following are among the provisions of the Act of 1858?

1. The administration of India and the Indian Territories was transferred to the Crown.
2. The East India Company was abolished.
3. The Governor-General of India was to be known as the Viceroy of India and a Secretary of State for India was also appointed.
4. The administrative power of India was to be shared between the East India Company and the Crown of England.

Select the correct answer using the codes given below

- (a) 1, 3 and 4 (b) 1, 2 and 3  
(c) 2, 3 and 4 (d) All of these

8. Consider the following statements.

The Government of India Act, 1935 provide for

1. the provincial autonomy.
2. the establishment of Federal Court.
3. all India Federation at the centre.

Which of the statements given above are correct?

- (a) 1 and 2 (b) 2 and 3  
(c) 1 and 3 (d) 2 and 3

9. What was the basis for constituting the Constituent Assembly of India ?

- (a) The Resolution of Indian National Congress
- (b) The Cabinet Mission Plan, 1946
- (c) The Indian Independence Act, 1947
- (d) The Resolution of the Provincial/State legislature of the Dominion of India

10. Which of the following pairs are incorrectly matched?

1. Government of India Act, 1919 : Dyarchy
2. Government of India Act, 1935 : Provincial Autonomy
3. Minto-Morley Reforms : Separate Electorate
4. Mountbatten Plan : Constituent Assembly
5. Cabinet Mission Plan, 1946 : Partition of India

Select the correct answer using the codes given below

- (a) 4 and 5 (b) 1 and 4  
(c) 1 and 5 (d) 2 and 3

11. The Government of India Act of 1919 clearly defined [IAS 2015]

- (a) The separation of power between the judiciary and the legislature
- (b) The Jurisdiction of the central and provincial governments.
- (c) The powers of the secretary of state for India and the viceroy.
- (d) None of the above

6. (c) 7. (b) 8. (d) 9. (b) 10. (b)

# Chapter two

## Salient Features of Indian Constitution

*The Indian Constitution is unique in its contents and spirits. Though borrowed from various constitutions of the world, it has several salient features that distinguish it from the Constitutions of other countries. The fact that the Constitution, for last 66 years, has been working satisfactorily is a testimony to its quality and utility.*

### Longest Written Constitution

- Generally, Constitutions can be classified into two types, written and unwritten Constitution. Most of the constitutions are written. The first modern written Constitution is the **American Constitution**. On the other hand, the **British Constitution** is unwritten. It consists of customs and conventions which have grown over the years. In India, we have a written Constitution.
- The Constitution of India is the longest one in the world. Originally it had 395 Articles, 22 parts and 8 Schedules. Today the Constitution has 465 Articles, 25 parts and 12 Schedules.
- The Constitution became lengthy mainly due to the following factors
  - Single Constitution for both the centre and the states except **Jammu and Kashmir**.
  - The Government of India Act, 1935 was in operation when India got independence. Our leaders were familiar with this act. They borrowed heavily from this lengthy Act while framing our Constitution.
  - India is a country of great diversity. It is a country of several minorities; it has many languages, castes, races and religions. The problems and interests of these different groups have found place in the Constitution.
  - Many members of the Constituent Assembly were lawyer-politicians. They have made the Constitution not only long, but also extremely complicated. **Ivor Jennings** has described our Constitution as a '**lawyer's paradise**'.

### Partly Rigid, Partly Flexible

- Whether a Constitution is rigid or flexible depends on the nature of amendment. If the constitutional laws and ordinary laws are amended in rigorous procedures ways, it is a rigid Constitution. On the contrary, in a flexible Constitution, constitutional laws and ordinary laws are amended in simple way.
- Some provisions of the Constitution (Article 368) of India can be amended by the **Indian Parliament** with simple majority. The amendment of most other provisions of the Constitution requires a special majority in both Houses of the Parliament. There are some other provisions of Constitution which cannot be amended by the Parliament alone. In case of such provision the amending bill has first to be approved by both houses of Parliament by a special majority (with the support of **two-thirds** of the members of each House present and voting). Then it has to be ratified by the legislatures of at least half of the states of India. These different amendment procedures make our Constitution partly flexible and rigid. In fact, there is a balance between rigidity and flexibility in our Constitution.

## Parliamentary form of Government

- The Constitution of India has opted for parliamentary form of government. In this system the majority party in the Lower House (Lok Sabha) forms government. **The Council of Ministers** are collectively responsible to the Lok Sabha. The Cabinet is the real executive head. In Presidential form of government, the President is the executive head. In India, the President is only the nominal constitutional head.
- In **Britain**, the monarchy is hereditary. But in India, the post of President is elective. Our Constitutional founding fathers adopted the *parliamentary model for two reasons*
  - *Firstly*, they believed that a parliamentary form of government would be more responsible democratic than the presidential form of government.
  - *Secondly*, they were, to some extent, familiar with the parliamentary form of government during the British rule particularly after the implementation of the Government of India Act, 1935.

## Federal Government with Unitary Bias

- India is a federation, although word 'federation' does not find a place in the whole text of the Indian Constitution. The elements of federation are present in the Indian Constitution. It is a written and rigid Constitution.
- There is **dual polity** and there is constitutional division of powers between the centre and the states. There is also an **Independent judiciary**. The Supreme Court arbitrates the disputes between the centre and the states.
- All these provisions make India a federation. But in Indian Federation, the centre is strong as compared to the states. The centre has more financial powers and the states largely depend upon it for their economic development. Governor acts as the agent of the centre.
- The centre can reorganise a state, but a state cannot reorganise the centre. In other words, the centre is indestructible while the states are destructible. During emergencies, the powers of the centre considerably grow and the states become weak. "India is an indestructible union of destructible states."

## Fundamental Rights

- The Fundamental Rights are guaranteed to the citizens by our Constitution. These are enumerated in **Part III** of the Constitution. These rights are fundamental because they are basic to the moral and spiritual development of the individual and these rights cannot be easily abridged by the Parliament. The idea of Fundamental Rights has been borrowed from the American Constitution.
- Any citizen of India can seek the help of High Court or Supreme Court of India if any of his Fundamental Rights is undermined by the government or any institution or any other government. The Fundamental Rights, granted to the citizen, cannot be amended in the normal manner. They can be amended with **two-third** majority in each House of the Parliament.

- Now the citizen enjoys six Fundamental Rights, originally there were seven Fundamental Rights. One of them was taken away from Part III of the Constitution by the **44th Amendment Act, 1978**. As a result, the **Right to Property** is no longer a Fundamental Right. Since 1978, it has become a legal right. Constitution of India guarantees six Fundamental Rights to every citizen.

*These are as follows*

- Right to Equality (Articles 14-18)
- Right to Freedom (Articles 19-22)
- Right against Exploitation (Articles 23-24)
- Right to Freedom of Religion (Articles 25-28)
- Cultural and Educational Rights (Articles 29-30)
- Right to Constitutional Remedies (Article 32)

## Directive Principles of State Policy

- The Directive Principles of State Policy are enumerated in **Part IV** of the Constitution. They are instructions or directives from the Constitution to the state and central government. That are to be kept in mind, while framing laws and policies.
- The Directive Principles of State Policy which have been adopted from the **Irish Constitution**. The Directive Principles were included in our Constitution in order to provide social and economic justice to our people. Directive Principles aim at establishing a welfare state in India where there will be no concentration of wealth in the hands of a few.
- They can be classified into three broad categories Socialistic, Gandhian and Liberal. The Directive Principles are not enforceable in a Court of Law, but they are nevertheless fundamental in the governance of the country. These Principles provide the criteria with which we can judge the performance of the Government.

## Independent and Integrated Judiciary

- The Indian Constitution provides for an independent judiciary. The judiciary has been made independent of the executive as well as the legislature. It is an integrated judiciary with the Supreme Court at the apex of the hierarchy. The High Courts stand in its middle and the lower courts are located at its bottom.
- The judges are appointed on the basis of their qualifications and cannot be removed easily. The Supreme Court and the High Court have the power of Judicial Review. They have the power to declare acts of legislatures and actions of the executive ultravires if such acts or actions are found to be in conflict with the provisions of the Constitution.

- The Supreme Court of India is a federal court, highest court of appeal, guarantor of the Fundamental Rights of the citizens and the guardian of the Constitution. There are various provisions to ensure its independence like security of tenure, all the expenses of the Supreme Court charged upon the consolidated fund of India and so on.

## Universal Adult Franchise

- **Article 326** of the Constitution of India provides universal adult suffrage. Anybody who has completed 18 years of age is eligible to vote in general elections. This is one of the most revolutionary aspects of Indian democracy. The voting age was reduced to 18 years from 21 years in 1989 by the 61st Constitutional Amendment Act, 1989.

## Secular Character of State

- There is no official religion of the Indian State. Any person in India has the right to preach and practice religion of his/her choice. Thus, Indian Constitution stands for a secular state. The term secular was added to the Preamble of the Indian Constitution by the 42nd Amendment Act of 1976.
- The Western concept of secularism is separation between state and religion. This negative concept of secularism is inapplicable in the Indian situation where society is multireligious. Hence, the Indian Constitution embodies the positive concept of secularism i.e. giving equal respect to all religions or protecting all religions equally.

## Single Citizenship

- In India, there is only single citizenship. An Indian is a citizen of India only. He is not a citizen of any Indian state. Single citizenship is meant to strengthen national unity and national integration. Whereas in the United States of America, there is double citizenship. An American is a citizen of America and at the same time he is also a citizen of the 50 States of America.

## Fundamental Duties

- Originally Fundamental Duties did not form part of the Constitution. Ten Fundamental Duties were inserted in Part IV A of the Constitution by the **42nd Amendment Act, 1976** upon the recommendation of the **Swaran Singh Committee**.
- A new Article - Article 51-A enumerates originally ten in number, the fundamental duties were increased to eleven by 86th Constitutional Amendment Act, 2002. These duties are assigned only to citizens and not to aliens. These duties are not justifiable, but, in case of conflict, they will prevail over Fundamental Rights.

## Emergency Provisions

- The Constitution makers also foresaw that there could be situations when the government could not be run as in ordinary times. To cope with such situations, the Constitution elaborates on emergency provisions. *There are three types of emergency*
  - Emergency caused by war, external aggression or armed rebellion (Article 352).
  - Emergency arising out of the failure of constitutional machinery in states (Article 356).
  - Financial Emergency (Article 360).

### Basic Structure Doctrine

The basic structure doctrine is an Indian judicial principle that the Constitution of India has certain basic features that cannot be altered or destroyed through amendments by the Parliament. The basic structure doctrine applies only to constitutional amendments not to ordinary Acts of Parliament, which must itself be in conformity with the Constitution. The basic features of the Constitution have not been explicitly defined by the Judiciary. At least, 20 features have been described as "basic" or "essential" by the Courts in numerous cases. Some of the features of the Constitution termed as "basic" are as follows

- Supremacy of the Constitution
- Rule of law
- The principle of Separation of Powers
- The objectives specified in the Preamble to the Constitution
- Judicial Review
- Articles 32 and 226
- Federalism
- Secularism
- The Sovereign, Democratic, Republican structure
- Freedom and dignity of the Individual
- Unity and integrity of the Nation
- The principle of equality, not every feature of equality, but the quintessence of equal justice
- The "essence" of other Fundamental Rights in Part III
- The concept of social and economic justice - to build a Welfare State
- The balance between Fundamental Rights and Directive Principles of state policy
- The Parliamentary system of Government
- The principle of free and fair elections
- Limitations upon the amending power conferred by Article 368
- Independence of the Judiciary
- Effective access to Justice
- Powers of the Supreme Court under Articles 32, 136, 141, 142

# Self Check

## Build Your Confidence

1. The Indian Parliamentary System is different from the British Parliamentary System, in that India has
  - (a) both a real and nominal executive
  - (b) a system of collective responsibility
  - (c) bicameral legislature
  - (d) the system of judicial review
2. India has been described by the Constitution as
  - (a) a federation of states
  - (b) quasi-federal
  - (c) a union of states
  - (d) None of these
3. In which of the following points is the Indian Constitution similar to that of USA?
  - (a) Rule of Law
  - (b) Fundamental Rights
  - (c) DPSP
  - (d) Rigid Constitution
4. There is a 'Parliamentary System of Government' in India because the [IAS 2015]
  - (a) Lok Sabha is elected directly by the people.
  - (b) Parliament can amend the Constitution
  - (c) Rajya Sabha can't dissolved
  - (d) Council of Ministers is responsible to the Lok Sabha.
5. Consider the following statements. A constitutional government is one which. [IAS 2014]
  1. Places effective restrictions on individual liberty in the interest of state authority.
  2. Places effective restrictions on the authority of the state in the interest of individual liberty.

Which of the statements(s) given above is/are correct?

  - (a) Only 1
  - (b) Only 2
  - (c) Both 1 and 2
  - (d) Neither 1 nor 2
6. The cardinal features of political system in India are [IAS 2009]
  1. It is a democratic republic.
  2. It has a parliamentary form of government.
  3. The supreme power vests in the people of India.
  4. It provides for a unified authority.

Select the correct answer using the codes given below

  - (a) 1 and 2
  - (b) 1, 2 and 3
  - (c) 2, 3 and 4
  - (d) All of these
7. Which one of the following is a basic feature of the Presidential Government?
  - (a) Rigid Constitution
  - (b) Single Executive
  - (c) Supremacy of the Legislature
  - (d) Residual Powers of the State
8. Which of the following are the common features of a Federal Constitution?
  1. A written and rigid Constitution.
  2. Division of power between the centre and states
  3. Separation of powers between the legislature and the executive.
  4. Bicameral national legislature.

Select the correct answer using the codes given below

  - (a) 2, 3 and 4
  - (b) 1, 3 and 4
  - (c) 1, 2 and 4
  - (d) All of the above
9. The Unitary System of Government possesses which of the following advantages?
  - (a) Greater adaptability
  - (b) Strong centre
  - (c) Greater participation by the people
  - (d) Lesser chance of authoritarianism
10. The most essential feature of the parliamentary form of government is the
  - (a) sovereignty of the Parliament
  - (b) written Constitution
  - (c) accountability of the executive to the legislature
  - (d) independent judiciary
11. Which of the following countries have an Unwritten Constitution?
  - (a) USA
  - (b) UK
  - (c) India
  - (d) Pakistan
12. Which one of the following determines that the Indian Constitution is federal?
  - (a) A written and rigid Constitution
  - (b) An Independent Judiciary
  - (c) Vesting of residuary powers with the centre
  - (d) Distribution of powers between the centre and the states
13. The basic structure theory of the Constitution of India implies that
  - (a) certain features of the Constitution are so essential to it that they cannot be abrogated.
  - (b) Fundamental Rights cannot be abridged or taken away.
  - (c) the Constitution cannot be amended except in accordance with the procedure prescribed in Article 368.
  - (d) the Preamble of the Constitution cannot be amended for it is not part of the Constitution and at the same time represents its real spirit.



1. (d)    2. (c)    3. (b)    4. (d)    5. (b)    6. (d)    7. (b)    8. (c)    9. (b)    10. (a)  
11. (b)    12. (d)    13. (a)

# Chapter three

## The Preamble

*The Preamble of the Indian Constitution constitutes the essence of the philosophy upon which the whole constitutional structure is based. The Preamble is key to unravel the minds of makers of the Constitution and embodies the ideals and aspirations of the people of India.*

### The Origin of the Preamble

- The Preamble contains the summary of the Constitution. The Preamble is as much inspired by the cherished political values practiced for ages throughout the history of Indian civilisation as well as the contemporaneous political systems elsewhere.
- Indeed, much of the substance of the Preamble has been the outcome of the steadfast freedom struggle that our leaders carried upon aiming at not just throwing out the colonial cocoon, but integrating the nation in the quest for justice, equality and democracy.
- The **Objective Resolution**, proposed by Pandit Nehru and passed by the Constituent Assembly, ultimately became the Preamble to the Constitution of India.

### The Text of the Preamble

- “WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC and to secure to all its citizens;
- **JUSTICE**, Social, Economic and Political;
- **LIBERTY** of Thought, Expression, Belief, Faith and Worship;
- **EQUALITY** of status and of Opportunity; and to promote among them all;

- **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do Hereby Adopt, Enact and Give to Ourselves this Constitution.”

### Importance of the Preamble

- The enacting words ***we, the people of India, do hereby give to ourselves this Constitution***, signifies the democratic principle that the source of power, authority and legitimacy comes from and ultimately vests in the people of India.
- It emphasises that the Constitution is neither a handout given by any outside power nor is based on any theological tenet, but is enacted by the people of India for the people of India and of the people of India. It declares India as a sovereign, socialist, secular, democratic and republic.
- It specifies justice, liberty, equality and fraternity as the objectives of Indian Constitution.
- However, the Preamble is neither a source of power nor a prohibition upon powers of legislature. Also, it is not enforceable in courts of law.
- Thus, the Preamble of the Constitution of free India remains the most beautifully worded prologue. It contains the basic ideals, objectives and philosophical postulates the Constitution of India stands for. In short, it is the reflection of Indian Constitution.

## Terms Used in the Preamble

Some important terms used in Preamble are as follows:

### Sovereign

- The word sovereign means supreme or independent. India is internally and externally sovereign-externally free from the control of any foreign power and internally, it has a free government which is directly elected by the people and makes laws that govern the people.
- The doctrine of **popular sovereignty** is also one of the basic structure of Constitution of India. Hence, citizens of India also enjoy sovereign power to elect their representatives in elections held for Parliament, State Legislature and Local Bodies as well.
- India's membership in commonwealth and UNO in no way constitute a limitation on its sovereignty.

### Socialist

- The word 'socialist' was added to the Preamble by the 42nd Amendment.

*It implies social and economic equality which are as follows:*

- **Social Equality** In this context means the absence of discrimination on the grounds only of caste, colour, creed, sex, religion or language. Under social equality, everyone has equal status and opportunities.
- **Economic Equality** In this context means that the state will endeavour to make the distribution of wealth more equitable and provide a decent standard of living for all. This in effect emphasises a commitment towards the formation of a welfare state. India has adopted a socialistic and mixed economy and the state has framed many laws to achieve the aim.

### Secular

- The word secular was also inserted into the Preamble by the 42nd Constitutional Amendment, 1976. It implies equality of all religions and religious tolerance.
- The meaning of secularism in the West is different from that of India. In the West secularism implies complete separation between state and religion. In India secularism means that the state shall respect all religions equally and there will be no special provisions for any religion. State will give its commitment to religious freedom and worship to everyone.
- India therefore does not have an official state religion. Every person has the right to preach, practice and propagate any religion, they choose. The government must not favour or discriminate against any religion. It must treat all religions with equal respect. All citizens, irrespective of their religious beliefs are equal in the eyes of law. No religious instruction is imparted in government schools.
- The Supreme Court in the **SR Bommai vs Union of India** held that secularism was an integral part of the basic structure of the Constitution.

### Democratic

- The first part of the Preamble **We, the people of India** and its last part **give to ourselves this Constitution** clearly indicate the democratic spirit involved even in the Constitution.
- The people of India elect their governments at all levels (Union, State and Local) by a system of universal adult suffrage; popularly known as **one man one vote**.
- Every citizen of India, who is 18 years of age and above and not otherwise debarred by law, is entitled to vote.
- Every citizen enjoys this right without any discrimination on the basis of caste, creed, colour, sex, religion or language.
- The word democratic indicates not only political democracy, but also social and economic democracy.

### Republic

- It means that the political sovereignty is united with the people and not in a single hand like a king.
- As opposed to a monarchy, in which the head of state is appointed on hereditary basis for a lifetime or until he/she abdicates from the throne, a democratic republic is an entity in which the head of the state is elected, directly or indirectly, for a fixed tenure.
- The President of India is indirectly elected by an electoral college for a term of 5 years.
- The post of the President of India is not hereditary and is open to all citizens.

## Values Enshrined in the Preamble

*Values Enshrined in the Preamble are as follows:*

### Justice

- The ideal of justice embodied in the Constitution is of integrated and holistic kind. It envisages political justice, social justice and economic justice. Political justice is the equality of political rights and access to all political offices, social justice means equal treatment of all citizens without any social discrimination based on caste, colour, race, religion and sex.
- Economic justice is non-discrimination on the basis of economic factors. It also includes removal of inequalities in income, wealth and property. Social and economic justice together is called as the **distributive justice**. Achieved if the policies of the state are directed largely towards political democracy, i.e., granting voting rights, liberties etc.
- This requires that the state must steer the society-building through welfare policies aiming at the betterment of the poor and dispossessed lot.

## Liberty

- It means freedom or the free will of the individual to pursue his/her interests. It means that an individual cannot be arbitrarily restricted to do or profess something unless there are valid reasons to do so.
- The Preamble mentions these freedoms and rights as freedom of thought, expression, belief, faith and worship and these are guaranteed against arbitrary interference by the state.

## Equality

- It means equal treatment under law irrespective of the status of the individual.
- Constitution aims to secure these objects by prescribing the non-discrimination based on caste, creed, religion and sex etc.
- Fundamental Rights under the Articles 14, 15, 16, 17 and 18 are based on the principle of equality.

## Fraternity

- It refers to the common brotherhood of all Indians.
- It asserts that social divisions should be removed and the identity of belongingness of Indian Nationality is nurtured.
- Fraternity is promoted by the Constitution through the System Single Citizenship and Fundamental Duties.
- The Preamble declares that fraternity has to assure, the dignity of the individual and the unity and integrity of the nation. The word *integrity* has been added to the Preamble by the 42nd Constitutional Amendment 1976.

## Preamble as Part of the Constitution

- The Preamble though not an operative part of the Constitution, aids in the legal interpretation where the language of the Constitution is found ambiguous.
- It declares the basic type of government and policy which is sought to be established in the country.
- The Constitution being a legal document, the date of adoption is clearly mentioned in the Preamble to the Indian Constitution.

- In legal parlance, the Preamble connotes, the preface and introductory part of any legal political doctrine and is conventionally not treated as the executive part of it.
- The executive part includes the detailed provisions, articles and clauses that have a legal effect and can be enforced with authority. The Preamble is conceived to be more of visionary objective.
- Riding upon this line of thinking the Supreme Court had in *Berubari Union Advisory Opinion Case* (1960), indicated that the Preamble of the Indian Constitution too cannot be treated as a part of the Constitution. However, in the *Kesavananda Bharati vs State of Kerala Case* (1973), the Supreme Court reversed the opinion and pronounced that the Preamble is a part of the Constitution and the values enshrined must be the fundamental guiding principles for governance.
- In the *LIC of India Case (1995)*, the Supreme Court again held that the Preamble is an integral part of the Constitution.
- Preamble was enacted by the Constituent Assembly after the rest of Constitution was already enacted because they want to ensure that it was in conformity with the Constitution as adopted the Constituent Assembly.

## Amendment in the Preamble

- Since the Preamble is the part of the Constitution as ruled in Kesavananda Bharati Case (1973). It is subject to the amending power of the Parliament as any other provisions of the Constitution, provided the basic structure of the Constitution as found in the Preamble is not destroyed.
- The Preamble has been amended only once so far in 1976 by the 42nd Constitutional Amendment Act, which has added three new words **Socialist**, **Secular** and **Integrity** to the Preamble.
- The amendment is based upon the recommendations of the *Swaran Singh Committee*, an internal committee set-up by the Indian National Congress.

# Self Check

## Build Your Confidence

1. 'Economic Justice' as one of the the objectives of Indian Constitution has been provided in [IAS 2013]  
(a) the Preamble and Fundamental Rights  
(b) the Preamble and the Directive Principles of State Policy  
(c) the Fundamental Rights and the Directive Principles of State Policy  
(d) None of the above
2. Which one of the following correctly explains the meaning of 'Socialist' in the Preamble?  
(a) Nationalisation of all means of production  
(b) Abolition of private property  
(c) Socialistic pattern of society  
(d) Eradication of exploitation and vested interest
3. Which of the following are the significances of the Preamble to the Constitution?  
1. It specifies the objectives of Indian Constitution.  
2. It contains the date of enactment of the Constitution.  
3. It declares the ideals and aspirations of Indian citizen.  
4. It declares the nature of Indian nation.  
**Select the correct answer using the codes given below**  
(a) 1 and 2 (b) 1 and 3  
(c) 1, 2 and 3 (d) All of these
4. Consider the following statements about the Preamble of the Constitution  
1. The objectives resolution proposed by Pt Nehru ultimately became the Preamble.  
2. It is not justiciable in nature.  
3. It cannot be amended.  
4. It cannot override the specific provisions of the Constitution.  
**Which of the statements given above are correct?**  
(a) 1 and 2 (b) 1, 2 and 4  
(c) 1, 2 and 3 (d) 2, 3 and 4
5. Which of the following were mentioned in the Preamble to the Indian Constitution?  
1. Sovereign 2. Secular  
3. Democratic 4. Republic  
5. Socialist  
**Select the correct answer using the codes given below**  
(a) 1, 2 and 3 (b) 2, 4 and 5  
(c) 1, 2, 3 and 4 (d) All of these
6. Indian Constitution declares India a Secular State. This means that  
(a) religious worship is not allowed  
(b) religions are patronised by the state  
(c) the state regards religion as a private affair of the citizen and does not discriminate on this basis  
(d) None of the above
7. Consider the following statements  
1. Preamble is not a part of the Constitution.  
2. Preamble can be amended only by the procedure mentioned under the Article 368.  
3. The words socialist, secular and integrity were added in 1976 to the Preamble.  
**Which of the statement(s) given above is/are correct?**  
(a) 1 and 2 (b) 2 and 3  
(c) Only 1 (d) All of these
8. Consider the following words  
1. Socialist  
2. Democratic  
3. Sovereign  
4. Secular  
**Choose the response that gives the correct order in which these words occur in the Preamble**  
(a) 3, 1, 4, 2 (b) 3, 4, 1, 2  
(c) 3, 4, 2, 1 (d) 4, 2, 1, 3
9. The word 'Socialist' in the Preamble, imply which of the following principles?  
1. Social equality  
2. Economic equality  
3. Political equality  
**Select the correct answer using the codes given below**  
(a) Only 1 (b) 2 and 3  
(c) 1 and 2 (d) All of these
10. Fraternity as mentioned by the Preamble is promoted by the Constitution through,  
1. Single Citizenship  
2. Fundamental Duties  
3. Fundamental Rights  
**Select the correct answer using the codes given below**  
(a) 1 and 3 (b) 1 and 2  
(c) 2 and 3 (d) All of these



1. (b) 2. (d) 3. (d) 4. (b) 5. (d) 6. (c) 7. (b) 8. (a) 9. (c) 10. (b)

# Chapter four

## The Union and Its Territory

*'India, that is Bharat, shall be a Union of States'. India has opted for the federal form of government in tandem with its historical-political legacy and due to its sheer size and socio-cultural diversities. However, the word 'Federation' does not find mention in the Constitution anywhere.*

### A Union of States

- The term Union of States was suggested by Dr BR Ambedkar, which indicates two things, first, the Indian federation is not the result of an agreement among the states and second, the Units/States do not have right to secede from the Union.
- Union of India includes only the states which share federal powers with the centre. However, the drawing of state boundaries has been solely vested with the Union. Thus, India is an indestructible Union of destructible states.
- The expression 'Union of India' needs to be distinguished from the expression 'Territory of India'. While the Union of India includes only the states which share federal powers with the centre, Territory of India includes the entire territory over which the sovereignty of the country is exercised. Apart from the states, the territory of the country includes the Union Territories and other territories acquired by India.
- Articles 1 to 4 under part-I of the Constitution deal with the Union and its territory.
- The 1st Schedule of the Constitution contains the name of the State and Union Territories and their territorial extent. At present there are **29 states and 7 Union Territories**. The provisions of the Constitution pertaining to the states are applicable to all the states (except Jammu and Kashmir) in the same manner.

### Establishment OR Formation of New States

- **Article 2**, relates to the admission or establishment of new states that are not part of the Union of India.
- **Article 3** deals with the formation of a new state out of the territories of the existing states.
- Parliament, under Article 3, can increase or diminish the area of any state or alter the boundaries or change the name of any state.
- The Bill introducing the above changes should be introduced in the Parliament with the prior recommendation of President.
- Before introducing in the Parliament, the President has to refer the Bill to the concerned state legislature for its views within a specified period. The Parliament is not bound by the views of the concerned states.
- In case of Union territories no reference need to be made to concerned legislature.
- **Article 4** states that Laws made for admission or establishment of new states (under Article 2) and formation of new states and alteration of areas, boundaries or names of existing states (under Article 3) are not deemed to be Constitutional Amendment under **Article 368**. Such Laws passed by a simple majority and by ordinary legislative process.
- (Under Article 2) The Constitution has provided for acquisition of territory and admission of new states, but there is no provision for ceding territory to a foreign country. On a presidential reference on **Berubari Union** (1960) the Supreme Court held that territory can be ceded only by a Constitutional Amendment. The 9th Amendment Act was used to cede part of Berubari Territory to Pakistan.
- Being a sovereign state, India can acquire foreign territories according to the modes recognised by international law.
- Also the exchange of enclaves under Indo-Bangladesh border pact at requires a Constitutional Amendment.

## Post Independence State Reorganisation

### Integration of Princely States

- At the time of independence, Princely states had three options viz, joining India, Joining Pakistan or remaining independent. Of the 552 Princely states situated within the geographical boundaries of India, 549 Joined India and the remaining three (Hyderabad, Junagarh and Kashmir) refused to Join India. However, in the course of time, they were also integrated with India-Hyderabad by means of police action, Junagarh by means of referendum and Kashmir by the Instrument of accession.

### Three Categories of States

- Prior to 1953, India was territorially divided into three types of states:
  - The **Part A** states, which were the former governors' provinces of British India, were ruled by an elected Governor and State Legislature. The 9 Part A states were Assam, West Bengal, Bihar, Bombay, Madhya Pradesh (formerly Central Provinces and Berar), Madras, Orissa (Odisha), Punjab and Uttar Pradesh (formerly United Provinces).
  - The **Part B** states were former princely states or groups of princely states, governed by a Rajpramukh and an elected legislature. The Rajpramukh was appointed by the President of India. The 9 Part B states were Hyderabad, Saurashtra, Mysore, Travancore-Cochin, Madhya Bharat, Vindhya Pradesh, Patiala and East Punjab States Union (PEPSU) Rajasthan and Jammu and Kashmir.
  - The **Part C** states included both the former Chief Commissioners' provinces and princely states and were governed by a Chief Commissioner. The Chief Commissioner was appointed by the President of India. The 10 Part C states included Delhi, Kutch, Himachal Pradesh, Bilaspur, Coorg, Bhopal, Manipur, Ajmer-Mewar, Tripura and Cooch-Bihar.

### Committee/Commission for State Reorganisation

- The all Party Conference headed by Motilal Nehru had pitched for linguistic basis of states in 1928 itself.
- After Independence following committees were constituted:

#### Dhar Commission

- The Government of India appointed the **Linguistic Provinces Commission** under the Chairmanship of SK Dhar in June, 1948, to study the issue of the reorganisation of the states on linguistic basis.
- The Dhar Committee recommended that administrative convenience would outweigh any other consideration for reorganisation of states. This would be beneficial for better governance. Thus, the Dhar Commission categorically rejected the basis of linguistic formation of states.

#### JVP Committee

- The Congress, in its Jaipur Session in 1948, also appointed a 3 member committee to consider the recommendations of the Dhar Commission.
- The Committee was popularly known as the **JVP Committee** after the names of its 3 members- **Jawaharlal Nehru, Vallabhbhai Patel** and **Pattabhi Sitarammaiah**.
- The Committee rejected language as the basis for the reorganisation despite popular support for it. It also concurred that such reorganisation might destabilise national integration.

#### Linguistic Movements

Political movements for the creation of new, linguistic based states developed around India in early 1950s.

A 'fast unto death' protest by **Sriramulu** stirred the regional agitation. Indeed, Sriramulu died out of fasting in cause of statehood for Telugu speaking people. Owing to the popular demand, the 16 Northern, Telugu-speaking districts of Madras State became the new State of Andhra in October, 1953.

**Andhra** is the first state to be created on linguistic basis in India. Similar movements also followed in Mysore, Bombay, Kerala regions for creation of linguistic states.

#### The State Reorganisation Commission (Fazl Ali Commission)

- In December 1953, Prime Minister Jawaharlal Nehru appointed the States Reorganisation Commission to prepare for the creation of states on linguistic lines. This was headed by **Justice Fazl Ali** with **HN Kunzru** and **KM Pannikar** as members.
- The efforts of this Commission were overseen by Govind Ballabh Pant, who served as Home Minister from December 1954.
- The Commission submitted a report in 1955, recommending the reorganisation of India's states on linguistic basis.
- But is rejected the theory of 'one language-one state'. Its view was that unity of India should be regarded as the primary consideration in any redrawing of country's political units.
- It identified four major factors that can be taken into account of any scheme of reorganisation of states:
  - Preservation and strengthening of the unity and security of the country.
  - Linguistic and cultural homogeneity
  - Financial, economic and administrative considerations
  - Planning and promotion of welfare of the people in each state as well as of the nation as a whole.

## States Created by State Reorganising Committee in 1956

- **Andhra Pradesh** Andhra was renamed Andhra Pradesh and enlarged by the addition of the erstwhile Telangana region of erstwhile Hyderabad state.
- **Bombay State** The state was enlarged by the addition of Saurashtra and Kutch, the Marathi speaking districts of Nagpur Division of Madhya Pradesh and the Marathwada region of Hyderabad. The Southernmost districts of Bombay were transferred to Mysore state.
- **Kerala** Formed by the merger of Travancore-Cochin state with the Malabar District of Madras state and adding Southern part of Travancore (Kanyakumari) to Madras state.
- **Madhya Pradesh** Madhya Bharat, Vindhya Pradesh and Bhopal were merged into Madhya Pradesh and the Marathi-speaking districts of Nagpur division were transferred to Bombay state.
- **Madras State** The state was reduced to its present boundaries by the transfer of Malabar District to the new State of Kerala. The Southern part of Travancore (Kanyakumari district) was added to the state. (The state was renamed Tamil Nadu in 1969).
- **Mysore State** Enlarged by the addition of Coorg state and the Kannada speaking districts from Southern Bombay state and Western Hyderabad state.
- **Punjab** The Patiala and East Punjab States Union was merged into Punjab.
- **Rajasthan** Rajputana was renamed Rajasthan and enlarged by the addition of Ajmer-Mewara States.

## Andhra Pradesh Reorganisation Act 2014

- Commonly called **Telangana Act**, it bifurcates the Andhra Pradesh state into Telangana and residuary Andhra Pradesh. The new state will come into effect on 2nd June, 2014. The act purportedly address the grievances of Telangana proponents resulting from violation of Gentleman's Agreement, Hyderabad will remain as common capital under Governor supervision till new capital for Andhra Pradesh is developed.
- The Act consists of all aspects of division of assets and liabilities, finalises the boundary of proposed new states and status of Hyderabad.

## Demand for Newer and Smaller States

- Of late, there are many demands for new states. e.g. Vidharbha (Maharashtra), Bodoland (Assam), Gorkhaland (West Bengal), Kodagu (Karnataka), Puducherry, Harit Pradesh (Uttar Pradesh), Delhi etc. All the demands cannot be met as it would lead to proliferation of states to a point of federal burdens; they are economically unviable; national unity would be threatened; small states are not necessarily better governed as seen in the North-East; administrative problems about creation of institutions like High Court, Secretariat etc the costs of setting up a capital etc, to name some problems of creating new states.

## Why do Such Demands Arise?

- The relative under development of a particular region as compared to the other regions of the same state.
- Lack of participation in mainstream politics and decision-making from a particular region.
- Distinct cultural identity based on language, tribe etc existing in a particular pocket of the state. Distance from the power of centre in the state leading to problem of administrative inefficiency and sense of alienation among the people.
- Politics of vote bank and rise of regional parties like Telangana Rashtriya Samiti, Gorkhaland National Front etc.

## Timeline of Reorganisation of States and Union Territories after 1956

<i>Maharashtra and Gujarat</i>	Both states were come into exist in 1960. The bilingual state Bombay was divided into two-Maharashtra for Marathi speaking people and Gujarat for Gujarati speaking people.
<i>Dadra and Nagar Haveli</i>	The portuguese ruled this territory. But in 1961 it was converted into Union Territory of India by 10th Constitution Amendment Act, 1961.
<i>Goa, Daman and Diu</i>	India acquired these three territories from the portuguese by means of a police action in 1961. It became Union Territory by the 12th Constitutional Amendment Act, 1962.
<i>Puducherry (Pondicherry)</i>	The territory of Puducherry comprises the former French establishments in India known as Puducherry. Karaikal, Mahe and Yanam. It became an Union Territory in 1962 by 14th Constitutional Amendment Act.
<i>Nagaland</i>	It was carved out from the State of Assam by the State of Nagaland Act, 1962. State came into existence in 1963.
<i>Haryana</i>	It was carved out from the State of Punjab by the Punjab (Reorganisation) Act, 1966.
<i>Himachal Pradesh</i>	The Union Territory of Himachal Pradesh was elevated to the status of state by the State of Himachal Pradesh Act, 1970. It came into existence in 1971.
<i>Meghalaya</i>	First carved out as a sub-state within the State of Assam by 23rd Constitutional Amendment, 1969. Later, in 1971, it received the status of a full-fledged state by the North-Eastern Areas (Reorganisation) Act, 1971.
<i>Manipur and Tripura</i>	Both these states were elevated from the status of Union Territories by the North-Eastern Areas (Reorganisation) Act, 1971.

Karnataka	Created from the Princely State of Mysore by the State Reorganisation Act, 1956. It has been renamed Karnataka in 1973.
Sikkim	It was given first the status of Associate State by the 35th Constitutional Amendment Act, 1974. It got the status of a full state in 1975 by the 36th Amendment Act, 1975.
Mizoram	It was elevated to the status of a full state by the State of Mizoram Act, 1986. 1st came into existence in 1987.
Arunachal Pradesh	It received the status of a full state by the State of Arunachal Pradesh Act, 1986. It came into existence in 1987.
Goa	It was separated from the Union Territory of Goa, Daman and Diu and was made a full fledged state by the Goa, Daman and Diu Reorganisation Act, 1987. But Daman and Diu remained as Union Territory.
Chhattisgarh	Formed by the Madhya Pradesh Reorganisation Act, 2000 by dividing Madhya Pradesh on 1st November, 2000.
Uttarakhand	Formed by the Uttar Pradesh Reorganisation Act, 2000 by dividing Uttar Pradesh on 9th November, 2000.
Jharkhand	Formed by the Bihar Reorganisation Act, 2000 by dividing Bihar on 15th November, 2000.
Telangana	Formed by the Andhra Pradesh Reorganisation Act 2014 by bifurcation of Andhra Pradesh on 2nd June, 2014.

### Regionalism

Regionalism is a feeling of loyalty or an ideology among a section of people residing in particular geographical space characterised by unique language, culture etc.

In principle, regionalism need not be regarded as an unhealthy or antinational phenomenon as it provides a forum for voicing the multifaceted aspirations of local people.

The strengthening of Indian democracy after state reorganisation in 1956 has proved that regionalism per se is not a threatening phenomena. But, when it takes a militant, aggressive turn and encourages the growth of secessionist tendency, e.g. Khalistan Movement, it threatens the unity and integrity of the nation.

### Change of Names of Some States and Union Territories

Year	Changes
1950	The United Provinces was the first state to have a new name i.e. 'Uttar Pradesh'.
1969	Madras was renamed 'Tamil Nadu' by the Madras State (Alteration of Name) Act, 1968.
1973	<ul style="list-style-type: none"> <li>Mysore was renamed 'Karnataka', by the Mysore State (Alteration of Name) Act, 1973.</li> <li>Laccadive, Minicoy and Amindivi islands were renamed 'Lakshadweep', by the Laccadive, Minicoy and Amindiri islands (Alteration of Name) Act, 1973.</li> </ul>
1992	The Union Territory of Delhi was redesignated as the National Territory of Delhi, by the 69th Constitutional Amendment Act, 1991.

Year	Changes
2006	<ul style="list-style-type: none"> <li>Uttaranchal was renamed as 'Uttarakhand'.</li> <li>Pondicherry was renamed as 'Puducherry'.</li> </ul>
2011	Orissa was renamed as 'Odisha' by the Orissa (Alteration of Name) Act, 2011.

### Demand for Second States Reorganisation Commission

- There is strong need and demand for a Second States Reorganisation Commission, *on the following grounds*
  - There has been a lot of criticism of the linguistic basis of reorganisation.
  - Many states have been created from 1960 to 2014. There are demands to see if the reorganisation has worked well.
  - Many states have huge population, which might be unmanageable for a single state. For administrative convenience, it is necessary to bifurcate states such as Uttar Pradesh.
  - Many agitations for new states continue like, *Vidharbha, Gorkhaland* etc.

### Arguments for Smaller States

- It will increase administrative efficiency leading to proper utilisation of resources.
- Development will take place and regional disparities will become narrow.
- Small states are more effective for fiscal management.
- The popular demands, needs and problems of the region may be addressed efficiently.
- There shall be greater competition among states for more development.
- Smaller states will have more homogenous preferences.

### Arguments Against Smaller States

- It will open the Pandora's box creating demand for more states.
- It will add to the burden of administrative expense, which could have been utilised for development work.
- Smaller states do not necessarily show better economic performance, e.g. North Eastern States.
- It may increase inter-state conflicts for e.g. water.
- The disputes may lead to more and more demand for special packages from the Union.

# Self Check

## Build Your Confidence

**1. The Union of India includes which of the following?**

1. States
2. Union Territories
3. Territories acquired by India

**Select the correct answer using the codes given below**

- (a) Only 1 (b) 1 and 3  
(c) 1 and 3 (d) All of these

**2. Under Article 3, which power does the Parliament have in relation to the formation of a new state?**

1. It can increase the area of any state.
2. It cannot diminish the area of any new state.
3. It can alter the name of any state.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**3. Which of the following states are created by the State Reorganisation Commission of 1956?**

1. Assam
2. Odisha (Orissa)
3. Nagaland
4. Himachal Pradesh
5. Gujarat
6. West Bengal

**Select the correct answer using the codes given below**

- (a) 1, 2, 4 and 6 (b) 1, 3, 4, 5 and 6  
(c) 1, 2 and 6 (d) 2, 4 and 5

**4. How does the Constitution of India describe India as?**

- (a) A federation of States and Union Territories
- (b) A Union of States
- (c) Bharatvarsh
- (d) A federated nation

**5. Consider the following statements**

1. The term 'Union of States' has been used in the Constitution because Indian States have no right to secede.
2. The S K Dhar Commission preferred reorganisation of States on administrative convenience rather than on linguistic basis.
3. The Congress Committee under Pt Nehru, Sardar Patel and Pattabhi Sitaramayya did not favour linguistic basis for reorganisation of states.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 1 and 2 (c) 1 and 3 (d) All of these

**6. Which one of the following is the correct chronological order of the formation of the following as full states of Indian Union?**

[IAS 2007]

- (a) Sikkim-Arunachal Pradesh-Nagaland-Haryana
- (b) Nagaland-Haryana-Sikkim-Arunachal Pradesh
- (c) Sikkim-Haryana-Nagaland-Arunachal Pradesh

(d) Nagaland-Arunachal Pradesh-Sikkim-Haryana

**7. Consider the following statements**

1. Union of India comprises State and Union Territories of India.
2. Territory of India comprises States and Union Territories of India.
3. Union of India includes the States which are members of the Federal system.

**Which of the statement(s) given above is/are correct?**

- (a) 1 and 2 (b) Only 2 (c) 2 and 3 (d) Only 3

**8. Which of the following are the arguments against the creation of smaller states?**

1. Increased administrative expenses.
2. Increased interstate conflicts.
3. Competition among states for more development.
4. Ineffective fiscal management.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) 2 and 3  
(c) 3 and 4 (d) All of these

**9. The States of the Indian Union can be reorganised or their boundaries altered by**

- (a) An executive order of the Union Government with the consent of the concerned State Government
- (b) The Union Parliament by a simple majority in the ordinary process of legislation
- (c) Two-thirds majority of both the Houses of Parliament
- (d) Two-thirds majority of both the Houses of Parliament and the consent of the concerned State Legislature

**10. Arrange the following states in the chronological order of their creation as a state.**

1. Goa
2. Sikkim
3. Gujarat
4. Mizoram

**Codes**

- (a) 2, 1, 4, 3 (b) 2, 1, 3, 4  
(c) 3, 2, 1, 4 (d) 3, 2, 4, 1

**11. What happens to foreign territories which become part of India on Acquisition?**

1. Either be admitted to the Indian Union.
2. Constituted into new states under Article 5.
3. Merged into an existing state under Article 3(a) or 3(b).
4. Formed into Union Territory.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 4 (b) 2 and 3  
(c) 1 and 4 (d) 1, 2 and 3



1. (a)  
11. (c)

2. (c)

3. (c)

4. (b)

5. (d)

6. (b)

7. (c)

8. (a)

9. (b)

10. (d)

# Chapter five

## Citizenship

*A citizen is a person who enjoys full membership of the political community or state in which he ordinarily lives. Citizenship is conceived to be of contractual nature in Western liberal political discourses whereas it is largely treated as an organic part of the political community everywhere else.*

### Constitutional Provisions of Citizenship

- Part II of Indian Constitution (Articles 5-11) deals with Citizenship.
- Citizens are endowed with certain rights and duties that are naturally associated with their everyday lives. Citizens are different from aliens, who do not enjoy all the rights which are essential for full membership of a state.
- In India, there is a **single citizenship** i.e. citizenship of the Union of India. The Constitution (under Articles 5-8) provides for citizenship at the commencement of the *Constitution for the following persons*:
  - Domiciled in India and born in India.
  - Domiciled, not born in India but either of whose parents were born in India.
  - Domiciled, not born in India but ordinarily resident for more than 5 years.
  - Resident in India but migrated to Pakistan after 1st March, 1947 and later returned to India on resettlement permit.
  - Resident in Pakistan but who migrated to India before 19th July, 1948 or who came after that date but had resident in India for more than 6 months and got registered in the prescribed manner.
  - Resident outside India but who or either of whose parents or grandparents were born in India.

### Citizenship Act, 1955

- The Citizenship Act, (1955) provides for acquisition and loss of citizenship after the commencement of the Constitution. This Act has been amended so far five times in 1986, 1992, 2003, 2005 and 2015.

### Acquisition of Citizenship

- The act provides for the acquisition of Indian citizenship after the commencement of the Constitution in five ways, i.e. birth, descent registration, naturalisation and incorporation of territory.

#### By Birth

- Every person born in India on or after 26th January, 1950 shall be a citizen of India by law of soil, provided either or both of his/her parents are citizens of India at the time of his/her birth. But this law does not apply where his/her father is a diplomat of any other country or is an enemy alien at the time of his/her birth.

#### By Descent

- Broadly, a person born outside India on or after 26th January, 1950, is a citizen of India by descent if his/her either of the parents is a citizen of India at the time of that person's birth.

#### By Registration

- The prescribed authority may, on application, register as a citizen of India, any person who is not a citizen by virtue of Constitution or the provisions of the Citizenship Act.

*This mode of acquiring citizenship is available to any of the following categories:*

- Persons of Indian origin who are ordinarily resident in India for 7 years immediately before making an application for registration.
- Persons of Indian origin who are ordinarily resident in any country or place outside undivided India.
- Women who are or have been married to citizens of India. Minor children of persons who are citizens of India.

### By Naturalisation

- Citizenship by naturalisation can be acquired by making an application in the prescribed manner.

*The qualifications for naturalisation are the following*

- He must be a person of full age and capacity.
- He must not be a citizen of a country where Indian citizens are prevented from becoming citizens by naturalisation. He has renounced the citizenship of the other country.
- He has either resided in India or has been in Government service for 12 months before the date of making the application for naturalisation or during 7 years prior to these 12 months, he has resided or has been in the Government service for not less than 4 years.
- He must take an oath of allegiance.
- He is of a good character.
- He has an adequate knowledge of a language recognised in the eighth schedule to the Constitution.

### By Incorporation of Territories

- If any new territory becomes a part of India, after a popular verdict, the Government of India shall specify the person of that territory to be the citizen of India.

### Loss of Citizenship

- The Citizenship Act, 1955 also lays down three modes by which an Indian citizen may lose his/ her citizenship. *These are renunciation, termination and deprivation:*

#### Renunciation

- It is a voluntary act by which a person, after acquiring the citizenship of another country, gives up his Indian citizenship. This provision is subject to certain conditions.

#### Termination

- Takes place by operation of law when an Indian citizen voluntarily acquires the citizenship of another country. He automatically ceases to be an Indian citizen (Article 9).

#### Deprivation

- It is a compulsory termination of the citizenship of India obtained by registration or naturalisation, by the Government of India, on charges of using fraudulent means to acquire citizenship.

### The Citizenship (Amendment) Act, 2015

The Act seeks to amend Citizenship Act, 1955. *The major provisions of the Act are as follows:*

- In case of citizenship by naturalisation, the Act allows the Central Government to relax the requirement of 12 months stay or in service of government, if special circumstances exist. Relaxation upto 30 days may be permitted.

- The Act provides certain additional grounds for registering an overseas citizen of India card.
- The Act also introduces a new provision which allows the Central Government to register a person as an overseas citizen of India cardholder even, if she does not satisfy any of the listed qualifications, if special case exists.
- **The Act provides for merger of overseas citizen of India and persons of Indian origin scheme.** Thus, the Central Government may notify that persons of Indian origin cardholders shall be considered to be overseas citizen of India cardholders from a specified date.
- The Act also allows Central Government to cancel the overseas citizenship of India card where it is obtained by the spouse of an Indian citizen or overseas citizen of India cardholder if
  - marriage is dissolved by a court or
  - the spouse enters into another marriage even while the first marriage has not been dissolved.

### Citizenship (Amendment) Bill, 2019

This Bill will amend the Citizenship Act, 1955. The bill was introduced in Lok Sabha on 8th January, 2019. The Bill seeks to facilitate acquisition of citizenship by 6 identified minority communities namely Hindus, Sikhs, Jains, Buddhist, Christians, Parsis from Afghanistan, Pakistan and Bangladesh who came to India before 31st December 2014. This Act is not confined to the state of Assam. The Bill will apply to all States and Union Territories of the country. The Act will provide the assistance to persecuted migrants who have come through the western borders of country to states like Gujarat, Rajasthan, Delhi and other states.

### Nation Register of Citizen

The **National Register of Citizens** (NRC) is a register containing names of all genuine Indian citizens residing in India. The register was first prepared and its updation process was put into action after the 1951 Census of India. The NRC is now being updated in Assam to include the names of those residents (or other descendants) who appear in the NRC, 1951 or in any of the Electoral Rolls up to the midnight of 24th March, 1971 or in one of the other admissible documents issued up to mid-night of 24th March, 1971, which would prove their presence in Assam or in any part of India on or before 24th March, 1971.

The updation process of NRC started in the year 2013 under the strict monitoring and supervision of the Supreme Court of India. On mid-night of 31st Dec, 2017, Part Draft NRC was released and subsequently on 30th July, 2018, the complete Draft of NRC was released.

## Rights and Duties of Citizens

- Rights provided to citizens but not to aliens:
  - Rights under Articles 15, 16, 19, 29 and 30.
  - Right to vote, contest elections and hold public office.
- Article 16 and Article 326 are not available to even Overseas Citizens of India (OCI).
- Recently, the Government of India gave Non-Residents of India (NRIs) the Right to Vote. However, voting through postal ballots is not allowed. An NRI has to be present in the constituency, where he is registered as a voter, on the day of polling.
- Constitutional post can only be held by citizens of India and neither foreigners nor OCI/PIO.
- Duties of citizen but not of alien
  - to pay tax, respect national symbol, defend the country etc.
- In India, both citizen by birth and naturalisation are eligible for office of President. In USA only citizen by birth are eligible. Enemy aliens do not enjoy protection against arrest and detentions (Article 22).

## Indian Diaspora

- The Indian Diaspora is a generic term to describe the people who migrated from territories that are correctly within the borders of the Republic of India. It also refers to their descendants.
- According to the Ministry of Overseas Indian Affairs, India has the second largest diaspora in the world overseas Chinese.
- The overseas Indian Community estimated at over 25 million is spread across every major region in the world.

## Non-Resident Indians (NRIs)

- NRIs are those who have not acquired foreign citizenship but are ordinarily living in foreign countries and having Indian passport.

### Voting Rights to NRI

- In year 2012, on occasion of 10th PBD, Indian Government allowed Non-Resident Indians (NRIs) to vote and participate in election process, after registration of overseas electors under Representation of People Act, 1950.
- In January, 2015, government accepted the recommendations of Election Commission's empowered committee to allow e-ballots for NRIs.

### Comparison of People of Indian Origin (PIO) and Overseas Citizens of India (OCI) Card Holders

	PIO Card	OCI Card
Who is eligible	Any person <ul style="list-style-type: none"> <li>(i) Who at any time held an Indian passport or</li> <li>(ii) He or either of his parents or grandparents or great grandparents were born in and permanently resident in India as defined by GoI Act, 1935 provided neither was at any time a citizen of Bangladesh, Afghanistan, Bhutan, China, Nepal, Pakistan and Sri Lanka.</li> <li>(iii) He/She is spouses of above mentioned citizens.</li> </ul>	A foreign national who was eligible to become citizen of India on 26th January, 1950 or was citizen any time after or belonged to territory that became a part of India after 15th August, 1947 and his/her children, grandchildren provided his/her country allows dual citizenship in some form or other under local laws. He is not eligible for being citizen of Pakistan or Bangladesh.
Benefits	<ul style="list-style-type: none"> <li>• Can visit India without visa for 15 years from date of issue of PIO card.</li> <li>• One time registration with police authority if stay exceeds 180 days.</li> <li>• Parity with NRIs except in matters relating to acquisition of agricultural plantation properties.</li> <li>• No parity in sphere of political rights.</li> </ul>	<ul style="list-style-type: none"> <li>• A multiple entry, multipurpose life long visa for visiting India.</li> <li>• Exemption from registration with local police authority.</li> <li>• Parity with NRIs except in matters relating to acquisition of agricultural plantation properties.</li> <li>• No parity in sphere of political rights.</li> </ul>

- *The PIO card and OCI card has been merged with if fell from 9th January, 2015 and now only one OCI card with enhanced benefits is in existence.*

## Pravasi Bharatiya Divas

- Pravasi Bharatiya Divas (PBD) is celebrated on 9th January every year in India, to mark the contribution of overseas Indian community in the development of India.
- The day commemorates the arrival of Mahatma Gandhi in India from South Africa in 1915.
- Started in 2003, Pravasi Bharatiya Conference is

sponsored by the Ministry of Overseas Indian Affairs, Government of India the Confederation of Indian Industry (CII) and Ministry of Development of North-Eastern Region.

### 15th Pravasi Bharatiya Divas, 2019

The 15th Pravasi Bharatiya Divas (PBD) was held at Varanasi in January 2019. The theme of the PBD 2019 was 'Role of Indian Diaspora in Building a New India'. Its Chief Guest for this year's PBD was Prime Minister of Mauritius, Pravind Jugnauth.

# Self Check

## Build Your Confidence

**1. Which of the following are the conditions for obtaining citizenship by naturalisation in India?**

1. He must not be a citizen of a country where Indian citizens were prevented from becoming citizens by naturalisation.
2. He has renounced the citizenship of the other country.
3. He has an adequate knowledge of a language recognised by the Constitutions.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) Only 2  
(c) 1 and 3 (d) All of these

**2. Consider the following statements [IAS 2005]**

1. Constitutions of India and the United States of America envisage a dual policy (The Union and the States) but a single citizenship.
2. A naturalised citizen of India can never be deprived of his citizenship.

*Which of the statement(s) given above is/are correct?*

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) None of these

**3. Under which of the following conditions are citizenship be provided in India?**

1. One should be born in India.
2. Either of whose parents was born in India.
3. Who has been ordinary resident of India for not less than 5 years.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) 2 and 3  
(c) Either 1 or 2 (d) All of these

**4. Which of the following rights are not available to non-citizens in India?**

1. Right under the Article 16
2. Right under the Article 15
3. Right under the Article 19
4. Right to vote
5. Right to hold public office
6. Right under Articles 29 and 30

*Select the correct answer using the codes given below*

- (a) 1, 2 and 3 (b) 4 and 5  
(c) 1, 2, 4 and 5 (d) All of these

**5. A person born in India in the State of Kerala on or after 26th January, 1950 will be a citizen of**

- (a) India and then Kerala  
(b) Kerala and then India  
(c) India  
(d) India, after attaining the age of 18 years

**6. Consider the following statements regarding the Pravasi Bharatiya Divas (PBD).**

1. Pravasi Bharatiya Divas is celebrated in India on 9th January each year.
2. It commemorates the return of Mahatma Gandhi from South Africa to India.
3. To celebrate PBD was taken in accordance with recommendations of committee on the Indian diaspora under chairmanship of Dr LM Singh's.
4. It is a platform to the overseas Indian community to engage with the Government of India for mutual beneficial activities.

*Which of the statements given above are correct?*

- (a) 1 and 2 (b) 1, 2 and 4  
(c) 2, 3 and 4 (d) All of these

**7. In which of the following ways can Indian citizenship be acquired?**

1. By Descent
2. By Naturalisation
3. By Registration
4. By Birth

*Select the correct answer using the codes given below*

- (a) 1 and 4 (b) 1, 2 and 4  
(c) 1, 3 and 4 (d) All of these

**8. Which of the following are the benefits available to Overseas Citizenship of India (OCI) card holder?**

1. Multi-purpose, multiple entry, lifelong visa.
2. Exemption from registration with local police authority for any length of stay in India.
3. Can acquire non-agricultural and plantation property in India.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) 2 and 3  
(c) 1, 2, 3 (d) None of these

**9. A citizen acquiring citizenship through naturalisation**

- (a) may belong to any country without qualification  
(b) may keep the citizenship of any other country  
(c) must either reside in India or serve the Government of India for at least 1 year immediately preceding the date of application  
(d) may acquire it in special cases only

**10. The detailed provisions regarding acquisition and termination of Indian citizenship are contained in the Citizenship Act which was passed by**

- (a) The Indian Parliament in 1955  
(b) The Indian Parliament in 1950  
(c) The British Parliament in August, 1948  
(d) The Constituent Assembly in 1949



1. (d) 2. (d) 3. (a) 4. (d) 5. (c) 6. (d) 7. (d) 8. (a) 9. (c) 10. (a)

# Chapter six

## Fundamental Rights

*Part III of the Indian Constitution contains a comprehensive list of 'Justiciable' Fundamental Rights, which has been described as the 'Cornerstone' and 'Magna Carta' of the Indian Constitution. Fundamental Rights are meant for promoting the ideal of political democracy Constitution.*

### Essential and Inalienable Rights

- The Fundamental Rights are deemed essential to protect the rights and liberties of the people against the encroachment of the power, delegated by them, to their government.
- The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination. They uphold the equality of all individuals, dignity of individuals, the larger public interest and unity of the nation.
- Fundamental Rights are regarded as fundamental because, they are 'basic laws' of a country. These are guaranteed by the Constitution and they are most essential for the attainment by the individual of his/her full intellectual, moral and spiritual status.
- Fundamental Rights are inalienable rights because they cannot be taken away from citizens in normal times.
- The concept of Fundamental Rights is inspired from the American Constitution where they are included in the Bill of Rights.
- Fundamental Rights include individual as well as group rights such as equality before law, freedom of speech, freedom of association etc.
- Only Articles 17 and 24 are the **absolute rights** with no restrictions. Right against discrimination [Article 15 (2)], Right against untouchability [Article 17] and Right against exploitation [Articles 23 and 24] can be enforced against the private individuals also.
- The objective behind the inclusion of the Fundamental Rights in the Indian Constitution is to establish 'a government of laws and not of men'.

### Nature of Fundamental Rights

- Fundamental Rights (FRs) are not absolute rights, they are restricted rights. The Constitution itself imposes certain restrictions on the individuals in the enjoyment of the FRs and also authorises Parliament to impose reasonable restrictions.
- *The grounds on which the FRs can be restricted, include the following :*
  - In the interest of sovereignty and security of India.
  - In the interest of public order, morality and decency.
  - In the promotion of well being of weaker sections in society including women, children, SCs, STs and OBCs.
  - In maintaining friendly relationship with other foreign nations.

### Definition of State (Article 12)

- **Article 12** defines the term 'State' for the purposes of Part III because the term 'State' has been used in different provisions concerning the Fundamental Rights. According to it, the State Includes-Government and Parliament of India ; Government and Legislature of States; All local authorities and all other authorities under the control of the Government of India.
- Thus, all public authorities including the elected representatives, judges and judicial officials, bureaucrats, autonomous institutions, public corporations and trusts, government universities and educational bodies etc come under the definition of 'State'.

## Definition of 'Laws'

### (Article 13)

- Under **Article 13**, all laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this part, shall, to the extent of such inconsistency, be void.
- The State shall not make any law which takes away or abridges the rights conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
- *In this article, unless the context otherwise requires the following :*
  - law includes any ordinance, order, by-law, rule, regulation, notification, custom or usage having in the territory of India, the force of law.
  - laws in force includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be there in operation either at all or in particular areas.
- However, this caused a major obstacle for the government to bring progressive welfare legislations even if that meant infringement of Fundamental Rights. Thus, in 1971, Indira Gandhi Government, to overcome the Supreme Court judgement, brought 24th Constitutional Amendment Act and inserted the phrase "Nothing in this article shall apply to any amendment of this Constitution made under Article 368."
- The implication of this is that constitutional amendments are not deemed to be 'laws' for the purpose of Article 13, but they are even more sacrosanct.

## Judicial Review and Fundamental Rights

- Judicial review is the power conferred on the Supreme Court and High Courts of India to declare a law unconstitutional, if it is inconsistent with any of the provisions of Part III of the Constitution, to the extent of the contravention.
- Article 13 provides for the judicial review of all the legislations in India, if it is in contravention with and any of the Fundamental Rights given under Part III of the Constitution.

## Classification of Fundamental Rights

- *The Constitution itself classifies the Fundamental Rights under 6 groups as follows:*

(i) Right to Equality	(iv) Right to Freedom
(ii) Right Against Exploitation	(v) Right to Freedom of Religion
(iii) Cultural and Educational Rights	(vi) Right to Constitutional Remedies

## Right to Equality (Articles 14-18)

### Equality Before the Law and Equal Protection of Law (Article 14)

- The state shall not deny to any person equality before the law or equal protection of the laws within the territory of India.
- **Equality Before the Law** It is a negative concept. This concept is borrowed from the British Constitution. It means 'no man is above law' and every person, whatever be his/her social status, is subject to the jurisdiction of the courts. The rule of equality before the law is, however, not an absolute rule and there are a number of exceptions to it. e.g. the President and Governors enjoy certain immunities and privileges.
- **Equal Protection of Law** It is a positive concept. This concept is borrowed from the US Constitution. It means that all persons in similar conditions/ circumstances shall be treated alike. There can be a discrimination between the groups, but not within the groups. Since, the state stands for the welfare of all sections of the society, it can make certain discriminations in favour of those who are less privileged.

### Prohibition of Discrimination on Certain Grounds (Article 15)

- **Article 15** directs the state not to discriminate against a citizen on the grounds only of race, caste, religion, sex or place of birth. The word 'only' indicates that the discrimination cannot be made merely on the ground that one belongs to a particular caste, religion, race etc. The state should provide equal opportunity for all similarly qualified and eligible candidates in any matters.
- The guarantee under Article 15 is available to the citizens only and not to every person as under Article 14.
- Article 15 (3), empowers the state to make special provisions for the protection of women and children. Article 15 (4), which was added by the 1st Constitutional Amendment Act 1951, enables the state to make special provisions for protection of the interests of the backward classes and is, therefore, an exception to Articles 15 and 29(2) of the Constitution.
- By 93rd Constitutional Amendment Act 2005, a new clause 15(5) has been added that provides for affirmative actions for socially and educationally backward classes in educational institutions, other than minority educational institutions.

### Equality of Opportunity in Matters of Public Employment (Article 16)

- **Article 16** states that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or residence be ineligible for or discriminated against in respect of, any employment or office under the state.

- The state is free to specify the qualifications. There cannot be any other ground for non-eligibility.
- *The Supreme Court in the Indra Sawhney's Case (popularly known as **Mandal Commission Case**) laid down the following points, which summarise the law on the issue of reservation are as follows :*
  - Under Article 16 (4), reservation can be made in favour of backward classes in the matter of employment.
  - Backwardness contemplated under Article 16 (4) is mainly social. It need not be both social and educational. Reservation should not exceed 50%.
  - The particular class should not be adequately represented in the services under the state.
  - Concept of Creamy Layer introduced income and post criteria to prevent advanced sections within the backward classes to take benefit of the Other Backward Classes (OBC) quota.
  - A permanent statutory body to be established to examine complaints of over-inclusion and under-inclusion in the list of OBCs.
- The Constitution (81st Amendment) Act, 2000 has added a new clause (4-B) in Article 16 of the Constitution, which seeks to end the 50% limit for the SCs/STs in backlog vacancies, which could not be filled up due to the non-availability of eligible candidates of these categories in the previous years.
- Under Article 16, the guarantee against discrimination is limited to 'employment' and 'appointment' under the state.
- Equal pay for equal work, although not expressly declared to be a Fundamental Right, is clearly a constitutional goal under Articles 14, 16 and 39 (c) of the Constitution and can be enforced by the courts in the cases of unequal scales of pay based on irrational classification.
- Later, when there was violence against members of Scheduled Castes (SCs) and Scheduled Tribes (STs), leading to brutalities such as mass murder, rape, arson, grievous injuries etc. Enactment of a special law for their protection was resorted to known as-Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to provide for strong punitive measures, which could serve as a deterrence. However, the act does not define 'Untouchability'.
- According to the Supreme Court, 'untouchability' should not be understood in its literal or grammatical sense. It is to be understood as the practice as it had developed historical.
- *Certain practices like,*
  - preventing dalits from using public resources, including common water resources.
  - preventing dalits from entering into places of worship which the ordinary people do.
  - calling dalits by denigrating names and such others are included as practice of untouchability.

### Abolition of Titles (Article 18)

- No title, not being a military or academic distinction, shall be conferred by the state.
- No citizen of India shall accept any title from any foreign state.
- No person who is not a citizen of India shall, while he holds any office of profit or trust under the state, accept without the consent of the President, any title from any foreign state.
- No person holding any office of profit or trust under the state shall, without the consent of the President accept any present, emolument or office of any kind from or under any foreign state.
- However, National Awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Sri do not come under the purview of Article 18 and thus, the state can accord such awards to eminent personalities. Nevertheless, the British Knighthood i.e. Sir is deemed to be a title and thus, no Indian citizen can accept it.

### Exceptions

- Residence can be made as a restriction for employment on the basis of historical aspects.
- Special favours can be given to the backward classes, which are not adequately represented.
- Religion can be a ground for discrimination in special cases. There are religious institutions taken over by the state, so the religious posts are reserved for the people of the same religious denomination.

### Abolition of Untouchability (Article 17)

- 'Untouchability' is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of 'untouchability' shall be an offence, punishable in accordance with the law.
- Constitution does not prescribe any punishment for the practice of untouchability, but it empower the Parliament to prescribe punishment by law. In this regard, the Parliament enacted the 'Untouchability (Offences) Act, 1955', which prescribes the punishment for the practice of untouchability. This act was amended by the 'Untouchability (Offences)' Act, 1976.

### Right to Freedom (Articles 19-22)

- Personal liberty is the most important of all the Fundamental Rights. Taken together these articles from 19 to 22 on personal liberties, provides the backbone of the chapter on the Fundamental Rights.

### The Six Freedom Rights (Article 19)

- *Article 19 (1) of the Constitution guarantees to the citizens of India the following 6 freedom rights :*
  - (i) Freedom of speech and expression.
  - (ii) To assemble peacefully and without arms.

- (iii) To form associations or unions or cooperative societies.
- (iv) To move freely throughout the territory of India.
- (v) To reside and settle in any part of the territory of India.
- (vi) To practice any profession, or to carry on any occupation, trade or business.
- Right to property (it was removed by the 44th Constitutional Amendment, 1978 and transferred to Article 300 A as a legal right).
- Freedom of movement throughout India can be restricted. Similarly, settlements in tribal regions may not be allowed.
- The right to form associations, unions etc., does not give right to strike, according to a Supreme Court ruling.
- The Indian Constitution does not provide for the freedom of press separately. It is implicit in Article 19, which grants freedom of speech and expression.

### Right Outside Part III in the Constitution

These rights are also known as Constitutional, Legal and Non-Fundamental Rights. *These are as follows :*

- Article 265      • No Tax shall be levied or collected except by authority of law
- Article 300      • A Right to Property
- Article 301      • Freedom of Trade, Commerce and inter course
- Article 326      • Right to Vote

### Protection in Respect of Conviction for Offences (Article 20)

- *Protection Under Article 20 is available against the following 3 types of convictions :*
  - (i) **Under Ex-post Facto Legislation** 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 charged as an offence, nor be subjected to a penalty greater than that, which might have been inflicted under the law in force at the time of the commission of the offence.
  - (ii) **Double Jeopardy**  
No person shall be prosecuted and punished for the same offence more than once.
  - (iii) **Prohibition Against self-incrimination** No person accused of any offence shall be compelled to be a witness against himself.
- But in case, a civil servant is dismissed on criminal charges, his dismissal does not come under double jeopardy and he could be well prosecuted further in the court.
- However, self-incrimination does not give the accused privilege of absolute silence. The accused is expected to co-operate to the investigating agencies by revealing certain details of evidences and information relating to crime or offence that took place. Thus, the accused cannot disallow authorities from taking his/her fingerprints, search of his/her residence etc.
- Under certain laws like the **Unlawful Activities Prevention Act**, (UAPA), the onus of proving the innocence lies on the accused rather than the prosecution proving the crime.

### Protection of Life and Personal Liberty (Article 21)

- According to Article 21, no person shall be deprived of his/her life and personal liberty except according to the procedure established by law.
- Article 21 cannot be suspended during emergency.
- Prior to 1980's, the judiciary had only looked at the procedure established by law aspect. However, in the **Maneka Gandhi Case** the Supreme Court held that it is not sufficient if the procedure alone is properly followed, the judicial review even extends to whether such law can be held valid on reasonable grounds. This concept is called 'due process of law', which is borrowed from the US. It connotes that judiciary shall be the final decider on validity of laws.
- Over the period, this Article 21 has undergone a sea change and has become the most important Fundamental Right. The Supreme Court, through a liberal interpretation of the Article has derived a number of inferred rights. The Article 21 stands not merely for the right to life and personal liberty, but also for the right to dignity and all other attributes of human personality that are essential for the full development of a person.
- The Supreme Court has reaffirmed its judgement in the **Maneka Gandhi Case** in the subsequent cases. *It has declared the following rights as part of Article 21*
  - Right to Dignified Life
  - Right to Free Education up to 14 years of age
  - Right Against Cruel Punishment
  - Right to Free Legal Aid and Right to Speedy Trial
  - Right to Health of Workers
  - Right Against Denial of Wages
  - Right to Healthy and Livable Environment
  - Right to Shelter for the Workers
  - Right to Travel Abroad
  - Right to Privacy
  - Right to Marry the Person of One's Choice
- According to Article 21, use of '3rd degree' method by police is violative of Article 21. Telephone tapping is an invasion on right to privacy, hence violates Article 21.
- Prevention of sexual harassment of working women comes under Article 21. It is the duty of the employer or any other responsible person at workplace to prevent sexual harassment of working women. The Supreme Court in the **Vishaka Case** held the above ruling.

### Even Animals have Rights Against Torture

The **Supreme Court** observed on May, 2014, that even bulls have rights against torture and it banned **Jallikattu** (bull fighting) and bullock cart racing in Tamil Nadu. The court also banned bullock cart racing in Maharashtra.

**Article 21** of the Constitution, while safeguarding the rights of humans, protects life and the word life has been given an expended definition and any disturbance from the basic environment which includes all forms of life, including animal life... fall within the meaning of **Article 21** of the Constitution."

### Right to Education (Article 21A)

- Under **Article 21A**, the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may law determine. Article 21A was inserted by the 86th Constitutional Amendment Act, 2002.
- The 86th Constitutional Amendment Act, 2002 also added a Fundamental Duties under **Article 51A** (k), to provide opportunities for education to his/her child or ward between the age of 6 to 14 years.

### Protection Against Arrest and Detention in Certain Cases (Article 22)

- **Article 22** grants protection to persons who are arrested or detained.
- *The first part of Article 22 confers following rights on a person, who is arrested or detained under an ordinary law.*
  - Right to be informed on grounds of arrest.
  - Right to consult and be defended by a legal practitioner.
  - Right to be produced before a Magistrate within 24 hours of arrest.
- A person arrested under preventive detention does not avail the above rights. *Instead, he is entitled to the following rights :*
  - Rights not to be detained beyond 3 months.
  - Right to be communicated of the grounds of detention.
  - Right to make a representation against the detention order.
- The detained/arrested person must be produced before the nearest Magistrate within 24 hours of arrest (excluding the holidays and time taken during the journey). The period of the detention cannot be extended beyond what is authorised by the Magistrate.

### Right Against Exploitation (Articles 23-24)

#### Prohibition of Traffic in Human Beings and Forced Labour (Article 23)

- According to **Article 23**, traffic in human beings, beggar and other similar forms of forced labour are prohibited.

Any contravention of this provision shall be an offence punishable in accordance with law.

- Traffic in human beings means selling and buying men and women like goods and includes immoral traffic in women and children for immoral and other purposes.
- One shall not be forced to provide labour or services against his will, even if remuneration is paid. If remuneration is less than minimum wages, it amounts to forced labour under Article 23.

#### Prohibition of Employment of Children in Factories etc, (Article 24)

- The essence of **Article 24** is the prohibition of employment of children below 14 years of age in hazardous jobs. This provision is in the interest of public health and safety of the lives of children.
- In *MC Mehta vs State of Tamil Nadu Case*, the Supreme Court held that the state authorities should protect economic, social and humanitarian rights of children, working illegally in the public and private sectors. The government has passed the Child Labour (Prohibition and Regulation) Act, 1986 which seeks to eliminate child labour.
- In 2006, the government banned the employment of children as domestic servants or workers in business establishments like hotels, dhabas etc.

### Right to Freedom of Religion (Articles 25-28)

- India is a secular state, not an atheist state. The state protects all the religions; but interferes with none. It believes in the ancient Indian doctrine of **Sarva Dharma Sambhava**.

#### Freedom of Conscience and Free Profession, Practice and Propagation of Religion (Article 25)

- Under **Article 25**, subject to public order, morality and health, all persons are equally entitled to the freedom of conscience and the right to profess, practice and propagate religion. The right to propagate does not mean alluring a person to join any religion.
- A Constitution Bench of the Supreme Court, in a group of related cases in 1977 called the **Rev. Stainislaus. vs State of Madhya Pradesh ruled that :**
  - Article 25(1) does not give the right to convert, but only the right to spread the tenets of ones own religion.
- **Freedom of Conscience** Absolute inner freedom of an individual to mould his/her own relation with God or Creatures in whatever manner he/she likes.
- **Right to Profess** To declare freely and openly one's faith and belief.
- **Right to Practice** To perform the prescribed religious duties, rites and rituals and to exhibit his religious beliefs.

- **Right to Propagate** Spread and publicise his/her religious views for the edification of others. It only indicates persuasion and exposition without any element of coercion.

### **Freedom to Manage Religious Affairs** (Article 26)

- The **Article 26** grants freedom to manage religious affairs subject to public order, morality and health and every religious denomination or any section thereof shall have the right.
- To establish and maintain institutions for religious and charitable purposes. To manage its own affairs in the matters of religion.
- To own and acquire movable and immovable property and to administer such property in accordance with law.

### **Freedom as to Payment of Taxes for Promotion of any Particular Religion** (Article 27)

- No person shall be compelled to pay any tax for religious purposes.
- It is **Article 27** that spells out the secular character of a state. It means the state does not recognise any religion as the official religion. It regards religion as the personal affairs of the individuals and does not interfere in religious belief and faith.

### **Freedom from Attending Religious Instruction** (Article 28)

- **Article 28** grants freedom as to the attendance at religious instruction or religious worship in certain educational institutions.
- **Article 28 divides educational institutions into 4 categories :**
  - (i) Wholly maintained by the State.
  - (ii) Recognised by the State.
  - (iii) Receiving aids out of the State funds.
  - (iv) Administered by State, but established under a religious endowment.
- In the first case, there can be no religious instructions, whatsoever in the second and third case, the religious instructions can be imported, but the pupils cannot be compelled to attend such instructions. In the fourth case, there is no restriction whatsoever, as far as religious instructions are concerned.

## **Cultural and Educational Rights** (Articles 29-30)

### **Protection of Interests of Minorities** (Article 29)

- Under **Article 29**, any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or cultural of its own shall have the 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, language or any of them.
- The Supreme Court has observed that the right to administration is not the right to maladministration. The university can put basic qualifications for the selection of teachers.

### **Right of Minorities to Establish and Administer Educational Institutions** (Article 30)

- All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. It provides to religious, educational and cultural institutions, the right to own, possess and dispose immovable property.
- As per Article 15(5) inserted under the 93rd Constitutional Amendment Act of 2005, the state can reserve seats in favour of SCs, STs and OBCs candidates. For admission in educational institution whether aided or unaided out of the state funds, except the minority educational institutions. The state shall give due compensation in case of acquisition of such property.

## **Right to Constitutional Remedies** (Article 32)

- **Article 32** provides institutional framework for the enforcement of the Fundamental Rights by the Supreme Court.
- Dr BR Ambedkar called this Article as “The fundamental of the Fundamental Rights” and “The heart and soul of the Constitution.”
- To enforce the Fundamental Rights, the Supreme Court is empowered under Article 32, to issue writs of various forms. The concept of issuing writs is taken from the UK.

## **Writ**

- A writ means an order. Anything that is issued under an authority is a writ. In this sense, using the power conferred by Article 32, the Supreme Court issues directions, orders or writs.
- Article 32 (3) confers the power to Parliament to make law empowering any court to issue these writs. But this power has not been used. Therefore, only Supreme Court under Article 32 (2) and High Courts under Article 226 can issue writs.

## Forms of Writs

### Habeas Corpus

- It literally means 'have the body' i.e. to be produced before the court.
- This kind of writ is issued to protect personal liberty of an individual against the arbitrary action of both the state and private individuals. The aggrieved person can even claim for compensation against such action.

### Mandamus

- It literally means 'command'.
- This kind of writ is issued against a public authority or an officer and inferior courts for compelling the authority to do a particular work that it ought to do but has not done. This writ cannot be issued against the President and the Governors. Private rights cannot be enforced by the writ of the Mandamus.

### Prohibition

- It means 'to forbid'.
- This kind of writ is issued by the higher courts to the lower courts or the quasi-judicial bodies when the latter exceed their judicial authority.
- The objective is to keep the inferior courts or the quasi-judicial bodies within the limits of their respective jurisdiction.
- The difference between 'Mandamus' and 'Prohibition' is that while the former can be issued against judicial as well as administrative authorities, the latter is issued only against the judicial or quasi-judicial authorities.

### Certiorari

- It means 'to be certified'.
- This writ is issued to quash the order of a lower court or the decision of a tribunal in excess of its jurisdiction. The purpose of this writ is to secure that the jurisdiction of an inferior court or tribunal is properly exercised and that it does not usurp the jurisdiction, it does not possess.

### Quo Warranto

- It literally means 'by what authority or warrant'.
- This kind of writ is issued to ensure that the person holding a public office is qualified to hold the office.
- Besides the normal writs issued on violation of Fundamental Rights, there has been a progressive strengthening of the Fundamental Rights by the judiciary.
- *The principle of 'Locus Standi' applies only to the writs of Mandamus, Prohibition, Certiorari. i.e. only aggrieved person is entitled to seek these writs.*

## Difference Between Jurisdiction of Supreme Court and High Court Regarding Writs

- Jurisdiction of the Supreme Court to issue writs under Article 32 is limited only to the enforcement of Fundamental Rights while the High Courts can issue them also for some other infringement of the Constitution outside the Fundamental Rights.
- The Supreme Courts jurisdiction to issue writs extend to the whole of the territory of India, while the High Courts are limited to the respective territory.
- The Supreme Courts cannot refuse to implement the Fundamental Rights or suggest any other remedy. The High Courts may or may not implement Fundamental Rights.

## Suspension of Fundamental Rights

- The Constitution contains provisions for automatic suspension of the Fundamental Rights under certain circumstances, e.g. during the National Emergency under Article 352 (i.e. war or external aggression).
- Under **Article 358**, when National Emergency is proclaimed on the grounds of war or external aggression (and not armed rebellion), the Fundamental Rights under Article 19 are automatically suspended.
- The Constitution empowers the President, under **Article 359** to suspend any or all the Fundamental Rights by issuing a separate proclamation during a National Emergency. The 44th Amendment Act, 1978 prohibits the suspension of **Articles 20 and 21** (protection in respect of conviction for offences and protection of life and personal liberty, respectively) even during a National Emergency.

## Amendability of Fundamental Rights

- The Supreme Court in the **Shankari Prasad Case** (1951), held that the Parliament can amend any of the provisions of the Constitution including Fundamental Rights by its amending power under Article 368.
- In the **Golaknath Case** (1967), the Supreme Court, however reversed its earlier position and declared that 'Fundamental Rights are transcendental' and cannot be subjected to amendment.
- In the **Kesavananda Bharati Case** (1973), the Supreme Court came up with a balanced approach and mooted a basic structure doctrine as per which Fundamental Rights can be amended by the Parliament, but without disturbing the basic structure of the Constitution.

# Self Check

## Build Your Confidence

1. Which of the following Articles have Fundamental Rights that are absolute rights without any restrictions?

1. Article 14      2. Article 17      3. Article 18  
4. Article 21      5. Article 24

Select the correct answer using the codes given below

(a) 1, 2 and 3    (b) 1, 2 and 4    (c) 2, 4 and 5    (d) 2 and 5

2. Which of the following statements regarding the amendability of Fundamental Rights is correct?

(a) The Parliament can amend any of the Fundamental Rights  
(b) The Parliament cannot amend any of the Fundamental Rights  
(c) The Parliament needs the approval of states to amend the Fundamental Rights  
(d) None of the above

3. Which of the following pairs are correctly matched?

1. Fundamental Duties : 43rd Amendment of the Constitution  
2. Parliament can amend Fundamental Rights : Minerva Mills Case  
3. Doctrine of Basic Features : Kesavananda Bharati Case  
4. Prohibition of Traffic in Human Beings : Article 23 of the Constitution

### Codes

(a) 1 and 2    (b) 3 and 4    (c) 2, 3 and 4    (d) All of these

4. Which of the following statement(s) is correct?

(a) The Nehru Report (1928) had advocated the inclusion of Fundamental Rights in the Constitution of India  
(b) The Government of India Act, 1935 referred to Fundamental Rights  
(c) The August Offer, 1940 included the Fundamental Rights  
(d) The Cripps Mission, 1942 referred to Fundamental Rights

5. Consider the following statements [IAS 2006]

1. Free and compulsory education to the children of 6 to 14 years age group by the state, was made a Fundamental Right by the 76th Amendment to the Constitution of India.  
2. Sarva Shiksha Abhiyan seeks to provide computer education even in rural areas.  
3. Education was included in the Concurrent list by the 42nd Amendment, 1976 to the Constitution of India.

Which of the statements given above are correct?

(a) 1 and 3    (b) 1 and 2    (c) 2 and 3    (d) All of these

6. A proclamation of National Emergency automatically suspends

(a) all Fundamental Rights    (b) right to freedom  
(c) right to constitutional remedies    (d) no Fundamental Right

7. Which of the following are the conditions prescribed by the Supreme Court in the Mandal Case for granting reservation in India?



1. (d)      2. (d)      3. (b)      4. (a)      5. (c)  
11. (c)      12. (c)

1. Social backwardness of the community.  
2. Particular community should not be adequately represented in services under the state.  
3. The overall reservation should not exceed 50%.  
4. The concept of Creamy Layer be introduced.

Select the correct answer using the codes given below

(a) 1 and 2    (b) 2 and 3    (c) 2, 3 and 4    (d) All of these

8. Which one of the following subjects comes under the common jurisdiction of the Supreme Court and the High Court?

(a) Mutual disputes among states  
(b) Dispute between centre and states  
(c) Protection of the Fundamental Rights  
(d) Protection from the violation of the Constitution

9. Which of the following is not correctly matched?

(a) Prohibition of Discrimination : Article 15  
(b) Right to Association : Article 19  
(c) Right to Protection of Life : Article 20  
(d) Right to Constitutional Remedies : Article 32

10. Consider the following statements about the Fundamental Rights

1. They are enforceable in the court of law.  
2. These rights are absolute.  
3. They can be suspended during national emergency, except some.  
4. They are available only to Indian citizens.

Which of the statements given above are correct?

(a) 1, 3 and 4    (b) 2, 3 and 4    (c) 2 and 4    (d) 1 and 3

11. Consider the following statements with respect to the Right against exploitation

1. The expression traffic in human beings include practices of devadasis and slavery.  
2. Article 23 prohibits other similar forms of forced labour like bonded labour

Which of the statement(s) given above is correct :

(a) Only 1    (b) Only 2  
(c) Both 1 and 2    (d) Neither 1 nor 2

12. Consider the following statements with respect to the writs.

1. Quo-Warranto is kind of writ is issued to ensure that the person holding a public office is qualified to hold the office.  
2. Writ of certiorari is issued by the higher courts to the lower courts or the quasi-judicial bodies.  
3. Writ of Habeas Corpus is issued to protect personal liberty of an individual against the arbitrary action of both the state and private individuals.

Which of the statement(s) given above is/are correct?

(a) Only 2    (b) 2 and 3    (c) 1 and 3    (d) All of these

# Chapter seven

## Directive Principles of State Policy and Fundamental Duties

*The Directive Principles of State Policy are in the nature of general directions to the state, where the state is expected to incorporate them in policies framing and laws. The Directive Principles of State Policy along with Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution. Fundamental Duties stressed that the citizens should become conscious that in addition to the enjoyment of rights, they also have certain duties to perform as well.*

### Nature of the Directive Principles

- Directive Principles of State Policy (DPSP) have been enshrined in Part IV of the Constitution from Articles 36 to 51.
- The framers of Constitution borrowed this novel feature of the Constitution from the Constitution of the Ireland.
- This concept is the latest development in the constitutional governments throughout the world, with the growing acceptance of a 'Welfare State'.
- If directives are not acted upon by the state, no one can move the courts. The reason for making the DPSP explicitly unjusticiable are that they require resources which the state may not have at present.
- Though they are non-justiciable in nature, they impose a moral obligation on the state authorities for their application.

### Classification of Directive Principles

- **Article 36** clearly directs the state to secure and protect a social order which stands for the welfare of the people.
- **Article 37** says that Directive Principles are **not justiciable**, but are Fundamental to the Governance of the country and the state has the duty in applying these principles in making laws.

### The Socialist Principles

- **Article 38** To secure a social order for the promotion of welfare of the people.
- **Article 39** The state shall direct its policy towards securing equal access to
  - Adequate means of livelihood
  - Equitable distribution of material resource
  - Prevention of concentration of wealth and means of productions
  - Equal pay for equal work
  - Preservation of health of workers and children against forcible abuse
  - Opportunities for healthy development of children
- **Article 39A** Equal justice and free legal aid to the poor.
- **Article 41** Right to work, to education and to public assistance in case of unemployment, oldage, sickness and disablement.
- **Article 42** Provision of just and humane conditions for work and maternity relief.
- **Article 43** To secure a living wage, decent standard of living for all workers.
- **Article 43 A** Participation of workers in the management of the industries.
- **Article 47** To raise the level of nutrition and the standard of living and improve public health.

### The Gandhian Principles

- **Article 40** To organise of Village Panchayats.
- **Article 43** To promote cottage industry.
- **Article 43B** The state shall endeavour to promote voluntary formation, autonomous

functioning, democratic control and professional management of co-operative societies.

- **Article 46** Promotion of educational and economic interests of the SCs, the STs and the other weaker sections of the society.
- **Article 47** To bring about the prohibition of intoxicating drinks and drugs that are injurious to health.
- **Article 48** Prohibit the slaughter of cows, calves and other milch and draught animals.

### Liberal-Intellectual Principles

- **Article 44** Uniform Civil Code for the all citizens.
- **Article 45** To provide free and compulsory education for all children until they complete the age of 14 years.
- **Article 48** To organise agriculture and animal husbandary.
- **Article 48A** To protect environment and safeguard forest and wildlife.
- **Article 50** To separation of judiciary from executive.
- **Article 51** To promote international peace and security.
- *Uniform civil code means common family law applicable to all citizens of India irrespective of their religion and culture.*
- *Goa is the only in India where common family law is implemented.*

### Amendments to Directive Principles

42nd Constitutional Amendment Act, 1976

**Article 39A** To promote equal justice and to provide free legal aid to the poor.

**Article 39F** To secure opportunities for healthy development of children.

**Article 43A** To take steps to secure the participation of workers in the management of industries.

**Article 48A** To protect and improve the environment and to safeguard forests and wildlife.

44th Constitutional Amendment Act, 1978

**Article 38 (2)** To minimise inequalities in income, status, facilities and opportunities.

86th Constitutional Amendment Act, 2002

This amendment changed the subject matter of Article 45, and made elementary education a Fundamental Right under Article 21A.

**Article 45** To provide early childhood care and education for all children until they complete the age of 14 years.

97th Constitutional Amendment Act, 2011

are, on the contrary, positive obligations of the state towards the citizen.

- The Fundamental Rights are justiciable, whereas the Directive Principles are non-justiciable.
- DPSP are not restricted to one Part of the Constitution, whereas the Fundamental Rights are restricted to only Part III of the Constitution.
- DPSP are dynamic in nature, whereas the Fundamental Rights are static in nature.

### Conflict between Fundamental Rights and DPSP

- The relationship between the Fundamental Rights and Directive Principles are best illustrated in the **Article 37**. It provides that Directives are not enforceable in a Court of Law. But they are fundamental in the governance of the country and it shall be the duty of the state to apply them in making laws.
- In view of such provision, there have arisen certain conflicts between the Directive Principles and Fundamental Rights. During the initial period from 1950 to 1966 there was emphasis on sacrosanct character of Fundamental Rights. The Supreme Court held the view that if two interpretations of a law are possible, the one avoiding conflict should be accepted. But in case of a single interpretation, leading to conflict, Fundamental Rights would prevail over Directive Principles. In this view, constitutionality of 1st Amendment Act was hailed as valid.
- The above situation underwent a major change in the historic **Golaknath's case** (1967). In that case, the Supreme Court emphasised on unamendability of the Fundamental Rights, which have been given a 'transcendental position.'
- The Parliament reacted to this judgement and the 24th Constitution Amendment Act (1971), made it clear that the Parliament has power to amend any provision of the Constitution, including the Fundamental Rights.
- The 25th Constitution Amendment Act (1971), introduced Article 31(c) which provides that in case of implementing Article

### Difference between Fundamental Rights and DPSP

- The Fundamental Rights provide the foundation of political democracy in India whereas the Directives spell out the character of social and economic democracy in India.
- Fundamental Rights are in the form of negative obligations of the state i.e. injunctions against the actions of the state. The Directive Principles

39 (b) and (c) if there is a conflict with Fundamental Right, (Article 14, 19 and 31) the law shall not be declared 'null and void'.

- Supreme Court in *Kesavananda Bharati Case* (1973), overruled the Golaknath's case, but made it clear that courts retained the power to judicial review in case of law giving effect to Directives under Article 39 (b) and (c). One of the crucial implications of this judgement was 'basic structure' which cannot be altered.
- During the period of Emergency, Parliament passed the 42nd Amendment Act, 1976 which provided for implementation of Directives other than Article 39 (b) and (c).
- In *Minerva Mill's case*, (1980) the Supreme Court declared that a balance between Part III and Part IV was a basic feature of the Constitution. This abrogated the view of giving precedence to the all Directives over Fundamental Rights.
- As of now only DPSP Article 39 (b) and 39 (c) can take precedence over Fundamental Right enshrined under Article 14 and Article 19(d). Further Article 31 (right to property) was abolished by 44th Amendment Act (1978).

### DPSP Outside Part IV

**Article 335** It says that the claims of SCs and STs shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with affairs of the union or of a state.

**Article 350 A** It enjoins every state and every local authority within the state to provide adequate facilities for the instructions in the mother tongue at the primary stage to children of linguistic minority areas.

**Article 351** It enjoins the union to promote the spread of Hindi Language so that it may serve as a medium of expression of all the elements of the composite culture of India.

### Utility of Directive Principles

- DPSP are like an '*Instrument of Instructions*' or general recommendations addressed to all authorities in the Indian Union.
- They have served as useful beacon lights to courts in exercising their power of judicial review and determining constitutional validity of Law.
- They amplify the Preamble, which solemnly resolves to secure to all citizens of India justice, liberty, equality and fraternity.
- They are supplementary to the Fundamental Rights by providing social and economic rights. Political democracy, without economic democracy has no meaning. They serve as crucial test for the performance of government.

### Implementation of DPSP

- Since the commencement of the Constitution, there have been a number of legislations to implement the DPSP. It was regarded as the positive obligation on the state. They are in the form of urging the state to do something for the benefit of people.
- In fact, the very 1st Constitutional Amendment Act was for implementing land reforms and it was followed by the 4th, 17th, 25th, 42nd, 44th and 73rd Constitutional Amendment Acts, to improve the DPSP.
- Promotion of cottage industries has been one of the main aspects of the economic policy of the government and there exists the *Khadi and Village Industries Commission* for the purpose.
- Several minimum wage acts have provided for minimum wages to be paid for workers. The government have initiated many agriculture related development programmes like irrigation, modernisation etc., for better productivity as well as raising the incomes of farmers. The recently enacted *MGNREGA* reinforces the state's commitment to livelihood to all.
- In case of women and child welfare, the government have initiated schemes like *Anganwadi Programme*, *Sarva Siksha Abhiyan*, *Maternity related Health Schemes* etc., to promote their welfare.
- The state has taken several measures for the welfare of weaker sections, especially SCs/STs. Reservations for educationally backward sections, special training and financial assistance are some of them.
- The historic *73rd Constitution Amendment Act* strengthened the role and powers of Panchayats. Reservations for women in local councils redeems the state's commitment for gender equality and welfare.
- India's peacekeeping operations of the UN, pioneering and leading the Non-Aligned Movement etc., reiterate India's commitment for a peaceful and just world order.
- Maternity Benefit (Amendment) Act 2017, extends paid maternity leave for women increased from 12 weeks previously to 26 weeks (6 months).

### Fundamental Duties

- These are incorporated under *Article 51A (Part IVA)* of the Indian Constitution. This Article was inserted by the 42nd Constitutional Amendment Act, 1976.
- The Fundamental Duties in the Indian Constitution are inspired by Constitution of erstwhile USSR. It declared that the citizens exercise of their rights and freedom was inseparable from the performance of their duties and obligations.

- The Fundamental Duties were incorporated in the Constitution on the basis of the recommendation of the **Sardar Swaran Singh Committee**.
- Interestingly, certain recommendations of the Sardar Swaran Singh Committee were not accepted by the Congress Party and hence, not incorporated in the Constitution. *These include*
  - The Parliament may provide for the imposition of such penalty or punishment as may be considered appropriate for any non-compliance with or refusal to observe any of the duties.
  - No law imposing such penalty or punishment shall be called in question in any court on the ground of infringement of any Fundamental Rights or on the ground of repugnancy to any other provision of the Constitution.
  - Duty to pay taxes should also be a Fundamental Duty to the citizens.
  - Initially 10 in number, the Fundamental Duties were increased to 11 by the 86th Constitutional Amendment Act, 2002, which added a duty on every parent or guardian to ensure that their child or ward was provided opportunities for education between the ages of 6 and 14 years.
- **The Fundamental Duties are as follows:**
  - To abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem;
  - To cherish and follow the noble ideals which inspired our national struggle for freedom;
  - To uphold and protect the sovereignty, unity and integrity of India;
  - To defend the country; and render national service when called upon to do so,
  - To promote harmony and the spirit of common brotherhood amongst all the people of India; and to renounce practices derogatory to the dignity of women;
  - To preserve the rich heritage of our composite culture;
  - To protect and improve the natural environment;
  - To develop the scientific temper and spirit of inquiry;
  - To safeguard public property;
  - To strive towards excellence in all spheres of individual and collective activity;
  - Every parent or guardian to provide opportunities for education of his child or ward between the age of 6 and 14 years.
- There is no provision for direct enforcement of these duties, but it can be expected that in determining the constitutionality of a law, which seeks to give effect to those duties that court may consider such a law to be reasonable in relation to Article 14 and Article 19 and thus, save a law from being unconstitutional.

## Features of Fundamental Duties

- Some of them are moral duties, while others are civil duties. For instance cherishing noble ideas of freedom struggle is a moral precept and respecting the Constitution, National Flag and National Anthem is a civic duty.
- They essentially contains just a codification of tasks integral to the Indian way of life.
- They confine to citizens only and do not extend to foreigners.
- There is not legal sanction against their violation however, Parliament is free to enforce them by suitable legislations.

## Significance of Fundamental Duties

- They serve as reminder to the citizen to be conscious of duties they owe to their country.
- They serve as warning against anti-national and anti-social activities.
- They also serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them.
- They help the courts in examining and determining constitutional validity of law.

## Legal Provision for Implementation of Fundamental Duties

- *The Verma Committee (1999) identified the existence of following legal provisions:*
  - The Prevention of insults to National Honour Act (1971).
  - The various criminal laws provide for punishment for encouraging enmity and discrimination.
  - The Protection of Civil Rights Act (1955).
  - The Representation of People Act (1951).
  - The Wildlife Protection Act (1972) and Forest Conservation Act (1980)

## Criticism of Fundamental Duties

- The list of duties are not exhaustive as it does not cover duties like casting vote, paying taxes, family planning etc.
- Some of the duties are vague, ambiguous and difficult to understand by the common man.
- They have been described as a code of moral precepts due to their non-justiciable character.
- Their addition in Part IV of the Constitution has reduced the value and significance of the Part IV.

# Self Check

## Build Your Confidence

- 1. Consider the following statements. [IAS 2006]**
1. There is no provision in the Constitution of India to encourage equal pay for equal work for both men and women.
  2. The Constitution of India does not define backward classes.
- Which of the statement(s) given above is/are correct?*
- (a) Only 1  
(b) Only 2  
(c) Both 1 and 2  
(d) Neither 1 nor 2
- 2. The 'Instrument of Instructions' contained in the Government of India Act 1935, have been incorporated in the Constitution of India in the year 1950 as [IAS 2010]**
- (a) Fundamental Rights  
(b) Directive Principles of State Policy  
(c) extent of executive power of state  
(d) conduct of business of the Government of India
- 3. Under the Constitution of India, which one of the following is not a Fundamental Duty? [IAS 2011]**
- (a) To vote in public elections  
(b) To develop the scientific temper  
(c) To safeguard public property  
(d) To abide by the Constitution and respect its ideals
- 4. Which of the following is/are among the Fundamental Duties of citizens laid down in the Indian Constitution? [IAS 2012]**
1. To preserve the rich heritage of our composite culture.
  2. To protect the weaker sections from social injustice.
  3. To develop the scientific temper and spirit of inquiry.
  4. To strive towards excellence in all spheres of individual and collective activity.
- Select the correct answer using the codes given below*
- (a) 1 and 2 (b) Only 2  
(c) 1, 3 and 4 (d) All of these
- 5. Consider the following provisions under the Directive Principles of State Policy as enshrined in the Constitution of India. [IAS 2012]**
1. Securing for citizens of India a uniform civil code.
  2. Organising Village Panchayats.
  3. Promoting cottage industries in rural areas.
  4. Securing for all the workers reasonable leisure and cultural opportunities.
- Which of the above are the Gandhian Principles that are reflected in the Directive Principles of State Policy?*
- (a) 1, 2 and 4 (b) 2 and 3  
(c) 1, 3 and 4 (d) All of these
- 6. According to the Constitution of India, which of the following are fundamental for the governance of the country? [IAS 2013]**
- (a) Fundamental Rights  
(b) Fundamental Duties  
(c) Directive Principles of State Policy  
(d) Both 'a' and 'b'
- 7. Which of the following statements regarding the Fundamental Duties contained in the Constitution of India are correct?**
1. Fundamental Duties can be enforced through writ jurisdiction.
  2. Fundamental Duties have formed a part of the Constitution of India since its adoption.
  3. Fundamental Duties have become a part of the Constitution of India in accordance with the recommendations of the Swarna Singh Committee.
  4. Fundamental Duties are applicable only to citizens of India.
- Select the correct answer using the codes given below*
- (a) 1, 2 and 3  
(b) 1, 2 and 4  
(c) 2 and 3  
(d) 3 and 4
- 8. Consider the following statements regarding the Directive Principles of State Policy. [IAS 2015]**
1. The Principles spell out the socio-economic democracy in the constitution.
  2. The Provisions contained in these principles are not enforceable by any court.
- Which of the statements (s) given above is/are correct?*
- (a) Only 1  
(b) Only 2  
(c) Both 1 and 2  
(d) Neither 1 nor 2
- 9. "To uphold and protect the sovereignty, unity and integrity of india" is a provision made in the [IAS 2015]**
- (a) preamble of the constitution  
(b) Directive Principles of State Policy  
(c) Fundamental Rights  
(d) Fundamental Duties
- 10. In the Constitution of India promotion of international peace and security is included in the [IAS 2014]**
- (a) Preamble to the Constitution  
(b) Directive Principles of State Policy  
(c) Fundamental Duties  
(d) Ninth Schedule



1. (b) 2. (b) 3. (a) 4. (c) 5. (b) 6. (c) 7. (d) 8. (c) 9. (d) 10. (b)

# Chapter eight

## Union Executive

*The Constitution of India has adopted the parliamentary system of responsible governments and the Union Executive is responsible to the legislature. Part V of the Constitution contains the provisions with respect to the Union Government and Articles 52-78 deal with Union Executive. The Union Executive consists of the President, the Vice-President, the Prime Minister with his Council of Ministers and the Attorney General for India.*

### The President

- **Article 52** states that there shall be a President of India.
- The President of India is the Head of the State. The President symbolises the entire nation as one political community. The President is the first citizen of India.
- The President always comes first in the Order of Precedence issued by the government.
- According to **Article 53(1)**, the executive power of the Union vests with the President. However, the President can exercise his/her powers either directly or through officers subordinate to him/her in accordance with the Constitution.
- All the executive decisions are taken in the name of the President.

### Election of the President

- The provisions dealing with the election of the President, are provided in Articles 54, 55, 57, 58 and 71 and accordance with the presidential and Vice-Presidential Elections Act of 1952, as Amended in 1997.
- **Article 54** states that the President is elected not directly by people, but by the members of an electoral college consisting of
  - the elected members of both the Houses of Parliament,

- the elected members of the Legislative Assemblies of the States, and
- the elected members of the Legislative Assemblies of Union Territories of Delhi and Puducherry.
- Thus, the nominated members of both the Houses of Parliament and State Legislatures don't participate in the election process of the President.
- **Article 55(3)** provides for the election of the President by the system of **proportional representation** by means of the **single transferable vote**. The voting is by **Secret Ballot**. The nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers and 50 electors as seconders.

*The election process is as follows:*

- Each member of the Electoral College is given only one ballot paper. The voter, while casting his vote, is required to indicate his preferences by marking 1,2,3,4 etc against the names of candidates. This means that the voter can indicate as many preferences as there are candidates in the fray.
- In the first phase, the first preference votes are counted. In case a candidate secures the required quota in this phase, he is declared elected. Otherwise, the process of transfer of votes is set in motion.
- The ballot of the candidate securing the least number of first preference votes are cancelled and his second preference votes are transferred to the first preference votes of other candidates.
- This process continues till a candidate secures the required quota. The required quota for the President's election is 50%.

### Formulae for the Election of President

Value of vote of an MLA and that of an MP.

- Value of the vote of an MLA

$$= \frac{\text{Total Population of the State}}{\text{Total number of elected members in the State Legislative Assembly}} \times \frac{1}{1000}$$

- This means that value of the vote of an MLA differs from one state to another.
- Value of the vote of an MP

$$= \frac{(\text{Total Value of Votes of MLAs of 29 States and Two UTs})}{(\text{Total number of elected members in the Parliament})}$$

- Electoral Quota =  $\frac{\text{Total Number of Valid Votes Polled}}{1+1 = (2)} + 1$

- *The Supreme Court has the authority to decide a doubts and disputes regarding President's and Vice-President's election. (Article 71)*
- *Only a candidate or group of not less than 20 electors can only file a dispute petition before the SC.*
- *The only President who has served two terms was Dr Rajendra Prasad.*

### Term of Office

- The President shall hold office for a tenure of 5 years from the date on which he/she enters the office (**Article 56(1)**). Even after the President completes his/her term, he/she shall occupy the office unless a successor is sworn in.
- The resignation letter has to be addressed to the Vice- President. Then, it shall forth with be communicated by him/her to the Speaker of the Lok Sabha.
- The President is eligible for re-election and may be elected for any number of term in India. However, it has been the convention that a serving President is not entertained to seek another term.

### Eligibility Criteria and Oath

- **Article 58** of the Constitution sets the principle qualifications one must meet to be eligible to the office of the President. *A President must be*
  - a citizen of India;
  - of 35 years of age or above;
  - qualified to become a member of the Lok Sabha.
- A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.
- **Article 60** says that the oath or affirmation of office to the President is administered by the **Chief Justice** of India and in his absence, the senior most Judge of the Supreme Court available.

### Salaries and Amenities

- The salary of the President of India has been increased from 1.50 lakh to 5 lakh per month.

### Conditions and Privileges of President's Office

- *The Constitution lays down the following conditions of the President's office*
  - President shall not be a member of either House of Parliament or a House of the State Legislature. If any such person is elected as President, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as President. (Article 59(1))
  - He is entitled to such emoluments, allowances and privileges as may be determined by Parliament.
  - His emoluments and allowances cannot be diminished during his term of office.
  - He enjoys personal immunity from legal liability of his official acts. During his term of office, he is immune from any criminal proceedings, even in respect of his personal acts. However, after giving 2 months notice, civil proceedings can be instituted against him.

### Impeachment of the President

- According to **Article 61**, when a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of the Parliament. What act of the President amount to the violation of Constitution or is a political determination to be made by the Parliament.
- No such charge shall be preferred unless the proposal to prefer such charge is contained in a resolution which has been moved after at least **14 days** notice in writing signed by not less than **one-fourth** of the total number of members of the House has been given of their intention to move the resolution and such resolution has been passed by a majority of not less than **two-third** of the total membership of the House.
- When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.
- If as a result of the investigation a resolution is passed by a majority of not less than **two-third** of the total membership of the House by which the

charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed. No President has faced impeachment proceedings. Hence, the above provisions have never been used.

- The nominated members of either House of Parliament can participate in the impeachment of President though they do not participate in the election of the Presidential post.
- The elected members of the Legislative Assemblies of states and the Union Territories of Delhi and Puducherry do not participate in the impeachment of the President though they participate in his/her election.

## Succession

- In the event of a vacancy created for the President's post due to death, resignation, removal etc **Article 65** of the Indian Constitution says that the Vice-President will have to discharge his duties.
- The Vice-President reverts to his/her office when a new President is elected and enters upon his office. When the President is unable to act owing to his/her absence, illness or any other cause, the Vice-President discharges the President's functions for a temporary period until the President resumes his duties.
- When the Vice-President acts as or discharges the functions of the President, he/she has all the powers and immunities of the President and is entitled to the same emoluments as the President.
- Parliament has by an enactment made provision for the discharge of the functions of the President when vacancies occur in the offices of the President and of the Vice-President simultaneously, owing to removal, death, resignation of the incumbent or otherwise.
- In such an eventuality, the **Chief Justice of India** or in his absence, the seniormost judge of the Supreme Court of India available discharges the functions of the President until a newly elected President enters upon his office or a newly elected Vice-President begins to act as President under **Article 65** of the Constitution, whichever is the earlier.
- **Justice M Hidayat-ul-Ilah**, A Chief Justice of India discharged the duties of President from 20th July – 24th August, 1969. He is the only Chief Justice of India to perform the functions of President.

## Powers and Functions

### Executive Powers

- *The executive powers and functions of the President are as follows*
  - All executive actions of the Government of India are formally taken in his name.
  - He/She can make rules specifying the manner in which the orders and other instruments made and executed in his name shall be authenticated.
  - He/She can make rules for more convenient transaction of business of the Union Government and for allocation of the said business among the ministers.
  - He/She appoints the Prime Minister and the other ministers. They hold office during his pleasure.
  - He/She appoints the Attorney General of India and determines his remuneration. The Attorney General holds office during the pleasure of the President.
  - He/She appoints the comptroller and Auditor General of India, the Chief Election Commissioner and other Election Commissioners, the Chairman and Members of the Union Public Service Commission, the Governors of States, the Chairman and Members of Finance Commission and so on.
  - He/She can seek any information relating to the administration of affairs of the Union, and proposals for legislation from the Prime Minister.
  - He/She can require the Prime Minister to submit, for consideration of the Council of Ministers, any matter on which a decision has been taken by a minister but, which has not been considered by the council.
  - He/She can appoint a commission to investigate into the conditions of SCs, STs and other backward classes.
  - He/She can appoint an inter-state council to promote centre-state and inter-state co-operation.
  - He/She directly administers the Union Territories through administrators appointed by him.
  - He/She can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.

### Legislative Powers

- The President summons both the Houses of the Parliament and prorogues them. He or she can even dissolve the Lok Sabha.
- These powers are formal and by convention, the President uses these powers according to the advice of the Council of Ministers headed by the Prime Minister.
- President inaugurates the Parliament by addressing it after every general elections and also at the beginning of the first session each year. Presidential address on these occasions is generally meant to outline the new policies of the government.
- All Bills passed by the Parliament can become laws only after receiving the assent of the President. The President can return a Bill to the Parliament, (if it is not a Money Bill,) for reconsideration. When after reconsideration, the Bill is passed and presented to the President, with or without amendments, the President is obliged to assent to it.

- When both Houses of the Parliament are not in session and if government feels the need for immediate action, President can promulgate **ordinances** which have the same force and effect as laws passed by Parliament. These are in the nature of interim or temporary legislation and their continuance is subject to parliamentary approval. Ordinances remain valid for no more than 6 weeks from the date the Parliament is convened unless approved by it earlier.
- In the event of a **hung Parliament**, where no Party has absolute majority in the Lok Sabha, the President invites Parties to command the required support and form the government. If the majority is still not achieved President can call for a new election.

#### Reports Caused to be Laid before Parliament by President

- The President shall cause certain reports to be laid in Parliament.

*They are as follows*

- Annual Financial Statement.
- Statements showing budgetary grants, supplementary grants etc.
- Report of Comptroller and Auditor General of India.
- Report of the Finance Commission.
- Report of the Union Public Service Commission.
- Report of the National Commission for Scheduled Castes and Scheduled Tribes and Backward Classes.
- Report of the Commissioner for Linguistic Minorities.

#### Bills that Require Prior Recommendation of the President

- There are certain Bills which can be introduced in the Parliament only on the recommendation of the President such as
  - A Bill to alter the boundaries of the States or to change the names of the States (Article 3).
  - A Money Bill as detailed in Article 110.
  - A Financial Bill (category one) involving Article 110 but containing other provisions as well.
  - A Financial Bill (category two) which is an Ordinary Bill but seeking to draw from the Consolidated Fund of India can be taken up for 'consideration' that is 'reading two' in the process of passage of a Bill.
  - Legislation involving Article 31 A.
  - Any legislation involving items of taxation in which the States are interested or one that seeks to redefine agricultural income etc.

#### Financial Powers

- No demand for a grant can be made except on his/her recommendation.
- Money Bill can be introduced in the Parliament only with the President's prior recommendation.
- He/She can make advances out of the Contingency Fund of India to meet any unforeseen expenditure.
- He/She constitutes a Finance Commission after every 5 years to recommend the distribution of the taxes between the centre and the states.

#### Diplomatic Powers

- The international treaties and agreements are negotiated and concluded on behalf of the President.
- He/She represents India in International forums and affairs.
- He/She sends and receives diplomats like Ambassadors, High Commissioners and so on.

#### Veto Powers

The President enjoys three veto powers which he/she can use to deny the execution of an action recommended by Parliament.

*They are as follows*

**Absolute Veto** When a Bill other than a Money Bill passed by Parliament, the President may decline to give assent to the Bill altogether. However, in practise there runs a risk as the President may attract impeachment for ignoring the advice of Council of Ministers and that of Parliament whose support is crucial for President's survival.

**Suspensive Veto** When a Bill other than a Money Bill is passed by Parliament and the President may resend the Bill to Parliament for further consideration with a message to amend certain provisions of a Bill. However, if the Parliament passes it again with or without amendment, the President is bound to give assent on it.

**Pocket Veto** This veto power is used when the President feels that the party in power is likely to face destablity and may disincline to assent to a Bill passed and neither communicate it to the Council of Ministers nor send it back for Parliament for reconsideration. The Bill lies in President's office for an indefinite period. In case of a Money Bill the President may assent to it or decline to do so but cannot send it back to Parliament. In case of Constitutional Amendment Bills, the President is bound to his/her assent to it e.g. APJ Abdul Kalam with holding Office of Profit Bill.

#### Military Powers

- He/She is the Supreme Commander of the Defence Forces of India. He/She appoints the Chiefs of the Army, the Navy and the Air Force. He/She can declare war or conclude peace, subject to the approval of the Parliament.

#### Judicial Powers

- **Article 143 (1)**, that deals with laws after the commencement of Constitution neither Supreme Court is bound to give advice nor the advice tendered is binding on President. But, under Clause 2 of **Article 143 (i.e. 143(2))**, that, deals with laws before the commencement of Constitution, it is binding for Supreme Court to tender advice of asked by President and it's also binding on President to accept and act on advice so tendered.

- He can grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute the sentence of any person convicted of any offence.

### Pardoning Power of President

- The President can issue the following orders of mercy to the convicted citizens of India (**Article 72**)
  - **Pardon** It means absolving the convict of all guilt and punishment.
  - **Commutation** It is reduction of punishment from death sentence to life imprisonment.
  - **Remission** It is quantitative reduction of punishment without affecting nature of punishment. Include it under the pardoning powers.
  - **Respite** It means reduction of punishment in view of a special fact
  - **Reprieve** It implies a stay of death sentence or life imprisonment pending an appeal for pardon or commutation.

### Pardoning Power of the Governor

- According to **Article 161**, the Governor of a State also possesses powers to grant pardons and suspend, remit or commute the sentence of any person convicted of an offence against a law relating to a matter to which the executive power of the state extends. It means that the Governor has mercy powers, in cases, where conviction is under a law of that state.

### Comparison between Pardoning Powers of the President and the Governor

- The scope of pardoning power of the President under **Article 72** is wider than the pardoning power of the Governor under **Article 161**. Their powers differ in the following two ways
  - The power of the President to grant pardon extends to cases where the punishment or sentence is by a Court Martial. But, Article 161 does not provide any such power to the Governor.
  - The President can grant pardon in all cases where the sentence given is a sentence of death, but pardoning power of the Governor does not extend to death sentence cases. However, the Governor can suspend, remit or commute a death sentence.

### Supreme Court on Death Sentence Pardoning

Supreme Court on 21st January, 2014, in a landmark verdict, held that death sentence of a condemned prisoner can be commuted to life imprisonment **on the ground of delay** on the part of the government in deciding the mercy plea.

Giving life term to 15 death row inmates, including four Aides of forest brigand Veerappan, the apex court also ruled that a death convict suffering from mental insanity and schizophrenia cannot be hanged. Framing guidelines on disposal of mercy petitions and execution of death sentence, the bench headed by Chief Justice ruled that convicts given death sentence must be informed about the rejection of their mercy pleas and should be given a chance to meet their family members before they are executed.

### Discretionary Powers

- The President of India almost always acts on the aid and advice of the Council of Ministers except under the *following circumstances where he/she acts on his/her discretion*
  - In appointing the Prime Minister from among the contenders when no single party attains majority after elections to the Lok Sabha.
  - A Council of Ministers is voted out and after resigning advises the President to dissolve, the Lok Sabha and hold fresh elections (or resigns and advises so without being voted out). The President is expected to exercise his discretion in such circumstances as much of the Lok Sabha's life may still be intact and it is worthwhile to explore the possibility of forming an alternative Government.
  - President can refer a decision of an individual minister for the collective consideration of Council of Ministers.
  - When the Houses of the Parliament do not meet regularly, the President may act in his/her discretion and summon both the Houses of the Parliament.
  - While exercising a pocket veto.
  - Can return the advice of the Council of Ministers once for its reconsideration.
  - Can return the bill passed by the Parliament once for its reconsideration.

### Emergency Powers

- **National Emergency** can be declared on grounds of war, external aggression or armed rebellion (Article 352).
- The President can proclaim this emergency only after receiving a written recommendation from the Cabinet.
- **President's Rule** can be proclaimed in a state on grounds of failure of the constitutional machinery in the state (Article 356) or failure to comply with or to give effect to the directions given by the Union (Article 365).
- The President can proclaim **Financial Emergency** (Article 360) if he is satisfied that the financial stability or credit of India or any part thereof is threatened.
- When a Financial Emergency is proclaimed, the President can give directions to the states to observe the canons of financial propriety.

### Important Presidential Interventions

- The President's role as defender of the Constitution and their powers as Head of State, especially in relation to those exercised by the Prime Minister as leader of the government, have changed over time.

- In particular, Presidents have made a number of interventions into government and lawmaking, which have established and challenged some conventions concerning Presidential intervention.
  - In 1979, the then Prime Minister, Charan Singh, did not enjoy a parliamentary majority. He responded to this by simply not advising the President to summon Parliament. But President **Neelam Sanjeev Reddy** declined to respect that advice.
  - In 1986, President **Giani Zail Singh** exercised a pocket veto with the Post Office Bill as he objected to the clauses that violated privacy matters.
  - In 1991, President **R Venkataraman** withheld the MP Salaries Bill as it was passed without his prior recommendation.
  - In 1999, President **KR Narayanan** declined to impose President's Rule in Bihar as there was a clear majority in the Assembly.
  - In 2002, President **KR Narayanan** directed the Prime Minister to take concrete actions to reign in the Godhra communal violence.
  - In 2006, President **Abdul Kalam** used suspensive veto in regard to the office of Profit Bill.

#### Presidents of India (1950–Till Date)

President	Tenure
1. Dr Rajendra Prasad	26th January, 1950 to 13th May, 1962
2. Sarvepalli Radhakrishnan	13th May, 1962 to 13th May, 1967
3. Zakir Hussain	13th May, 1967 to 3rd May, 1969
4. Varahagiri Venkata Giri	3rd May, 1969 to 20th July, 1969 (Acting)
5. Mohammad Hidayatullah	20th July, 1969 to 24th August, 1969 (Acting)
6. Varahagiri Venkata Giri	24th August, 1969 to 24th August, 1974
7. Fakhruddin Ali Ahmed	24th August, 1974 to 11th February, 1977
8. Basappa Danappa Jatti	11th February, 1977 to 25th July, 1977 (Acting)
9. Neelam Sanjiva Reddy	25th July, 1977 to 25th July, 1982
10. Giani Zail Singh	25th July, 1982 to 25th July, 1987
11. Ramaswamy Venkataraman	25th July, 1987 to 25th July, 1992
12. Shankar Dayal Sharma	25th July, 1992 to 25th July, 1997
13. Kocheril Raman Narayanan	25th July, 1997 to 25th July, 2002
14. A P J Abdul Kalam	25th July, 2002 to 25th July, 2007
15. Smt Pratibha Devi Singh Patil	25th July,, 2007 to 25th July, 2012
16. Pranab Mukherjee	25th July, 2012 to 25 July 2017
17. Ram Nath Kovind	25th July, 2017 to Till Date.

(As on 30th June, 2019)

## Constitutional Position of the President

- The President has to exercise his powers and functions with the aid and advice of the Council of Ministers headed by the Prime Minister (**Article 74**).
- The **42nd Constitutional Amendment, Act** of 1976 has made the President bound by the advice of the Council of Ministers headed by the Prime Minister (Article 78).
- The **44th Constitutional Amendment, Act** of 1978 has authorised the President to require the Council of Ministers to reconsider such advice either generally or otherwise. However, he/she 'shall' act in accordance with the advice rendered after such reconsideration.

## Comparison between Indian and American President

Indian President	American President
He is only a figurehead, the real executive power is vested in Prime Minister.	He is the real head of the executive.
He appoints PM, leader of the majority. Only the advice of the PM, President appoints others ministers.	The members of the Cabinet are nominated by the President. Then they are called <b>secretaries</b> not <b>ministers</b> .
He can dissolve the Lok Sabha only on the advice of the Cabinet.	He cannot dissolve legislature.
The term is 5 years.	The term is 4 years.
President of India represents Parliamentary democracy.	American President represents Presidential democracy.
A person may be re-elected for many times.	A person cannot function for more than two terms.
No qualified veto.	Has qualified veto power
No spoils system.	Has spoils system.

## The Vice-President

- Article 63** of the Constitution provides for the Vice-President of India. He is the second highest constitutional officer in the country. He is accorded a rank next to the President in the official warrant of Precedence.

## Election of the Vice-President

- Article 66(1)** the Vice-President is elected by an Electoral College consisting of members of both Houses of Parliament, in accordance with the system of **proportional representation** by means of the **single transferable vote** and the voting in such election is by Secret Ballot. The Electoral College to elect a person to the office of the Vice-President consists of both elected and nominated members of the Parliament.

- The nomination of a candidate for election to the office of Vice-President must be subscribed by at least 20 electors as proposers and 20 electors as seconders.
- The Vice-President is not a member of either House of Parliament or of a House of a Legislature of any state. If a member of either House of Parliament or of a House of a Legislature of any state is elected as Vice-President, he/she is deemed to have vacated his seat in that House on the date he/she enters his office as Vice-President.
- The oath or affirmation of office to the Vice-President is administered by the President or some person appointed in that behalf by him/her.

## Qualifications

- A person cannot be elected as Vice-President unless he/she
  - is a citizen of India.
  - has completed the age of 35 years.
  - is qualified for election as a member of the Council of States (Rajya Sabha).
- A person is also not eligible if he holds any office of profit under the Government of India or a State Government or any local or other authority subject to the control of State and Centre governments.
- An election to fill a vacancy caused by the expiry of the term of office of Vice-President is completed before the expiry of the term.
- In case, a vacancy arises by reasons of death, resignation or removal or otherwise, the election to fill that vacancy is held as soon as possible after the occurrence. The person so elected is entitled to hold office for a full term of 5 years from the date he enters office.

### Vice-Presidents of India

Vice-President	Tenure
Dr Sarvepalli Radhakrishnan	13th May, 1952 to 12th May, 1962
Zakir Hussain	13th May, 1962 to 12th May, 1967
Varahagiri Venkata Giri	13th May, 1967 to 3rd May, 1969
Gopal Swarup Pathak	31st August, 1969 to 30th August, 1974
Basappa Danappa Jatti	31st August, 1974 to 30th August, 1979
Mohammad Hidayat Ullah	31st August, 1979 to 30th August, 1984
Ramaswamy Venkataraman	31st August, 1984 to 27th July, 1987
Shankar Dayal Sharma	3rd September, 1987 to 24th July, 1992
Kocheril Raman Narayanan	21st August, 1992 to 24th July, 1997
Krishan Kant	21st August, 1997 to 27th July, 2002 (Died)
Bhairon Singh Shekhawat	19 August, 2002 to 21st July, 2007
Shri Mohammad Hamid Ansari	11th August, 2007 to 19 August 2017
Venkaiah Naidu	19 August, 2017 Till Date

(As on 30th June, 2019)

## Vice-President as Acting President

- The Vice-President acts as President, during casual vacancy in the office of the President by reason of death, resignation or removal or otherwise, until a new President is elected as soon as practicable and in no case, later than 6 months from the date of occurrence of the vacancy.
- When two Presidents, Zakir Hussain and Fakruddin Ali Ahmed died in office, the then respective Vice-Presidents, V V Giri and B D Jatti acted as President.

- When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President discharges those functions till the President resumes office. During this period, the Vice-President has all the powers, immunities and privileges of the President and receives emoluments and allowances payable to the President.

## Removal and Vacancy

- The Vice-President may resign his office by submitting his resignation to the President of India. The resignation becomes effective from the day it is accepted.
- The Vice-President can be removed from office by a **resolution** of the Council of States (Rajya Sabha), passed by a majority of its members at that time and agreed to by the House of the People (Lok Sabha).
- The Constitution is silent on who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, before the expiry of his term or when the Vice-President acts as the President of India.
- The only provision in the Constitution is with regard to the Vice-President's function as the Chairperson of the Council of States (Rajya Sabha), which is performed during the period of such vacancy, by the Deputy Chairperson of the Rajya Sabha or any other member of the Rajya Sabha authorised by the President of India.

## Emoluments

- 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. In 2018, the salary of Vice-President of India has been raised to 4 lakh per month from 1.25 lakh earlier.

## Powers and Functions

- He/She acts as the **ex-officio Chairman of Rajya Sabha**. In this capacity, his powers and functions are similar to those of the Speaker of Lok Sabha. In this respect, he/she resembles the American Vice-President who also acts as the Chairman of the Senate, the Upper House of the American Legislature.
- He/She acts as President when a vacancy occurs in the office of the President due to his resignation, removal, death or otherwise.

- He/She can act as President only for a maximum period of 6 months within which a new President has to be elected.
- Further, 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.

## Council of Ministers

- Article 74 and Article 75 deals with the provision regarding Council of Ministers.
- There shall be a Council of Ministers with the **Prime Minister** as a head to aid and advise the President, who shall in the exercise of his functions, act in accordance with such advice.
- Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise and the President shall act in accordance with the advice tendered after such reconsideration.
- The question whether any and if so what, advice was tendered by ministers to the President shall not be inquired into by any court.
- The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.
- The total number of ministers, including the Prime Minister, in the Council of Ministers shall not exceed **15%** of the total strength of the Lok Sabha. This provision was inserted in Article 72 (1(A)) added by 91st Amendment Act, 2003.
- A member of either House of Parliament belonging to any political party, who is disqualified for being a member of that House under **10th Schedule** shall also be disqualified to be appointed as a minister.
- The ministers shall hold office during the pleasure of the President. This means that the ministers can be removed by the President at his/her will. However, all this is in practice used at the behest of the Prime Minister.
- A minister who is a member of one House of Parliament has the right to speak and to take part in the proceedings of the other House also, but he can vote only in the House of which he is a member.
- A minister who for any period of **6 consecutive months**, is not a member of either House of the Parliament shall at the expiration of that period cease to be a minister. There shall always be a Council of Ministers and there

can arise no situation where there can be no Prime Minister or no Council of Ministers.

- The advice tendered by the Council of Ministers is bound to be accepted by the President including the suggestion of dissolution of Lok Sabha. The advice tendered to the President is confidential and no question can be raised on the advice, tendered in a Court of Law.

## Composition of the Council of Ministers

- The Constitution of India does not categorise the ministers. But in convention the Council of Ministers consists of the three categories of Ministers, namely.

### Cabinet Ministers

- Seniors most members of Council of Minister, who act as head of important ministries of the Central Government. e.g. Defence Ministry, Home Ministry, Finance Ministry etc. They are the integral part of Cabinet, as a result of which, they play a very important role in framing policies.
- The Constitution originally did not indicate the word 'Cabinet'. However, this word was inserted by the 44th Constitutional Amendment Act with regard to emergency provisions. The Cabinet refers to an elite group within the Council of Ministers who hold powerful portfolios like defence, home, finance etc.
- The rest of the Council of Ministers attend Cabinet meetings only when they are called to do so. Cabinet meetings are usually held every week to take stock of the state affairs.
- A new precedent of Group of Ministers (GoMs) has been established to scrutinise complex issues that requires the expertise of academicians and think tanks also. Only Cabinet Ministers occupy the GoMs.

### Minister of State

- Second in rank and they can be given independent charge of ministries or can be attached to the Cabinet Ministers. When attached to the Cabinet Ministers, they work under the guidance of Cabinet Ministers.
- The difference from the Cabinet Ministers lie in the fact that, they do not attend the Cabinet meetings as they are not the part of Cabinet (unless specially invited when something related to their ministry is being considered by the Cabinet).

### Deputy Ministers

- Junior most and they are never given independent charge of ministry (unlike Ministers of State) and always remain attached to the Cabinet Ministers or Ministers of State.
- They assist to discharge the political, administrative and parliamentary duties effectively. They are neither part of Cabinet nor attend the Cabinet meetings.

### Kitchen Cabinet

- The Cabinet, a small body consisting of the Prime Minister as its head and some 15 to 20 most important Ministers is the highest decision-making body in the formal sense. However, in practice, a still smaller body called the 'inner Cabinet or kitchen Cabinet' has become the real centre of power.

### Caretaker Government

- The system of parliamentary democracy has its own celebrated norms in respect of the formation of government, its accountability immediately to the popular chamber of the nation legislature and ultimately to the electorate and the operation of a Caretaker Government beginning with an appeal to the voters' made by the Head of State and ending with the installation of a new government. A Caretaker Government is neither an ad hoc nor a stop-gap mechanism devised to face or deal with a serious situation like war or internal revolt.

### Council of Ministers vs Cabinet

Council of Ministers	Cabinet
It is a wider body consisting of 60 to 70 ministers.	It is a smaller body consisting of 15 to 20 ministers.
It includes all the three categories of ministers, i.e. Cabinet Ministers, Ministers of State and Deputy Ministers.	It includes the Cabinet Ministers only. Thus, it is a part of the Council of Ministers.
It does not meet, as a body, to transact government business. It has no collective functions.	It meets, as a body, frequently and usually once in a week to deliberate and take decisions regarding the transaction of the government business. Thus, it has collective functions.
It is vested with all powers, but in theory.	It exercises, in practice, the power of the Council of Ministers and thus, acts for the latter.
Its functions are determined by the Cabinet.	It directs the Council of Ministers by taking policy decisions which are binding on all ministers.
It implements the decisions taken by the Cabinet.	It supervises the implementation of its decisions by the Council of Ministers.
It is a constitutional body, dealt in detail by the Articles 74 and 75 of the Constitution.	The word 'Cabinet' was inserted in the Article 352 of the Constitution in 1978 by the 44th Constitutional Amendment Act. Thus, it did not find a place in the original text of the Constitution. Now also, Article 352 only defines the Cabinet saying that, it is "the council consisting the Prime Minister and other Ministers of Cabinet rank appointed under Article 75" and does not describe its powers and functions in other words, its role in our politico-administrative system is based on the conventions of the parliamentary form of government as developed in Britain.
Its size is determined by the Prime Minister according to the exigencies of the time and the requirements to the situation.	
Its classification into a three-tier body is based on the conventions to the parliamentary form of government as developed in Britain. It has however, got a legislative sanction. Thus, the Salaries and Allowances Act of 1952 defines a 'Minister' as a "Member of the Council of Ministers, by whatever name called and includes a Deputy Minister."	
It is collectively responsible to the Lower House of the Parliament.	It enforces the collective responsibility of the Council of Ministers to the Lower House of the Parliament.

## Responsibility of Council of Ministers

### Collective Responsibility

- Council of Ministers is collectively responsible to the House of People [Article 75(3)]. Ministry resigns as soon as it loses confidence of Lok Sabha.
- Vote of no confidence passed against any member automatically, leads to the resignation of the whole council.
- The collective responsibility of ministers is to the Lok Sabha even though some of the ministers may belong to the Rajya Sabha.

### Individual Responsibility

- The Principle of Individual Responsibility is embodied in Article 75(2). It says that the minister shall hold office during the pleasure of the President.
- They shall be individually responsible to the executive head and shall be liable to dismissal even when they may have the confidence of the legislature.

## Prime Minister

- In the scheme of the Parliamentary System of Government provided by the Constitution, the President is the nominal executive (de-jure) authority and the Prime Minister is the real executive authority (de-facto).
- He/She is the Chairman of the NITI Aayog, National Development Council, National Integration Council, Interstate Council, National Water Resources Council and plays an important role in shaping our Foreign Policy.

## Appointment of Prime Minister

- Article 75 says only that Prime Minister shall be appointed by the President. However, this does not imply that the President is free to appoint anyone as the Prime Minister. The President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. But when no party has a clear majority in the Lok Sabha, then the President may exercise his/her personal discretion in the selection and appointment of the Prime Minister.

## Powers and Functions

### In Relation to the Council of Ministers

- He/She recommends to the President, those persons who are to be appointed as ministers.
- He/She allocates and reshuffles various portfolios among the ministers.
- He/She can ask a minister to resign or advice the President to dismiss him/her.
- He/She presides over the meetings of the Council of Ministers and influences its decisions.
- He/She guides, directs, controls and coordinates the activities of all the ministers.

### In Relation to the President

- He/She advises the President with regard to the appointment of important officials like the Attorney General of India, the Comptroller and Auditor General of India, the Chairman and the members of the UPSC, the Election Commissioners and so on.
- He/She is the principal channel of communication between the President and the Council of Ministers (Article 78). He communicates to the President all the decisions of the Council of Ministers relating to the administration of the affairs of the union and proposals for legislation.
- He/She furnishes as such information relating to administration of the affairs of the union and proposals for legislation as the President may call for.

### In Relation to the Parliament

- The Prime Minister is the leader of the Lower House of the Parliament. However, there are exceptions such as former Prime Minister Manmohan Singh, who was a member of the Rajya Sabha.
- He/She advises the President with regard to the summoning and proroguing of the sessions of the Parliament. He can recommend dissolution of the Lok Sabha to the President at any time. He announces the government policies on the floor of the house. He/She has the right to intervene in any debate in the Parliament.

### Deputy Prime Minister

There is no mention of Deputy Prime Minister in the Constitution. Deputy Prime Minister is appointed mostly due to political compulsion. **Sardar Patel** was the first Deputy Prime Minister during Prime Minister Nehru's time. Morarji Desai, Charan Singh, Jagjivan Ram, YB Charan, Devilal and LK Advani were also worked as Deputy Prime Minister during the period of various Prime Minister's.

### Cabinet Committees

- They are extra-constitutional. However, the rules of business provides for their establishment. They are setup by the Prime Minister. They usually include only Cabinet Ministers. They are mostly headed by the Prime Minister. Sometimes, other Cabinet Ministers also act as their chairman.

*They are of two types*

#### Standing Committee

- These are of permanent in nature. The four most important standing committees are Political Affairs Committee, Economic Affairs Committee, Appointments Committee and Parliamentary Affairs Committee.

#### Adhoc Committee

- They are of a temporary in nature. They are constituted from time to time, to deal with special problems. They are disbanded after their task is completed.

## Attorney General

- The Attorney General for India is appointed by the President of India under **Article 76** of the Constitution and holds the office during the pleasure of the President.
- He/She must be a person, qualified to be appointed as a Judge of the Supreme Court.
- The **term of office** of the Attorney General is not fixed by the Constitution. Further, the Constitution does not contain the procedure and grounds for his/her removal. He/She may quit his/her office by submitting his/her resignation to the President. Also, the remuneration of the Attorney General is not fixed by the Constitution.

## Duties and Functions of the Attorney General

- *As the chief law officer of the Government of India, the duties of the Attorney General include as follows*
  - To give advice to the Government of India upon such legal matters, which are referred to him by the President.
  - To perform such other duties of a legal character that are assigned to him/her by the President.
  - To discharge the functions conferred on him/her by the Constitution or any other law.

- Accordingly, the President has assigned the following duties to the Attorney General
  - To appear on the behalf of the Government of India in all cases, in the Supreme Court in which the Government of India is concerned.
  - To represent the Government of India in any reference made by the President to Supreme Court under Article 143 of the Constitution (power of President to consult Supreme Court).
  - To appear (when required by the Government of India) in any High Court in any case, in which the Government of India is concerned.
- There are some limitations placed on Attorney General as well, such as
  - He/She should not advise or hold a brief against the Government of India.
  - He/She should not advise or hold a brief in cases, in which he/she is called upon to advice or appear for the Government of India.
  - He/She should not defend accused persons in criminal prosecution without the permission of the Government of India.
  - He/She should not accept appointment as a Director in any company or corporation without the permission of the Government of India.
- However, he/she does not fall in the category of government servant and he/she is not debarred from private legal practices.

## Rights and Limitations

- In the performance of his/her official duties, the Attorney General has the right of audience in all courts in the territory of India.
- He/She has the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting or any committee of the Parliament of which he/she may be named a member, but without a right to vote.
- He/She enjoys all the privileges and immunities that are available to a member of Parliament.

### Solicitor General

The Solicitor General of India is the second law officer of the country and assists the Attorney General. The Solicitor General is further assisted by four Additional Solicitor General. The Constitution does not mention about the Solicitor General. The Solicitor General does not tender legal advice to the Government of India and its workload is confined to appearing in courts on behalf of union of India.

# Self Check

## Build Your Confidence

1. The Supreme Court of India tenders advice to the President of India on matters of law or fact, [IAS 2010]
1. on its own initiative (on any matter of larger public interest).
  2. if he seeks such an advice.
  3. only if the matters relate to the Fundamental Rights of the citizens.

*Which of the statement (s) given above is/are correct?*

(a) Only 1 (b) Only 2 (c) Only 3 (d) 1 and 2

2. Which of the following according to the Constitution of India, is the duty of the President of India to cause to be laid before the Parliament? [IAS 2012]

1. The recommendations of the Union Finance Commission.
2. The Report of the Public Accounts Committee.
3. The Report of the Comptroller and Auditor General.
4. The Report of the National Commission for the Scheduled Castes.

*Select the correct answer the using the codes given below*

(a) Only 1 (b) 2 and 4  
(c) 1, 3 and 4 (d) All of these

3. Consider the following statements regarding the financial powers of President

1. Money Bills can be introduced in Parliament only with the recommendation of President.
2. No demand for grant can be made except on his recommendation.
3. Finance Commission is constituted by the President after every 5 years.

*Which of the statement(s) given above is/are correct?*

(a) Only 1 (b) 2 and 3  
(c) 1 and 2 (d) All of these

4. President has the power of absolute veto in which of the following cases?

1. With respect to Private Members Bill.
2. Ordinary Bill.
3. Bills when the government has resigned.

*Select the correct answer using the codes given below*

(a) Only 1 (b) 1 and 3 (c) 1 and 2 (d) 2 and 3

5. Which one of the following is not a constitutional prerogative of the President of India ?

1. Returning an Ordinary Bill for reconsideration.
2. Returning a Finance Bill for reconsideration.
3. Dissolving the Lok Sabha.
4. Appointing the Prime Minister.

*Select the correct answer using the codes given below*

(a) 1 and 2 (b) Only 2  
(c) 2 and 3 (d) Only 4



1. (b)  
11. (c)

2. (c)

3. (d)

4. (b)

5. (b)

6. (a)

7. (a)

8. (c)

9. (d)

10. (d)

6. The Prime Minister of India, at the time of his/her appointment [IAS 2012]

- (a) need not necessarily be a member of one of the Houses of the Parliament, but must become a member of one of the Houses within 6 months
- (b) need not necessarily be a member of one of the Houses of the Parliament, but must become a member of the Lok Sabha within 6 months
- (c) must be a member of one of the Houses of the Parliament
- (d) must be a member of the Lok Sabha

7. In the context of India, which of the following principles is/are implied institutionally in the parliamentary government? [IAS 2013]

1. Members of the Cabinet are members of the Parliament.
2. Ministers hold the office till they enjoy confidence in the Parliament.
3. Cabinet is headed by the Head of the State.

*Select the correct answer using the codes given below*

(a) 1 and 2 (b) Only 3 (c) 2 and 3 (d) All of these

8. Which non-member can participate in the business of either House of Parliament ?

- (a) The Vice-President (b) The Solicitor General
- (c) The Attorney General (d) The Chief Justice of India

9. Consider the following statements. [IAS 2015]

1. The executive power of the Union of India is vested in the Prime Minister.
2. The Prime Minister is the ex-officio Chairman of the Civil Services Board.

*Which of the statement(s) given above is/are correct?*

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

10. Consider the following statements. [IAS 2014]

1. 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.
2. All executive actions of the Government of India shall be expressed to be taken in the name of the Prime Minister.

*Which of the statement(s) given above is/are correct?*

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

11. Which of the following is/are the function/functions of the Cabinet Secretariat? [IAS 2014]

1. Preparation of agenda for Cabinet meetings.
2. Secretarial assistance to Cabinet committees.
3. Allocation of financial resources to the ministers.

*Select the correct answer using the codes given below*

(a) Only 1 (b) 2 and 3  
(c) 1 and 2 (d) All of these

# Chapter nine

# Parliament

*The Parliament of India forms the cornerstone of Indian democratic political set-up. It is indeed the conscience-keeper of the nation-state. The Parliament comprises the President and two Houses-Lok Sabha and Rajya Sabha. Articles 79 to 122 in Part V of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.*

## Introduction

- The Parliament is the supreme legislative institution of India. It occupies a central position in the Indian democratic political system due to adoption of the parliamentary form of government.
- The first general elections under the new Constitution were held during the year 1951-52 had first elected Parliament came into being in April, 1952.
- **Articles 79** to 122 in **Part V** deals with the provisions of the Parliament. According to Article 79, Parliament consists of the President and the two Houses the Council of States and the House of the People.
- In 1954, the Hindi names **Rajya Sabha** and **Lok Sabha** were adopted by the Parliament of the Council of States and the House of the People respectively.
- The **Article 87(1)** of the Constitution provides: "At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons."

## Qualifications for Members

- A person shall be deemed eligible to become a member of Parliament if he or she is
  - citizen of India;
  - of age not less than 25 years for Lok Sabha and not less than 30 years in case of Rajya Sabha;
  - qualified under relevant clauses as prescribed by the Parliament for time-to-time.

## Disqualifications for Members

- A person shall be disqualified from being a member of House of the Parliament
  - if he or she holds an office of profit under the Government of India or the government of any state other than the office declared by the Parliament by law not disqualify its holder;
  - if he or she is of unsound mind and stand so declared by a competent court;
  - if he or she is an undischarged insolvent;
  - if he or she is not a citizen of India or has voluntarily acquired the citizenship of foreign state or is under any acknowledgement of allegiance or adherence to a foreign state;
  - If he or she is disqualified so by or under any law made by Parliament. Besides the MPs may be disqualified on the ground of defections under Tenth Schedule; convicted for instigating enmity between different groups or for denigrating the Constitution.
- *Under the Tenth Schedule the grounds of disqualification are as follows:*
  - if a member of the House belonging to a political party voluntarily gives up his or her membership of that political party
  - If he/she abstains from voting or votes contrary to the direction issued by the political party to which he or she belongs.
  - If he or she defects from his or her party after elections.
  - An independent member who joins a political party after his or her election.
  - If one-third of the members of the party split from the parent party and join another party, they are disqualified, however, if two-third of the members of the party merge with another party then they are not disqualified.

- When a faction of members constituting not less than one-third of a parent splits to form a new group, they are not disqualified.
- Nominated members after 6 months.
- The Parliament enacted “The Parliament (Prevention of Disqualification) Act 1959, to protect certain office of profit from disqualification”. It include Ministers, Office of whip etc.

## Anti-Defection Law

- The Anti-defection Law was passed in 1985 by the 52nd Constitutional Amendment, which added the **Tenth Schedule** to the Constitution.
- The main objective of the law was to abolish the evils of political defection.
- The 91st Constitutional Amendment Act, 2003 provided disqualification on the ground of defection not to apply in case of split.
- The power to disqualify a member rests with the Chairman or the Speaker of the House.
- A person shall not be disqualified if his/her original political party merges with another and he and other members of the political party welcome members of the new political party.

### Advantages

- 52nd Amendment is a great effort towards counterfeiting the evils of political defectors.
- The political parties got constitutional recognition due to this Act easier there was no mention of political parties in the Constitution.

### Disadvantages

- By preventing parliamentarians from changing parties, it reduces the accountability of the government to the Parliament and the people.
- Interferes with the member's freedom of speech and expression by curbing dissent against party policies.
- The law only talks about members of legislature, one becomes member only after he/she is sworn in.

### 91st Constitutional Amendment Act (2003)

- The Constitution (91st Amendment) Act, 2003 has brought certain changes in the 1985 anti-defection law. The amendment deletes the paragraph 3 of the Tenth Schedule allowing one-third of a legislature party to split without attracting provisions of the existing Anti-defection Law. It debar a defector from holding any ‘remunerative political post’ for the remaining tenure of the legislature or unless re-elected. For definition of the ‘remunerative political post’, refer to the Constitution (Ninety-First Amendment) Act, 2003 dealt under the chapter Amendment of the Constitution.

- The final authority to decide whether a person has incurred the disqualification on grounds of defection or not rests with the Chairman or the Speaker of the House and his decision in this regard is final, according to the Act. The cases regarding disqualification of members of Parliament/State Legislatures do not fall within the purview of the courts. However, in a judgement in 1993, the Supreme Court struck down the clause barring the jurisdiction of courts to review a decision of the Speaker/Chairman of the House on disqualification. The decision of the Speaker is now open to judicial review by the Supreme Court as well as the High Courts under Articles 136, 226 and 227 on the ground of jurisdictional errors, e.g. (i) that it is *ultra vires* or in contravention of a mandatory provision of the Constitution which gives the Speaker the power to make the decision; (ii) that it is vitiated by *malafides* or colourable exercise of the power, being based on extraneous or irrelevant considerations; (iii) that it is a perverse decision based on no evidence; (iv) that it violates the rules of natural justice.
- The Supreme Court declared Clause 7 invalid as it sought to take away the jurisdiction of the Supreme Court and High Courts in a matter (*viz.* disqualification of a member of the legislature) through an Amendment Act that was not ratified by the State Legislatures. However, the particular clause was held to be severable from the other provisions of Schedule Tenth.

### President is a Part of Parliament

*The President is a part of Parliament because:*

- Unlike the Presidential Political System, Parliamentary System does not entail the separation of powers between executive and legislature.
- The President has legislative powers including ordinance making powers.
- All Bills passed by Parliament has to receive the assent of the President to become laws.
- The President himself is elected by an electoral college comprising of Parliament and legislative assemblies.
- The President summons and prorogue both the Houses of Parliament and dissolves the Lok Sabha and also addresses both the Houses.

## Rajya Sabha

- Rajya Sabha is composed of not more than 250 members of whom 12 shall be nominated by the President and the remaining 238 shall be representatives of States and Union Territories elected by the method of indirect election.
- Persons having special knowledge in literature, science, art and social service shall be nominated by the President at his/her discretion.

- The states are given proportionate representation according to their population. Thus, Uttar Pradesh has 31 seats in the Rajya Sabha, while the Nagaland has only a single seat. The distribution of seats is given under the Forth Schedule.
- Presently, the actual strength of Rajya Sabha stands at 245 with 233 elected members and 12 nominated members. Besides 29 states only Delhi and Puducherry participates in Rajya Sabha elections.

### Tenure of Rajya Sabha

- The Rajya Sabha is a permanent body and is not subject to dissolution, but one-third of its members retire every two years.
- The retiring members are eligible for re-election and re-nomination any number of times.
- The Constitution has not fixed the term of office of members of the Rajya Sabha and left it to the Parliament.

Accordingly, the Parliament in the Representation of the People Act, 1951 provided that Constitution term of the office of a member of Rajya Sabha shall be 6 years.

### Rajya Sabha Election Procedure

- The members of the Rajya Sabha are elected by the elected members of the respective State Legislative assembly in accordance with the principle of proportional representation by the means of single transferable vote.
- Formula for election to Rajya Sabha

$$\left( \frac{\text{Strength of Legislative Assembly}}{\text{No of Vacancies} + 1} \right)$$

e.g. Rajasthan Legislative Assembly has a strength of 200. If there are 4 vacancies for Rajya Sabha seats in Rajasthan, then a candidate has to get at least 41 votes to be elected.

### Presiding Officers of Rajya Sabha

- The Vice-President of India is the ex-officio Chairman of Rajya Sabha. Rajya Sabha also elects one of its members to be the Deputy Chairman.
- When, the Chairman acts as the President of India, the office of the Chairman of the Council of the States falls vacant and the duties of the office of the Chairman shall be performed by the Deputy Chairman.
- The function of the Chairman in the Council of States are similar to the Speaker in so far to conduct the orderly business of the House. There is also a Panel of Vice-Chairman in Rajya Sabha, the members of which are nominated by the Chairman, Rajya Sabha.
- In the absence of the Chairman and Deputy Chairman, a member from the Panel of Vice-Chairman presides over the proceedings of the House.

## Lok Sabha

- It is composed of representatives of the people chosen by direct election on the basis of the adult suffrage.
- The maximum strength of the House envisaged by the Constitution is 552, of which 530 members to represent the states, upto 20 members to represent the Union Territories and not more than 2 members of the Anglo-Indian Community to be nominated by the President, if, in his or her opinion, that community is not adequately represented in the House.
- Parliament, from time-to-time, by law makes provision with respect to all matters relating to in connection with, elections to the Lok Sabha including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due Constitution of the Lok Sabha. When the seat of a member elected to the House becomes vacant or is declared vacant or his or her election is declared void, the same is filled through by election.

### Tenure of Lok Sabha

- The normal tenure of Lok Sabha is 5 years. The 42nd Amendment act increase the normal tenure to 6 years. But the 44th Amendment act brought it down to 5 years.
- However, while a proclamation of Emergency is in operation, this period may be extended by Parliament by law for a period not exceeding 1 year at a time and not exceeding in any case beyond a period of 6 months after the proclamation has ceased to operate.

### Election to the Lok Sabha

- For the purpose of holding direct elections to the Lok Sabha, each state is divided into territorial constituencies to ensure that there is uniformity of *representation in two respects which are as follows:*
  - (i) Between the different States.
  - (ii) Between the different constituencies in the same State.
- The 42nd Amendment Act of 1976, froze allocation of seats in the Lok Sabha to the States and the Territorial Constituencies till the year 2000 at the 1971 level. This ban on readjustment was extended upto year 2026 by the 84th Amendment Act of 2001.

### Presiding Officers of Lok Sabha

#### Speaker of Lok Sabha

- The Speaker is the constitutional and ceremonial head of the Lok Sabha. He or she is the principal spokesperson of the Lok Sabha.
- It is in his or her that the responsibility of conducting the business of the House in a manner befitting the place of the institution in a representative democracy is invested.

- The Speaker or the Deputy Speaker will normally hold office during the life of the House, but his/her office may terminate in any of the *following ways*:
  - by his/her ceasing to be a member of the House;
  - by resignation in writing to the Deputy Speaker and *vice-versa*;
  - by removal from office by a resolution passed by a majority of all the members of the House.
- The Speaker holds office from the date of his or her election till the first sitting of the Lok Sabha after the dissolution of the one to which he or she was elected.

### Powers and Functions of Speaker

- The Speaker has extensive function to perform in matters of administrative and parliamentary business nature. His/her decision are final and binding. *Under the Constitution, the Speaker enjoys a special position:*
  - He certifies a bill to be a Money Bill and his/her decision is final under Article 110.
  - He or she presides over joint sittings called for the resolution of a disagreement between the two Houses.
  - Decides whether cut motion, no confidence motion etc., to be admitted or not.
  - Decides the disqualification of members under the Tenth Schedule.
  - Maintains the orderly conduct of business and decorum of the House.
  - Appoints the Chairman of different Parliamentary committees.
  - The Speaker chairs the Business Advisory committee, Rules committee, General Purpose committee.
  - When the Lok Sabha is dissolved, all the member of the Lok Sabha cease to be the member of the Lok Sabha. However, the Speaker continues in his office to the next Lok Sabha is constituted.

### Pro-Tem Speaker

After each general elections, the elected representatives are to take oath of office before they become the member of Parliament. This special session for according oath of office is presided by an elected representative appointed for such purpose. He/She is called the **Pro-Tem Speaker** and is appointed by the President. The person is appointed conventionally the senior most of elected representatives.

The Deputy Speaker presides over the Lok Sabha, when the Speaker is absent from the sitting of the House. When the offices of both the Speaker and the Deputy Speaker fall vacant, the duties of the office of the Speaker are performed by such member of the Lok Sabha as the President may appoint for the purpose. The person so appointed is known as the **Speaker Pro-Tem**.

### Deputy Speaker

- The Deputy Speaker of the Lok Sabha is the Vice-Presiding Officer of the House. He/She acts as the Presiding Officer in case of leave or absence caused by death or illness of the Speaker of the Lok Sabha. The Deputy Speaker is elected in the very first meeting of the Lok Sabha after the general elections for a term of 5 years from amongst the members of the Lok Sabha.
- He/She holds office till either he ceases to be a Member of the Lok Sabha or he himself resigns from the Lok Sabha. He/She can be removed from office by a resolution passed in the Lok Sabha by a majority of its members. He/She is supposed to resign from his original party because as a Deputy Speaker, he has to remain impartial.

### Speakers of Lok Sabha

Speakers	Tenures
Genesh Vasudev Mavalankar (Died)	1952-1956
M Ananthasayanam Ayyangar	1956-1962
Hukam Singh	1962-1967
Neelam Sanjiva Reddy (Resigned)	1967-1969
Gurdial Singh Dhillon (Resigned)	1969-1975
Bali Ram Bhagat	1976-1977
Neelam Sanjiva Reddy (Resigned)	1977-1977
KS Hegde	1977-1980
Bal Ram Jakhar	1980-1989
Rabi Ray	1989-1991
Shivraj V Patil	1991-1996
PA Sangma	1996-1998
GMC Balayogi (Died)	1998-2002
Manohar Gajan an Joshi	2002-2004
Somnath Chatterjee	2004-2009
Ms Meira Kumar	2009-2014
Ms Sumitra Mahajan	2014-2019
Om Birla	—

(As on 30th June, 2019)

### Allocation of Seats in Parliament

States	In Rajya Sabha	In Lok Sabha
Andhra Pradesh	11	25
Arunachal Pradesh	1	2
Assam	7	14
Bihar	16	40
Chhattisgarh	5	11
Goa	1	2
Gujarat	11	26
Haryana	5	10
Himachal Pradesh	3	4
Jammu and Kashmir	4	6

States	In Rajya Sabha	In Lok Sabha
Jharkhand	6	14
Karnataka	12	28
Kerala	9	20
Madhya Pradesh	11	29
Maharashtra	19	48
Manipur	1	2
Meghalaya	1	2
Mizoram	1	1
Nagaland	1	1
Odisha	10	21
Punjab	7	13
Rajasthan	10	25
Sikkim	1	1
Tamil Nadu	18	39
Telangana	7	17
Tripura	1	2
Uttarakhand	3	5
Uttar Pradesh	31	80
West Bengal	16	42

### Union Territories

States	In Rajya Sabha	In Lok Sabha
Andaman and Nicobar Islands	—	1
Chandigarh	—	1
Dadra and Nagar Haveli	—	1
Daman and Diu	—	1
Delhi (The National Capital Territory of Delhi)	3	7
Lakshadweep	—	1
Puducherry	1	1
<b>Nominated Members</b>	12	2
<b>Total</b>	<b>245</b>	<b>545</b>

## Sessions of the Parliament

- The Constitution only states that there should not be a gap of more than 6 months between two consecutive sittings of Parliament.
- Normally three sessions of the Lok Sabha are held in a year, viz
  - Budget Session** February–May
  - Autumn or Monsoon Session** July–September
  - Winter Session** November–December
- One-tenth of the total members in each house including the presiding officer to be present for transact any business are required, it means that there must be at least 55 members present in the Lok Sabha and 25 members present in the Rajya Sabha.

### Summoning

- The President from time-to-time summons each House of Parliament to meet.
- The Special Session of Parliament is summoned by the President in order to transact a special business by the Parliament. In the special session, only the specified business is taken up. It can be held within or outside a regular session.

### End of the Session

#### Adjournment

- Adjournment is a postponement of the sitting or proceedings of the House from one time to another specified for the reassembling of the House. During the course of a session, the Lok Sabha may be adjourned from day to day or for more than a day.
- It may also be adjourned *sine-die*, which means the termination of a sitting of the House without any definite date being fixed for its next sitting.
- The Speaker has the power to adjourn the House *sine-die*. Once, the House is adjourned *sine-die*, he is empowered to call it again. But, on prorogation it is only the President who can summon the Houses.

#### Prorogation

- Prorogation means the termination of a session of the House by an order made by the President under Article 85(2)(a) of the Constitution. The prorogation of the House may take place any time, even while the House is sitting. However, usually, prorogation follows the adjournment of the sitting of the House *sine-die*.

#### Dissolution

- Dissolution of the House means the end of the life of the Lok Sabha either by an order made by the President under Article 85 (2) (b) of the Constitution or on the expiration of the period of 5 years from the date appointed for its first meeting. Dissolution puts an end to the representative character of the individuals who at the time compose the Lok Sabha. Dissolution is irrevocable.
- On the adjournment of the Lok Sabha or its adjournment *sine-die*, the pending business does not lapse.
- Bills pending before either House or Select or Joint committee, motions, resolutions and amendments, which have been already moved and pending in the House and business pending before a Parliamentary committee do not lapse on prorogation whereas all business pending before the House or any of its committee lapse on dissolution.
- Bills originating in the Rajya Sabha and still pending in Rajya Sabha and not passed by Lok Sabha, do not lapse on dissolution of the House.

- Bills have been considered for joint sitting by President do not lapse. Bills passed by both Houses and sent for President's assent do not lapse and Bills are returned by President for reconsideration also do not lapse and can be considered by successive government.
- Pending assurances do not lapse and are considered by the committee on government. Assurances of the new Lok Sabha.

## Joint Sitting of Houses

- To resolve a deadlock between the two Houses, in case of an ordinary legislation, the Constitution provides for the joint sitting of both Houses.
- Article 108(1) of the Constitution provides that when a Bill passed by one House is rejected by the other House or the Houses have finally disagreed as to the amendments made in the Bill or more than 6 months lapse from the date of the receipt of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of dissolution of Lok Sabha, notify to the Houses by message, if they are sitting or by public notification, if they are not sitting, his/her intention to summon them to meet in a joint sitting.
- Issues in joint sitting are decided by a majority of the total number of members of both Houses present and voting.
- The joint sitting is held in the central hall of Parliament House, presided over by the Speaker, Lok Sabha. However, in the case of a Money Bill, there is no provision in the Constitution for a joint sitting of both Houses as Lok Sabha clearly enjoys pre-eminence over Rajya Sabha in financial matters.
- As regards a Constitution Amendment Bill, it has been provided in the Constitution that such a Bill has to be passed by the specific majority, as prescribed under Article 368 of the Constitution, by both Houses.
- There is, therefore, no provision for resolving a deadlock between the two Houses in regard to a Constitution Amendment Bill.
- So far joint sittings have been held thrice in 1961, 1978 and 2002. *They are as follows:*
  - The **First Joint Sitting** was held on 6th May, 1961 to consider amendments to the Dowry Prohibition Bill, 1960,
  - The **Second Joint Sitting** was held on 16th May, 1978 for the passage of Banking Service commission (repeal) Bill, 1977.
  - The **Third Joint Sitting** was held on 26th March, 2002 for the passage of prevention of Terrorism Bill, 2002.

## Parliamentary Proceedings

### Question Hour

- Generally, the first hour of a sitting of Lok Sabha is devoted to questions and that hour is called the **Question Hour**.
- It has a special significance in the proceedings of Parliament. Asking of questions is an inherent and unfettered parliamentary right of members. It is during the Question Hour that the members can ask questions on every aspect of administration and governmental activity.

### Types of Questions

*Questions are of three types: starred, unstarred, and short notice questions are as follows:*

#### Starred Question

- It is one to which a member desires an oral answer in the House and which is distinguished by an asterisk mark. When a question is answered orally, supplementary questions can be asked thereon. Only 20 questions can be listed for oral answer on a day.

#### Unstarred Question

- It is one which is not called for oral answer in the House and on which no supplementary questions can consequently be asked. To such a question, a written answer is deemed to have been laid on the table after the Question Hour by the Minister to whom it is addressed. It is printed in the official report of the sitting of the House for which it is put down. Only 230 questions can be listed for written answer on a day.

#### Short Notice Question

- It is one which relates to a matter of urgent public importance and can be asked with shorter notice than the period of notice prescribed for an ordinary question. Like a starred question, it is answered orally followed by supplementary questions.

### Short Duration Discussion

- In order to provide opportunities to members to discuss matters of urgent public importance, a convention was established in March, 1953, which was incorporated later into the Rules of Procedure and conduct of Business in Lok Sabha under Rule 193 as Short Duration Discussion. Under this rule, members can raise discussion for short durations without a formal motion or vote thereon.

### Half-an-Hour Discussion

- Where answer to a question whether starred or unstarred needs elucidation on a matter of fact, any member can table a notice for raising half-an-hour discussion thereon. If the notice is admitted and gets priority in ballot such a discussion may be allowed by the Speaker.

## Zero Hour

- The time immediately following the Question Hour and laying of papers and before any listed business is taken up in the House has come to be popularly known as the **Zero Hour**. As it starts around 12 noon, this period is euphemistically termed as 'Zero Hour'. For raising matters during the so-called **Zero Hour** in Lok Sabha, members give notice before 10 am everyday to the Speaker stating clearly the subject which they consider to be important and wish to raise in the House.
- It is, of course, for the Speaker to allow or not allow raising of such matters in the House.
- The term 'Zero Hour' is not formally recognised in our parliamentary procedure.

## Motions

- The term motion in parliamentary parlance means any proposal made for the purpose of eliciting a decision of the House. It is phrased in such a way that, if passed, it will purport to express the will of the House. *Motions may be classified as substantive or substitute or subsidiary:*
  - **Substantive motion** is a self-contained independent proposal made in reference to a subject which the mover wishes to bring forward.
  - **Substitute motion** is moved in substitution of an original motion and proposes an alternative to it.
  - **Subsidiary motion** has by itself no meaning and cannot state the decision of the house without reference to the original motion or proceedings of the House.

## Types of Motion

### Calling Attention Motion

- Under this procedural device, a member may, with the prior permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement later.
- The calling attention procedure is an Indian innovation which combines asking a question with supplementaries and making brief comments; the government also gets adequate opportunity to state its case.

### Adjournment Motion

- Adjournment Motion (Rule 56) is the procedure for adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, which can be moved with the consent of the Speaker. The adjournment motion, if admitted, leads to setting aside of the normal business of the House for discussing the matter mentioned in the motion.

- To be in order, an adjournment motion must raise a matter of sufficient public importance to warrant interruption of normal business of the House and the question of public importance is decided on merit in each individual case.
- The purpose of an adjournment motion is to take the government to task for a recent act of omission or commission having serious consequences. Its adoption is regarded as a sort of censure of the government.
- The adjournment motion is voted upon after the discussion. Rajya Sabha does not have this power to raise a adjournment motion.

### No-Confidence Motion

- The government must always enjoy majority support in the popular House to remain in power. If need be, it has to demonstrate its strength on the floor of the House by moving a motion of confidence and winning the confidence of the House.
- The Constitution does not mention either a confidence motion or a no-confidence motion. Rule 198 of the rules of procedure and conduct of business in Lok Sabha lays down the procedure for moving a motion of no-confidence in the Council of Ministers. The usual format of such a motion is that "this House expresses its want of confidence in the Council of Ministers". A motion of no-confidence need not set out any grounds on which it is based.
- A no-confidence motion is allowed only in Lok Sabha.

### Censure Motion

- Censure motion can be moved only in Lok Sabha under Rule 184. A censure motion is moved against an individual minister or whole of the Council of Ministers for a dereliction of duties or breach of privilege. The grounds for moving a censure have to be tabled before the Speaker. Speaker can also disallow a censure motion. The motion is voted upon after a debate.
- If the censure motion is passed against the government, the Council of Ministers shall pass a confidence motion to regain the trust of the House.

## Legislative Proceedings

- All legislative proposals are initiated in the Parliament in the terms of Bills. The Bill is a proposed legislation. It becomes a law when it is asserted by the President. *The bill can broadly be categorised as:*

### Ordinary Bills

- All the bills other than Financial bills. Money bills and the Constitutional Amendment bills are Ordinary bills.
- Such bills can be introduced in either House of the Parliament (in Lok Sabha or the Rajya Sabha) without the recommendation of the President, except those bills under Article 3 (i.e. bills related to reorganisation of the territory of a State).

- These bills are passed by a simple majority by both the Houses. Both the Houses enjoy equal jurisdiction over such bills and in case of a deadlock due to any reason, the tie is resolved by a joint sitting. The President has the right to return such bills for reconsideration to the Parliament once.
- Each House has laid down a procedure for the passage of a Bill According to the procedure of the House, a bill has to pass through three stages commonly known as Readings.
  - **First Reading** The bill is introduced in the House. At this stage, no discussion takes place.
  - **Second Reading** This is the consideration stage when the Bill is discussed clause by clause.
  - **Third Reading** During this stage, a brief general discussion of the bill takes place and the bill is finally passed. When the Bill is passed by one House, it is sent to the other House for its consideration.

### Money Bill

- According to Article 110, A Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of *the following matters, namely:*
  - the imposition, abolition, remission, alteration or regulation of any tax;
  - the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
  - the custody of the Consolidated Fund or the Contingency Fund of India, the payment of money into or the withdrawal of money from any such fund;
  - the appropriation of money out of the Consolidated Fund of India;
  - the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
  - the receipt of money an account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State or
  - any matter incidental to any of the matters specified in sub-clauses (a) to (f).
- If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.
- Money Bills can be introduced only in Lok Sabha. Rajya Sabha cannot make amendments in a Money Bill passed by Lok Sabha. It can, however, recommend amendments in a Money Bill, but must return all Money Bills to Lok Sabha within 14 days from the date of their receipt.
- It is open to Lok Sabha to accept or reject any or all of the recommendations of Rajya Sabha with regard to a Money Bill. If Lok Sabha accepts any of the recommendations of Rajya Sabha, the Money Bill is deemed to have been passed by both Houses with

amendments recommended by Rajya Sabha and accepted by Lok Sabha and if Lok Sabha does not accept any of the recommendations of Rajya Sabha, Money Bill is deemed to have been passed by both Houses in the form in which it was passed by Lok Sabha without any of the amendments recommended by Rajya Sabha.

- If a Money Bill passed by Lok Sabha and transmitted to Rajya Sabha for its recommendations and it is not returned to Lok Sabha within the said period of 14 days, it is deemed to have been passed by both Houses at the expiration of the said period in the form, in which it was passed by the Lok Sabha.

### Financial Bill

- While a Money Bill deals solely with matters specified in Article 110(1) (a) to (g) of the Constitution, a Financial Bill does not exclusively deal with all or any of the matters specified in the said Article that is to say it contains some other provisions also.
- Financial Bills can be divided into two categories. In the first category are Bills which inter-alia (among other things) contain provisions attracting Article 110(1) (a) to (f) of the Constitution. They are categorised as Financial Bills under Article 117(1) of the Constitution. Like Money Bills, they can be introduced only in Lok Sabha on the recommendation of the President. However, other restrictions in regard to Money Bills do not apply to this category of Bills. Financial Bill under Article 117(1) of the Constitution can be referred to a Joint Committee of the Houses.
- In the second category are those Bills which inter-alia contain provisions, which would on enactment involve expenditure from the Consolidated Fund of India. Such Bills are categorised as Financial Bills under Article 117 (3) of the Constitution. Such Bills can be introduced in House of Parliament like any other ordinary Bill. However, recommendation of the President is essential for consideration of these Bills by either House and unless such recommendation is received, House can pass the Bill. However, the Bill may be introduced without President's recommendation, but in such a case its consideration cannot take place.

### Constitution Amendment Bill

- The Constitution vests in Parliament the power to amend the Constitution. Constitution Amendment Bill can be introduced in House of Parliament.
- The Constitution Amendment Bill affecting vital issues as enlisted in the provision to Article 368(2) of the Constitution after having been passed by the Houses of Parliament, have also to be ratified by not less than one half of the State Legislatures.
- While motions for introduction of Constitution Amendment Bills are adopted by simple majority, a majority of the total membership of the House and a majority of not less than

two-third of the members present and voting is required for adoption of effective clauses and motions for consideration and passing of these Bills.

- In the case of Constitutional Amendment Bill, there is no provision for joint sitting of both the Houses to resolve the deadlock in the passage of Bill. If one House rejects the Bill or suggests amendments that are not acceptable to the original House the Bill comes to an end.

### President Assent to the Bills

- After a Bill has been passed by both the Houses of Parliament, it is presented to the President for his/her assent.
- The President may either assent to the Bill, withhold his/her assent or return the Bill, if it is not a Money Bill, with a message for reconsideration of the Bill or any specified provisions thereof, or for considering the desirability of introducing any such amendments as he may recommend in his/her message.
- The President may either give or withhold his/her assent to a Money Bill. A Money Bill can not be returned to the House by the President for reconsideration.
- Also, the President is bound to give his/her assent to Constitution Amendment Bill passed by Parliament by the prescribed special majority and where necessary, ratified by the requisite number of State Legislatures.

### When Does a Bill Lapse in Indian Parliament?

When the Lok Sabha is dissolved, all business including bills, motions, resolutions, notices, petitions and so on pending before it or its committees lapse. They must be reintroduced in the newly-constituted Lok Sabha to be pursued further. Articles 107 and 108 of the Indian Constitution deals with these provisions. The position with respect to lapsing of bills is as follows:

#### Cases when a bill lapse:

- A bill originated in the Lok Sabha but pending in the Lok Sabha—lapses.
- A bill originated and passed by the Rajya Sabha but pending in Lok Sabha—lapses.
- A bill originated and passed by the Lok Sabha but pending in the Rajya Sabha—lapses.
- A bill originated in the Rajya Sabha and returned to that House by the Lok Sabha with amendments and still pending in the Rajya Sabha on the date of the dissolution of Lok Sabha—lapses.

#### Cases when a bill does not lapse:

- A bill pending in the Rajya Sabha but not passed by the Lok Sabha does not lapse.
- If the president has notified the holding of a joint sitting before the dissolution of Lok Sabha, does not lapse.
- A bill passed by both Houses but pending assent of the President does not lapse.

- A bill passed by both Houses but returned by the president for reconsideration of Rajya Sabha does not lapse.
- Some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha.

### Annual Financial Statement

*According to Article 112,*

- The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year.
- The estimates of expenditure embodied in the annual financial statement shall show separately (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India and (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India and shall distinguish expenditure on revenue of account from other expenditure. *The following expenditure shall be expenditure charged on the Consolidated Fund of India charged expenditures:*
  - the emoluments and allowances of the President and other expenditure relating to his office;
  - the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the people;
  - debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and the service and redemption of debt; the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;
  - any sums required to satisfy any judgement, decree or award of any court or arbitral tribunal;
  - any other expenditure declared by this Constitution or by Parliament by law to be so charged.

### Presentation of Budget

- In India, the budget is presented to Parliament on such date as is fixed by the President. The Budget speech of the Finance Minister is usually in two parts. **Part A** deals with general economic survey of the country while **Part B** relates to taxation proposals.
- General budget was earlier being presented at 5 pm on the last working day of February, but since, 1999 the General budget is being presented at 11 am on the last working day of February, i.e. about a month before the commencement of the financial year except in the year when general elections to Lok Sabha are held.
- In an election year, budget may be presented twice—first to secure vote on account for a few months and later in full.

- The General budget is presented in Lok Sabha by the Minister of Finance. He makes a speech introducing the budget and it is only in the concluding part of his speech that the proposals for fresh taxation or for variations in the existing taxes are disclosed by him.
- The 'Annual Financial Statement' is laid on the table of Rajya Sabha at the conclusion of the speech of the Finance Minister in Lok Sabha. The budget of the Indian Railways is presented separately to Parliament and dealt separately, although the receipts and expenditure of the railways form part of the Consolidated Fund of India and the figures relating to them are included in the 'Annual Financial Statement'.

## Stages in Enactment of the Budget

- Presentation of Budget
- Vote on Account
- General Discussion
- Scrutiny by Department Committees
- Voting on Demand for Grants
- Passing of Appropriation Bill
- Passing of Finance Bill

## Changes in Budget Presentation from 2017

This year, the NDA government decided to present the Union Budget on 1st February departing from the colonial-era tradition of presenting the budget on last working day of February. It is done so that the legislative approval for annual spending plans and tax proposals could be completed before the beginning of new financial year on 1 April. Apart from it, the other two significant changes were the merger of Railway Budget with Union Budget and abolishing the classification of plan and non-plan expenditure.

## General Discussion on Budget

- The discussion on the budget begins a few days after its presentation. In a democratic set-up, government is anxious to give Parliament full opportunity to discuss the budgetary provisions and the various proposals for taxation. Since, Parliament is not able to vote the entire budget before the commencement of the new financial year, the necessity to keep enough finance at the disposal of government in order to allow it to run the administration of the country remains unmet.
- A special provision is, therefore, made for Vote-on-Account by which government obtains the Vote of Parliament for a sum sufficient to incur expenditure on various items for a part of the year. Normally, the Vote-on-Account is taken for 2 months only.

## Scrutiny by Departmental Committees

- After the first stage of General Discussion on both Railway as well as General Budget is over, the House is adjourned for a fixed period. During this period, the demands for grants of various ministries or departments including railways are considered by concerned Standing committees. These committees are required to make their reports to the House within specified period without asking for more time.

## Voting on Demands of Grants

- After the reports of the Standing committees are presented to the House, the House proceeds to the discussion and voting on demands for grants, ministry-wise. On the last day of the allotted days, the Speaker puts all the outstanding demands to the vote of the House. This device is popularly known as *guillotine*.
- Lok Sabha has the power to assent to or refuse to give assent to any demand or even to reduce the amount of grant sought by government. In Rajya Sabha, there is only a general discussion on the budget. It does not vote on the demands for grants. Only so much of the amount is subject to the vote of Lok Sabha as is not a 'charged' expenditure on the Consolidated Fund of India.
- Discussion in Lok Sabha on charged expenditure is permissible, but such expenditure is not voted by the House. Members have full opportunity to criticise the budgetary provisions during the course of discussion as also to make suggestions for improving the financial position of the country.

### Cut Motions

Motions for reduction to various demands for grants are made in the form of cut motions seeking to reduce the sums sought by government on grounds of economy or difference of opinion on matters of policy or just in order to voice a grievance.

*Three types of cut motion are permitted in Lok Sabha. They are as follows:*

**Economy Cut** It signals that the government has done undue spending and asks the government to undertake cost-cutting measures to improve efficiency.

**Policy Cut** It signals the complete disapproval of the budget by the House and recommends that the amount of the grant be reduced to ₹ 1.

**Token Cut** It signals disapproval in the overall allocation of budgetary items and asks the House to cut the amount by ₹ 100. Token cut is of symbolic nature. So far, no cut motions have been passed.

**Cut Motion** If a cut motion is adopted and passed, a no-confidence motion can be proceeded against government.

## Appropriation Bill

- After the general discussion on the budget proposals and voting on demands for grants have been completed, government introduces the Appropriation Bill.
- The Appropriation Bill is intended to give authority to government to incur expenditure from and out of the Consolidated Fund of India. The procedure for passing this Bill is the same as in the case of other Money Bills.

## Finance Bill

- The Finance Bill seeking to give effect to the government's taxation proposals, which is introduced in Lok Sabha immediately after the presentation of the General Budget, is taken up for consideration and passing after the Appropriation Bill is passed.
- However, certain provisions in the Bill relating to levy and collection of fresh duties or variations in the existing duties come into effect immediately on the expiry of the day on which the Bill is introduced by virtue of a declaration under the Provisional Collection of Taxes act. Parliament has to pass the Finance Bill within 75 days of its introduction.

## Supplementary/Excess Grants

- No expenditure in excess of the sums authorised by Parliament can be incurred without the sanction of Parliament. Whenever a need arises to incur extra expenditure, a supplementary estimate is laid before Parliament. If any money has been spent on any service during a financial year in excess of the amounts granted for that service and for that year, the Minister of Finance or Railways presents a demand for excess grant.
- The procedure followed in Parliament in regard to supplementary or excess grants is more or less the same as is adopted in the case of estimates included in the General budget.

## Comparison of Lok Sabha and Rajya Sabha

- Under **Article 75(3)** of the Constitution, the Council of Ministers is collectively responsible to Lok Sabha, which means Rajya Sabha cannot make or unmake the government. It can, however, exercise control over the government and this function becomes quite prominent, particularly when the government does not enjoy majority in Rajya Sabha.
- Ministers may belong to House of Parliament. Every minister has the right to speak and take part in the proceedings of either House, but he/she is entitled to vote only in the House of which, he is a member.
- Similarly, with regard to powers, privileges and immunities of the Houses of Parliament, their members and committees thereof, the two Houses are placed absolutely on equal footing by the Constitution.

## Equal Powers of Rajya Sabha and Lok Sabha

- Equal right with the Lok Sabha in the election and impeachment of the President (Articles 54 and 61).
- Equal right with the Lok Sabha in the election and removal of the Vice-President (Article 66). However, Rajya Sabha alone can initiate the removal of the Vice-President. He is removed by a resolution passed by the Rajya Sabha by a special majority and agreed to by the Lok Sabha by a simple majority.
- Equal right with the Lok Sabha to make law defining parliamentary privileges and also to punish for contempt (Article 105).
- Equal right with the Lok Sabha to approve the Proclamation of Emergency (issued under Article 352), proclamations regarding failure of the constitutional machinery in states (issued under Article 356) and even a sole right in certain circumstances.
- Enlargement of the jurisdiction of the Supreme Court and the UPSC.
- Approval of ordinances issued by the President.
- Equal right with the Lok Sabha to receive reports and papers *from various statutory authorities*:
  - Annual Financial Statement [Article 112(1)].
  - Audit reports from the Comptroller and Auditor General of India [Article 151(1)].
  - Reports of the Union Public Service commission. [Article 323(1)].
  - Reports of the Special Officer for the Scheduled Castes and Scheduled Tribes [Article 338(2)].
  - Report of the Commission to Investigate the Conditions of the Backward Classes [Article 340(3)].
  - Report of the Special Officer for Linguistic Minorities [Article 350 B(2)].

## Special Powers of Lok Sabha with Respect to Rajya Sabha

- A Money Bill can be introduced only in the Lok Sabha and not in Rajya Sabha.
- Rajya Sabha cannot amend or reject a Money Bill. It should return the Bill to the Lok Sabha within 14 days with or without recommendations.
- The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both cases, the Money Bill is deemed to have been passed by the two Houses.
- A Financial Bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both have equal powers.
- The final power to decide whether a particular Bill is a Money Bill is vested in the Speaker of the Lok Sabha.

- The Speaker of Lok Sabha presides over the joint sitting of both the Houses.
- The Lok Sabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both Houses is less than that of opposition parties.
- Rajya Sabha can only discuss the budget, but cannot vote on the demands for grants.
- A resolution for the discontinuance of the National Emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
- The Rajya Sabha cannot remove the Council of Ministers by passing a no confidence motion. This is because the Council of Ministers is collectively responsible only to the Lok Sabha.

### Special Powers of Rajya Sabha with Respect to Lok Sabha

#### Legislation on State Matters

- As a federal chamber, it can initiate Central intervention in the state legislative field. Article 249 of the Constitution provides that the Rajya Sabha may pass resolution, by a majority of not less than two-third of the members present and voting, to the effect that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State list. If such a resolution is adopted, Parliament will be authorised, to make laws on the subject specified in the resolution, for the whole or any part of the territory of India. Such a resolution will remain in force for such period, not exceeding 1 year, as may be specified therein, but this period can be extended by 1 year at a time by passing further resolution.

#### Creation of All India Services

- Another exclusive power of the Rajya Sabha is contained in Article 312 of the Constitution wherein if the Rajya Sabha passes a resolution by a majority of not less than two-third of the members present and voting declaring that it's necessary or expedient in the national interest to create one or more All India Services common to the union and the states, Parliament will have the power to create by law such services.

#### Approval of Proclamation

- The provision to Clause (4) of the Article 352 of the Constitution, inter alia, provides that if a proclamation of Emergency is issued when the House of the people remains dissolved and a resolution approving the proclamation is passed by the Council of States, the proclamation, would be legally effective up to a maximum period of 30 days from the date on which the House of the people first sits after its reconstitution.

- This provision, therefore, appears to suggest that there might be an occasion when the Council of States could be called into a session at a time when the House of people stands dissolved. The provision to Clause (3) of the Article 356 of the Constitution which relates to the proclamation to be issued by the President in case of failure of constitutional machinery in a state, contains a similar stipulation.

### Parliamentary Privileges

- The term *parliamentary privilege* refers to certain rights and immunities enjoyed by each House of Parliament and committees of each House collectively and by members of each House individually, without which they cannot discharge their functions efficiently and effectively. The objective of parliamentary privileges is to safeguard the freedom, the authority and the dignity of Parliament.
- The powers, privileges and immunities of either House of Parliament and of its committees and members have been laid down in Article 105 of the Constitution.
- Under Article 105, certain privileges are granted for the MPs, *they are as follows*:
  - Freedom of speech in Parliament where restriction under Article 19(2) do not apply.
  - Immunity for a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament.
  - Courts are prohibited from inquiring into the validity of any proceedings in Parliament there of under various statutes enacted by the Parliament MPs are *given certain additional privileges*:
    - (i) Freedom from arrest in civil cases, but not in criminal cases.
    - (ii) Freedom of attendance as witness.
    - (iii) Freedom from being liable to be used for defamation cases in respect to anything said or done during parliamentary proceedings.

#### Difference between Breach of Privilege and Contempt of the House

When any of the privileges, either of the members individually or of the House in its collective capacity, is disregarded or attacked by any individual or authority, the offence is called a **breach of privilege**.

Contempt of the House may be defined generally as any act or omission which obstructs or impedes either House of Parliament in the performance of its functions or which obstructs or impedes any member or officers of such House in the discharge of his or her duty, or which has a tendency, directly or indirectly, to produce such results even though there is no precedent of the offence.

Whereas all breaches of privilege are contempts of the House whose privileges are violated, a person may be guilty of a contempt of the House even though he does not violate any of the privilege of the House, e.g. when he disobeys an order to attend a committee or publishes reflections on the character or conduct of a member in his capacity as a member.

## Office of Profit

The term is used in Article 102(1)(a) and 191(1)(a) of the Indian Constitution which bars a member of the Indian Parliament and State Legislatures from holding an office that would give its occupant the opportunity to gain a financial advantage or benefit. It refers to a post under Central/State Government which yields salaries, perks and other benefits. The actual amount of profit gained during the violation has no bearing on its classification. India had the Parliament (Prevention of Disqualification) Act, 1950, 1951 and 1953 exempting certain posts from being recorded as offices of profit. All these Acts were replaced by the Parliament (Prevention of Disqualification) Act, 1959. By virtue of section 3 of the said Act, certain offices did not disqualify their holders from being members of Parliament. The law was again amended in 2006.

The representatives cannot hold an office of profit under section 9 of the Representation of People Act.

## Voting in Parliament

- *The various methods, adopted for voting in the Lok Sabha and Rajya Sabha are as follows:*

### Voice Vote

- It is a simple method for deciding a question put by the chair on a motion made by a member. Under this method, the question before the House is determined by the 'Ayes' or the 'Noes', as the case may be.

### Division

- *There are three methods of holding a division as follows:*
  - (i) by operating the Automatic Vote Recording Equipment;
  - (ii) by distributing 'Ayes' and 'Noes' slips in the House and
  - (iii) by members going into the Lobbies.

### Secret Ballot

- During an 'open' voting period, the individual results are shown by the three characters 'A', 'N' and 'O' on the Individual Result Display Panel. Secret voting, if any, is on similar lines except that the Light Emitting Diode (LED) on the Individual Result Display Panel shows P sign amber light to show that the vote has been recorded.

## Recording of Votes by Distribution of Slips

- *The method of recording of votes by members on 'Aye' and 'No' slips is generally resorted to in the eventuality of:*
  - sudden failure of the working of the Automatic Vote Recording Equipment.
  - at the commencement of the new Lok Sabha, before the seats or division numbers have been allotted to members.

## Physical Count of Members in their Places Instead of a Formal Division

- If in the opinion of the chair, a division is unnecessarily claimed he or she may ask the members who are for 'Aye' and those for 'No', respectively, to rise in their places and on a count being taken, he or she may declare the determination of the House. In such a case, the particular of voting of the members are not recorded.

### Casting Vote

- If in a division the number of 'Ayes' and 'Noes' is equal, the question is decided by the casting vote of the chair. Under the Constitution, the Speaker or the person acting as such cannot vote in a division; he/she has only a casting vote which he/she must exercise in the case of equality of votes.

## Parliamentary Committees

- Parliamentary committee means a committee, which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the Speaker and presents its report to the House or to the Speaker and the Secretariat for which is provided by the Lok Sabha Secretariat. *Broadly, the Parliamentary Committees may be classified into the two categories : Ad hoc Committee and Standing Committee.*

### (i) Ad hoc Committees

- Ad hoc committees are constituted by the House or by the Presiding Officers, singly or jointly, for a specific purpose and cease to exist when they finish the task assigned to them and submit a report.
- The usual Ad hoc committees are the select or joint committees on Bills and others like the Railway Convention Committee, setup to review the rate of dividend payable by railways to the general revenues, and those constituted to enquire into and report on specific subjects.

### Joint Parliamentary Committees

- Joint Parliamentary Committee is one type of Ad hoc Parliamentary Committees constituted by Parliament. It is mandated to inquire into a specific subject. A JPC (Joint Parliamentary committee) is constituted either through a motion adopted by one House and concurred by the other or through communication between the presiding officers of the two Houses. The members are either elected by the Houses or nominated by the presiding officers.
- The strength of a JPC may vary. The terms of reference of a JPC are decided by the Parliament itself.
- JPC have overarching powers of summoning any authority including the Prime Minister and seeking attendance.

## (ii) Standing Committees

- Standing committees are those committees, which are either elected by the House or nominated by the Presiding Officer(s) (i.e. the Speaker in the case of the Lok Sabha and the Chairman in the case of the Rajya Sabha) periodically and are permanent in nature.

*Some important Standing Committees of the Lok Sabha are as follows:*

- The Business Advisory Committee
- Committee of Privileges
- Committee on Government Assurances
- Estimates Committee
- Rules Committee
- Committee on Empowerment of Women
- Committee on Public Undertakings
- Committee on the Welfare of Scheduled Castes and Scheduled Tribes
- Public Accounts Committee

## Financial Committees

### Committee on Estimates

- The Estimates committee constituted for the first time in 1950 is a Parliamentary Committee consisting of 30 member selected every year by the Lok Sabha amongst its members in proportion of party strength. It is the largest committee of the Parliament. A minister cannot be elected as a member of the committee. The term of office of the committee is 1 year.

#### Functions of Estimate Committee

- Report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates may be effected;
- Suggest alternative policies in order to bring about efficiency and economy in administration;
- Examine whether the money is well laid out within the limits of the policy implied in the estimates; and
- Suggest the form in, which the estimates shall be presented to Parliament. The committee does not exercise its functions in relation to such public undertakings as are allotted to the Committee on Public Undertakings by the Rules of Procedure of Lok Sabha or by the Speaker.

### Public Accounts Committee

- It is the oldest committee in existence from 1921. The committee consists of not more than 22 members including 15 members of Lok Sabha and 7 members of Rajya Sabha. The members are elected by their respective Houses. The Chairman is appointed by the Speaker and is usually from the opposition party. *Functions of the Committee are as follows:*
  - The main function of PAC is to examine the annual audit reports of the CAG, which are laid before the Parliament by the

President. The CAG submits three audit report namely Audit report on appropriation accounts, Audit report on finance accounts and audit report on public undertakings.

- To scrutinise the accounts of the government so that the money dispersed were legally available for and applicable to the purpose to which they have been granted.
- The expenditure conforms to the authority which governs it.
- That every re-appropriation has been made in accordance with the provisions made by competence authority.
- The PAC examines cases involving losses, nugatory expenditure and financial irregularities. It scrutinises the reports of the CAG.

### Committee on Public Undertakings

- The Committee on Public Undertakings (CPU) consists of 22 members 15 elected by Lok Sabha and 7 elected by Rajya Sabha. The term of the committee is 1 year.

#### Functions and CPU

- To examine the reports and accounts of public undertakings.
- To examine the reports of CAG on select PSUs.
- To ascertain whether the affairs of the public undertaking are being managed in accordance with the sound commercial principles.

### Department Related Standing Committees (DRSCs)

- DRSCs were setup in 1993 to scrutinise the functioning of the various ministries.
- Departments of the Union Government assigned to them in order to further strengthen the accountability of the Government to Parliament.
- Twenty-four DRSCs have been constituted consisting of not more than 31 members, out of which 21 members are nominated by the Speaker, Lok Sabha and 10 members are nominated by the Chairman, Rajya Sabha. 8 DRSCs function under the control and direction of the Chairman, Rajya Sabha, while sixteen such committees function under the control and direction of the Speaker, Lok Sabha.
- One of the important functions of these committees is to examine such Bills introduced in either House as are referred to them by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be and make report thereon. The reports of the Standing Committees have persuasive value.
- In case, the government accepts any of the recommendations of the committee, it may bring forward official amendments at the consideration stage of the Bill or may withdraw the Bill reported by the Standing Committee and bring forward a new Bill after incorporating the recommendations of the Standing Committee.

### Functions of the DRSCs

- To consider the Demands for Grants of the related Ministries or Departments and report thereon;
- To examine Bills, pertaining to the related Ministries or Departments, referred to the Committee and report thereon;
- To consider the annual reports of the Ministries or Departments and report thereon; and
- To consider national basic long-term policy documents and report thereon.

### Consolidated Fund of India

This is the fund established under **Article 266(1)** of the Constitution and into this all receipts, revenues and loans flow. All expenditure from the Consolidated Fund has to be passed by Parliament through an Appropriation Bill.

### Public Account of India

It includes all those moneys where the government acts as a banker. e.g. provident fund, small savings etc. It is established under Article 266(2).

These funds do not belong to the government and have to be paid back sometime to their rightful owners. Expenditure from public account is not required to be approved by Parliament.

### Contingency Fund of India

Parliament has established a Contingency Fund under **Article 267** to be placed at the disposal of President to meet unforeseen expenditures pending authorisation of such expenditure by Parliament. Earlier Contingency Fund was ₹ 50 crore but now it ₹ 500 crore. Money can be taken out of Contingency Fund during emergency but approval from Parliament has to be taken later on.

## Parliamentary Reforms

- For Parliament, it is the most importance to constantly review and refurbish its structural-functional requirements and from time-to-time to consider renewing and reforming the entire gamut of its operational procedures to guard against decay.

*Parliamentary reforms would have to include:*

- Building a better image of Parliament.

- Improving the quality and conduct of members.
- By law, it must be provided that Parliament should be working for at least 100-120 days. Improving information supply to Parliament and efficacy of committee scrutiny.
- Legislative planning and improving the quality of laws.
- Codifying Parliamentary privileges.
- Improving working of parliamentary parties, floor management, parliamentary time-table.
- Rationalising and modernising rules of procedure to meet today's needs.

## Cabinet Secretariat

- The Cabinet Secretariat supervises and co-ordinates the function of Cabinet Ministers which constitutes the Cabinet Secretariat. The PM being the in-charge of his Cabinet, the entire gamut of governmental activity comes under the purview of this organisation. It circulates governmental papers among ministries for effective decision-making.
- It conveys the directives of the Cabinet or the Prime Minister on administration and allied matters. It co-ordinates among the Cabinet Committee. It is essentially a secretariat to aid and advice the cabinet and through it to the PM, President, Parliament and various ministers of the Central Secretariat. It is the Successor of the Secretariat of the Executive Council of Viceroy.

### The Prime Minister's Secretariat

- It is an extra constitutional body created to assist the PM in discharging his ever growing functions. It came into being on 15th August, 1947. Since June, 1977, it is known as PMO. In this, PM takes the aid and advice from his personal secretarial experts and staff members. It is meant to objectively analyse and legally process the advice rendered by the PM.
- It occupies the status of a department of the GOI under the allocation of Business Rule, 1961 and has no attached sub-ordinate officer under it. So far the question, as to which body is more important it has shifted from one secretariat to the other depending on the style of working of the PM over the years.

# Self Check

## Build Your Confidence

- 1. Which is not correct regarding the power and functions of the Speaker of Lok Sabha?**  
(a) He can be removed only by a resolution passed by the Lok Sabha by an ordinary majority  
(b) His salaries and allowances are charged on the Consolidated Fund of India  
(c) His powers of regulating procedure in the House are not subject to the jurisdiction of any court  
(d) He can only exercise a casting vote in the event of a tie
- 2. Consider the following statements**  
1. A starred question in Parliament requires an oral answer and hence supplementary questions can follow.  
2. An unstarred question in Parliament requires a written answer and hence supplementary questions cannot follow.  
3. A short-notice question is one that is asked by giving a notice of less than 10 days. It is answered orally.  
**Which of the statement(s) given above is/are correct?**  
(a) 1 and 2 (b) Only 3 (c) 2 and 3 (d) All of these
- 3. Which expenditure is not charged upon the Consolidated Fund of India?**  
(a) Salaries, allowances and pensions of the Judges of the Supreme Court  
(b) Pension of the Judges of the High Court  
(c) Salaries, allowances and pension of the members of the Parliament  
(d) Salaries of the Chairman and members of the Union Public Services commission
- 4. Which statement is not correct about Parliamentary privileges?**  
(a) The courts are prohibited to inquire into the proceedings of a House  
(b) Members can not be arrested during the session of Parliament  
(c) No member is liable to any proceedings in any court for anything said or any note given by him in Parliament  
(d) It can punish members as well as outsiders for breach of the privileges
- 5. When a Bill is referred to Joint sitting of both the Houses of the Parliament, it has to be passed by** [IAS 2015]  
(a) a simple majority of members present and voting  
(b) three-fourths majority of members present and voting  
(c) two-thirds majority of the Houses  
(d) absolute majority of the Houses
- 6. Consider the following statements with reference to the Union Government** [IAS 2015]  
1. The Department of Revenue is responsible for the preparation of Union budget that is presented to the Parliament.  
2. No amount can be withdrawn from the Consolidated Funds of India without the authorisation from the Parliament of India.  
3. All the disbursements made from public account also need the authorisation from the Parliament of India.  
**Which of the statement(s) given above is/are correct?**  
(a) 1 and 2 (b) 2 and 3  
(c) Only 2 (d) All of these
- 7. Consider the following statements** [IAS 2015]  
1. The Rajya Sabha has no power either to reject or to amend a Money Bill.  
2. The Rajya Sabha cannot vote on the demands for grants.  
3. The Rajya Sabha cannot discuss the Annual Financial Statement.  
**Which of the statement(s) given above is/are correct?**  
(a) Only 1 (b) 1 and 2  
(c) 2 and 3 (d) All of these
- 8. Consider the following statements regarding a no-confidence motion in India.** [IAS 2014]  
1. There is no-mention of a no-confidence motion in the Constitution of India.  
2. A motion of no-confidence can be introduced in the Lok Sabha only.  
**Which of the statement (s) given above is/are correct?**  
(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2
- 9. Which one of the following is the largest committee of the Parliament?** [IAS 2014]  
(a) The Committee on Public Accounts  
(b) The Committee on Estimates  
(c) The Committee on Public Undertakings  
(d) The Committee on Petitions
- 10. Which one of the following schedules of the Constitution of India contains provisions regarding anti-defection?** [IAS 2014]  
(a) 2nd Schedule (b) 5th Schedule  
(c) 8th Schedule (d) 10th Schedule



1. (a)      2. (d)      3. (c)      4. (b)      5. (a)      6. (b)      7. (b)      8. (c)      9. (b)      10. (d)

# Chapter ten

## The Judiciary

*With the mandate to protect the people's rights and act as the guardian of the Constitution, the Judiciary is held in high esteem for its magnanimity to deliver justice to the aggrieved. The judiciary has a unique position in the Constitution and serves as an independent and impartial authority to adjudicate on the disputes between the Centre and the State/States or between the States.*

### The Supreme Court

- The Indian Constitution has established an integrated Judicial system which places Supreme Court at the top and the High Courts below it, followed by a hierarchy of subordinate courts.
- The Constitutional provisions related to the Supreme Court are contained in Part V from **Articles 124 to 147**. Initially, there was a Chief Justice and seven other Judges in the Supreme Court and now the number has increased to 31 judges including the Chief Justice of India in 2009. The Parliament has given the power to increase the number of Supreme Court judges, according to the needs and circumstances.

### Chief Justice of India

- The Chief Justice of India (CJI) is the highest judicial officer of the country. The post is one of esteem and dignity, requires consummate jurisprudential calibre as well as personal stature to occupy the office.
- The nature of work of CJI is largely administrative and that includes allocating work amongst the judges of the Supreme Court.

### Acting Chief Justice of India

- According to **Article 126**, when the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

### Qualifications for Supreme Court Judges

- A person shall not be qualified for appointment as a Judge of the Supreme Court unless he/she
  - is a citizen of India, and
  - has been for atleast **five years** a judge of a High Court or a two such Courts in succession; or has been for atleast **ten years** an advocate of a High Court or of two or more such Courts in succession;
  - is, in the opinion of the President, a distinguished jurist.
- Every person appointed to be a Judge of the Supreme Court shall, before he/she enters upon his/her office, make and subscribe before the President an oath of affirmation according to the form set out in the Third Schedule of the Constitution.
- The Constitution does not prescribe minimum age limit for a judge to occupy his/her office.
- A Judge of the Supreme Court continues to hold the office till he/she attains the age of **65 years**. A Judge of the Supreme Court may tender his/her resignation to the President even before he/she reaches age of 65 years.
- A Judge of Supreme Court, after retirement, shall not do legal practice in any court in the territory of India and shall not plead before any authority under the Government.

### Appointment of Supreme Court Judges

- The Judges of the Supreme Court are appointed by the President.
- The Chief Justice is appointed by the President after consultation with such Judges of the Supreme Court and High Court as he/she deems necessary.

- The other judges are appointed by the President after consultation with the Chief Justice and such other judges of the Supreme Court, and High Courts as he/she deems necessary.
- The consultation with the Chief Justice is obligatory in the case of appointment of a judge other than Chief Justice.

## Removal of a Supreme Court Judge

- According to **Article 124 (4)**, A Judge of the Supreme Court shall not be removed from his/her office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than **two-thirds** of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

## Process of Impeachment

- The judges Enquiry Act (1968) regulates the procedure relating to the removal of a judge of the Supreme Court by the process of impeachment:
- A motion for removal supported by at least **100** members in Lok Sabha or **50** members in Rajya Sabha is required for admission of motion for removal of the judge.
- The Presiding officer of Lok Sabha or Rajya Sabha constitutes an inquiry committee to verify the charges of accusation.
- If the inquiry committee is satisfied that the judge has been guilty, it may recommend for removal of that judge.
- Both the Houses shall have to pass a resolution to this effect by a special majority in the same session.
- The judge stands evicted by an order of the President.
- *No case of removal of SC judge has happened so far. The case of Justice V. Ramaswamy in (1991-93) was not passed because of absence of majority in Lok Sabha when Congress MPs abstained from voting.*

## Adhoc and Retired Judges

- **Article 127** says that if at any time there may not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India can appoint a Judge of a High Court as an adhoc Judge of the Supreme Court for a temporary period. He can do so only with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned.
- The Judge so appointed should be qualified for appointment as a Judge of the Supreme Court.
- It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and

for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

## Retired Judges

**Article 128** says that the Chief Justice of India may at any time, with the previous consent of the President, request a retired judge of the Supreme Court or a Retired Judge of High Court who is duly qualified for appointment as a judge of the Supreme Court, to act as a Judge of the Supreme Court for a temporary period. Such judge while so sitting and acting be entitled to such allowances as the President may determine and has all the jurisdiction, powers and privileges of a Judge of Supreme Court. But he/she will not otherwise be deemed to be a Judge of the Supreme Court.

## Salaries and Allowances of Supreme Court Judges

- The Parliament has the power to regulate the salaries, allowances, privileges, leave and pension of the Judges during his/her term of office. The only exception is that during Financial Emergency, the salaries and other allowances of the Judges can be reduced. The salaries and other allowances of the Judges are charged upon the **Consolidated Fund** of India.
- The Chief Justice of India will now get a monthly salary of 2.8 lakh per month, as opposed to 1 lakh earlier. Similarly, the Judges of SC will get a monthly salary of 2.50 lakh.

## Seat and Benches of the Supreme Court

**Article 130** says that the Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time-to-time, decide.

- To dispose off the cases before Supreme Court, the matters are placed before various benches of Supreme Court. The bail applications in appeals are heard by single Judge. Most of the matters are decided by division benches of the Supreme Court consisting of two Judges. If the two Judges disagree (which is rare), the view of the Senior Judge prevails. Priority matters are placed before three Judges bench.
- All cases involving Constitutional interpretation and presidential references are placed before a 5 Judge Bench, popularly known as a **Constitutional Bench**. The largest bench so far was the **13 Judge Bench** that delivered the Kesavananda Bharati Case verdict in 1973.

## Chief Justices of India (Since 1951)

S.No.	Names	Took Office	Left Office
1.	HJ Kania	26th Jan, 1950	6th Nov, 1951
2.	MP Sastri	7th Nov, 1951	3rd Jan, 1954
3.	Mehr Chand Mahajan	4th Jan, 1954	22nd Dec, 1954
4.	BK Mukherjee	23rd Dec, 1954	31st Jan, 1956
5.	Sudhi Ranjan Das	1st Feb, 1956	30th Sep, 1959
6.	Bhuvaneshwar Prasad Sinha	1st Oct, 1959	31st Jan, 1964
7.	PB Gajendragadkar	1st Feb, 1964	15th Mar, 1966
8.	AK Sarkar	16th Mar, 1966	29th June, 1966
9.	K Subba Rao	30th June, 1966	11th April, 1967
10.	Kailas Nath Wanchoo	12th April, 1967	24th Feb, 1968
11.	M Hidayat-ul-lah	25th Feb, 1968	16th Dec, 1970
12.	Jayantilal Chhotalal Shah	17th Dec, 1970	21st Jan, 1971
13.	SM Sikri	22nd Jan, 1971	25th April, 1973
14.	AN Ray	26th April, 1973	28th Jan, 1977
15.	Mirza Hameed-ul-lah Beg	29th Jan, 1977	21st Feb, 1978
16.	YV Chandrachud	22nd Feb, 1978	11th July, 1985
17.	PN Bhagwati	12th July, 1985	20th Dec, 1986
18.	RS Pathak	21st Dec, 1986	18th June, 1989
19.	ES Venkataramiah	19th June, 1989	17th Dec, 1989
20.	S Mukherjee	18th Dec, 1989	25th Sep, 1990
21.	Ranganath Misra	25th Sep, 1990	24th Nov, 1991
22.	Kamal Narain Singh	25th Nov, 1991	12th Dec, 1991
23.	MH Kania	13th Dec, 1991	17th Nov, 1992
24.	Lalit Mohan Sharma	18th Nov, 1992	11th Feb, 1993
25.	MN Venkatachaliah	12th Feb, 1993	24th Oct, 1994
26.	AM Ahmadi	25th Oct, 1994	24th Mar, 1997
27.	JS Verma	25th Mar, 1997	17th Jan, 1998
28.	MM Punchhi	18th Jan, 1998	9th Oct, 1998
29.	AS Anand	10th Oct, 1998	11th Jan, 2001
30.	SP Bharucha	11th Jan, 2001	6th May, 2002
31.	BN Kirpal	6th May, 2002	8th Nov, 2002
32.	GB Pattanaik	8th Nov, 2002	19th Dec, 2002
33.	VN Khare	19th Dec, 2002	1st May, 2004
34.	S Rajendra Babu	2nd May, 2004	3rd June, 2004
35.	RC Lahoti	1st June, 2004	31st Oct, 2005
36.	YK Sabharwal	1st Nov, 2005	12th Jan, 2007
37.	KG Balakrishnan	13th Jan, 2007	11th May, 2010
38.	SH Kapadiat	12th May, 2010	28th Sep, 2012
39.	Altamas Kabir	29th Sep, 2012	18th July, 2013
40.	P Sattasivam	19th July, 2013	26th April, 2014
41.	RM Lodha	27th April, 2014	27th Sep, 2014
42.	HL Dattu	28th Sep, 2014	2nd Dec, 2015
43.	TS Thakur	3rd Dec, 2015	3rd Jan, 2017
44.	Jagdish Singh Khekar	4th Jan, 2017	27th Aug, 2017
45.	Dipak Misra	28th Aug, 2017	2nd Oct, 2018
46.	Ranjan Gogoi	3rd Oct, 2018	Till Date

(As on 30th June, 2019)

## Jurisdiction of the Supreme Court

- The Jurisdiction of the Supreme Court are four fold viz **Original**, **Writ**, **Appellate** and **Advisory**.

## Original Jurisdiction

- According to **Article 131**, subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute
  - between the Government of India and one or more States;
  - between the Government of India and any State or States on one side and one or more other States on the other; or
  - between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.
- Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute.
- There are certain provisions in the Constitution which exclude from the Original Jurisdiction of the Supreme Court, Disputes specified in the provision to Article 363(1).
  - Complaints as to interference with Inter-State water supplies, referred to the statutory tribunal mentioned in Article 262 (since the Parliament has enacted the Inter-State Water Disputes Act 1956).
  - Matters referred to the Finance Commission (Article 280).
  - Adjustment of certain expenses between the Union and the State (Article 290).

## Writ Jurisdiction

- Article 32** imposes duty on the Supreme Court to enforce the Fundamental Rights. Under this Article, every individual has a right to move the Supreme Court provided there has been any infringement on his/her Fundamental Rights.
- The Writ Jurisdiction sometimes is referred to as the Original Jurisdiction of the Supreme Court, but in the strict sense, Original Jurisdiction relates to the federal character of the Constitution.
- The Supreme Court is empowered to issue writs, including Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari to enforce Fundamental Rights.

## Appellate Jurisdiction

- The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned under **Article 132(1), 133(1) or 134** of the Constitution, in respect of any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution.

## Constitutional Appeals

- In the Constitutional matters, an appeal lies to the Supreme Court if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution. If the High Court refuses to give the certificate, the Supreme Court may grant special leave for appeal if it is satisfied that the case does involve such a question.

## Civil Appeals

- In civil cases, an appeal lies to the Supreme Court if a High Court certifies that the value of the subject matter of the dispute is not less than ₹ 20000 or that the case is fit for appeal to the Supreme Court. The appellate jurisdiction of the Court in civil cases can be enlarged if the Parliament passes a law to that effect.

## Criminal Appeals

- In the criminal cases, an appeal lies to the Supreme Court if the High Court
  - has on appeal, reversed the order of acquittal of an accused and sentenced him to death; or
  - has withdrawn for trial before itself any case from any subordinate and has in such trial convicted the accused and sentenced him to death; or
  - certifies that the case is fit for appeal to the Supreme Court.

## Appeal by Special Leave

The Supreme Court under **Article 136** enjoys the power of granting special leave to appeal from any Judgement, decree, order or sentence in any case or matter passed by any Court or tribunal except court martial.

- Under the Arbitration and Conciliation Act, 1996, International Commercial Arbitration can also be initiated in the Supreme Court.*
- Parliament is authorised to confer on the Supreme Court any further powers to entertain and hear appeals from any judgement, final order or sentence in a criminal proceeding of a High Court.*

## Advisory Jurisdiction

- One of the Salient features of the Supreme Court is its consultative role (**Article 143**). The President can refer to the Court either a question of law or a question of fact, provided that it is of public importance. However, it is not compulsory for the Court to give its advice.
- The President is empowered to refer to the Supreme Court for its opinion, disputes arising out of any treaty, agreement etc., which had been entered into or executed before the commencement of the Constitution.

## Transfer Petitions

- The Supreme Court has the power to transfer the cases from one High Court to another and even from one District Court of a particular state to another District Court of the other state.
- In such transfer cases, the Supreme Court transfer only those cases if they really lack appropriate territorial jurisdiction and those cases which were otherwise supposed to be filed under the transferred jurisdiction. The Supreme Court often looks at the real ground/reason for such transfer.

## Revisory Jurisdiction

- The Supreme Court under Article 137 is empowered to review any judgement or order made by it with a view to remove any mistake or error that might have crept in the judgement or order.

## Judicial Independence

- The Constitution seeks to ensure the independence of Supreme Court Judges in various ways. Judges are generally appointed on the basis of seniority and not on political preference.
- A Judge of the Supreme Court cannot be removed from office except by an order of the President passed after an address in each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than **two-thirds** of members present and voting, and presented to the President in the same Session for such removal on the ground of proved misbehaviour or incapacity.
- The salaries and allowances of a judge of the Supreme Court cannot be reduced after appointment.
- A person who has been a Judge of the Supreme Court is debarred from practising in any court of law or before any other authority in India.
- As per the Article 142 the Supreme Court of India is not constrained in the exercise of its powers by laws made by the Indian Parliament.

## A Court of Record

**Article 129** states that the Supreme Court of India shall be a Court of Record. As a Court of Records, the Supreme Court has two powers. *There are as follows :*

- The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony. These are recognised as legal precedents and legal references.

- The Supreme Court has power to punish for contempt of court, either with simple imprisonment for a term upto 6 months or with fine up to ₹ 2,000 or with both.

### Contempt of Court

Contempt of Court may be two types i.e. Civil contempt, Criminal contempt.

#### Civil Contempt

It means wilful disobedience to any judgement, order, writ or other process of a court or wilful breach of an undertaking given to a court.

#### Criminal Contempt

It means the publication of any matter or doing an act which

- Scandalises or lowers the authority of a court, or
- Prejudices or interferes with the due course of a judicial proceeding or
- Interferes or obstructs the administration of justice in any other manner.

### Judicial Review

Judicial review is the power of the judiciary to review the laws made and executed by the legislature and executive to make sure they are in line with Constitution and the Statutes enacted. If they contravene and provision, the Judiciary strikes them down.

### Judicial Activism

Judicial activism is phenomena wherein the Judiciary assumes an extraordinary position of directing the executive to undertake such policies and measures as the judiciary deem fit citing insufficient policies or administrative lacunae.

### Judicial Overreach

When Judiciary in exercise of its Judicial activism, encroaches the domain of the executive and legislature, it is called judicial overreach.

### Public Interest Litigation (PIL)

Although the proceedings in the Supreme Court arise out of the judgements or orders made by the Subordinate Courts including the High Courts, but of late the Supreme Court has started entertaining matters in which interest of the public at large is involved and the Court can be moved by any individual or group of persons either by filling a Writ Petition at the Filling Counter of the Court or by addressing a letter to Hon'ble the Chief Justice of India highlighting the question of public importance for invoking this jurisdiction.

Such concept is popularly known as 'Public Interest Litigation' and several matters of public importance have become landmark cases. This concept is unique to the Supreme Court of India only and perhaps no other Court in the world has been exercising this extraordinary jurisdiction.

The concept of PIL emerged for the first time in the **Mumbai Kamgar Sabha case** where **Justice Krishna Iyer** allowed the petition even if the litigant had no locus standi in the case. **Justice Bhagwati** later give much momentum to the PIL movement.

A Writ Petition in the form of PIL filed at the Filling Counter is dealt with like any other Writ Petition and processed as such. In case of a letter addressed to Hon'ble the Chief Justice of India the same is dealt with in accordance with the guidelines framed for the purpose.

## Judiciary Executive Relations

- After some of the courts overturned state laws redistributing land from zamindar (landlord) estates on the grounds that the laws violated the Fundamental Rights, the Parliament of India passed the First Amendment to the Constitution in 1951 followed by the Fourth Amendment in 1955 to protect its authority to implement land redistribution. The Supreme Court countered these amendments in 1967 when it ruled in **Golaknath vs State of Punjab** that Parliament did not have the power to abrogate Fundamental Rights, including the provisions on private property.
- Similarly other laws were declared null and void. They include, On 1st February, 1970, the Supreme Court invalidated the government sponsored Bank Nationalisation Bill that had been passed by Parliament in August 1969. The Supreme Court also rejected as unconstitutional a presidential order of 7th September 1970, that abolished the titles, privileges and privy purses of the former rulers of India's old Princely States.

### Response from Parliament

- In reaction to the decisions of the Supreme Court, in 1971 the Parliament of India passed an amendment empowering itself to amend any provision of the constitution, including the Fundamental Rights. The Parliament of India passed the 25th Amendment, making legislative decisions concerning proper land compensation non-justiciable.
- The Parliament of India passed an amendment to the Constitution of India, which added a constitutional Article abolishing princely privileges and privy purses.

### Counter-response from the Supreme Court

- On 24 April 1973, the Supreme Court responded to the parliamentary offensive by ruling in **Kesavananda Bharati Case**. The State of Kerala that although these amendments were constitutional, the court still reserved for itself the discretion to reject any constitutional amendments passed by Parliament by declaring that the amendments cannot change the constitution's "basic structure", a decision piloted through by Chief Justice Sikri. The Court ruled that the basic structure of the constitution cannot be altered for convenience.

### Distinctions between Supreme Court of India and Supreme Court of America (USA)

Indian Supreme Court	USA Supreme Court
Its original jurisdiction is confined to federal cases.	Its original jurisdiction covers not only federal cases, but also cases to naval forces, maritime activities etc.
It has advisory jurisdiction.	It has no advisory jurisdiction.
Its scope of Judicial Review is limited.	Its scope of Judicial Review is very wide.
It defends the rights of citizen as per procedure established by law.	It defends the rights of citizen as per 'due process of law'.
It has power of Judicial superintendence and control over State High Courts due to integrated Judicial system.	It has no such power due to double or separated Judicial system.

## Various Doctrines

- *Various Doctrines used by the Judiciary while pronouncing Judgments are:*
  - **Doctrine of Double Jeopardy** No person shall be prosecuted and punished for the same offence more than once.
  - **Doctrine of Liberal Interpretation** The provisions of Constitution have to be interpreted liberally and not in a narrow sense.
  - **Doctrine of Pith and Substance** Any jurisdiction conflict between the Union and the States in regard to their legislative competence can be settled by the court ascertaining the substance of the matter relating to an item in one list or another.
  - **Doctrine of Progressive Interpretation.** The Supreme Court while interpreting the Constitution takes into account the ever changing socio- economic situation in the country.
  - **Doctrine of Severability** While interpreting the statute the court has to decide whether a part or the law as a whole are constitutional. If only a part is unconstitutional and the rest of the law can stand on its own then it can be held as applicable.
  - **Doctrine of Prospective Overruling** An interpretation given by the court and law declared by it may not be given retroactive operation.
  - **Doctrine of Eclipse** A law in operation before the commencement of the Constitution if it violates the Fundamental Rights then it does not become dead altogether but only comes under eclipse. If and when the provisions which it violates are removed, the law will come into force again.
  - **Doctrine of Implied Power** The rights and duties of a legislative body or organisation are determined from its functions and purposes as specified in its Constitution or charter and developed in practice.
  - **Doctrine of Colourable Legislation** It is based on the maxim that what cannot be done directly can also not be done indirectly. When a legislature has no powers to legislate on a particular subject but it frames the legislation in such a way that it appears that it has the powers to legislate then such a legislation will be regarded as Colourable Legislation.

## Important Supreme Court Cases

### AK Gopalan Case, 1950

- The case corresponds to the charges of violation of Fundamental Right to freedom under the Preventive Detention Act. The court was approached over the validity of the act.
- The Supreme Court held that the constitutional validity of a law cannot be verified by the Judiciary and the Judiciary has only the capacity to verify whether the "procedure according to the law" has been followed.

### Champakam Dorairajan Case, 1951

- The case challenged the reservations given to backward classes in educational institutions in Tamil Nadu.
- The Supreme Court overruled the caste based reservation as unconstitutional citing right against discrimination as given in Article 15.

### Shankari Prasad Case, 1952

- The first Constitution Amendment Act, providing for reservations, was challenged that it violated Fundamental rights. The court held that Parliament has power to amend the Constitution.

### Berubari Case, 1960

- While ceding a part of Indian Territory to an alien state the court in an advisory opinion held that such process cannot take place unless a Constitution amendment to that effect is made.

### Keshav Singh Case, 1964

- One journalist Keshav Singh was held for contempt of legislature for making scathing criticism and often denigrating on a law passed. He was sentenced to jail.
- The Supreme Court held that the contempt power of Parliament to issue warrants against individuals must comply with the due process requirements under Article 21.

### Sajjan Singh Case, 1965

- The case related to the validity of 17th Constitutional Amendment Act which provided for land acquisition contrary to right to property. The Supreme Court upheld that Fundamental Rights can be amended within the purview of Article 368.

### Golaknath Case, 1967

- The Supreme Court while reversing the ruling made in Shankari Prasad and Sajjan Singh case held that constitutional amendment cannot be extended to infringement of Fundamental Rights.

### Kesavananda Bharati Case, 1973

- For the first time the Supreme Court propounded the Basic Structure Doctrine and held that certain basic features of the Constitution cannot be amended while others can be done so without having a sweeping change in the Constitution.

### Maneka Gandhi Case, 1978

- The Supreme Court overruled the AK Gopalan case and mooted the "due process of law" doctrine according to which the procedure according to the law as well as the reasonableness and validity of the law can be questioned by the Judiciary.

### Minerva Mills Case, 1980

- The Supreme Court held that Fundamental Rights and Directive Principle of State Policy are complementary to each other and if any law enacted to implement the Directive Principle not totally contravening the Fundamental Rights is valid.

**Shah Bano Case, 1985**

- The Supreme Court held that muslim women also have right to get maintenance from their husbands when they are divorced although such practice is not permitted under muslim traditional laws.

**St Stephen's College Case, 1992**

- The Supreme Court held that atleast 50% of seats in minority institution should be reserved for non- minority students.

**Indira Sawhney Case, 1993**

- The Supreme Court upheld the 27% reservation made for OBCs in public employment but subjected to a cap of 50% of reservations. The Supreme Court also mooted the Creamy Layer concept to identify the well off groups within the backward classes.

**Bommai Case, 1995**

- The Supreme Court held that federalism is a part of basic structure and State Governments cannot be arbitrarily dismissed by a Governor and any such test of confidence of the Executive must be done on the floor of the Assembly.

**Chandra Kumar Case, 1997**

- The Supreme Court upheld that Judicial Review is a part of Basic Structure Doctrine.

**TMA Pai Case, 2002**

- The Supreme Court held that the right to administer minority educational institution is not absolute and the state can regulate the institutional affairs to educational standards.

**Inamdhara Case, 2005**

- The Supreme Court declared that the reservations for SCs/STs in private educational institutions null and void. To overcome this judgement the Government passed 93rd Constitutional Amendment in private institutions.

**Bihar Assembly Dissolution Case, 2006**

- The Supreme Court held that the Governor of a State does not enjoy absolute immunity from judicial review and the courts can invalidate any mala fide actions of the Governor.

**IR Coelho Case, 2006**

- The Supreme Court ruled that the 9th Scheduled of the Constitution is subjected to judicial review.

**Ashok Kumar Thakur Case, 2007**

- The Supreme Court upheld the 93rd Constitutional Amendment Act providing for reservation for SC/STs OBCs in Central Universities as well as private institutions but subject to a ceiling of 50% of total seats for reservation.

**Transgender as 'Third Gender' 2014**

- The Supreme Court created the Third Gender status for hijras or transgender.

**National Judicial Appointments Commission 2015**

- On 16th October, 2015, the Constitution Bench of Supreme Court by majority upheld the collegium system and struck down NJAC as unconstitutional.

**Triple Talaq Case, 2017**

- The Supreme Court of India has declared the practice of Triple Talaq as unconstitutional by 3:2 majority and hereby direct the Union of India to consider appropriate legislation, particularly with reference to talaq-e-biddat (three pronouncements of talaq at one and the same time). In this verdict, the Supreme Court also declared that this form of Talaq is violate the Article 14 of the Indian Constitution.

**Right to Privacy is a Fundamental Right**

- The Supreme Court held that Right to Privacy is protected under Article 21 of the Constitution. In an unanimous decision, a 9-Judges Constitutional Bench overruled the judgements in MP Sharma and Kharak Singh case and declared that Right to Privacy is protected as intrinsic part of Right to Life and Liberty.

**Passive Euthanasia is Permissible**

- The Supreme Court has given legal sanction to passive euthanasia in a landmark verdict permitted 'living will' by patients on withdrawing medical support if they slip into irreversible coma. The Supreme Court in 2011, recognised passive euthanasia in **Aruna Shanbaug Case** for which it had permitted withdrawal of life-sustaining treatment from patients who are not in a position to make an informed decision.

**Sex with Minor Wife is Rape**

- A two judge Bench of Supreme Court held that sexual intercourse with minor (below 18 years) Wife is rape and Section 198 (6) of the CRPC will apply to cases of rape of wives. The age of consent has been made 18 from 15 in these cases.

## The High Courts

- The High Courts stands at the head of the judiciary in a State. There shall be a High Court for each State (Article 214). The Judiciary in the States consists of a High Court and the Subordinate Courts.
- The Parliament can, however, establish by law, a common High Court for one or more State(s) and one or more Union Territory (Article 231).
- Every High Court shall be a **Court of Record** (Article 215). The High Courts in India find their roots in the British Period when three High Courts namely Bombay, Madras and Calcutta were setup in 1862.

**Qualifications for Judges**

- The qualifications required under the Constitution for a person to be appointed as a Judge of a High Court
  - must be a citizen of India; and
  - must have held a judicial office in the territory of India for at least ten years; or
  - must have been an advocate of a High Court or two or more such courts in succession for at least ten years.

**Appointment of the Judges**

- Every High Court consists of a Chief Justice and such other Judges as appointed by the President from time to time (Article 216).
- The Constitution, unlike in the case of the Supreme Court, does not fix any maximum number of Judges for a High Court.
- Apart from appointing the Judges of the High Courts, *the President has the power to appoint*
  - Additional Judges for a temporary period, not exceeding two years, for the clearance of arrears of work in a High Court.

- An acting Judge, when a permanent Judge of a High Court (other than a Chief Justice) is temporarily absent or unable to perform his duties or is appointed to act temporarily as the Chief Justice.
- *An acting Judge holds office until the permanent Judge resumes his office. Neither an additional nor an acting Judge can hold office beyond the age of 62 years (now 64 years).*
- *While appointing a Judge of a High Court, the President is to consult the Chief Justice of India, the Governor of the State and the Chief Justice of that High Court in the matter of appointment of a Judge other than the Chief Justice.*

### Removal of Judges

- Removal of a High Court Judge is Governed by **Articles 217 (1) (b)** and **218** of the Constitution on the ground of proven misbehaviour or incapacity. The words misbehaviour or incapacity have neither been defined nor clarified in the Constitution.
- The complaint about misbehaviour or incapacity against a judge has to be probed under the **Judges (Inquiry) Act, 1968**.

#### Justice Soumitra Sen Case

Justice Soumitra Sen of Calcutta High Court was held guilty of misappropriation of public funds he received in his capacity as receiver appointed by the High Court of Calcutta and misrepresenting facts with regard to it by a committee of three judges set up by former CJI K. G Balakrishnan in 2007.

A year later, Justice Balakrishnan recommended his impeachment to the PM, after which a legal opinion obtained by the law ministry endorsed the judges' committee report.

In 2009, Rajya Sabha moved a motion for impeachment of Calcutta High Court Judge Soumitra Sen for his involvement in financial misappropriation.

#### Justice Dinakaran Case

In September 2009, allegations were made against Dinakaran by several members of the Bar Council of India stating that he had huge assets and land acquisitions in his Hometown Arakkonam more than what was fixed by the Tamil Nadu Land reforms.

The lawyers requested Chief Justice of India and Union Law Minister not to appoint Dinakaran as Supreme Court Judge and initiate an enquiry process regarding the allegation.

In 2009 the Chairman of the Rajya Sabha admitted a motion seeking his removal on charges of corruption and abuse of his judicial office.

The Supreme Court collegium headed by Chief Justice **KG Balakrishnan** had decided to replace Justice Dinakaran with Uttarakhand High Court Chief Justice JS Khehar, and recommended transfer of Dinakaran to the Sikkim High Court.

Facing impeachment on charges of corruption and judicial misconduct, he resigned from the post of Sikkim High Court Chief Justice on 29th July, 2011 expressing "lack of faith and confidence" in the three-member inquiry committee probing charges against him.

### Transfer of a Judges between High Courts

- A Judge of a High Court can be transferred without his/her consent by the President (Article 222).
  - Consultation with the Chief Justice of India must be full and effective.
  - All relevant facts relating to the transfer of a Judge of a High Court must be provided to the Chief Justice of India.
  - The opinion provided by the Chief Justice shall have primacy and is binding on the President.

### Jurisdiction of the High Courts

#### Original Jurisdiction

- In their judicial capacity, the High Courts of the Presidency towns (Bombay, Calcutta and Madras) have both original and appellate jurisdictions, while other High Courts have mostly appellate jurisdiction.
- Only in matters of admiralty, probate matrimonial and contempt of Court, they have original jurisdiction. The Presidency High Courts have original jurisdiction in which the amount involved is more than ₹ 2000 and in criminal cases which are committed to them by the Presidency Magistrates.

#### Appellate Jurisdiction

- As Courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate courts as well as on their own.
- They have, however, no jurisdiction over tribunals established under the laws relating to the Armed Forces of the Country.

#### Writ Jurisdiction

- Under **Article 226** of the Constitution, the High Courts are given powers of issuing writs not only for the enforcement of the Fundamental Rights, but also for other purposes. In exercise of this power, a Court may issue the same type of writs, orders or directions which the Supreme Court is empowered to issue under **Article 32**.
- The jurisdiction to issue writs under this Article is larger in the case of High Courts, for which the Supreme Court can issue them only where a Fundamental Right has been infringed, a High Court can issue them not only in such cases, but also where an ordinary legal right has been infringed.

#### A Court of Record

Every High Court shall be a Court of Record (Article 215). As a court of record, a High Court has two powers. *There are as follows:*

- The Judgements, proceedings and acts of the High Courts are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any subordinate Court.
- It has power to punish for contempt of Court, either with simple imprisonment or with fine or with both.

## Administrative Functions

- The High Courts control and supervise the working of the courts subordinate to them and frame rules and regulations for the transaction of their business. Under Article 227, every High Court has the power of superintendence over all the Courts and tribunals except those dealing with the Armed Forces functioning within its territorial jurisdiction.
- In exercise of this power, the High Court may
  - call for returns from such Courts;
  - make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
  - prescribe forms in which books and accounts shall be kept by the offices of any such Courts, and
  - transfer cases from one Court to another.
- Under **Article 235**, the High Courts exercise control over the District Courts and the subordinate courts in matters of posting, promotion etc. According to **Article 229** of the Constitution, every High Court has been ensured a complete control over the members of its staff. The Chief Justice of the High Court is empowered to appoint officers and servants of the Court.

## Control Over Subordinate Courts

Apart from above Jurisdiction the High Court also enjoys supervisory Jurisdiction over the subordinate Courts.

These includes followings :

- Governor in consultation with High Courts appoints the district judges.
- The administrative control of the High Courts over the District Courts and other lower courts is full in as much as postings, promotions and grant of leave etc., to any person belonging to the judicial service of a state and holding any post inferior to the post of judges is vested in High Court.
- Article 236 is the interpretation clause and explains terms like district judge, judicial service etc.
- The High Court's Law is binding on all subordinate Courts functioning within its territorial Jurisdiction in the same sense as the law declared by the Supreme Court is binding on all courts in India.

### Plea Bargaining

- It was introduced in India by the Criminal Law (Amendment) Act, 2005. Under Plea Bargain, criminal defendant and prosecutor reach an agreement subject to court approval. The accused admits guilt without a trial and in return is given a lighter punishment.
- This is allowed for cases where maximum imprisonment is seven years. Socio-Economic offences like Sati are also excluded. Offences committed against a woman or child below the age of 14 years are also excluded.

## Independence of the High Court

*The Constitution seeks to secure the independence of Judges of the High Courts in the following ways:*

- A Judge of a High Court can only be removed by the President on an address of each House of the Parliament, passed by not less than two-third of the members present and voting and by a majority of that House only on the ground of proved misbehaviour or incapacity.
- After retirement, a Judge of a High Court cannot serve in any Court or before any authority in India except in the Supreme Court and a High Court other than the High Court in which he had held the office.
- Their salaries and allowances cannot be changed to their disadvantage after their appointment except during a Financial Emergency.
- Their salaries and allowances are charged on the Consolidated Fund of State and are not subject to vote in the State Legislature.
- The conduct of the Judges of the High Courts cannot be discussed in the Parliament, except on a resolution for the removal of the Judges.

## Comparison between Supreme Court and High Court

Supreme Court	High Court
The Supreme Court is a Federal Court. Its only seat is located at Delhi.	There is a provision for a High Court in each State and Union Territories or one or more States or Union Territories may establish a High Court.
The Supreme Court is not bound to abide by the decision of the High Courts.	The High Courts are bound to abide by the decisions of the Supreme Court.
The Judges of Supreme Court cannot be transferred nor can they be demoted in office.	The Judges of the High Court can be transferred from one court to other High Court and may be promoted as the Judges of the Supreme Court.
The salaries and the allowances of the Judges of the Supreme Court are charged upon the Consolidated Fund of India.	Salaries and allowances of the Judges of the High Court are charged upon the Consolidated Fund of the States.
The cases involving the interpretation of the Constitution are decided only by the Supreme Court.	The cases involving the interpretation of the Constitution are not decided by the High Court.
The Supreme Court can issue writs only for the enforcement of Fundamental Rights.	High Court can issue writs not only for the enforcement of Fundamental Rights, but also for any other purpose.
A remedy under <b>Article 32</b> is in itself a Fundamental Right and hence, the Supreme Court may not refuse to exercise its writ jurisdiction.	A remedy under <b>Article 226</b> is discretionary and hence, a High Court may refuse to exercise its writ jurisdiction.

## High Courts of State/ Union Territory

S.No.	Court Names	Jurisdictions	Seats	Benches
1.	Allahabad High Court	Uttar Pradesh	Allahabad	Lucknow
2.	Andhra Pradesh High Court	Andhra Pradesh	Amravati	
3.	Bombay High Court	Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu	Mumbai	Nagpur, Panaji, Aurangabad
4.	Calcutta High Court	West Bengal, Andaman and Nicobar Islands	Kolkata	Port Blair (Circuit Bench)
5.	Chhattisgarh High Court	Chhattisgarh	Bilaspur	
6.	Delhi High Court	National Capital Territory of Delhi	Delhi	
7.	Guwahati High Court	Arunachal Pradesh, Assam, Nagaland, Mizoram	Guwahati	Kohima, Aizwal and Itanagar
8.	Gujarat High Court	Gujarat	Ahmedabad	
9.	Himachal Pradesh High Court	Himachal Pradesh	Shimla	
10.	Jammu and Kashmir High Court	Jammu and Kashmir	Srinagar and Jammu	
11.	Jharkhand High Court	Jharkhand	Ranchi	
12.	Karnataka High Court	Karnataka	Bengaluru	Gulbarga and Dharwal
13.	Kerala High Court	Kerala, Lakshadweep	Kochi	
14.	Madhya Pradesh High Court	Madhya Pradesh	Jabalpur	Gwalior, Indore
15.	Madras High Court	Tamil Nadu, Pondicherry	Chennai	Madurai
16.	Manipur High Court	Manipur	Imphal	
17.	Meghalaya High Court	Meghalaya	Shillong	
18.	Odisha High Court	Odisha	Cuttack	
19.	Patna High Court	Bihar	Patna	
20.	Punjab and Haryana High Court	Punjab, Haryana, Chandigarh	Chandigarh	
21.	Rajasthan High Court	Rajasthan	Jodhpur	Jaipur
22.	Sikkim High Court	Sikkim	Gangtok	
23.	Tripura High Court	Tripura	Agartala	
24.	Uttarakhand High Court	Uttarakhand	Nainital	
25.	Telangana High Court	Telangana	Hyderabad	

## Subordinate Courts

- Under **Article 235** of the Constitution of India, administrative control over members of the Subordinate Judicial Service rests with the concerned High Courts. Further, in exercise of powers conferred under provision to **Article 309** read with **Articles 233** and **234** of the Constitution, State Government frames rules and regulations in consultation with the High Court in their state to administer Subordinate Courts. Members of the State Judicial Services are Governed by these rules and regulations.
- As per the direction of the Supreme Court in the **All India Judges Association** case a uniform designation has been given to be Subordinate Judiciary's judicial officers all over the country, viz. District or Additional District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division) on the civil side and on criminal side, Session Judge, Additional Sessions Judge, Chief Judicial Magistrate and Judicial Magistrate, etc., as laid down in the Code of Criminal Procedure (CrPC) 1973.

## Gram Nyayalayas Act, 2008

- This act, came into force from 2nd October, 2009 to provide for the establishment of Gram Nyayalayas at the grass roots level for the purpose of providing access to justice at the doorsteps of citizens.
- The Central Government will meet the non-securing expenditure of the establishment of Courts. More than 5000 Gram Nyayalayas are expected to be setup.

- They are expected to reduce by 50% the pendency of cases in Subordinate Courts.
- *Some salient features of this Act are as follows:*
  - aimed at providing inexpensive justice to people residing in rural areas.
  - it shall be a Court of the Judicial Magistrate of first class and the presiding officer (Nyayadhikari) will be appointed by the State Government in consultation with the High Court.
  - Nyayadhikans to be strictly judicial officers
  - Gram Nyayalaya to be a Mobile Court and shall exercise the powers of both criminal and Civil Courts
  - it will try to settle disputes as far as possible by bringing about conciliation between the parties.
  - it will not be bound by Rules of Evidence in Indian Evidence Act, 1872 but it will be bound by principles of natural justice.
  - a person accused of an offense may file an application for plea bargaining.

## Alternative Dispute Resolution

- It encompasses arrange of means to resolve conflict without formal litigation, It seeks to reduce cost and delay and avoid the adversarial nature of litigation. ADR today falls into two broad categories- Court-driven options and community based dispute resolution mechanisms (Lok Adalats)
  - **Court-driven options** include mediation/conciliation where a neutral third party assists disputants in reaching a mutually acceptable solution.
    - (i) **Conciliation** is an informal process designed to create an environment where negotiations can take place. If the parties fail to reach an agreement the case is referred to mediation.
    - (ii) **Mediation** is a voluntary and confidential process where a neutral third party assists negotiations. The parties are responsible for reaching an agreement and the negotiator cannot impose settlement. If the mediation fails to reach agreement, the case is referred to arbitration.
    - (iii) **Arbitration** is a form of private adjudication where a mutually acceptable third party hears arguments from either side in a dispute, and renders a judgment. The judgment known as and award is confidential and binding.

### Lok Adalat

**Community-driven resolution mechanism** (Lok Adalat) literally means **Peoples Court**. It is an alternative dispute settlement Mechanism which settles disputes through conciliation and mediation. It helps in quick disposal of cases and the process is simple and carries no fees. Lok Adalats are statutory forums since the enactment of the **Legal Services Authorities Act, 1987**.

- All legal disputes pending in civil, criminal, revenue courts and tribunals can be taken to a Lok Adalat for amicable settlement except criminal cases which are non-compoundable.

- The Lok Adalat is presided over by a sitting or retired judicial official or an other person of respect and legal knowledge as the chairman, with two other members.
- Lok Adalats generally consist of judicial member a legal-practitioner and a social worker.
- The first Lok Adalat was held on 14 March, 1982 , at Juragarh in Gujarat.
- They follow their own procedure. They have the power of Civil Court in respect of summoning of evidence, examination of witnesses, requisitioning of public records etc. No lawyers are involved in the process.
- The awards passed have to be complied within a month.
- In the State of Punjab vs Jalour Singh (2008) case verdict the Supreme Court ruled that Lok Adalats have no adjudicatory or judicial functions and they are not courts. Their functions relate purely to conciliation.
- A Lok Adalat persuades the parties to come to an understanding and settlement and puts its seal of confirmation in terms of the compromise or settlement.
- These awards are final as there does not lie any appeal against the awards passed by a Lok Adalat.

## All India Judicial Service (AIJS)

- The 42nd Constitutional Amendment Act, 1976 inserted All India Judicial Service into the Article 312. The Act says that AIJS shall not include any post inferior to that of a district judge as defined in Article 236. Subordinate Courts Subordinate Judiciary is a State subject.
- A resolution passed by the Rajya Sabha with two-thirds majority is necessary to enable the creation of an All Indian Service under Article 312.

## e-Governance in Judiciary

- The Supreme Court took up the **e-courts project** under the national e-governance plan for linking about 15000 courts in the country. From the time the case is filed till its is disposed of with judgment, the entire process must take place electronically.
- **Courtis** Project taken up by the National Informatics Centre (NIC) has streamlined registries at various courts. With the implementation of the system the number of pending cases in the Supreme Court has come down.
- **Courtnic** Is an information system designed to provide the information on the status of cases in the Apex Court to a wide variety of users from anywhere in the country. Computerisation of all 24 High Courts and its 14 benches has been done on the lines of Apex Courts Computerisation. All High Courts cause list are also available on the internet.

- **Case Status** This website provides Supreme Courts pending and disposed case status information to litigants/advocates on internet.
- **Judis** NIC brought out Judgement Information System (JUDIS) on CD-ROM containing all Supreme Court judgements from 1950 to 2000. Judgements after this are available on the internet.
- Daily Orders of High Courts and Supreme Courts are now available on the internet immediately after they are signed by the judges.

### Judicial Impact Assessment

- The Task Force Under the chairmanship of **Justice M Jagannadaha Rao** on the feasibility of Judicial Impact Assessment submitted its report in 2008.
- The committee recommended that Judicial Impact Assessments must be made on a scientific basis for the purpose of estimating the extra case-load which any new legislation may add to the burden of the courts and the expenditure required for the adjudication of such cases.
- If implemented this will introduce a system in India which is already in vogue in USA.

### Judges Standards and Accountability Bill, 2010

- This Bill requires judges to declare their assets, lays down judicial standards and establishes processes for removal of judges of Supreme Court and High Court. Judges will be required to declare the assets and liabilities of themselves as well as their spouse and children.
- The Bill envisages the creation of National Judicial Oversight Committee, the complaints scrutiny panel and an investigative committee. Any person can make a complaint to the oversight committee on grounds of 'misbehaviour'. These complaints will then be forwarded to the scrutinizing panel and will then be investigated by the investigative committee. A motion for removal of a judge can also be moved in Parliament. Such a motion will be referred to oversight committee for further inquiry. Complaints and inquiries against judges will be confidential and frivolous complaints will be penalised.
- The oversight committee on completion of investigation may issue advisories or warnings to judges and also recommend their removal to the President.

*The Bill also includes:*

- Focus on Human Resource development such as filling of vacancies, training of public prosecutors etc.
- Leveraging Information and Communication technology better for justice delivery
- Improving infrastructure such as physical infrastructure at district and Subordinate Courts and creation of special courts such as morning/evening courts etc.
- Infrastructure development for the Subordinate judiciary is the major thrust area of the national mission.

### National Legal Services Authority (NALSA)

- To monitor and implement the legal aid programme, NALSA has been constituted. Its aim to secure the free and comprehensive legal services to the weaker sections of the society, Under the legal service Authorities Act 1987, Which is passed in 1994 and further amended in 2002.
- To provide free legal aid to the eligible person this act comes up with the composition, of the Supreme Court legal service committees, the High Court legal service committees, State legal service committees, the district legal service committees and the Taluka legal service committees.
- As per the act, every person whose annual income doesn't exceed ₹ 9000 is eligible for free legal aid in the cases before the High Courts and the other subordinate courts. In cases coming before Supreme Court, the limit has been fixed at ₹ 12000 per annum.
- The above limits don't apply in the cases relating to SCs, STs, women, children, handicapped etc. This limit can be increased by State Governments. NALSA not only monitors and evaluates the implementation of the legal aid schemes and programmes but also takes necessary steps for followings:
  - promoting legal itinerary.
  - setting up of legal aid clinics in universities and law colleges.
  - training of para-legal personnel and holding legal aid camps and the lok adalats/Permanent Lok Adalat.

### Mobile Court

The mobile court means a court set up in a – vehicle, which can move from one place to another. It will be great relief to the rural people as it would provide cost effective and speedy justice to the poor. With an endeavour to make the judicial system accessible to remote and backward areas, the country's first mobile court was inaugurated in the Mewat district Haryana.

# Self Check

## Build Your Confidence

- 1. What is the provision to safeguard the autonomy of the Supreme Court of India? [IAS 2012]**
  1. While appointing the Supreme Court judges, the President of India has to consult the CJI.
  2. The SC judges can be removed by the CJI.
  3. the salaries of judges are charged on the consolidated fund of India to which the legislature does not vote.
  4. All appointments of officers and staffs of the SC are made by the government only after consulting CJI.

**Select the correct answer using the codes given below**

(a) 1 and 3 (b) 3 and 4  
(c) Only 4 (d) All of these
- 2. Which of the following are included in the original jurisdiction of the Supreme Court? [IAS 2012]**
  1. Dispute between the Government of India and one or more states
  2. A dispute regarding elections to either House of the Parliament or that of Legislature of a State.
  3. A dispute between the Government of India and Union Territory.
  4. A disputes between two or more States.

**Select the correct answer using the codes given below**

(a) 1 and 2 (b) 2 and 3 (c) 1 and 4 (d) 3 and 4
- 3. With reference to the Lok Adalats, which of the following statement is correct? [IAS 2012]**
  - (a) Lok Adalats have the jurisdiction to settle the matters at pre-litigation stage and not those matters pending before any court.
  - (b) Lok Adalats can deal with matters which are civil and not criminal in nature.
  - (c) Every Lok Adalat consists of either serving or retired judicial officers only and not any other person.
  - (d) None of the above
- 4. Which of the following statements are correct?**
  1. The Supreme Court cannot interfere with the delimitation of the constituencies.
  2. The Supreme Court cannot question the detention or arrest of a person or an Act, if it has been made in accordance with the procedure established by law.
  3. The Supreme Court cannot declare unconstitutional a law passed by the Parliament.
  4. The Supreme Court cannot question the decision of the Speaker as to whether a Bill is a Money Bill or not.

**Select the correct answer using the codes given below**

(a) 2,3 and 4 (b) 1,2 and 4  
(c) 1,2 and 3 (d) All of these
- 5. With reference to Lok Adalats, consider the following statements. [IAS 2008]**
  1. An award made by Lok Adalat is deemed to be a decree of a civil court and no appeal lies against there before any court.
  2. Matrimonial/Family disputes are not covered under Lok Adalat.

**Which of the statements given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2
- 6. Consider the following statements [IAS 2008]**
  1. Justice V R Krishna Iyer was the Chief Justice of India.
  2. Justice V R Krishna Iyer is considered as one of the progenitors of Public Interest Litigation(PIL) in the Indian judicial system.

**Which of the statements given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2
- 7. Who was the Chief justice of India when Public Interest Litigation (PIL) was introduced to the Indian Judicial System? [IAS 2006]**
  - (a) M Hidaatullah (b) A M Ahmadi
  - (c) A S Anand (d) P N Bhagwati
- 8. Consider the following statements [IAS 2006]**
  1. A person who has held office as a permanent Judge of a High Court cannot plead or act in any court or before any authority in India except the Supreme Court.
  2. A person is not qualified for appointment as a Judge of a High Court in India unless he has for atleast five years held a judicial office in the territory of India.

**Which of the statements given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2
- 9. Who/which of the following is the Custodian of the Constitution of India? [IAS 2015]**
  - (a) The President of India (b) The Prime Minister of India
  - (c) The Lok Sabha Secretariat (d) The Supreme Court of India
- 10. The power of the Supreme Court of India to decide disputes between the centre and the states falls under its [IAS 2014]**
  - (a) advisory jurisdiction (b) appellate jurisdiction
  - (c) original jurisdiction (d) writ jurisdiction
- 11. The power to increase the number of Judges in the Supreme Court of India is vested in [IAS 2014]**
  - (a) the President of India (b) the Parliament
  - (c) the Chief Justice of India (d) the law Commission



1. (a)  
11. (b)

2. (c)

3. (a)

4. (b)

5. (a)

6. (b)

7. (d)

8. (d)

9. (d)

10. (c)

# Chapter eleven

## State Government

*The Constitution of India anticipates the same pattern of government in the state as that of the Union. The state executive consists of the Governor, the Chief Minister, the Council of Ministers and the Advocate General. Articles 153 to 212 in Part VI of the Constitution deal with the State Governments. Though these are similar to that of Union Governments, but there are some differences as well.*

### Governor

- The Constitution provides for an office of the Governor in the states under **Article 153**. Usually, there is a Governor for each state, but the 7th Constitution Amendment Act, 1956, facilitated the appointment of the same person as a Governor for two or more states.
- A Governor is the Chief Executive and the Head of the State, but like the President he/she is a nominal executive head. The real executive power remains with the Council of Ministers headed by the Chief Minister.
- When a Governor discharges the responsibilities of more than one state, he/she acts on the advice of the Council of Ministers of the respective states.

### Qualifications

- The Constitution of India lays down two qualifications for appointment of person as a Governor, under Article 157.
  - He/She should be a citizen of India.
  - He/She should have completed the age of 35 years.

### Appointment

- **Article 155** says, the Governor of a state shall be appointed by the President of India by warrant under his/her hand and seal.
- His/Her usual term of office is **5 years** and he/she holds office during the pleasure of the President. He/She can also be

transferred from one state to another by the President. He/She can also resign any time by addressing his resignation to the President.

- The Legislature of a State or a High Court has no role in the removal of a Governor. A person may be appointed as a Governor for any number of terms.

### Need of an Appointed Governor

The question is often raised as to why the Constituent Assembly of India preferred an Appointed Governor over an elected Governor. For this, four considerations were taken into account.

- Election would have been an expensive proposition.
- Election would have been fought on personal issues;
- An elected Governor would have considered himself superior to the Chief Minister. This would have given rise to political rivalry.
- An appointed Governor could more effectively check separatist tendencies and provide stability.

### Conditions for Office

- He/She should not be a member of either Houses of Parliament or of a House of the State Legislature.
- He/She should not hold any other office of profit.
- His/Her emoluments allowances and privileges are determined by the Parliament by law.
- His/Her emoluments and allowances should not be diminished during his office.
- Currently, the salary of Governor is 3.50 lakh per month.

### Privileges of the Governor

- He/She enjoys personal immunity from legal liability for his/her official acts. During his/her term of office, a Governor is immune from any criminal proceedings, even in respect of his personal acts. He/She cannot be arrested or imprisoned.
- However, after giving two months notice, civil proceeding can be instituted against him/her during his/her term of office in respect of his/her personal acts.

## Powers and Functions

- A Governor possesses executive, legislative, financial and judicial powers. He/She has no diplomatic, military or emergency powers like the President. The Governor has also been given certain discretionary powers.

### Executive Powers

- All executive actions of the Government of a State are formally taken in the name of the Governor.
- He/She appoints the Chief Minister and other Ministers on the advice of the Chief Minister. They hold office during the **pleasure of the Governor**. There should be a **Tribal Welfare Minister** in the States of **Jharkhand Chhattisgarh, Madhya Pradesh** and **Odisha** appointed by the Governor.
- He/She appoints the Advocate-General of a State and determines his remuneration. The Advocate-General holds office during the pleasure of the Governor.
- He/She appoints the State Election Commissioner and determines the conditions of service and tenure of the office. He/She also appoints the Chief Secretary in a state. The term of Chief Secretary is not fixed.
- He/She appoints the Chairman and the members of the State Public Service Commission. However, they can be removed only by the President of India and not by the Governor. (He/She can seek any information relating to the administration of the affairs of the state and proposals for legislation from the Chief Minister).
- He/She can ask the Chief Minister to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister, but which has not been considered by the Council of Ministers.
- Though the Governor does not have the power to appoint the Judges of the High Court, but his consultation is required by the President for the appointment of the Judges of the High Court.
- If the Governor is satisfied that the members of the **Anglo-Indian community** are not adequately represented in the Vidhan Sabha, he may nominate one member.
- If Vidhan Parishad (Legislative Council) is also in existence in a state, the Governor has the power to nominate 1/6 of the total members of the Vidhan Parishad from among the persons who have excelled or have practical experience in the fields of Literature, Science, Arts, Co-operative Movement and Social Services.

### Legislative Powers

- A Governor is an integral part of the State Legislature (**Article 168**). He/She has the right of summoning or proroguing the State Legislature and dissolving the State Legislative Assembly.

- He/She addresses is the State Legislature at the commencement of the first Session after each general election and the first Session of each year. He/She can send message to the Houses of Parliament or the Houses of the State Legislature, with respect to a Bill pending in the Legislature or otherwise.
- He/She can appoint any member of the State Legislative Assembly to preside over its proceedings, when the offices of both the Speaker and the Deputy Speaker fall vacant simultaneously.
- He/She decides on the question of disqualification of the members of the State Legislature in consultation with the Election Commission.
- He/She can promulgate Ordinances when the State Legislature is not in session (**Article 213**). These ordinances must be approved by the State Legislature within 6 weeks from its reassembly.
- He/She can also withdraw the Ordinance any time. He/She lays the reports of the State Public Service Commission, State Finance Commission and the Comptroller and Auditor General relating to the accounts of the state, before the State Legislature **Article 202**.
- He/She ensures the laying of the state budget before the Legislature.

### Governor's Assent to Bill

When a Bill is sent to the Governor after it is passed by the State Legislature, *has the following options*

- Give his/her assent to the Bill.
- Withhold his/her assent to the Bill.
- Return the Bill (if it is not a Money Bill) for reconsideration of the State Legislature. If the State Legislature again passes the Bill with or without amendments, a Governor has to give his assent to the Bill.
- He must reserve for the consideration of the President, any Bill passed by the State Legislature, which endangers the position of the State High Court.
- In addition, the Governor can also reserve the *Bill if it is of the following nature*
  - ultra vires, i.e. against the provisions of National Importance.
  - opposed to the Directive Principles of State Policy.
  - that Bill is inconsistent to Union laws.

### Financial Powers

- Money Bill can be introduced in the State Legislature only with the prior recommendation of the Governor. No demands for a grant can be made except on his/her recommendation.
- He/She can make advances out of the Contingency Fund of the State to meet any unforeseen expenditure state.

- He/She constitutes State Finance Commission after every **5 years** to review the financial position of the Panchayats and the Municipalities.
- The Constitution confers on the Governor, the duty to get prepared and introduced to the State Legislature, the annual budget and also the supplementary budgets, if necessary.

### Judicial Powers

- He can grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends.
- He is consulted by the President while appointing the judges of the concerned State High Court.
- He makes appointment, postings and promotions of the District Judges in consultation with the State High Court (**Article 233**).
- He also appoints persons to the Judicial Services of the State (other than District Judges) in consultation with the State High Court and the State Public Service Commission.

### Discretionary Powers

- 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/her function as the administrator of an adjoining Union Territory (in case of additional charge).
- Appointment of the Chief Minister when no party has clear cut majority in the State Legislature.
- Seeking information from the Chief Minister with regard to the administrative and legislative matters of the state.
- Dismissal of the Council of Ministers when it cannot prove the confidence of the State Legislative Assembly.
- Dissolution of the State Legislative Assembly if the Council of Ministers has lost its majority.
- Determining the amount payable by the State of Assam to the autonomous Tribal District Council as royalty accruing from licenses for mine exploration.

### Sarkaria Commission Recommendations on Governor

- **On the qualification**, of a Governor, the Commission recommended
  - He/She should be eminent in some walk of life.
  - He/She should be a person from outside the state.
  - He/She should be a detached figure without intense political links or should not have taken part in politics in last 5 years.
  - He/She should not be a member of the ruling party.
- **On the process of appointment**, the Commission recommended that
  - the Governor should be appointed from a panel to be prepared by State Legislature or from a panel to be prepared by the State Chief Ministers.
  - effective consultation should be made with the State Chief Minister in selection of a person for the post of Governor.
  - Vice-President of India and Speaker of Lok Sabha should be consulted by the Prime Minister before selection of the Governor.
- **On the removal**, the Commission suggested that
  - As far as possible the term of 5 years should be maintained.
  - The Governor should be removed before their tenure only on the grounds as mentioned in the Constitution or if aspersions are cast on his morality, dignity, constitutional propriety etc.
  - In the process of removal, State Government may be informed and consulted.
  - The National Commission for the review of working of Constitution under the chairmanship of **Justice Venkatachalliah** has adopted the recommendation of Sarkaria Commission as aforesaid.

### Powers during President's Rule

- If the Governor thinks that the Government of the State cannot be carried on in accordance with the provisions of the Constitution, he/she may, under **Article 356** recommend to the President to impose the President's rule in that state. As soon as the President rule is imposed, the administration of the state is carried on by the Governor acting as the representative of the President.

### Special Responsibilities of Governor

- The Governor has certain special responsibilities to discharge according to the directions issued by the President. In this regard, the Governor though has to consult the Council of Ministers, acts finally in his/her individual judgement and discretion.

*These State specific responsibilities are as follows*

- **Maharashtra** Establishment of a separate Development Boards for Vidarbha and Marathwada.
- **Arunachal Pradesh** With respect to the law and order in the state.
- **Assam** With respect to the administration of the Tribal areas.
- **Nagaland** With respect to the law and order in the State.
- **Manipur** With respect to the administration of the hill areas in the state.
- **Sikkim** for peace and for ensuring social and economic advancement of the different sections of the population.
- **Gujarat** Establishment of a separate Development Boards for Saurashtra and Kachchh.
- **Karnataka** Establishment of a separate development board for Hyderabad-Karnataka region in the state.

## Chief Minister and Council of Ministers

- The Chief Minister is the real executive and is the head of the Government of a State. The position of the Chief Minister at the state level is analogous to the position of the Prime Minister at the centre.
- Every state shall have a **Council of Ministers** headed by the **Chief Minister** to aid and advise the Governor in the exercise of his/her powers and functions except the discretionary ones **Article 163**.
- The **Chief Minister** shall be appointed by the Governor. Other ministers shall be appointed by the Governor on the advice of the Chief Minister.
- Normally, the leader of the party having majority in the Vidhan Sabha is appointed as the Chief Minister by the Governor. The Governor shall administer the oath of office and secrecy to the Ministers.
- The Chief Minister shall hold office during the pleasure of the Governor. It does not mean that the Governor can dismiss him/her at any time. Until and unless he/she enjoys the majority in the assembly.
- The Council of Ministers shall be collectively responsible to the State Legislature Assembly.
- The Governor shall administer the oaths of office and secrecy to a minister.
- A minister who is not a member of the State Legislature for any period of **6 consecutive months** shall cease to be a minister.
- **The 91st Amendment Act (2003) has added the following two provisions**
  1. The total number of ministers, including the Chief Minister in the Council of Ministers in a State shall not exceed 15% of the total strength of the Legislative Assembly of that state. But, the number of minister including the Chief Minister in a state shall not be less than 12.
  2. A member of either House of State Legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.

## Powers and Functions of Chief Minister

### In Relation to the Council of Ministers

- The Chief Minister, recommends persons to be appointed as the ministers by the Governor.
- Allocates and reshuffles the portfolios among the ministers.
- Can ask a minister to resign or advise the Governor to dismiss the minister in case of difference of opinion.
- Presides over the meetings of the Council of Ministers and influences its decisions. Guides, directs, controls and coordinates the activities of all the ministers.
- Can bring about the collapse of the Council of Ministers by resigning from the office.

### In Relation to the Governor

- Chief Minister is the principal channel of communication between the Governor and the Council of Ministers.
- *In this capacity, he performs the following functions*
  - He/She communicates to the Governor of all decisions of the Council of Ministers relating to the administration of the Affairs of the state and proposals for legislation.
  - He/She furnishes such information relating to the administration of the Affairs of the state and proposals for legislation as the Governor may call for.
  - If the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.
  - He/She advises the Governor with regard to the appointment of important officials like Advocate-General, the Chairman and the Members of the State Public Service Commission, the State Election Commissioner etc.

### In Relation to the State Legislature

- He/She advises the Governor with regard to the summoning and proroguing of the sessions of the State Legislature.
- He/She can recommend the dissolution of the Legislative Assembly to the Governor any time.
- He/She announces the Government policies on the floor of the House. He has the right to intervene in any debate in the State Legislature.

### The Advocate-General (Article 165)

The Advocate-General is the first law officer of a state. His/her office and functions are comparable to that of the Attorney General of India. Appointed by the Governor and holds the office during his/her pleasure.

His/her remunerations are also determined by the Governor. To be appointed to the office of the Advocate-General, he/she must be qualified to be a judge of the High Court. He/She has the right to attend and speak in the proceedings of either Houses of the State Legislature without any right to vote. He/She has the right of audience in any court in the state.

## The State Legislature

- Article 168 to 212 in Part VI of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the State Legislature.

## Composition of the Houses

### The Legislative Council (Vidhan Parishad)

- As per the Constitution, the number of members of the Legislative Council is not to exceed **one-third of the total strength of the State Assembly**. However, its strength should not be less than 40 either.

*The members of the Legislative Council are derived from various sections and streams of the society as follows:*

- One-third to be elected by electorates consisting of members of the Panchayats, Municipalities, District Boards etc.
- One-third to be elected by the Legislative Assembly.
- One-twelfth to be elected by the graduates of 3 years standing residing in the state.
- One-twelfth to be elected by the persons having teaching experience of 3 years in educational institutions.
- The remainder one-sixth to be nominated by the Governor from among the distinguished persons of the society in the field of literature, science, arts, cooperative movement and social service.
- The legislature of every state consists of the Governor and one or two Houses. The legislatures of **Jammu and Kashmir, Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh** and **Telangana** are bicameral i.e. having both the Legislative Assembly and the Legislative Council. Other states have unicameral legislatures i.e. there exists only the State Legislative Assembly.
- Just like the Upper House at the Centre, the Legislative Council of a State is never dissolved. The members are elected for a term of 6 years and one-third of its members retire every 2 years.

### Creation and Abolition of Legislative Council

- The Parliament under **Article 169** is empowered to create or abolish the Legislative Council in a state where the Legislative Council is to be created or abolished.
- The concerned State Legislative Assembly should pass a resolution to this effect by a majority of two-third of the members present and voting. After this, the Bill goes to the Parliament for approval, which may or may not pass it. In Parliament, such a resolution is passed by a simple majority.

### The Legislative Assembly (Vidhan Sabha)

- The Legislative Assembly is the popular House of the State Legislature where members are directly elected by the people for a term of 5 years, unless the House is dissolved by the Governor earlier.

- The strength of this popular House should not be less than 60 or more than 500. However, the strengths of **Goa** and **Sikkim** Legislatures are 40 and 32 respectively which are less than 60.
- The Governor may nominate one member from the Anglo-Indian Community to this House, if he/she thinks that the community is not adequately represented.
- The sessions of the State Legislature and its officers as well as their functions are almost similar to those at the Union Level.

## Membership of State Legislature

### Qualifications

- The Constitution lays down the following qualification for a person to be chosen a member of the State Legislature.
  - He/She must be a citizen of India.
  - He/She must not be less than 30 years of age in the case of the Legislative Council and not less than 25 years of age in the case of the Legislative Assembly.
  - He must possess other qualifications prescribed by Parliament.

### Disqualifications

- A person shall be disqualified for being a member
  - If he/she holds any office of profit under the Union or State Government.
  - If he/she is of unsound mind and stands so declared by a court.
  - If he/she is an undischarged insolvent.
  - If he/she is not a citizen of India or has voluntarily acquired the citizenship of a foreign state.
  - If he/she is so disqualified under any law made by Parliament.
- According to **Article 191 (2)**, a person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a state if he/she is so disqualified under the 10th Schedule.

## Legislative Procedure

- In an **Unicameral Legislature**, the procedure is very simple. Every Bill originates in the Vidhan Sabha i.e. Legislative Assembly, duly passed by it and then sent to the Governor for his/her assent.
- For, in a **Bicameral Legislature**, the process, however in case of ordinary and other Financial Bills the process is different from that in Parliament. Money Bill follows the similar procedure as in the Parliament.

### Process Regarding Financial and Ordinary Bills

- The Bill should be passed by both the Houses. The Vidhan Parishad i.e. Legislative Council does not enjoy an equal status to that of the Vidhan Sabha.
- After a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council,

There are three possibilities namely

- (i) The Bill is rejected by the Council.
- (ii) More than 3 months elapsed from the date on which the Bill is laid before the Council without the Bill being passed by it.
- (iii) The Bills passed by the Council with amendments, then the Bill returns to the Legislative Assembly. The Legislative Assembly may or may not accept the recommendations.
- If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council, *there are three possibilities named*
  - (i) The Bill is rejected by the Council.
  - (ii) More than 1 month elapsed from the date on which the Bill is laid before the Council without the Bill being passed by it.
  - (iii) The Bill is passed by the Council with amendments to which the Legislative Assembly does not agree.
- The Bill shall be deemed to have been passed by both the Houses in the form in which it was passed by the Legislative Assembly for the second time.
- The Legislative Council has the power to introduce the Bill, but if the Vidhan Sabha rejects it, that is the end of the Bill. Unlike at the Union level, there is no provision of *joint-sitting* in the State Legislature for resolving deadlock over the passage of a Bill.
- The two Houses meet jointly on only one occasion—the **Governor's address** immediately after the general election to the Vidhan Sabha or at the commencement of the first session of each year.

## Presiding Officers of the State Legislature

### Speaker of Legislative Assembly

- It is elected by the Assembly itself from amongst its members and remains in office during the life of the Assembly. However, he/she may vacate his office by resigning by writing to the Deputy Speaker or be removed by a resolution passed by a majority of all the then members of the assembly or if he ceases to be a member of the Assembly. Such a resolution can be moved only after giving **14 days** prior notice.

### Constitutional Position of Speaker

- Though, he/she is an elected member of the Vidhan Sabha, he continues to hold his/her office even after the dissolution of the Vidhan Sabha till the new Vidhan Sabha is constituted.
- This is because he/she not only presides over and controls the legislative functions but also acts as the Head of the Secretariat of the Vidhan Sabha which continues to function even after the House is dissolved.

- Another aspect of his/her special position is that he/she has been given responsibility to uphold the dignity and the privileges of the Vidhan Sabha because the speaker represents the Vidhan Sabha as an institution.

### Powers of Speaker

- His/her functions are similar to those of the speaker of the Lok Sabha. He adjourns the assembly or suspends the meeting in the absence of a quorum and maintain order and decorum in the Assembly.
- He/She decides the questions of disqualification of a member of the Assembly arising on the ground of defection under the provision of the 10th Schedule.
- Whether a Bill is a Money Bill or not, is certified only by the speaker and his decision is final and binding.
- The committees of the Vidhan Sabha function essentially under the speaker and their chairpersons are also nominated by him.
- If the speaker is a member of any committee, he is the ex-officio Chairman of such a committee.

### Chairman of Legislative Council

- The chairman is elected by the council itself from amongst its members. He/She may vacate his/her office by resigning by writing to the Deputy Chairman or if he ceases to be a member of the council. His/her powers and functions are comparable to the speaker of the assembly with few exceptions.

### Legislative Assembly Seats in States/UTs

States/UTs	Seats	States/UTs	Seats
Uttar Pradesh	403	Chhattisgarh	90
West Bengal	294	Jammu and Kashmir	87
Maharashtra	288	Jharkhand	81
Bihar	243	Delhi	70
Tamil Nadu	234	Uttarakhand	70
Madhya Pradesh	230	Himachal Pradesh	68
Karnataka	224	Arunachal Pradesh	60
Rajasthan	200	Tripura	60
Gujarat	182	Nagaland	60
Andhra Pradesh	175	Manipur	60
Odisha	147	Meghalaya	60
Kerala	140	Goa	40
Assam	126	Mizoram	40
Telangana	119	Sikkim	32
Punjab	117	Puducherry	30
Haryana	90		

### Legislative Council seats in States with Bicameral Legislatures

State	Seats	State	Seats
Uttar Pradesh	100	Andhra Pradesh	58
Bihar	75	Jammu and Kashmir	36
Maharashtra	78	Telangana*	40
Karnataka	75		

\* Seats of Andhra Pradesh and Telangana are according to Andhra Pradesh Reorganisation Act, 2014.

# Self Check

## Build Your Confidence

**1. Consider the following statements [IAS 2009]**

1. The Governor of Punjab is concurrently the administrator of Chandigarh.
2. The Governor of Kerala is concurrently the administrator of Lakshadweep.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**2. Consider the following statements**

1. If the Legislative Assembly of a State in India is dissolved in mid-term, the speaker continues in office till the process of formation of next Legislative Assembly.
2. When the speaker of a Legislative Assembly resign he addresses his letter to the Deputy-Chairman of the Assembly.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**3. Who among the following are commended to the Parliament for the abolition of the Legislative Council in a State?**

- (a) The President of India  
(b) The Governor of the concerned state  
(c) The Legislative Council of the concerned state  
(d) The Legislative Assembly of the concerned State

**4. Which one of the following statement is correct?**

[IAS 2013]

- (a) In India, the same person cannot be appointed as Governor for two or more states at the same time.  
(b) The Judges of the High Court of the States in India are appointed by the Governor of the State just as the Judges of the Supreme Court are appointed by the President.  
(c) No procedure has been laid down in the Constitution of India for the removal of a Governor from his/her post.  
(d) In the case of a Union Territory having a legislative set-up, the Chief Minister is appointed by the Lt Governor on the basis of majority support.

**5. Consider the following statements [IAS 2008]**

**The Constitution of India provides that**

1. The Legislative Assembly of each state shall consist not more than 500 members chosen by direct election from territorial constituencies in the state.
2. A person shall not be qualified to be chosen to fill seat in the Legislative Assembly of a state if he/she is less than 25 years of age.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**6.**



1. (a) 2. (c) 3. (d) 4. (c) 5. (c) 6. (b) 7. (d) 8. (d) 9. (b)

**Which one of the following are included among the duties of the Chief Minister in relation to the Governor?**

1. Communication to the Governor of all the decisions of the Council of Ministers.
2. Advising the Governor to recommend to the President that the Government of the State cannot be carried on in accordance with the provisions of the Constitution.
3. Supplying to the Governor, information on such matters relating to the administration of the state as he calls for
4. Assisting the Governor in making appointments in the State Government.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 3 and 4  
(c) 2, 3 and 4 (d) All of these

**7. Article 156 of the Constitution of India provides that a Governor shall hold office for a term of 5 years from the date on which he enters upon his office. Which of the following can be deduced from this?**

1. No Governor can be removed from office till the completion of his term.
2. No Governor can continue in office beyond a period of 5 years.

**Select the correct answer using the codes given below**

- (a) Only 1 (b) Both 1 and 2  
(c) Only 2 (d) Neither 1 nor 2

**8. Consider the following statements [IAS 2015]**

1. The Legislative Council of a State in India can be larger in size than half of the Legislative Assembly of that particular state.
2. The Governor of a State nominates the Chairman of Legislative Council of that particular state.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1  
(b) Only 2  
(c) Both 1 and 2  
(d) Neither 1 nor 2

**9. Which of the following are the discretionary powers given to the Governor of the State? [IAS 2014]**

1. Sending a report to the President of India for imposing the President's Rule.
2. Appointing the Ministers.
3. Reserving certain bills passed by the State Legislature for consideration of the President of India.
4. Making the rules to conduct the business of the State Government.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) 1 and 3  
(c) 2,3 and 4 (d) All of these

# Chapter twelve

## Centre-State Relations

*In our federal set-up, the centre and the states derive the power independently from the Constitution. Each have their own sphere of political authority and neither is subordinate to any other. Nevertheless, in terms of power distribution, the union has been vested with disproportionately greater powers. The Centre-State relations are comprehensive in nature as they cover the entire range of administrative, legislative and financial powers.*

The constitution of India contains detail provisions to regulate the various dimensions of the relations between the centre and the states. The centre-state relations can be broadly studied under three heads:

- Legislative relations
- Administrative relations
- Financial relations

### Legislative Relations

- The legislative relations between the centre and states governments are discussed in Part XI from Articles 245 to 255 of the Constitution of India.

### Territorial Extent of Central and State Legislation

- According to **Article 245(1)**, Parliament may make laws for the whole or any part of the territory of India and the Legislature of a state may make laws for the whole or any part of the state.
- However, no law made by Parliament shall be deemed to be invalid on the ground that it would have extra territorial operation. **Article 245(2)** Laws of Parliament are not applicable in the matter of Union Territories (Andaman and Nicobar, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu). President can make regulation in these Union Territories' matters.

### Distribution of Legislative Subjects

- The distribution of items of legislation are given under **Article 246**.
- Constitution provides for a three-fold distribution of legislative subjects between centre and state viz, List I **Union List** and List II **State List** and List III **Concurrent List** in the Seventh Schedule.

- Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule. Parliament and Legislature of any State, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule.
- The Legislature of any state has exclusive power to make laws for such state or any part there of with respect to any of the matters enumerated in List II in the Seventh Schedule. However, Parliament has power to make laws with respect to any matter for any part of the territory of India notwithstanding that such matter is a matter enumerated in the State List. The Union List has 100 items and the State List has 61 items whereas the Concurrent List has 52 items.
- The 42nd Amendment Act of 1976 transferred 5 subjects to Concurrent List from State List i.e. education, forests, weights and measures, protection of wild animals and birds, and organisation of all court except the Supreme Court and the High Courts.
- According to **Article 248**, Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

## Power of Parliament to Legislate on State List Matters

### When Rajya Sabha Passes a Resolution

- If the Council of States (Rajya Sabha) has declared by resolution supported by not less than **two-thirds** of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India.
- Such resolution passed shall remain in force for such period not exceeding 1 year provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed, such resolution shall continue in force for a further period of 1 year from the date on which it would otherwise have ceased to be in force.

### During National Emergency

- The Parliament acquires the power to legislate with respect to matters in the State List **Article 250**.
- The laws become inactive on the expiration of 6 months after the emergency has ceased to operate.

### Power of Parliament to Legislate for Two or More States

- Under **Article 252**, if the Legislatures of two or more states desire that any of the matters with respect to which Parliament has no power to make laws for the states except as provided in Articles 249 and 250 should be regulated in such states by Parliament by law and if resolutions to that effect are passed by all the Houses of the legislatures of those states, it shall be lawful for Parliament to pass an act for regulating that matter accordingly and any act so passed shall apply to such states and to any other state, by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the legislature of that state.

### To Implement International Treaties

- The Parliament can make laws on any matter in the State List for implementing the international treaties, agreements or conventions. (**Article 253**)

### During President's Rule

- When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state. Such a law continues to be operative even after the President's rule. But such a law can be repealed or altered by the State Legislature.

### Inconsistency between Laws

Under **Article 254**, if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List then, the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

However, if such law has been reserved for President's approval and has received such approval, the law stands valid even if it is repugnant to the Union Law.

## Centre's Control over the State Legislation

- In addition to the Parliament's power to legislate directly on the state subjects, the Constitution also provides for the centre's consent before a Bill passed by a State Legislature can become a law. Although, the state enjoys authority to legislate on the subjects of the State List, the centre has power to direct the State Legislature to have conformity with the Union Laws.
- Any legislation passed by the State Legislature for acquisition of private property for public purposes will not become a law, unless it has the assent of the President.
- Under **Article 200**, the Governor is empowered to reserve a Bill for the President's consideration. Further, under the same article, the Governor has been directed to reserve any Bill affecting the dignity and functioning of the High Court for the President's consideration.
- Under **Article 288(2)**, a state is authorised to impose taxes on water, electricity—stored, generated, consumed or distributed by the central authority e.g. National Thermal Power Corporation (NTPC), National Hydel Power Operation etc. But any such law is effective only after the President's assent.
- Under **Article 304(b)**, the State Legislature is authorised to pass Bills regarding the imposition of reasonable restrictions on the freedom of trade, commerce and intercourse within the state in public interest. But any such Bill needs the President's prior approval for its introduction in the House.
- **Taxes levied and collected by the centre, but assigned to the states.** (Article 269)
  - The following duties and taxes shall be levied and collected by the Government of India, but shall be assigned to the States in accordance with such principles of distribution as may be formulated by Parliament by law.
  - Duties in respect of succession to property other than agricultural land.
  - Estate duty in respect to property other than agricultural land.
  - Terminal taxes on goods or passengers carried by railway, sea or air.
  - Taxes on railway fares and freights.
  - Taxes other than stamp duties on transactions in stock exchanges and future markets.
  - Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-state trade or commerce.

- **Taxes levied and collected by the union and distributed between the union and the states**
  - **Article 270** says that taxes on incomes, other than agricultural incomes, shall be levied and collected by the Government of India and distributed between the union and the states in the manner prescribed by the President, after considering the recommendations of the Finance Commission.
- **Surcharge on certain taxes and duties for purposes of the centre. (Article 271)**
  - Surcharge on certain duties and taxes for purposes of the Union Notwithstanding anything in Articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred in those articles by a surcharge for purposes of the Union and the proceeds of any such surcharge shall form part the whole Consolidated Fund of India.
- **Grants in lieu of export duty on jute and jute products**
  - Under **Article 273**, the States of Assam, Bihar, Odisha and Bengal will get grants in-aid every year in lieu of assignment of share of the net proceeds of export duty on jute and jute products. This amount will be charged upon the Consolidated Fund of India. This sum will continue to be charged on the Consolidated Fund of India so long as any export duty on the jute products continues to be levied by the Government of India.
- **Grants from the Union to certain States**
  - Under **Article 275** of the Constitution, such sums as the Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid to the revenues of such states as Parliament may determine to be in need of assistance and different sums may be fixed for different states.
  - It has also been provided that these sums shall be paid out of Consolidated Fund of India as grants-in-aid to the states to meet the costs of such schemes of development as may be undertaken for the purpose of promoting the welfare of the Scheduled Tribes in the state or raising the level of administration of the scheduled areas therein to that of the administration of the rest of the areas of that state.

### Mutual Immunity from Taxes

- Under **Article 285 (1)** the property of the union is exempted from all taxes imposed by a state.
- Similarly, the property and income of state are exempt from union taxation under **Article 289 (1)**.

### Borrowing Powers

- **Article 292** says that Union Parliament can regulate the borrowing of the Union Government on the security of the Consolidated Fund of India.
- **Article 293** says that states cannot borrow from outside the country. States can borrow from within the country, but if a loan given by the centre to the state is not paid back, then centre's permission is required for any further borrowing.

### Goods and Service Tax (GST)

The GST is an **indirect tax** that would replace existing levies such as excise duty, service tax and Value Added Tax (VAT). The states and the Union Government will impose the tax on almost all goods and services produced in India or imported.

Producers will receive credits for tax paid earlier, which will eliminate multiple taxation on the same product or service. **Direct taxes**, such as income tax, corporate tax and capital gains tax will not be affected.

Eliminating a multiplicity of existing indirect taxes will simplify the tax structure, broaden the tax base and create a common market across states and federally administered districts.

At the same time, GST will lower the average tax burden for goods and services companies that now pay 'cascading' taxes on top of taxes through the production process. Reducing production costs will make exporters more competitive.

### Alternative Scheme of Devolution (ASD)

- The Constitution of India provides for taxes which are shareable between the union and the states and those which are not shareable. Over the years, the Union Government concentrated on improving the elasticity of taxes like corporate income tax, union customs duty etc, which are not shareable and neglected similar effort for shareable taxes like personal income tax and excise.
- With the coming up of coalition governments, strong regional parties and need for economic reforms the proposal for ASD came up.
- The 80th Amendment Act, 2000 was passed for this purpose based on the recommendations of 10th Finance Commission. It amended Article 270 to make all taxes and duties referred in the Union List divisible.
- Between the union and the states except the duties and taxes, and duties under Article 271 and any cess levied for a specific purpose by a law made by Union Parliament.

*The benefits of this system are as follows:*

- States will share in the buoyancy of central taxes.
- Tax reforms pursued by union will get cooperation from states.
- Creates conditions for cooperative federalism in other sphere.

### Finance Commission

- The Finance Commission is constituted by the President under **Article 280** of the Constitution, mainly to give its recommendations on distribution of tax revenues between the centre and the states and amongst the states themselves.
- Two distinctive features of the commission's work involve redressing the vertical imbalances between the taxation powers and expenditure responsibilities of the centre and the States respectively and equalisation of all public services across the states.
- It is a quasi-judicial body.

## Functions of Finance Commission

- *It is the duty of the commission to make recommendations to the President as to*
  - the distribution between the centre and the states of the net proceeds of taxes which are to be or may be, divided between them and the allocation between the states of the respective shares of such proceeds.
  - the principles which should govern the grants in aid of the revenues of the states out of the Consolidated Fund of India.
  - the measures needed to augment the Consolidated Fund of a state to supplement the resources of the Panchayats in the state on the basis of the recommendations made by the Finance Commission of the state.
  - the measures needed to augment the Consolidated Fund of a state to supplement the resources of the municipalities in the state on the basis of the recommendations made by the Finance Commission of the state.
  - any other matter referred to the commission by the President in the interests of sound finance.

## Important Recommendations of 14th Finance Commission

- Devolution of 42% of the divisible tax pool to states during the period from 2015-16 to 2019-20 instead of 32%.
- Setting up an independent council, which can undertake assessment of fiscal policy implications of budget proposals. Replacing the existing FRBM Act with a debt ceiling and fiscal responsibility law.
- Setting up of the autonomous and independent GST compensation fund. Performance based grants to panchayats and local bodies.
- Doing away with the distinction between plan and non-plan expenditure.
- In 2017, the Union Government with the approval of President of India has Constituted 15th Finance Commission to make recommendations for the five years commencing from 1st April, 2020 to 31st March, 2025.

## Important Sources of Union Revenue

- Corporation tax.
- Currency, coinage and legal tender, foreign exchange.
- Duties of customs including export duties.
- Duties of excise on tobacco and certain goods manufactured or produced in India.
- Estate duty in respect of property other than agricultural land.
- Fees in respect of any of the matters in the Union List, but not including any fees taken in any court.
- Foreign loans—Lotteries organised by the Government of India or the Government of a State.
- Post Office Savings Bank.
- Post and Telegraphs, Telephones, Wireless Broadcasting and other like forms of communications.
- Property of the Union. Public debt of the Union. Railways.
- Rates of stamp duty in respect of Bills of Exchange, Cheques, Promissory Notes etc.
- Reserve Bank of India.
- Taxes on income-other than agricultural income.
- Taxes on the capital value of the assets exclusive of agricultural land of individuals and companies.
- Taxes other than stamp duties on transactions in stock exchanges and future markets.
- Taxes on the sale or purchase of newspapers and on advertisements published therein.
- Terminal taxes on goods or passengers, carried by railways, sea or rail.

## Important Sources of the State Revenue

- Capitation tax
- Duties in respect of succession to agricultural land.
- Duties of exchange on certain goods produced or manufactured in the states, such as alcoholic liquids, opium etc.
- Estate duty in respect of agricultural land.
- Fees in respect of any of the matters in the State List, but not including fees taken in any court.
- Land revenue.
- Rates of stamp duty in respect of documents other than those specified in the Union List.
- Taxes on agricultural income.
- Taxes on land and buildings.
- Taxes on mineral rights, subject to limitations imposed by Parliament relating to mineral development.
- Taxes on the consumption or sale of electricity.
- Taxes on the entry of goods into a local area for consumption, use or sale therein.
- Taxes on the sale and purchase of goods other than newspapers.
- Taxes on advertisement other than those published in newspapers.
- Taxes on goods and passengers carried by road or on inland water ways. Taxes on vehicles.
- Taxes on animals and boats.
- Taxes on professions, traders, callings and employments.
- Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
- Tools.

## Administrative Relations

- Articles 256 to 263 in Part XI of the Constitution deal with the administrative relations between the centre and the States.
- The administrative relations corresponds to coordination aspects between the states and the center. The Constitution directs the states to oblige by the directions given by the Centre. This includes actions that should be taken for implementation of Union Laws and policies as determined by the Union Government. If the states refuse to comply with the directions given so, the President may declare a situation has arisen in the state of breakdown of constitutional machinery and may invoke President's rule in that state.

### Power of the Union Government to Entrust Some Responsibilities to the State Governments

- According to **Article 256**, the Executive power of the Governments of States is to be so exercised as to ensure compliance with the Laws of the Union. Under Article 365, the Union Government is empowered to issue directions to the State Governments to ensure such compliance. Non-compliance of Central directives by the State Governments is tantamount to the failure of constitutional machinery in the concerned state and may invite imposition of President's Rule under **Article 356**.

### Power of the Union to Issue Directions to the State Governments

- Under **Article 258**, the Union Government has the power to issue directions to the states with respect to construction and maintenance of means of Communication of National and Military importance and the Protection of Railways within the State. The cost incurred in performing these functions is borne by the Union Government.
- Union can give directions in matters related to the following as well*
  - Designing and implementing schemes for the welfare of the tribals.
  - Primary education to the linguistic minorities in their mother tongue (Article 351A).
  - Promotion of Hindi (Article 351).

### Mutual Delegation of Functions

- To avoid any kind of rigidity in the executive sphere our Constitution has certain provisions, which allow for mutual delegation of executive functions by centre and states. President by the consent of the State Governments and Governor with the consent of Central Government can mutually delegate functions to each other. The Constitution also allows delegation of function from centre to the states even without the consent of the state concerned, but this type of delegation is done by the Parliament and not the President.

### Provisions of All India Services

- Article 312**, of the Constitution makes Provision for the establishment of All India Services like IAS, IPS and IFS (Indian Forest Service). The members of the All India Services are recruited by the UPSC and their service conditions are regulated by the Union Government. Members of these services occupy highest posts in of the State Government Administration. Their ultimate control rests with the Union Government.
- Article 312**, also empowers Parliament to create new All India Services if Rajya Sabha passes a resolution to this effect. All India Services form single service with Common Rights and status and uniform scales of pay throughout the country. Though, these service violate the federal features of the country but they help in maintaining high standard of administration, ensure uniformity of the administrative system, facilitate liaison, cooperation and coordination between the centre and states.

### Appointment of the Governors

- The Governor, besides being the Head of the Government of the State, is also the representative of the Union posted in the states. The President imposes Central Rule on the states on the recommendations of the Governor. A careful study of these provisions proves beyond doubt that the control of the Union Government over States is more extensive in administrative fields in comparison to the Legislative field.

### Integrated Judiciary

- India has an Integrated Judicial System with Supreme Court at the top and State High Courts below it. The Single Integrated Judicial set-up enforces both the Central Laws as well as State Laws. Appointment, removal and transfer of State High Court Judges is done by the Central Government. Establishment of a common High Court, for two or more states, is also vested in the Central Governments.

### Relations through Public Service Commission

- Centre and State Administrative relations are also strengthened through the Public Service Commissions. Though, the appointment of the Chairman and Members of State Public Service Commission are done by the State Governor but they can be removed by the President only. Parliament of our country has been authorised to create a JPSC (Joint Public Service Commission) for two or more States on request of concerned state Legislature. Also, Union Public Service Commission (UPSC) can serve the needs of the State on the request of Governor and approval by the President.

### Centre-State Administrative Relations during Emergencies

- During **National Emergency** under Article 352, the centre becomes empowered to give directions to the state on any matter. During **State Emergency** under Article 356, the President assumes to himself the functions vested in the

State Governments. Also, during **Financial Emergency** under Article of 360, the centre can direct the states to observe Canons of financial propriety, even President can give directions regarding the reductions of salaries of persons serving in the state including High Court Judges. Apart from other provisions, there are extra constitutional devices like NITI Aayog, National Development Council, Zonal Councils, Central Welfare Council etc., to promote cooperation and coordination between the centre and states.

## Financial Relations

The financial relations between the Union Government and the states are discussed in Part XII from **Articles 268 to 293** of the Constitution of India. In a federation, the centre and the units are given their separate sources of revenues, so that they can stand on their feet. The Constitution provides the distribution of finances between the centre and states. These provisions have undergone several amendments with the latest being the **Alternative Scheme of Devolution** developed by the 88th Constitutional Amendment Act. The recent initiative of goods and services tax is further expected to refine the financial relations between the centre and the states.

- Duties levied by the centre, but collected and appropriated by the states
  - Article 268** of the Constitution lays down that the stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India, but shall be collected by the states.

The proceeds in any financial year of any such duty leviable within any state shall not form part of the Consolidated Fund of India, but shall be assigned to that state.

## Inter-State Relations

The Indian federal system depends not only on the centre-state relation for successful functioning, but also depends on Inter-State Relations.

### Inter-State Water Disputes

- Under **Article 262**, Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any state rivers or inter-state river or river valley. Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to.
- Under this provision, the Parliament has enacted two laws i.e. The **River Boards Act, 1956** and **Inter-State Water Disputes Act, 1956**.

#### Inter-State Water Dispute Tribunals

Name	Set-up in	State Involved
Krishna Water Disputes Tribunal	1969	Maharashtra, Karnataka and Andhra Pradesh.
Godavari Water Disputes Tribunal	1969	Maharashtra, Karnataka Andhra Pradesh, Madhya Pradesh and Odisha.
Narmada Water Disputes Tribunal	1969	Rajasthan, Gujarat, Madhya Pradesh and Maharashtra.
Ravi and Beas Water Disputes Tribunal	1986	Punjab and Haryana.
Cauvery Water Disputes Tribunal	1990	Karnataka, Kerala, Tamil Nadu and Puducherry.
Second Krishna Water Disputes Tribunal	2004	Maharashtra, Karnataka and Andhra Pradesh.
Vansadhara Water Disputes Tribunal	2010	Odisha and Andhra Pradesh.
Mahaday Water Disputes Tribunal	2010	Goa, Karnataka and Maharashtra.
Mahanadi Water Dispute	2018	Odisha, Chhattisgarh, Maharashtra, Jharkhand and Madhya Pradesh

### Inter-State River Water Disputes (Amendment) Act, 2017

In order to further streamline the adjudication of Inter-state River Water Disputes, the Inter-state River Water Disputes (Amendment) Bill, 2017 came to existence. In the Bill, there is a provision for establishment of a Dispute Resolution Committee (DRC) by the Central Government for resolving amicably, the Inter-state Water Disputes within a maximum period of one year and six months. Any dispute which cannot be settled by negotiations shall be referred to tribunal for its adjudication.

### Inter-State Council

- Inter-State Council serves a purposeful mechanism to bring various autonomous executive agencies of the state machinery, both the Union and the States, and coordinate amongst them the ways and means of execution and implementation of policies concerning common interests, both regional as well as national.
- Although a provision was made in the Constitution under **Article 262** for the formation of such Inter-State Council, it was not until 1990, a formal Inter-State Council was established.
- This measure was taken after the Sarkaria Commission pitched for the formation of such a council.
- The council is a recommendatory body with the following duties :*
  - Investigating and discussing such subjects, in which some or all of the States or the Union and one or more of the states have a common interest, as may be brought up before it.
  - Making recommendations upon any such subject and in particular recommendations for the better coordination of policy and action with respect to that subject;
  - Deliberating upon such other matters of general interest to the States as may be referred by the Chairman to the Council.
- The Inter-State Council consists of the Prime Minister and several other Union Ministers, Chief Ministers of all the states and UTs Administrators of UTs and such other authorities as nominated by the Union Government.
- So far five meetings of the ISC have been held and a range of decisions have been taken by the council.

They include are as follows:

- Resolution passed to implement key recommendations of the Sarkaria Commission.
- Approval for the Alternative Scheme of Devolution of share in central taxes to states.
- Revamp of laws to finetune the Union-State relations in contemporaneous context.
- Time bound approval for State Bills reserved for President's consideration to avoid friction between the centre and the states.

## Zonal Councils

- Zonal Councils were setup to supplement the coordination among regional states. The Union Home Minister is the ex-officio chairman of the such council alongwith the respective Chief Ministers of States. Five Zonal Councils have been setup till now.
- *The present composition of each of these Zonal Councils is as under*
  - **The Northern Zonal Council**, comprising the States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh; HQ – New Delhi.
  - **The Central Zonal Council**, comprising the States of Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh; HQ – Allahabad.
  - **The Eastern Zonal Council**, comprising the States of Bihar, Jharkhand, Odisha, Sikkim and West Bengal, HQ – Kolkata.
  - **The Western Zonal Council**, comprising the States of Goa, Gujarat, Maharashtra and the Union Territories of Daman and Diu and Dadra and Nagar Haveli, HQ – Mumbai.
  - **The Southern Zonal Council**, comprising the States of Andhra Pradesh, Telangana, Karnataka, Kerala, Tamil Nadu and the Union Territory of Puducherry, HQ – Chennai.
  - **North Eastern Council**, comprising the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim, HQ-Shillong (Meghalaya).

## Sarkaria Commission

- In the wake of the increasing strain in the centre-state relations, the Parliament, in June 1983, appointed a Commission under the Chairmanship of Justice RS Sarkaria to go into details of the centre-state relations and to recommend measures to make the relations more efficient and cooperative. The Commission submitted its report in January, 1988.
- The Commission did not call for any structural change, but preferred to continue the existing arrangement because the disintegrative forces are active in the country. However, the commission expressed the need for streamlining the provisions of the centre-state relations.
- It suggested the centre, to begin with, to relax its financial hold over the states and to give them more autonomy in this regard. This would make the regional powers more responsible.

## Major Recommendations

### On Article 356

- The Commission noted that this Article has been misused in 90% of the cases for political purposes. So, it recommends that
  - the President's proclamation should include the 'reasons' as to why the State cannot be run as per the normal provisions of the Constitution.

- as far as possible, the centre should issue a warning to the State Government before resorting to the use of Article 356.
- it should not be used to serve political purposes.
- Article 356 should be amended so that the President be empowered to dissolve the State Legislature only after approval by the Parliament.

### On Article 258

- The Commission recommended that the President should delegate some of the Union Executive functions in concurrence with the states. This will help in furthering the spirit of cooperative 'Federalism'.

### On Concurrent List

- The centre should have a loose control over the subjects of the Concurrent List and consult the State Government before enacting any laws on such subjects.

### On Article 252

- In case the Parliament makes a law under Article 252 (by mutual consent of two or more states), such law should be in force for not more than three years. Currently, such law can only be repealed by the Parliament whenever it wants, although the power to legislate has been given by the states.
- The award of the Inter-State River Water Tribunal should be made binding, automatically and not after the notification by the centre.
- Under Article 263, the centre should appoint 'Inter-State Council' and its name should be changed to 'Inter-Governmental Council', so as to exclude political issues.
- Sharing of the Corporate Tax between the state and the centre should be made mandatory.
- The surcharge must be levied for a limited period.
- The Judges of a High Court should not be transferred against their will of the above ten recommendations, 2a and 2b, (7) and (8) have been accepted. However, the name of the Inter-State Council has not been changed to 'Inter-Governmental Council', as recommended by the Commission.

### On River Water Disputes

- The Commission recommended that
  - once an application under the Inter-State River Disputes Act is received from a riparian State, the Union Government should setup the Tribunal within a period of 1 year so as to avoid the delays that cause the water to lie wasted for the long periods of time.
  - the Union Government should also be given the powers to act suo-moto without receiving complaint from any State.
  - the award of the Tribunal should become effective within 5 years from the date of setting up of the Tribunal.

- the Award of the Tribunal should be made binding by giving it the force of a Supreme Court ruling.
- the Chairperson and members of the commission are appointed by the President on the basis of the recommendations of a committee comprising the Prime Minister as the Chairperson, the Speaker of the Lok Sabha, the Home Minister, the leader of the opposition in the Lok Sabha and the Rajya Sabha and the Deputy Chairperson of the Rajya Sabha as the members.

## Punchhi Commission

- A new Commission to redefine Centre-State ties was setup on 27th April, 2007 to examine the possibility of giving sweeping powers to the Union Government, including suo moto deployment of central forces in states and investigation of crimes affecting national security. The commission, chaired by the former, Chief Justice of India, MM Punchhi, examined what could be the Centre's "role, responsibility and jurisdiction" vis-a-vis states during major and prolonged outbreaks of communal violence, caste violence or any other social conflict.

## Major Recommendations

### On Appointment and Removal of Governors

- The panel also feels that Governors should have the right to sanction prosecution of a Minister against the advice of the Council of Ministers. However, it wants the convention of making them chancellors of universities done away with.
- As for qualifications for a Governor, the Punchhi Commission suggests that the nominee should not have participated in active politics at even local level for at least a couple of years before his appointment. It also agrees with the Sarkaria recommendation that a Governor be an eminent person and not belongs to the state where he is to be posted.
- The Commission also criticises arbitrary dismissal of Governors, saying, "the practice of treating Governors as political football must stop". There should be critical changes in the role of the Governor-including fixed 5 years tenure as well as their removal only through impeachment by the State Assembly. It has also recommended that the State Chief Minister have a say in the appointment of Governor.
- Underlining that removal of a Governor be for a reason related to his discharge of functions, it has proposed provisions for impeachment by the State Legislature along the same lines as that of President by the Parliament.
- This, significantly, goes against the doctrine of pleasure upheld by the recent Supreme Court judgement.
- Endorsing an NCRWC recommendation, it says appointment of Governor should be entrusted to a committee comprising the Prime Minister, Home Minister, Speaker of the Lok Sabha and Chief Minister of the concerned state. The Vice-President can also be involved in the process.
- Unlike the Sarkaria Report, the Punchhi Report is categorical that a Governor be given fixed 5-years tenure. The Punchhi Commission report also recommends that a constitutional amendment be brought about to limit the scope of discretionary powers of the Governor under Article 163 (2). Governors should not sit on decisions and must decide matters within a 4-months period.

### On Appointment of Chief Ministers

- Among the significant suggestions made by the Commission is, laying down of clear guidelines for the appointment of Chief Ministers.
- Upholding the view that a pre-poll alliance should be treated, as one political party, it lays down the order of precedence that ought to be followed by the Governor in case of a hung House,
  - Call the group with the largest pre-poll alliance commanding the largest number;
  - Single largest party with support of others;
  - Post-electoral coalition with all parties joining the government and last the post-electoral alliance with some parties joining the government and remaining including independents supporting from outside.

### On National Integration Council

- The creation of an overriding structure to maintain internal security along the lines of the US Homeland Security Department, giving more teeth to the National Integration Council. For the National Integration Council (NIC), the Commission has proposed that it should meet at least once a year.
- The, Commission, however, rejects a suggestion from some stakeholders as well as the Liberhan Commission that the NIC be accorded constitutional status.

### On Internal Security

- The Commission has also studied new setups like the National Investigation Agency and recommended procedures to ensure smooth cooperation of the states in terror investigations entrusted to NIA.
- The recent ruling of the Supreme Court has indicated that the sanctity of this constitutional post should be preserved. In democracy, no body can have absolute power in the name of smooth administration and good governance.
- The administrative apparatus has to be in the line of the Constitution, which was prepared by the people of the country and amended by the elected representative of the people of India. The *doctrine of pleasure* has to be understood in this light.

### On Articles 355 and 356

- There should be an amendment in Articles 355 and 356 to enable the centre to bring specific trouble-torn areas under its rule for a limited period.
- The Commission has proposed "localising emergency provisions" under Articles 355 and 356, contending that localised areas either a district or parts of a district be brought under Governor's rule instead of the whole state.
- Such an emergency provision should however not be of duration of more than three months.
- The Commission however supports their right to give sanction for the prosecution of ministers against the advice of the State Government.
- Deployment of central forces.
- To make an amendment in the Communal Violence Bill to allow deployment of central forces without the state's consent for a short period.

# Self Check

## Build Your Confidence

### 1. Consider the following statements

The function(s) of the finance commission is/are

1. to allow the withdrawal of the money out of the Consolidated Fund of India.
2. to allocate between the States the shares of proceeds of taxes.
3. to consider the application for Grant-in-aid from States.
4. to supervise and report on whether the Union and State Governments are levying taxes in accordance with the budgetary provisions.

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) 2 and 3 (c) 3 and 4 (d) 1, 2 and 4

### 2. Consider the following statements

1. Zonal Councils have been established under an Article of the Constitution.
2. The Constitution provides for setting up of an Inter-State Council by the Parliament.
3. Union Home Minister is the common Chairman of all the Zonal Councils.

Select the correct answer using the codes given below

Codes

- (a) 1 and 2 (b) Only 3 (c) Only 2 (d) 2 and 3

### 3. Which one of the following statements appropriately describes the 'Fiscal Stimulus'? [UPSC 2011]

- (a) It is an intense affirmative action of the Government to boost economic activity in the country
- (b) It is a massive investment by the government in manufacturing sector to ensure the supply of goods to meet the demand surge caused by rapid economic growth
- (c) It is an extreme affirmative action by the government to pursue its policy of financial inclusion
- (d) It is government's intensive action of the government action on financial institutions to ensure disbursement of loans to agriculture and allied sectors to promote greater food production and contain food inflation

### 4. When the Annual Union Budget is not passed by the Lok Sabha [UPSC 2011]

- (a) the Budget is modified and presented again
- (b) the Budget is referred to the Rajya Sabha for suggestions
- (c) the Union Finance Minister is asked to resign
- (d) the Prime Minister submits the resignation of Council of Ministers

### 5. Parliament has made a Law that Supreme Court shall not have jurisdiction over the Cauvery river dispute. This Law is

(a) valid

(b) invalid

(c) invalid as Parliament does not have power to make such law

(d) invalid as only President of India may pass such an Order

### 6. The Finance Commission is constituted under which Article of the Constitution of India?

- (a) 275 (b) 280  
(c) 282 (d) None of these

### 7. All revenues received by the Union Government by way of taxes and other receipts for the conduct of Government business are credited to the [UPSC 2011]

- (a) Contingency Fund of India
- (b) Public Account
- (c) Consolidated Fund of India
- (d) Deposits and Advances Fund

### 8. The authorisation for the withdrawal of funds from the Consolidated Fund of India must come from [UPSC 2011]

- (a) the President of India
- (b) the Parliament of India
- (c) the Prime Minister of India
- (d) the Union Finance Minister

### 9. Which one of the following Article of the Constitution of India says that the executive power of every State shall be so exercise as not to impede or prejudice the exercise of the executive power of the Union [UPSC 2011]

- (a) Article-257 (b) Article-258  
(c) Article-355 (d) Article-358

### 10. Which one of the following subjects is under the Union List in the 7th Schedule of the Constitution of India

- (a) Regulation of labour and safety in mines and oil fields
- (b) Agriculture
- (c) Fisheries
- (d) Public Health

### 11. Which one of the following taxes is levied and collected by the Union but distributed between Union and States?

- (a) Corporation tax
- (b) Tax on income other than on agricultural income
- (c) Tax on railway fares and freights
- (d) Customs

### 12. With reference to the Constitution of India, which one of the following pairs is not correctly matched? [UPSC 2004]

- | Subject                     | List              |
|-----------------------------|-------------------|
| (a) Forests                 | : Concurrent List |
| (b) Stock Exchange          | : Concurrent List |
| (c) Post Office Saving Bank | : Union List      |
| (d) Public Health           | : State List      |



1. (b) 2. (d) 3. (a) 4. (d) 5. (c) 6. (b) 7. (c) 8. (b) 9. (a) 10. (a)  
11. (b) 12. (b)

# Chapter thirteen

## Elections

*Free and fair elections constitute the bedrock of liberal democracy. The right to choose representatives freely and award them a mandate to govern the State has been vested supremely by the Indian Constitution to every adult, irrespective of his/her status or identity. India has adopted the principle of one person, one vote'.*

### Election Commission

- The Election Commission of India is a permanent, independent and constitutional body to ensure free and fair elections in the country. Elections are held regularly at all 3 tiers of political structure- Union, States and Local bodies.
- The Election Commission was established in accordance with the Constitution on 25th January, 1950.
- The elections are governed by Part XV from **Articles 324 to 329**. Besides, the Representation of People Act, 1950 governs the provisions related to the preparation of electoral rolls and voter registration. RPA 1951 and Delimitation Commission 1952. Also govern the elections.
- Under **Article 324(1)**, the super intendence, direction and control of the preparation of the electoral rolls for and the conduct of, all elections to Parliament and to State Legislature and of elections to the offices of President and Vice-President shall be vested in the Election Commission of India.
- The elections to Panchayats and Municipalities are vested in the State Election Commission as given in **Article 243K** and **243ZA** respectively.
- Under **Article 324(2)** The election commission shall consist of the chief election commission and such number of other election commission if any, as the president may from time to time fix and the appointment of the chief election commissioners and other election commissioners shall, subject to the provisions of any law made in that behalf by parliament, be made by the president.
- The President may also appoint after consultation with the Election Commission such Regional Commissioners as he/she may consider necessary to assist the Election Commission in the performance of its functions.

### Election Commissioners

- Election Commission was not a multi-member body from the beginning. It was a single member body up to 15th October, 1989 with only the Chief Election Commissioner.
- From 16th October, 1989 upto the 1st January, 1990 it became a 3 member body with **RVS Peri Sastri** (CEC) and **SS Dhanoa** and **VS Seigell** as Election Commissioners. From 2nd January, 1990 to 30th September, 1993 it was a single member Commission and again from 1st October, 1993 it has become a 3 member Commission. At present, the Election Commission of India is a 3 member body, with one Chief Election Commissioner and 2 Election Commissioners.

### Term of Office

- The Chief Election Commissioner or an Election Commissioner holds office for a term of **6 years** or until they attain the age of **65 years**, whichever is earlier from the date on which he assumes his office.

### Removal from Office

- The Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court. Nevertheless, the CEC cannot *vice-versa* recommend for removal of an EC on suo moto basis. The CEC can do so only when there is a communication to that effect by the President. Any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

### Chief Election Commissioners Till Date

S. No.	Chief Election Commissioner	Tenure
1.	Sukumar Sen	21st March, 1950 to 19th December, 1958
2.	KVK Sundaram	20th December, 1958 to 30th September, 1967
3.	SP Sen Verma	1st October, 1967 to 30th September, 1972
4.	Nagendra Singh	1st October, 1972 to 6th February, 1973
5.	T Swaminathan	7th February, 1973 to 17th June, 1977
6.	SL Shaktidhar	18th June, 1977 to 17th June, 1982
7.	RK Trivedi	18th June, 1982 to 31st December, 1985
8.	RVS Peri Sastri	1st January, 1986 to 25th November, 1990
9.	VS Ramadevi	26th November, 1990 to 11th December, 1990
10.	TN Seshan	12th December, 1990 to 11th December, 1996
11.	MS Gill	12th December, 1996 to 13th June, 2001
12.	JM Lyngdoh	14th June, 2001 to 7th February, 2004
13.	TS Krishnamurthy	8th February, 2004 to 15th May, 2005
14.	BB Tandon	16th May, 2005 to 29th June, 2006
15.	N Gopalaswami	30th June, 2006 to 20th April, 2009
16.	Navin Chawla	21st April, 2009 to 29th July, 2010
17.	SY Quraishi	30th July, 2010 to 10th June, 2012
18.	VS Sampath	11th June, 2012 to 15th January, 2015
19.	HS Brahma	16th January, 2015 to 18th April, 2015
20.	Nasim Zaidi	19th April, 2015 to 5th July, 2017
21.	Achal Kumar Jyoti	6th July, 2017 to 22nd January, 2018
22.	Om Prakash Rawat	23rd January, 2018 to 1st December, 2018
23.	Sunil Arora	2nd December, 2018 to Till Date

(As on 30th June, 2019)

## Functions of Election Commission

- To determine the electoral constituencies throughout the country on the basis of the Delimitation Commission Act of Parliament.
- To prepare and periodically revise electoral rolls and to register all eligible voters.
- To notify the dates and schedules of elections and to scrutinise nomination papers.
- To grant recognition to political parties and allot election symbols to them.
- To act as a court for settling disputes related to granting of recognition to political parties and allotment of election symbols to them.
- To appoint officers for inquiring into disputes relating to electoral arrangements.
- To determine the code of conduct to be observed by the political parties and the candidates at the time of elections.
- To advise the President on matters relating to the disqualifications of the members of Parliament.
- To advise the Governor on matters relating to the disqualifications of the members of state legislature.
- To cancel polls in the event of rigging, booth capturing, violence and other irregularities.

- To supervise the machinery of election throughout the country to ensure free and fair elections.
- To advise the President whether elections can be held in a state under President's rule in order to extend the period of Emergency after 1 year.
- To register political parties for the purpose of elections and grant them the status of national or state parties on the basis of their poll performance.

## Advisory and Quasi-Judicial Functions

- Under the Constitution, the Commission also has advisory jurisdiction in the matter of post election disqualification of sitting members of Parliament and State Legislatures.
- Further, the cases of persons found guilty of corrupt practices at elections which come before the Supreme Court and High Courts are also referred to the Commission for its opinion on the question as to whether such person shall be disqualified and, if so, for what period. The opinion of the Commission in all such matters is binding on the President or as the case may be, the Governor to whom such opinion is tendered.
- The Commission has the power to disqualify a candidate who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law.
- The Commission has also the power for removing or reducing the period of such disqualification as also other disqualification under the law.

## Independence of Election Commission

- The Chief Election Commissioner is provided with the security of tenure. He cannot be removed from his office except in same manner and on the same grounds as a **judge of the Supreme Court**. Thus, he does not hold the office till the pleasure of President, though he is appointed by him.
- The service conditions of the Chief Election Commissioner cannot be varied to his disadvantage after his appointment.
- Any other Election Commissioner or Regional Election Commissioners cannot be removed from office except on the recommendation of the Chief Election Commissioner.

### Courts cannot Interfere in Electoral Matters

- According to **Article 329**, Bar to interference by courts in electoral matters not with standing anything in this constitution.
- The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 327 or Article 328, shall not be called in question in any court.
- No election to either House of Parliament or to both House State legislature shall be called in question except by an *election petition*.

## Election System in India

- India has adopted a single member constituency system under which the political territory of the country is divided into such number of constituencies such that each constituency has approximately similar population base. Every constituency elects only one representative on the basis of one person one vote. The winner is decided by the maximum number of votes won amongst the contestants. This is called the *winner takes all* or *plurality voting*.

### Single Member Constituency

- Under this system, election results are determined on the basis of the relative majority of the votes polled and the candidate who is ahead of all other candidates even by a single vote is elected, even if a majority of voters do not vote in his favour. This system is also described as the *first past the post system*. In India, US and UK this system is followed.

#### Advantages

- It is the simplest form of election in a democratic system. This system provides greater opportunity in helping form a majority government.
- This system helps in curbing parochial tendencies of the political parties based on exploitation of religion, race, caste etc.

#### Disadvantages

- The chief defect of this system is that only the relative majority is taken into consideration. Since most of the contests are multi-cornered, some times a candidate securing 30 to 40% of votes polled in a constituency is declared elected. As a result, bulk of the electorate is not represented at all.
- Another serious criticism of this system is that the party that polls a minority of votes may secure a majority of seats. In this process, the minority parties get eliminated, because their political strength is dispersed. It tends to under represent minority parties and over represent the majority. Yet another criticism against this system is that the minority votes go unrepresented.
- But the Constitution adopted this system because it is best suited to the Indian context.

### Proportional Representation

- A candidate seeking election under the Proportional Representation System should get more than 50 percent of the total votes cast.
- Proportional Representation System is strongly supported by minority parties which suffer from the electoral distortions of the single member constituency system.
- Proportional Representation System tends to lead to multiplication of political parties and creation of coalition governments. However, it may be pointed out that proportional representation system is very complicated and cumbersome.
- Moreover, it would promote, sharpen and consolidate parochial loyalties based on caste, community, religion and so on. It would also encourage further fragmentation of political parties.

#### Single-Transferable Vote or Order of Choice

- One particular type of Proportional Representation System is Single Transferable Vote. The Single Transferable Vote (STV) is followed in India for elections to the Rajya Sabha, State Legislative Councils and the offices of the President and Vice President.
- Under this system, each elector is allowed to mark as many preferences as there are candidates, according to his/her choice, on a single ballot paper.
- This process involves distribution of excess votes of candidates who secure the lowest number of first preference votes, and transfer of their second or subsequent preference votes in order and crediting the candidates remaining in the field with these votes. The process is continued till the required number of candidates get selected.

### Universal Adult Suffrage

- According to **Article 326**, the elections to the House of the People and to the Legislative Assembly of every States shall be on the basis of adult suffrage and every person who is a citizen of India and who is not less than eighteen years of age and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.
- Originally the minimum age for voting was 21, years but by the 61st Constitutional Amendment Act it was reduced to 18 years. The Rajiv Gandhi Government in 1986 brought about this amendment apparently to boost the youth participation in electoral affairs.

### Presiding Officer

The Presiding Officer with the assistance of polling officers conducts the poll at a polling station.

### The Electoral Registration Officer

The Electoral Registration Officer is responsible for the preparation of electoral rolls for a parliamentary / assembly constituency.

The Election Commission of India, in consultation with the State / UT Government, appoints an Officer of the Government or the Local Authorities as the Electoral Registration Officer. In addition, the Election Commission of India also appoints one or more Assistant Electoral Registration Officers to assist the Electoral Registration Officer in the performance of his functions in the matter of preparation/revision of electoral rolls.

### Observers

The Election Commission of India nominates officers of Government as Observers (General Observers and Election Expenditure Observers) for parliamentary and assembly constituencies.

They perform such functions as are entrusted to them by the Commission. Earlier, the appointment of observers was made under the plenary powers of the Commission. But with the amendments made to the Representation of the People Act, 1951 in 1996, these are now statutory appointments. They report directly to the Commission.

## General Electoral Roll

- According to **Article 325**, there shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.
- The electoral roll is a list of all people in the constituency who are registered to vote in Indian Elections. Only those people with their names on the electoral roll are allowed to vote.
- The electoral roll is normally revised every year to add the names of those who are to turn 18 on the 1st January of that year or have moved into a constituency and to remove the names of those who have died or moved out of a constituency.
- If you are eligible to vote and are not on the electoral roll, you can apply to the electoral registration officer of the constituency, who will update the register.

## Electronic Voting Machine

- An Electronic Voting Machine (EVM) is a simple electronic device used to record votes in place of ballot papers. EC took a decision to use only EVMs in 2004 Lok Sabha elections.
- *It has following advantages over traditional voting mechanism*
  - It eliminates the possibility of invalid/doubtful vote which in many cases are the root causes of controversies and election petitions.
  - It makes the process of counting of votes much faster than the conventional system.
  - It is eco-friendly as it reduces the use of paper.

### Voter-Verified Paper Audit Trail (VVPAT)

- Voter-Verified Paper Audit Trail or Verified Paper Record (VPR) is a method of providing feedback to voters using a ballotless voting system. A VVPAT is intended as an independent verification system for voting machines designed to allow voters to verify that their vote was cast correctly, to detect possible election fraud or malfunction and to provide a means to audit the stored electronic results.
- The EVM, fitted with VVPAT, field-tested for the first time in the September, 2013 by election in the **Noksen** Assembly constituency in **Nagaland**. VVPAT system is introduced in 8 of 543 parliamentary constituencies as a pilot project in Indian general election, 2014. VVPAT is implemented in Lucknow, Gandhinagar, Bangalore South, Chennai Central, Jadavpur, Raipur, Patna Sahib and Mizoram constituencies.
- The National electoral roll Purification and Authentication programme is launched by the election commission of India, in 3 March, 2015. Its important aim is, to bring a totally error free and authenticated electoral roll. The centre theme of the NERPAP is, to improve the image quality of electors along with sorting issues such as, corrections of errors, strengthening the election system etc. During the programme, Electors Photo Identity Card (EPIC) data of electors will be linked with Aadhar data of UIDAI for the purpose of authentication.

### The Chief Electoral Officer (CEO)

The Chief Electoral Officer of a State/ Union Territory is authorised to supervise the election work in the State/Union Territory subject to the overall superintendence, direction and control of the Election Commission.

The Election Commission of India nominates or designates an Officer of the Government of the State/Union Territory as the Chief Electoral Officer in consultation with that State Government/Union Territory Administration.

### The District Election Officer (DEO)

The District Election Officer supervises the election work of a district.

The Election Commission of India nominates or designates an Officer of the State Government as the District Election Officer in consultation with the State.

### Returning Officer (RO)

The Returning Officer of a parliamentary or assembly constituency is responsible for the conduct of elections in the parliamentary or assembly constituency concerned as per section 21 of the Representation of the People Act, 1951.

The Election Commission of India nominates or designates an officer of the Government or a local authority as the Returning Officer for each of the assembly and parliamentary constituencies in consultation with the State Government/Union Territory Administration.

In addition, the Election Commission of India also appoints one or more Assistant Returning Officers for each of the assembly and parliamentary constituencies to assist the Returning Officer in the performance of his functions in connection with the conduct of elections.

## Political Parties and Election Commission

- Political parties have to be registered with the Election Commission. The Commission determines whether the party is structured and committed to principles of democracy, secularism and socialism in accordance with the Indian Constitution and would uphold the sovereignty, unity and integrity of India. Parties are expected to hold organisational elections and have a written Constitution.

### Recognition and Reservation of Symbols

- According to certain criteria, set by the Election Commission regarding the length of political activity and success in elections, parties are categorised by the Commission as National or State parties or simply declared registered unrecognised parties.
- How a party is classified determines a party's right to certain privileges, such as access to electoral rolls and provision of time for political broadcasts on the state owned television and radio stations. All India Radio and Doordarshan and also the important question of the allocation of the party symbol.

#### Party symbols

- It is enabled the illiterate voters to identify the candidate of the party they wish to vote for. National parties are given a symbol that is for their use only, throughout the country.
- State parties have the sole use of a symbol in the state in which they are recognised as such registered unrecognised parties can choose a symbol from a selection of 'free' symbols.

### Recognition of Party

- Political parties are registered with the Election Commission under the law. The Commission ensures inner party democracy in their functioning by insisting upon them to hold their organisational elections at periodic intervals.
- Political Parties so registered with it are granted recognition at the State and National levels by the Election Commission on the basis of their poll performance at general elections according to criteria prescribed by it. The Commission, as apart of its quasi-judicial jurisdiction, also settles disputes between the splinter groups of such recognised parties.

### National/State Parties

- If a party satisfies the following conditions, it is declared a 'National Party' or a 'State Party' by the Election Commission.

#### Criteria for National Party

- If a party secures at least 6% of the valid votes polled in four or more states for elections to Lok Sabha or State Legislative Assemblies.
- If it wins atleast 2% of seats in Lok Sabha and these seats are from at least three different states.
- If the party is recognised as a State Party in four or more states.

#### Criteria for State Party

- A party securing 6% of the valid votes polled in election to the Legislative Assembly and if it wins at least 2 seats in it.
- Wins 3% seats in Legislative Assembly.
- Win atleast one seat for every 25 Lok Sabha seat allocated to that state or similar proportion.
- Secure 6% of the valid vote share for Lok Sabha elections from such state.

### General Election

The elections for Parliament and State Legislative Assembly are held at regular intervals of five years are known as **general elections**.

### Mid-Term Elections

The elections which are held out of schedule due to dissolution of the Parliament or State legislature are known as **mid-term elections**.

### By-Election

The election holds to fill up a seat rendered vacant due to death, resignation or any other disqualification of a member are known as **by-elections**.

## Delimitation Commission

- Under **Article 82** of the Constitution, the Parliament by law enacts a Delimitation Act after every census.
- After coming into force commencement of the Act, the Central Government constitutes a Delimitation Commission.
- This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act.
- The present delimitation of constituencies has been done on the basis of 2001 census figures under the provisions of Delimitation Act, 2002.
- Notwithstanding the above, the Constitution of India was specifically amended in 2002 not to have delimitation of constituencies till the first census after 2026.
- Thus, the present constituencies carved out on the basis of 2001 census shall continue to be in operation till the first census after 2026.
- Delimitation is the redrawing of the boundaries of parliamentary or assembly constituencies to make sure that there are, as near as practicable, the same number of people in each constituency.
- In India boundaries are meant to be examined after the ten-yearly census to reflect changes in population, for which Parliament by law establishes an independent Delimitation Commission, made up of the Chief Election Commissioner and two judges or ex-judges from the Supreme Court or High Court.

## The Representation of People Act, 1951 (RPA)

- The Representation of People Act, 1951 (RPA) is an act of Parliament of India to provide for the
  - conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each state.
  - details about the structure of administrative machinery for the conduct of elections.
  - the qualifications and disqualifications for membership of those Houses.
  - the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.
- The Act was enacted by the provisional parliament under Article 327 of Indian Constitution, before the first general election. **Article 327** states that subject to the provisions of our Constitution Parliament is empowered to make provisions by law, with respect to all matters relating to or in connection with, elections to either House of Parliament or to the House or Houses of the State Legislature including preparation of electoral rolls, the delimitation of constituencies and all other necessary matters.

- Representation of People Act, 1951 currently has 13 parts from part I to part XI with additional parts of IV A and V A. It had originally 171 sections, but at present there are 192 sections as several new sections are inserted and few sections got repealed by Parliament in the past.

### Qualification of Voters

- Citizen of India having attained 18 years of age.
- His/her name must appear in the Voting list of Assembly or Parliament elections, as the case may be.
- He/she must have a Voters Identity.

### Disqualifications of Voters

- He/she is not a citizen of India or those who are of unsound mind and people convicted of certain criminal and electoral offences and corrupt practices at elections are not allowed to vote.
- No person shall be entitled to be registered in the electoral roll for more than one constituency. Similarly, no person shall be entitled to be registered in the electoral roll for any constituency more than once.

## The Representation of the People's (Amendment and Validation) Act, 2013

- The Representation of the People (Amendment and Validation) Act, 2013 has been passed by the Parliament on 20th September, 2013. The Act aimed to amend the Representation of People Act, 1951 (RPA, 1951). The key changes brought about by the Act are as follows
  - Even if a person is prohibited from voting due to being in police custody or in jail, as long as his name is entered on the electoral roll he/she shall not cease to be an elector. This implies that he/she can file nomination for an election.
  - The definition of 'disqualified' in the Act has been amended. Currently, the definition of disqualified means disqualified for either being chosen as or being a Member of Parliament or a State Legislature.
  - The amendment adds a ground to the definition that the disqualification has to be due to conviction for certain specified offences and can be on no other ground.
  - Conviction for one of these offences would result in the person's name being removed from the electoral roll and he would cease to be an elector.

## The Model Code of Conduct

- It is the Election Commission's do's and don'ts for political parties and candidates for the period after polls are announced. It has instructions on holding meetings, organising processions and the conduct of parties on polling days. It comes into force immediately after election announcement.

## Main Features

- The Code prohibits parties and candidates from indulging in activities that can cause tension between people of regions, castes, communities or religions.
- Mosques, churches, temples or other places of worship should not be used for election propaganda.
- Parties must ensure their supporters do not obstruct functions other parties organise.
- It disallows comments on private lives of leaders or workers of other parties.
- No party or candidate is permitted to use any individual's land, building, compound wall etc without permission, to erect flag-staffs, suspend banners, paste notices, write slogans etc.
- Voters are not to be intimidated or bribed to vote for a party or candidate.
- Mandatory for every party and candidate to inform police and local authorities before organising any procession to ensure security measures are taken and steps needed to control traffic and maintain law and order. Party must provide procession route map. No deviation from route is allowed. Parties are not allowed to carry or burn effigies of leaders of other parties in processing.

## The Restrictions on Ruling Party

- The Code ensures a party in power, at centre or in state, cannot use official machinery or personnel for electioneering. This means use of government transport, official aircraft and other vehicles, for poll campaign is barred.
- Poll-related advertisement at the cost of public money and misuse of official mass media for coverage of political news and publicity is not allowed.
- The code ensures other parties get equal opportunity to hold election meetings at public places and use public infrastructure like helipads and government guest house for election.
- From the day an election is announced, the Code prohibits ministers from sanctioning grants and related payments out of discretionary funds.
- Ministers and politicians are barred from laying foundation stones of new projects. Ad-hoc appointments in government or PSUs disallowed.

## The Code for Polling Day

- Every party must issue badges and I-cards to authorised workers.
- Unnecessary crowd outside candidate's camp is prohibited, as it can lead to a clash between contesting parties.
- No food or refreshment can be served to voters.
- The Code mandates no distribution of liquor on polling day or 24 hours before the polls.

## Supreme Court's Landmark Judgements

### Disqualification of Convicted Law Makers

- On 10th July, 2013, the Supreme Court of India, in its judgement of the *Lily Thomas vs. Union of India* case ruled that any Member of Parliament (MP), Member of the Legislative Assembly (MLA) or Member of a Legislative Council (MLC) who is convicted of a crime with more than two year sentence, will be disqualified as an elected representative on the date of conviction.
- The court struck down as unconstitutional **Section 8 (4)** of the Representation of the People Act that allows convicted lawmakers a 3-month period for filing appeal to the higher court and to get a stay of the conviction and sentence.
- The Bench said: "A reading of the two provisions in Articles **102(1) (e)** and **191(1) (e)** of the Constitution would make it abundantly clear that Parliament is to make one law for a person to be disqualified for being chosen as and for being, a member of either House of Parliament or Legislative Assembly or Legislative Council of the State".
- Parliament thus does not have the power under Articles 102(1)(e) and 191(1)(e) of the Constitution to make different laws for a person to be disqualified for being chosen as a member and for a person to be disqualified for continuing as a member of Parliament or the State Legislature."

### Right of Persons in Lawful Custody to Contest Election

- The Supreme Court in its landmark judgement on 11 July, 2013 barred persons in jail or police custody from contesting election for legislative bodies.
- The Supreme Court ruled that only an elector can contest the polls and the elector ceases the right to cast vote due to confinement in prison or being in custody of police.
- The Supreme Court Bench while referring to the Representation of Peoples' Act said that the Act (Section 4 and 5) lays down the qualifications for membership of the House of the People and Legislative Assembly and one of the qualifications laid down is that he must be an elector.
- The Supreme Court Bench in its judgement cited Section 62(5) of the Representation of People Act, 1951 (Acts of Parliament) that no person shall vote in any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise or is in the lawful custody of the police.
- Reading sections 4, 5 and 62(5) together, the apex court came to the conclusion that a person in jail or police custody cannot contest election.

### Non-Disclosure of Right Information As Ground for Disqualification

- Supreme Court on 14th May, 2014 held that Non-disclosure by a candidate of the assets and property owned by the spouse and children while filing nomination for an election is ground for disqualification.
- A Bench said it was not possible to reject a nomination at the time of filing on the ground that the candidate had suppressed information or given false information. However, if it was found after a proper enquiry that the candidate had failed to disclose information, the non-disclosure would be a ground for disqualification.
- “Otherwise, it would be an anomalous situation that even when criminal proceedings under **Section 125A** of the Representation of the People Act can be initiated and the selected candidate is criminally prosecuted and convicted, the result of his election cannot be questioned,” the Bench said. “This cannot be countenanced.”
- The Bench said, “It was incumbent upon every candidate, who is contesting election, to give information about his assets and other affairs, requirement of which is an essential part of fair and free elections. Every voter has a right to know about these details, such a requirement is also covered by freedom of speech granted under **Article 19 (1) (a)** of the Constitution.”

### Right to Register a None of the Above Vote (NOTA)

- In 2009, the Election Commission of India asked the Supreme Court that to offer the voter a ‘None of the above’ (NOTA) option at the ballot as it would give voters the freedom of not selecting any undeserving candidate. The government was not in favour of such an idea.
- ‘The People’s Union for Civil Liberties’ which is an NGO, filed a public interest litigation statement to favour NOTA.
- Finally on 27th September, 2013, the right to register a **None of the above** vote in elections was applied by the Supreme Court of India, which then ordered the Election Commission that all voting machines should be provided with a NOTA button so as to give voters the option to choose ‘None of the above’.

### Need for NOTA Option

- In our country, it often happens that a voter does not support any of the candidates in the election, but they have no choice, but to select a candidate.
- According to the judges of the Supreme Court of India, the introduction of ‘None of the above’ i.e. NOTA option to voters would lead to systematic change in polls and political parties will be forced to project clean candidates.
- In a voting system, the voter should be allowed to indicate disapproval of all of the candidates. The very purpose of introducing this option is to empower the voter to reject all candidates if they do not like any and all the candidates listed in the EVM.
- The political parties would be left with option other than to nominate clean candidates on their behalf in the elections. Candidates with criminal or immoral backgrounds would have no option, but to abstain from contesting elections.

### Advantages of NOTA Option

- The very intention of the Supreme Court of India was to force the political parties to project candidates with clean background as their candidates. The candidates who win the election become part of the legislature, governing the country. It was, therefore, felt mandatory that candidates with criminal or immoral or unclean backgrounds are deterred from contesting the elections.
- If this option of ‘None of the above’ is implemented with its true intent, the whole political scenario of the country will drastically change from the present scenario.

### Disadvantages of NOTA Option

- Some of the countries who initially introduced such option to the voters, later discontinued or abolished the system. In countries where voting machines contain a NOTA button, there are chances of it receiving a majority of the vote and hence ‘winning’ the election. In such a case, Election Commission may opt any of these options (a) keep the office vacant, (b) fill office by appointment, (c) hold another election.
- The election commission has clarified that the NOTA provision does not mean that all candidates in a constituency stand rejected or defeated if the number of NOTA votes exceeds the number garnered by the highest vote-getter.

### Exit Polls and Opinion Polls

- An election exit poll is a poll of voters taken immediately after they have exited the polling stations.
- Unlike an opinion poll, which asks whom the voter plans to vote for or some similar formulation, an exit poll asks whom the voter actually voted for.
- A similar poll conducted before actual voters have voted is called an entrance poll.
- Pollsters—usually private companies working for newspapers or broadcasters—conduct exit polls to gain an early indication as to how an election has turned out, as in many elections the actual result may take hours or even days to count.

- Through an amendment in the Representation of People Act in 2009, the government has banned the exit polls till end of last phase of polls. However, the opinion polls are not banned.
- Under the current law, the Election Commission has the powers to ban conduct of opinion polls only **48 hours** prior to voting as the law makers are yet to take a call on a proposal by the Commission for a blanket ban on the exercise.

## Use of Social Media for Election Campaign

- The Election Commission of India in October, 2013 issued guidelines for the use of social media for election campaigning in order to bring transparency and level playing field in the elections.

### Candidates Social Media Accounts

- Candidates are required to provide information about their (official) social media accounts, in the affidavits that they file at the time of filing nominations. It helps validate whether certain statements are made online by a politician through an authenticated account or by someone faking an identity.
- This helps voters and some social media websites would do well to get access to these affidavits and verify accounts using this information. If money is spent managing an authenticated account, then it needs to be accountable to the Election Commission and this is also a step in that direction.

### Pre-Certification of Political Advertisements

- Every registered/national and state political party and every contesting candidate proposing to issue advertisements on television channels and/ or on cable network will have to apply to Election Commission of India/designated officer for pre-certification of all political advertisements on electronic media (including social media) before the publication.

### Submission of Expenditure on Online Campaigning

- This, among other things, shall include payments made to internet companies and websites for carrying advertisements and also campaign related operational expenditure on making of creative development of content, operational expenditure on salaries and wages paid to the team of workers employed by such candidates and political parties to maintain their social media accounts etc.

## Electoral Reforms proposed by the Election Commission

- The Election Commission has made a number of recommendations and repeatedly reminded the government the necessity of changing the existing laws to check the electoral malpractices.
- The Tarkunde Committee Report of 1975, the Goswami Committee Report of 1990, the Election Commission's recommendations in 1998 and the Indrajit Gupta Committee Report of 1998 produced a comprehensive set of proposals regarding electoral reforms.

## De-Criminalisation of Politics

- For preventing persons with criminal background from becoming legislators, the Commission has made a proposal for disqualifying (from contesting election) a person against whom charges have been framed by a Court for an offence punishable by imprisonment of **5 years** or more.
- As a precaution against foisting false cases on the eve of election, it has been suggested that only those cases in which charges are framed 6 months prior to an election should be taken into account for that election.
- The Commission has suggested that legal provisions be made to regulate the functioning of political parties and the Commission should be empowered to regulate registration as well as deregistration of political parties.
- The political parties should be legally required to get their accounts audited annually. The audited accounts should be put in public domain. There should be transparency in the fund raising and expenditure of political parties.
- Income tax exemption for donations should be given only for those political parties which contest election and win seats in the Parliament/State Legislature.

## To Make Paid News an Electoral Offence

- The Commission has been proposed amendment in the Representation of People Act, 1951, to provide therein that publishing and abetting the publishing of 'Paid News' for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of Part-VII of Representation of People Act, 1951 with punishment of a minimum of two years imprisonment.

### Supreme Court's Decision on Paid News

The Supreme Court in **May, 2014** said that the Election Commission was empowered to inquire into the allegation of paid news if the expenses for the same are not being reflected in the election return filed by the candidate.

The apex court bench said this while dismissing a plea by former Maharashtra Chief Minister **Ashok Chavan**. Having held that the commission can inquire into the allegation, the court dismissed the plea by Mr. Chavan, who had challenged the Delhi High Court order, holding that the Commission can inquire into the allegations of paid news if same was not disclosed by the candidate in his election expenses returns.

### Punishment for Electoral Offences to be Enhanced

- Undue influence and bribery at elections are electoral offences under Sections 171B and 171C, respectively, of the IPC (Indian Penal Code).
- These offences are non-cognisable offences, with punishment provision of upto one year imprisonment or fine or both.
- Under **Section 171G**, publishing false statement in connection with election with intent to affect the result of an election, is punishable with fine only.
- **Section 171H** provides that incurring or authorising expenditure for promoting the election prospects of a candidate is an offence. However, punishment for an offence under this section is a meagre fine of ₹ 500/-.
- These punishments were provided as far back as in 1920. Considering the gravity of the offences under the aforesaid sections in the context of free and fair elections, the punishments under all the four sections has been proposed to be enhanced and made Cognisable.

### Government Sponsored Advertisements

- For 6 months prior to the date of expiry of the term of the House, there should be a ban on advertisements on achievements of the government.
- Advertisements/dissemination of information on poverty alleviation and health related schemes could be exempted from the ban.

### Prohibition of Campaign During the Last 48 Hours

- **Section 126** of the Representation of the People Act, 1951, prohibits electioneering activities by way of public meetings, public performance, processions, advertisements through cinematography, television or similar apparatus during the period of 48 hours before the time fixed for conclusion of poll.
- However, this section does not include print media.
- The Commission has proposed that Section 126 should apply equally to the print media also.
- The Commission has further proposed that house to house visits by candidates/supporters should also be specifically prohibited during the said period of 48 hours, to allow the electors period of tranquil to decide their option. Necessary amendments should be carried out in Section 126.

### Punishment for False Affidavit by Candidates

- Section 125A of RP Act, 1951, provides that furnishing false information in the affidavit filed by the candidate is an offence punishable by imprisonment upto 6 months or with fine.
- There is no clear provision for follow-up action in the event of candidates filling false affidavits.
- In order to strengthen the disclosure provision, the commission has recommended that Section-125A of RP Act, 1951, should be amended to provide that any complaint regarding false statement in the affidavit filed by the candidates in connection with the nomination paper shall be filed before the Returning Officer (RO) concerned within a period of 30 days from the date of declaration of the election.
- That it shall be the responsibility of the RO to take proper follow-up action. Alternatively, complaint can lie directly to the Magistrate Court.

### Filing of Election Petition Even Against Defeated Candidates

- Candidates on the ground of corrupt practice. As per the existing law, Election Petition (EP) can be filed only for challenging an election of the returned candidate (winner).
- If a defeated candidate has indulged in corrupt practice, there is no provision for election petition against such candidate.
- Commission has recommended that the law should be amended to provide for filling of EP in cases of Commission of corrupt practice by a losing candidate as well.

### Ban on Transfer of Election Officers on the Eve of Election

- In the case of general election, there should be a ban against transferring any election related officer without the concurrence of the Commission for a period of 6 months prior to the expiry of the term of the House.

### National Voter's Day

In order to encourage more voters to take part in the political process, government of India has decided to celebrate 25th January, every year as National Voters Day since 2011.

The Election Commission has decided to vigorously identify all eligible voters attaining the age of 18 years as on January 1 every year. Such eligible voters would be enrolled on time and handed over their Electoral Photo Identity Card (EPIC), on 25th January, each year. This initiative is expected to give the youth a sense of empowerment, pride and inspire them to exercise their franchise. 25th January is also the founding day of Election Commission 64 years ago.

# Self Check

## Build Your Confidence

**1. Which of the following statements about the Election Commission is/are correct?**

1. The members of the Election Commission have equal powers with the Chief Election Commissioner.
2. The Chief Election Commissioner has overriding authority in the Election Commission.
3. The members of the Election Commission are appointed by the Parliament.
4. Only those persons who are eligible for appointment as judge of a High Court can be appointed as members of the Election Commission or as Chief Election Commissioner.

**Select the correct answer using the codes given below**

- (a) 1, 3 and 4 (b) 2, 3 and 4 (c) Only 1 (d) 1 and 4

**2. Under the Constitution which of the following functionaries can be suspended?**

1. Members of Public Service Commissions.
2. Election Commissioners other than Chief Election Commissioners
3. State Election Commissioners.

**Select the correct answer using the codes given below**

- (a) Only 1 (b) 2 and 3 (c) Only 3 (d) 1 and 3

**3. Which one of the following is not a function of the Election Commission?**

- (a) To superintend, direct and control elections to the offices of the President
- (b) To select candidates for election
- (c) To recognise and de-recognise political parties
- (d) To prepare electoral rolls

**4. Consider the following activities indulged in by a candidate during the election campaign**

1. giving gifts to voters to induce them to vote.
2. appealing for votes on the grounds of caste or religion.
3. false character assassination of other candidates.
4. propagation and glorification of SATI.

**Which of the statements given above is/are correct?**

- (a) 1, 2 and 4 (b) 1 and 3  
(c) 1, 2 and 3 (d) All of these

**5. Which of the following categories of persons are entitled to exercise his vote through postal ballot?**

1. Members of foreign services posted abroad.
2. Members of the armed forces.
3. Civil servants on election duty.
4. Indian nationals settled abroad.

**Select the correct answer using the codes given below**

- (a) 2 and 3 (b) 1, 2 and 3  
(c) 1 and 3 (d) All of these

**6. With reference to the Delimitation Commission, consider the following statements [IAS 2012]**

1. The orders of the Delimitation Commission cannot be challenged in a Court of Law.
2. When the orders of the Delimitation Commission are laid before the Lok Sabha or State Legislative Assembly, they cannot effect any modifications in the orders.

**Which of the statements given above is / are correct?**

- (a) Only 1  
(b) Only 2  
(c) Both 1 and 2  
(d) Neither 1 nor 2

**7. Consider the following statements. [IAS 2004]**

1. Superintendence, direction and conduct of free and fair elections.
2. Preparation of electoral rolls for all elections to Parliament, State Legislature and the office of President and the Vice-President.
3. Giving recognition to political parties and allotting elections symbols to political parties and individual contesting the election.
4. Proclamation of final verdict in the centre of the election disputes.

**Which of the statements given above are correct?**

- (a) 1, 2 and 3 (b) 2, 3 and 4  
(c) 1 and 3 (d) 1, 2 and 4

**8. Which one of the following functions is not related to the Election Commission?**

- (a) Direction and control of the preparation of the electoral rolls
- (b) Conduct of all elections to the Parliament and Legislatures of every states
- (c) To conduct the election of the offices of President and Vice-President
- (d) To make provision with respect to elections to legislatures

**9. The functions of the Election Commission of India are**

1. to conduct all the elections to Parliament and to State Legislature.
2. to conduct election to the office of the President and the Vice-President.
3. to recommend imposition of President's rule in a State where conditions are not conducive to holding of free and fair elections.
4. the superintendence, direction and control of preparation of electoral rolls.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 2 and 4  
(c) 1, 3 and 4 (d) All of these



1. (c) 2. (a) 3. (b) 4. (c) 5. (b) 6. (c) 7. (a) 8. (d) 9. (b)

# Chapter fourteen

## Political Parties and Pressure Groups

*Indian Political System comprises of numerous constitutional and extra-constitutional institutions working under democratic political culture. Political parties and pressure groups or advocacy groups are important institutions which work to influence the public policy formulation and implementation according to their ideology and support base.*

### Political Party System

- Generally, there are three kinds of party system in the world, i.e. one-party system, two-party system and multi-party system.
- There are many countries in the world where there is one-party system. Erstwhile Soviet Union and Yugoslavia had single party systems. Similarly, China has one-party system.
- The United Kingdom (UK), the United States of America (USA), Australia and New Zealand have bi-party systems. There may exist other parties, but their role is generally insignificant. e.g. in UK, there are two main parties, the Conservative Party and the Labour Party. In the USA, the two main parties are the Republican Party and the Democratic Party. India, Japan, France, Germany and Switzerland have multi-party systems.
- On the basis of ideologies, political parties can be classified as left, right and centre. Left parties have radical ideologies, right parties have reactionary and conservative ideologies and Centre parties have liberal ideologies.

#### Types of Political Party System

- Single Party System (Russia)
- Two Party System (USA)
- Active Multi-Party System (India)
- Unstable Multi-Party System (Italy)
- Totalitarian System (Egypt)








### Functions of Political Parties

- Parties draw together people who have similar political philosophies and ideas. While these people may not agree on all matters (hence the existence of factions and tendencies), parties are a means by which people of broadly similar interests can meet, organise and campaign.
- Parties select candidates to contest elections for public office. The choice offered to voters is thus, the choice offered by parties.
- Since, the parties provide the candidates for election, it follows that parties also provide the nation's political leaders.
- In the parliamentary area, political parties provide the government and opposition. The party or coalition which wins a majority of seats in the lower House (i.e., Lok Sabha in India), forms the government. The party or parties which win the second largest number of seats becomes the opposition.
- Much of the political debate is defined in government versus opposition terms. Parties articulate philosophies and develop policies.
- All parties have methods of debating issues and formulating policies to be presented to the electorate during election campaigns.
- In government or opposition, parties utilise these policy-making processes to determine their attitude to legislation and issues of the day.
- Parties are ultimately responsible for the structure of the machinery of government.

### Political Parties and CIC

- The Central Information Commission in June 2013 held that national political parties are answerable under the **RTI Act** (Right to Information Act).
- The Commission, has said six national parties Congress, BJP, NCP, CPI-M, CPI and BSP have been substantially funded indirectly by the central government and they have the character of **public authority** under the RTI Act as they perform public functions.
- The Bench held the income tax exemptions granted to the parties and free air time given by All India Radio and Doordarshan at the time of elections also substantially contribute to indirect financing from the government.

### National Parties in India

S.No.	Name	Symbol	Symbol (Image)	Years of Foundation	Founder
1.	Indian National Congress	Hand		1885	AO Hume
2.	Communist Party of India	Ears of Corn and Sickle		1925	MN Roy
3.	Communist Party of India (Marxist)	Hammer, Sickle and Star		1964	AK Gopalan
4.	Bharatiya Janata Party	Lotus		1980	Shyama Prasad Mukherjee
5.	Bahujan Samaj Party	Elephant		1984	Kanshi Ram
6.	Nationalist Congress Party	Clock		1999	Sharad Pawar, PA Sangma and Tariq Anwar.
7.	All India Trinamool Congress (AITC)	Flowers and grass		1986	Mamta Banerjee

### State Parties in India

States / UTs	Party Name	Symbol	Years of Foundation	Leader
Andhra Pradesh	Telangana Rashtra Samiti	Car	2001	K Chandrashekhara Rao
	Telugu Desam Party	Bicycle	1982	N Chandrababu Naidu
Arunachal Pradesh	All India Trinamool Congress	Flowers and Grass	1998	Mamta Banerjee
	People's Party of Arunachal	Maize	1987	Tomo Riba
Assam	All India United Democratic Front	Lock and Key	2004	Badruddin Ajmal
	Bodoland People's Front	Nangol		Hagrama Mohilary
	Asom Gana Parishad	Elephant	1985	Prafulla Kumar Mahanta
Bihar	Janta Dal (United)	Arrow	1999	Sharad Yadav
	Lok Janshakti Party	Bungalow	2000	Ram Vilas Paswan
	Rashtriya Janta Dal	Hurricane Lamp	1997	Lalu Prasad Yadav
Goa	Maharashtrawadi Gomantak Party	Lion	1963	Shashikala Kakodkar
Haryana	Haryana Janhit Congress (BL)	Tractor	2007	Kuldeep Bishnoi
	Indian National Lok Dal	Spectacles	1999	Om Prakash Chautala
Jammu and Kashmir	Jammu & Kashmir National Conference	Plough	1932	Omar Abdullah

States / UTs	Party Name	Symbol	Years of Foundation	Leader
	Jammu & Kashmir National Panthers Party	Bicycle	1982	Bhim Singh
	Jammu and Kashmir People's Democratic Party	Ink Pot & Pen	1998	Mufti Mohammad Sayyed
Jharkhand	All Jharkhand Students Union	Banana	1986	Sudesh Mahto
	Jharkhand Mukti Morcha	Bow & Arrow	1972	Shibu Soren
	Jharkhand Vikas Morcha (Prajantrik)	Comb	2006	Babu Lal Marandi
	Rashtriya Janata Dal	Hurricane Lamp	1997	Lalu Prasad Yadav
Karnataka	Janata Dal (Secular)	A Lady Farmer carrying Paddy on her head	1999	HD Deve Gowda
	Karnataka Janata Paksha Merged with BJP			
Kerala	Indian Union Muslim League	Ladder	1948	E Ahmad
	Kerala Congress	Bicycle	1964	KM George
	Kerala Congress (M)	Two Leaves	1979	CF Thomas
Maharashtra	Maharashtra Navnirman Sena	Railway Engine	2006	Raj Thackeray
	Shiv Sena	Bow and Arrow	1966	Uddhav Thackeray
Manipur	All India Trinamool Congress	Flowers & Grass	1998	Mamta Banerjee
	Manipur State Congress Party	Cultivator Cutting Crop		
	Manipur People's Party	Bicycle	1968	Sovakiran N
	Federal Party of Manipur	Rising Sun		Gangmumei Kamei
Meghalaya	United Democratic Party	Drum		Donkumar Roy
	Hill State People's Democratic Party	Lion		HS Lyngdoh
	National People's Party	Book		
Mizoram	Mizo National Front	Star	1959	Pu Zoramthanga
	Mizoram People's Conference	Electric Bulb	1972	Pu Lalhmithanga
	Zoram Nationalist Party	Sun (without rays)	1997	Lalduhoma
Nagaland	Naga People's Front	Cock	2002	Neiphiu Rio
	Janata Dal (United)	Arrow		
	Nationalist Democratic Movement	Battery Torch	1964	
NCT of Delhi	Aam Aadmi Party	Broom	2012	Arvind Kejriwal
Odisha	Biju Janta Dal	Conch	1997	Naveen Patnaik
Puducherry	All India Anna Dravida Munnetra Kazhagam	Two Leaves	1972	J Jayalalithaa
	All India NR Congress	Jug	2011	N Rangaswamy
	Pattali Makkal Katchi	Mango	1989	G K Mani
	Dravida Munnetra Kazhagam	Rising Sun	1949	M Karunanidhi
Punjab	Shiromani Akali Dal	Scales	1920	Parkash Singh Badal
	Shiromani Akali Da (Simranjit Singh Mann)	Cart	1994	Simranjit Singh Mann
Sikkim	Sikkim Democratic Front	Umbrella	1993	Pawan Kumar Chamling
Tamil Nadu	All India Anna Dravida Munnetra Kazhagam	Two Leaves	1972	J Jayalalithaa
	Desiya Murpokku Dravidar Kazhagam	Nagara	2005	Vijayakanth
	Dravida Munnetra Kazhagam	Rising Sun	1949	M Karunanidhi
Uttar Pradesh	Rashtriya Lok Dal	Hand Pump	1996	Ajit Singh
	Samajwadi Party	Bicycle	1992	Mulayam Singh Yadav
West Bengal	All India Forward Bloc	Lion	1939	Debabrata Biswas
	All India Trinamool Congress	Flowers & Grass	1998	Mamta Banerjee
	Revolutionary Socialist Party	Spade & Stoker	1940	T J Chandrachoodan

## Coalition Politics in India

- The term coalition is latin word which is the verbal substantive of coalesce-co, which means to go or to grow together.
- For nearly 20 years, Congress Party had a majority for a long time and used to win about 45% of the popular vote. The accommodative attitude of a several non-Congress groups helped in the formation of coalition government. It was the first time that the centre got coalition government under the Prime Ministers hip of Morarji Desai during 1977 phase.

## Experiments with Coalition

- The 1989 Lok Sabha elections, no one, got a majority. Congress emerged as the single largest party but was not in a position to form the government. So, Janata Dal Led by VP Singh was invited to form the government with assured support by BJP and Left parties, alongwith some regional party.
- In 1991, BJP withdrew its support and finally government was felldown. With the help of Congress **Chandrashekhar** formed a coalition government, but this government also fell after withdrawl of Congress.
- In 1996, BJP emerged as the single largest party, it was invited to form the goevernment. However, its leader **Atal Behari Vajpayee** had to resign from the chain of Prime Minister within 13 days due to lack of majority.
- The second largest party, Congress with 140 seats was unwilling to form a government, then.
- Congress supported the United Front government headed by **Mr HD Deva Gowda**. But then again due to problem of reaching consensus the government felldown yet again and **IK Gujaral** became the new Prime Minister of the **United Front Government**.
- Again there was discontent and mid-term election was called where **NDA** (National Democratic Alliance) was formed which ensured that the government become stable but just 13 months later another election has to be done. Finally in 1999, Mr. AB Vajpayee began his office that continued for 5 years at a stretch.
- The present scenario only demands the coalition politics in India. Congress has also formed **UPA** (United Progressive Alliance) to run the election after the 5 years term of NDA was over.
- Now for 2 terms we are witnessing the UPA rule which just states the fact very truly that it is the only way out to win elections in India. It has now been seen that this coalition party has been the keyword in every student politics.

## Reasons Behind the Coalition Politics in India

- Growth of Regional Political Parties.
- Inability of national parties to give a feeling to the diverse population in India that they are able to adequately represent their disparate interests.
- The tendency of the national parties to speak of national level issues, and to force coherence in the politics and views on issues, is at odds with our extremely diverse population.
- Regional parties ability provide credible alternatives to the national party in the states.

## Merits of Coalition Politics

- The coalition government addresses the regional disparity more than the single party rule.
- Coalition government is more democratic and hence fairer, because it represents a much broader spectrum of public opinion than government by one party alone.
- Coalition government creates a more dynamic political system, allowing voters a clearer choice at election time.
- Coalitions provide good government because their decisions are made in the interests of a majority of the people. A coalition government better reflects the popular opinion of the electorate within a country.
- Coalition government provides more continuity in administration. States are given more powers, and the concept of federalism is strengthened.
- In the 2014, General Election, the Bharatiya Janata Party's emphatic win destroys myth of Coalition Politics. After the 1984 election people elected a single party government.

## Demerits of Coalition Politics

- Coalition government may become less democratic as the balance of power is inevitably held by the small parties who can barter their support for concessions from the main groups within the coalition.
- Coalition government is less transparent, because a party has no real chance of forming a government alone, the manifestos they present to the public become irrelevant and often wildly unrealistic.
- Coalitions provide bad government because they are unable to take a long-term view.
- Coalition governments are very unstable, often collapsing and reforming at frequent intervals. This greatly restricts the ability of governments to deal with major reforms and means that politicians seldom stay in any particular ministerial post for long enough to get to grips with its demands.
- Coalition governments are less effective, not durable and non-dependable as compared to the governments formed by any one party with a definite ideology and principles.
- In coalition governments, MLAs and MPs from all the parties are given portfolios/ministries and appointed as ministers. These ministers are appointed on the recommendations of the parent party, without taking the qualification, character and criminal /clean record of the MLAs and MPs.

## Pressure Groups

- Pressure groups are the interest groups which try to secure their interests by influencing the formulation and administration of public policy. They are referred to as Civil Society Organisation (CSO). They are non-partisan organisation which attempt to influence some phases of public life. The role of pressure group is indirect, ordinarily, invisible and intermittent yet very important part of administrative system.

### Types of Pressure Groups

- **Institutional Pressure Group** These groups are formally organised which constitutes professionally employed persons. They are part of government machinery and raises its protests with constitutional means. e.g. Bureaucracy, Army, Central Election Committee etc.
- **Anomic Pressure Group** These are the group that have analogy with individual self-representation. They may be constitutional or unconstitutional, perpetual infiltration such as riots, demonstration etc. e.g. ULFA, Naxalites, Kashmir Liberal Front etc.
- **Associational Pressure Group** These are organised specialised groups formed for interest articulation but to pursue limited goal. e.g. Trade Union, Student Association, Teachers Association etc.
- **Non-Associational Pressure Group** These are the informal Groups include Caste Group, Language Group, Syndicate, Gandhian Group etc.

### Major Pressure Groups in India

- **The Business Group** They are independent of political parties and influence planning licensing bodies and economic ministers. They help in budget formulation. e.g. Conference of Indian Industries (CII), Association Chamber of Commerce, Federation of Indian Chamber of Commerce Industry (FICCI).
- **Peasant's Organisations** It gained power in 1960's. At Central level only one All India Kisan Congress exists. On territorial basis All Kisan Kamgar, Akil Bharatiya Kisan Sangh. The **Bharatiya Kisan Union** (BKU) in Western UP is most significant.
- **Student's Organisations** They pressurise the government on educational issues and various critical issues. e.g. All Bengal Student Association formed in 1928, The All India Student Federation (AISF) in 1936, Student's Federation of India, National Student Union of India, The Akhil Bharatiya Vidhyarti Parishad etc.
- **Community Associations** They are in context to safeguard respective religion. e.g. Schedule Caste Federation, Backward Caste Federation, Vishwa Hindu Parishad etc.
- **Linguistic Groups** These pressure groups promote certain languages. e.g. Tamil Sangh, Hindi Protection Parishad, Punjabi Sahit Sabhas etc.

- **Tribal (Regional) Groups** There are several tribal interest groups have been active in India. e.g. The United Mizo Federal Organisation, The Tribal Sangh of Assam, The National Socialist Council of Nagaland (NSCN), All-India Jharkhand, etc.
- **Professional Groups** Several professional interest groups like India Bar Association, All India Medical Council, All India Federation of University and College Teachers (AIFUCT), etc.

### Difference between Political Party and Pressure Group

- Pressure group is the public body acting outside political party where as political parties constitutes government.
- Pressure group act is indirect as well as intermittent. They tries to influence and pressurise the government to get their demand fulfilled. They do not intervene directly whereas Political Parties Act directly, they are legally entitled to frame policies and take decision concerning the country.
- Pressure group pressurise executive and legislature to achieve its aim whereas political party bring coordination in the working of executive and legislature.
- Pressure group uses both conventional and non-conventional means to demonstrate their demands whereas political parties uses only constitutional means to execute its duties and functions.
- Pressure group works for self interest, they emerges and dissolves as per the need of certain groups whereas political party works for national interests and not merely for any certain group or objective.

### Lobbying

- In modern democracy, the term lobbying stands as the most controversial activities. It provides governments with valuable policy-related information and expertise, but if these activities are not transparent then public interest may be put at risk in favour of specific interests.
- It is worth noting that no country in the world, including India, has banned lobbying. In fact, only a few countries regulate the activities of lobbying these countries are, the USA, Canada, Australia, Germany and Taiwan. These countries treat lobbying as a legitimate right of citizens. Except Taiwan, all the above countries regulate only professional lobbyists, but Taiwan regulates both individuals and professional lobbyists.
- In India, lobbyists are viewed as representatives of big businesses who indulge in corrupt practices to push their agenda. However, there are various groups whose advocate campaigns for policy reforms such as, Mazdoor Kisan Shakti Sangathan (MKSS),— who fight for the Right Information. In recent days Anna Hazare led the campaign for establishment of an anti-corruption body called the **Lokpal**.

# Self Check

## Build Your Confidence

1. Which of the following is the characteristic of a political party?  
(a) Group of people organised for betterment of their locality  
(b) Group of people sharing similar religious views  
(c) Group of people having common principles and views on public matters  
(d) Group of people attending an election meeting
2. Arrange the following political parties in the chronological order of their formation.  
1. Indian National Congress  
2. Bharatiya Janta Party  
3. Communist Party of India  
4. National Congress Party  
**Codes**  
(a) 3, 1, 2, 4 (b) 1, 2, 3, 4  
(c) 1, 2, 4, 3 (d) 1, 3, 2, 4
3. Which of the following is/are the characteristics of Indian Political System?  
1. India has a multi-party system.  
2. Political parties are not hegemonic, but competitive.  
3. Presently, election is fought not among parties, but coalition of parties.  
**Select the correct answer using the codes given below**  
(a) 1 and 2 (b) 2 and 3  
(c) 1 and 3 (d) All of these
4. Which of the following is/are the characteristics of pressure groups in India?  
1. Pressure groups are not primarily political in nature.  
2. Pressure groups do not seek direct power.  
3. Pressure groups do not contest elections.  
4. Pressure groups do not necessarily have political ideologies.  
**Select the correct answer using the codes given below**  
(a) 1 and 2 (b) 2 and 3  
(c) 2, 3 and 4 (d) All of these
5. With reference to the functions of the Political parties, consider the following statements.  
1. Parties select candidates to contest elections for public office. The choice offered to voters is thus, the choice offered by parties.  
2. All parties have methods of debating issues and formulating policies to be presented to the electorate during election campaigns.  
**Select the correct answer using the codes given below**  
(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2
6. The Bharatiya Janata Party (BJP) came to power in 1998 as the leader of  
(a) United Progressive Alliance  
(b) Life Front  
(c) National Democratic Alliance  
(d) None of these
7. Which out of the following is a 'state party'?  
(a) BSP (b) Aam Aadmi Party  
(c) BJP (d) NCP
8. A pressure group is  
(a) a group formed to protect the interests of members of a group by contesting election  
(b) a group of people with common objectives, which tries to promote the interests of its members by influencing the government policies  
(c) a group of people which tries to capture power with the help of money  
(d) a military group, which comes to the assistance of the state when the police force is unable to maintain law and order
9. Consider the following statements, with respect to the features of the Coalition politics  
1. Coalitions are made for some material or psychic reward.  
2. Coalition politics is not a static affair. It is a dynamic affair as coalitions dissolve old cohesion and form new ones.  
3. Pragmatism and not ideology is the hallmark of coalition politics.  
**Which of the statement(s) given above is/are correct**  
(a) Only 1 (b) 1 and 2  
(c) Only 3 (d) All of these
10. Consider the following statements, with respect to the Lobbying  
1. In India, law makers are required to disclose their communications with lobbyists.  
2. Lobbying by various interest and advocacy group is widespread in India, the public mostly remains unaware of it unless a scandal breaks.  
3. A lobbying law should not legitimise bribery or corrupt practices since it prioritises private gain over public interest.  
**Which of the statement(s) given above is/are correct?**  
(a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these
11. Which one of the following is not true about pressure group?  
(a) It has no political programme  
(b) It does not aim at capturing power  
(c) It exerts pressure on executive  
(d) It tries to have formal control over the government



1. (c) 2. (d) 3. (d) 4. (d) 5. (c) 6. (c) 7. (b) 8. (b) 9. (d) 10. (b)  
11. (d)

# Chapter fifteen

## Public Service Commissions

*Indian Constitution provides for the services under the Union and the States. To make recruitments in these services and to advise government on services related matters, Indian Constitution enshrined the provisions regarding the establishment and functioning of Independent Public Service Commission for Union and State.*

### Constitutional Provisions

- The provisions related to Public Service Commissions for the Union and for the State are contained in Part XIV from Articles 315 to 323. According to **Article 315**, there shall be a Public Service Commission for the Union and a Public Service Commission for each state also, two or more states may agree that there shall be one Public Service Commission for that group of states and if a resolution to that effect is passed by the House or where there are two Houses, by each House of the Legislature of each of those states, Parliament may by law provide for the appointment of a Joint State Public Service Commission to serve the needs of those states.

### Appointment and Term of Office of Members

- The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President and in the case of a State Commission, by the Governor of the state under **Article 316 (1)**.
- One half of the members of every Public Service Commission shall be persons who have held office for at least **10 years** either under the Government of India or under the Government of a State.

- A member of a Public Service Commission shall hold office for a term of **6 years** from the date on which he/she enters upon his/her office or until he attains, in the case of the Union Commission, the age of **65 years** and in the case of a State Commission or a Joint Commission, the age of **62 years**, whichever is earlier.
- A person who holds office as a member of a Public Service Commission shall, on the expiration of his/her term of office, be ineligible for re-appointment to that office.

### Removal and Suspension of Chairman and Members

- The Chairman or any other member of a Public Service Commission shall only be removed from his office by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it by the President, has on inquiry, reported that the Chairman or such other member, as the case may be, ought on any such ground to be removed under **Article 317 (1)**.
- The President may by order remove from office the Chairman or any other member of a Public Service Commission, if the Chairman or such other member, *as the case may be*
  - 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 the Chairman or any other member of a Public Service Commission is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State he/she shall be deemed to be guilty of misbehaviour.

## Independence of Public Service Commission (Article 319)

- The Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State.
- The Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.
- A member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.
- A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.
- The entire expenses including the salaries, allowances and pensions of the members of Public Service Commissions are not subject to vote of either Parliament or State Legislature as the case may be.

## Functions of Public Service Commission (Article 320)

- To conduct examinations for appointments to the services of the union and the services of the state by Union and State Public Service Commissions respectively.
- To advise on any matter so referred to them and on any other matter referred to by the President or Governor as the case may be.
- To perform any additional functions with respect to the services of the union or the states or any local authority constituted by law. Such functions may be provided in a law passed by Parliament or the State Legislature.
- To present an annual report to the President or the Governor on the work done by the Commission. (Article 323).
- If requested by two or more states, it shall be the duty of the Commission (UPSC) to assist them in framing and operating schemes of joint recruitment to any services requiring possession of special qualifications.

- The UPSC if requested to do so by the Governor of a State, may with the approval of the President agree to serve, all or any needs of the state.
- The Union Public Service Commission or the State Public Service Commission as the case shall be consulted on the following matters under Article 320 (3).
  - On all matters relating to methods of recruitment to civil services and for civil posts.
  - On the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers.
  - On all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity.
  - On Claim for legal costs incurred by a person serving in a civil capacity under the Government of India or government, state for any legal proceeding instituted against him in respect of an act done by him/her while discharging his duties; whether such cost should be funded out of the Consolidated Fund of India or the Consolidated Fund of the State.
- On any claim of pension in respect of injuries sustained by a person while serving the Government of India or Government of a State.

### Articles Related to Public Service Commissions

Article No	Subject-matter
Article 315	Public Service Commission for the union and for the states
Article 316	Appointment and term of office of members
Article 317	Removal and suspension of a member of a Public Service Commission
Article 318	Power to make regulation as to conditions of service of members and staff of the Commission
Article 319	Prohibition as to the holding of office by members of Commission on ceasing to be such members
Article 320	Functions of Public Service Commissions
Article 321	Power to extend functions of Public Service Commissions
Article 322	Expenses of Public Service Commissions
Article 323	Reports of Public Service Commissions

### UPSC vs CVC

The establishment and emergence of Central Vigilance Commission (CVC) in 1964 on the recommendation of Santhanam Committee affected the role of UPSC in disciplinary matters. This is because both are consulted by the government while taking disciplinary action against a civil servant. The problem arises when the two bodies tender conflicting advice. However, the UPSC, being an independent constitutional body has an edge over the CVC, which conferred a statutory status in October 2003.

# Self Check

## Build Your Confidence

- 1. Which of the following are the provisions by the Constitution to safeguard the independence of Union Public Service Commission?**
1. The salaries, allowances and pensions are charged from the consolidated fund of India.
  2. The chairman of UPSC is not eligible for further employment in the Government of India.
  3. The conditions of service of chairman and members cannot be varied to their disadvantage after appointment.
- Select the correct answer using the codes given below**
- (a) 1 and 2 (b) 2 and 3  
(c) 1 and 3 (d) All of these
- 2. Which of the following is correct about Union Public Service Commission of India?**
- (a) It assists the State Public Service Commission.
  - (b) It has nothing to do with State Public Service Commission.
  - (c) All its members are taken from State Public Service Commission.
  - (d) It sends annual guidelines to State Public Service Commission.
- 3. UPSC is consulted in which of the following matters?**
1. While making reservations of appointment in favour of Backward classes.
  2. Disciplinary matters of civil servants
  3. Method of recruitment of civil servants.
- Select the correct answer using the codes given below**
- (a) 1 and 2 (b) Only 3  
(c) 2 and 3 (d) All of these
- 4. The members of the UPSC can be removed from their office during their tenure by**
- (a) the President on the enquiry report of the Supreme Court of India
  - (b) the President
  - (c) the Parliament
  - (d) the President on the report of the Parliament
- 5. The strength of the UPSC**
- (a) is determined by the President from time-to-time
  - (b) is determined by the Parliament
  - (c) has been permanently fixed by the Constitution
  - (d) was determined by the Presidential Ordinance in 1952
- 6. Who among the following makes appointments to 'All India Services'?**
- (a) The President of India
  - (b) Parliament
  - (c) Council of Minister
  - (d) UPSC
- 7. Which is not a central services?** [IAS 2006]
- (a) IPS (b) IFC  
(c) AAS (d) IRS
- 8. Which of the following has the powers to create a new All India Services?**
- (a) Parliament
  - (b) UPSC
  - (c) Union Cabinet
  - (d) Ministry of Personnel, Public Grievances and Pensions
- 9. Which of the following can provide for the appointment of a Joint Public Service Commission?**
- (a) Parliament of India
  - (b) President of India
  - (c) Union Public Service Commission
  - (d) State Governors
- 10. Consider the following statements**
1. The Constitution does not fix the number of members of the UPSC.
  2. One-half of the members of the UPSC should be persons, who have held office under the GoI or of a state atleast for 5 years.
  3. The Chairman and members of the UPSC hold office for a term of 5 years or until they attain the age of 60 years.
  4. The salaries and allowances of the members of the UPSC are determined by the Parliament.
  5. The entire expenses of UPSC are charged on the Consolidated Fund of India.
- Which of the statements given above are correct?**
- (a) 1 and 5 (b) 1, 2, 4 and 5  
(c) 2, 3 and 4 (d) All of these
- 11. Assertion (A) The Ragamannar Committee recommended the abolition of the IAS and IPS. Reason (R) These two services violate the principles of federalism and ministerial responsibility at the state level.**
- Codes**
- (a) Both A and R are true and R is the correct explanation of A
  - (b) Both A and R are true, but R is not the correct explanation of A
  - (c) A is true, but R is false
  - (d) A is false, but R is true
- 12. A new All India Service can be created by**
- (a) a resolution in the Rajya Sabha
  - (b) an act of Parliament
  - (c) an order of the President
  - (d) a resolution by the UPSC



1. (d) 2. (a) 3. (c) 4. (a) 5. (a) 6. (d) 7. (a) 8. (a) 9. (a) 10. (a)  
11. (a) 12. (b)

# Chapter sixteen

## Official Languages

*Language is the human capacity for acquiring and using complex systems of communication. Part XVII of the Constitution deals with the official language from Articles 343 to 351. It includes language of the union, regional languages, language of the judiciary, texts of laws and special directives.*

### Official Language

- According to **Article 343**, the official language of the union shall be Hindi in Devanagari script. The form of numerals to be used for the official purposes of the union, shall be the international form of Indian numerals.
- However, the President may authorise the use of the Hindi language in `addition to the English language and of the Devanagari form of numerals, in addition to the international form of Indian numerals for any of the official purposes of the union.
- However, for a period of **15 years** from the commencement of the Constitution, the English language would continue to be used for all the official purposes of the union, for which it was being used before 1950.
- Even after 15 years, the Parliament may provide for the continued use of English language for the specified purpose.
- The **Eighth Schedule** of the Constitution consists of 22 languages, of these, 14 were initially included in the Constitution. 'Sindhi' was added in 1967 (21st Amendment). There after three more languages viz., Konkani, Manipuri and Nepali were included in 1992 (71st Amendment). Subsequently, Bodo, Dogri, Maithili and Santhali were added in 2004 (92nd Amendment).

### Commission and Committee of Parliament on Official Language

- The President shall constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the 8th Schedule, as the President may appoint and shall define the procedure to be followed by the Commission.

- In making their recommendations, the Commission shall have due regard to the industrial, cultural and scientific advancement of India and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.
- Official language is used for communication between one state and another or between a state and the union. Provided that if two or more states agree that the Hindi language should be the official language for communication between such states, that language may be used for such communication under Article 346.
- As per **Article 344** (4) there shall be constituted a committee consisting of thirty members of whom twenty shall be members of the House of the people and then shall be members of the Council of States to be elected respectively by the members of the House of people and the members of the Council of State in accordance with the system of proportional representation by means of the single transferable vote.
- It shall be the duty of the Committee to examine the recommendations of the Commission and to report to the President their opinion thereon.

### Official Language Commission

- As provided in **Article 344** of the Constitution, the Official Language Commission was appointed in 1955 with **Shri BG Kher** as Chairman. Its report was submitted in 1957 and then examined by a Joint Parliamentary Committee.

- *The recommendations of the Commission were as follows:*
  - English should be the principal official language and Hindi, the subsidiary official language till 1965. After 1965, when Hindi becomes the principal official language, English should continue as the subsidiary official language.
  - Considerable importance to be attached to **Article 351** in order to make Hindi that serve as a medium for expression for all elements of the composite culture of India.
  - No rigid date-line for change over for use of an Indian language for the purposes of the union. The transition should be smooth with minimum inconvenience.

## Special Officer for Linguistic Minorities

- According to **Article 350B**, there shall be a special officer for linguistic minorities to be appointed by the President. It shall be the duty of the **special officer** to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution and report to the President upon those matters at such intervals, as the President may direct and the President shall cause all such reports to be laid before each House of Parliament and sent to the governments of the states concerned.

## Regional Languages

- The Constitution does not specify the official language of different states. In this regard, the constitution deals some Article. *These are as follows:*
- **Article 345, Official language or languages of a State**  
Subject to the provisions of Article 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State.
- It is also provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.
- **Article 346, Official Language for Communication between one State and another or between a State and the Union**  
The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union.
- **Article 347, Special Provision Relating to Language Spoken by a Section of the Population of a State**  
On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised throughout that State or any part thereof such purpose as he may specify.

## Language of the Judiciary and Texts of Laws

- The constitutional provisions dealing with the language of the Courts and legislation are as follows:
  1. **Article 348**, Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc shall be in English language, until Parliament by law provides otherwise:
    - All proceedings in the Supreme Court and in every High Court.
    - The authoritative texts of Bills, Acts, Ordinances, Orders, Rules Regulations and Bye-laws at the centre and states level.

The Governor or a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the state, in proceedings in the High Court having its principal seat in that state: Provide that nothing in this clause shall apply to any judgement, decrease or order passed or made by such High Court. Similarly the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye law shall be translated of the same into the English language and to be published under the authority of the Governor of the State.

### 2. **Article 349, Special Procedure for Enactment of Certain Laws Relating to Language**

During the period of 15 years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in Clause (1) of Article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under Clause (1) of Article 344 and the report of the committee constituted under Clause (4).

## Special Directives

- The Constitution of India contains Special Directives to protect the interests of linguistic minorities and to promote the development of Hindi language. Some articles are related to this are as follows:
- **Article 350** Language to be used in representations for redress of grievances; Every person shall be entitled to submit a representation for the redress of any **grievance** to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

- **Article 350A** Facilities for instruction in mother-tongue at primary stage; it shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the **mother-tongue** at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.
  - There shall be a Special Officer for linguistic minorities to be appointed by the President.
  - It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct and the President shall cause all such reports to be laid before each House of Parliament and sent to the Governments of the States concerned.
- **Article 351** Directive for development of the Hindi language; It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms style and expressions used in Hindustani and in the other languages of India specified in the 8th Schedule and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

## Official Languages Act, 1963

- Some of the important provisions of Official Languages Act, 1963 were
  - Even after the expiration of 15 years from the commencement of Constitution, English may be continued to be used in addition to Hindi in Parliament and for other purposes, for which it was used earlier.
  - Translations of any Central Act or ordinance or by-laws made under a Central Act, under the authority of the President shall be deemed to be the authoritative texts thereof in Hindi.
  - The Governor of a State may, with the previous consent of the President, authorise the use of Hindi or the official language of the state, in addition to the English language.

### Languages Under 8th Schedule

- |               |              |
|---------------|--------------|
| 1. Assamese   | 2. Bengali   |
| 3. Bodo       | 4. Dogri     |
| 5. Gujarati   | 6. Hindi     |
| 7. Kannada    | 8. Kashmiri  |
| 9. Konkani    | 10. Maithili |
| 11. Malayalam | 12. Manipuri |
| 13. Marathi   | 14. Nepali   |
| 15. Odiya     | 16. Punjabi  |
| 17. Sanskrit  | 18. Santhali |
| 19. Sindhi    | 20. Tamil    |
| 21. Telugu    | 22. Urdu     |

- For the purposes of any judgement, decree or order passed or made by the High Court for that state and where any judgement, decree or order is passed or made in any such language (other than English), then it shall be accompanied with an English translation issued under the authority of court.
  - English shall be used for purposes of communication between the union and the state, which has not adopted Hindi as the official language. When Hindi is used for communication between one state and another which has not adopted Hindi as official language, then it shall be accompanied with an English translation.

## Constitution Bench Decision on Language

- The **Supreme Court** in May, 2014 held that imposition of the mother tongue as the medium of instruction in primary classes in government-recognised, aided or unaided private schools was unconstitutional.
- The Bench said the State could not compel minority schools, protected under **Articles 29(1)** and **30(1)** of the Constitution and private unaided schools enjoying the right to carry on any occupation under **Article 19(1)(g)**, to offer instruction in the mother tongue or Kannada.
- The Bench held that imposition of the mother tongue “affects the fundamental rights under **Articles 19, 29** and **30** of the Constitution. The State has no power under **Article 350A** of the Constitution to compel the linguistic minorities also to choose their mother tongue only as a medium of instruction in primary schools.”
- “The right to freedom of speech and expression under **Article 19(1)(a)** of the Constitution includes the freedom of a child to be educated at the primary stage of school in a language of the choice of the child and the State cannot impose controls on such choice just because it thinks that it will be more beneficial for the child if he is taught in the primary stage in his mother tongue,” the Bench said.

### Classical Languages

- In September 2004, the Government of India declared that languages that met certain requirements could be accorded the status of a ‘classical language in India’.
- The criteria for declaring a language as classical mandates high antiquity of its early text/recorded history over a period of 1500-2000 years, a body of ancient literature/texts which is considered a valuable heritage by generations of speakers and a literary tradition that is original.
- Once a language is declared classical, it gets financial assistance for setting up a centre of excellence for the study of that language and also opens up an avenue for two major awards for scholars of eminence.
- Six languages thus, far declared to be classical languages are Tamil (2004), Sanskrit (2005), Telugu (2008), Kannada (2008), Malayalam (2013) and Oriya (2014).

# Self Check

## Build Your Confidence

1. Under which one of the following Constitution Amendment Acts, four languages were added to the languages under the 8th schedule of the Constitution of India, thereby raising their number to 22? [IAS 2008]

(a) Constitution (90th Amendment) Act  
(b) Constitution (91st Amendment) Act  
(c) Constitution (92nd Amendment) Act  
(d) Constitution (93rd Amendment) Act

2. Whose satisfaction is required under Constitutional Article 347, regarding special provision for creating language spoken by a section of the population of a state?

(a) Parliament (b) Judiciary  
(c) President (d) Prime Minister

3. The provisions related to official language of India can be amended by

(a) simple majority (b) minimum 2/3 majority  
(c) minimum 3/4 majority (d) cannot be amended

4. English is the official language of which one of the following Indian states? [IAS 2004]

(a) Nagaland (b) Tripura (c) Assam (d) Manipur

5. Consider the following statements, with regards to the regional languages:

- Subject to the provisions of Article 346 and 347, the legislature of a State may by law adopt any one or more of the languages in use.
- The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one state and another State and between a State and the Union.

Which of the statement(s) given above is/are correct?

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

6. A PIO can be penalised for which of the following actions?

(a) Malafidely devices information  
(b) Obstructed furnishing information  
(c) Knowingly gave incorrect, in complete or misleading information  
(d) All of the above

7. Directive for development or the Hindi language. It shall be the duty of the Union to promote the spread of the Hindi language. The above special directives are related to which of the following

(a) Article 350A (b) Article 351  
(c) Article 349 (d) Article 350

8.



1. (c) 2. (c) 3. (a) 4. (a) 5. (c) 6. (c) 7. (b) 8. (d) 9. (b) 10. (a)  
11. (c) 12. (b) 13. (a) 14. (c)

Consider the following statement about the Committee of parliament on official language.

- Article 344 (4) say that there shall be constituted a Committee of Parliament on official language.
- It consist of thirty members of whom twenty from Lok Sabha and ten from Rajya Sabha.
- The duty of the Committee is to examine the recommendation of official language Commission.

Which of the above statement (s) is/are correct?

(a) 1 and 2 (b) 2 and 3  
(c) 1 and 3 (d) All of these

9. Which constitutional Article defines official language for communication between the State and the Union?

(a) Article 340 (b) Article 346  
(c) Article 243 (d) Article 305

10. Which of the following Article envisages special officer for linguistic minorities?

(a) Article 350B (b) Article 350A  
(c) Article 351 (d) Article 350

11. Which of the following language was principal and subsidiary language till 1965?

(a) Hindi and English (b) English and Urdu  
(c) English and Hindi (d) Hindi and Telugu

12. Which of the following language accorded classical language status?

1. Tamil 2. Sanskrit 3. Kannada  
4. Telugu 5. Bhojpuri

Select the correct answer using the codes given below

(a) 1 and 5  
(b) 1, 2, 3 and 4  
(c) Only 5  
(d) 1, 2 and 3

13. Which article envisages the official language of the union shall be Hindi in Devanagri script?

(a) Article 343 (b) Article 342  
(c) Article 347 (d) Article 349

14. What is the criteria of the 'classical language status'?

- Language should have a historically of at least 1500 years.
- Language should be spoken by considerable large communities.
- Significant contribution for the synthesis of culture and social practices.

Select the correct answer using the codes given below

(a) Only 3 (b) Only 1  
(c) 1 and 2 (d) None of these

# Chapter seventeen

## Emergency Provisions

*The emergency provisions are contained in Part XVIII from Articles 352 to 360 of the Constitution. The emergency powers are vested in the Union Executive. Proclamation of Emergency also has negative impact on Fundamental Rights temporarily, but the rationality behind this incorporation of these provisions in the Constitution is to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.*

### Types of Emergency

*The President is empowered to promulgate three kinds of emergencies which are as follows:*

- (i) On the ground of threat to the security of India or of any part of the territory by war or an external aggression or an armed rebellion (Article 352) known as **National Emergency**.
- (ii) On the ground of the failure of the constitutional machinery in a state. (Article 356) known as the **President's Rule** or **State Emergency**.
- (iii) On the ground of threat to the financial stability or credit of India or any part of the territory (Article 360), known as **Financial Emergency**.

### National Emergency (Article 352)

- If the President is satisfied that a grave emergency exists whereby the security of India or any part of India is threatened, whether by a war or an external aggression or an armed rebellion, he/she may proclaim a state of emergency for the whole of India or part of the territory thereof.
- A proclamation of emergency can be made by the President, even before the actual occurrence of war or external aggression or armed rebellion, if he/she is satisfied that there is an imminent danger.
- When a national emergency is declared on the ground of 'war' or 'external aggression' it is known as External Emergency. On the other hand, when it is declared on the ground of 'armed rebellion' it is known as Internal Emergency.

- Such a Proclamation of Emergency can be varied or revoked by the President subsequently. The President can issue a proclamation of emergency or vary it, only when the decision of the Union Cabinet is conveyed to him/her in writing.
- The proclamation of emergency made by the President under Article 352, is subjected to the judicial review and its constitutionality can be questioned in a Court of Law on grounds of malafide.
- Every proclamation made under Article 352 except a proclamation revoking the previous proclamation should be laid before both the Houses of the Parliament and must be approved by them within 1 month by a majority of the total membership of that house and by a majority of not less than two-thirds of the members of that house present and voting.
- If the Parliament fails to approve such a proclamation, it ceases to be in operation on the expiry of 1 month after the proclamation is made.
- If the Parliament approves such a proclamation, it will be in force, unless revoked earlier, for 6 months from the date on which it was approved by the Parliament.
- It can be approved by the Parliament any number of times, but not beyond 6 months at a time. If the Lok Sabha disapproves a proclamation of emergency or its continuance, the President shall revoke the proclamation of emergency.
- If not less than one-tenth of the members of the Lok Sabha issue a notice with the intention of disapproving a proclamation of emergency to the President if the Lok Sabha is not in session, or to the Speaker if the Lok Sabha is in a session, a special sitting of the Lok Sabha shall be held within 10 days for the purpose of considering such resolution.

- National Emergency has been announced three times so far. *First* time in October 1962 on account of Chinese aggression in the NEFA, *second* time in December 1971 in the wake of attack by Pakistan and *third* time in June 1975.

## Effects of the Proclamation of Emergency

### On Union-State Relations

- The effect of a proclamation of emergency is the emergence of a full-fledged unitary government. *Its effects can be studied under the following heads:*

#### Executive Relations

- While a proclamation of emergency is in operation, the President is empowered to issue directions to the states as to the manner in which their executive power is to be exercised.
- In normal times, the President has the power to give directions to the states only on certain matters like maintenance of communication, protection of railways etc.
- But during the operation of emergency, he/she can issue directions to the states on all the matters. The administration, therefore, will be converted into a unitary system.

#### Legislative Relations

- While a proclamation of emergency is in operation, the Parliament can enact laws even on the subjects enumerated under the State List.
- The legislatures of the state are not suspended, but the distribution of legislative powers between the union and the states is suspended for the duration of the emergency.
- The Parliament is also empowered to extend, by law, the life of the Lok Sabha beyond the 5 years term, for a period not exceeding 1 year at a time, but in any case not exceeding 6 months, after the proclamation of emergency has ceased to be in operation.
- The life of the State Legislative Assemblies can also be extended, by law, by the Parliament in a similar manner.

#### Financial Relations

- The President may, when a proclamation of emergency is in operation, modify the provisions of the Constitution relating to the distribution of the financial resources between the centre and the states.
- Such an order of the President shall not have effect beyond the financial year in which the proclamation of emergency ceases to be in operation.
- The order of the President is the subject to the approval of the Parliament.

### On Fundamental Rights

- **Article 358** states that as soon as a proclamation of emergency is issued on the grounds of a war or an external aggression (but not on the ground of an armed rebellion), the 6 Fundamental Rights enumerated under **Article 19** are automatically suspended.

- The state is free from the limitations imposed by **Article 19**. The citizens cannot move the courts for the enforcement of the Fundamental Rights enumerated under **Article 19**.
- The President, under **Article 359**, may by order suspend the operation of any of the other Fundamental Rights except **Articles 20 and 21** when an emergency declared on the grounds of a war or an external aggression or in armed rebellion is in force.

## 44th Constitutional Amendment Act and Emergency Provisions

- Prior to the 44th Constitutional Amendment Act, 1978, a proclamation of emergency could be issued on the grounds of war or external aggression or internal disturbances. The expression 'internal disturbances' is a vague term and could be misused by the executive. The act, therefore, has introduced the expression armed rebellion replacing internal disturbances.
- Earlier, the President could proclaim an emergency on the oral advice tendered by the Prime Minister, as it happened in 1975. Now, the approval of the whole cabinet is essential and it must be communicated to the President in writing.
- Before the act became effective in 1978, a proclamation issued by the President was to be approved by the Parliament within 2 months after the proclamation is made. Now, it must be approved within 1 month.
- Once approved earlier, it could remain in force for an indefinite period. But by the act, its period is fixed for 6 months only. The approval earlier, was to be on the basis of a simple majority, but at present, it needs a special majority.
- There was no parliamentary control, once a proclamation of emergency was approved by it. But, now a special sitting of the Lok Sabha can be held for the purpose of considering its disapproval. If one-tenth of the members of the Lok Sabha asks the Speaker to consider a proposal for discontinuation of the emergency, then the Speaker or the President may call a special sitting for considering such resolution. And if such resolution is passed by a simple majority, then the emergency remains withdrawn.
- Under **Article 358**, before the 44th Amendment Act came into force, the Fundamental Rights enumerated under **Article 19** were automatically suspended, whether the National Emergency proclaimed was on the basis of a war or an external aggression or internal disturbances.
- But now, under **Article 358**, **Article 19** is automatically suspended only when an emergency is declared on the basis of a war or a external aggression and not on the basis of an armed rebellion, i.e. **Article 19** cannot be suspended during an emergency proclaimed on the basis of an armed rebellion.

## President's Rule or State Emergency (Article 356)

- The President's Rule can be proclaimed under **Articles 355, 356 and 365**. **Article 355** says it shall be the duty of the union to protect every state against external aggression and internal disturbance and to ensure that the government of every state is carried on in accordance with the provision of this Constitution.
- **Article 356** says that if the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, he/she may issue a proclamation.

- **Article 365** administration says that whenever a state fails to comply with or give effect to any direction from the centre, it will be lawful for the President to hold that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution.

*By that proclamation, the President*

- may assume to him/herself all or any of the powers vested in the Governor.
- may declare that the powers of the Legislature of the State shall be exercisable to the Parliament.
- The President cannot, however, assume to himself, any of the power vested in the High Court or suspend the operation of any provisions of the Constitution relating to the High Court.
- The Parliament can confer on the President, the power to make laws for the state. The Parliament may also authorise the President to delegate such power to any other authority as specified by him/herself.
- If the Lok Sabha is not in session, the President may authorise expenditure from the Consolidated Fund of the State, pending sanction of such expenditure by the Parliament.
- Under **Article 356**, the President acts on the report of the Governor or otherwise. i.e. the President can act even without the Governor's report. A proclamation issued under Article 356 must be laid before each House of the Parliament.
- It will cease to operate at the expiry of 2 months, unless before that period it has been approved by both the Houses of the Parliament.
- A proclamation so approved shall, unless revoked, be in operation for 6 months from the date of the issue of the proclamation. It can be approved by the Parliament for a further period of 6 months.

- A proclamation issued under Article 356, can, therefore, be in force normally for a maximum period of 1 year stretch. However, it can be extended by the Parliament not beyond 3 years *from the date of issue of the proclamation, if*
  - A Proclamation of Emergency under Article 352 is in operation in the whole of India or in the whole or any part of the state at the time of passing of such resolution.
  - The Election Commission certifies that the continuance in force of the proclamation beyond the 1 year period is necessary on account of the difficulties in holding the general elections to the Legislative Assembly of the concerned state.

## Effects of Imposition of the President's Rule

- During State Emergency, the President of India assumes all executive power of the state to him/herself. The state administration is run directly by him/her or through a person designated for the purpose by him/her. It is the Governor of State who runs the state administration on behalf of the President.
- During the President's Rule, the State Assembly is either dissolved or kept under suspension. The State Assembly is kept under suspended animation if there is hope that a new Council of Ministers can be formed within a short time. During this period, the MLAs do not lose their membership of the Assembly, nor there is election held to the Assembly.
- The Parliament makes laws on all items included in the State List. It also passes the state budget. However, if the Lok Sabha is not in Session, the President may authorise any expenditure from the Consolidated Fund of State.
- During the State Emergency, the High Court of the state, as before, functions independently without any of its powers being curtailed. The President has also power to proclaim ordinances in the state.

### Difference Between Articles 352 and 356

Article 352 restricts central intervention to a situation of war, external aggression or armed rebellion. **Article 356** applies to situation of failure of Constitutional machinery in a State.

Under Article 352 the State machinery is not suspended in the state. The State Legislature and Executive continue to function. The only effect is that the centre gets concurrent power of legislation and administration in the State matters. While **Article 352** affects Fundamental Rights **Article 356** does not.

Under **Article 352** the relationship of all the States with the Centre undergoes a change but under **Article 356** the relationship of only one State (where the President's Rule is imposed) with the Centre is affected.

The proclamation under Article 356 is to be approved by the Parliament first within two months, and thereafter every 6 months, and the maximum period for which it can remain in force is 3 years. Whereas a proclamation under **Article 352** has to be approved initially within 6 months with there being no upper limit provided.

- During State Emergency, the Union Government assumes absolute control over state administration except the judiciary. As the state administration is mostly run in the name of the President, the **State Emergency** is known as **President's rule**.

## Sarkaria Commission

- *Sarkaria Commission recommended that*
  - The President's rule can be invoked only in the event of political crisis, internal sub-version, physical breakdown and non-compliance with constitutional directives of the union.
  - Approval of the Parliament is to be secured before imposing President's rule.
  - Before invoking Article 356, a warning in specific terms should be given to the erring state.
  - All alternatives should be exhausted to contain the situation and all attempts to resolve the crisis should be made.
  - The Governor's report should be the speaking document.

## Punchhi Commission

- In the report of Madan Mohan Punchhi, there should be an Amendment in Articles 355 and 356 to enable the centre to bring specific trouble-torn areas under its rule for a limited period.
- The commission has proposed Localising Emergency provisions under Articles 355 and 356, *contending that localised areas* :
  - either a district or
  - parts of a district
- These areas be brought under Governor's Rule instead of the whole state. Such an Emergency provision should however not be a duration of more than 3 months.

## National Commission to Review the Working of the Constitution

- *National Commission to Review the working of the Constitution recommended that*
  - Article 356 should be used sparingly and only as a remedy of the last resort and after exhausting actions under other Articles like 256, 257 and 355 etc.
  - In case of political breakdown, before issuing a proclamation under Article 356, the concerned state should be given an opportunity to explain its position and redress the situation, unless the situation is such that following the above course would not be in the interest of security of the state or defence of the country.
  - The Governor's report should be speaking document containing a precise and clear statement of all material facts and grounds.

### Article 356 and Judicial Review

In SR Bommai Case (1994), the Supreme Court held that the power of the President in issuing a Proclamation of Emergency in a state is subject to judicial review to the extent of

- examining, whether it was issued on the basis of any relevant material at all or
- whether the material was relevant or
- whether the proclamation was a malafied exercise of power.

Another important principle laid down by the court is that the power of dissolving a State Legislative Assembly can be exercised by the President only after the proclamation is approved by both the Houses of the Parliament.

## Financial Emergency (Article 360)

- **Article 360** provides that if the President is satisfied that a situation has arisen whereby the financial stability of India or the credit of India or of any part of India is threatened, he/she may make a declaration to that effect. Under such situation, the executive and legislative powers will go to the center. This article has never been invoked till date.
- The proclamation of Financial Emergency shall ordinarily remain in force for a period of 2 months. However, it can continue to stay beyond 2 months if before the expiry of the 2-months period, the proclamation has been approved by both the Houses of the Parliament.
- If, at the time of proclamation of Financial Emergency, the Lok Sabha stands dissolved, the proclamation needs to be approved by the Lok Sabha within 30 days of its meeting after its reconstitution, provided in the meantime the Rajya Sabha has approved it.
- The National Emergency and Financial Emergency have no time limit. They can continue to be extended without any limit. But the State emergency has a time limit. It cannot go beyond 3 years.

## Effects of Financial Emergency

- The Executive Authority of the centre extends to directions as the President may deem necessary and adequate for the purpose.
- It may include a provision requiring the reduction of salaries and allowances of public servant the reservation of all Money Bills for the consideration of the President.
- The President may issue direction for the reduction of salaries and allowance of union servants or the Judge of Supreme Court and High Court.
- Thus, during Financial Emergency, the centre acquires full control over the states in financial matters.
- During the operation of Financial Emergency the executive authority of the union extends to the giving of directions to any state to observe such canons of financial propriety as may be specified on the directions.

# Self Check

## Build Your Confidence

**1. Consider the following statements in respect of Financial Emergency under Article 360 of the Constitution of India [IAS 2007]**

1. A proclamation of financial emergency issued shall cease to operate at the expiration of 2 months, unless before the expiration of that period, it has been approved by the resolution of both Houses of the Parliament.
2. If any proclamation of financial emergency is in operation, it is competent for the President of India to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the union, but excluding the Judges of the Supreme Court and the High Courts.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**2. Which of the following are effects of the Proclamation of Financial Emergency made by the President of India?**

1. The President can give directions to the states to observe certain canons of financial propriety.
2. He can modify the provisions relating to the distribution of revenue between union and states.
3. He can direct the Governors of reserve all their Financial Bills for his approval.
4. He can ask the states to reduce salaries of their employees including the Judges of High Courts.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 2 and 4  
(c) 2, 3 and 4 (d) All of these

**3. Which one of the following pairs is/are correctly matched?**

1. National Emergency : Article 352
2. Financial Emergency : Article 356
3. State Emergency : Article 360

**Codes**

- (a) 1 and 2 (b) 2 and 3 (c) Only 1 (d) All of these

**4. In case of proclamation of emergency on the grounds of war or external aggression, which of the following is incorrect?**

1. All Fundamental Rights will be automatically suspended.
2. The right to move a court for enforcement of any Fundamental Right is suspended.
3. The President may order the suspension of enforcement of any Fundamental Right except Articles 20-21.
4. The Parliament may authorise suspension of all Fundamental Rights.

**Select the correct answer using the codes given below**

- (a) 1, 3 and 4 (b) 1, 2 and 4  
(c) 2, 3 and 4 (d) All of these

**5. On whose satisfaction, period of emergency shall be extended for operation in case security of India or any part of the Indian territory is threatened?**

- (a) Prime Minister (b) Home Minister  
(c) President of India (d) Vice-President of India

**6. Consider the following statements**

1. Proclamation of Emergency must be approved by the Parliament within 3 months of its proclamation.
2. If approved by the Parliament, the emergency continues for 6 months.
3. Emergency shall be revoked by the President when the Lok Sabha passes a resolution disapproving the continuance of emergency.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 1 and 3  
(c) 2 and 3 (d) All of these

**7. Who has the constitutional power to approve 'President rule' in the state under Article 356?**

- (a) Prime Minister  
(b) Parliament  
(c) Union Council of Ministers  
(d) State Government

**8. Consider the following statements**

1. The life of the Lok Sabha can be extended by only 1 year during emergency.
2. The life of State Legislative Assembly can be extended by any length of time during emergency.
3. The extended life of the Lok Sabha cannot beyond 6 months after the emergency has been discontinued.

**Which of the statement(s) given above is/are correct?**

- (a) 1 and 2 (b) Only 2  
(c) 1 and 3 (d) 2 and 3

**9. Which one of the following cannot be suspended or restricted even during National Emergency ?**

- (a) Right to reside and settle in any part of the country  
(b) Right to life and personal liberty right  
(c) Right to move freely throughout the territory of India  
(d) Right to carry on any profession or business

**10. Consider the following statements**

1. The imposition of the President's rule is subject to judicial review.
2. The burden lies on the centre to justify the imposition of the President's rule.
3. State Government pursuing anti-secular politics is liable to action under Article 356.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 2 (d) All of these



1. (a) 2. (d) 3. (c) 4. (b) 5. (c) 6. (c) 7. (b) 8. (c) 9. (b) 10. (d)

# Chapter eighteen

## Scheduled and Tribal Areas

### Constitutional Provisions

*Tribal societies are traditionally governed by customary laws of different tribes and have been historically isolated from mainstream societies and thus, they require special provisions for governance. The Constitution provides such provisions under Article 244. The scheduled areas are regions where there is a sizeable tribal population.*

- Under Indian Constitution Part X, **Article 244** deals with the scheduled and tribal areas. The expression 'Scheduled Areas' means such areas as the President may by order declare to be scheduled areas in any state except Assam, Meghalaya, Tripura and Mizoram.
- The scheduled areas have been given autonomy in the affairs of marriage, law, property transfer, inheritance etc and such others for the tribal welfare. The State Governments have few restrictions with regard to the control over tribal areas.

### Administration and Control of Scheduled and Tribal Areas

The Fifth Schedule makes the following provisions for administration and control of these areas—

### Executive Power of Union and State in Scheduled Areas

- The executive power of a state extends to the scheduled areas and the Governor has a special responsibility with respect to these areas and submit a report to the President with respect to the conditions and administration of these area annually or whenever so required by the President.

- The executive power of the centre extends to giving instructions to the states regarding the administration of these areas.

### States and their Scheduled Areas Fifth Schedule

**Andhra Pradesh** Vishakhapatnam, East Godavari, West Godavari, Adilabad, Srikakulam, Vizianagaram, Mahboobnagar, Prakasam (only some mandals are scheduled mandals).

**Jharkhand** Dumka, Godda, Deogarh, Sahabganj, Pakur, Ranchi, Singhbhum (East and West), Gumla, Simdega, Lohardaga, Palamu, Garwa, (some districts are only partly tribal blocks).

**Chhattisgarh** Sarbhuj, Bastar, Raigarh, Raipur, Rajnandgaon, Durg, Bilaspur, Sehdol, Kanker.

**Himachal Pradesh** Lahaul and Spiti districts, Kinnaur, Pangi tehsil and Bharmour Sub-tehsil in Chamba district.

**Madhya Pradesh** Jabua, Mandla, Dhar, Khargone, East Nimar (Khandwa), Sailana tehsil in Ratlam district, Betul, Seoni, Balaghat, Morena.

**Gujarat** Surat, Bharuch, Dangs, Valsad, Panchmahal, Sadodara, Sabarkanta (parts of these districts only).

**Maharashtra** Thane, Nasik, Dhule, Ahmednagar, Pune, Nanded, Amravati, Yavatmal, Gadchiroli, Chandrapur (parts of these districts only).

**Odisha** Mayurbhanj, Sundargarh, Koraput (fully scheduled area in these three-districts), Raigada, Keonjhar, Sambalpur, Boudhkondmals, Ganjam, Kalahandi, Bolangir, Balasor (parts of these districts only).

**Rajasthan** Banswara, Dungarpur (fully tribal districts), Udaipur, Chittaurgarh, Siroi (partly tribal areas).

### Tribal Advisory Council (TAC)

- Each state having scheduled areas has to establish a TAC to advise on welfare and advancement of the scheduled tribes. It consists of 20 members, of which three-fourths are to be representatives of the scheduled tribes in the State Legislative Assembly.

- Similar council can also be established in a state having Scheduled Tribes but not scheduled areas therein, if the President so directs.

## Laws Applicable to Scheduled Areas

- The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the state shall not apply to a scheduled area or any part thereof in the state or shall apply to a subject to such exceptions and modifications as he/she may specify in the notification.
- The Governor may make regulations for the peace and good government of any area in a state which is for the time being a scheduled area.
- In making any such regulation, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.
- All regulations made shall be submitted forthwith to the President and until assented to by him/her, shall have no effect. No regulation shall be made unless the Governor has, consulted Tribes Advisory Council.

## Administration of Tribal Areas under Sixth Schedule

- The special provision has been made because the tribal people of these areas have not adopted the mainstream lifestyle yet. They still have their roots in their own culture, customs and civilisation.

*The Sixth Schedule makes the following provisions:*

### Tribal Areas under Sixth Schedule

#### Assam

- The North Cachar Hills District
- The Karbi Anglong District
- The Bodoland Territorial Areas District

#### Meghalaya

- Khasi Hills District
- Jaintia Hills District
- Garo Hills District

#### Tripura

- Tripura, Tribal Areas District space should be

#### Mizoram

- Chakma District
- Mara District
- Lai District

## Constitution of District Councils and Regional Councils

- There shall be a separate Regional Council for each area constituted as an autonomous region under this schedule.
- These District Council and Regional Councils are made for the exercise of certain legislative and judicial functions.
- In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition to the powers conferred on it by this schedule with respect to such areas. *The Governor shall make rules for:*
  - the composition of the District Councils and Regional Councils and the allocation of seats therein.
  - the delimitation of territorial constituencies for the purpose of elections to those councils.
  - the qualifications for voting at such elections and the preparation of electoral rolls therefore.
  - the qualifications for being elected at such elections as members of such councils.
  - the term of office of members of regional councils.
  - any other matter relating to or connected with elections or nominations to such councils.

## Powers of the District Councils and Regional Councils to Make Laws

- The District and Regional Councils have been granted power to frame laws with respect to items such as follow:
  - the management of any forest not being a reserved forest.
  - the use of any canal or water-course for the purpose of agriculture.
  - the regulation of the practice of jhum or other forms of shifting cultivation.
  - the establishment of village or town committees or councils and their powers.
  - any other matter relating to village or town administration, including village or town police and public health and sanitation.
  - the appointment or succession of Chiefs or Headmen.
  - the inheritance of property.
  - marriage and divorce.
  - social customs.
- However, all such laws passed by the councils shall have to be produced before the Governor before they come into execution if the Governor deems so.
- The Governor may also direct by order that the laws passed by the State Legislature may not apply or shall apply with modifications to the territories of District Councils and Regional Councils. The same applies to laws passed by the Parliament, but the Governor here has to act in consultation with the President.

# Self Check

## Build Your Confidence

1. Who among the following is constitutionally empowered to declare a geographical area as a scheduled area?

1. Governor                      2. Chief Minister  
3. Prime Minister              4. President

Select the correct answer using the codes given below

(a) 1 and 4                      (b) 2 and 3  
(c) Only 1                      (d) Only 4

2. The Constitution under Sixth Schedule, contains special provisions for the administration of tribal areas in the four North-Eastern states.

(a) The Chakma District  
(b) The Mora District  
(c) The Lai District  
(d) The Karbi Anglong District

3. The provisions of 6th Schedule are not applicable to, which one of the following state?

(a) Assam                      (b) Tripura  
(c) Manipur                      (d) Mizoram

4. Which of the following Article is related to Fifth Schedule?

(a) Article 244                      (b) Article 232  
(c) Article 254                      (d) Article 275

5. Which Schedule of the Constitution of India contains special provisions for the administration and control scheduled areas in several states? [IAS 2008]

(a) 3rd                      (b) 5th  
(c) 7th                      (d) 9th

6. Consider the following statements, with respect to the administration of tribal areas—

1. If there are different tribes in an autonomous district, the Governor can divide the district into several autonomous regions.
2. The President is empowered to declare an area to be a tribal area. He can also increase or decrease its area.

Which of the above statement(s) is/are true, choose from given below codes

(a) Only 1                      (b) Only 2  
(c) Both 1 and 2                      (d) Either 1 nor 2

7. Which of the following matters come under the Jurisdiction of District Councils and Regional Councils?

1. Social Customs
2. Marriage and Divorce
3. Inheritance of Property

Select the correct answer using the codes given below

(a) Only 1                      (b) 2 and 3  
(c) 1 and 2                      (d) All of these

8. Who can make rules regarding the delimitation of territorial constituencies for the purpose of elections to District Councils and Regional Councils?

(a) President of India                      (b) Governor of State  
(c) Prime Minister of India                      (d) Chief Minister of State

9. Governor of the State can make rules for

1. the term of office of members of regional councils.
2. composition of regional councils.
3. electoral roles for regional council elections.

Select the correct answer using the codes given below

(a) 1 and 2                      (b) 1 and 3  
(c) 2 and 3                      (d) All of these

10. Which of the following tribal areas under Sixth Schedule is not in Assam?

(a) North Cachar Hills District  
(b) The Karbi Anglong District  
(c) Bodoland Territorial Areas District  
(d) Jaintia Hills District

11. The Provisions in 5th Schedule and 6th Schedule in the Constitution of India are made in order to

- (a) protect the interest of scheduled tribes.
- (b) determine the boundaries between state.
- (c) determine the powers, authority and responsibilities of Panchayats.
- (d) protect the interests of all the border states.

12. The District and Regional Councils can frame laws regarding

1. the management of any forest not being a reserved forest.
2. the regulation of shifting cultivation.
3. use of water course for the purpose of agriculture.

Which of the statements given above is/are correct?

(a) Only 2                      (b) 1 and 3  
(c) 2 and 3                      (d) All of these

13. Who can repeal or amend any Act of Parliament or of Legislature of the State or any existing law which is for the time being applicable to the area covered under scheduled area?

(a) President of India                      (b) Supreme Court  
(c) Governor of State                      (d) High Court of State



1. (d)                      2. (d)                      3. (c)                      4. (a)                      5. (b)                      6. (a)                      7. (d)                      8. (b)                      9. (d)                      10. (d)  
11. (a)                      12. (d)                      13. (c)

# Chapter nineteen

## Local Government

*The institution of Panchayats have been seminal to nearly all forms of political administration that the mainstream India has witnessed throughout history, spanning several millennia. Panchayats are units of local governance involving various administrative and financial functions. Municipalities are the urban counterpart of Panchayats. Local self-government was given constitutional status by the 73rd and 74th Amendment Act 1992.*

### Local Self-Government

- It is the third level of government apart from the State and Central Government. The idea of Panchayati Raj forms a basic tenet of the **Gandhian philosophy** that envisions village Panchayats as the units of self-government. **Panchayati Raj Institutions** (PRIs) serve as steering instruments for people's empowerment in so far as they enhance people's capacities to bring tangible progress in their socio-economic life through direct participation in routine administration.
- Their role becomes even more substantive in the light of governing diverse and plural societies. Besides being easily accessible, PRIs nurture grassroot leadership, impart political education, build trust and faith in the power structures.
- Traditionally, Panchayats have been headed by five elderly wise men whose acumen in administration served a useful purpose in local administration.
- The Panchayats earned legitimacy not only by the consent and approval of the village or town residents but also of the central political power reigning the entire territory.
- During the colonial period, few notable British authorities like **Lord Mayo** and **Lord Ripon** emphasised the role of Panchayats for efficient local administration and did try to delegate certain functions to them. Therefore, Lord Ripon is known as **the Father of Local Self-Government**.

### Decentralised Planning

- Decentralised planning involves preparation and execution of social and economic developmental plans at the grassroot levels. Unlike centralised planning, wherein an elite group of technocrats and administrators drafts a blue print plan, decentralised planning involves ordinary residents who may not be experts but nevertheless are conscious of their needs and aspirations.
- PRIs acts as driving vehicles for these plans. The rationale behind decentralised planning is that local issues like roads, water management etc are better understood and managed by the local population as they have capability to mobilise resources required efficiently.
- People's participation gives them a sense of empowerment. The executive agencies shall be held accountable regularly. As there is little hierarchy of commands, transparency is bound to increase. This may help prevent the occurrence of corruption. Time lags, cost overruns are also reduced.
- Ensuring people's participation makes, it a real democratic exercise too.

## Evolution of Panchayati Raj Institutions

### Balwant Rai Mehta Committee

- In 1957, the Government of India appointed a committee to examine the functioning of the *Community Development Programme* (1952) and the *National Extension Service* (1953) and to suggest measures for their better performance.
- The Committee submitted its report in November, 1957 and recommended a scheme for democratic decentralisation which ultimately came to be known as the '*Panchayati Raj*'.

#### Recommendations

- A three-tier Panchayati Raj System which includes Zila Parishad at the district level, Panchayat Samiti at the Block Level and Gram Panchayat at the Village level.
- These tiers should be organically linked together through a device of indirect elections.
- Members of Panchayats at each level i.e. village, intermediate and district levels are directly elected.
- All the planning and developmental activities should be entrusted to these bodies.
- The Panchayat Samiti should be the executive body while the Zila Parishad should be the advisory, co-ordinating and supervisory body.
- The District Collector should be the Chairman of the Zila Parishad.
- There should be a genuine transfer of power and responsibility to these democratic bodies.
- Adequate resources should be transferred to these bodies to enable them to discharge their functions and fulfil their responsibilities.
- A system should be evolved to effect further devolution of authority in future.
- These recommendation were accepted by NDC in January 1958 and the council also left it to states to evolve their own patterns suitable to the local conditions.
- Rajasthan was the first state to establish the institution of Panchayati Raj in Nagaur districts on 2nd October, 1959. Rajasthan was followed by Andhra Pradesh.

### K Santhanam Committee

- One of the prime areas of concern in this long debate on Panchayati Raj institutions was fiscal decentralisation. The K Santhanam Committee was appointed to look solely at the issue of PRI finance, in 1963. The fiscal capacity of PRIs tends to be limited, as rich resources of revenue are pre-empted by higher levels of government and issue is still debated today. The Committee was asked to determine issues related to sanctioning of grants to PRIs by the state government, evolving mutual financial relations between the three tiers of PRIs, gifts and donation, handing over revenue in full or part to PRIs.

#### Recommendations

- Panchayats should have special powers to levy special tax on land revenues and home taxes etc.
- All grants and subventions at the state level should be mobilised and sent in a consolidated form to various PRIs.
- A Panchayat Raj Finance Corporation should be set-up to look into the financial resource of PRIs at all levels, provide loans and financial assistance to these grassroots level governments and also provide non-financial requirements of villages.

### Ashok Mehta Committee

- In December 1977, the Janata Government appointed a Committee on Panchayati Raj institutions under the Chairmanship of Ashok Mehta. It submitted its report in August, 1978 and made recommendations to revive and strengthen the declining Panchayati Raj System in the country.

#### Recommendations

- The three-tier system of the Panchayati Raj should be replaced by two-tier system, i.e. the Zila Parishad at the district level and below it, the Mandal Panchayat consisting of a group of villages comprising a population upto 20000.
- A district should be the first point for the decentralisation under the popular supervision below the State level.
- The Zila Parishad should be the executive body and be made responsible for planning at the district level.
- The Panchayati Raj Institutions should have compulsory powers for taxation to mobilise their own financial resources.
- There should be a regular social audit by a district level agency and by a committee of legislators to check whether the funds allotted for the vulnerable social and economic groups are actually spent on them.
- The state government should not supersede the Panchayati Raj Institutions. In case of imperative super session, election should be held within six months from the time of super session.
- The Nyaya Panchayats should be kept as separate bodies from that of development Panchayats. They should be presided over by a qualified Judge.
- Development functions should be transferred to the Zila Parishad and all the development staff should work under its control and supervision.
- The voluntary agencies should play an important role in mobilising the support of the people for the Panchayati Raj.

- A minister for the Panchayati Raj should be appointed in the State Council of Ministers to look after the affairs of the Panchayati Raj institutions.
- Seats for the SCs and the STs should be reserved on the basis of their population.
- Due to the collapse of the Janata Government before the completion of its term, no action could be taken on the recommendations of the Ashok Mehta Committee at the central level. But the three states Karnataka, West Bengal and Andhra Pradesh took steps to revitalise the Panchayati Raj, keeping in view some of the recommendations of the Ashok Mehta Committee.

## LM Singhvi Committee

- In 1986, Rajiv Gandhi Government appointed a committee on the 'Revitalisation of the Panchayati Raj Institutions for Democracy and Development' under the Chairmanship of LM Singhvi.

### Recommendations

- The Panchayati Raj institutions should be constitutionally recognised, protected and preserved. For this purpose, a new chapter should be added in the Constitution of India. It also suggested some constitutional provisions to ensure regular, free and fair elections to the Panchayati Raj bodies.
- Nyaya Panchayats should be established for a cluster of villages.
- The villages should be organised to make the Gram Panchayats more viable. It also emphasised the importance of the Gram Sabha and called it as the embodiment of direct democracy.
- The village Panchayats should have more financial resources.
- The Judicial tribunals should be established in each State to eradicate controversies about election to the Panchayati Raj Institutions, their dissolution and other matters related to their functioning.

### Constitutionalisation

First time, introduced by Rajeev Gandhi Government in July, 1989, but not passed by Parliament, second time by VP Singh Government in November, 1989, but it lapsed due to the fall of government. *Finally*

- The Narasimha Rao Government introduced the Constitutional Amendment Bill in the Lok Sabha in September 1991.
- It was passed by the Lok Sabha on 22nd, December 1992 and by the Rajya Sabha on 23rd, December. Later, it was approved by the 17 State Assemblies and received the assent of the President of India on 20th, April 1993.
- Thus, it emerged as the 73rd Constitutional Amendment Act, 1992 and came into force on 24th, April 1993.

## 73rd Constitutional Amendment Act, 1992

- The Act provides for a three-tier system of the Panchayati Raj in the states, i.e. Panchayats at the village, the intermediate and the district level. *The Act defines all the terms in the following manner*
  - Panchayat means an institution (by whatever name called) of Local Self-Government for rural areas.
  - Village means, a village specified by the Governor through a public notification to be a village for this purpose and includes a group of villages so specified.
  - Intermediate level between the village and the district specified by the Governor through a public notification for this purpose.
- The Act brings about uniformity in the structure of the Panchayati Raj throughout the country. A State having population not exceeding 20 lakh may not constitute Panchayats at the intermediate level.

## Salient Features of the Act

- This Act corresponds to Part IX of Constitution of India.
- The Act has added the *Eleventh Schedule to the Constitution of India*.
- It contains 29 functional items of the Panchayats and deals with Article 243 to 243O.
- The Act gives a **Constitutional Status** to the Panchayati Raj Institutions.
- The state governments are under the constitutional obligation to adopt the new Panchayati Raj System in accordance with the provisions of the Act.
- Neither the formation of the Panchayats nor the holding of elections at regular intervals depends on the will of the state government.
- The provisions of the Act can be grouped into two categories:
  - The **compulsory provisions** of the Act are to be included in the State Laws creating the requisite provision required like timely elections, reservations etc.
  - The **voluntary provisions** on the other hand, may be included at the discretion of the states e.g. devolution of powers, taxes etc.
- The Act does not apply to the states of **Jammu and Kashmir, Nagaland, Meghalaya** and **Mizoram** and certain other areas. These areas include the scheduled areas and the tribal areas referred to in Article 244 of the Constitution, the hilly areas of Manipur for which a district council exists and Darjeeling district of West Bengal for which Darjeeling Gorkha Hill council exists.
- The President of India may direct that the provisions of this Act shall apply to any (Union Territory subject to such exceptions and modification as he/she may specify.

## Provisions of the Act

### Gram Sabha (Article 243A)

- The Act provides for a Gram Sabha as the foundation of the Panchayati Raj System. It is a body consisting of persons registered in the electoral rolls of the village comprised within the area of the Panchayat at the village level.
- It is a village assembly consisting of all the registered voters in the area of a Panchayat. It shall exercise such powers and perform such functions at the village level as the State Legislature determines.

### Election of the Members and the Chairpersons

(Article 243C)

- All members of the Panchayats at the Village, the intermediate and the district levels shall be elected directly by the people. The Chairperson of the Panchayats at the intermediate and district levels shall be elected indirectly by and from amongst the elected members thereof. The Chairperson of a Panchayat at the village level shall be elected in such a manner as the State Legislature determines.

### Reservation of Seats (Article 243D)

- The Act provided for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Panchayat (at all the levels) in proportion of their population in the Panchayat area. The State Legislature shall provide for the reservation of offices of the Chairpersons in the Panchayat at the village or any other level for the SCs and the STs.
- The Act provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging to the SCs and the STs).
- The Act authorises the Legislature of a state to make any provision for reservation of seats in any Panchayat or offices of the Chairperson in the Panchayat at any level in favour of the backward classes.

### Duration of Panchayats (Article 243E)

- The Act provided for a 5 years term of office to the Panchayat at every level. However, it can be dissolved before the completion of its term. *Fresh election to constitute a Panchayat shall be completed*
  - Before the expiry of its term, of 5 years;
  - In case of dissolution, before the expiry of a period of 6 months from the date of its dissolution.

### Disqualifications (Article 243F)

- A person shall be disqualified for being chosen as or for being a member of the Panchayat if he/she is so disqualified
- Under any law for the time being in force for the purposes of elections to the Legislature of the state concerned.
- Under any law made by the State Legislature.
- No person shall be disqualified on the grounds that he is less than 25 years of age, if he/she had attained the age of 21 years. All questions of disqualifications shall be referred to such authority as the State Legislature determined.

## Powers and Functions

(Article 243G)

- The State Legislature may endow the Panchayats, with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions for the devolution of powers and responsibilities upon Panchayats at the *appropriate level with respect to*
  - Preparation of plans for economic development and social justice.
  - The implementation of schemes for the economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

## Financial Provisions

(Article 243H-243I)

- *The State Legislature may, by law*
  - Authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
  - Assign to a Panchayat taxes, duties, tolls and fees levied and collected by the State Government.
  - Provide for making grants-in-aid to the Panchayats from the Consolidated Fund of the State and (provide for Constitution of funds for crediting all the financial requirements of the Panchayats).

## State Finance Commission

(Article 243I)

- The Governor of a state shall, after every 5 years, constitute a Finance Commission to review the financial position of the Panchayats.
- *It shall make the following recommendations to the Governor:*
  - The Principles which should govern the distribution between the States and the Panchayats of the net proceeds of taxes, duties, tolls and fees levied by the State.
  - The Principles which should govern the determination of taxes, duties, tolls and fees which may be assigned to the Panchayats.
  - The Principles which should govern the grants-in-aid to the Panchayats from the Consolidated Fund of State.
  - The measures needed to improve the financial position of the Panchayats. Any other matter returned to the Finance Commission by the Governor in the interest of sound finance of the Panchayats.
  - Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

- The State Legislature may provide for the composition of the commission, the required qualifications of its members and the manner of their selection. The Governor shall place the recommendations of the commission alongwith the action taken report before the State Legislature.
- The Central Finance Commissioner shall also suggest the measures needed to augment the Consolidated Fund of State to supplement the resources of the Panchayats in the States (on the basis of the recommendations made by the Finance Commission of the State).

### **Audit of Accounts of the Panchayat** (Article 243J)

- The State Legislature may make provisions with respect to the maintenance of the accounts by the Panchayats and the auditing of such accounts.

### **State Election Commission** (Article 243K)

- The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the Panchayats shall be vested in the State Election Commission.
- It consists of a State Election Commissioner, who is to be appointed by the Governor.
- His/Her conditions of service and tenure of office shall be determined by the Governor.
- He/She shall not be removed from the office except in the manner and on the grounds prescribed for the removal of a Judge of the State High Court.
- His/Her conditions of service shall not be varied to his disadvantage after his appointment.
- This is the largest experiment in decentralisation of governance in the history of humanity.

## **Problems in the Working of Panchayats**

- Panchayati Raj in India faces problems at political, economic and social levels. These problems have stood in the way of efficient functioning of the Panchayati Raj Institutions.

### **At Political and Administration Level**

- Though, the Constitution provides elections after every 5 years, some of the states have tasted elections after decades and in some elections are yet to take place.
- Groupism, caste, class etc play a dominant role in the election and working of the representatives.
- Political interference from the State governments and the administrative agencies has become a common phenomenon.
- There are absence of clear functional jurisdiction for Panchayats.
- There are absence of administrative autonomy to the Panchayats.
- There is absence of in-built structural and organisational strength to force the administrators to follow the decision. Use of manpower, money power and muscle power in elections to Panchayati Raj System.

### **At Social Level**

- Caste, class, religion and other sectarian interests are playing a dominant role in the working of Panchayati Raj Institutions.
- The policy of reservation for weaker section has not been of much use due to ignorance and illiteracy of people and the representatives.
- Anti-social and economically powerful people run the institution from backdoor.

### **At Economic Level**

- Paucity of funds and resources to the Panchayati Raj Institution.
- There are absence of coherence between the responsibilities and resources.
- Dependence upon the doles of the state government.
- Lack of financial autonomy and power to impose taxes and charges.
- Diversion of funds by the state governments, which were earmarked for development of Panchayati Raj institutions.

## **Proposed Amendments by Ministry of Panchayati Raj**

- It is proposed to make devolution of power and authority to local bodies mandatory with a suitable formulation.
- It is proposed that the Constitution be amended to create elected district councils substituting the District Panchayats which will have representation from both rural and urban areas (excluding metropolitan areas) in proportion to their population.
- It is proposed that provisions for Ward Sabhas be made in the Constitution and functions of the Gram Sabha be incorporated in the Constitution.
- It is proposed that the provisions that give discretion to the State Governments to make MPs, MLAs and MLCs members of Panchayats be repealed.
- It is proposed that seats and offices of Chairpersons be reserved for two continuous terms for a particular category and reservation be only in those territorial areas, Panchayats and District Councils where the population of a particular category is 5% or more.
- It is proposed to reconcile the term of the State Finance Commission with that of the Central Finance Commission.

- As Article 171(2) of the Constitution empowers Parliament to change the composition of Legislative Councils by law, it is proposed that, a law be framed under Article 171 (2) to provide that two-thirds of the members of the Legislative Councils shall be elected from among the elected members of the local bodies.

### **The Eleventh Schedule (Article 243G)**

*It contains the following 29 functional items placed within the purview of Panchayats.*

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

## **Panchayats (Extension to Scheduled Areas)**

### **Act, 1996 (PESA)**

- When the 73rd Amendment Act, 1992 was passed, it was not made to apply to Schedule Five and Six Areas. The PESA Act, 1996 was enacted on the basis of the report of the **Bhuria Committee** and came into operation on 24th December, 1996.
- This Act extends Panchayats to the tribal areas of 9 States, namely Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Odisha and Rajasthan, which intends to enable tribal society to assume control over their own destiny to preserve and conserve their traditional rights over natural resources.
- All the state governments have enacted their state legislations in pursuance with the PESA Act, 1996. The Act gives radical governance powers to the tribal community and recognises its traditional community rights over local natural resources.
- It not only accepts the validity of customary law, social and religious practices and traditional management practices of community resources, but also directs the state government not to make any law which is inconsistent with these. Accepting a clear-cut role for the community, it gives wide-ranging powers to Gram Sabhas, which had hitherto been denied to them by the law makers of the country.

*Gram Sabha are endowed specifically with the following powers:*

- the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant.
- the ownership of minor forest produce.
- the power to prevent alienation of land in the scheduled areas and take appropriate action to destroy any unlawfully alienated land of a scheduled tribe.
- the power to manage village markets by whatever name called.
- the power to exercise control over money lending to the scheduled tribes.
- the power to exercise control over institutions and functionaries in all social sectors; the power to control over local plans and resources for such plans including tribal sub-plans.

## **74th Constitutional Amendment Act, 1992**

- Constitutional Status for Municipalities emerged as the 74th Constitutional Amendment Act of 1992 came into force on 1st June, 1993. This Act contains Part-IX A of the Constitution of India. The Act also added the Twelfth Schedule to the Constitution. It contains 18 functional items of the Municipalities and consists of provisions from Articles 243 P to 243 ZG. The Act brought them under the purview of justifiable part of the Constitution.

### **Constitution of Municipalities (Article 243Q)**

- According to Article 243Q, the following shall be constituted in every State
  - a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area.
  - a Municipal Council for a smaller urban area.
  - a Municipal Corporation for a larger urban area, in accordance with the provisions of this part.

## Composition of Municipalities (Article 243 R)

- All the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as **Wards**.
- The Legislature of a State may, by law, provide for the representation in a Municipality of
  - persons having special knowledge or experience in Municipal administration.
  - the members of the House of the people and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area. The members of the Council of States and the members of the Legislative Council of the state registered as electors within the Municipal area.
  - the Chairpersons of the Committees constituted under clause (5) of Article 243S.

## Wards Committees (Article 243S)

- There shall be constituted a Wards Committee, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.
- The Legislature of a state may, by law, make provision with respect to
  - the composition and the territorial area of a Wards Committee.
  - the manner in which the seats in a Wards Committee shall be filled.
- A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.
- Where a Wards Committee consists of
  - one ward, the member representing that ward in the Municipality.
  - two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.

## Reservation of Seats (Article 243T)

- The Act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion in the municipal area. Further, it provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging to SCs and STs).

## Powers and Functions of Municipalities (Article 243W)

- The Legislature of a State may, by law, endow
  - The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to
    - (a) the preparation of plans for economic development and social justice.
    - (b) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule.
  - The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

## Financial Provisions (Article 243X)

- The State legislature may, by law.
  - Authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits.
  - Assign to a Municipality such taxes, duties, tolls and fees levied and collected by the state government for such purposes and subject to such conditions and limits.
  - Provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State.
  - Provide for Constitution of such funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in the law.

## Finance Commission (Article 243Y)

- The Finance Commission (which is constituted for the Panchayats) shall also, for every 5 years, review the financial position of municipalities and make recommendation to the Governor.

## Committee for District Planning (Article 243ZD)

- There shall be constituted in every state at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
- The Legislature of a State may, by law, make provision with respect to
  - the composition of the District Planning Committees.
  - the manner in which the seats in such Committees shall be filled provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district.
  - the functions relating to district planning which may be assigned to such Committees.
  - the manner in which the Chairpersons of such Committees shall be chosen.

- Every District Planning Committee shall, in preparing the draft development plan
  - have regard to
    - (a) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation.
    - (b) the extent and type of available resources whether financial or otherwise.
  - consult such institutions and organisations as the Governor may, by order, specify.
- The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the government of the state.

### Committee for Metropolitan Planning (Article 243ZE)

- There shall be constituted in every Metropolitan area, a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.
- The Legislature of a State may, by law, make provision with respect to
  - the composition of the Metropolitan Planning Committees.
  - the manner in which the seats in such Committees shall be filled provided that not less than two-thirds of the members of such Committee shall be elected by and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area.
  - the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees.
  - the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees.
  - the manner in which the Chairpersons of such Committees shall be chosen.
- Every Metropolitan Planning Committee shall, in preparing the draft development plan,
  - have regard to
    - (a) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area.
    - (b) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation.
    - (c) the overall objectives and priorities set by the Government of India and the Government of the State.
    - (d) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise.
  - consult such institutions and organisations as the Governor may, by order, specify.
- The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the government of the state.

### Courts cannot Interfere in Electoral Matters

According to Article 243ZG, notwithstanding anything in this Constitution:

- the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243ZA shall not be called in question in any court.
- no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

### The Twelfth Schedule (Article 243W)

*It contains the following 18 functional items placed within the purview of Municipalities:*

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds, prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

## Types of Urban Local Governments in India

### Municipal Corporation

- The Municipal corporation is the top-most Urban Local Government. It is created for the administration of big cities such as-Delhi, Mumbai, Kolkata, Hyderabad, Bangalore, etc.
- Municipal corporation is established in the states by the acts of concerned state legislatures and in the union territories by the acts of the Parliament of India.
- A Municipal corporation has three authorities, namely the council, the standing committees and the commissioner. The council, the deliberative and legislative wing of the corporation. It consists of the councillors directly elected by the people.
- The council is headed by a mayor. The standing committees are created to facilitate the working of the council. There is also a municipal commissioner, who is chief executive authority of the corporation. He/she is appointed by the state government and is generally a member of the IAS.

### Municipality

- The Municipalities are established for the administration of towns and smaller cities. It is also set-up in the states by the acts of the concerned state legislatures and in the Union Territory by the acts of the Parliament of India.
- Like Municipal corporation, a Municipality also has three authorities, namely, the council, the standing committees and the chief executive officer. The council is deliberative and legislative wing of the municipality. It consists of the councillors directly elected by the people.
- The council is headed by a President or chairman. The standing committees are created to facilitate the working of the council. The Chief executive officer is responsible for day-to-day general administration of the Municipality. He/she is appointed by the state government.
- **Notified Area Committee** It is set-up by government notification and not a legislation. All its members and chairman are appointed by the state government and not elected. It is set-up in area where Municipality is not feasible but potential for fast development is there.
- **Town Area Committee** It is set-up by an Act of State Legislature and can have both elected and nominated members. It is quasi-municipality with limited number of municipal functions like street lighting, sanitation etc.
- **Cantonment Board** They are autonomous bodies functioning under the overall control of the Ministry of Defence. These boards comprise elected members besides ex-officio and nominated members with the station

commander as the President of the Board. The resources of these Boards are limited as the bulk of the property is owned by government on which no tax can be levied. Thus, the central government provides financial assistance by way of grants-in-aid. The boards are responsible for discharging the mandatory duties like provision of public health, sanitation, primary education and street lighting etc.

- **Township** is established to provide civic amenities to its staffs and workers living in the colonies near the plant by large public enterprises. It is headed by the town administrator appointed by the enterprises.
- **Port Trust** is established by an Act of Parliament to manage and protect the ports alongwith to provide civic amenities in the port areas. It has both elected and nominated members and its chairman is an officer.
- **Special Purpose Agency** is established for single or specific purpose as statutory bodies by an act of State Legislature or as department by an executive resolution: like Housing Boards, Pollution Control Boards, Urban Development Authorities etc.

## Co-operative Societies

- In 1958, the National Development Council (NDC) had recommended a national policy on co-operatives. Jawaharlal Nehru had a strong faith in the co-operative movement. In 2011, the co-operatives were given constitutional status by the **97th Constitutional Amendment Act, 2011**. Co-operatives have been inserted in **Part IX B** covering **Articles 243 ZH-ZT**.
- Incorporation of co-operative societies (Article 243 ZI) subject to the provisions of this part, the Legislature of a state may, by law make provisions with respect to the incorporation, regulation and winding-up of co-operative societies based on the principles of voluntary formation, democratic member- control, member economic participation and antonomous functioning.

### Number and Term of

### Members of Board (Article 243 ZJ)

- The Board shall consist of such number of directors as may be provided by the Legislature of a State by law. The maximum number of directors of a co-operative society shall not exceed twenty-one.
- The Legislature of a state shall by law provide for reservation of one seat for the scheduled castes or the scheduled tribes and two seats for women on Board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

- The term of office of elected members of the board and its office bearers shall be 5 years from the date of election and the term of office bearers shall be coterminous with the term of the board. The legislature of a state shall, by law, make provisions for cooption of persons to be members of the board having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the co-operative society as members of the Board.
- The accounts of every co-operative society shall be audited within 6 months of the close of the financial year to which such accounts relate. The audit report of the accounts of an Apex Cooperative Society as may be defined by the state act shall be laid before the State Legislature in the manner, as may be provided by the State Legislature by law.

### **Election of Members of Board**

(Article 243 ZK)

- The superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to a co-operative society shall vest in such an authority or body, as may be provided by the legislature of a state by law.

### **Audit of Accounts of Co-operative Societies**

(Article 243 ZM)

- The legislature of a state may by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts atleast once in each financial year.

### **The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

#### *Provisions*

- The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling scheduled tribes and other traditional forest dwellers within the local limits of its jurisdiction.
- The State Government shall constitute a sub-divisional level committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights.
- The Act aims to recognise and vest the forest rights and occupation in forest land in forest dwelling scheduled tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.

# Self Check

## Build Your Confidence

1. The Government enacted the Panchayat Extension to Scheduled Areas (PESA) Act in 1996. Which one of the following is not identified as its objective? [IAS 2013]  
(a) To provide self-governance  
(b) To recognise traditional rights  
(c) To create autonomous regions in tribal areas  
(d) To free tribal people from exploitation
2. The Fundamental object of Panchayat Raj System is to ensure which among the following.  
(a) People's participation in development  
(b) Political accountability  
(c) Democratic decentralisation  
(d) Financial mobilisation  
*Select the correct answer using the codes given below*  
(a) 1, 2 and 3 (b) 2 and 4  
(c) 1 and 3 (d) All of these
3. In the areas covered under the Panchayat (Extension to the Scheduled Areas) Act, 1996, what is the role/ power of Gram Sabha? [IAS 2012]  
1. Gram Sabha has the power to prevent alienation of land in the scheduled areas.  
2. Gram Sabha has the ownership of minor forest produce  
3. Recommendation of Gram Sabha is required for granting prospecting licence or mining lease for any mineral in the scheduled areas.  
*Which of the statement(s) given above is/are correct?*  
(a) Only 1 (b) 1 and 2  
(c) 2 and 3 (d) All of these
4. Which Committee had first of all recommended three-tier Panchayati Raj in India in 1957 ?  
(a) Balwant Rai Mehta Committee  
(b) Ashok Mehta Committee  
(c) Setalwad Committee  
(d) Hanumanth Rai Committee
5. The Constitution (Seventy-Third Amendment) Act, 1992, which aims at promoting the Panchayati Raj Institutions in the country, provides for which of the following? [IAS 2011]  
1. Constitution of District Planning Committees.  
2. State Election Commissions to conduct all Panchayat elections.  
3. Establishment of State Finance Commissions.  
*Select the correct answer using the codes given below*  
(a) Only 1 (b) 1 and 2  
(c) 2 and 3 (d) All of these
6. Consider the following sources of Revenue of the Panchayats.  
1. Local Authority Grant by Finance Commission.  
2. Assistance by Central Co-operative Banks.  
3. Allocations for centrally Sponsored Schemes.  
4. Allocation from State Finance Commission.  
5. NABARD.  
*Select the correct answer using the codes given below*  
(a) 1 and 2 (b) 1, 2 and 4  
(c) 1, 2, 3 and 4 (d) 1, 2, 4 and 5
7. Consider the following statements in India, a Metropolitan Planning Committee [IAS 2011]  
1. is constituted under the provisions of the Constitution of India.  
2. prepares the draft development plans for metropolitan area.  
3. has the sole responsibility for implementing Government Sponsored Schemes in the metropolitan area.  
*Which of the statement(s) given above is/are correct?*  
(a) 1 and 2 (b) Only 2  
(c) 1 and 3 (d) All of these
8. Under the scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, who shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both?  
(a) State Forest Department  
(b) District Collector or Deputy Commissioner  
(c) Tahsildar or Block Development  
(d) Gram Sabha
9. If a Panchayat is dissolved, elections are to be held within [IAS 2009]  
(a) 1 month (b) 3 months  
(c) 6 months (d) 1 year
10. With reference to the Government of India's various programmes, what is Nirmal Gram Puraskar? [IAS 2006]  
(a) It is an incentive scheme of scholarships for the single girl child in families in villages  
(b) It is an incentive scheme of scholarships for female sports persons from villages who represent their states in any game  
(c) It is an incentive scheme for schools in the villages for computer education  
(d) It is an incentive scheme Panchayati Raj Institutions



1. (d) 2. (c) 3. (d) 4. (a) 5. (c) 6. (c) 7. (a) 8. (d) 9. (c) 10. (d)

# Chapter twenty

## Constitutional, Statutory, Non-Statutory Institutions

*The Indian Constitution not only provides for the Legislative, Executive and Judicial organs of the government but also establishes certain independent bodies. They are envisaged by the Constitution as the bulwarks of the democratic system of Government in India. Non-constitutional bodies are also of national importance and help in the effective function of the government.*

### Constitutional Institutions

Constitutional institutions are special because they are set-up and given functions and powers by the Constitution itself. These institutions can only be abolished or have any of its powers taken away or increased could be done by the constitutional amendment

### Comptroller and Auditor General (CAG)

- The Comptroller and Auditor General is an important official of the Union Government, his office has been created by the Constitution. He is appointed by the President.
- He is the guardian of the public purse and controls the entire financial system of the country at both the levels—the centre and the state.
- CAG is concerned only at the stage of audit after the expenditure has already taken place. He is called as the *Eyes and Ears of the Public Accounts Committee*. He is the head of the Indian Audit and Accounts Department.
- Articles 148 to 151 of the Constitution of India deals with the office of the CAG. He holds office for a term of **6 years** or till he attains the age of **65 years**, whichever is earlier.

### Independence of CAG (Article 148)

*Following points shows that the Constitution ensures the independence of the CAG*

- He is provided with the security of tenure. He can be removed by the President only in accordance with the procedure mentioned in the Constitution. Thus, he does not hold his office till the pleasure of the President, though he is appointed by him. He is not eligible for further office, after he ceases to hold his office.
- By charging his salary and other expenses for the maintenance of his office upon the Consolidated Fund of India.
- By providing that, the salary and other service conditions of the CAG shall not be changed to his disadvantage during his tenures.
- By giving him complete control over administrative staff.

#### Articles Related To CAG

- |                    |   |
|--------------------|---|
| <b>Article 148</b> | • Comptroller and Auditor General of India.                 |
| <b>Article 149</b> | • Duties and Powers of the Comptroller and Auditor General. |
| <b>Article 150</b> | • From of accounts of the Union and of the States.          |
| <b>Article 151</b> | • Audit Reports.  |

### Duties and Responsibilities (Article 149)

- Audit of receipts and expenditure of Consolidated Funds of the union and the states and UTs having a Legislative Assembly.
- Audit of the Contingency Fund of India and the public accounts.
- Audit of the transactions related to authorities, developmental bodies, welfare boards etc substantially funded by the government.

- Accounts of bodies receiving loans and grants from the government. Audit of stocks, shares of government organisations and corporations as enacted in the statutes constituting them.
- Submits his audit reports relating to the accounts of the centre and of a state to the President and Governor respectively.
- Ascertain and certifies the net proceeds of any tax or duty. His certificate is final.
- Acts as a guide, friend and philosopher of the Public Accounts Committee of Parliament.
- Regulatory agencies like Telecom Regulatory Authority of India (TRAI), Public-Private Partnerships (PPP), Panchayats and Municipalities should be audited by the Comptroller and Auditor General (CAG) of India.
  - Reports of CAG to be tabled in the Parliament timely.
  - Enabled to perform concurrent audit instead of post-merterm audit.

### Removal

- The procedure of removing the CAG is similar to that of a Judge of the Supreme Court.
- The CAG can be removed by the President after an address by each of the House of the Parliament supported by a majority of the total membership of that House and by majority of not less than two-third of the members of that House present and voting, on the ground of proved misbehaviour or incapacity.

### Nature of Audit

- *The audit can be one by CAG, is classified into following categories:*

#### Regulatory Audit

- This type of audit is done to see that the expenditure incurred was in conformity with the laws, rules and regulations framed to regulate the procedure for expending public money.

#### Propriety Audit

- While conducting the audit, the CAG satisfies himself that the rules and procedure ensure that assessment, collection and allocation of revenue are done in accordance with the law and there is no leakage of revenue which legally should come to government.

#### Performance Audit

- This type of audit sees that Government Programmes have achieved that desired objectives at lowest cost and given the intended benefits.

#### Local Bodies Audit

- With the introduction of the third-tier of Government in 1992, CAG has been given the responsibility to conduct the audit of local bodies.

### Reforms

- In the last 68 years, since independence, the CAG has lived upto the expectations of the makers of the Constitution of India. But as time changes, so must reforms also be injected so that an institution becomes much more effective.
- *The proposed reforms are as follows :*
  - CAG should be made a multi-member commission as it is in Japan, Sweden and some other countries.
  - **Qualifications** should be prescribed for the post of CAG. Since 1978, IAS officers have been appointed as CAG. An expert in finance, accounts and audit should be appointed as CAG.
  - The CAG must be given the power to recover the loss of government money by the civil servants. In France, the Court of Accounts recovers loss of government money or financial frauds, by those civil servants who are proved guilty.
  - In India, the CAG is neither a part of the executive nor the legislature. As prevalent in United Kingdom, the CAG must be made an integral part of the Parliament. Since, the executive is responsible to the legislature, on that basis, CAG must be part of the Parliament in India.

### National Commission for Scheduled Castes

- The Constitution of India has provided for appointment of a Special Officer under **Article 338** for investigation of all matters relating to the safeguards provided for the scheduled castes and scheduled tribes and to submit reports to the President, annually and at such other times, as the Commission may deem fit, about working of these safeguards. In order to oversee the implementation of various safeguards provided for SCs and STs, a multi-member Commission, known as the **Commission for SCs and STs**, came into being in August, 1978 with **Shri Bhola Paswan Shastri** as Chairman. This Commission was renamed as the National Commission for SCs and STs in 1987 to act as a National level advisory body for SC and ST matters.
- In 1990, the provisions of **Article 338** were amended, by the 65th Constitutional Amendment Act, 1990 and the office of the Commissioner for SCs and STs was replaced by the National Commission for SCs and STs in 1992 with its headquarters at New Delhi. It is headed by a Chairman who is aided by a Vice-Chairman and 5 other members. In 2003, the Commission was bifurcated into separate SC and ST Commissions by 89th Constitutional Amendment Act. The term of all the members of the Commission is 3 years from the date of assumption of charge.

### Functions and Duties

- Constitution of India under **Article 338** has assigned *the following duties and functions of the commission*
  - to investigate and monitor all matters relating to the safeguards provided for the SCs under the Constitution of India or under any other land and to evaluate the working of such safeguards.

- to enquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs.
- to participate and advise on the planning process of socio-economic development of the Scheduled Caste and to evaluate the progress of their development under the Union and any State.
- to present to the President, annually and at such other times as the Commission may deem fit reports upon the working of those safeguards.
- to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Schedule Castes as the President may by rule specify.

## National Commission for Scheduled Tribes

- By the 89th Amendment of the Constitution on 19th February, 2004, the National Commission for Scheduled Tribes has been setup under **Article 338A** on the bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes to oversee the implementation of various safeguards provided to Scheduled Tribes under the Constitution.
- The Commission comprises a chairperson, a vice-chairperson and three full time Members (including one woman member).
- The term of all the Members of the Commission is 3 years from the date of assumption of charge.

### Functions and Duties

- The Commission have all the powers of a civil court trying a suit. In accordance with clause 9 of Article 338A of the Constitution, Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.
- The Commission while investigating matters relating to the safeguards provided under the Constitution monitors the implementation and working of safeguards which include.
- Acting upon **Article 23** of the Constitution which prohibits traffic in human beings and forced labour etc., in respect of STs prohibition of child labour under **Article 24** in respect of STs. Educational safeguards under **Article 15 (4)** for reservation of seats in educational institutions.
- Economic safeguards under **Article 244** and working of **Fifth** and **Sixth Schedules** and release of grants for raising the level of administration in tribal areas to safeguard the distinct language, script or culture under **Article 29 (1)**.
- Working of service safeguards provided under Articles 16 (4), 16 (4A), 16 (4B) and 335 providing for adequate representation of Scheduled Tribes in appointments or posts.

### Enforcement of various laws such as :

- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- Bonded Labour System (Abolition) Act, 1976 (respect of Scheduled Tribes).
- The Child Labour (Prohibition and Regulation) Act, 1986 (in respect of Scheduled Tribes).
- State acts and regulations concerning alienation and restoration of land belonging to Scheduled Tribes.
- Forest Conservation Act, 1980 (in respect of Scheduled Tribes).
- The Panchayat (extension to the scheduled areas) Act, 1996.
- Minimum Wages Act, 1948 (in respect of Scheduled Tribes).

## National Commission for Backward Classes (NCBC)

- 102nd Constitutional Amendment Act, 2018 provides Constitutional status to the National Commission for Backward Classes (NCBC). 102nd Constitutional Amendment Act inserted two new articles in the Constitution of India : Article 338B and 342A. The Amendment also brings about the changes in Article 366.
- Article 338B provides authority to NCBC to examine complaints and welfare measures regarding socially and educationally backward classes.
- Article 342A empowers president to specify socially and educationally backward classes in various States and Union Territories.

### Functions and Duties

- The Commission shall examine requests for inclusion of any class of citizens as a backward class in the Central List of backward classes and hear complaints of over-inclusion or under-inclusion of any backward class in the lists and tender such advice to the Central Government as it deems appropriate. The advice of the Commission shall ordinarily be binding upon the Central Government.
- Under the Act, the Central Government may at any time and shall, at the expiration of 10 years from the coming into force of this act and every succeeding period of 10 years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

## Statutory Institutions

### National Commission for Minorities (NCM)

- With the enactment of the **National Commission for Minorities Act, 1992**, a statutory body as National Commission for minorities was established.
- The National Commission was setup on 17th May, 1993. The Government of India notified five religious communities viz. the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) and Jains as minority communities.

#### Functions

- Evaluation of the progress of the development of minorities under the Union and States.
- Monitoring of the working of the safeguards for minorities provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- Making recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments.
- Looking into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities.
- Getting studies to be undertaken into the problems arising out of any discrimination against minorities and recommending measures for their removal.
- Conducting studies, research and analysis on the issues relating to socio-economic and educational development of minorities. Suggesting appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments.
- Making periodical or special reports to the Central Government or any matter pertaining to minorities.

### National Commission for Women (NCW)

- The National Commission for Women was setup as a statutory body in January 1992 under the **National Commission for Women Act, 1990** with the following terms of references
  - Review the Constitutional and Legal safeguards for women.
  - Recommend remedial legislative measures.
  - Facilitate redressal of grievances.
  - Advise the Government on all policy matters affecting women.
  - The Ministry of Women and Child Development of Government of India is the nodal ministry for the Commission. The first Commission was constituted on 31st January, 1992 with Mrs Jayanti Patnaik as the chairperson of the Commission.

#### Composition

- A chairperson, committed to the cause of women, to be nominated by the Central Government.
- 5 Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, health, education or social welfare, provided that at least 1 member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively and a member secretary.
- The chairperson and members shall hold office for a period of 3 years. However, they can relinquish their office at any time by addressing to the Central Government.

#### Functions

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws.
- Recommendations for the effective implementation of those safeguards for the improving the conditions of women.
- Review, from time-to-time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereof, so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations.
- Take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities.
- Look into complaints and take suo moto notice of matters relating to deprivation of women's rights. Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development.
- In keeping with its mandate, the Commission has initiated various steps to improve the status of women and worked for their economic empowerment. The Commission has undertaken a survey to project the gender profile in all States and UTs to assess the status of women and their empowerment.
- It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, to make them more stringent and effective.
- It organises workshops/ consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female foeticide, violence against women etc., in order to generate awareness in the society against these social evils.

## National Human Rights Commission (NHRC)

- The Parliament enacted the *Protection of Human Rights Act in 1993* resulting in the establishment of the National Human Rights Commission (NHRC). The Commission is an autonomous statutory institution and the watching of the human rights in the country..

### Appointment

- The chairperson and members of the Commission are appointed by the President on the basis of recommendations of the Committee comprising the Prime Minister, the Speaker of the Lok Sabha, the Home Minister, the leaders of the opposition in the Lok Sabha and the Rajya Sabha and the Deputy Chairman of the Rajya Sabha.
- The chairperson and members shall hold office for a term of 5 years or till they attain the age of 70 years whichever is earlier.

### Functions

- Inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of violation of human rights or abetment or negligence in the prevention of such violation, by a public servant.
- Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
- Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living condition of the inmates and make recommendations thereon.
- Review the safeguards by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars.

### Focus of NHRC

- Areas facing terrorism and insurgency, custodial death, rape and torture, reform of the police, prisons and other institutions such as juvenile homes, mental hospitals and shelters for women have been given special attention.
- The Commission has urged the provision of primary health facilities to ensure maternal and child welfare essential to a life with dignity, basic needs such as potable drinking water, food and nutrition and highlighted fundamental questions of equity and justice to the less privileged, namely the scheduled castes and scheduled tribes and the prevention of atrocities perpetrated against them.

- Rights of the disabled, access to public services, displacement of populations and especially of tribals by mega projects, food scarcity and allegation of death by starvation, rights of the child, rights of women subjected to violence, sexual harassment and discrimination and rights of minorities, have been the focus of the Commission's action on numerous occasions.
- The Commission has its own investigating staff headed by a Director General of Police for investigation into complaints of human rights violations.

## Central Vigilance Commission (CVC)

- The Central Vigilance Commission was set-up by the Government in February, 1964 on the recommendations of the Committee on Prevention of Corruption, headed by **Shri K Santhanam**, to advise and guide Central Government agencies in the field of vigilance.
- Arising out of the case of **Vineet Narain vs Union of India**, the Supreme Court had directed the Central Government to confer statutory status to Central Vigilance Commission, which was hitherto an advisory body and also made it responsible for effective supervision of the functioning of Central Bureau of Investigation (CBI). The CVC is not controlled by any Ministry or Department. It is an independent body, which is only responsible for the Parliament.

### Powers and Functions

- *The Central Vigilance Commission shall have the following functions and powers, namely*
  - to inquire or cause an inquiry or investigation to be made on a reference made by the central government wherein it is alleged that a public servant being an employee of the central government or a corporation has committed an offence under the Prevention of Corruption Act, 1988.
  - to cause an inquiry or investigation to be made into any complaint against any official belonging to Group 'A' and Group 'B' Officers of the central government.
  - Review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988.
  - exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any central Act, government companies, societies and local authorities owned or controlled by that government.
- The CVC is not an investigating agency. The CVC either get the investigation done through the CBI or through the Departmental Chief Vigilance Officers. The CVC orders investigation in to cases of officials of central government Departments/Companies/Organisations only.

- The Commission is empowered to enquire or cause inquiries to be conducted in to offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants.
- The following categories of public servants are within the **advisory jurisdiction** of the commission
  - Group 'A' officers of the Central Government.
  - Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf.
- The Supreme Court on 6th May, 2014 held as invalid of Delhi Special Police Establishment Act (Section 6A) 1946 that makes prior sanction mandatory for the CBI to conduct a probe against senior bureaucrats under the Prevention of Corruption Act.
- According to constitutional bench, corruption is social evil and it should be tracks down. The status and position on the decision making power will not exempt them from passing through normal inquiry and investigation. So, no special preference should be given to the bureaucrats. If it is given will violate Article 14.

## Non-Statutory Institutions

- Institutions which are not established by any law passed by any competent legislature, are called **Non-Statutory Institutions**.

## Planning Commission

- It was set-up by a **Resolution of the Government of India** in March 1950 in pursuance of declared objectives of the government to promote a rapid rise in the standard of living of the people by efficient exploitation of the resources of the country, increasing production and offering opportunities to all for employment in the service of the community. The Planning Commission is neither a constitutional nor a Statutory Commission.
- It was charged with the responsibility of making assessment of all resources of the country, augmenting deficient resources, formulating plans for the most effective and balanced utilisation of resources and determining priorities. Jawaharlal Nehru was the first Chairman of the Planning Commission.
- It is noted here that, Planning Commission has been replaced by a new institution named NITI Aayog.

## NITI Aayog

- National Institution for Transforming India (NITI) Aayog has replaced Planning Commission by Cabinet Resolution on 1st January, 2015.
- The NITI Aayog will seek to provide a critical directional and strategic input into the development process. NITI Aayog will also emerge as a 'think-tank' that will provide governments at the central and state levels with relevant strategic and technical advice across the spectrum of key elements of policy.
- The NITI Aayog seeks to put on end to slow and tardy implementation of policy, by fostering better inter-ministry coordination and better centre- state coordination.
- It aims to evolve a shared vision of national development priorities and foster cooperative federalism, recognising that strong states make a strong nation.
- the core mission of Aayog is to make models of development which is all round, all pervasive, all inclusive and holistic.
- The Prime Minister is the Chariman of NITI Aayog. The body will have a Vice-Chairman and a CEO in addition to five-full time members and two part-time members, while for Union Ministers would serve ex-officio members, who will be nominated by Prime Minister.
- The CEO will be appointed by Prime Minister for a fixed tenure, in the rank of secretary to the GOI. The Governing Council of NITI Aayog will consists of Chief Ministers of all states and Lieutenant-Governors of UTs.
- Unlike Planning Commission, NITI Aayog is only an advisory body and will not enjoy any financial powers. Powers to allocate funds might be vested in the finance ministry. Also state governments are expected to play a more significant role, than they did in the Planning Commission. States will be consulted, while making policy and deciding on funds allocation.

### National Development Council (NDC)

- The National Development Council was established in August 1952 by a **Resolution of the Cabinet**. It is the body which has the authority to approve the Five Year Plans for the country.
- The Council comprises of the Prime Minister the Union Cabinet Ministers and Chief Ministers of all states or their substitutes, representatives of the Union Territories and the members of the NITI Aayog. The secretary of the NITI Aayog acts as the secretary of the NDC.

#### The Functions

- To prescribe the guidelines for the formulation of the national plan, including the assessment of resources for the plan.
- To consider the national plan as formulated by the Planning Commission.
- To consider important questions of social and economic policy affecting national development.
- To review the working of the plan from time-to-time and to recommend such measures as are necessary for achieving the aims and targets set out in the national plan.

# Self Check

## Build Your Confidence

**1. Which of the following are associated with 'Planning' in India?**

1. The Finance Commission
2. The National Development Council
3. The Union Ministry of Rural Development
4. The Union Ministry of Urban Development
5. The Parliament

**Select the correct answer using the codes given below**

- (a) 1, 2 and 5  
(b) 1, 3 and 4  
(c) 2 and 5  
(d) All of the above

**2. Which of the following bodies does not/do not find mention in the Constitution?**

1. National Development Council
2. Planning Commission
3. Zonal Councils

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) Only 2  
(c) 1 and 3 (d) All of these

**3. The Government of India has established NITI Aayog to replace the** [IAS 2015]

- (a) Human Rights Commission  
(b) Finance Commission  
(c) Law Commission  
(d) Planning Commission

**4. Who among the following constitute the National Development Council?** [IAS 2013]

1. The Prime Minister
2. The Chairman, Finance Commission
3. Ministers of the Union Cabinet
4. Chief Ministers of the States

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 3 and 4  
(c) 2 and 4 (d) All of these

**5. Consider the following statements with regard to the Finance Commission (FC) and state, which of these statements is not correct?**

- (a) FC is institution for the transfer of resources from centre to the States  
(b) Recommendations given by FC are binding on the Government  
(c) FC is constituted every 5 years  
(d) FC awards non-plan resources

**6. The Central Vigilance Commission was set-up by**

- (a) Constitutional Provision  
(b) Act of the Parliament  
(c) Resolution of the Santhauam Committee  
(d) Executive Resolution

**7. Consider the following statements about National Commission for Women (NCW).**

1. It was set-up as a statutory body in 1992.
2. The chairperson and members of the NCW shall hold office for a period of 5 years.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**8. Consider the following statements.**

1. The CAG is appointed by the President of India by a warrant under his hand and seal.
2. The CAG has to subscribe an oath or affirmation to carry out his duties

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) None of these

**9. Which one of the following duties is not performed by CAG of India?** [IAS 2001]

- (a) To audit and report on all expenditure from the Consolidated Fund of India  
(b) To audit and report on all expenditure from the Contingency Funds and Public Accounts  
(c) To audit and report on all leading, manufacturing profit and loss accounts  
(d) To control the receipt and issue of public money and to answer that the public revenue is lodged in the exchequer

**10. Other than ensuring that public funds are used efficiently and for intended purpose, what is the importance of the office of the CAG?**

1. Information from the CAG reports can be used by investigating agencies to press charges against those who have violated the law while managing public finances.
2. While dealing with the audit and accounting of government companies, CAG has certain judicial powers for prosecuting those who violated the law.
3. CAG assumes an Quasi-judicial bodies while investigating anything.

**Select the correct answer using the codes given below**

- (a) Only 1 (b) Only 3 (c) 1 and 3 (d) 1, 2 and 3



1. (c)

2. (d)

3. (d)

4. (b)

5. (b)

6. (d)

7. (a)

8. (c)

9. (d)

10. (a)

# Chapter twenty-one

## Governance

*Governance is understood as the process of decision-making and the process of implementation of the laid down laws, policies, schemes, welfare projects. Governance describes the processes by which decisions are implemented. This process is largely done by public institutions; primary amongst them is the administrative apparatus.*

### Governance and Democracy

The concept of 'Governance' was for the first time highlighted in a World Bank document on sub-saharan Africa-from crisis to sustainable growth in 1989.

- Governance is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms whereby those persons and organisations within its purview move ahead satisfy their needs and fulfill their wants.
- Governance is a method through which power is exercised in the management of a country's political, economic and social resources for development. (World Bank, 1992)
- Three key components of governance-
  - legitimacy of government
  - accountability of political and official elements of government
  - respect for human rights and the rule of law.
- United Nation Development Programme (UNDP) defines governance as 'an exercise of economic, political and administrative authority to manage a country's affairs at all levels'.
- Governance is concern with the activity of the government. It includes decision-making, formulation of policies and its implementation and monitoring with efficiency and effectiveness.

- Governance has a lot to do with how the democracy works. In closed and authoritarian political systems there is little scope for deliberations and participation on governance as the modalities of how the country should be governed is entirely at the discretion of the ruling political class.
- But this is not the case in vibrant democracies like India where there are numerous stakeholders for the delivery and management of governance.
- Democratic functioning has to maintain a dynamic equilibrium between effectiveness and legitimacy in order to achieve stable democracy. In this context, institutions of governance become a crucial link in maintaining the aforesaid equilibrium rendering democracy more stable and meaningful and yet the institutions themselves under various pulls and pressures have become the weakest link in the crucial process.
- The health of these institutions, therefore, is of great significance to address the twin challenges of democracy and development.
- Stable and meaningful democracy necessitates maintaining a desirable level of equilibrium between effectiveness and legitimacy.

### Good Governance

- Good Governance is a term used in development process to describe how public institutions conduct public affairs and manage public resources in order to guarantee the realisation of social justice objectives, welfare missions and human rights.

- Good Governance assures that corruption is either reduced or removed and the views of both minorities and most vulnerable in society are taken into accounts for decision-making and respond to the present and future needs and wants of society.
- Good Governance aims at providing public services effectively, efficiently and equitably to the citizens.
- The four pillars on which the edifice of good governance rest
  - Ethos (of services to citizens)
  - Ethics (honesty, integrity and transparency)
  - Equity (treating all citizens equally)
  - Efficiency (speedy and affection delivery of services)
- Good Governance has **8 major characteristics**. They are participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law.

### Participation

- Participation by both men and women is a key aspect of Good Governance. Participation could be either direct or through legitimate intermediate institutions or representatives.
- Participation needs to be informed and organised. This means freedom of association and expression on the one hand and an organised civil society on the other hand.

### Rule of Law

- Good Governance requires fair legal frameworks that are enforced impartially. It also requires full protection of Human Rights, particularly those of disadvantaged groups. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.

### Transparency

- Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement.

### Responsiveness

- Good governance requires that institutions and processes try to serve all stakeholders within a reasonable time frame. We need to sensitise our administration towards the weaker section of the population.

### Consensus Orientation

- There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved.

- It also requires a broad and long term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community.

### Equity and Inclusiveness

- A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well being.

### Effectiveness and Efficiency

- Good Governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of Good Governance also covers the sustainable use of natural resources and the protection of the environment.

### Accountability

- Accountability is one of the corner stones of Good Governance. It ensures actions and decisions taken by public and private institutions along with civil society are subject to oversight so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community. Transparency and rule of law are pre-requisites of accountability. *It can be classified as :*

#### Horizontal vs Vertical Accountability

- Horizontal accountability is the capacity of state institutions to check abuses by other public agencies and branches of government or the requirement for agencies to report sideways. Alternatively, vertical accountability is the means through which citizens, mass media and civil society seek to enforce standards of good performance on officials. While Parliament is typically considered as a key, institution in constructs of horizontal accountability, it is also important in vertical accountability.

#### Political vs Legal Accountability

- Parliament and the judiciary act as horizontal constitutional checks on the power of the executive. The role of these two institutions can be further delineated in that Parliament holds the executive politically accountable, while the judiciary holds the executive legally accountable. These classifications stem from the fact that Parliament is a political institution, while the judiciary can only adjudicate on legal issues. Together, they provide on going oversight in order to keep the government accountable throughout its term in office.

### Social Accountability

- The prevailing view of social accountability is that it is an approach towards building accountability that relies on civic engagement, namely a situation whereby ordinary citizens and or civil society organisations participate directly or indirectly in exacting accountability. Such accountability is also referred as society driven horizontal accountability.

#### National Good Governance Day

Former PM and Bharat Ratna recipient, Atal Bihari Vajpayee's 90th birthday on 25th December, 2014 was observed as National Good Governance Day. Hence 25th December will be observed as National Good Governance Day each year.

### Challenges to Governance in India

- Good Governance means an accountable and audited public service which has the bureaucratic competence to implement appropriate public policies and an independent judicial system to uphold the law.
- Despite the continuing efforts to enhance the quality of governance in the country, from insufficiencies and complexities, both structural and non-structural, there are hindrances that still exist.

These are as follow :

- Corruption
- Inefficiency of Bureaucracy
- Nepotism and Politicisation in Public Administration
- Improper and non-observance of the Rule of Law
- Improper Use of Resources

### e-Governance

The word *electronic* in the term e-Governance implies Information and Communication Technology (ICT) driven governance for delivering of government services by the government.

#### Digital India

It is a flagship e-Governance programme of GOI with a vision to transform India into a digitally empowered society and knowledge-economy. The objective is to bring transformation to realise.

IT + IT = IT  
(Indian Talent) (Information Technology) (India Tomorrow)

### Pillars of e-Governance

- **Connectivity** It is required to connect the people to the services of the government. There should be a strong connectivity for an effective e-Governance.
- **'Knowledge'** Here 'Knowledge' refers to IT knowledge. Government should employ skill full engineers who can handle the e-Governance in an efficient way. These engineers also handle all kind of fault that may occur during the working of e-Governance.
- **Data Content** To share any kind of knowledge or information over the internet, there should be its database. This database should have the data content which is related to government services.
- **Capital** It can be on public or private partnership. It refers to money used by government to provide their services or to that sector of the economy based on its operation.

### Guiding Principles of e-Governance

- It is focussed on creating a **SMART** (Simple, Moral Accountable, Responsive and Transparent) Governance.
- It promotes causes of e-citizen and e-democracy.
- It is not translating processes, however transforming processes.
- It necessitates capacity building within the government.
- It aims networked and integrated government.
- It is citizen centric.
- It provides multi-channel delivery of public services.
- It aims in providing convenient access of information to all and improving service access and delivery.
- It enables development and participation of all segments of population to reap benefits of IT and also participate in the Governance process and be able to voice their opinions more effectively and supports in development and inclusion of Private Sector in public service delivery.

### e-Governance Models

There are four models of e-Governance These are as follows:

#### Government to Citizens (G2C)

- This model of e-governance refers to the government services which are shared by citizens. Here, citizens visit to the link of services that they want to use. This models strong the bond between government and its citizens. *Types of services which are provided by this model includes:*
  - Payment of online bills such as electricity, water, telephone bills etc.
  - Online registration of applications.
  - Copies of land-record.
  - Online filling of complaints.
  - Availability of any kind of online information.

### Government to Government (G2G)

- This model refers to the services, which are shared between the governments. There is lots of information that need to be shared between various government agencies, department and organisations.

*These types of services or information are as follow:*

- Sharing of information between police department of various state.
- Government document exchange which includes preparation, approval, distribution and storage of all governmental documents is also done through e-governance.
- Most of the finance and budget work are also done through e-governance.

### Government to Employees (G2E)

- This model increases the transparency between government and its employees. Here, employee can keep a check on the functioning and working of government and government can keep on its employees.
- *Information that can be shared by this model*
  - All kind of data submission (attendance record, employees record etc) from various government offices is done by this model.
  - Employee can file all kinds of complaints and dissatisfaction by this model.
  - All kind of rule regulation and information for employees can be shared by this.
  - Employees can check their payment and working record.
  - Employees can register all kind of working forms online.

### Government to Businessmen (G2B)

- Through this model, bond between private sector and government increase and businessmen use to communicate.

*They share information through this model like:*

- Collection of taxes.
- Rejection and approval of patent is also done by this model.
- Payment of all kind of bills and penalty.
- Sharing of all kind of information, rules and data.
- Complaints or any kind of dissatisfaction can be shown by this.

### Some e-Governance Projects

- **Vahan and Sarathi** The backend applications Vahan and Sarathi help in speeding the overall work flow in the transport department, by Tamil Nadu Government.
- **FRIENDS** This project is started by Kerala Government for its citizens to make online payment of electricity and water bills, revenue taxes, license fees, motor vehicle taxes, university fees, etc.
- **E-seva** Electronic seva by Andhra Pradesh government to pay utility bills, avail of trade licenses and transact on government matters at these facilities.
- **Domestic** This project is started by Daman and Diu. It is an electricity billing system for domestic consumers.

- **E-Pourasabha** It is an e-governance application for urban local bodies. It is implemented for tax collection system, property tax, water tax etc.
- **Gyandoot** In the State of Madhya Pradesh it is an intranet-based Government to Citizen (G2C) service delivery initiative.
- **Agmarknet** It is a project approved by Department of Marketing and Inspection (DMI), Ministry of Agriculture and Government of India.
- **E-Jansampark** Services and Information accessible to the common man in his locality to meet his basic need. This project is started by Chandigarh.
- **Prajavani** It is started by the Government of Andhra Pradesh. It is a web based online monitoring of public grievances.
- **Chetana** It is a Disaster management system, which has been started in the state of Bihar to deal with natural disasters such as flood and earthquake.
- **Bhoomi** It is the first e-governance Land records management system project, which is successfully implemented for the benefits of the common man by the Government of Karnataka.

### National e-Governance Plan

The National e-Governance Plan (NeGP) has been formulated by the department of electronics and information Technology (DEITY) and Department of Administrative Reforms and Public Grievances (DARPG). The Union Government approved the NeGP, comprising of 27 Mission Mode Projects (MMPs) and 10 components on May 18, 2006. The NeGP aims at improving delivery of Government services to citizens and businesses.

### Implementation Strategy, Approach and Methodology of NeGP

Implementation of e-Governance is a highly complex process requiring provisioning of hardware & software, process re-engineering and change management. Based on lessons learnt from the past and the experience from successful e-Governance applications, the approach and methodology adopted for NeGP contains the following elements:

1. **Common Support Infrastructure:** NeGP implementation involves setting up of common and support IT infrastructure such as: State Wide Area Networks (SWANs), State Data Centres (SDCs), Common Services Centres (CSCs) and Electronic Service Delivery Gateways.
2. **Governance:** Suitable arrangements for monitoring and coordinating the implementation of NeGP under the direction of the competent authorities have also been substantially put in place. The programme also involves in evolving or laying down standards and policy guidelines, providing technical support, undertaking capacity building, R&D, etc.

3. **Centralised Initiative, Decentralised Implementation:** e-Governance is being promoted through a centralised initiative to the extent necessary to ensure citizen-centric orientation, to realise the objective of inter-operability of various e-Governance applications and to ensure optimal utilisation of ICT infrastructure and resources while allowing for a decentralised implementation model.
4. **Public-Private Partnerships (PPP):** PPP model is to be adopted wherever feasible to enlarge the resource pool without compromising on the security aspects.
5. **Integrative Elements:** Adoption of unique identification codes for citizens, businesses and property is to be promoted to facilitate integration and avoid ambiguity.
6. **Programme Approach at the National and State levels:** Considering the multiplicity of agencies involved and the need for overall aggregation and integration at the national level, NeGP is being implemented as a programme, with well defined roles and responsibilities of each agency involved.
7. **Facilitator role of DEITY:** DEITY is the facilitator and catalyst for the implementation of NeGP by Various Ministeries and state Governments and also provides technical assistance.
8. **Ownership of Ministries:** Under the NeGP, various MMPs are owned and spearheaded by the concerned line ministries. IN case there are any ongoing projects which fall in the MMP category, the would be suitably enhanced to align them with the objectives of NeGP. For major projects like Bharat Nirman, Rural Employment Guarantee Schemes, etc.

### e-Kranti

It is also known as **National e-Governance Plan 2.0**. GOI has approved the e-Kranti programme in 2015 with the vision of 'transforming e-Governance for transforming governance:

All the e-Governance projects follow the key principles of e-Kranti

- Transforming and not translation
- Integrated services and not individual services
- Government Process Re-engineering (GPR)
- Language legislation
- Security and electronic data preservation

- Traditionally the Ombudsman is appointed based on unanimity among all political parties supporting the proposal. The incumbent, though appointed by the legislature, is an independent functionary independent of all the three organs of the state, but reports to the legislature. The Ombudsman can act both on the basis of complaints made by citizens, or suo moto. It can look into allegations of corruption as well as maladministration.

## The Lokpal and Lokayuktas (L & L) Act, 2013

- It was passed by Parliament in December, 2013 and got Presidential assent on 1st January, 2014.
- It aims to prevent and control corruption through the setting up of an independent and empowered body at the central level, called the Lokpal that would receive complaints relating to corruption against most categories of public servants and ensure that these are properly investigated and where warranted, effectively prosecuted.
- All this is envisaged in a time-bound manner, with the help of special courts set-up for the purpose. The Act also makes it incumbent for each state to pass, within a year, a law setting up a body of Lokayuktas at the state level, but leaves it to the states to work out the details.

### Brief History and Salient Features

- The process leading to the enactment of the L & L Act started in 2010, when the government formulated a new Lokpal Bill. This bill, however, was widely criticised for being weak.
- In December 2011, the revised and renamed Lokpal and Lokayuktas Bill, 2011 was introduced, but could not be passed in the Rajya Sabha due to objections.
- In May 2012, the Bill was referred to a select committee of the Rajya Sabha to try and develop a consensus on the disputed issues. After the report of the select committee, the Bill passed and received the assent of the President.

## Lokpal and Lokayukta

- The Indian Lokpal is synonymous to the institution of ombudsman existing in the scandinavian countries.
- The office of the Ombudsman originated in Sweden in AD 1809 and adopted eventually by many nations as a bulwark of democratic government against the tyranny of officialdom.
- Ombudsman is a Swedish word that stands for an officer appointed by the legislature to handle complaints against administrative and judicial action.

### Process of Investigating and Prosecuting Complaints of Corruption

- The Act provides for setting up a body called the Lokpal at the central level to have complaints of corruption against various categories of public servants enquired into, investigated and prosecuted, as warranted.
- The Act makes it mandatory for states to set-up Lokayuktas within one year, but the nature and type of Lokayukta is left to the discretion of the state legislatures.

- The legislation envisages that the Lokpal would receive complaints of corruption against the Prime Minister, Ministers, Members of Parliament (MPs), officers of the Central Government (all levels) and against functionaries of any entity that is wholly or partly financed by the government with an annual income above a specified limit and also, all entities receiving donations from foreign sources in excess of 10 lakh per year.
- The Act states that on receipt of a complaint against any public servant, except for officers from groups A, B, C or D, the Lokpal will order a preliminary inquiry against the public servant.
- The Lokpal will refer the complaints to the **Central Vigilance Commission** (CVC) for preliminary inquiry. After the completion of the preliminary inquiry, the CVC will submit its report to the Lokpal in respect of public servants belonging to group A or B, while in cases of public servants belonging to group C or D, the CVC will proceed in accordance with the provisions of the CVC Act, 2003.
- The investigation has to be ordinarily completed within 6 months, extendable to 1 year and a report has to be submitted to the appropriate court having jurisdiction, with a copy being sent to the Lokpal.
- The Lokpal may grant sanction to its own prosecution wing or to the investigating agency, to file a charge sheet before the special court or direct filing of a closure report or direct initiation of departmental proceedings against the concerned public servant.

### Superintendence and Administrative Control Over the CBI

- The Act also envisages that the Lokpal will have powers of 'superintendence' over the CBI. However, experience has shown that such powers are meaningless without instruments to ensure actual administrative control. The Act empowers the Lokpal with partial administrative control over the CBI as it states that transfer of CBI officers investigating cases referred by the Lokpal can be done only with the approval of the Lokpal. Unfortunately, all this is still not adequate to provide the required functional independence to the CBI.

### Power and Jurisdiction of the Lokayuktas in States

- The biggest shortcoming of the Act is that, while it makes it mandatory for Lokayuktas to be setup in each state within 1 year, state legislatures will be free to determine the powers and jurisdiction of the Lokayukta.

### Time Limitation

- The Act envisages that the Lokpal shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a period of 7 years from the date on which the offence mentioned in such complaint is alleged to have been committed.

### Accountability

- The Act falls short on several counts on ensuring the accountability of the Lokpal. Being a high-powered anti-corruption agency with powers of enquiry, investigation and prosecution, strong measures were required to ensure the accountability of the institution and officials of the Lokpal.

### Complaints Against the Chairman and Members of the Lokpal

- The L & L Act envisages that any complaint against a member or chairperson of the Lokpal will be taken cognisance of only if it is signed by at least a 100 MPs.

### Complaints of Corruption Against Lokpal Staff

- The Act envisages that the Lokpal would itself deal with complaints of corruption against its own staff.

## Selecting Chairman and Members of the Lokpal

- The Lokpal chairperson and its 8 members will be selected by a **selection committee** consisting of the Prime Minister, the speaker of the Lok Sabha, the leader of opposition in the Lok Sabha, the Chief Justice of India (CJI) or a Judge of the Supreme Court nominated by the CJI and one eminent jurist, as recommended by the other four members of the committee.
- At least half the members of the **search committee** and of the Lokpal must be from amongst persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward classes, minorities and women.

### First Lokpal

President Ramnath Kovind appointed the retired Supreme Court Judge Pinaki Chandra Ghoshe as the first Lokpal of India, on March 19th, 2019. Whereas the eight members namely – Dilip B Bhosale, Pradeep Kumar Mohanty, Abhilasha Kumari, Ajay Kumar Tripathi, Dinesh Jain, Archana Ramasundaram, Mahendra Singh and Indrajeet Prasad Gautam are appointed on March 27th, 2019 by the President.

# Self Check

## Build Your Confidence

1. Which of the following can be said to be essentially the parts of 'Inclusive Governance'? [IAS 2012]
  1. Permitting the non-banking financial companies to do banking.
  2. Establishing effective district planning committees in all the districts.
  3. Increasing the government spending on public health.
  4. Strengthening the mid-day meal scheme.

Select the correct answer using the codes given below

(a) 1 and 2 (b) 3 and 4  
(c) 2, 3 and 4 (d) All of these
2. Which of the following are the goals of e-Governance?
  1. Better service delivery to citizens.
  2. Ushering in transparency and accountability.
  3. Empowering people through information.
  4. Improved efficiency within governments.

Select the correct answer using the codes given below

(a) 1, 2 and 3 (b) 1, 3 and 4  
(c) 1, 2 and 4 (d) All of these
3. Who among the following are the members of the committee to select Lokpal?
  1. Prime Minister
  2. Speaker of the Lok Sabha
  3. Leader of Opposition in the Lok Sabha
  4. Chief Justice of India (CJI) or a judge of the Supreme Court nominated by the CJI

Select the correct answer using the codes given below

(a) 1, 2 and 3 (b) 2, 3 and 4  
(c) 1 and 3 (d) All of these
4. Which of the following statements is not correct as per the Lokpal and Lokayuktas Act, 2013?
  - (a) Lokpal will have power of superintendence and direction over any investigation agency including CBI for cases referred to them by Lokpal
  - (b) A high powered committee chaired by the Prime Minister will recommend selection of the director, CBI
  - (c) The appointment of the Director of Prosecution, CBI will be done on the recommendation of the Lokpal
  - (d) Transfer of officers of CBI investigating cases referred by Lokpal to be done with the approval of Lokpal
5. Which of the following Programme is related to computerisation of land records by NIC?
  - (a) Bhoomi (b) Zameen
  - (c) CLRS (d) E-leks
6. Which of the following e-Governance project cities as a conative projection addressing the global information divide by human development report of UNDP?
  - (a) Praja
  - (b) Bhoomi
  - (c) Village knowledge centres
  - (d) Cyber extension
7. Which of the following are the goals of e-Governance?
  1. Better Service delivery to citizens.
  2. Ushering in transparency and accountability.
  3. Empowering people through information.
  4. Improved efficiency within Governments.

Select the correct answer using the codes given below

(a) 1, 2 and 3 (b) 1, 3 and 4  
(c) 1, 2 and 4 (d) All of these
8. The word 'e' in e-Governance stands for
  - (a) ethical (b) empowerment
  - (c) electronic (d) effective
9. Which was the first state in India to establish the institution of Lokayukta?
  - (a) Bihar (b) Uttar Pradesh
  - (c) Andhra Pradesh (d) Maharashtra
10. Which e-Governance project is known as National e-Governance Plan 2.0?
  - (a) e-choupal (b) M-governance
  - (c) e-kranti (d) e-Jansampark
11. 'Good Governance' and 'Participating Civil Society for Development' were stressed in World Bank Report of
  - (a) 1992 (b) 1997 (c) 1998 (d) 1999
12. Which one of the following is not characteristics of good governance?
  - (a) Responsiveness
  - (b) Accountability
  - (c) Effectiveness and Efficiency
  - (d) Ethics



1. (b) 2. (d) 3. (d) 4. (c) 5. (a) 6. (c) 7. (d) 8. (c) 9. (d) 10. (c)  
11. (a) 12. (d)

# Chapter twenty-two

## Public Policy in India

*In political parlance, Public policy refers to a course of action taken by the organs of the state in pursuit of a definite objective and purpose. The state aims at regulating the various socio-economic activities in a political system through these public policies. They may be directed towards management of public resources for the benefit of all or establishing a harmonious order in the society where an equitable balance of rights and obligations by all citizens is observed.*

### Nature of Public Policy

- Public policies are sanctioned by the authority of the state. They are enforceable by the executive agencies of the state, i.e. the government and the administrative apparatus.
- The political community comprising of the entire citizenry is obliged to concur and abide by the policy decisions. No person can circumvent or contravene the policies framed clandestinely for his/her private benefit.
- Doing so amounts to an unlawful activity and warrants punitive measures. Of course, one can criticise or question the rationale or the basis upon which the policy is framed.
- One can also challenge the faulty implementation of public policy and might seek redressal for it through judicial process. Most significant of all, one can be participative and influential in the very policy-making exercise itself.

### Law and Public Policy

- Few scholars distinguish between a 'law' and a 'public policy'. Others contend that they are more similar in nature and no rigid distinction can be made.
- A 'law' is a statute enacted by the sovereign legislature outlining the broad philosophical contours upon which the regulation of any aspect of state's affairs has to be conducted. It bestows authority upon the executive to undertake such measures in pursuit of the same. It signifies the concurrence of the representatives of the people for such measures.
- On the other hand, a 'public policy' is an instrument in the hand of the executive to spell out the ways and means of implementation of such measures as mandated by the law.
- These may not be explicitly mentioned in the statutes of law, but are nevertheless authorised to be done.
- Further distinction is attributed to the fact that, law-making is in the sphere of legislature whereas public policy-making is the exclusive prerogative of the executive.
- The executive, i.e. the government need not get every rule or order made approved by the legislature. They become *de facto* legitimate because the government itself is elected and given a mandate by the electorate from time-to-time.
- A law enacted is sacrosanct and cannot violate the fundamental tenets of the overarching sovereign law of the land which is the constitutional law.
- If any such case arises, the validity of the law can be questioned in the courts of law. The judiciary can overrule such law through the power of judicial review.

- Whereas, a public policy declared by the executive, although cannot violate the constitutional law, but nevertheless cannot be questioned in the courts of law. The only ground for such challenge can be the case where such a policy overtly negates the provisions of the Constitution or a pre-existing law.
- One cannot question policies on the grounds that it is unsound or irrational or unviable in the courts of law. To explain this, take the example of the India-US Nuclear Deal of 2008. It was the policy of the Manmohan Singh Government to conclude a treaty with the US for overcoming the nuclear embargo and furthering India's access to nuclear commerce. There was much criticism of the deal from many quarters.
- A petition too was filed in the Supreme Court to annul the deal citing threats to India's security and sovereignty.
- Not-with-standing the pros and cons of the nuclear deal, the Supreme Court refused to entertain that petition because policy issue is the exclusive prerogative of the executive and cannot be questioned unless there is an explicit violation of the Constitution.
- The only platform to judge whether the policies are correct or not is when the incumbent government seeks to renew its mandate through elections. It is at this crunch time that all the policies undertook by the government comes under people's scrutiny and are ultimately judged as good or bad.

## Structure of Policy-Making

- Policy-making, though a prerogative of the executive, is actually a complex process that involves various actors and players playing diverse roles.
- This is a multi-dimensional and inter-disciplinary process as it involves political, economic, managerial and administrative issues. Apart from the organs of the state, various technical bodies, academic experts, civil society organisations, interest groups and pressure groups participate at different levels and in different magnitude in the policy-making process.
- Given India's federal nature of polity, the spheres of policy-making are divided between the union and states. In their respective spheres, they are autonomous and take decisions independently.
- However, as most of the issues are interrelated between the union items and the state items, much co-ordination takes place in the formulation and execution of policies. *Involved actors and players are:*

## Council of Ministers

- At the apex level, the Union Council of Ministers and in many cases the Cabinet presides over as the supreme authoritative body sanctioning the policy.
- The sphere of the union policies extend to those items enlisted in the **Seventh Schedule** as the 'Union List' and to those residuary items which are not listed in either of the three lists. The respective branches of the government, the ministries and the departments look after their specialised portfolios. They are autonomous in their own respect.

- All major policies related to external affairs, defense, finance, information technology, planning, welfare policies of all-India nature etc are laid before the Union Council of Ministers presided by the Prime Ministers for approval. Only then the policy becomes executable. Minor decisions and ways and means of implementation of policies are left to their respective ministries.
- Co-ordination amongst various ministries is crucial for developing a coherent and hence a successful public policy. Usually, any policy matter does not necessarily fall in the domain of single ministry. e.g. a policy on Public Distribution System (PDS) involves not just the Agricultural Ministry, but also the Ministries of Law and Justice, Women and Child Development, Rural Development etc. Thus, an inter-ministerial co-ordination committee is set-up to iron out the issues. These are called the **Cabinet Committees** and are appointed by the Prime Minister.

## Parliament

- The Parliament's role in policy-making is more of an indirect nature as it neither initiates any policies nor recommends the government to do so. Parliament plays an effective role of being a watchdog and scrutinising the policy-making sphere of the executive.
- It demands explanation from the government for the actions taken under any policies; questions the government over the allocation of funds and policy implementation; criticises the government over faulty policies and disseminates information to the public by raising questions over the policies in Parliament.
- Of late, the Parliament too has seen some influence in policy-making through consultative committees. These committees are attached to every ministry and the minister seeks the opinion of the parliamentarians over the issues at stake in formation of a policy. This is best seen in the foreign policy-making wherein the opposition is regularly briefed and sought opinion over India's conduct of foreign policy.

## Bureaucracy

- The bureaucracy plays a major role in the policy-making of the government. It is the principle instrument through which the state of affairs of over policy areas is obtained and deliberated.
- The top rank bureaucrats are key advisers to the government over policy issues. Their administrative expertise and technical knowledge almost make the actual policy itself and it seems the ministers only have a national role in it.

## Cabinet Secretariat

- The Cabinet Secretariat is responsible for the administration of the Government of India facilitating smooth transaction of business in ministries/departments of the government by ensuring adherence to the laid down rules.
- The secretariat assists in decision-making in government by ensuring inter-ministerial co-ordination, ironing out differences amongst ministries/ departments and evolving consensus through the instrumentality of the Standing or Adhoc Committees of Secretaries.
- Through this mechanism, new policy initiatives are also promoted.

### Cabinet Secretariat's Support to Cabinet Committees

- The secretarial assistance provided by Cabinet Secretariat to the Cabinet and Cabinet Committees, *includes*:
  - Convening of the meetings of the Cabinet on the orders of the Prime Minister.
  - Preparation and circulation of the agenda.
  - Circulating papers related to the cases on the agenda.
  - Preparing a record of discussions taken.
  - Circulation of the record after obtaining the approval of the Prime Minister. Watching implementation of the decisions taken by the Cabinet.
  - The Cabinet Secretariat is the custodian of the papers of the Cabinet meetings.
  - Promotion of Inter-Ministerial Co-ordination.
  - While each ministry is responsible for acting on its own for expeditious implementation of government policies, plans and programmes, where inter-ministerial co-operation is involved, they often seek the assistance of the Cabinet Secretariat.
  - The inter-ministerial problems are dealt with in the meetings of the Committees of Secretaries (CoS).
  - Committees are constituted for discussing specific matters and proposals emanating from various secretaries to the government and meetings are held under the Chairmanship of the Cabinet Secretary.
  - These committees have been able to break bottlenecks or secure mutually supporting inter-ministerial action.
  - Apart from the institutional bureaucracy, several technical bodies also play an important role in policy-making.
  - Such bodies are commonly known as **regulatory bodies**. Thus, we have SEBI or TRAI working in the formation of policies on securities and telecom sectors. Besides, think tanks and academic institutions are roped in policy-making by the government itself for their technical expertise.

## Judiciary

- The separation of power doctrine says that each institution of the Constitution will have their own sphere of autonomy, though the boundaries are not clearly defined.
- Policy-making is one such activity which comes under the jurisdiction of the executive, it is their sole prerogative.
- The policy framed by the executive are therefore not justiciable i.e. no citizen can approach court for modification or repeal of the policy.
- Neither legislature nor the judiciary has legitimate authority, under the Constitution, with regards to policy-making.
- However, in the recent times, the assertive judiciary has been seen straying into the arena of policy-making.
- Many judicial decisions have had the effect of directives forcing the executive to frame and implement certain policies in the public interest.

### Judicial Activism

- **Judicial Interpretation of Article 21** Right to life, said that right to life should also include right to enjoy good environment. Based on a public interest litigation which was directed at the alarming increase of the pollution level in Delhi. More particularly the vehicular pollution the Supreme Court passed a verdict directing the Delhi Government to enact a policy to convert all oil based vehicles to CNG driven ones.
- **Polluter Pay Principle** The Supreme Court has also held that the government before contracting any activities should ensure that it has provision to extract fine for any harm to the people or the environment that has incurred due to such activities. The verdict was kept in mind during the framing of the Civil Nuclear Liability Act. The court has held such view because it felt that the authority responsible for such mishap should be held liable and not the public exchequer.
- The court has also been proactive in ensuring that the people enjoy the right to safety, food, education etc. The court feel that the **Article 21** which is the Fundamental Right to life shall be meaningful only when it encompasses all the above mentioned rights.
- Notwithstanding the positives, judicial activism has some time caused conflicts with the executive. The Prime Minister Manmohan Singh asked, during the recent 2G scandal deliberations, the judiciary and the CAG to refrain from expressing views with regard to policy-making, for it is not their constitutional function to do so.
- The Prime Minister is certainly true in asking these institutions to respect the 'separation of power' principle. The executive should also realise that these conflicts can be avoided if the policies are made keeping the public interest supreme.

## Pressure Groups

- A pressure group is defined as a group of people, more or less organised, which tries to influence and pressurise the government in order to fulfil the interest of that group or public interest in general. They try to influence the public opinion with regards to the policy of the government.
- The profound influence of the pressure groups *can be construed from the following examples*:
  - The Coastal Zone Notification Act** This act sought to privatise the properties along the coastal zone, was vehemently opposed by the fishermen community and the public opinion was so negative that the concerned ministry had to scrap the proposed bill.
  - The BT Brinjal Issue** The public opinion was largely against the use of genetically modified food. Considering this, the Environment Ministry annulled the permission given to the Monsanto organisation to go ahead with the promotion of BT Brinjal, earlier.
- In a nutshell, although the policy-making comes under the domain of executive, it is profoundly influenced by various factor as mentioned above. A good communication between various entities and the government is imperative for a prudent policy-making.

## Shortcomings in India's Public Policy-Making

### Excessive Fragmentation in Thinking and Action

- One of the main problems with policy-making in India is extreme fragmentation in the structure. e.g. The transport sector is dealt with by five departments/ministries in the Government of India whereas in the US and UK, it is under one department.

- Similar examples exist in the energy, industry and social welfare sectors as well.
- Such fragmentation fails to recognise that actions taken in one sector have serious implications on another and may work at cross purposes with the policies of the other sector.
- Besides, it becomes very difficult, even for closely related sectors, to align their policies in accordance with a common overall agenda.

### Excessive Overlap between Policy-Making and Implementation

- Another problem is the excessive overlap between implementation, programme formulation and policy-making which creates a tendency to focus on operational convenience rather than on public needs.
- Policy-making in Indian Ministries occurs at the levels of Director and above, but the most important level (crucial for consideration of cross-cutting impacts) is that of the secretaries to the Government of India, who are their 'ministers' 'policy advisers-in-chief'.
- However, the very same secretaries spend a large part of their time bogged down on routine day-to-day administration of existing policy.
- Time is spent anticipating and answering parliamentary questions, attending meetings and functions on implementation issues etc.
- Partly the problem is symptomatic of over centralisation excessive concentration of implementation powers at the higher levels of the ministries.
- The result is that sub-optimal policies, where adequate attention has not been paid to citizen needs, tend to emerge.

S.No.	Policies	Years	Sectors
1.	Intergrated Child Development Services	1975	Child Development
2.	Indira Awas Yojana	1985	Housing, Rural
3.	Mid-day Meal Scheme	1995	Health, Education
4.	Jawaharlal Nehru National Urban Renewal Mission (JnNURM)	2005	Urban Development
5.	Mahatma Gandhi Naional Rural Employment Guarantee Act	2006	Rural Wage Employment
6.	Aam Aadmi Bima Yojana	2007	Insurance
7.	Swavalamban	2010	Pension
8.	Swabhiman	2011	Financial Inclusion
9.	Sabla or Rajiv Gandhi Scheme for Empowerment of Adolescent Girls	2011	Skill Development
10.	Rajiv Awas Yojana	2013	Urban Housing
11.	Pradhan Mantri Jan Dhan Jojana	2014	Financial Inclusion
12.	Atal Pension Yojana	2015	Pension
13.	Deen Dayal Upadhyaya Gram Jyoti Yojana	2015	Rural Power Supply
14.	Digital India Programme	2015	Digirally Empowered Nation
15.	Startup India, Standup India	2016	Economy
16.	Pradhan Mantri Ujjwala Yojana	2016	Women Empowerment
17.	Sampada Scheme for Food Processing Sector	2017	Agriculture

**Lack of Non-Governmental Inputs and Informal Debate**

- Often public policy is made without adequate input from outside government and without adequate debate on the issues involved.
- The best expertise in many sectors lies outside the government. Yet the policy processes and structures of government have no systematic means for obtaining outside inputs, for involving those affected by policies or for debating alternatives and their impacts on different groups.
- Most developed countries have a system of widespread public debate before a policy is being accepted.

**Reforms in Policy-Making**

The key reform which would greatly improve the policy-making competence of **India's civil servants** and improve the competence of specialists in government is implementation of a well-designed career path which has strong incentives for the progressive acquisition of expertise and professional skills. Experience abroad, including in developing countries, shows this to be a significant contributor to good policy-making.

The key requirement is the design of a career path which creates incentives to learn and to acquire and apply the right skills strengthens links between academic and the administration identifies and weeds out poor performers ensures that only those with the requisite knowledge and intelligence make it to the top policy levels.

Another reform would be to create structures which ensure the availability to policy-makers of non-governmental inputs and subject matter expertise. To this end, each ministry or department should have a Policy Advisory Group. This would consist of selected top civil servants, covering related sectors. To ensure that the groups do not become one more bureaucratic mechanism without clout, only secretary-level officers should be on these groups.

Stakeholder/Industry representatives should be included. Academics with expertise in the field should also be included.

# Self Check

## Build Your Confidence

- 1. Arrange the following stages of public policy process in order.**
  1. Policy education
  2. Policy formulation
  3. Policy implementation
  4. Policy monitoring

**Codes**

(a) 2, 1, 3, 4                      (b) 1, 2, 4, 3  
(c) 3, 2, 1, 4                      (d) 1, 2, 3, 4
- 2. Consider the following statements.**
  1. Political executive is mainly responsible for initiating policy proposal.
  2. Judiciary is not directly involved in policy-making.
  3. The policy proposal is drafted by the Cabinet and with the help of Cabinet Secretariat and present it before the Parliament.

**Which of the statement(s) given above is/are correct?**

(a) Only 1                              (b) 1 and 3  
(c) 2 and 3                              (d) All of these
- 3. Which of the following agencies are involved in policy-making in India?**
  1. Non-government organisation
  2. Pressure groups
  3. International agencies

**Select the correct answer using the codes given below**

(a) 1 and 2                              (b) 2 and 3  
(c) Only 1                                (d) All of these
- 4. Which of the following is/are the weaknesses of policy-making in India?**
  1. Fragmentation of structure
  2. Overlap between policy-making and policy implementation
  3. Lack of non-governmental inputs

**Select the correct answer using the codes given below**

(a) 1 and 3                              (b) 2 and 3  
(c) Only 2                                (d) All of these
- 5. Which of the following statements is not correct?**
  - (a) Policy is generally made or initiated by government
  - (b) Policy is interpreted and implemented by public and private actors
  - (c) Policy is what the government intends to do.
  - (d) None of the above
- 6. Which of the following institutions/groups has the role in Public Policy-Making in India?**
  1. Parliament
  2. Bureaucracy
  3. Pressure groups

**Select the correct answer using the codes given below**

(a) 1 and 2  
(b) 1 and 3  
(c) 2 and 3  
(d) All of the above
- 7. Consider the following statements.**
  1. Public policies are government's collective action.
  2. Public policies are interaction of people's demands with power structures.

**Which of the statement(s) given above is/are correct?**

(a) Only 1  
(b) Only 2  
(c) Both 1 and 2  
(d) Neither 1 nor 2
- 8. The role of civil society in Public policy is manifested in the form of**
  - (a) pressure groups
  - (b) political parties
  - (c) non-governmental organisation
  - (d) press
- 9. Which body is responsible for the co-ordination of activities of various ministries?**
  - (a) Central Secretariat
  - (b) Cabinet Secretariat
  - (c) Planning Commission
  - (d) Finance Commission
- 10. Which of the following are the functions of Cabinet Secretariat?**
  1. Promotion of inter-ministerial co-ordination.
  2. Preparation of record of discussions conducted.
  3. Convening of the meetings of the Cabinet on the orders of Prime Minister.

**Select the correct answer using the codes given below**

(a) 1 and 2  
(b) 2 and 3  
(c) 1 and 3  
(d) All of the above



1. (a)      2. (d)      3. (d)      4. (d)      5. (d)      6. (d)      7. (c)      8. (a)      9. (b)      10. (d)

# Chapter twenty-three

## Rights Issues in India

*Being a vibrant democracy, India has seen and continues to see a vigorous rights' discourse happening. Many civil society organisations, rights groups have all along been campaigning for rights so that no person is subjected to exploitation and all have access to meaningful human development. Besides, the Judiciary led by the Supreme Court and several statutory commissions have contributed substantially to rights campaign in India.*

### Women Rights in India

- The principle of gender equality is enshrined in the Indian Constitution and its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles.
- The Constitution not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women. For neutralising the cumulative socio-economic, education and political disadvantages faced by them.
- Within the framework of a democratic polity, our laws, developmental policies, plans and programmes have aimed at women's advancement in different spheres.
- India has also ratified various international conventions and human rights instruments committing to secure equal rights of women.
- Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth and guarantee equality of opportunity to all citizens in matters relating to employment.

### The United Nations and Women's Rights

- In 1946 the UN established a Commission on the status of women.
- The Convention on Elimination of all forms of Discrimination Against Women (CEDAW) was adopted in 1979 by UN General Assembly.
- United Nations Women (UNW) is an UN entity for gender equality and empowerment of women.

### Indian Efforts

#### Constitutional Provisions

- Equality before law [Article 14]
- No discrimination by state on grounds only of religion, race, caste, sex, place of birth or any of them [Article 15 (i)]
- Special provision by state in favour of Women and Children [Article 15(3)]
- Equality of opportunity in matters relating to employment [Article 16]
- Securing adequate means of livelihood for men and women equally [Article 39 (a)] Equal pay for Equal Work [Article 39(d)]
- Ensuring health and strength of women workers are not abused and they are not forced by economic necessity to enter a vocations unsuited to strength [Article 39(e)]
- Promoting justice on basis of equal opportunity and to provide free legal aid [Article 39(A)] Renounce practices derogatory to women [Article 51 (A) (e)]
- 1/3 reservation for women in panchayats [Article 243(D)] and in municipalities [Article 243(T)]
- Right to Property to Women [Article 300 (a)]

#### Legislations

- Abolition of Sati Act, 1829
- Special Marriage Act, 1954
- Hindu Marriage Act, 1955
- Hindu Succession Act, 1956
- Immoral Traffic (Prevention) Act, 1956
- Dowry Prohibition Act, 1961
- Maternity Benefits Act, 1961
- Medical Termination of Pregnancy Act, 1971
- Indecent Representation of Women (Prohibition) Act, 1986
- Sati (Prevention) Act, 1987
- Domestic Violence Act, 2005
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

### Women's Reservation Bill

The Women's Reservation Bill is a proposed legislation to reserve 33.3 per cent of seats in Parliament and State Legislatures for women.

This would mean reserving 181 of the 543 seats in the Lok Sabha and 1370 out of a total of 4109 seats in the 28 State Assemblies for women. In case of seats reserved for SC-ST candidates, 33.3 per cent would have to be reserved for women.

The reservation of seats is proposed to be on rotation basis, which means that the 33.3 % seats reserved in one election would cease to be reserved in the next election. In its place, another set of seats totaling 33.3% would get reserved. The provision for reservation is proposed to be in place for 15 years.

The Bill is an extension of the 33.3% reservation of seats for women in the Panchayats to the State Legislatures and the Parliament. The proposed legislation was first introduced in the Lok Sabha on 12th September 1996 by the **United Front Government** as the 81 st Constitutional Amendment Bill. In 1998 it was re-introduced in the 12th Lok Sabha as the 84th Constitutional Amendment Bill by the National Democratic Alliance (NDA) Government.

It was reintroduced again in 1999, 2002, 2003. In 2004, it was included in the Common Minimum Programme of the UPA government. All these years the Bill could not be passed because of lack of political consensus. It was again tabled in the Rajya Sabha in 2008 and has now been passed by the Rajya Sabha in 2010.

### National Commission for Women

- It was set-up as a statutory body in January 1992, under the National Commission for Woman Act, 1990. It consists of a chairperson and five members, nominated by Central Government.

### National Plan of Action for the Girl Child (1991-2000)

- The plan of action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

### National Policy for the Empowerment of Women, 2001

- The Department of Women and Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

## Rights of Disabled Persons

### UN Convention on the Rights of Person with Disabilities, 2006

- India is a signatory to The UN Convention on the Rights of Person with Disabilities (UNCRPD).
- 3 important obligations arise out of the convention, *namely*
  - Implementation of provisions of UNCRPD
  - Harmonisation of Indian Laws with UNCRPD
  - Preparation of a country Report by 2010

### Constitutional Provisions

- Article 41–The state shall make effective provision for securing the right to work to education and to public assistance in cases of unemployment, old age, sickness and disablement. The subject of "relief of the disabled and unemployable" is specified in List II (State List) of 7th Schedule of the Constitution.

### Legislations in India

- Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
- National Trust for Welfare of Persons with Autism, Cerebral Palsy. mental retardation and Multiple Disabilities Act, 1999
- Rehabilitation Council of India Act, 1992
- Mental Health Act, 1987
- National Policy for Persons with Disabilities, 2006

### Rights of Persons with Disabilities Bill, 2014

- The Rights of Persons with Disabilities Bill, 2014 was introduced in the Rajya Sabha on 7th February, 2013 by the Minister of Social Justice and Empowerment.
- The Bill replace the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

### Definition of Disability

- Disability is defined to include 19 conditions such as: autism; low vision and blindness; cerebral palsy; deaf blindness; haemophilia; hearing impairment; leprosy; intellectual disability; mental illness; muscular dystrophy; multiple sclerosis; learning disability; speech and language disability; sickle cell disease; thalassemia; chronic neurological conditions; and multiple disability. Persons with benchmark disabilities are defined as those with atleast 40% of any of the above specified disabilities.

### Rights of Persons with Disabilities

- The Bill states that persons with disabilities shall have the right to equality and shall not be discriminated against on grounds of their disability.
- Rights of disabled persons include protection from in human treatment and equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

All existing public buildings shall be made accessible for disabled persons within 5 years of the regulations being formulated by the National Commission for Persons with Disabilities.

- No establishment will be granted permission to build any structure, issued a completion certification or allowed to occupy a building, if the building does not adhere to the regulations formulated by the commission.

### Education, Skill Development and Employment

- The Bill provides for the access to inclusive education, vocational training and self-employment of disabled persons.
- All government institutions of higher education and those getting aid from the government are required to reserve at least 5% of seats for persons with benchmark disabilities.
- The central and state governments have to identify posts in establishments under them to be reserved for persons with benchmark disabilities.
- At least 5% of the vacancies are to be filled by persons or class of persons with at least 40% of any of the disabilities. Of this, 1% shall be reserved for persons with
  - blindness and low vision;
  - hearing and speech impairment;
  - locomotor disability;
  - autism, intellectual disability and mental illness; and multiple disabilities.
- The bill provides that the reservation has to be computed on the basis of total number of vacancies in the strength of a cadre. The government may exempt any establishment from this provision.

### Legal Capacity

- Disabled persons have the right, equally with others, to own and inherit movable and immovable property, as well as control their financial affairs.

### Guardianship

- The bill provides that if a district court finds that a mentally ill person is not capable of taking care of him/herself or of taking legally binding decisions, it may order guardianship to the person. The nature of such guardianship is also specified.

### National and State Commissions for Persons with Disabilities

- The Central and State Governments are required to establish a National and State Commissions for Persons with Disabilities, respectively. The Commissions will be composed of experts and be required to
  - Identify any laws, policies or programmes that are inconsistent with the Act;
  - Inquire into matters relating to deprivation of rights and safeguards available to disabled persons,
  - Monitor implementation of the Act and utilisation of funds disbursed by governments for the benefit of disabled persons.

### Central and State Advisory Boards

- The Central Government and State Governments shall constitute Central and State Advisory Boards on Disability.
- The boards shall advise governments on policies and programmes on disability and review the activities of organisations dealing with disabled persons.

## The Scheduled Tribes and Other Traditional Forest Dwellers [Recognition of Forest Right] Act, 2006

- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a result of the protracted struggle by the marginal and tribal communities of our country to assert their rights over the forestland over which they were traditionally dependent.
- This act is crucial to the rights of millions of tribals and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources.
- The notification of rules for the implementation of the Forest Rights Act, 2006 on 1st January, 2008, has finally paved the way to undo the 'historic injustice' done to the tribals and other forest dwellers.
- The livelihood of perhaps 100 million poorest of the poor (The Indian Forest Rights Act 2006: Communing Enclosures) stands to improve if implementation can succeed. The act is significant as it provides scope and historic opportunity of integrating conservation and livelihood rights of the people.
  - To empower and strengthen the local self-governor.
  - To address the livelihood security of the people, leading to poverty alleviation and pro poor growth.
  - To address the issues of conservation and management of the Natural Resources and conservation Governance of India.

## Significance of the Act

- For the first time Forest Rights Act recognises and secures
  - Community Rights or rights over common property resources of the communities in addition to their individual rights
  - Rights in and over disputed land rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests into revenue villages
  - Right to protect, regenerate or conserve or manage any community forest resource which the communities have been traditionally protecting and conserving for sustainable use.
  - Right to intellectual property and traditional knowledge related to biodiversity and cultural diversity
  - Rights of displaced communities
  - Rights over developmental activities

### Gram Sabha

- The Gram Sabha shall monitor the committee constituted for the protection of wildlife, forest and biodiversity. It has to approve all decisions of the committee pertaining to the issue of transit permits to transport minor forest produce, use of income from sale of produce or modification of management plans. The collection of minor forest produce is to be free of all fees. The committee has to prepare a conservation and management plan for community forest resources.
- The Forest Rights Committee (FRC) of the Gram Sabha shall not re-examine recognised forest rights or interfere in the verification of claims that are pending. The number of Scheduled Tribes represented on the FRC has increased from one-third to two-thirds.
- The quorum of the Gram Sabha meeting has been decreased from two thirds to one-half of the members. Atleast one-third of the members present shall be women. While passing a resolution regarding the claims of forest rights, atleast 50% of the claimants to forest rights or their representatives should be present.

### District Level Committee

- The committee should ensure that a certified copy of the record of the right to community forest resource is provided to the Gram Sabha.

### State Level Monitoring Committee

- The committee should meet atleast once in three months to monitor the recognition, verification and vesting of forest rights and furnish a quarterly report to the Central Government.
- 'Bonafide livelihood needs' refers to the fulfillment of livelihood needs, these can be fulfilled through the sale of surplus produce.
- A definition of 'community rights' was added and includes rights such as (a) ownership, access to collect, use and dispose of minor forest produce, (b) fishing and grazing, (c) conversion of all forest villages into revenue villages.
- 'Disposal of minor forest produce' includes individual or collective processing and storage by the Scheduled Tribes. The produce can be transported through appropriate means of transport.

### Process of Recognition of Rights

- A process to identify unrecorded or unsurveyed settlements or forest villages by every Panchayat was introduced. A process of recognition of individual rights and community rights has been incorporated. The delineation of community forest resources may include existing legal boundaries such as reserve forests, protected forests and national parks.

## Mahatma Gandhi National Rural Employment Guarantee Act, 2005

- The people have human right to work or engage in productive employment, which will ensure social, economic and cultural development of individuals. MGNREGA was launched keeping this objective in mind.
- This flagship programme was launched in 2005 by the UPA Government for providing employment opportunities to the rural poor alongside developing rural infrastructure.

### Salient Features of MGNREGA

- *Following are the salient features of the Mahatma Gandhi National Rural Employment Guarantee Act*

#### Historic Act

- For the first time in the history of India, every rural household will have right to livelihood through guaranteed 100 days of employment in a financial year at their own place.
- On 2nd October, 2009, NREGA (National Rural Employment Gurantee Act) was changed to MGNREGA.

#### Right to Demand Work

- Every household will have right to demand 100 days employment from the government. Thus, it is demand driven scheme and not a supply. This means that the government is obliged to provide work for all the mandays on demand.

#### Unemployment Allowance

- If State Government failed to provide 100 days employment on demand to any household, then compensation will be paid by the State Government to the eligible applicants subject to household entitlement in terms of unemployment allowance as per rates prescribed.

#### Selection of Works by Villagers

- Villagers themselves, not officials, will decide through Gram Sabha, the priority of works to be taken up to develop their village from amongst the permissible works. Works like water supply, roads, schooling facilities are generally undertaken.

#### Priority to Women

- Women will have priority in the scheme for allocation of employment and 1/3rd of the employment will be provided to them. The wages shall be paid equally and directly to women.

### Complete Transparency

- There will be complete transparency in the scheme and wages will be paid in full public view. e.g., muster rolls will no longer be secret and budget and works will be in public knowledge. Muster rolls have to be placed before the Gram Sabha for auditing which is called **social auditing**.

### Ban on Contractors

- Contractors will not be permitted under the scheme. Heavy machinery shall not be allowed under the scheme and most of the works are of unskilled manual labour kind.

### Pivotal Role of Panchayats

- Panchayats at all levels will play pivotal role in planning and implementation of the scheme. They decide the beneficiaries of the scheme and nature of work to be undertaken and all financial resources to be routed through Panchayats.

### Work Site Facilities for Labourers

- Under the scheme, a number of facilities will be provided at the worksite. Besides, there are provisions for free medical treatment in case of injury at worksite and compensation in case of death or permanent disability of labourers.

### Those Benefitting Under the MGNREGA Scheme

- Every household in rural areas, whose adult members are willing to do unskilled manual work.
- Villages will be able to create durable community assets which will enhance the livelihood resource base of the rural poor.
- Panchayati Raj Institutions will be empowered financially and administratively.

## Right to Information (RTI)

- In a democracy, RTI is important as it makes citizens active participants in the administration. It makes the system of governance transparent and thus accountable and citizen friendly. It helps to reduce corruption and makes government expenditure more efficient.

### History of RTI

- In 1976 in the case of *Raj Narain vs State of Uttar Pradesh* Supreme Court held that freedom of speech and expression given under Article 19.1(a) cannot be expressed properly without the Right to Information. It also said that citizens should have the Right to Information since they are the masters and masters have the right to know. Citizens also pay taxes and thus they have the right to know how their money is being spent.
- Thus, RTI is held to be a Fundamental Right in this case. The same Principle was upheld in *SP Gupta vs Union of India* (1982) case.

- The Chief Ministers Conference in 1997 recognised the need to enact a Right to Information Act.
- Working group under **Shri HD Shourie** submitted the draft law in 1997. It became the basis of Freedom of Information Bill, 2000.
- The FOI Bill was passed in 2002 by both Lok Sabha and Rajya Sabha and thus became an Act. However, due to many weaknesses in the Bill it was never notified and thus never came into force.
- The Right to Information Bill, 2005 which was based on the Freedom of Information Act, 2002 (although with over 150 Amendments) was passed by the Parliament in 2005. It came into force on 12th October, 2005. It is a radical improvement over the Freedom of Information Act, 2002.

## Right to Information Act, 2005

- Right to Information is not mentioned in any list in the 7th Schedule and thus it comes under the jurisdiction of Union Government under Residuary Powers.

### The Meaning of Information

- It covers any material in any form including records, documents, memos, e-mails etc held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force but does not include file notings.

### Right to Information Means

- *Right to*
  - inspect works, documents, records
  - take notes
  - take certified samples of material
  - obtain information in printouts, diskettes, floppies etc.

### Meaning of Public Authority

- *Any body or authority or institution that is constituted*
  - By or under the Constitution.
  - By or under a law made by Parliament or State Legislatures.
  - By an executive order by way of notification.
  - It includes any body owned, controlled or substantially financed by the government including non-governmental bodies.

### Public Information Officers (PIOs)

- PIOs are officers designated by public authorities in all administrative units to do the job of providing information to the citizens.
- **Applications** asking for information in writing or in electronic form in Hindi, English or the local language should be given to the PIO along with the prescribed fees (for non-BPL only). Particulars of information sought are to be provided.
- Reasons for seeking information are not needed personal information need not be provided. Only address for delivery has to be given.

### Duties of PIO

Some of the important duties of PIOs are as follows:

- To accept applications seeking information.
- To transfer applications within 5 days when they are connected to another public authority.
- If request for information is rejected. Then the PIO should provide
  - the reasons for rejection.
  - time limit in which appeal can be made.
  - particulars of the appellate authority.
- To provide information in the form in which it is sought.

### Time Limit for Providing Information

- 30 days from the day of application.
- 2 days for information concerning life or liberty of a person.
- 5 days are to be added to above times if the application is to be transferred to another authority.
- 10 days are to be added for information concern in a third party.
- Failure to provide information within time limit will be deemed refusal.

### Possible Grounds for Rejection

- Information which would affect the sovereignty, integrity, security of India.
- Information, the disclosure of which will be contempt of court or breach of privilege of the Parliament or State Legislature; Information received in confidence from foreign governments.
- Personal information with no relation to any public activity or interest.
- Not with standing any of these provisions a public authority may allow the release of information if public interest in disclosure outweighs the harm to protected interest.
- Any information which infringes the copyright of any person other than the state.
- **Partial disclosure** is allowed to provide information on that part which is not exempt and which can be reasonably severed from the rest.

### Bodies Excluded from Purview of RTI

- Central intelligence and security agencies specified in the 2nd Schedule like RAW, IB, Narcotics control Bureau etc. Agencies specified by the State Governments through a notification. This exclusion is only partial and these bodies have an obligation to provide information relating to allegations of corruption and human rights violations.

### Penalty

- Every PIO will be liable to pay ₹ 250/day upto a maximum of ₹ 25000 for
  - not accepting an application.
  - delaying information without reasonable cause.
  - knowingly giving in complete, incorrect or misleading information.
  - destroying the requested information.
  - the CIC and the State Information Commission will have the power to impose this penalty.

### Appellate Authorities

- First appeal to officer senior in rank to the concerned PIO.
- Second appeal to the IC or State IC
- Third appeal to courts.
- Though lower courts are banned from entertaining any suits or applications the writ jurisdictions of the Supreme Court and High Court under Article 32 and Article 226 respectively remain unaffected.

## Central Information Commission (CIC) and State Information Commission (SIC)

- CIC and SIC to have one Chief Information Commissioner and 10 Information Commissioners at the maximum.

### Eligibility Criteria and Appointment

- Appointment Committee includes Prime/Chief Minister, Leader of opposition, Cabinet Minister nominated by Prime/Chief Minister in case of Union/State Government.
- Persons eligible for appointment as Chief ICS and ICS at both state and union level should be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism etc.

### Terms of Office and Service Conditions

- Information Commissioner and Chief Information Commissioners to hold office for a period of 5 years or till the age of 65 whichever is earlier.
- Salary of CIC/IC same as that of CEC/EC.
- CIC not eligible for reappointment.
- IC can be made CIC but total term of office not to exceed 5 years.
- Salary not to be varied during service to disadvantage.

### Power and Functions of CIC/SIC

- CIC/SIC have a duty to receive complaints from any person
  - who has not been able to fill an application as the concerned PIO is not appointed.
  - who has been refused for requested information.
  - who has not received any response within the specified time.
  - who thinks the fees charged are unreasonable.
  - who thinks the information is misleading or false.
  - any other matter relating to obtaining information under the law.

**Powers to Order Inquiry**

- CIC/SIC will have powers of civil court such as
  - summoning, compelling to give evidence.
  - requiring the discovery and inspection of documents.
  - receiving evidence on affidavits.
  - requisitioning public records from any court or office.
  - issuing summons for examination of witnesses or documents.

**Power to Secure Compliance**

- *Power to secure compliance of its decision from the public authority includes*
  - providing access to information in a particular form.
  - directing the public authority to appoint a PIO/APIO where none exist.
  - making necessary changes to the practices relating to management, maintenance and destruction of records.
  - enhancing training provisions for officials of RTI.
  - imposing penalties under the law.
  - rejecting the application.
  - seeking annual report from the public authority.

**Reporting Procedure**

- CIC and SIC will send an annual report to the Union and State Governments respectively on the implementation of the provisions of the law.
- Each ministry has a duty to compile reports from its public authorities and send them to the CIC or SIC as the case may be.
- Each report will contain the details of number of requests received by each public authority, number of rejections and appeals, particulars of disciplinary action taken, amount of fees and charges collected etc.
- These reports are to be tabled after the end of each year in front of Parliament or State Legislature as the case may be.

**Right to Education**

- The first step towards making the Right to Education a reality was the Constitution (86th) Amendment Act, 2002 which added Article. 21A to the Part III (Fundamental Rights) of the Constitution. The Article provides that the state shall provide free and compulsory education to all children of the age of 6-14 years.

### **Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)**

- This right could only be enforced after the passing of the RTE Act in 2009 and its subsequent notification in February 2010. The act came into force on 1st April, 2010. The salient features of the act are:

- Free and compulsory education to all children of India in the 6-14 age group.
- No child shall be held back, expelled or required to pass a board examination until completion of elementary education.
- Will apply to all of India except Jammu and Kashmir.
- Provides for 25% reservation for economically disadvantaged communities in class one in neighbourhood private schools. The expense for the same shall be borne by the government.
- Mandates improvement in quality of education. School teachers will need to get adequate professional qualification in 5 years time or else they will lose their jobs. School infrastructure (where deficient) should be improved in 3 years or else the recognition will be cancelled. Financial burden will be shared between Central and State Governments.

**Rights of Backward Classes****Constitutional Provisions**

- **Article 15** (4) The state make any special provision for the advancement of any socially and educationally backward classes of citizen.
- **Article 15** (5) The state make any special provision for any socially and educationally backward classes of citizen with respect to their admission to educational institutions including private educational institutions who they aided or unaided by the state other than the minority educational institution.
- **Article 16** (4) Reservation of appointments or posts. in favour of any backward classes of citizen.
- **Article 46** To promote with special care the educational and economic interests of the weaker section of the people and protect them from social injustices and all forms of exploitation.
- **Article 164** (1) The tribal welfare minister appointed by the Governor in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha may in addition be incharged for the welfare of backward classes.
- **Article 340** Appointment of a commission by the President to investigate to conditions of backward classes.

**Legislators**

- National Commission for Backward Classes Act, 1993
- Central Educational Institutional (Reservation in Admission) Act, 2006

## Rights of Children

### Constitutional Provisions

- **Article 15** (3) Special provision for Women and Children.
- **Article 21 A** Right to free and compulsory education to all children of the age of 6-14 years.
- **Article 23** Prohibits trafficking of human being and forced labour.
- **Article 24** Prohibits employment of children below the age of 14 years in factories, mines and any other hazardous occupation.
- **Article 39** (e) and (f) Obligates the state to safeguard the health of children and afford opportunities to grow with dignity.
- **Article 45** The state shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years.
- **Article 51 A** (K) The duty of every parent or guardian to provide opportunities for education to his child or ward between the age of 6-14 years.

### UN and Child Rights

- The United Nations Convention on the Rights of the Child, often referred as CRC or UNCRC sets out the civil, political, economic, social and cultural rights of children.
- The UN General Assembly adopted the convention and opened it for signature in 1989. It came into force in 1990.
- It requires the states to act in the best interests of the child. It acknowledges that every child has certain basic rights, including the right to life, his or her own name and identity, to be raised by his or her own parents, and have a relationship with both parents, even if they are separated.

### National Commission for Protection of Child Rights

- It was set-up in March 2007, under the commission for protection of Child Rights Act, 2005. Its mandate is to ensure that all laws, policies and programmes are in consonance with the child rights perspective as enshrined in the UNCRC and the Indian Constitution. Child is defined as a person in the age group of 0-18 years.

## Rights of Consumers

### Consumer Protection Act, 1986

- It was enacted in 1986 with the objective to provide better protection of consumer interests.
- It lays down the rights of the consumers and also provides for promotion and protection of consumer rights.
- It creates an alternative disputes resolution mechanism exclusively for consumers.

*It enshrines 6 rights to consumers*

- (i) Right to safety
- (ii) Right to be informed
- (iii) Right to be heard
- (iv) Right to choose
- (v) Right to seek redressal
- (vi) Right to consumer education
- It applies to private, public and co-operative sectors.
- Its provisions are not only compensatory, but also preventive and punitive.
- It provides for simple, inexpensive and timely redressal of consumer complaints.
- It provides for establishing a 3-tier consumer disputes redressal machinery at the National, State and District levels, namely.

## LGBT Rights in India

- Lesbian, Gay, Bisexual and Transgender (LGBT) people in India face danger of being imprisoned up to a life time because of their sexual orientation. Homosexual intercourse is a criminal offence under **Section 377** of the **Indian Penal Code** since 1860. Mental, physical, emotional and economic violence against LGBT community in India prevails.
- In **Naz Foundation v/s Government of NCT of Delhi** in 2009, the Delhi High Court ruled Section 377 and other legal prohibitions against private, adult, consensual and non-commercial same-sex conduct to be in direct violation of Fundamental Rights provided by the Indian Constitution.
- However, the Supreme Court of India overturned the decision of the lower court on 11th December, 2013 and upheld the primacy of Section 377.
- The Section 377 was repealed by Supreme Court on 6th September 2018.

### Transgenders Legally Recognised as Third Gender

The **Supreme Court** on 15 April, 2014, recognised the transgender community as a third gender along with male and female. Supreme Court Bench said eunuchs, apart from the binary gender, be treated for the purpose of safeguarding their rights under our Constitution and the laws made by the Parliament and the State Legislature."

The Bench directed the Centre and States to take steps to treat them as **socially and educationally backward classes** and extend **reservation** for admission in educational institutions and for public appointments. The Bench said gender identification is essential. It is only with this recognition that many rights such as the right to vote, own property and marry will be meaningful.

The Bench said "recognition of transgenders as a third gender is not a social or medical issue but a human rights issue. Transgenders are also citizens of India. The spirit of the Constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender."

# Self Check

## Build Your Confidence

1. India is home to lakhs of persons with disabilities. What are the benefits available to them under the law?

[IAS 2011]

1. Free schooling till the age of 18 years in government-run schools.
2. Preferential allotment of land for getting up business.
3. Ramps in public buildings.

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) 2 and 3 (c) 1 and 3 (d) 1, 2 and 3

2. Which of the following criteria have been provided under Article 16(4) to provide reservation to OBCs in the government employment?

1. social
2. economic
3. cultural
4. educational

Select the correct answer using the codes given below

- (a) 1 and 2 (b) 2 and 3  
(c) 2 and 4 (d) 1 and 4

3. Consider the following rights

[IAS 2011]

1. Right to education.
2. Right to equal access to public service.
3. Right to food.

Which of the above is/are Human Right/Human Rights under "Universal Declaration of Human Rights"?

- (a) Only 1 (b) 1 and 2  
(c) Only 3 (d) All of these

4. Consider the following statements.

1. Free and compulsory education to the children of 6-14 years age-group shall be provided by the State it is added by the 76th Amendment to the Constitution of India.
2. Sarva Shiksha Abhiyan seeks to provide computer education even in rural areas.
3. Education was included in the Concurrent List by the 42nd Amendment, 1976 to the Constitution of India.

Which of the statements given above are correct?

- (a) 1, 2 and 3 (b) 1 and 2  
(c) 2 and 3 (d) 1 and 3

5. With reference to consumer's rights / privileges under the provision of law in India which of the following statements correct?

[IAS 2012]

1. Consumer are empowered to take samples for food testing.
2. When consumer files a complaint in any consumer forum, no fee is required to be paid.
3. In case of death of consumer, his/her legal heir can file a complaint in the consumer forum on his/her behalf.

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

6. With reference to the United Nations Convention on the Rights of the Child, consider the following

1. The Rights of Development
2. The Right to Expression
3. The Right to Recreation

Which of the Rights of the child given above is/are the ?

- (a) Only 1 (b) 1 and 3  
(c) 2 and 3 (d) All of these

7. What arise out of dissatisfaction of the consumers as many unfair practices are being indulged in by the sellers?

- (a) Consumer awareness (b) Consumer rights  
(c) Consumer movement (d) Consumer duties

8. The Chief Information Commissioner and Information Commissioners shall be appointed by a committee consisting of

1. The Prime Minister.
2. Leader of opposition of the Lok Sabha.
3. A Union Cabinet Minister to be nominated by the Prime Minister.

Which of the statements given above are correct?

- (a) 1 and 2 (b) 1 and 3  
(c) None of these (d) All of these

9. The 93rd Constitution Amendment Act Amended the Article 15 of the Constitution to provide for reservation for SC, STs and socially and educationally backward classes in which of the following types of institutions?

1. Government aided institutions.
2. Minority institutions (Under Article 30)
3. Government unaided institutions
4. Private institutions

Which of the statements given above are correct?

- (a) 1 and 2 (b) 1 and 3  
(c) 1, 3 and 4 (d) 1, 2 and 3

10. According to the Constitution the Right to Equality and prohibition of Discrimination (Article-15) can be overlooked to make special policies for

1. Woman
2. Children
3. SC/ST'S
4. Old age persons

Which of the option(s) given above is/are correct?

- (a) 1, 2 and 3 (b) Only 3  
(c) 1 and 2 (d) All of these



1. (d) 2. (d) 3. (d) 4. (c) 5. (c) 6. (d) 7. (c) 8. (d) 9. (c) 10. (c)

# Chapter twenty-four

## Amendment of the Constitution

*The constitutional amendment process has a deep significance. A nation has to amend its supreme laws to meet the needs and aspirations of contemporaneous times. Indeed, Nehru said that no constitutional democracy can be viable if it remains stagnant and does not allow future generations to make necessary changes suiting their times.*

### Meaning of Amendment

- Constitutional amendment process is both **rigid** and **flexible** in India. It is based on the pattern of amendment process of South African Constitution.
- **Article 368** of the Constitution deals with the powers of the Parliament to amend the Constitution and its procedure.
- On the contrary, the Constitution cannot amend those provisions which form the basic structure of the Constitution as ruled by Supreme Court in **Kesavananda Bharati Case** in 1973.

### Types of Amendment

- By simple majority of the Parliament.
- By special majority of the Parliament.
- By special majority of the Parliament and ratification of half of the State Legislature.

### Amendment Procedure

- According to the Article 368, the process of amendment can be initiated only by the introduction of a bill for the purpose in House of Parliament. The amendment cannot be initiated by the State Legislature.
- The Bill for this purpose can be introduced by both government and the private member. Permission of the President is not required in this regard.
- After its introduction, the Bill is passed in each house by simple majority i.e. a majority of not less than **two-third** of the members of that House present and voting.
- There is no provision of joint sitting in case of a deadlock between the two Houses over the Bill.

- If Constitutional Amendment Bill wants to amend any of the following provisions of Constitution Bill must also be ratified by the legislatures of half of the states.
  - Article 54, Article 55, Article 73, Article 162 or Article 241.
  - Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI.
  - Any of the lists in the 7th Schedule.
  - The representation of States in the Parliament.
  - The provisions in Article 368.
- Once, the Bill is passed by both the Houses of Parliament, it is then presented before the President for his/her assent.
- After the Presidents assent bill becomes an act and Constitution stands amended in accordance with the terms of the act.
  - *Nothing in Article 13 shall apply to any amendment made under Article 368.*

### Doctrine of Basic Structure

- The doctrine of basic structure is an Indian judicial principle that the Constitution of India has certain basic features that cannot be altered or destroyed through amendments by the Parliament. Key among these **Basic Features** are the Fundamental Rights granted to individuals by the Constitution.
- The doctrine thus, forms the basis of a limited power of the Supreme Court to review and strike down Constitutional Amendments enacted by the Parliament which conflict with or seek to alter this **Basic Structure** of the Constitution. The basic structure doctrine applies only to Constitutional Amendments.

## Evolution of the Doctrine

- The Supreme Court's initial position on Constitutional Amendments was that no part of the Constitution was unamendable and that the Parliament might, by passing a Constitution Amendment Act in compliance with the requirements of Article 368, amend any provision of the Constitution, including the Fundamental Rights and Article 368.
- After some of the High Courts overturned, state laws redistributing land from zamindar (landlord) estates on the grounds that the laws violated the zamindars Fundamental Rights, the Parliament of India passed the 1st Amendment to the Constitution in 1951 followed by the Fourth Amendment in 1955 to protect its authority to implement land redistribution.
- The Supreme Court countered these amendments in 1967 when it ruled in **Golaknath vs The State of Punjab** that the Parliament did not have the power to abrogate Fundamental Rights including the provisions on private property.
- The court also held that the scheme of the Constitution and the nature of the freedoms it granted incapacitated Parliament from modifying, restricting or impairing Fundamental Freedoms in Part III. Parliament passed the 24th Amendment in 1971 to abrogate the Supreme Court ruling in the Golaknath Case. It amended the Constitution to provide expressly that Parliament has the power to amend any part of the Constitution including the provisions relating to Fundamental Rights.
- In 1973, in the case of **Kesavananda Bharati v/s State of Kerala** the Supreme Court reviewed the decision in Golaknath v/s State of Punjab and considered the validity of the 24th, 25th, 26th and 29th Amendments.
- The court held that although no part of the Constitution including Fundamental Rights, was beyond the amending power of the Parliament, the "basic structure of the Constitution could not be abrogated even by a Constitutional amendment". The Supreme Court has indicated that the *basic structure consists of the following*:
  - The supremacy of the Constitution.
  - A republican and democratic form of Government.
  - The secular character of the Constitution.
  - Maintenance of the separation of powers.
  - The federal character of the Constitution.
- In **Indira Gandhi vs. Raj Narain**, the Supreme Court referred to Kesavananda Bharati Case and accepted the doctrine of basic structure of frame work of Constitution.
- To neutralise the affect of doctrine of the basic structure, the Government enacted the Constitution (42nd Amendment) Article 1979 and added clauses (4) and (5) to Article 368, which provided for exclusion of judicial review of amendments of the Constitution made before or after the 42nd Amendment. It also declared that there shall be no limitation on the amending power of the Parliament under Article 368.
- In **Minerva Mills vs Union of India** 1980, the SC struck down clauses (4) and (5) of Article 368 inserted by the 42nd Amendment as these clauses destroyed the essential features of the basic structure of the Constitution and held that the *following are basic structure of the Constitution* :
  - Limited power of the Parliament to amend the Constitution;
  - Harmony and balance between Fundamental Rights and Directive Principles;
  - Fundamental Rights in certain cases;
  - Power of judicial review in certain cases.

## Constitutional Amendments

Numbers	Amendment Made	Affected Since	Objectives
First	Articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376 Articles 31A, 31B and 9th Schedule inserted	18th June, 1951	To overcome certain practical difficulties related to Fundamental Rights. It made provision for special treatment of educationally and socially backward classes and added 9th Schedule of the Constitution.
Second	Article 81 (1) (b)	1st May, 1953	Representation of States in the Parliament.
Third	7th Schedule	22nd February, 1955	It substituted entry 33 of List III (Concurrent List) of the 7th Schedule to make it correspond to Article 369.
Fourth	Articles 31, 31A, 35B 305 and 9th Schedule	27th April, 1955	Restrictions on property rights and inclusion of related bills in 9th Schedule of the Constitution.
Fifth	Article 3	24th December, 1955	Provide for a consultation mechanism with concerned states in matters relating to the amendments to the territorial matters and in the renaming of the state.
Sixth	Articles 269, 286 and 7th Schedule	11th September, 1956	Amend the Union and State Lists with respect to raising of taxes.

<i>Numbers</i>	<i>Amendment Made</i>	<i>Affected Since</i>	<i>Objectives</i>
Seventh	Articles 1, 3, 49, 80, 81, 82, 131, 153, 158, 168, 170, 171, 216, 217, 220, 222, 224, 230, 231 and 232, 258A, 290A, 298, 350A, 350B, 371, 372A and 378A Amends Part 8 and 1st, 2nd, 4th and 7th Schedules.	1st November, 1956	Reorganisation of states on linguistic lines, abolition of Class A, B, C and D states and introduction of Union Territories.
Eighth	Article 334	5th January, 1960	Clarify state's power of compulsory acquisition and requisitioning of private property and include zamindari abolition laws in 9th Schedule of the Constitution.
Ninth	1st Schedule	28th December, 1960	Minor adjustments to territory of Indian Union consequent to agreement with Pakistan for settlement of disputes by demarcation of border, villages etc.
Tenth	Article 240 1st Schedule	11th August, 1961	Incorporation of Dadra and Nagar Haveli as a Union Territory, consequent to acquisition from Portugal.
Eleventh	Articles 66 and 71	19th December, 1961	Election of Vice-President by Electoral College consisting of members of both Houses of the Parliament, instead of election by a Joint Sitting of Parliament. Indemnify the President and Vice-President election procedure from challenge on grounds of existence of any vacancy in the Electoral College.
Twelfth	Article 240 1st Schedule	20th December, 1961	Incorporation of Goa, Daman and Diu as a Union Territory, consequent to acquisition from Portugal.
Thirteenth	371A, 170	1st December, 1963	Formation of State of Nagaland, with special protection under Article 371A.
Fourteenth	81, 240, Article 239A and 1st and 4th Schedules.	28th December, 1962	Incorporation of Pondicherry into the Union of India and creation of Legislative Assemblies for Himachal Pradesh, Tripura, Manipur and Goa.
Fifteenth	124, 128, 217, 222, 224, 224A, 226, 297, 311, 316, Entry 78 List I, 7th Schedule.	5th October, 1963	Raise retirement age of judges from 60 to 62 and other minor amendments for rationalising interpretation of rules regarding judges etc.
Sixteenth	Articles 19, 84, 173 and 3rd Schedule	5th October, 1963	Make it obligatory for seekers of public office to swear their allegiance to the Indian republic and prescribe the various obligatory templates.
Seventeenth	Article 31A and 9th Schedule	20th June, 1964	To secure the constitutional validity of acquisition of estates and place, land acquisition laws in 9th Schedule of the Constitution.
Eighteenth	Article 3	27th August, 1966	Technical Amendment to include Union Territories in Article 3 and hence, permit reorganisation of Union Territories.
Nineteenth	Article 324	11th December, 1966	Abolish election tribunals and enable trial of election petitions by regular High Courts.
Twentieth	Article 233A	22nd December, 1966	Indemnify and validate judgements, decrees, orders and sentences passed by judges and to validate the appointment, posting, promotion and transfer the judges barring a few who were not eligible for appointment under Article 233. Amendment needed to overcome the effect of judgement invalidating appointments of certain judges in the State of Uttar Pradesh.
Twenty First	8th Schedule	10th April, 1967	Includes Sindhi as a National Language.
Twenty Second	Article 275 Articles 244A and 371B	25th September, 1969	Provision to form autonomous states within the State of Assam.
Twenty Third	Articles 330, 332, 333 and 334	23rd January, 1970	Extend reservation for SC / ST and nomination of Anglo-Indian members in Parliament and State Assemblies for another 10 years i.e. upto 1980.
Twenty Fourth	Articles 13 and 368	5th November, 1971	Enable Parliament to dilute Fundamental Rights through amendments to the Constitution.

<i>Numbers</i>	<i>Amendment Made</i>	<i>Affected Since</i>	<i>Objectives</i>
Twenty Fifth	Articles 31 and 31C	20th April, 1972	Restrict property rights and compensation, in case the state takes over private property.
Twenty Sixth	Articles 366 and 363A Removes Articles 362 and 291	28th December, 1971	Abolition of privy purse paid to former rulers of princely states which were incorporated into the Indian republic.
Twenty Seventh	239A and 239B 240 and 371C	15th February, 1972	Reorganisation of Mizoram into a Union Territory with a Legislature and Council of Ministers.
Twenty Ninth	9th Schedule	9th June, 1972	Place land reform acts and amendments to these act under 9th Schedule of the Constitution.
Thirtieth	Article 133	27th February, 1973	Change the basis for appeals in Supreme Court of India in case of civil suits from value criteria to one involving substantial question of law.
Thirty First	Articles 81, 330 and 332	17th October, 1973	Increase size of Parliament from 525 to 545 seats. Increased seats going to the new states formed in North-East India and minor adjustment consequent to 1971 delimitation exercise.
Thirty Second	Articles 371 371D and 371E and 7th Schedule	1st July, 1974	Protection of regional rights in Telangana and Andhra regions of State of Andhra Pradesh.
Thirty Third	Articles 101 and 190	19th May, 1974	Prescribes procedure for resignation by Members of the Parliament and State Legislatures and the procedure for verification and acceptance of resignation by House Speaker.
Thirty Fourth	9th Schedule	7th September, 1974	Place land reform acts and amendments to these act under 9th Schedule of the Constitution.
Thirty Sixth	80, 81, Article 371F and Removes Article 2A, 1st and 4th Schedules and 10th Schedule.	26th April, 1975	Formation of Sikkim as a state within the Indian Union.
Thirty Seventh	239A and 240	3rd May, 1975	Formation of Arunachal Pradesh Legislative Assembly.
Thirty Eighth	Articles 123, 213, 239B, 352, 356, 359 and 360	1st August, 1975	Enhances the powers of the President and Governors to pass ordinances.
Thirty Ninth	Articles 71, 329 and 329A and 9th Schedule	10th August, 1975	Amendment designed to negate the judgement of Allahabad High Court invalidating Prime Minister Indira Gandhi's election to the Parliament. Amendment placed restrictions on judicial scrutiny, the post of the Prime Minister.
Fortieth	Article 297 9th Schedule	27th May, 1976	Enable Parliament to make laws with respect to Exclusive Economic Zone (EEZ) and vest the mineral wealth with Union of India.  Place land reform and other acts and amendments to these act under 9th Schedule of the Constitution.
Forty First	Article 316	7th September, 1976	Raise retirement age, limit of Chairman and members of Union and State Public Commissions from 60 to 62.
Forty Second	Articles 31, 31C, 39, 55, 74, 77, 81, 82, 83, 100, 102, 103, 105, 118, 145, 150, 166, 170, 172, 189, 191, 192, 194, 208, 217, 225, 226, 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368 and 371F Articles 31D, 32A, 39A, 43A, 48A, 131A, 139A, 144A, 226A, 228A and 257A Parts 4A and 14A and 7th Schedule	1st April, 1977	Amendment passed during internal emergency by Indira Gandhi. Provides for curtailment of Fundamental Rights, imposes Fundamental Duties and changes to the basic structure of the Constitution by making India a <b>socialist, secular and republic</b> .  Curtailed the power of Judicial review of the Supreme Court and High Court.

<i>Numbers</i>	<i>Amendment Made</i>	<i>Affected Since</i>	<i>Objectives</i>
Forty Third	Articles 145, 226, 228 and 366 Remove Articles 31D, 32A, 131A, 144A, 226A and 228A	13th April, 1978	Amendment passed after revocation of internal emergency in the country. Repeals some of the more <b>anti-freedom</b> amendments enacted through Amendment Bill 1942.
Forty Fourth	Articles 19, 22, 30, 31A, 31C, 38, 71, 74, 77, 83, 103, 105, 123, 132, 133, 134, 139A, 150, 166, 172, 192, 194, 213, 217, 225, 226, 227, 239B, 329, 352, 356, 358, 359, 360 and 371F Articles 134A and 361A Removes Articles 31, 257A and 329A Part XII 9th Schedule	6th September, 1979	Amendment passed after revocation of internal emergency in the country. Provides for human rights safeguards and mechanisms to prevent abuse of Executive and Legislative Authority. Annuls some amendments enacted in Amendment Bill 1942.
Forty Fifth	Article 334	25th January, 1980	Extend reservation for SCs/STs and nomination of Anglo-Indian members in the Parliament and State Assemblies for another 10 years i.e. upto 1990.
Forty Sixth	269, 286 and 366 7th Schedule	2nd February, 1983	Amendment to negate judicial pronouncements on scope and applicability on Sales Tax.
Forty Seventh	9th Schedule	26th August, 1984	Place land reform acts and amendments to these act under 9th Schedule of the Constitution.
Forty Eighth	Article 356	26th August, 1984	Article 356 amended to permit President's rule upto 2 years in the State of Punjab.
Forty Ninth	Article 244 5th and 6th Schedules	1st April, 1985	Recognise Tripura as a tribal state and enable the creation of a Tripura tribal areas Autonomous District Council.
Fiftieth	Article 33	11th September, 1984	Technical amendment to curtailment of Fundamental Rights as per Part III as prescribed in Article 33 to cover security personnel protecting property and communication infrastructure.
Fifty First	Articles 330 and 332	16th June, 1986	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies.
Fifty Second	101, 102, 190, 191 and 10th Schedule	1st March, 1985	Anti Defection Law provide disqualification of members from Parliament and Assembly in case of defection from one party to other.
Fifty Third	Article 371G	14th August, 1986	Special provision with respect to the State of Mizoram.
Fifty Fourth	125, 221 and 2nd Schedule	1st April, 1986	Increase the salary of Chief Justice of India and other Judges and to provide for determining future increases without the need for Constitutional Amendment.
Fifty Fifth	Article 371(H)	20th February, 1987	Special powers to Governor consequent to formation of State of Arunachal Pradesh.
Fifty Sixth	Article 371(I)	30th May, 1987	Transition provision to enable formation of State of Goa.
Fifty Seventh	Article 332	21st September, 1987	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies.
Fifty Eighth	Article 394A Part XXII	9th December, 1987	Provision to publish authentic Hindi translation of Constitution as on date and provision to publish authentic Hindi translation of future amendments.
Fifty Ninth	Article 356 Article 359A	30th March, 1988	Article 356 amended to permit the President's rule upto 3 years in the State of Punjab, <b>Article 352</b> and <b>Article 359A</b> amended to permit imposing emergency in the State of Punjab or in specific districts of the State of Punjab.
Sixty First	Article 326	28th March, 1989	Reduce age for voting rights from 21 to 18.

<i>Numbers</i>	<i>Amendment Made</i>	<i>Affected Since</i>	<i>Objectives</i>
Sixty Second	Article 334	20th December, 1989	Extend reservation for SCs/STs and nomination of Anglo-Indian members in the Parliament and State Assemblies for another 10 years i.e. upto 2000.
Sixty Third	Article 356 Removes Article 359A	6th January, 1990	Emergency powers applicable to State of Punjab, accorded in Article 359A as per 59th Amendment repealed.
Sixty Fourth	Article 356	16th April, 1990	Article 356 amended to permit President's rule upto 3 years and 6 months in the State of Punjab.
Sixty Fifth	Article 338	12th March, 1992	National Commission for Scheduled Castes and Scheduled Tribes formed and its statutory powers specified in the Constitution.
Sixty Sixth	9th Schedule	7th June, 1990	Place land reform acts and amendments to these act under 9th Schedule of the Constitution.
Sixty Seventh	Article 356	4th October, 1990	Article 356 amended to permit President's rule upto 4 years in the State of Punjab.
Sixty Eighth	Article 356	12th March, 1991	Article 356 amended to permit President's rule upto 5 years in the State of Punjab.
Sixty Ninth	239AA and 239AB	1st February, 1992	To provide for a Legislative Assembly and Council of Ministers for federal National Capital of Delhi. Delhi continues to be a Union Territory.
Seventieth	54 and 239AA	21st December, 1991	Includes National Capital of Delhi and Union Territory of Pondicherry in Electoral College for Presidential election.
Seventy First	8th Schedule	31st August, 1992	Include Konkani, Manipuri and Nepali as National Languages.
Seventy Second	Article 332	5th December, 1992	Provide reservation to Scheduled Tribes in Tripura State Legislative Assembly.
Seventy Third	Part IX	24th April, 1993	Statutory provisions for Panchayat Raj as third level of administration in villages.
Seventy Fourth	Part IX A	1st June, 1993	Statutory provisions for local administrative bodies as third level of administration in urban areas such as towns and cities.
Seventy Fifth	Article 323B	15th May, 1994	Provisions for setting up rent control tribunals.
Seventy Sixth	9th Schedule	31st August, 1994	Enable continuance of 69% reservation in Tamil Nadu by including the relevant Tamil Nadu Act under 9th Schedule of the Constitution.
Seventy Seventh	Article 16	17th June, 1995	A technical amendment to protect reservation to SCs/STs employees in promotions.
Seventy Eighth	9th Schedule	30th August, 1995	Place land reform acts and amendments to these act under 9th Schedule of the Constitution.
Seventy Ninth	Article 334	25th January, 2000	Extend reservation for SCs/STs and nomination of Anglo-Indian members in the Parliament and State Assemblies for another 10 years i.e. upto 2010.
Eightieth	269, 270 and Removes Article 272	1st April, 1996	Implement 10th Finance Commission recommendation to simplify the tax structures by pooling and sharing all taxes between states and the centre.
Eighty First	Article 16	9th June, 2000	Protect SCs/STs reservation in filling backlog of vacancies.
Eighty Second	Article 335	8th September, 2000	Permit relaxation of qualifying marks and other criteria in reservation in promotion for SCs/STs candidates.
Eighty Third	Article 243M	8th September, 2000	Exempt Arunachal Pradesh from reservation for Scheduled Castes in Panchayati Raj institutions.
Eighty Fourth	Article 55, 81, 82, 170, 330 and 332	21st February, 2002	Extend the usage of 1971 National Census Population figures for state-wise distribution of Parliamentary seats.
Eighty Fifth	Article 16	17th June, 1995	A technical amendment to protect seniority in case of promotions of SCs/STs employees.
Eighty Sixth	45, 51A and Article 21A	12th December, 2002	Provides Right to Education until the age of 14 and early childhood care until the age of 6.

<i>Numbers</i>	<i>Amendment Made</i>	<i>Affected Since</i>	<i>Objectives</i>
Eighty Seventh	Article 81, 82, 170 and 330	22nd June, 2003	Extend the usage of 1971 National Census Population figures for state-wise distribution of Parliamentary seats.
Eighty Eighth	270, 268A and 7th Schedule	8th May, 2003	To extend statutory cover for levy and utilisation of Service Tax.
Eighty Ninth	Article 338 Article 338A	19th February, 2004	The National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes.
Nintieth	Article 332	28th September, 2003	Reservation in Assam Assembly relating to Bodoland territory area.
Ninty First	75, 164, Article 361B and 10th Schedule	1st January, 2004	Restrict the size of Council of Ministers to 15% of legislative members and to strengthen Anti-Defection laws.
Ninty Second	Articles 270, 268A and 8th Schedule	7th January, 2004	Enable levy of Service Tax and include Bodo, Dogri, Maithali and Santhali as National Languages.
Ninty Third	Article 15	20th January, 2006	To enable provision of reservation for Other Backward Classes (OBC) in government as well as Private Educational Institutions.
Ninty Fourth	Article 164	12th June, 2006	To provide for a Minister of Tribal Welfare in newly created Jharkhand and Chhattisgarh states and deletion of Bihar's name.
Ninty Fifth	Article 334	25th January, 2010	To extend the reservation of seats for SCs and STs in the Lok Sabha and State Assemblies from 60 to 70 years.
Ninty Sixth	8th Schedule	23rd September, 2011	Substituted <b>Odia</b> for <b>Oriya</b> .
Ninty Seventh	Article 19 (1) (c) Article 43 B, Part 9B (Article 243 ZH-ZT)	12th January, 2012	To give right to form co-operative societies and give a framework for their working.
Ninty Eighth	371J	2nd January, 2013	To empower the Governor of Karnataka to take steps to develop the Hyderabad-Karnataka region.
Ninty Ninth	New Articles- 124A, 124B and 124C. Amended Articles 124, 127, 128, 217, 222, 224A, 231	31st December, 2014	National judicial appointments commission was established, But on 16th October, 2015 Supreme Court struck down the NJAC as unconstitutional.
One Hundredth	Amendment of 1st Schedule to Constitution	28th May, 2015	To the acquiring of territories by India and transfer of cosstic territories Bangladesh in pursuance of the agreements and its protocol between India and Bangladesh.
One Hundredth First	Amendment of Articles 248, 249, 250, 268, 270, 271, 286, 366, 368, 6th Schedule, 7th Schedule, deletion of Article 268A	8th September, 2016	Goods and services Tax Bill.
One Hundredth Two	Article 338 B	11th August, 2018	Status of Constitutional body to National Commission of Backward Class.
One Hundredth Three	Article 15 & 16	12th January, 2019	10% reservation for economically weaker section.

# Self Check

## Build Your Confidence

1. The 9th Schedule to the Constitution of India was added by which Amendment Act [IAS 2012]  
(a) 1st Amendment Act (b) 2nd Amendment Act  
(c) 4th Amendment Act (d) None of these
2. If the procedure of the election of President of India is sought to be North free, which of the following conditions are required?  
1. An amendment of the constitution passed by simple majority in both Houses of the Parliament.  
2. A joint sitting of the Parliament for amendment  
3. An amendment of the Constitution passed by two-thirds majority in both Houses of the Parliament.  
5. Ratification of one-half of the State Legislatures.  
**Select the correct answer using the codes given below**  
(a) 1, 2 and 3 (b) 1 and 2  
(c) 2, 3 and 4 (d) All of these
3. Which Constitutional Amendment states that the total number of ministers, including the Prime Minister, in the Council of Ministers shall not exceed 15% of the total number of members of House of the People? [IAS 2009]  
(a) 90th (b) 91st  
(c) 92nd (d) 93rd
4. Which of the following are matters on which a Constitutional Amendment is possible only with the ratification of the legislatures of not less than one-half of the states?  
1. Election of the President.  
2. Representation of the States in the Parliament.  
3. Any of the lists in the 7th Schedule.  
4. Abolition of the Legislative Council of a State.  
**Select the correct answer using the codes given below**  
(a) 1, 2 and 3 (b) 1, 2 and 4  
(c) 1, 3 and 4 (d) 2, 3 and 4
5. Under which one of the following Constitution Amendments Acts, 4 languages were added to the languages under the 8th Schedule of the Constitution of India, thereby raising their number to 22? [IAS 2008]  
(a) Constitution (90th Amendment) Act  
(b) Constitution (91st Amendment) Act  
(c) Constitution (92nd Amendment) Act  
(d) Constitution (93rd Amendment) Act
6. A change in distribution of powers between the centre and the states can be done by  
(a) the Central Government  
(b) the federating units by themselves  
(c) amending the Constitution  
(d) None of the above
7. The 1st amendment to the Constitution carried out in 1951 related to  
(a) security of the country  
(b) security of the Prime Minister  
(c) protection of agrarian reforms in certain states  
(d) Scheduled Castes and Scheduled Tribes
8. Which of the following points of criticisms are leveled against the amendment procedure in the Indian Constitution?  
1. There is no provision for special conventions for amendment of the Constitution as in the USA.  
2. Too much power has been given to the states in the matter of proposing amendments to the Constitution.  
3. The states have not been given sufficient powers with regard to amendment of the Constitution.  
4. Too much power has been given to the Union Parliament with regard to the Amendment of the Constitution.  
**Select the correct answer using the codes given below**  
(a) 1, 3 and 4 (b) 1, 2 and 3  
(c) 2, 3 and 4 (d) All of these
9. Through which Constitutional Amendment in Article 359, it has been laid down that Fundamental Rights under Articles 20 and 21 are enforceable during the operation of emergency?  
(a) 44th Amendment Act (b) 46th Amendment Act  
(c) 45th Amendment Act (d) 48th Amendment Act
10. Which one of the following Bills must be passed by each House of the Indian Parliament separately by special majority?  
(a) Ordinary Bill  
(b) Money Bill  
(c) Finance Bill  
(d) Constitution Amendment Bill
11. The Constitution (93rd Amendment) Act deals with  
(a) local self-government  
(b) extension of reservation in educational institution  
(c) basic structure of the Constitution of India  
(d) appointment of Judges in the Supreme Court of India
12. Which of the following Constitutional Amendment Act provides to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreements and its protocol between India and Bangladesh?  
(a) 99th Constitutional Amendment  
(b) 98th Constitutional Amendment  
(c) 100th Constitutional Amendment  
(d) 97th Constitutional Amendment



1. (a) 2. (b) 3. (b) 4. (a) 5. (c) 6. (c) 7. (a) 8. (a) 9. (a) 10. (a)  
11. (d) 12. (c)

# Chapter twenty-five

## Constitutional Provisions Regarding UTs, States with Special Status and Tribunals

*A Union Territory is a type of administrative unit in Republic of India. These are directly ruled by Union Government. Indian Constitution provides for some tribunals to adjudicate on certain matters. Some state-specific provisions have also been included in the Constitution.*

### Union Territories (UTs)

- After Independence Union Territories were placed in the category of Part 'C' and Part 'D' States. The special feature of these Part C States was that they were administered by the President through a Chief Commissioner or a Lieutenant- Governor, acting as his/her agent. Parliament had legislative power relating to any subject as regards the Part 'C' States, but the Constitution empowered Parliament to create a Legislature as well as a Council of Advisors or Ministers for a Part 'C' State.
- By the 7th Constitutional Amendment, 1956, the classification of states into three parts, Part A, Part B and Part C and Territories in Part D was abolished and the whole Territory of India was categorised into the States, the Union Territories and Acquired Territories, if any.
- The States or the provinces are the constitutional units of the Union of India enjoying federal relationship with the Centre. The status of the Union Territories has subtle difference from that of the States in two respects:
  - (i) They are not part of the federal structure of the Constitution and hence do not participate in the division of power.
  - (ii) They are directly administered by the Centre through the Lieutenant Governors or Chief Commissioners, appointed by the President.

- At present there are **seven** Union Territories alongwith the year of creation, viz. Andaman and Nicobar Islands-1956. National Capital Territory of Delhi (NCT)-1956. Lakshadweep-1956; Dadra and Nagar Haveli-1961; Daman and Diu-1962; Puducherry-1962; and Chandigarh-1966
- The UTs have been created for a variety of reasons and purposes:
  - Delhi and Chandigarh : for political and administrative purposes
  - Puducherry, Dadra and Nagar Haveli and Daman and Diu: for cultural distinctiveness
  - Andaman and Nicobar and Islands Lakshadweep : for strategic importance
- The erstwhile Union Territory of Delhi which had a Metropolitan Council and Executive Councillors has now emerged as the National Capital Territory of Delhi with a Legislature and a Council of Ministers (Articles 239AA and 239 AB inserted by the 69th Amendment, 1991).

### Administration of Union Territories

- Article 239-241 in part VIII of the Constitution deal. With UTs under Article 239(1), the Parliament may by law provide for the administration of UTs. Subject thereto, the administration of UTs is to be handled by the President through an administrator appointed by him.
- The administrator is usually called the Lieutenant Governor.

- Instead of appointing an administrator from outside, the President may appoint the Governor of a State as the administrator of an adjoining Union Territory; and where a Governor is so appointed, he/she shall exercise his/her functions as such administrator independently of his/her Council of Ministers.
- Parliament may by law create for any territory a Legislature and a Council of Ministers or both. Such a Legislature and Council of Ministers exist for the Union Territory of **Puducherry** and for the National Capital Territory of **Delhi**.
- The legislative and executive powers in respect of public order, police, land and all matters related to these 3 subjects, however have been retained by the union to be handled through the Lieutenant. Governor of Delhi.
- The Union Territory of Andaman and Nicobar Islands has a nominated body in place of a legislature (**Article 239 A**).
- The administrator of a Union Territory enjoys powers of promulgating ordinances like the Governors of States (**Articles 239A and 240**).

## High Courts for Union Territories

- Parliament may by law constitute a High Court for a Union Territory or declare any court in any such territory to be a High Court for all or any of the purposes of the Constitution.
- Until such legislation is made the existing High Courts relating to such territories shall continue to exercise their jurisdiction.
- In the result, the Punjab and Haryana High Court acts as the High Court of Chandigarh; the Lakshadweep is under the jurisdiction of the Kerala High Court; the Calcutta High Court has got jurisdiction over the Andaman and Nicobar Islands, the Madras High Court has jurisdiction over Puducherry; the Bombay High Court over Dadra and Nagar Haveli; and the Guwahati High Court (Assam) over Mizoram and Arunachal Pradesh.
- The Territory of Goa, Daman and Diu had a judicial commissioner but recently the jurisdiction of the Bombay High Court has been extended to this territory. Delhi has a separate High Court of its own since 1966.

## Legislative Power

- Parliament has exclusive legislative power over a Union Territory, including matters which are enumerated in the State List [**Article 246(4)**].
- But so far as the two groups of Island Territories; Dadra and Nagar Haveli; Daman and Diu; Puducherry; are concerned, the President has got a legislative power, namely, to make regulations for the peace, progress and good government of these territories.
- This power of the President over-rides the legislative power of Parliament in as much as a regulation made by the President as regards these Territories may repeal or amend any Act of Parliament which is for the time being applicable to the Union territory [**Article 240 (2)**].
- But the President's power to make regulations shall remain suspended while the legislature is functioning in any of these States, to be revived as soon as such legislature is dissolved or suspended.

## Acquired Territories

- There are no separate provisions in the Constitution relating to the administration of acquired territories but the provisions relating to Union Territories will extend by virtue of there definition of 'Union Territory' [**Article 366(30)**], as including "any other territory comprised within the Territory of India but not specified in that schedule".
- Parliament has plenary power of legislation regarding such territory as in the case of the Union Territories.

## Tribunals

- The original Constitution did not contain provisions with respect to tribunals.
- The 42nd Amendment Act of 1976 added a new Part XIV-A to the Constitution.
- This part is entitled as *Tribunals* and consists of only two Articles: **Article 323 A** dealing with administrative tribunals and **Article 323 B** dealing with tribunals for other matters.

## Administrative Tribunals

- Article 323A empowers the Parliament to provide for the establishment of administrative tribunals for the adjudication of disputes relating to recruitment and conditions of service of persons appointed to public services corporations and other public authorities.
- In other words, Article 323 A enables the Parliament to take out the adjudication of disputes relating to service matters from the civil courts and the high courts and place it before the administrative tribunals.
- In pursuance of Article 323 A, the Parliament has passed the Administrative Tribunals Act in 1985. The act authorises the Central Government to establish one central administrative tribunal and the state administrative tribunals.
- This act opened a new chapter in the sphere of providing speedy and inexpensive justice to the aggrieved public servants.
- By a notification, the service matters related Undertakings PSUs can be brought under the CAT or SATs, as the case may be.
- The Chairman and the Vice-Chairman of the tribunal enjoys the status of a High Court judge and his/her retirement age is 65 years.

- The retirement age for other members drawn from the administration is 62 years. *The following categories of employees are exempted from the purview of the Administrative Tribunals (ATs):*
  - The employees of the Supreme Court and the High Court
  - Armed forces personnel, and
  - Employees of the Secretariat of the Lok Sabha and the Rajya Sabha
- The tribunals are meant to relieve the courts of overload and expedite the process of justice. Only the Supreme Court can entertain cases relating to service matters, according to the 42nd Amendment Act.
- The President appoints the chairman and other members of the CAT and the SATs after consulting the Chief Justice of India.
- The Chairman must be a Judge of the High Court or one who served for at least 2 years as the High Court Judge or the Vice-Chairman of Tribunal.

### Central Administrative Tribunal (CAT)

- It was established in 1985 under the Administrative Tribunals Act (1985) of the Parliament. Hence, it is a statutory body. It deals with the disputes relating to the recruitment and all service matters.
- Its objective is to provide speedy and inexpensive justice to the aggrieved Civil Servants. It is a multi-member body consisting of a Chairman, 16 Vice-Chairmen and 49 Members. The term of the Chairman and the Vice-Chairman is 5 years or until they attain the age of 65 years, whichever is earlier.
- The term of the members is 5 years or until they attain the age of 62 years, whichever is earlier. They are not eligible for re-appointment. They are appointed by the President. They are drawn from both the judicial and the administrative streams. It is not bound by the procedure laid down in the Civil Procedure Code (1908).
- Its jurisdiction extends to the members of the All-India Services, Central Service and Posts.
- It works under the administrative control of the department of Personnel and Training one of the three departments of Ministry of Personnel, Public Grievances and Pensions.

### State Administrative Tribunals (SATs)

- The Administrative Tribunals Act of 1985 empowers the Central Government to establish the **State Administrative Tribunals** (SATs) on specific request of the concerned State Governments.
- SATs have been set-up for the State of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal. However, the Madhya Pradesh Administrative Tribunal and Tamil Nadu Administrative Tribunal have since been abolished.

- Like the CAT, the SATs exercise original jurisdiction in relation to recruitment and all service matters of state government employees.
- The Chairman, Vice-Chairman and Members of the SATs are appointed by the President after consultation with the Governor of the state concerned.
- The act also makes a provision for setting up of **Joint Administrative Tribunal** (JAT) for two or more states. A JAT exercise all the jurisdiction and powers exercisable by the administrative tribunals for such states.
- The Chairman, Vice-Chairman and Members of a JAT are appointed by the President after consultation with the Governors of the concerned states.

### Tribunals for Other Matters

- Under Article 323 B, the Parliament and the State Legislature are authorised to provide for the establishment of tribunals for the adjudication of *disputes relating to the following matters:*
  - Taxation
  - Foreign exchange, import and export
  - Industrial and labour
  - Land reforms
  - Ceiling on urban property
  - Food stuffs
  - Rent and tenancy rights
  - Elections to Parliament and State Legislature

#### Difference between Articles 323A and 323B

*These articles differs in the following three aspects:*

- While Article 323 A contemplates establishment of tribunals for public service matters only, Article 323 B contemplates establishment of tribunals for certain other matters (mentioned above).
- While tribunals under Article 323 A can be established only by Parliament, Tribunals under Article 323 B can be established both the Parliament and State Legislatures with respect to matters falling within their legislative competence.
- Under Article 323 A, only one tribunal for the centre and one for each state or two or more states may be established. There is no question of hierarchy of tribunals, whereas under Article 323 B a hierarchy of tribunals may be created.

## Special Status of Jammu and Kashmir

- Under Part XXI of the Constitution of India, which deals with “Temporary, Transitional and Special provisions”,
- The State of Jammu and Kashmir (J&K) has been accorded special status under **Article 370**.
- Even though included in 1st Schedule as 15th State, all the provisions of the Constitution which are applicable to other states are not applicable to Jammu and Kashmir. e.g. till 1965, Jammu and Kashmir had a Sadar-i-Riyasat (President) and Wazir-i-Azam (Prime Minister).

### Historical Aspect

- When India and Pakistan gained their independence on 15th and 14th August, 1947 respectively; Jammu and Kashmir chose to remain independent.
- There was an agreement by Jammu and Kashmir with Pakistan and India that none of them will attack Jammu and Kashmir. While India respected the agreement and exercised restraint, Pakistan attacked Kashmir in a bid to annex it by force. On 6th October, 1947, Kashmir was attacked by “Azad Kashmir Forces” supported by Pakistan.
- To save Jammu and Kashmir, Maharaja Hari Singh (the then ruler of Jammu and Kashmir) choose to accede Jammu and Kashmir to India.
- In October 1947, the accession was made by the ruler in favour of India in consideration of certain commitments made by Pandit. Jawaharlal Nehru (the then Prime Minister of India). It was in the pursuance of those commitments that Article 370 was incorporated in the Constitution.

### Special Features

#### Separate Constitution

- Jammu and Kashmir is the only state in India which has a Constitution of its own.
- The Constitution of Jammu and Kashmir was enacted by a separate Constituent Assembly set-up by the State and it came into force on 26th January, 1957.

#### Jurisdiction of the Parliament

- Parliament or the Union Legislature has very limited jurisdiction in case of Jammu and Kashmir as compared to other states.
- Till 1963, Parliament could legislate on subjects contained in the Union List, and had no jurisdiction in case of Concurrent List under 7th Schedule of the Constitution. But now, the Parliament has power to legislate not just on subjects contained in the Union List but also on some of the subjects of Concurrent List.
- Residuary powers, unlike other states, rest with Jammu and Kashmir. The Parliament has no power to legislate preventive Detention laws for the state; only the State Legislature has the power to do so.

#### Autonomy in Certain Matters

- Any action of the Union Legislature or Union Executive which results in alteration of the name or territories or an international treaty or agreement affecting the disposition of any part of the territory of the state requires the consent of the State Legislature or the State Executive (as the case may be) to be effective.
- The union has no power to suspend the Constitution of Jammu and Kashmir.

#### Emergency Provisions

- The Union of India has no power to declare Financial Emergency under **Article 360** in the state.
- The union can declare emergency in the state only in case of war or external aggression.
- No proclamation of emergency made on the grounds of internal disturbance or imminent danger thereof shall have effect in relation to the state unless (a) it is made at the request or with the concurrence of the government of the state; or (b) where it has not been so made, it is applied subsequently by the President to that state at the request or with the concurrence of the government of that state.
- In December 1964, Articles 356 and 357 were extended to the state.

#### Fundamental Duties, Directive Principles and Fundamental Rights

- Part IV (Directive Principles of the State Policy) and Part IVA (Fundamental Duties) of the Constitution are not applicable to Jammu and Kashmir.
- In addition to other Fundamental Rights, Articles 19(1)(f) and 31(2) of the Constitution are still applicable to Jammu and Kashmir; hence the Fundamental Right to property is still guaranteed in this state.

#### High Court of Jammu and Kashmir

- The High Court of Jammu and Kashmir has limited powers as compared to other High Courts within India. It can't declare any law unconstitutional.
- Unlike High Courts in other states, under Article 226 of the Constitution, it can't issue writs except for enforcement of Fundamental Rights.

#### Official Languages

- Provisions of Part XVII of the Constitution apply to Jammu and Kashmir only insofar as they relate to
  - the official language of the union;
  - the official language for communication between one state and another; or between a state and the union; and
  - language of the proceedings in the Supreme Court.
- Urdu is the official language of the state but use of English is permitted for official purposes unless the State Legislature provides otherwise.

## Jammu and Kashmir Constitution

- In September–October 1951, the Constituent Assembly of Jammu and Kashmir was elected by the people of the state on the basis of adult franchise to prepare the future Constitution of the state and to determine its relationship with the Union of India. This sovereign body met for the first time on 31st October, 1951, and took about 5 years to complete its task.
- The Constitution of Jammu and Kashmir was adopted on 17th November, 1957 and came into force on 26th January, 1957. *Its salient features (as amended from time to time) are as follows:*
  - It declares the state of Jammu and Kashmir to be an integral part of India.
  - It secures justice, liberty, equality and fraternity to the people of the state.
  - It says that the State of Jammu and Kashmir comprises all the territory that was under the ruler of the state on 15th August, 1947. This means that the territory of the state also includes the area which is under the occupation of Pakistan.
  - It lays down that a citizen of India is treated as a 'permanent resident' of the state if on 14th May, 1954 (a) he/she was a state subject of Class I or Class II, or (b) having lawfully acquired immovable property in the state, he/she has been ordinarily resident in the state for 10 years prior to that date, or (c) any person who before 14th May, 1954 was a state subject of Class I or Class II and who, having migrated to Pakistan after 1st March, 1947, returns to the state for resettlement.
  - It clarifies that the permanent residents of the state are entitled to all rights guaranteed under the Constitution of India. But, any change in the definition of 'permanent' can be made by the State Legislature only.
  - It provides for a bicameral legislature consisting of the Legislative Assembly and the Legislative Council. The Assembly consists of 111 members directly elected by the people. Out of this, 24 seats are to remain vacant as they are allotted for the area that is under the occupation of Pakistan. Hence, as an interim measure, the total strength of the Assembly is to be taken as 87 for all practical purposes. The council consists of 36 members, most of them are elected in an indirect manner and some of them are nominated by the Governor, who is also an integral part of the State Legislature.
  - It vests the executive powers of the state in the Governor appointed by the President for a term of 5 years. It provides for a Council of Ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his/her functions. The Council of Ministers is collectively responsible to the assembly. Under the original Constitution of Jammu and Kashmir (1957), the head of the state and head of the government were designated as Sadar-i-Riyasat (President) and Wazir-i-Azam (Prime Minister) respectively. In 1965, they were re-designated as Governor and Chief Minister respectively. Also, the head of the state was to be elected by the State Assembly. It establishes a High Court consisting of a Chief Justice and two or more other judges. They are appointed by the President in consultation with the Chief Justice of India and Governor of the state.
  - It provides for Governor's Rule. Hence, the Governor, with the concurrence of the President of India, can assume to himself

all the powers of the State Government, except those of the High Court. He can dissolve the assembly and dismiss the Council of Ministers. The Governor's Rule can be imposed when the state administration cannot be carried on in accordance with the provisions of the Jammu and Kashmir Constitution. It was imposed for the first time in 1977. Notably, in 1964, Article 356 of the Indian Constitution was extended to the state of Jammu and Kashmir.

- It lays down the procedure for its amendment. It can be amended by a bill passed in each house of the state legislature by a majority of two-thirds of the total membership of that house. Such a bill must be introduced in the assembly only. However, no Bill of Constitutional Amendment can be moved in either House if it seeks to change the relationship of the State with the Union of India.

### Procedure for Amendment of Jammu and Kashmir Constitution

- The provisions of the State Constitution (except those relating to the relationship of the State with the Union) may be Amended by an Act of the Legislative Assembly of the state passed by not less than two-thirds of its membership.
- If such amendment seeks to affect Governor or Election Commission, it needs President's assent to come into effect. No amendment of the Constitution of India shall extend to Jammu and Kashmir unless so extended by an order of the President under **Article 370(1)**.

### Amendment of Article 370

- Under **Article 370(3)**, consent of State Legislature and the Constituent Assembly of the state are also required to amend Article 370.
- The Parliament has the power to amend the Constitution to change this provision. But this could be subject to a judicial review which may find that this clause is a basic feature of the relationship between the State and the Centre.
- Now the question arises, how can we amend **Article 370** when the Constituent Assembly of the state no longer exists? Or whether it can be amended at all? Some jurists say it can be amended by an Amendment Act under Article 368 of the Constitution and the Amendment extended under Article 370(1). But it is still a mooted question.

### Article - 35A

Article 35A was incorporated into the Constitution of India in 1954 by an order of the then President Rajendra Prasad, i.e. the Constitution (Application to Jammu and Kashmir) order 1954, giving the Jammu & Kashmir a carte blanche to decide who all are permanent resident of the state and confer on them special right and privilege in public sector jobs, acquisition of property in the state. Scholarships and other public aid and welfare. The provision mandates that no act of the legislature coming under it can be challenged for violating the constitution or any other law of the land.

## Special Provisions for Some States

- Articles 371 to 371(J)-I in Part XXI of the Constitution contain special provisions for eleven states viz, Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal Pradesh, Goa and Karnataka.
- The intention behind them is to meet the aspirations of the people of backward regions of the states or to protect the cultural and economic interests of the tribal people of the states or to deal with the disturbed law and other condition.
- ☞ *Originally, the Constitution did not make any special provisions for these states. They have been incorporated by the various subsequent amendments made in the context of reorganisation of the states or conferment of statehood on the Union Territories.*

### Provisions for Maharashtra and Gujarat

- Under **Article 371**, the President is authorised to provide that the Governor of Maharashtra and that of Gujarat would have special responsibility for
  - the establishment of separate development boards for (i) Vidarbha, Marathwada and the rest of Maharashtra, (ii) Saurashtra, Kachchh and rest of Gujarat;
  - making a provision that a report on the working of these boards would be placed every year before the State Legislative Assembly;
  - the equitable allocation of funds for developmental expenditure in these areas;
  - an equitable arrangement providing adequate facilities for technical education and vocational training, and adequate employment opportunities in the state services in these areas.

### Provisions for Nagaland

- Article 371-A** makes the following special provisions for Nagaland:
  - The Acts of Parliament relating to the following matters would not apply to Nagaland unless the State Legislative Assembly so decides
    - (a) Religious or social practices of the Nagas;
    - (b) Naga customary law and procedure;
    - (c) Administration of civil and criminal justice involving decisions according to Naga customary law; and
    - (d) Ownership and transfer of land and its resources.
  - The Governor of Nagaland shall have special responsibility for law and order in the state so long as internal disturbances caused by the hostile Nagas continue. In the discharge of this responsibility, the Governor, after consulting the Council of Ministers, exercises his individual judgement and his decision is final. This special responsibility of the Governor shall cease when the President so directs.
  - The Governor has to ensure that the money provided by the Central Government for any specific purpose is included in the demand for a grant relating to that purpose and not in any other demand moved in the State Legislative Assembly.

- A regional council consisting of 35 members should be established for the Tuensang district of the State. The Governor should make rules for the composition of the council, manner of choosing its members, their qualification, term, salaries and allowances; the procedure and conduct of business of the council; the appointment of officers and staff of the council and their service conditions; and any other matter relating to the Constitution and proper functioning of the council.
- For a period of 10 years from the formation of Nagaland or for such further period as the Governor may specify on the recommendation of the regional council, the following provisions would be operative for the Tuensang district:
  - (a) The administration of the Tuensang district shall be carried on by the Governor.
  - (b) The Governor shall in his discretion arrange for equitable distribution of money provided by the Centre between Tuensang district and the rest of Nagaland.
  - (c) Any act of Nagaland Legislature shall not apply to Tuensang district unless the Governor so directs on the recommendation of the regional council.
  - (d) The Governor can make regulations for the peace, progress and good government of the Tuensang district. Any such regulation may repeal or amend an Act of Parliament or any other law applicable to that district.
  - (e) There shall be a Minister for Tuensang affairs in the State Council of Ministers. He is to be appointed from amongst the members representing Tuensang district in the Nagaland Legislative Assembly.
  - (f) The final decision on all matters relating to Tuensang district shall be made by Governor in his discretion.
  - (g) Members in the Nagaland Legislative Assembly from the Tuensang district are not elected directly by the people but by the regional council.

### Provisions for Assam and Manipur

#### Assam

- Under **Article 371-B**, the President is empowered to provide for the creation of a committee of the Assam Legislative Assembly consisting of the members elected from the Tribal Areas of the State and such other members as he may specify.

#### Manipur

- Article 371-C** makes the following special provisions for Manipur:
  - The President is authorised to provide for the creation of a committee of the Manipur Legislative Assembly consisting of the members elected from the hill areas of the State.
  - The President can also direct that the 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 the hill areas.
  - The Central Government can give directions to the State Government as to the administration of the hill areas.

## Provisions for Andhra Pradesh

- **Articles 371-D and 371-E** contain the special provisions for Andhra Pradesh. Under the Article 371-D, *the following are mentioned*:
  - The President is empowered to provide for equitable opportunities and facilities for the people belonging to different parts of the state in the matter of public employment and education and different provisions can be for various parts of the state.
  - For the above purpose, the President may require the State Government to organise civil posts in local cadres for different parts of the state and provide for direct recruitment to posts in any local cadre. He may specify parts of the state which shall be regarded as the local area for admission to any educational institution. He may also specify the extent and manner of preference or reservation given in the matter of direct recruitment to posts in any such cadre or admission to any such educational institution.
  - The President may provide for the establishment of an administrative tribunal in the state to deal with certain disputes and grievances relating to appointment, allotment or promotion to civil posts in the state. The tribunal is to function outside the purview of the State High Court.
  - No court (other than the Supreme Court) is to exercise any jurisdiction in respect of any matter subject to the jurisdiction of the tribunal. The President may abolish the tribunal when he is satisfied that its continued existence is not necessary.
- Article 371-E empowers the Parliament to provide for the establishment of a Central University in the State.

## Provisions for Sikkim

- The 36th Constitutional Amendment Act of 1975 made Sikkim a full-fledged state of the Indian Union. It included a new **Article 371-F** containing special provisions with respect to Sikkim. *These are as follows*:
  - The Sikkim Legislative Assembly is to consist of not less than 30 members.
  - One seat is allotted to Sikkim in the Lok Sabha and Sikkim forms one parliamentary constituency.
  - For the purpose of protecting the rights and interests of the different sections of the Sikkim population, *the Parliament is empowered to provide for the*
    - (a) Number of seats in the Sikkim Legislative Assembly which may be filled by candidates belonging to such sections; and
    - (b) Delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the assembly.
  - The Governor shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of the different sections of the Sikkim population. In the discharge of this responsibility, the Governor shall act in his discretion, subject to the directions issued by the President.
  - The President can extend (with restrictions or modifications) to Sikkim any law which is in force in a state of the Indian Union.

## Provisions for Mizoram

- **Article 371-G** specifies the following special provisions for Mizoram:
  - The Acts of Parliament relating to the following matters would not apply to Mizoram unless the *State Legislative Assembly so decides*
    - (a) Religious or social practices of the Mizos;
    - (b) Mizo customary law and procedure;
    - (c) Administration of civil and criminal justice involving decisions according to Mizo customary law; and
    - (d) Ownership and transfer of land.
  - The Mizoram Legislative Assembly is to consist of not less than 40 members.

## Provisions for Arunachal Pradesh and Goa

### Arunachal Pradesh

- Under **Article 371-H**, *the following special provisions are made for Arunachal Pradesh*:
  - The Governor for Arunachal Pradesh shall have special responsibility for law and order in the state. In the discharge of this responsibility, the Governor, after consulting the Council of Ministers, exercises his/her individual judgement and his decision is final. This special responsibility of the Governor shall cease when the President so directs.
  - The Arunachal Pradesh Legislative Assembly is to consist of not less than 30 members.

### Goa

- **Article 371-I** provides that the Goa Legislative Assembly is to consist of not less than 30 members.

## Provisions for Karnataka

- **Article 371J** of the Constitution empowers the Governor of Karnataka to take steps to develop the Hyderabad-Karnataka Region. This Region includes the districts of Gulbarga, Bidar, Raichur, Koppal, Yadgir and Bellary.
- The President may allow the Governor to take the *following steps for development of the region*
  - setting up a development board for the region;
  - ensure equitable allocation of funds for development of the region and
  - provide for reservation in educational and vocational training institutions and State Government positions in the region for persons from the region.

# Self Check

## Build Your Confidence

**1. Consider the following statements about the High Court of Jammu and Kashmir.**

1. It has very limited powers as compared to other High Courts within India.
2. It can't declare any law unconstitutional.
3. It can't issue writs except for enforcement of Fundamental Rights.

**Which of the statement(s) given above is/are correct?**

- (a) 1 and 2 (b) Only 2 (c) 1 and 3 (d) All of these

**2. The special status of Jammu and Kashmir implies that the state has**

- (a) separate defence forces (b) a separate Constitution  
(c) a separate judiciary (d) All of these

**3. Consider the following statements.**

1. Union Government don't have the power to declare financial emergency in Jammu and Kashmir.
2. Also, the union can declare emergency in the state only in case of war or external aggression.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) None of these

**4. Who appoints the Governor of Jammu and Kashmir?**

- (a) The Chief Minister of Jammu and Kashmir  
(b) The Chief Justice of High Court of Jammu and Kashmir  
(c) The Prime Minister of India  
(d) The President of India

**5. Consider the following statements.**

1. Jammu and Kashmir is the only state to have a separate Constitution.
2. The Constitution of Jammu and Kashmir was adopted on 17th November, 1956 and came into force on 26th January, 1957.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) None of these

**6. To which of the following States the Special Marriage Act, 1954 does not apply?**

- (a) Meghalaya (b) Nagaland  
(c) Tripura (d) Jammu and Kashmir

**7. The nomenclature of the Executive Head of the Government of Jammu and Kashmir was changed from Sadar-i-Riyasat to Governor in 1965 by**

- (a) a Lok Sabha Resolution  
(b) the Executive order of the Parliament  
(c) the 6th Amendment in the State Constitution of Jammu and Kashmir  
(d) the State Government under Article 371

**8. Which of the following statements related to the Central Administrative Tribunal are correct?**

1. It is a statutory body.
2. Its members are drawn from administrative background only.
3. It is not bound by the procedure prescribed in the code of civil procedure.
4. Its jurisdiction covers the members of All India Services as well as Central Services and Central Government posts.
5. It was set-up in 1985.

**Select the correct answer using the codes given below**

- (a) 2, 3 and 4 (b) 1 and 4  
(c) 1, 3, 4 and 5 (d) 2 and 3

**9. Which of the following articles is not applicable to Jammu and Kashmir?**

- (a) Article 360 (b) Article 356  
(c) Article 357 (d) Article 370

**10. Which of the following is true regarding Constitution of Jammu and Kashmir?**

- (a) Financial emergency can be imposed on Jammu and Kashmir  
(b) Parliament has no power to amend on Current List  
(c) Parliament has no power legislate on Current List  
(d) Right to property is abolished in the state

**11. Which of the following still have Right to Property as Fundamental Right?**

- (a) Nagaland  
(b) Assam  
(c) Madhya Pradesh  
(d) Jammu and Kashmir

**12. Article 371, the President is authorised to provide that the Governor of Maharashtra and that of Gujarat would have special responsibility, for**

1. making a provision that a report on the working of these boards would be placed every year before the state Legislative Assembly.
2. the equitable allocation of funds for development expenditure over the vidarbha, Marathwada sauarashtra and kachchh.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**13. Which of the following Article, of the Constitution empowers the Governor of Karnataka to take steps to develop the Hyderabad –Karnataka Region?**

- (a) Article- 371-J (b) Article-371-H  
(c) Article-371-F (d) Article-371-G



1. (d) 2. (b) 3. (c) 4. (d) 5. (c) 6. (d) 7. (c) 8. (c) 9. (a) 10. (d)  
11. (d) 12. (c) 13. (a)

# Glossary

**Adjournment Motion** Motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the speaker.

**Administration** A organised apparatus of the state for the preparation and implementation of legislation and policies, also called *bureaucracy*.

**Adult Franchise** In democratic countries, all the adult citizens of certain age without any distinctions of caste, creed, colour, religion or sex are given the Right to Vote. This is called as an *adult franchise*. The prescribed minimum age for the citizens to avail the voting right may differ from country-to-country. The minimum age has been reduced in India from 21 years to 18 years by the 61st Constitutional Amendment act. It is based on the concept of equality.

**Arbitrary** When nothing is fixed and is instead left to one's judgement or choice. This can be used to refer to rules that are not fixed, or decisions that have no basis etc.

**Ballots** These are votes cast in an election contested by two or more individuals or parties. By extension, the ballot box is the box into which the votes are put and to ballot denotes the process of voting. There are many different kinds of voting procedure.

**Bandh** This is a pressure technique to highlight some issues, in which a political party or a pressure group gives call for the closure of shops, government offices, schools and other activities for a certain period.

**Bi-Cameral Legislature** It means a legislature which consists of two Houses, the Upper House and the Lower House. The Lower House is also called a *Popular House* as its members are elected directly by the people. In modern times, most of the legislatures are bi-cameral legislatures. The Concept of Bi-cameral Legislature originated and developed in the Great Britain.

**Bureaucracy** In the most general sense, describes a way of organising the activities of any institution, so that it functions efficiently and impersonally. The major theorist of bureaucracy was Max Weber and most subsequent research and theorising has closely followed his analysis. For Weber and most subsequent writers, bureaucracy is characterised by a set of basic organisational principles.

**By-Election** This is a mid-term election to fill-up one or few constituencies, which have become vacant due to resignation, death or otherwise before the completion of the full-term of the representatives.

**Cabinet Solidarity** A convention that all Cabinet Ministers publicly support whatever decisions the cabinet has taken, regardless of their personal views.

**Calling Attention** It is a notice by which a member with prior permission of the Speaker, calls the attention of a minister to any matter of urgent public importance. The minister may make a brief statement or ask for sometime an hour or a day for the reply.

The 'Calling Attention' procedure does not exist in the Rajya Sabha, which has instead the 'Motion of Papers'.

**Care-Taker Government** A government during the interregnum comes as soon as the Council of Ministers goes out of the office. Usually, the outgoing government is allowed to continue in the office and run the government. This care-taker government lasts till a new government takes charge after the elections. There are certain moral restrictions on the legislative powers of this government and it is supposed not to take any major policy decisions.

**Censure Motion** This is a motion moved by the opposition against the government or a minister criticising its policies and programmes on the floor of the House. In the censure motion, the specific cause of censuring the government or a minister has to be mentioned. The passing of censure motion by the house means lack of confidence in the government and thus, the ruling party opposes the passing of such motion in the house.

**Civil Rights Movement** A movement that began in USA in 1950s, in which African-American people demanded equal rights and end to racial discrimination.

**Coalitions** These are groupings of rival political units in the face of a common enemy; they occur in situations where the furtherance of some shared goal, overrides differences and potential conflicts between the members of the coalition. Coalitions usually occur in modern Parliaments when no single political party can muster a majority of votes.

**Communist State** A state governed by a Communist party without allowing other parties to compete for power. The state controls all the big property and industry.

**Constituency** A particular area from which all the voters living there choosing their representatives. This could be e.g. a Panchayat ward or an area that chooses an MLA, MP.

**Confederation** A Federal System of Government in which sovereign constituent governments create a Central Government, but balance of power remains with constituent governments.

**Conservatism** A political ideology generally characterised by a belief in individualism and minimal government intervention in the economy and society; also a belief in the virtue of the status quo and general acceptance of traditional morality.

**Constitutional Law** It refers to the part of a legal system and legal tradition which is directly concerned with interpreting and applying the fundamental rules that define and delimit the powers, rights and duties of governments, other organs of the state and the citizens. In some cases, Constitutional Law is based on the interpretation of a fixed, binding and usually written formal Constitution.

**Covenant** Promise made by individuals, groups or countries to uphold a rule or principle. It is legally binding on the signatories to the agreement or statement.

**Democracy** This is a government of the people, by the people and for the people. Democracy is the most valued and also perhaps the *vaguest* of political concepts in the modern world. The word democracy is derived from two ancient Greek words *demos* (the people) and *kratos* (strength). By itself, democracy means little more than that, in some undefined sense, political power is ultimately in the hands of the whole adult population and that no smaller group has the right to rule.

**Detention** It refers to the act of being kept in illegal custody by the police.

**Devolution** A system of government in which the Sovereign Central Government devolves (delegates) power to regional governments.

**Diplomacy** A system of formal, regularised communication that allows states to peacefully conduct their business with each other.

**Direct Democracy** A system of government based on public decisions made by citizens meeting in an assembly or voting by ballot.

**Distributive Justice** It means that the profits of the economic development shall be shared by all and not appropriated by a few. Also, there shall be no concentration of wealth. This intention is embodied in Article 39 (a) and (b) of the Constitution.

**Draft** A preliminary version of legal document.

**Electoral Bond** Electoral bond refers a bond which has its specified face value, mentioned on it like a currency note. These bond can be used by the individuals institution and organisation to donate money to the political parties.

**Electoral College** An electoral college is a group of people who have been specially appointed, nominated or elected in order that they should hold an election for a political office. It thus constitutes a way of making election to some significant position of power indirect rather than direct.

**Executive** A small group of elected officials who direct the policy process and oversee the vast array of departments and agencies of government.

**Guillotine** In modern parliamentary practices, it specifically means the sudden closure of a debate on an issue and the matter is put to the vote of the house.

**Head of Government** The person in effective charge of the executive branch of government, the Prime Minister in a parliamentary system.

**Head of State** An individual who represents the state, but does not exercise political power.

**Hung Parliament** When in a general election, no political party or coalition of the political parties is in a position to form a majority government, such a Parliament is called a Hung Parliament.

**Initiative** The initiation of legislative action on a particular issue by way of a voters' petition.

**Institutional Group** Groups which are closely associated with the government and act internally to influence public decisions.

**Insurgency** It means organisation of secret clandestine activities to destabilise or overthrow the government by a group of persons. Such persons are called *insurgents* and *more* often, they get support from some foreign countries which are not in good term with the concerned nation. In lighter form, insurgents may act as an illegal pressure group which employ tactics of violence and arm struggle to seed their goals.

**Interest Group** Organisations whose members act together to influence public policy in order to promote their common interest.

**Interim Government** This government is formed during the transitional phase of the history of the country. It is a full-fledged government and can take any policy decisions. In India, the Interim Government came to power with the Independence of India Act on 15th August and lasted till March, 1952.

**Jurisdiction** The area over which someone has legal authority. The area may be defined in terms of geographical boundaries or in terms of certain kinds of subjects.

**Laissez-Faire** The non-intervention of the state in the economy.

**Lame-Duck Session** It refers to the last session of an existing Parliament, when the elections to the new Parliament are announced and are shortly due. Infact, those members of the existing Parliament are called *Lame-Duck*, who could not find place in the new Parliament.

**Legislature** A representative assembly responsible for making laws for society.

**Liberal Democracy** A system of government characterised by universal adult suffrage, political equality, majority rule and constitutionalism.

**List System** A form of proportional representation in which the elector votes not for individuals, but for parties who have lists of candidates running for office.

**Lobbying** An activity of interest groups aimed at influencing Governors and the public to achieve a favourable policy decision(s).

**Magna Carta** (Great Charter) A document signed by *King John* in 1215, conceding that the king is subject to law.

**Majority Government** A Parliamentary Government in which the party in power has over 50% of the seats in the legislature.

**Mandates** They are typically claimed by successful parties in national elections even when they have actually gained only a smallish plurality of votes. If a party, or a candidate, has stood

for election on a particular set of policies, then, having won election, a 'mandate' from the people has been gained to implement those policies.

**Manifesto** It refers to a document of the political parties, listing their policies, programmes and their achievements and it is released to the general public before every general elections.

**Martial Law** This is a state of affairs declared by a civilian government, in which the military forces are empowered to rule, govern and control an area which can be a small locality or the entire nation, in a way involving direct force and without the usual constraints of democratic decision-making or the acceptance of civil rights.

**Mid-Term Poll** If the Popular House of the Parliament is not able to complete its full-term, it is dissolved and mid-term elections are held to constitute a new house. Such elections are called as *mid-term poll*.

**Ministerial Responsibility** The principle that Cabinet Ministers are individually responsible to the House of Commons for everything that happens in their department.

**Minority Government** A Parliamentary Government, in which the government party has less than 50% of the seats in the legislature.

**Monarchy** A monarchy is a state ruled by an individual, who has a position at the apex of an aristocratic pyramid of honour and authority, which is generally inherited through a family connection.

**Multiparty System** A party system in which there are three or more major contenders for power.

**National Government** This is a form of coalition government with participation of almost all the political parties represented in the legislature.

**Nationalism** The feeling of loyalty and attachment to one's nation or nation state and strong support for its interests.

**Neo-Conservatism** An ideological term characterising parties or politicians who not only advocate an end to government expansion, but believe in reducing its role *via* downsizing, privatisation and deregulation.

**Oligarchy** A form of government in which a minority rules outside the law.

**Ombudsman** In Sweden, the ombudsman is a high ranking public official responsible for hearing the people's grievances against various government authorities and the matters of corruption in the government.

**One-Party Dominant System** A party system in which there are political alternatives, but a single political party dominates the political process as a result of the overwhelming support of the electorate.

**Opposition** This refers to elected representatives who are not members of the ruling party and who play the role of questioning government decisions and actions as well as raise new issues for consideration in the legislature.

**Partyless Democracy** It is assumed that the political parties are essential for the functioning of the democracy, but it is also true that

the parties are responsible for the evils of the democracy. In a partyless democracy, elections are not contested on the party lines, but on the individuals basis.

Jai Prakash Narayan has propagated the idea of a partyless democracy in order to free the democracy from the evils of the political parties.

**Party Discipline** The convention that all MPs within any party vote together, as predetermined in the party caucus and enforced by the party whip.

**Plebiscite** It means the opinion of the people on an issue, taken by the government in order to take a decision about an important matter. e.g. Pakistan is demanding a plebiscite in Jammu and Kashmir to decide whether the residents of that state would like to stay with India or with Pakistan.

**Pluralism** It is both a technical term in political science and an evaluative word for a form of government, often used as a defence of what might otherwise be called liberal democracy or representative democracy. Technically, a pluralist political system is one that has several centres of power and authority, rather than one in which the state is the sole controller of people's actions.

**Plurality** A voting decision based on assigning victory to the largest number of votes, not necessarily a majority.

**Point of Order** It is an extra-ordinary process which when raised, has the effect of suspending the business before the house and the member who is on his legs gives way. This is meant to assist the presiding officer in enforcing the rules, directions and provisions of the Constitution for regulating the business of the house.

**Political Culture** Attitudes, values, beliefs and orientations that individuals in a society hold regarding their political system.

**Political Party** An organised group that makes nominations and contests elections in the hope of influencing the personnel and policy of government.

**Politics** A process of conflict resolution in which support is mobilised and maintained for collective action.

**Polity** A form of government characterised by popular sovereignty, but exercised within a constitutional framework to prevent the oppression of the minority by the majority rule.

**Popular Sovereignty** Supreme authority residing in the consent of the people.

**Portfolio** The administrative responsibility carried by a minister, usually some combinations of departments and other agencies.

**Preferential** (Alternative) **Ballot** Electoral system in which voters rank the candidates.

**Prerogative** The residual powers of the head to the executive that can be exercised at its own discretion.

**Private Member's Bill** Public Bills introduced in the legislature by members who are not in the government.

**Presidential Government** This form of government is just the opposite of the parliamentary form of government. In this form of government, the executive is not responsible to the legislature for its policies and programmes. The term of office of the executive is fixed. There is no distinction between the real and the nominal executives and the executive does not enjoy a close relation with the legislature. The United States of America provides an ideal example of the presidential form of government.

**Privy Purse** After the independence, many Princely States were merged with the Indian Union on the condition that the Government of India will pay some fixed amount of money on annual basis to the rulers of such princely states. The payment of this money is called the *privy purse*. The provision of the privy purse was made in order to compensate the rulers of the Princely States for the loss of revenue suffered by them due to the merger with India. The payment of the privy purse was stopped from 1971 by the government.

**Proclamation** The announcement of the official date a new law will take effect.

**Qualified Majority** The raising of the simple majority requirement of '50% plus one' to a higher level, in order to protect the rights of the minority.

**Quorum** It refers to the required presence of the minimum member of members of a body to hold its meetings and conduct its business. e.g. the presence of **1/10** members (quorum of 1/10) is required to hold the meetings of the Parliament. In the absence of the quorum, the meeting is adjourned and no business is conducted.

**Ratification** The process of ratification is the formal approval required by many Constitutions, which set-up elaborate systems of checks and balances and which seeks to make certain kinds of constitutional change difficult to achieve without a substantial measure of political unanimity.

**Readings** First, second and third readings representing the introduction and debate of proposed bills in the legislative chambers.

**Recall System** This is an arrangement for recalling the representatives of the people before the expiry of their prescribed term by the majority votes by the electorates, if the representative fails to discharge his responsibility in the public interest. Thus, it is the right of voters to recall their representative any time and elect a new representative. The Recall system is still prevalent in some cantons (provinces) of Switzerland.

**Red Tapism** Traditionally, the paper files used in the official works of the government were tied with a red tape. Thus, the red tapism refers to undue delay in the movement of files or official business due to the bureaucratic hurdles at various levels.

**Referendum** This is a method of referring a question or set of questions to the electorate directly rather than allowing them to be settled by the people's representatives in the legislature. It was used frequently in the USA from the revolutionary period at the state level and was used even earlier and frequently, since in Switzerland. The policy question may originate from a group of electors directly *via* an initiative or from an official body such as a State Government, Legislature or Constitutional council.

**Repatriation** It means returning back of the people (refugees) or sending back of the war prisoners to their own country from or by another country. e.g. India is gradually repatriating Chakma refugees to Bangladesh.

**Republic** It is unusual among political terms in being one that is actually very easy to give an ostensive definition to, but of which it is rather hard to explain the history. A republic is very simply, a system of government that does not entail monarchy, nor at least officially, aristocratic or oligarchical rule.

**Rule of Law** The Concept of Rule of Law was given by the British political thinker *Dicey*. It means that every citizen is equal before the law and will get equal protection of the law. No person shall be discriminated on the grounds of caste, creed, religion etc. Also, no one should be given special privileges in terms of the legal provisions. Rule of Law is the cornerstone of the modern democracies and the basis of the Constitutional Government.

**Sarvodaya** It literally means the welfare of all. The philosophy of Sarvodaya was propounded by *Gandhiji* and *Vinoba Bhave*. The ideology of Sarvodaya stands for the peaceful and gradual socio-economic changes ensuring the continuous welfare of all the people.

**Secularism** The Concept of Secularism refers to the separation of religion from politics. In a secular state, there is no state religion and every person has freedom to adopt and pursue the religious faith of his or her choice. India is also a secular country. However, the Indian Concept of Secularism is more positive, which means equal treatment of all the religions (*Sarva Dharma Sambhava*) and simultaneously protection of valid interests of the religious minorities.

**Separation of Powers** The separation of powers between executive, legislative and judicial branches of government.

**Shadow Cabinet** It is a national cabinet formed by the main opposition party in the Parliament wherein the members are assigned certain special functions to perform. Such members lead the opposition during the discussions in the Parliament. It is also known as the *Cabinet-in-waiting*.

This system not only provides a government, but also an effective opposition. Further, it helps in training the members in the art of governance even while in opposition. It functions well in the United Kingdom.

**Single Member Plurality System (SMP)** An electoral system in which the candidate with the most votes wins, even though that win may not represent 51% of the votes.

**Single Party System** A party system in which there exists only one party and no political alternatives are legally tolerated.

**Single Transferable Vote (STV)** A form of proportional representation in which electors vote for individuals rather than party lists, sans problem ranking the candidates in their order of choice.

**Socialism** The ideology of socialism is just opposed to individualism and capitalism. It strives to socialise the ownership of the means of production and distribution through gradual control by the democratic means. It wants to evolve a society which is characterised by equality, welfare of all and the equal opportunity of development to all. Socialism realises its objective through the agency of the state. The state is considered the representative of the public interest. Though, the right to private property is recognised under the socialism, it is regulated by law in public interest.

**Social Justice** The idea of social justice denotes a social condition, where there is a social equality and exploitation of the weaker section is absent. In broad terms, it ensures an equal opportunity to all for development and growth. It is one of the principles included in the preamble of the Indian Constitution. In practical politics, it means the amelioration of the weaker sections and the backward classes by providing them a special treatment and facilities.

**Sovereignty** This means the right to own and control some area of the world. It has, now-a-days, nothing to do with monarchy, which might seem to be implied by the connotation of sovereign, but entirely refers to the idea of independent rule by a country or institution over a certain territory or set of political concerns. Thus, a country might dispute the sovereignty of an island over which another country had established control, claiming that they had the right to rule.

**Split** It means division in a party as some members of the party leave it and they either join an other party or form a new party. The split in a party becomes inevitable when its leaders hold an irreversible position of confrontation. Split is the common feature of the Indian political parties on petty issues.

**Standing Committee** Legislative committees that are set-up permanently and parallel government functions.

**Starred and Unstarred Questions** When a member wants oral answer to his questions from a minister in the house, such questions are called the **starred questions**. Supplementary questions can be asked after the answer to such a question. When the answer is demanded by the members of the house in written, such a question is called the **unstarred question**. There is no provision of supplementary questions after the written reply.

**Statute** A specific piece of legislation.

**Stereotype** When we believe that people belonging to a particular groups based on religion, wealth, language are bound to have certain fixed characteristics or can only do a certain type of work, we create a stereotype.

**Subordinate Legislation** The rules and regulations made by the government within the purview of the authority delegated by the legislature are called **subordinate legislation**.

**Theocratic State** This state is opposed to a secular state. In theocratic state, a particular religion is recognised as the state religion and the transaction of the government affairs is generally carried out in accordance with the canons and rules of the state religion. Saudi Arabia, Pakistan, Nepal etc are some of the theocratic states, whereas India is a secular state.

**Three Language Formula** It is a compromise formula of the language problem evolved by the union in consultation with the governments of the states. Under this formula, if Hindi happens to be the mother tongue of the people of that state, then apart from English, a third language preferably a South Indian language should be taught to the students at Standards VI, VII and VIII. The formula has not been successful in India. The only state following this formula is Haryana which has introduced Telugu as the third language.

**Totalitarianism** It is a political concept often either combined with or even confused with others such as authoritarianism or dictatorship. The confusion, arises because there trends to be an empirical connection, so that authoritarian or dictatorial societies are often also totalitarian. There is, however, no necessary connection. To call a society totalitarian means that the political rulers control every aspect of private and social life in the society, as well as having so extensive a political power that virtually no liberty or autonomy in decision-making is left to individuals or groups outside the political power system.

**Total Revolution** The concept of 'Total Revolution' was propounded by Jai Prakash Narayan. It refers to a new consciousness and awareness for a change among the people, so that the fast and desirable changes and reforms can be brought about in the social, economic and political system.

**Two Party System** When there exist only two parties in a country, sufficiently strong to win major part of the electoral vote and exercise political control, such a country is called working on a two party political system. This does not mean that the other parties do not exist, but they are without much electoral influence so as to play effective role in the national politics. This system is working well in Bangladesh and in Sri Lanka.

**Unattached Members of the Legislature** They are those members whose status *vis-a-vis* a political party, subsequent to defection or dismissal, is yet to be decided by the presiding officer of the legislature.

**Unitary System** A system of government in which a single sovereign government rules the country.

**Unwritten Constitution** An uncodified Constitution established through traditional practice.

**Violence** The utilisation of physical force or power as a means of achieving ends.

**Welfare States** The notion of a welfare state was developed in 20th century. A welfare state, as distinct from a police state, performs multifarious activities and functions to ensure the welfare of the people with respect to health, education, social development, creating employment, removal of poverty and hunger, amelioration of the weaker sections of the society.

**Whip** This is an official appointed by a political party to regulate and monitor the behaviour of its members in the legislature. The violation of whip invites the disciplinary action against the erring party members.



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# Practice Sets

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## (1-5)

**MAGbook**



# Practice Set 1

## ANALYSE YOURSELF

1. Setting up of which one of the following is not mentioned in the Constitution of India?

- (a) NITI aayog
- (b) Finance commission
- (c) Election commission
- (d) Union Public Service commission

2. Which of the following are matters on which a constitutional amendment is possible only with the ratification of the legislatures of not less than one-half of the states?

- 1. Election of the President.
- 2. Representation of the States in the Parliament.
- 3. Any of the lists in the Seventh Schedule.
- 4. Abolition of the Legislative Council of a State.

Select the correct answer using the codes given below

- (a) 1, 2 and 3
- (b) 1, 2 and 4
- (c) 1, 3 and 4
- (d) 2, 3 and 4

3. Who among the following is the Chairman of the Steering committee to oversee the functions of the National Authority Chemical Weapons Convention (NACWC)?

- (a) The President
- (b) The Prime Minister
- (c) The National Security Adviser
- (d) The Cabinet Secretary

4. Which one of the following political theories advocates the withering away of the state and ushering in a new society in which there will be no state and no classes?

- (a) Liberalism
- (b) Democratic socialism
- (c) Marxism
- (d) Fabian socialism

5. Consider the following statements about the Constitution of India.

- 1. The Constitution of India has 20 Parts.
- 2. There are 390 Articles in the Constitution of India in all.
- 3. Ninth, Tenth, Eleventh and Twelfth Schedules were added to the Constitution of India by the Constitution (Amendment) Acts.

Which of the statement(s) given above is/are correct?

- (a) 1 and 2
- (b) Only 2
- (c) Only 3
- (d) All of these

6. On which of the following accounts is it said that the Constitution of India is a rigid Constitution like the federal Constitution elsewhere?

- 1. The proposal for amending the Constitution can be initiated by the Parliament only.
- 2. The procedure for amendment is not similar to that of ordinary legislation.

- 3. The amendment affecting the federal framework must be ratified by not less than half of the states.
- 4. There is no provision for a joint sitting on an Amendment Bill in case of disagreement between the Houses and therefore the bill comes to an end.

Select the correct answer using the codes given below

- (a) 1 and 2
- (b) Only 3
- (c) 2 and 3
- (d) 2 and 4

7. Consider the following statements

- 1. In the Lok Sabha, 12 members are nominated by the President of India.
- 2. In the Rajya Sabha, a maximum of 2 members of the Anglo-Indian community can be nominated by the President of India.

Which of the statement(s) given above is/are correct?

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

8. Which of the following explicitly underlines the progress in Implementation of Directive Principles of State Policy?

- 1. Abolition of intermediaries
- 2. Establishment of Legal Aid Cells
- 3. Electoral Process
- 4. Establishment of the Panchayati Raj

Select the correct answer using the codes given below

- (a) 1 and 2
- (b) 1 and 4
- (c) 3 and 4
- (d) 1, 2 and 4

9. Which are the two states (other than Uttar Pradesh) having the highest representation in the Lok Sabha?

- (a) Bihar and Andhra Pradesh
- (b) West Bengal and Maharashtra
- (c) Karnataka and Andhra Pradesh
- (d) Tamil Nadu and Rajasthan

10. The Finance commission is primarily concerned with recommending to the President about

- (a) the principle governing grants in aid to be given to the states
- (b) distributing the net proceeds of the taxes between the centre and the states
- (c) Neither 'a' nor 'b'
- (d) Both 'a' and 'b'

11. The Parliament can make law for the whole or any part of India for implementing international treaties

- (a) with the consent of all the states
- (b) with the consent of majority of states
- (c) with the consent of states concerned
- (d) without the consent of any state

**12. In reference to CAG, consider the following statements**

1. CAG is the head of Indian Audit and Accounts Department.
2. Article 280 deals with the office of CAG.
3. He can be removed by the Parliament in a manner as a Judge of Supreme Court.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**13. Which of the following statements are incorrect about the difference between the writ jurisdiction of the Supreme Court and High Courts in India?**

1. The Supreme Court can issue writs not only for the purpose of enforcement of Fundamental Rights, but also for any other purpose, whereas High Courts can issue writs only for the purpose of enforcement of Fundamental Rights.
2. High Courts can issue the writ of injunction, whereas the Supreme Court cannot issue the writ of injunction.
3. The Supreme Court can issue writs only in the case of appeal, whereas High Courts can issue writs only, when the party directly approaches it.
4. High Courts can issue writs not only for the purpose of enforcement of Fundamental Rights, but also for any other purpose, whereas the Supreme Court can issue writs only for the purpose of enforcement of Fundamental Rights.

**Select the correct answer using the codes given below**

- (a) Only 4 (b) 1, 2 and 3  
(c) 2 and 3 (d) 1 and 2

**14. To be officially recognised by the Speaker of the Lok Sabha as an opposition group, a party or coalition of parties must have at least**

- (a) 55 members  
(b) 60 members  
(c) 80 members  
(d) 1/3 of total members of the Lok Sabha

**15. Which of the following motions can the Council of Ministers in India move?**

- (a) No-Confidence motion  
(b) Censure motion  
(c) Adjournment motion  
(d) Confidence motion

**16. Which one of the following expenditures is not charged on the Consolidated Fund of India?**

- (a) Salary and allowances of the President of India  
(b) Salary and allowances of the Governor of a State of India  
(c) Salary and allowances of the justice of the Supreme Court of India  
(d) Salary and allowances of the Speaker of the Lok Sabha

**17. The correct statements about the Directive Principles of State Policy are**

1. They are borrowed from the Irish Constitution.
2. They are incorporated in Part V of the Constitution.
3. They seek to provide social and economic base to democracy.

4. The state must compulsorily implement them.
5. All of them are Gandhian in nature.

**Select the correct answer using the codes given below**

- (a) 1 and 3 (b) 1, 3 and 5  
(c) 1, 3, 4 and 5 (d) All of these

**18. A member of the Union Public Service commission can be removed by the**

- (a) President (b) Prime Minister  
(c) Chief Justice of Supreme Court  
(d) Chairman of the UPSC

**19. Which Fundamental Right cannot be suspended even during an emergency under Article 352 of the Constitution?**

1. Right to equality.
2. Right to freedom of speech and expression.
3. Protection in respect of conviction for offences.
4. Right to constitutional remedies.

**Select the correct answer using the codes given below**

- (a) 1, 3 and 4 (b) 1, 2 and 4  
(c) 2, 3 and 4 (d) All of these

**20. Which organ is the custodian of the National purse?**

- (a) Executive (b) Judiciary  
(c) Legislature (d) Civil Servants

**21. Who can be the member of the Rajya Sabha, but can speak both in Rajya Sabha and Lok Sabha?**

- (a) The Deputy Chairman of the Rajya Sabha  
(b) Leader of the House in the Rajya Sabha  
(c) Nominated members of the Rajya Sabha  
(d) Ministers who are members of the Rajya Sabha

**22. The right to vote in elections to a Parliament is a**

- (a) Fundamental Right (b) Political Right  
(c) Legal Right (d) Natural Right

**23. If it is desirable to establish a Presidential form of Government in India, the foremost and immediate amendment has to be made affecting the**

- (a) system of Judiciary  
(b) composition of the Parliament  
(c) powers of the Executive  
(d) provisions of the Fundamental Rights

**24. Any dispute regarding the violation of Fundamental Rights can be presented**

- (a) in any court of the country  
(b) in the Supreme Court only  
(c) in the High Court only  
(d) in either Supreme Court or High Court

**25. Who amongst the following can be removed without Parliament's resolution?**

- (a) Governor of a State  
(b) Any Judge of the Supreme Court  
(c) Any Judge of a High Court  
(d) Chief Election Commissioner

**26. If a question asked by a member of the Parliament is a starred one, he will get**

- (a) a written answer (b) an oral answer  
(c) answer in the zero hour (d) no answer

- 27.** After the general elections a new Lok Sabha is constituted. In its first session, the speaker is elected. Who presides over this first session?
- Ex-Speaker
  - Ex-Prime Minister
  - Chairman of the Rajya Sabha
  - Oldest member of the House

- 28.** Which one of the following has got most effective provisions towards the establishment of socio-economic justice in India?
- Fundamental Rights
  - Fundamental Duties
  - Directive Principles of the State Policy
  - Preamble of the Constitution

- 29.** Which one of the following features of the Fundamental Rights under Indian Constitution is incorrect?
- They are above ordinary laws
  - They are absolute
  - They are justiciable
  - They are six in number

Select the correct answer using the codes given below

- 2 and 4
- Only 2
- 1 and 2
- 2, 3 and 4

- 30.** Which one of the following has been wrongly listed as a freedom provided to the Indian citizens under Article 19?
- Freedom of speech and expression
  - Freedom of residence and settlement
  - Freedom of profession
  - Freedom of press

Select the correct answer using the codes given below

- Only 1
- Only 4
- Only 3
- Only 2

- 31.** The Preventive Detention Act does not have a restraining effect on
- Right to Equality
  - Right to Freedom
  - Right to Religion
  - Right to Constitutional Remedies

Select the correct answer using the codes given below

- 1, 3 and 4
- 1, 2 and 4
- 2, 3 and 4
- All of these

- 32.** The right enumerated under the heading 'Right to freedom' include
- protection against arrest and detention in certain cases.
  - freedom of speech and expression.
  - freedom of conscience.
  - protection of life and personal liberty.

Select the correct answer using the codes given below

- Only 2
- 1 and 2
- 1, 2 and 4
- All of these

- 33.** Civil and political equality does not include which of the following rights?
- Right to vote and right to be elected without any distinction of caste, religion, sex, property etc.
  - Right to vote and right to be elected without any distinction of age, caste, creed or sex.
  - Equal opportunity for taking part in elections.
  - The right to occupy highest office in the state irrespective of qualifications.

Select the correct answer using the codes given below

- 1, 3 and 4
- 1, 2 and 4
- 2, 3 and 4
- All of these

- 34.** Which one of the following is/are not a right listed in the Constitution?

- Equality in matters of appointment under state.
- Denial of special treatment for all sections including women, children and backward classes.
- Abolition of titles other than academic and military distinctions.

Select the correct answer using the codes given below

- 1 and 2
- 1 and 3
- Only 2
- All of these

- 35.** Which of the following one provided for in the Fundamental Right regarding prohibition of discrimination on grounds of religion, race, caste, sex or place of the birth?

- Access to hotels and places of public entertainment
- Access to clubs
- Access to shops
- Access to public restaurants

Select the correct answer using the codes given below

- 3 and 4
- 1 and 4
- 1, 3 and 4
- All of these

- 36.** After the dissolution of the Lok Sabha, which of the following Bills do not lapse?

- A Bill pending in the Lok Sabha, which is transmitted to it by the Rajya Sabha.
- A 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 the Lok Sabha.
- A Bill passed by both Houses, but returned by the President for reconsideration of Houses.
- A Bill passed by the Lok Sabha, but pending in the Rajya Sabha.

Which of the statements given above/are correct?

- 1 and 2
- 1, 3 and 4
- 2 and 3
- All of these

- 37.** For removing the Vice-President of India from his office a resolution is initiated in

- the joint sitting of both the House
- the Rajya Sabha
- the Lok Sabha
- any of the two Houses

- 38.** In the Panchayati Raj system, the 'Panchayat Samiti' is constituted at the

- village level
- block level
- city level
- district level

- 39.** Which of the following is the demerit of a federation?

- It encourages regionalism
- It creates unity in diversity
- It gives considerable measure of autonomy to the states

- (d) It prevents the Central Government from being despotic in behaviour
- 40. The Governor has to exercise his power and functions with the aid and advice of the Council of Ministers. Cases he can act in his discretion are**
1. reservation of bill for the consideration of the President.
  2. recommendation of imposition of the President rule in the state.
  3. while exercising his function as the administrator of an adjoining Union Territory (in case of additional charge).
  4. seeking information from the Chief Minister with regard to administrative and legislative matters of the state.
- Select the correct answer using the codes given below**
- (a) Only 2  
(b) 2 and 3  
(c) 1, 2 and 3  
(d) All of the above
- 41. Which of the following is wrong about the Parliamentary democracy?**
- (a) It does not adjust easily according to the changed circumstances  
(b) Ministers get more opportunities to show their abilities under this system of government  
(c) President gives impartial advice  
(d) There is close co-operation between the executive and the legislature
- 42. In a Presidential type of government, we find that**
- (a) the Chief Executive is always elected  
(b) the term of the Chief Executive is fixed for certain period  
(c) the secretaries are fully subordinate to the President  
(d) All of the above
- 43. A representative government is not possible without**
- (a) political parties  
(b) impartial election  
(c) political consciousness among the people  
(d) All of the above
- 44. Which of the following is the demerit of party system?**
- (a) It creates awakening among the masses who starts struggling for their demands  
(b) It compels the government to work according to public opinion  
(c) It leads government to introduce reforms  
(d) It divides nation into several groups
- 45. Which of the following electoral systems have been in vogue in India?**
1. Direct election
  2. Indirect election
  3. Proportional Representation system
  4. Nomination system
- Select the correct answer using the codes given below**
- (a) 1 and 3  
(b) 1 and 2  
(c) 1, 2 and 3  
(d) All of the above
- 46. The real work of opposition party in a democratic country is**
- (a) to make delays in legislation  
(b) to put obstacles in the way of the government of the rival parties  
(c) to topple down the government of the rival parties  
(d) to offer the healthy criticism to the government of rival parties
- 47. Political equality means**
- (a) every citizen should be given political education  
(b) every citizen should be given a chance to work in the government turn by turn  
(c) every citizen should be given right to vote and contest election  
(d) every citizen should be a member of any political party
- 48. Adult franchise is disadvantageous**
- (a) if the people caste their votes in favour of those candidates who give them money  
(b) if the people caste their votes to the candidates belonging to their own castes or religion and not to the able candidates  
(c) if the people caste their votes thoughtlessly  
(d) in all the above cases
- 49. Indian Constitution is**
- (a) more rigid than American Constitution  
(b) more flexible than English Constitution  
(c) more rigid than both English and American Constitutions  
(d) more rigid than English Constitution, but flexible than American Constitution
- 50. Which of the following is not included in the Preamble to the Indian Constitution?**
- (a) Justice social, economic and political  
(b) Education to men, women and children  
(c) Liberty of thought, expression, faith and worship  
(d) To promote equality of status and opportunity to all

## Answers

- |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. (a)  | 2. (a)  | 3. (d)  | 4. (c)  | 5. (c)  | 6. (b)  | 7. (d)  | 8. (d)  | 9. (b)  | 10. (d) |
| 11. (d) | 12. (c) | 13. (b) | 14. (a) | 15. (d) | 16. (b) | 17. (a) | 18. (a) | 19. (a) | 20. (c) |
| 21. (d) | 22. (c) | 23. (c) | 24. (d) | 25. (a) | 26. (b) | 27. (d) | 28. (c) | 29. (a) | 30. (b) |
| 31. (a) | 32. (c) | 33. (c) | 34. (c) | 35. (c) | 36. (c) | 37. (b) | 38. (b) | 39. (a) | 40. (d) |
| 41. (a) | 42. (d) | 43. (d) | 44. (d) | 45. (c) | 46. (d) | 47. (c) | 48. (d) | 49. (d) | 50. (b) |

# Practice Set 2

## ANALYSE YOURSELF

1. In India's constitutional framework, which of the following can be considered as sovereign?  
(a) The Judiciary  
(b) The Parliament  
(c) The Army  
(d) The People of India
2. With regard to the territory of the nation, the Constitution of India provides which of the following powers in specific articles?  
1. The power to change the name of a state.  
2. Power to incorporate new territories in the country.  
3. Power to alter the boundaries of states.  
4. Power to cede territory to a foreign country.  
**Which of the statements given above are correct?**  
(a) 1 and 2  
(b) 1, 2 and 3  
(c) 1 and 3  
(d) All of these
3. Altering of the boundaries of states amends the First Schedule of the Constitution. Thus, a bill for such purpose requires to be passed by which of the following methods in the Parliament?  
(a) Simple majority  
(b) Two-third majority with majority of the total membership  
(c) Two-third majority with half of the states also approving  
(d) None of the above
4. Which of the following is not a method of acquiring the citizenship of India?  
(a) Being born within the territory of India  
(b) Being ordinarily resident in India for 5 years, followed by registration by a PIO  
(c) Being ordinarily resident in India for 10 years by a foreigner  
(d) Being a child of Indian parents, but born outside the territory of India
5. The difference between Fundamental Rights and other Constitutional Rights is that  
(a) Fundamental Right cannot be amended while others can be  
(b) Fundamental Rights can be secured by directly approaching Supreme Court under Article 32 while other rights don't have such protection  
(c) Fundamental Rights are available only to citizens while others are available to everyone  
(d) Fundamental Rights are justiciable while others are not
6. According to the Constitution, the Right to Equality and Prohibition of Discrimination (Article 15) can be overlooked to make special policies for  
1. women.  
2. children.  
3. SCs or STCs.  
4. old age persons.  
**Select the correct answer using the codes given below**  
(a) 1, 2 and 3  
(b) Only 3  
(c) Only 1  
(d) 1 and 2
7. Right to Life and Liberty guaranteed by Article 21 has been expanded by the Supreme Court to include which of the following rights as well?  
1. Right to Information  
2. Right to Die  
3. Right to Food  
4. Right to Healthy Environment  
**Select the correct answer using the codes given below**  
(a) 1, 2 and 3  
(b) 2 and 3  
(c) 1, 3 and 4  
(d) 1 and 4
8. Freedom of speech can be curtailed by Indian Constitution in which of the following cases?  
1. In the interest of public order.  
2. In the interest of security of state.  
3. In the interest of discipline of public servants.  
4. In the interest of religious sentiments.  
**Select the correct answer using the codes given below**  
(a) Only 1  
(b) 1, 2 and 3  
(c) 2 and 4  
(d) 1 and 4
9. The differences between the writs issued by the Supreme Court under Article 32 and the High Court under Article 226 are  
1. the authority or person against whom the writs are issued must be present within the territorial jurisdiction of the High Court.  
2. Supreme Court can issue writs for enforcement of only Fundamental Rights while High Court can issue even for ordinary rights.  
3. Supreme Court can issue writs against both Union and State Governments while High Court can issue only against State Government.  
**Which of the statement (s) given above is/are correct?**  
(a) 1 and 2  
(b) 2 and 3  
(c) Only 2  
(d) All of these
10. The Right of Minorities to establish educational institutions under Article 30, is subject to which of the following limitations?  
1. State can apply regulations to unaided minority institutions to achieve excellence.  
2. Aided minority institutions should admit some non-minority students.  
3. Fees charged by unaided minority institutions can be regulated.  
4. Minority status is determined by reference to the state.  
**Select the correct answer using the codes given below**  
(a) 1 and 2  
(b) 3 and 4  
(c) 1, 2 and 4  
(d) 2, 3 and 4

- 11.** Which of the following is true regarding Fundamental Duties (Article 51A)?
- Not performing Fundamental Duties can lead to jail
  - Not performing Fundamental Duties can lead to taking away of Fundamental Rights for such individual
  - They are a basic feature of the Constitution of India
  - They are taken from the similar provisions in the Constitution of erstwhile Soviet Union
- 12.** In the single transferable vote system which is adopted for elections to the Rajya Sabha, which of the following circumstances may lead to transfer of vote from one contestant to another according to preferences expressed by each elector?
- When a candidate obtains more than the quota
  - When a candidate obtains less than the quota
  - Both 'a' and 'b'
  - Neither 'a' nor 'b'
- 13.** Judicial review being banned from the decisions related to disqualifications of members of legislature by the presiding officers for defection was struck down by the Supreme Court while determining the legality of Anti-Defection law. It is an example of
- Doctrine of Severability
  - Doctrine of Harmonious Construction
  - Doctrine of Judicial Supremacy
  - None of the above
- 14.** State Legislative makes a law on planning. Parliament also makes a law on same subject. State law is subject to which of the following doctrines in this context?
- Doctrine of Harmonious Construction
  - Doctrine of Eclipse
  - Doctrine of Severability
  - None of the above
- 15.** Doctrine of Harmonious Construction is not applied to
- Fundamental Rights and DPSP's in their mutual relations
  - Federal relationship
  - Parliament and judiciary
  - None of the above
- 16.** Consider the following regarding the surcharge on certain taxes and duties for purposes of the union.
- It is imposed by the Parliament.
  - It is imposed shared with the states.
  - Its uppermost limit as a percentage is 10% of the tax.
  - It cannot last for more than 3 years.
- Which of the statement(s) given above is/are correct?**
- 1 and 2
  - 1, 2 and 3
  - Only 1
  - 1 and 4
- 17.** Which of the following is the oldest financial committee of the Parliament?
- Public Accounts committee
  - Estimates committee
  - Committee on public undertakings
  - Business Advisory committee
- 18.** Which of the following is a constitutional committee of the Parliament?
- Parliamentary committee on languages

- Committee on the welfare of Scheduled Castes and Scheduled Tribes
  - Public Accounts committee
  - Committee on subordinate legislation
- 19.** In which of the following cases, Supreme Court has no adjudicatory jurisdiction?
- Inter state river water disputes (Article 262)
  - Delimitation of constituencies (Article 329)
  - Both 'a' and 'b'
  - Neither 'a' nor 'b'
- 20.** Which of the following participate in the election of the Vice-President of India?
- Elected members of Legislative Assemblies of the states
  - Elected member of Legislative Councils of the states
  - Elected members of Legislative Assemblies of the Union Territories of Delhi and Puducherry
  - None of the above
- 21.** Which of the following is an example of residuary powers in India?
- Disaster management
  - Prevention detention
  - Service taxation
  - Labour taxes
- Select the correct answer using the codes given below**
- 1 and 2
  - 2 and 3
  - Only 1
  - 1 and 3
- 22.** The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of the Constitution or for the purpose of hearing any reference under Article 143 shall be
- 5
  - 7
  - 9
  - 11
- 23.** Under the Constitution of India, the system of proportional representation has been partially adopted for
- Lok Sabha
  - State Assemblies
  - Rajya Sabha
  - State Legislative Councils
- Select the correct answer using the codes given below**
- 1 and 2
  - 2 and 3
  - 2 and 4
  - 3 and 4
- 24.** Which of the following are features of a true democracy?
- One man one vote principle
  - Territorial representation
  - Adult suffrage
  - Single transferable system of voting
- Select the correct answer using the codes given below**
- 1 and 2
  - 1 and 3
  - 1, 2 and 3
  - All of these
- 25.** Doctrine of Prospective Overruling is a concept applied by the Supreme Court in which of the following cases?
- Golak Nath case
  - Kesavananda Bharati case
  - Minerva Mills case
  - None of the above

**26.** Special leave petition of the Supreme Court does not extend to which of the following judgement decrees?

- (a) Interim order
- (b) Any court or tribunal constituted by or under any law relating to the armed forces
- (c) Criminal cases
- (d) All of the above

**27.** Which of the following is incorrect regarding the constitutional provisions relating to the Election commission?

- (a) Salaries of Chief Election commission and other Election Commissioners are charged on the Consolidated Fund of India
- (b) Election Commissioners are removed like Judges of Supreme Court
- (c) Both 'a' and 'b'
- (d) Neither 'a' nor 'b'

**28.** Inferred rights are those that are read into which of the following articles of the Constitution by the Supreme Court?

- (a) Article 19 (b) Article 21 (c) Article 31 (d) All of these

**29.** Consider the following statements about Zero Hour

1. It is the first hour of every sitting in both the Houses of the Parliament.
2. It is mentioned in the Rules of Business of the Houses of the Parliament.
3. During this time, matters are raised without any prior notice.
4. It is the time immediately following the Question Hour in both the Houses of the Parliament.
5. It is an Indian innovation in parliamentary procedure since 1964-1965.

Which of the statements given above are correct?

- (a) 2, 3 and 4 (b) 3 and 4
- (c) 1, 2 and 5 (d) 2, 3 and 5

**30.** Which of the following Bills does not lapse on dissolution of the Lok Sabha?

1. Bills introduced in the Rajya Sabha.
2. Bills originating in and passed by the Rajya Sabha and returned to that house by the Lok Sabha with amendments and still pending there on the date of dissolution.
3. Bills passed by the Parliament and returned by the President for repassage.
4. Bill passed by the Rajya Sabha and sent to the Lok Sabha and are pending in the Lok Sabha.

Select the correct answer using the codes given below

- (a) 1 and 2 (b) 2 and 3
- (c) 1 and 3 (d) All of these

**31.** All Constitution Amendment Bills (Article 368)

- (a) can be introduced only by ministers
- (b) have to be passed by half the State Legislatures
- (c) Both 'a' and 'b'
- (d) Neither 'a' nor 'b'

**32.** Consider the following statements about adjournment motion

1. It is an extraordinary procedure which sets aside the normal business of the house.

2. Its main object is to draw the attention of the house to a recent matter to urgent public importance.
3. The Rajya Sabha can make use of this procedure.
4. It must be supported by not less than 50 members for introduction.
5. It involves an element of censure against government.

Which of the statements given above are correct?

- (a) 1, 2, 4 and 5 (b) 2, 3 and 5
- (c) 2, 3 and 4 (d) 1, 2 and 4

**33.** Pensions of High Court Judge are charged on the

- (a) Consolidated Fund of India
- (b) Consolidated Fund of State
- (c) Subject to decisions of Supreme Court
- (d) None of the above

**34.** A Joint Session of the Parliament to resolve the deadlock between two houses is presided over by the Speaker of Lok Sabha and in his absence the Deputy Speaker. If Deputy Speaker is also absent

- (a) Chairman
- (b) Deputy Chairman
- (c) Most senior the member of the Lok Sabha
- (d) Most seniormost member nominated by the President

**35.** Quorum is the minimum number of members whose attendance is mandatory for the house proceeding to start or continue proceeding of the house. One-tenth of which of the following makes up the quorum for both Lok Sabha and Rajya Sabha?

- (a) Total membership of House
- (b) Members present in the House
- (c) Maximum strength of the House
- (d) To be determined by the presiding officer

**36.** When passing a Constitution Amendment Bill, special majority is required at which of the following stages?

- (a) Introduction (b) Consideration
- (c) Vote (d) All of these

**37.** A provision to move an adjournment motion for the purpose of discussing a definite matter of urgent importance is available and is admitted in the following House

- (a) Lok Sabha and fifty (b) Rajya Sabha and twenty
- (c) Both 'a' and 'b' (d) Neither 'a' nor 'b'

**38.** In the case of a casual vacancy in the seat of an elected member to the Parliament, the term of office of the member elected to fill that seat is the remainder of the term of 5 years for Lok Sabha and 6 years for Rajya Sabha. In the case of the nominated member to the Rajya Sabha, which of the following is correct?

- (a) Same as elected member (b) Full term
- (c) Discretion of the Vice-President
- (d) Discretion of the President

**39.** When the offices of both the Chairman and the Deputy Chairman are vacant, the duties of the office of the Chairman are performed by (in the Rajya Sabha)

- (a) one of the panel of Vice-Chairman
- (b) chairman pro tempore appointed by the President
- (c) seniormost member of the House
- (d) Speaker

**40.** The 73rd Amendment Act does not apply to the states of

1. Nagaland
2. Mizoram
3. Jammu and Kashmir
4. Meghalaya

Select the correct answer using the codes given below

- (a) 1 and 2
- (b) 1, 2 and 4
- (c) 1, 2 and 3
- (d) All of these

**41.** Consider the following statements about Financial Bill Type II

1. Such a Bill may be introduced in either houses.
2. Rajya Sabha has full power to reject or amend it.
3. It cannot be introduced in either House of the Parliament unless the President has recommended the Bill.
4. Special majority is required for its passage.

Which of the statement (s) given above is/are incorrect?

- (a) 1 and 2
- (b) 1, 2 and 3
- (c) 3 and 4
- (d) Only 3

**42.** Which of the following is true about implementation of Directive Principles of State Policy?

1. They can be enforced by courts by issuing writs.
2. A law which violates them can be struck down by the courts.
3. They first need a law to be made by the Parliament for their enforcement.

Select the correct answer using the codes given below

- (a) 1 and 2
- (b) Only 3
- (c) All of the above
- (d) None of these

**43.** Which of the following action policies or laws of the government can be said to be implementing one of the Directive Principles of State Policy?

1. Participation in UN peace-keeping forces
2. Land reforms
3. Nationalisation of banks
4. MGNREGA

Select the correct answer using the codes given below

- (a) Only 1
- (b) 3 and 4
- (c) 2 and 3
- (d) All of these

**44.** Consider the following statements about unstarred question

1. It is distinguished by an asterisk mark.
2. Answer to such a question is given orally.
3. Answer to such a question is not following by supplementary questions.
4. It does not carry an asterisk mark.
5. Answer to such a question is given in a written form.

Which of the statements given above are incorrect?

- (a) 2 and 3
- (b) 3, 4 and 5
- (c) 1 and 2
- (d) 2, 3 and 4

**45.** Which of the following amendments do not require a special majority to be passed?

1. Amending the Second Schedule.
2. Amending the Seventh Schedule.
3. Creating a new assembly in a Union Territory.
4. Creating a new Legislative Council in a State.

Select the correct answer using the codes given below

- (a) 1 and 2
- (b) 3 and 4
- (c) 1, 2 and 3
- (d) 1, 3 and 4

**46.** Which of the following provisions require the assent of half of all State Legislatures to be amended?

1. Manner of election of the President
2. Article 368 itself
3. Seventh Schedule
4. Increasing the strength of Supreme Court (number of judges)

Select the correct answer using the codes given below

- (a) 1, 2 and 3
- (b) 1, 3 and 4
- (c) 2, 3 and 4
- (d) 1, 2 and 4

**47.** What is the impact of emergency declared under Article 356 on Fundamental Rights?

- (a) Articles 14 and 19 are suspended
- (b) Article 21 is suspended
- (c) Articles 15 and 16 are suspended
- (d) No effect

**48.** Under Article 335 to ensure constitutional governance in a State, which of the following steps can be taken by the Central Government?

1. Dispatching Central Police forces to the state.
2. Holding new elections in the State before the end of life of the previous assembly.
3. Giving executive instructions to be compulsorily implemented by the state.
4. Removing the Governor of the State who has violated constitutional provisions.

Select the correct answer using the codes given below

- (a) 1 and 3
- (b) 2 and 3
- (c) 1, 3 and 4
- (d) 1, 2 and 4

**49.** During National Emergency Under Article 352 the legislative powers of the Union get extended. What is the effective position of the State list in the Seventh Schedule under such circumstances?

- (a) The State list items become part of Union list
- (b) State list becomes the same as Concurrent list
- (c) State list is considered as residuary power of the Union
- (d) No change

**50.** During a Proclamation of Emergency on grounds of war of external aggression, the suspension of rights under which of the following articles takes place automatically?

- (a) Article 20
- (b) Article 21
- (c) Article 14
- (d) Article 19

## Answers

- |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. (d)  | 2. (b)  | 3. (a)  | 4. (a)  | 5. (b)  | 6. (a)  | 7. (c)  | 8. (b)  | 9. (c)  | 10. (c) |
| 11. (d) | 12. (b) | 13. (a) | 14. (a) | 15. (c) | 16. (c) | 17. (a) | 18. (a) | 19. (c) | 20. (d) |
| 21. (c) | 22. (a) | 23. (d) | 24. (b) | 25. (b) | 26. (b) | 27. (a) | 28. (d) | 29. (b) | 30. (a) |
| 31. (d) | 32. (a) | 33. (a) | 34. (b) | 35. (a) | 36. (d) | 37. (d) | 38. (d) | 39. (b) | 40. (d) |
| 41. (c) | 42. (b) | 43. (d) | 44. (c) | 45. (d) | 46. (a) | 47. (d) | 48. (c) | 49. (b) | 50. (d) |

# Practice Set 3

## ANALYSE YOURSELF

**1. Which of the following do not take part in the Election of the President?**

1. Nominated members of the Lok Sabha.
2. Members of the Legislative Councils of States.
3. Nominated members of the Rajya Sabha.
4. Governors of all the States.

*Select the correct answer using the codes given below*

- (a) 1 and 3 (b) Only 2  
(c) All of these (d) None of these

**2. The President does not enjoy immunity from the following offences while he is in office**

- (a) all criminal offences  
(b) all civil offences  
(c) all official acts  
(d) criminal offences in personal act

**3. Which of the following is not true about the ordinance making power of the President?**

- (a) It is subject to judicial review  
(b) It can be used to amend the Constitution  
(c) It is permitted only when both the Houses are not in session  
(d) The reasons for promulgating ordinance need to be explained

**4. Which of the following is not the power of the Attorney General?**

- (a) To attend any court in the country  
(b) To speak in the Parliament and Parliamentary committees  
(c) To vote in Parliamentary committees, but not in the Parliament  
(d) To enjoy the privileges similar to a member of the Parliament

**5. Which of the following is not an original and exclusive jurisdiction of the Supreme Court?**

- (a) Writ jurisdiction  
(b) A dispute between the union and one or more states  
(c) A dispute between the union and a state on one side and a state or states on the other  
(d) Clarification of items as in the residuary list or not

**6. What are the attributes of a court in the context of it being a court of record?**

1. Its proceedings are recorded and can be quoted as evidence in a court.
2. It can punish for contempt of itself.
3. It can issue directions to the administration to disclose any official record.
4. It cannot go against previously recorded judgements.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) 3 and 4  
(c) 1 and 4 (d) 1, 2 and 3

**7. Doctrine of Eclipse is used in the context, which of the following types of laws?**

- (a) Laws made during emergency  
(b) Laws made before independence  
(c) Laws relating to armed forces  
(d) Laws relating to electoral system

**8. Judicial activism does not consist of which of the following acts by the Supreme Court?**

- (a) Taking suo motu cognisance of socio-economic issues  
(b) Issuing policy decisions normally in the domain of the executive  
(c) Ordering the arrest of high ranking officials  
(d) Accepting public interest litigations

**9. Which of the following is not an attribute of plea bargaining?**

- (a) Death sentences can be avoided by plea bargaining  
(b) Trial in a court can be avoided by plea bargaining  
(c) Judicial review can be avoided by plea bargaining  
(d) It can force innocents to accept guilt

**10. Which of the following is not true about the office of the Governor?**

- (a) His term of office is prescribed as 5 years  
(b) He can be removed by the President any time he desires  
(c) He can be asked to handle more than two states  
(d) The minimum age requirement to be a Governor is 30 years

**11. The Legislative Council of a State when created or abolished requires which of the following?**

1. Special majority in the State Assembly.
2. Special majority in the Parliament.
3. Simple majority in the Parliament.
4. Simple majority in the State Assembly.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) 1 and 3  
(c) 3 and 4 (d) 2 and 4

**12. The Chief Minister of Delhi is appointed by**

- (a) Lieutenant Governor of Delhi  
(b) President  
(c) Chief Justice of India  
(d) None of the above

- 13.** The Governor can discard the advice of his Council of Ministers, if it falls in the area of his discretionary powers. As to the question of whether it is his discretionary power or not is decided by  
(a) the High Court concerned (b) the Supreme Court  
(c) the President (d) the Governor himself
- 14.** Which of the following are true about the Chairman of the Legislative Council of a State?  
1. He is elected by the council itself.  
2. He is appointed by the Governor.  
3. He can be removed by a simple majority.  
4. He has to be a member of the council.  
*Select the correct answer using the codes given below*  
(a) 1, 3 and 4 (b) 2, 3 and 4  
(c) 1 and 4 (d) 2 and 4
- 15.** National Integration council was set-up to take issues related to  
1. communalism  
2. river-water sharing between states  
3. casteism 4. tax sharing  
*Select the correct answer using the codes given below*  
(a) 1 and 3 (b) 2 and 4  
(c) All of these (d) None of these
- 16.** With regard to a law passed by the Legislative Assembly of a State under an item in the Concurrent list which of the following are true?  
1. Doctrine of harmonious construction applies.  
2. Doctrine of federal supremacy applies.  
3. State law stands over a union law on the same item if it is approved by the President.  
4. Supreme Court can decide whether state law is valid or not.  
*Select the correct answer using the codes given below*  
(a) 1 and 4 (b) 2 and 4 (c) 3 and 4 (d) 1 and 3
- 17.** In which of the following case the Parliament cannot make a law on the State list?  
(a) If approved by the Rajya Sabha  
(b) To give effect to international treaty  
(c) During national Emergency  
(d) During financial Emergency
- 18.** In which of the following matters the union cannot give administrative instructions to State Governments?  
(a) For protection of railways  
(b) For welfare of tribals  
(c) Means of communication of military importance  
(d) For ensuring fiscal stability
- 19.** The Union Government can delegate some of its functions to the State Government by  
1. taking permission of the State Government.  
2. taking permission of the Governor of the State.  
3. without taking permission of the State by passing a law in the Parliament.  
*Select the correct answer using the codes given below*  
(a) 1 and 2 (b) Only 1  
(c) All of these (d) None of these
- 20.** Which of the following sources of revenue are not shareable between the Union and the States?  
1. Surcharge on taxes by the Union.  
2. Income tax.  
3. Education cess.  
4. Stamp duties on medicinal and toilet preparations.  
*Select the correct answer using the codes given below*  
(a) 1 and 4 (b) 2 and 3 (c) 1, 3 and 4 (d) 2, 3 and 4
- 21.** Which of the following is/are true regarding the borrowing powers of the Union and State?  
1. The Union has unlimited powers to borrow from outside India.  
2. The States have no power to borrow from outside India.  
3. If the States have loan outstanding to the Union then they can't even borrow inside India.  
4. There is no limitation on the powers of States to borrow.  
*Select the correct answer using the codes given below*  
(a) 1, 2 and 3 (b) 1 and 4 (c) 1 and 3 (d) Only 1
- 22.** Which of the following documents are presented to the legislature alongwith the budget?  
1. An explanatory memorandum on the budget.  
2. A summary of demands for grants.  
3. An Appropriation Bill.  
4. A Finance Bill.  
5. The Economic survey.  
*Select the correct answer using the codes given below*  
(a) 1, 3 and 5 (b) 1, 2 and 3  
(c) 2, 3 and 5 (d) 1, 2, 3 and 4
- 23.** Which of the following is not true about reservation in Panchayats?  
(a) There is reservation for SC, STs  
(b) There is one-third reservation for women  
(c) There is reservation for OBC's if the state wants  
(d) None of the above
- 24.** The 73rd Amendment Act does not provide for the following.  
(a) District Planning committee  
(b) Finance commission  
(c) Reservation of seats  
(d) Audit of Accounts of Panchayats
- 25.** Which of the following is not true about a town area committee?  
(a) It is set-up by a State Legislative act  
(b) It has both elected and nominated members  
(c) It is set-up in small towns  
(d) It has all powers similar to a municipal corporation
- 26.** The definition of an urban area in India does not include the following  
(a) minimum population of 5000  
(b) at least 75% of total labour force is non-agricultural occupation  
(c) population density of more than 400 people per sq km  
(d) All of the above

**27. The functions of the Election commission include**

1. enforcing model code of conduct.
2. preparing electoral rolls.
3. registering political parties.
4. deciding official party symbols.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) 1, 2 and 3  
(c) 1, 2 and 4 (d) All of these

**28. A political party has to satisfy the following conditions to be called as National party by the Election commission**

1. reorganised as State party in 3 States.
2. winning 2 seats in the Lok Sabha from 3 different States.
3. winning 6% of the votes in general elections or elections to the State Legislature and 4 seats in the Lok Sabha.
4. winning Chief Ministership in any single State.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 2 and 4  
(c) 2 and 3 (d) 3 and 4

**29. The following is not considered as defection under the Anti-Defection law**

- (a) member of a House voluntarily abstains from voting
- (b) voting contrary to the directions issued by the party in the House
- (c) a nominated member joining a political party 6 months after taking his seat
- (d) members of the House on being expelled from their party for misconduct

**30. The removal of a civil servant can be**

1. only done by a authority equal or higher to the one appointing him.
2. only done after giving him adequate opportunity to be heard.
3. only done by orders issued by UPSC.
4. only done by the High Court or Supreme Court.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) 3 and 4  
(c) 1 and 4 (d) All of these

**31. The decisions of administrative tribunals constituted under Article 323 A of the Constitution can be contested in**

1. High Court
2. Supreme Court
3. District Court

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) Only 2  
(c) None of these (d) All of these

**32. Which of the following is true regarding functions of the UPSC?**

1. It must advice on any matter referred by the President.
2. It requested by the Governor and on permission by the President to serve all needs of a State.
3. To present annual reports to the President.
4. To serve any of the asked to do so under an Act of Parliament.

**Select the correct answer using the codes given below**

- (a) 2 and 4 (b) 1 and 2  
(c) 1, 2 and 3 (d) All of these

**33. The correct statements about 'Public Account of India' are**

1. the public account is the fund to which all public moneys received by or on behalf of the government are credited.
2. no legislative appropriation is required for payments from the 'Public Account of India.'
3. legislative appropriation is required for payments from the 'Public Account of India.'
4. all public moneys, other than those credited to the Consolidated Fund of India, which are received by or on behalf of the government are credited to the 'Public Account of India'.
5. it is operated by executive action.

**Select the correct answer using the codes given below**

- (a) 1, 2 and 5 (b) 1, 3 and 5  
(c) 2, 4 and 5 (d) 2 and 4

**34. The members of the Rajya Sabha representing states are elected by the State Assemblies while those representing Union Territories are**

- (a) nominated by the Lieutenant Governor
- (b) there is no representation of UTs
- (c) elected by the assembly of UTs having an assembly
- (d) nominated by the President

**35. Which of the following is incorrect?**

- (a) All resolutions are substantive motions, but all motions are not resolutions
- (b) All resolutions have to be put to vote, but all motions need not
- (c) Resolutions need to be initiated by at least 30 members, but motions can be initiated by individuals
- (d) Both resolutions and motions can be initiated by private members of the government

**36. Under which of the following circumstances the seat of a member of the Parliament is not declared vacant?**

- (a) voluntarily taking citizenship of another country
- (b) not attending the house for 30 consecutive days
- (c) being elected the Vice-President
- (d) declared to be of unsound mind

**37. Which of the following is a method of parliamentary control over finance?**

- (a) Annual Financial Statement
- (b) Estimates committee
- (c) Motions and resolutions
- (d) All of these

**38. Arrange the stages of budget in chronological order.**

1. Presentation
2. Voting on demands for grants
3. Vote on account
4. Passing Appropriation Bill

**Codes**

- (a) 1, 2, 3, 4 (b) 1, 3, 2, 4  
(c) 1, 4, 2, 3 (d) 2, 3, 4, 1

**39. Which of the following is incorrect regarding the Appropriation Bill?**

- (a) It gives authority to spend money
- (b) It gives authority to appropriate
- (c) It has to be a part of the budget
- (d) It involves the money in the Consolidated Fund of India

- 40.** Which of the following situation does not lead to a joint sitting of the Houses?
- A Bill passed by one house is rejected by the other house
  - There is a disagreement regarding the amendments to be made between the two houses
  - 6 months passed after the receipt of the Bill by the other houses after passing from the first house without being passed
  - None of the above
- 41.** Which of the following is not true regarding Departmentally Related Standing committees?
- They consider demands for grants under the budget
  - They consider annual reports
  - They have a membership of 25 with 14 from Lok Sabha and 11 Rajya Sabha
  - The members of these committees are nominated and not elected
- 42.** Which of the following is/are true regarding the State of Jammu and Kashmir?
- It has its own Constitution
  - Financial emergency in the country does not apply to the state
  - Directive Principles of State Policy and Fundamental Duties are not applicable to the state
  - All of the above
- 43.** Consider the following statements about NITI Aayog.
- It stands for national information for transforming India.
  - It is headed by Prime Minister of India and Came into effect from 1st April, 2015.
  - It is a think-tank of Government of India that replaced Planning Commission of India.
  - It is a constitutional body.
- Which of the above statements given above are incorrect?*
- 1, 3 and 4
  - 1, 2 and 3
  - 1, 2 and 4
  - None of these
- 44.** The Chairman of the National Human Rights commission can be any of the following.
- Former Chief Justice of India.
  - Former Supreme Court Judge.
  - Any lawyer with more than 10 years experience in human rights issues.
  - A person with experience in social work.
- Select the correct answer using the codes given below*
- 1, 2 and 3
  - 1, 2 and 4
  - Only 1
  - All of these
- 45.** "All those laws that were in force immediately before the enactment of the Constitution shall be void to the extent of inconsistency with the Fundamental Rights." Essence of Article 13(1) which quotes this can be placed under which of the following?
- Judicial activism
  - Judicial review
  - Discretionary review
  - Judicial interpretation
- 46.** By exercising its amending power under Article 368, Parliament can amend even Part III of the Constitution. Through, which among the following cases Supreme Court held this?
- Golak Nath case.
  - Sajjan Singh vs State of Rajasthan case.
  - Shankari Prasad vs Union of India case.
- Select the correct answer using the codes given below*
- Only 1
  - 1 and 2
  - 2 and 3
  - 1 and 3
- 47.** Which among the following justifies the reason that Directive Principles were made explicitly unjustifiable?
- The state may not have political will to implement the Directive Principles
  - The state may not need to implement the Directive Principles as Fundamental Rights were made justifiable
  - The implementation of Directive Principles needs resources which the states may not have
  - The Constitution does not provide any clear guidelines to implement the Directive Principles
- 48.** When Vice-President acts as the President, which among the following is true?
- He/ She remains the Chairman of the Rajya Sabha and performs the duties of the Chairman of the Rajya Sabha
  - He/ She ceases to be the Chairman of the Rajya Sabha
  - Lok Sabha Speaker performs the duty of the Chairman of the Rajya Sabha
  - A New Chairman of the Rajya Sabha is elected
- 49.** Which among the following is in Concurrent list?
- Bankruptcy and insolvency
  - Estate duty in respect of property other than agricultural land
  - Production, supply and distribution of goods
  - Foreign loans
- 50.** The writ of prohibition and issued by Supreme Court or High Court is issued against
- administrative and judicial authorities
  - only administrative authorities
  - judicial or quasi judicial authorities
  - government

## Answers

- |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. (c)  | 2. (b)  | 3. (b)  | 4. (c)  | 5. (a)  | 6. (a)  | 7. (b)  | 8. (c)  | 9. (c)  | 10. (d) |
| 11. (b) | 12. (b) | 13. (d) | 14. (a) | 15. (a) | 16. (d) | 17. (d) | 18. (d) | 19. (d) | 20. (c) |
| 21. (a) | 22. (d) | 23. (d) | 24. (a) | 25. (d) | 26. (b) | 27. (d) | 28. (c) | 29. (d) | 30. (a) |
| 31. (a) | 32. (d) | 33. (c) | 34. (c) | 35. (c) | 36. (b) | 37. (d) | 38. (b) | 39. (b) | 40. (d) |
| 41. (c) | 42. (d) | 43. (c) | 44. (c) | 45. (b) | 46. (c) | 47. (c) | 48. (b) | 49. (a) | 50. (c) |

# Practice Set 4

## ANALYSE YOURSELF

1. Who among the following is the members of the electoral college electing the President?
  - (a) Elected members of the Rajya Sabha
  - (b) Elected members of the Rajya Sabha and the Lok Sabha
  - (c) Elected members of the Rajya Sabha, the Lok Sabha and State assemblies
  - (d) Elected members of the Rajya Sabha, the Lok Sabha, State assemblies and assemblies of Union Territories
2. Which among the following is not true regarding the 42nd Amendment Act, 1976 which is also called a Mini Constitution of India?
  - (a) The amendments were mainly to give effect to the recommendation of Swaran Singh committee
  - (b) The words liberty, equality and fraternity were added in the Constitution
  - (c) Directive Principles of State Policy were extended
  - (d) Fundamental Duties of the citizens added
3. Which among the following statements is correct?
  - (a) A joint sitting of both the Houses of the Parliament is summoned and presided by the President
  - (b) A joint sitting of both the Houses of the Parliament is summoned and presided by Speaker of the Lok Sabha
  - (c) A joint sitting of both the Houses of the Parliament is summoned by the President and presided over by Speaker of the Lok Sabha
  - (d) A joint sitting of both the Houses of the Parliament is summoned by Speaker of the Lok Sabha and presided by the President
4. Which of the following pairs is incorrectly matched?
  - (a) The Regulating Act, 1773 : Supreme Court to be set-up at Madras.
  - (b) Charter Act, 1793 : Power to Governor-General to override his council.
  - (c) Charter Act, 1813 : Procedures for the use of Indian Revenue.
  - (d) Charter Act, 1853 : Governor-General to be called Viceroy.
5. Indian Legislature became 'bicameral' through which of the following?
  - (a) The Morley– Minto Reforms
  - (b) Montague–Chelmsford Reforms
  - (c) Government of India Act, 1935
  - (d) Indian Councils Act, 1892
6. In which of the following situations, a President can establish an Inter-State council?
  - (a) During an emergency
  - (b) During a national calamity
  - (c) When Council of Ministers recommends him / her to do so
  - (d) When it appears to him / her that it would be serving the public interest
7. The National Development council consists of
  - (a) the Prime Minister, the Chief Ministers of all the States and the members of the NITI aayog
  - (b) the Prime Minister, the Chief Ministers of all States, the Central Cabinet Ministers and the members of the NITI aayog
  - (c) the Prime Minister, the Chief Minister of all Administrators of Union Territories and the members of the NITI aayog
  - (d) the Prime Minister, all Union Cabinet Ministers, Chief Ministers of all the States, Administrators of Union Territories and the members of the NITI aayog
8. Who among the following can establish a common High Court for two or more States or Union Territories in India?
  - (a) The President
  - (b) Supreme Court
  - (c) Governors of the two states
  - (d) Parliament by the law
9. Under which of the following amendments the power of judicial review of the Supreme Court and High Courts was restored, which was curtailed by Constitution (42nd Amendment) Act, 1976?
  - (a) 43rd Amendment Act, 1977
  - (b) 45th Amendment Act, 1980
  - (c) 46th Amendment Act, 1982
  - (d) 48th Amendment Act, 1984
10. Before 26th November, 1949, which among the following was the governing law of India?
  - (a) The Cabinet Mission Plan
  - (b) Government of India Act, 1935
  - (c) Government of India Act, 1919
  - (d) Government of India Act, 1909
11. "A rule of legislative procedure under which further debate on a motion can be stopped" is known in parliamentary terminology as
  - (a) session
  - (b) closure
  - (c) resolution
  - (d) de jure
12. The Contingency Fund of India has been placed at the disposal of which among the following authorities?
  - (a) Comptroller and Auditor General of India
  - (b) President of India
  - (c) Parliament of India
  - (d) Prime Minister of India
13. Who among the following recommends to the President the basis for distribution of the net proceeds of taxes between the centre and states?
  - (a) Finance Minister
  - (b) Reserve Bank of India
  - (c) Comptroller and Auditor General of India
  - (d) Finance Commission

- 14.** Which among the following Bills embodies the budget?  
 (a) Money Bill (b) Finance Bill  
 (c) Appropriation Bill (d) Both 'b' and 'c'

- 15.** Which of the following were envisaged in the 74th Constitutional Amendment Bill?

- (a) Constitution and composition of a Municipality  
 (b) Personnel system in a Municipality  
 (c) Relations between elected members (executive) of a Municipality and bureaucracy  
 (d) All of the above

- 16.** Consider the following.

1. Adjudication 2. Judicial review  
 3. Writs 4. Public interest litigation

**Which among the above are used to exercise judicial control over administration?**

- (a) 2, 3 and 4 (b) 1, 2 and 3  
 (c) 2 and 3 (d) All of these

- 17.** Which among the following regarding NRI's voting rights is correct?

- (a) NRIs cannot vote in parliamentary and assembly elections  
 (b) NRIs cannot vote in parliamentary elections, but can vote in assembly elections  
 (c) NRIs can vote in parliamentary elections, but cannot vote in assembly elections  
 (d) NRIs can vote in parliamentary as well as assembly elections

- 18.** Which among the following is correct in context with the powers of the Parliament in enacting the budget?

- (a) Parliament can increase tax, but cannot reduce or abolish it  
 (b) Parliament can reduce or abolish a tax, but cannot increase  
 (c) Parliament can neither increase nor reduce or abolish a tax  
 (d) Parliament can increase as well as reduce or abolish a tax

- 19.** For elections in the Lok Sabha and Assemblies in India, which of the following system is used?

- (a) Proportional representation  
 (b) Functional representation  
 (c) Territorial representation  
 (d) Communal representation

- 20.** With reference to the retired judge, which among the following statements is correct?

- (a) There are provisions that a retired judge of Supreme Court only can sit and act as Judge of Supreme Court  
 (b) There are no such provisions exist  
 (c) There are provisions that a retired Judge of Supreme Court and High Courts can sit and act as Judge of Supreme Court  
 (d) There are provisions that a retired Judge of High Courts only can sit and act as Judge of Supreme Court

- 21.** The Governor of a State

1. possesses executive, legislative and judicial powers analogous to the President.  
 2. has to act with the aid and advice of the Council of Ministers always.

3. has the power to appoint and remove the members of State Public Service commission.  
 4. has the power to allocate business of the government.

**Which of the statements given above are correct?**

- (a) 1 and 2 (b) 2, 3 and 4  
 (c) 1 and 4 (d) 1, 3 and 4

- 22.** Which of the following statements are true of Adjournment motion?

1. It is an extraordinary procedure which sets aside the normal business of the House.  
 2. Its main object is to draw the attention of the house to a recent matter of urgent public importance.  
 3. The Rajya Sabha can make use of this procedure.  
 4. It must be supported by not less than 50 members for introduction.  
 5. It involves an element of censure against government.

**Select the correct answer using the codes given below**

- (a) 1, 2, 4 and 5 (b) 2, 3 and 5  
 (c) 2, 3 and 4 (d) 1, 2 and 4

- 23.** In the Rajya Sabha, the states have been provided representation on which of the following basis?

- (a) Area  
 (b) Population  
 (c) Number of the Lok Sabha constituencies  
 (d) Number of the Legislative assemblies

- 24.** Which among the following Bill will not be lapsed, in the event of dissolution of House?

- (a) Any bill pending in the Lok Sabha  
 (b) Any Bill passed by the Lok Sabha, but pending in the Rajya Sabha  
 (c) Any Bill passed by the Rajya Sabha and pending in the Lok Sabha  
 (d) Any Bill pending in the Rajya Sabha and not passed by the Lok Sabha

- 25.** Which among the following committees of Lok Sabha is assisted by Comptroller and Auditor General of India?

- (a) Estimates committee  
 (b) Public Accounts committee  
 (c) Joint Committee of Salary and allowances  
 (d) Joint Committee of Offices of Profit

- 26.** Under which of the following jurisdiction, Supreme Court of India is duty bound to give its opinion on matters referred to it by President of India?

- (a) Original jurisdiction (b) Appellate jurisdiction  
 (c) Advisory jurisdiction (d) Both 'a' and 'c'

- 27.** Who among the following can recommend the removal of the Chairman of UPSC to the President?

- (a) Vice-President (b) Supreme Court  
 (c) Minister of Human Resources (d) All of these

- 28.** Constitution has given powers to the President and Governors regarding nomination of members of Anglo Indian community (in case the community does not get adequate representation) in the Lok Sabha and State Legislative assembly respectively.

Which among the following statements is correct in this regard?

- (a) President and Governor can nominate two members each
- (b) President can nominate two members and Governor can nominate one member
- (c) President and Governor can nominate one member each
- (d) President can nominate five members and Governor can nominate two members

**29. With reference to the pardoning powers of the President and Governor, which among the following is a correct statement?**

- (a) Only President can grant pardon to a person awarded death sentence and a person punished under martial law
- (b) Both President and Governor can grant pardon to a person awarded death sentence and a person punished under martial law
- (c) President can grant pardon to a person awarded death sentence and Governor can grant pardon to a person punished under martial law
- (d) Only President can grant pardon to a person awarded death sentence and a person punished under Martial Law, however, Governor can grant pardon a person punished under martial law

**30. With reference to the Constitutional Amendment, which among the following statements is correct?**

- (a) The State Legislative assemblies have no role to play in Constitution Amendments
- (b) All provisions of the Constitution can be amended only after ratification by the State Legislatures of majority of states
- (c) Some provisions of the Constitution can be amended only after ratification by the State Legislatures of majority of states
- (d) Some provisions of the Constitution can be amended only after ratification by the State Legislatures of all the states

**31. Which among the following is true about the judiciary in India and United States?**

- (a) Single integrated judiciary is provided in India while dual court system in USA
- (b) Single integrated judiciary is provided in USA while dual court system in India
- (c) Single integrated judiciary is provided in India and USA
- (d) Dual court system in India and USA

**32. With reference to the Right to property, which among the following statements is correct?**

- (a) Right to property is a Fundamental Right and right to privacy is a Implied right
- (b) Right to property is a legal right and right to privacy is a Fundamental Right
- (c) Right to property is a implied right while right to privacy is a legal right
- (d) Right to property is a legal right while right to privacy is a implied right

**33. Which among the following is not a Gandhian Principle?**

- (a) Powerful Village panchayats
- (b) Promotion of economically weaker sections of society
- (c) Promotion of cottage industries
- (d) Equal pay for equal work without sexual discrimination

**34. Which among the following is incorrect?**

- (a) President : 35 years
- (b) Vice-President : 30 years
- (c) Prime Minister : 25 years
- (d) Rajya Sabha : 30 years

**35. Which among the following statements is incorrect ?**

- (a) All Money Bills can originate in the Lok Sabha only more
- (b) Resolution of removal of Vice-President can originate in the Rajya Sabha
- (c) Resolution to create new all India services can be initiated in the Lok Sabha
- (d) No confidence motion against Council of Ministers is exclusive power of the Lok Sabha

**36. The JVP committee which was constituted in 1948-49 was related to which of the following?**

- (a) Industrialisation of India
- (b) Formation of new states on linguistic basis
- (c) National language of India
- (d) Reservation for SCs and STs

**37. Who among the following has right to declare any area as a scheduled area?**

- (a) Governor of the respective state
- (b) President of India
- (c) Parliament of India
- (d) State Legislature

**38. Consider the following.**

1. Union Executive
2. Parliament
3. Supreme Court and High Courts
4. Comptroller and Auditor General of India

**The Part V of Indian Constitution deals with which among the above?**

- (a) 1, 2 and 3
- (b) 1, 2 and 4
- (c) 2, 3 and 4
- (d) All of these

**39. The qualifications of a candidate for Attorney General must be equivalent to that of**

- (a) a Judge of High Court
- (b) a Judge of Supreme Court
- (c) a minimum practice of 10 years in High Court
- (d) a minimum practice of 10 years in Supreme Court

**40. Which of the following statements is correct with respect to the NITI aayog?**

- (a) NITI aayog is a constitutional body
- (b) The Five Year Plan is approved by the National Integration Committee
- (c) The Minister for planning is necessarily the Vice-Chairman of the Planning Commission NITI aayog
- (d) The Prime Minister is the Chairman of the NITI aayog.

**41. Consider the following statements regarding the word Socialist of Indian Constitution.**

1. It was inserted in the Indian Constitution by the Constitution 42nd Amendment Act of 1976.
2. The concept of socialism was not implicit in the Constitution before this amendment.

3. The socialism aims to end the erstwhile capitalist regime in the country and end poverty by nationalisation of some large corporations.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) 1 and 2
- 42. Article 13 of Indian Constitution uses the words "To the extent of such inconsistency be void." Which of the following doctrines is coherent to this?**  
(a) Doctrine of Eclipse  
(b) Doctrine of Waiver  
(c) Doctrine of Severability  
(d) Doctrine of Lapse
- 43. Consider the following statements**  
1. Article 18 of the Constitution says that no title, not being a military or academic distinction, shall be conferred by the state.  
2. National awards like Bharat Ratna amount to the titles, but are considered as exception with regard to this article.  
3. Titles violate the principle of equality as guaranteed by the Constitution.
- Which of the statements given above is/are correct?**  
(a) 1 and 3  
(b) Only 1  
(c) 1 and 2  
(d) All of the above
- 44. Consider the following statements about Public Interest Litigations (PILs)**  
1. Only the affected individual, group and institution can file PIL in the court.  
2. PILs are mentioned in the Article 144 of the Constitution of India to ensure social justice to the marginalised.  
3. Judiciary can consider a case on its own based on a newspaper report or postal complaint received by the court.
- Which of the statement(s) given above is/are incorrect?**  
(a) Only 1 (b) 2 and 3  
(c) 1 and 2 (d) Only 2
- 45. The bill to amend the Constitution has to be introduced and passed in which of the following houses before presenting it to President for assent?**  
(a) Introduced and passed in both Lok Sabha and Rajya Sabha  
(b) Introduced and passed in Lok Sabha  
(c) Introduced and passed in Rajya Sabha  
(d) Introduced in both houses, but can be passed in Lok Sabha only

- 46. Why the Indian Constitution called as Fundamental law of the land?**

- (a) Because Preamble indicates the source from which Constitution comes that is people of India  
(b) Because Constitution envisages the Fundamental Rights  
(c) Because the government organs owe their origin to the Constitution of India and derive their authority from and discharge their responsibilities within the framework of the Constitution  
(d) Because Constitution of India declares great rights and freedoms to all citizens of India

- 47. Which among the following is not a privilege of the President under Article 361 of the Constitution?**

- (a) The executive power of the Union shall be vested in the President and it shall be exercised by him (or her) in accordance with the Constitution  
(b) the President shall not be answerable to the any court for exercise and performances of the powers and duties of his/her office or for any act done or purporting to be done by him in the exercise of those powers and duties  
(c) No criminal proceedings whatsoever shall be instituted and continued against the President in any court during the term in the office  
(d) No process for the arrest or imprisonment of the President shall be issued from any court

- 48. Directive Principles particularly Article 39 (b) and (c) of the Constitution of India are many times referred as charters of the following?**

- (a) Liberty of religion  
(b) Social and economic justice  
(c) Liberty to move anywhere in Indian territories  
(d) Imparting education to school children

- 49. Consider the following statements about Comptroller and Auditor General of India.**

1. The salary and allowances are charged upon Consolidated Fund of India.  
2. The appointment is for a period of 6 years or up to age of 65 years whichever is earlier.  
3. After retirement Comptroller and Auditor General can be appointed as member of UPSC or Chairman of State Public Service commission.

**Which of the statements given above is/are correct?**

- (a) 1 and 2 (b) 1 and 3 (c) Only 1 (d) Only 2

- 50. Who among the following recommends the President of India regarding the principles which should govern the grants-in-aid of the revenues of the states out of Consolidated Fund of India?**

- (a) Finance Minister  
(b) Comptroller and Auditor General of India  
(c) Finance commission  
(d) Controller General of Accounts

## Answers

- |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. (d)  | 2. (b)  | 3. (c)  | 4. (d)  | 5. (b)  | 6. (d)  | 7. (d)  | 8. (d)  | 9. (a)  | 10. (b) |
| 11. (b) | 12. (b) | 13. (d) | 14. (d) | 15. (a) | 16. (d) | 17. (d) | 18. (b) | 19. (c) | 20. (c) |
| 21. (c) | 22. (a) | 23. (b) | 24. (d) | 25. (b) | 26. (c) | 27. (b) | 28. (b) | 29. (a) | 30. (c) |
| 31. (a) | 32. (d) | 33. (d) | 34. (b) | 35. (c) | 36. (b) | 37. (b) | 38. (b) | 39. (b) | 40. (d) |
| 41. (a) | 42. (a) | 43. (a) | 44. (c) | 45. (a) | 46. (c) | 47. (a) | 48. (b) | 49. (a) | 50. (c) |

# Practice Set 5

## ANALYSE YOURSELF

- 1. With reference to the UPSC, consider the following statements**
  1. The Constitution does not fix the number of members of the UPSC.
  2. One-half of the members of the UPSC should be persons who have held office under the Government of India or of a state at least for 5 years.
  3. The Chairman and members of the UPSC hold office for a term of 5 years or until they attain the age of 60 years.
  4. The salaries and allowances of the members of UPSC are determined by the Parliament.
  5. The entire expenses of UPSC are charged on the Consolidated Fund of India.

**Which of the statements given above are correct?**

(a) 2, 4 and 5                      (b) 1 and 5  
(c) 2, 3 and 4                      (d) 1, 4 and 5
- 2. Which among the following is the correct statement in context of eligibility of Chairman of National Human Rights Commission (NHRC)?**
  - (a) The Chairman of the NHRC must have been a Judge of Supreme Court of India
  - (b) The Chairman of the NHRC must have been a Judge of a High Court of Indian State or Supreme Court of India
  - (c) The Chairman of the NHRC must have experience of 15 years of practice as a human rights lawyer in Supreme Court of India
  - (d) The Chairman of the NHRC must have experience of 10 years of practice as a human rights lawyer in Supreme Court of India
- 3. Who among the following is not a member of the committee which recommends the President of India regarding appointments of chairperson and members of the National Human Rights commission?**
  - (a) Speaker of the Lok Sabha
  - (b) Union Home Minister
  - (c) Leader of opposition in the Lok Sabha
  - (d) Union Law Minister
- 4. Article (1) says that India will be a Union of States. Which among the following is not a correct statement in this context?**
  - (a) India is a federation and a result of an agreement by the states to join in the federation
  - (b) No state has a right to secede from it
  - (c) Neither Central Government nor State Government can override or contravene the provisions of the Constitution
  - (d) The most important subjects have been included in the Union list which has 97 subjects
- 5. Consider the following statements in the context of High Courts**
  1. All High Courts were created after promulgation of the Constitution of India.
  2. Position of the High Courts in India is very similar to that of High Courts in USA.

**Which of the statements given above is/are correct?**

(a) Only 1                      (b) Only 2  
(c) Both 1 and 2                      (d) Neither 1 nor 2
- 6. Consider the following statements**
  1. Supreme Court may establish a Common High Court for two or more states.
  2. Governor can remove the Judge of the High Court.
  3. State Legislature can legislate on monetary issues.

**Which of the statements given above is/are correct?**

(a) Only 1                      (b) Both 1 and 2  
(c) All of these                      (d) None of these
- 7. A Bill seeking to amend which among the following provisions will not require special majority and ratification by states?**
  - (a) Formation of new states
  - (b) Election of the President
  - (c) Distribution of the legislative powers
  - (d) Representation of states in the Parliament
- 8. Which among the following post is dependent on the pleasure of the President or the Governor?**
  - (a) A Judge of Supreme Court
  - (b) A Judge of High Court
  - (c) Comptroller and Auditor-General of India
  - (d) Attorney-General of India
- 9. Which of the following statements is incorrect?**
  - (a) In India Parliament is not supreme, but the Supreme Court is supreme
  - (b) The constitutional amendments made under Article 368 can not be challenged
  - (c) The independence of judiciary is a part of basic structure of the Constitution
  - (d) In federal Constitution the procedure of amendment is complicated
- 10. Consider the following statements in context with the Preamble of India**
  1. The Preamble which is a part of our Constitution was borrowed from Constitution of USA.
  2. 'Unity of the Nation' was replaced by 'Unity and Integrity of the Nation' by 42nd Amendment Act.
  3. 42nd Amendment inserted the words 'liberty and equality'.

Which of the statement(s) given above is/are correct

- (a) 1 and 2 (b) 2 and 3  
(c) Only 3 (d) Only 2

**11. Consider the following statements in context with the 42nd Amendment of Constitution of India**

1. 42nd Amendment gave the Directive Principles precedence over Fundamental Rights wherever there was a conflict, however, the subsequent amendment revoked this provision.
2. The 42nd Amendment act laid down certain Fundamental Duties, which had to be observed by all nationals and non-compliance with them was made punishable under the law.
3. The 42nd Amendment also prevented declaration of emergency on account of internal strife and empowered for declaration of emergency only if there is an armed rebellion.

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) 1 and 2  
(c) 2 and 3 (d) All of these

**12. In the event of declaration of constitutional emergency in the state, the President can**

1. assume to himself all the functions of the State Government including the High Court.
2. declare that the powers of the State Legislature shall be exercisable under the authority of the Governor.
3. assume to himself all the functions of the State Government except the High Court.
4. declare that the powers of the State Legislature shall be exercisable under the authority of the Parliament.

Select the correct answer using the codes given below

- (a) 1 and 2 (b) 2 and 3  
(c) 3 and 4 (d) 1 and 4

**13. Which of the following are the features of 74th Amendment Act on municipalities?**

1. Reservation of seats for SCs and STs in proportion of their population (to the total population) in municipal area.
2. Mandatory periodic for maintenance of accounts and audit would be decided by the State Governor.
3. The procedure of maintenance of account and audit would be decided by the State Governor.
4. Constitution of Nagar Panchayats for smaller urban area.
5. One-third of the seats shall be reserved for women, excluding the number of seats reserved for SC and ST women.

Select the correct answer using the codes given below

- (a) 1, 2 and 4 (b) 2, 3 and 5  
(c) 3, 4 and 5 (d) 1 and 2

**14. The concept of 'Participatory democracy' in play can be seen in which of the following bodies?**

1. Gram Sabha
2. State Legislative Assembly
3. District Planning Committee

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) Only 3  
(c) Both 1 and 2 (d) All of these

**15. Consider the following statements about Cabinet Secretary**

1. He works under the direct control of Prime Minister.
2. He is usually the seniormost civil servant of the country.
3. He is the head of the Cabinet Secretariat.
4. The office of Cabinet Secretary was created in 1950.

Which of the statements given above are correct?

- (a) 1, 2 and 3 (b) 2, 3 and 4  
(c) 1, 3 and 4 (d) All of these

**16. Consider the following statements about PMO**

1. It enjoys the status of a department under the Government of India Allocation of Business Rules.
2. It is responsible for the Prime Minister functioning as head of the Cabinet.
3. It has affected the status and position of the Cabinet Secretariat.

Which of the statement(s) given above is/are correct?

- (a) Both 1 and 3 (b) Both 2 and 3  
(c) Only 3 (d) All of these

**17. Which of the following devices calls the attention of Minister towards a matter of public importance?**

- (a) Half an hour discussion  
(b) Calling attention notice  
(c) Short duration discussion  
(d) Adjournment motion

**18. Which of the following will be the consequences of the proclamation of financial emergency by the President?**

1. The President can give directions to the states to observe the principles of financial property.
2. The President can reduce the salaries and allowances of government employees excluding the Judges of Supreme Court and High Courts.
3. All Money Bills and other Financial Bills passed by a State Legislature can be reserved for the consideration of the President.
4. The Parliament can authorise the President to sanction expenditure from the Consolidated Fund of the State.

Select the correct answer using the codes given below

- (a) 1, 2 and 3  
(b) 1, 3 and 4  
(c) 1 and 3 (d) All of the above

**19. When a Money Bill is passed by the Lok Sabha, but not returned by the Rajya Sabha within 14 days of its receipt**

- (a) it cannot become an act  
(b) it is deemed to have been passed by both the Houses  
(c) it is again referred to the Rajya Sabha  
(d) it is reconsidered by the Lok Sabha itself

**20. Consider the following statements**

1. A Money Bill can be introduced by any member of the Parliament, but generally only members with specialised knowledge of finance introduce the same.
2. A Money Bill can be introduced only in the Lok Sabha.
3. A Money Bill can be introduced only by the Ministers.
4. A Money Bill can be introduced only on the recommendation of the President.

Which one of the statements given above are correct?

- (a) 1, 3 and 4 (b) 1, 2 and 3  
(c) 2, 3 and 4 (d) All of these

**21. Which among the following are the functions of the Public Accounts committee?**

1. It sees that the executive has followed the financial rules and regulations.
2. It suggests the forms in which the accounts of the Government Department and Public undertaking are to be maintained.
3. It sees that the money has been spent for the purpose for which it was sanctioned by the Parliament.
4. It sees that the expenditure does not exceed the grants made by the Parliament.

Select the correct answer using the codes given below

- (a) 1,3 and 4 (b) 1,2 and 3  
(c) 2,3 and 4 (d) All of these

**22. Which of the following are not true in a parliamentary democracy?**

1. Executive controls the legislature.
2. Executive and legislature are strictly separate.
3. Judiciary controls both legislature and executive.
4. Legislature controls the executive.

Select the correct answer using the codes given below

- (a) 1,3 and 4 (b) 1, 2 and 3  
(c) 2,3 and 4 (d) All of these

**23. Which of the following points of criticisms are levelled against the amendment procedure in the Indian Constitution?**

1. There is no provision for special conventions for Amendment of the Constitution as in the USA.
2. Too much power has been given to the states in the matter of proposing Amendments to the Constitution.
3. The states have not been given sufficient powers with regard to Amendment of the Constitution.
4. Too much power has been given to the Union Parliament with regard to the Amendment of the Constitution.

Select the correct answer using the codes given below

- (a) 1, 3 and 4 (b) 1, 2 and 3  
(c) 2, 3 and 4 (d) All of these

**24. When a resolution for the removal of speaker is under consideration, the Speaker**

1. Does not take part in the proceedings of the House.
2. Has no right to vote.
3. Has the right to speak in the House even though he shall not preside.

Select the correct answer using the codes given below

- (a) Only 1 (b) 1 and 2 (c) Only 2 (d) Only 3

**25. A joint sitting may be called**

1. only in case of national emergency.
2. to enable a Constitutional Amendment to be passed in a hurry.
3. when taxes approved by one House are rejected by the other.

Select the correct answer using the codes given below

- (a) 1 and 3 (b) 2 and 3  
(c) All of these (d) None of these

**26. The privileges enjoyed by the members of Parliament individually include**

1. freedom from arrest in all cases.
2. freedom from attendance as witness while Parliament is in session.
3. unlimited freedom of speech.

Select the correct answer using the codes given below

- (a) Only 3  
(b) 2 and 3  
(c) Only 2  
(d) All of the above

**27. Parliament is empowered to get the following removed**

1. Comptroller and Auditor-General
2. Supreme Court Judges
3. Chairman of UPSC
4. High Court Judges

Select the correct answer using the codes given below

- (a) 1 and 2  
(b) 1, 2 and 4  
(c) 2 and 4  
(d) All of the above

**28. All moneys received by or on behalf of the Government of India are credited to**

1. the Consolidated Fund of India.
2. the Public Account of India.
3. the Contingency Fund of India.

Select the correct answer using the codes given below

- (a) 1 and 2  
(b) 1 and 3  
(c) Only 1 (d) All of these

**29. Which of the following arguments is not in favour of the second chamber of a legislature?**

- (a) It safeguards against the domination of the Lower House  
(b) It provides for representation of the special interests and the minorities  
(c) It helps in hastily legislation  
(d) It gives representation to the units in the federation

**30. Which of the following statements is correct regarding the meaning and the position of sovereignty?**

- (a) The supreme and unlimited authority of the state in internal sphere only  
(b) The absolute and unlimited power of the state in external sphere only  
(c) The unlimited and ultimate authority of the state both in internal and external spheres  
(d) The power which enjoys complete control over all the citizens in a state

**31. Members of the Rajya Sabha is/are not associated with**

1. Public Accounts committee.
2. Estimates committee.
3. Committee on Public undertakings.

Select the correct answer using the codes given below

- (a) 1 and 2 (b) Only 1  
(c) Only 2 (d) 1 and 3

**32.** Which of the following is not concerned with the regularity and economy of expenditure of the government?

1. Public Accounts committee
2. Estimates committees
3. Business Advisory committee
4. Committee on Offices of Profit

Select the correct answer using the codes given below

- (a) 1, 3 and 4
- (b) 1, 2 and 3
- (c) 2, 3 and 4
- (d) All of these

**33.** Which of the following are a function of the Parliament in India?

1. Providing the Cabinet and holding them responsible.
2. Critically analysing the Government Policy.
3. Grievance ventilation.
4. Securing relevant information on the government.

Select the correct answer using the codes given below

- (a) 1, 2 and 3
- (b) 1, 2 and 4
- (c) 2, 3 and 4
- (d) All of these

**34.** In the unitary type of government, there is

- (a) rule of one person for the good of all the people
- (b) one unit of administration for the entire state
- (c) rule of a single dynasty for a long period
- (d) unicameral legislature

**35.** An Appropriation Bill

1. is necessary to draw money from the Consolidated Fund of India.
2. cannot be amended to vary the amount of any charged expenditure.
3. includes only the expenditure charged on the Consolidated Fund of India.
4. is required to withdraw money from the Contingency Fund of India.

Select the correct answer using the codes given below

- (a) 1 and 3
- (b) 1, 2 and 3
- (c) 1 and 2
- (d) All of these

**36.** 'Residuary Powers' means those powers which are

- (a) delegated by the centre to the states
- (b) enjoyed by the king or the President
- (c) delegated by the state to the centre
- (d) retained by the centre or the state for themselves after division of powers between the centre and the unit states in a federation

**37.** Which one of the following is not the function of the executive in a state?

- (a) To appoint and dismiss the ministers
- (b) To enforce the laws passed by the legislature
- (c) To appoint and dismiss the legislators
- (d) To run the administration of the country

**38.** An independent judiciary is

- (a) a safeguard for the civil rights of the people
- (b) a danger to the Constitution
- (c) an obstacle to the ministry
- (d) a detriment to the democracy

**39.** Which of the following are means by which Parliament controls the Financial System?

1. Parliament has to authorise the levy or collection of any tax.
2. Money can be withdrawn from the Consolidated Fund of India only if the Parliament sanctions it.
3. Through the financial committees that scrutinise government expenditure.
4. It causes the budget to be laid before it every year.

Select the correct answer using the codes given below

- (a) 1, 2 and 3
- (b) 1 and 2
- (c) 2, 3 and 4
- (d) All of these

**40.** The functions of the Estimates Committee of Parliament include

1. presenting annually to Parliament an Economic Survey report on the country's state of economy.
2. Reporting on what basis economies, improvement in organisation or administrative reforms can be effected.
3. examining whether the money is well laid out within the limits of the policy implied in the estimates.
4. suggesting the form in which estimates should be presented to the Parliament.

Select the correct answer using the codes given below

- (a) 2 and 3
- (b) 2, 3 and 4
- (c) 1, 3 and 4
- (d) All of these

**41.** Which of the following are the circumstances under which an elected member of Parliament may be disqualified on the ground of defection?

1. If he voluntarily gives up his membership of a political party.
2. If he votes or abstains from voting contrary to any direction issued by his political party without prior permission of the political party.
3. If he is expelled by the party for anti-party activities.
4. If he joins a political party other than the party on whose ticket he contested and got elected.

Select the correct answer using the codes given below

- (a) 2, 3 and 4
- (b) 1, 2 and 4
- (c) 1, 3 and 4
- (d) All of these

**42.** Which of the following is correct about a federation?

- (a) Federation is domination of the centre on the states
- (b) Federation is dependence of the centre on the states
- (c) The centre and the states interfere in the matters of each other
- (d) Federation is an association of states that forms a new one and all the units and centre derive power from the Constitution

**43.** Which one of the following is not the power of the President of India?

- (a) To declare emergency
- (b) To appoint and dismiss the ambassadors
- (c) To appoint and dismiss the members of Lok Sabha

(d) To dissolve Parliament and order for fresh election

**44.** In case of proclamation of emergency on grounds of war or external aggression, which of the following is not true?

1. All Fundamental Rights will be automatically suspended.
2. The right to move a court for enforcement of any Fundamental Right is suspended.
3. The President may order the suspension of enforcement of any Fundamental Right except Rights under Articles 20 and 21.
4. Parliament may authorise suspension of all Fundamental Rights.

Select the correct answer using the codes given below

- (a) 1, 3 and 4                      (b) 1, 2 and 4  
(c) 2, 3 and 4                      (d) All of these

**45.** The Constitution

1. forbids the practice of untouchability.
2. prescribes penalties for practicing untouchability.
3. defines untouchability as a vicious historical practice.

Select the correct answer using the codes given below

- (a) 1 and 2                      (b) 2 and 3  
(c) Only 1                      (d) All of these

**46.** The Fundamental Rights in Indian Constitution primarily act as limitations upon the powers of the

1. executive                      2. legislature
3. individuals

Select the correct answer using the codes given below

- (a) Only 1                      (b) Only 2  
(c) 1 and 2                      (d) All of these

**47.** Consider the following statements about Fundamental Rights

1. They are enforceable in the court of law.
2. These rights are absolute.
3. They can be suspended during national emergency, except some.
4. They are available only to Indian citizens.
5. They are contained in Part IV of the Constitution.

Which of the statements given above are correct?

- (a) 1, 3, 4 and 5  
(b) 1, 2, 3 and 5  
(c) 1 and 3  
(d) 1, 3 and 5

**48.** Which of the following are effects of the proclamation of financial emergency made by the President of India?

1. The President can give directions to the states to observe certain canons of financial property.
2. He can modify the provisions relating to the distribution of revenue between Union and States.
3. He can direct the Governors to reserve all their Financial Bills for his approval.
4. He can ask the states to reduce salaries of their employees including the Judges of High Courts.

Select the correct answer using the codes given below

- (a) 1, 2 and 3  
(b) 1, 2 and 4  
(c) 2, 3 and 4  
(d) All of the above

**49.** The Lok Sabha enjoys the power of passing

1. vote on account.
2. votes of credit.
3. exceptional grants.

Select the correct answer using the codes given below

- (a) 1 and 2                      (b) 1 and 3  
(c) 2 and 3                      (d) All of these

**50.** For violation of which of the following rights, an aggrieved person can approach directly Supreme Court and High Courts for their enforcement?

1. For denial of information under Right to Information.
2. For denial of education under Right to Education.
3. For denial of employment under MNREGA.

Select the correct answer using the codes given below

- (a) Only 1                      (b) Only 2  
(c) 2 and 3                      (d) All of these

## Answers

- |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. (b)  | 2. (a)  | 3. (c)  | 4. (a)  | 5. (d)  | 6. (d)  | 7. (a)  | 8. (d)  | 9. (b)  | 10. (d) |
| 11. (a) | 12. (c) | 13. (d) | 14. (a) | 15. (d) | 16. (a) | 17. (b) | 18. (c) | 19. (b) | 20. (c) |
| 21. (a) | 22. (b) | 23. (a) | 24. (d) | 25. (d) | 26. (c) | 27. (d) | 28. (c) | 29. (c) | 30. (c) |
| 31. (c) | 32. (c) | 33. (a) | 34. (b) | 35. (c) | 36. (d) | 37. (c) | 38. (a) | 39. (d) | 40. (b) |
| 41. (b) | 42. (d) | 43. (c) | 44. (b) | 45. (c) | 46. (a) | 47. (c) | 48. (d) | 49. (d) | 50. (b) |

# PREVIOUS YEARS' QUESTIONS

## SOLVED PAPERS

### Set 1

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**1. Consider the following statements. [IAS 2019]**

1. The 42nd Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** The 99th Constitutional Amendment Act, 2014, was passed by both the Houses of Parliament in the year of 2014. It sought to establish the National Judicial Appointment Commission, to replace the collegium system for the appointment of Judges of Supreme Courts and various High Courts. It was struck down by the Supreme Court as it involved the executive in the appointment of judges and violated the independence of judiciary.

The 39th Constitutional Amendment Act was passed in 1975, to exclude judicial review in disputes involving the Prime Minister, President, Vice-President. It was enacted after the Allahabad High Court invalidated Mrs Indira Gandhi's election on the ground of corrupt practises.

It was later struck down by the Supreme Court. The 44th amendment of the Indian Constitution was significant as it removes partially the distortions that were introduced into the Constitution by 42nd amendment. But this amendment had no proposal of an Article placing the election of the Prime Minister beyond judicial review.

**2. Consider the following statements. [IAS 2019]**

1. The motion to impeach a Judge of the Supreme Court of India cannot be rejected by the Speaker of the Lok Sabha as per the Judges (Inquiry) Act, 1968.
2. The Constitution of India defines and gives details of what constitutes 'incapacity and proved misbehaviour' of the Judges of the Supreme Court of India.
3. The details of the process of impeachment of the Judges of the Supreme Court of India are given in the Judges (Inquiry) Act, 1968.
4. If the motion for the impeachment of a Judge is taken up for voting, the law requires the motion to be backed by each House of the Parliament and supported by a majority of total membership of that house and by not less than two-thirds of total members of that house present and voting.

**Which of the statements given above is/are correct?**

- (a) 1 and 2 (b) Only 3  
(c) 3 and 4 (d) 1, 3 and 4

**Exp. (c)** The procedure to impeach a Supreme Court Judge is regulated by the Judges (Inquiry) Act, 1968. According to

Section 3 of the Act, the motion to impeach a Judge of Supreme Court can be rejected by the Speaker or the Chairman after consulting such persons as he thinks fit and after considering such material as available to him.

The Judges of a Supreme Court can be removed on the basis of incapacity and proved misbehaviour, which have neither been defined in the Constitution nor in the Judges (Inquiry) Act, 1968.

A Judge of the Supreme Court can be removed only when an order is passed by the President, after an address by each House of the Parliament supported by a majority of total membership of that house and by a majority of not less than two-thirds of members present and voting has been presented to the President.

**3. The Ninth Schedule was introduced in the Constitution of India during the Prime Ministership of [IAS 2019]**

- (a) Jawaharlal Nehru (b) Lal Bahadur Shastri  
(c) Indira Gandhi (d) Morarji Desai

**Exp. (a)** The Ninth Schedule to the Indian Constitution was introduced through Article 31B by First Amendment Act, 1951 under the Prime Ministership of Jawaharlal Nehru.

Schedule Ninth and Article 31B were added to the Constitution to protect land reform laws from being challenged in the courts on the grounds of violation of Fundamental Rights.

These laws were placed in the Ninth Schedule which are immune to challenge in a court, even if they violate any Fundamental Rights.

However, in 2007, the Supreme Court ruled that the laws included in the Ninth Schedule after April 24, 1973, are now open to judicial review.

**4. Consider the following statements. [IAS 2019]**

1. The Parliament (Prevention of Disqualification) Act, 1959 exempts several posts from disqualification on the grounds of 'Office of Profit'.
2. The above-mentioned Act was amended five times.
3. The term 'Office of Profit' is well-defined in the Constitution of India.

**Which of the statements given above is/are correct?**

- (a) 1 and 2 (b) Only 3  
(c) 2 and 3 (d) 1, 2 and 3

**Exp. (a)** Article 102 of the Constitution provides that a person shall be disqualified from being chosen as an MP if he holds any Office of profit under Government of India or State Government. The Parliament (Prevention of Disqualification) Act, 1959 lists certain offices of profit under the Central and State Governments which are exempted from disqualifications on the grounds of 'Office of Profit'. The term 'Office of Profit' has not been defined in the Constitution.

It has been amended five times to exempt certain offices from disqualification under 'Office of Profit' mentioned in Section 3 of the Act.

5. Under which schedule of the Constitution of India can the transfer of tribal land to private parties for mining be declared null and void? [IAS 2019]

(a) Third Schedule (b) Fifth Schedule  
(c) Ninth Schedule (d) Twelfth Schedule

**Exp. (b)** The Fifth Schedule of the Constitution empowers the Governor of a State to make regulations that prohibits or restricts transfer of land by Schedule Tribes. The Governor may also restrict the application of a certain Act of Parliament or State Legislature to a schedule area or any part of it. Thus to safeguard cultural autonomy and empower the tribal population, the Constitution defines the power of the transfer of the tribal land to private parties for mining.

6. With reference to the Constitution of India, consider the following statements. [IAS 2019]

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

Which of the statements given above is/are correct?

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** Both options are incorrect. Power of judicial review enables the court to examine the constitutionality of legislative enactments and executive orders of both the Central and State Governments. On examination, if they are found to be violative of the Constitution, they can be declared as unconstitutional and invalid.

However, 42nd Amendment Act of 1976 debarred High Courts from considering the constitutional validity of any central law. Later, 43rd Amendment Act of 1977 restored the original position. Article 368 empowers Parliament to amend the Constitution in accordance with the procedure laid down for the purpose. However, it cannot amend the provisions which form the 'basic structure' of the Constitution.

Kesavananda Bharati Case (1973) empowers Supreme Court to call into question an amendment to the Constitution if it violates 'basic structure' doctrine.

7. In the context of polity, which one of the following would you accept as the most appropriate definition of liberty? [IAS 2019]
- (a) Protection against the tyranny of political rulers.
  - (b) Absence of restraint.
  - (c) Opportunity to do whatever one likes.
  - (d) Opportunity to develop oneself fully.

**Exp. (c)** Liberty is the freedom to live your life in the way that you want. Liberty as elaborated in the preamble is very essential for the successful functioning of the Indian democratic system.

8. Which one of the following suggested that the Governor should be an eminent person from outside the state and should be a detached figure without intense political links or should not have taken part in politics in the recent past? [IAS 2019]

(a) First Administrative Reforms Commission (1966)  
(b) Rajamannar Committee (1969)  
(c) Sarkaria Commission (1983)  
(d) National Commission to Review the Working of the Constitution (2000).

**Exp. (c)** Central Government appointed a three-member commission on centre-state relations under Chairmanship of RS Sarkaria, a retired judge of Supreme Court. The commission was asked to examine and review the working of existing arrangements between centre and states in all spheres. It suggested that Governor should be an eminent person from outside the state and should be a detached figure without intense political links or should not have taken part in politics in the recent past.

9. Consider the following statements. [IAS 2019]

1. As per law, the Compensatory Afforestation Fund Management and Planning Authority exists at both National and State levels.
2. People's participation is mandatory in the Compensatory Afforestation Programmes carried out under the Compensatory Afforestation Fund Act, 2016.

Which of the statements given above is/are correct?

(a) Only 1 (b) Only 2 (c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)** The Compensatory Afforestation Fund Act, 2016 establishes the National and State Compensatory Afforestation Fund Management and Planning Authorities to manage the National and State Funds. There is no provision of mandatory participation by people in the Compensatory Afforestation Programmes carried out under the Act.

10. In India, which of the following review the independent regulators in sectors like telecommunications, insurance, electricity etc.? [IAS 2019]

1. Ad Hoc Committees setup the Parliament
2. Parliamentary Department Related Standing Committees
3. Finance Commission
4. Financial Sector Legislative Reforms Commission (FSLRC)
5. NITI Aayog

Select the correct answer by using the codes given below.

(a) 1 and 2 (b) 1, 3 and 4 (c) 3, 4 and 5 (d) 2 and 5

**Exp. (a)** In India, Ad Hoc Committees set up by the Parliament and Parliamentary Department Related Standing Committees review the independent regulators in sectors like telecommunications, insurance, electricity, etc.

NITI Aayog and Finance Commission are advisory in nature. They do not review the functioning of any regulator. FSLRC was setup once to review financial legislations and not regulators in the country.

11. With reference to India's Five Year Plans, which of the following statements is/are correct? [IAS 2019]

1. From the Second Five Year Plan, there was a determined thrust towards substitution of basic and capital goods industries.
2. The Fourth Five Year Plan adopted the objective of correcting the earlier trend of increased concentration of wealth and economic power.
3. In the Fifth Five Year Plan, for the first time, the financial sector was included as an integral part of the plan.

Select the correct answer by using the codes given below

(a) 1 and 2 (b) Only 2 (c) Only 3 (d) 1, 2 and 3

**Exp. (a)** The Fourth Five Year Plan adopted the objective of correcting inequalities of income, wealth and economic power. The Second Five Year Plan emphasised the use of modern technology which required large scale production like minerals, basic and capital goods industry. Financial sector was never included as an integral part of the Fifth Five Year Plan.

**12. Consider the following statements about Particularly Vulnerable Tribal Groups (PVTGs) in India. [IAS 2019]**

1. PVTGs reside in 18 States and one Union Territory.
2. A stagnant or declining population is one of the criteria for determining PVTG status.
3. There are 95 PVTGs officially notified in the country so far.
4. Irular and Konda Reddi tribes are included in the list of PVTGs.

**Which of the statements given above are correct?**

- (a) 1, 2 and 3 (b) 2, 3 and 4 (c) 1, 2 and 4 (d) 1, 3 and 4

**Exp. (c)** PVTG is a government of India classification, created with the purpose of enabling improvement in the conditions of certain communities. The features of such a group include a pre-agricultural system of existence, that is practice of hunting and, zero or negative population growth, extremely low level of literacy in comparison with other tribal groups. A stagnant or declining population is one of the criteria for determining PVTGs status. PVTGs reside in 18 States and UT of Andaman and Nicobar islands. 75 tribal groups have been categorised by Ministry of Home Affairs as PVTGs. Irular and Konda Reddi tribes are included in the list of PVTGs.

**13. With reference to the Constitution of India, prohibitions or limitations or provisions contained in ordinary laws cannot act as prohibitions or limitations on the constitutional powers under Article 142. It could mean which one of the following? [IAS 2019]**

- (a) The decisions taken by the Election Commission of India while discharging its duties cannot be challenged in any court of law.
- (b) The Supreme Court of India is not constrained in the exercise of its powers by laws made by the Parliament.
- (c) In the event of grave financial crisis in the country, the President of India can declare Financial Emergency without the counsel from the Cabinet.
- (d) State Legislatures cannot make laws on certain matters without the concurrence of Union Legislature.

**Exp. (b)** Under Article 142, Supreme Court shall have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents or the investigation or punishment of any contempt of itself. The power under this article shall not be curtailed by any law of the Parliament.

**14. With reference to the Legislative Assembly of a State in India, consider the following statements. [IAS 2019]**

1. The Governor makes a customary address to Members of the House at the commencement of the first session of the year.
2. When a State Legislature does not have a rule on a particular matter, it follows the Lok Sabha rule on that matter.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)** The Governor can address the State Legislature at the commencement of the first session after each general election and the first session of each year given in Article 176 (1) of Constitution. Article 208 states that "A House of the Legislature of a state may make rules for regulating its procedure and the conduct of its business. Until such rules are made, the rules of procedure and standing orders in force before the commencement of this Constitution with respect to legislature for corresponding province shall have effect in relation to legislature of state subject to

modifications by Speaker of Legislative Assembly or Chairman of Legislative Council".

**15. Consider the following statements. [IAS 2019]**

1. As per recent amendment to the Indian Forest Act, 1927, forest dwellers have the right to fell the bamboos grown on forest areas.
2. As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, bamboo is a minor forest produce.
3. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 allows ownership of minor forest produce to forest dwellers.

**Which of the statements given above is/are correct?**

- (a) 1 and 2 (b) 2 and 3 (c) Only 3 (d) 1, 2 and 3

**Exp. (b)** As per the amendment to Indian Forest Act, 1927 in 2018, the forest dwellers have the right to fell the bamboos grown on non-forest areas.

As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, bamboo is a minor forest produce and allows ownership of minor forest produce to forest dwellers.

**16. Which Article of the Constitution of India safeguards one's right to marry the person of one's choice?**

- (a) Article 19 (b) Article 21 (c) Article 25 (d) Article 29

**Exp. (b)** As per Article 21, "No person shall be deprived of his life or personal liberty except according to procedure established by law".

SC has held that the 'Right to Life' as enshrined in Article 21 is not merely confined to animal existence or survival but it includes within its ambit the Right to Live with human dignity and all those aspects of life which makes man's life meaningful, complete and worth living. The Right to Marry is a part of Right to Life under Article 21 of Indian Constitution.

**17. Consider the following statements. [IAS 2019]**

1. According to the Indian Patents Act, a biological process to create a seed can be patented in India.
2. In India, there is no Intellectual Property Appellate Board.
3. Plant varieties are not eligible to be patented in India.

**Which of the statements given above is/are correct?**

- (a) 1 and 3 (b) 2 and 3 (c) Only 3 (d) 1, 2 and 3

**Exp. (c)** According to Indian Patents Act, 1970, plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals are not patentable in India. Intellectual Property Appellate Board was established by GOI in 2003 to hear and resolve appeals against decisions of registrar under Indian Trademarks Act, 1999 and Geographical Indications of Goods (Registration and Protection) Act, 1999.

**18. Consider the following statements.**

**The Environment Protection Act, 1986 empowers the Government of India to [IAS 2019]**

1. state the requirement of public participation in the process of environmental protection and the procedure and manner in which it is sought.
2. lay down the standards for emission or discharge of environmental pollutants from various sources.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (c)** Environment (Protection) Act, 1986 enables public participation in judicious environmental decision-making so that they help in meeting sustainable and environmentally sound development. It also empowers the government to take all appropriate measures to prevent and control pollution and to establish effective machinery for the protection and improvement of environment. It empowers Central Government to lay down the standards for emission or discharge of environmental pollutants from various sources. According to this act the Central Government shall have the power to take all such measures as it deems necessary or expedient for purpose of protecting an improving quality of the environment and preventing controlling and abating environment pollution.

**19. As per the Solid Waste Management Rules, 2016 in India, which one of the following statements is correct?**

- (a) Waste generator has to segregate waste into five categories.  
(b) The rules are applicable to notified urban local bodies, notified towns and all industrial townships only.  
(c) The rules provide for exact and elaborate criteria for the identification of sites for landfills and waste processing facilities.  
(d) It is mandatory on the part of waste generator that the waste generated in one district cannot be moved to another district.

[IAS 2019]

**Exp. (c)** As per the Solid Waste Management Rules, 2016

- Waste is segregated into three categories i.e. dry, biodegradable and domestic hazardous waste.
- The rules are applicable beyond municipal areas and includes urban agglomerations, census towns, notified industrial townships, areas under control of Indian railways, airports, SEZs, places of pilgrimage, religious and historical importance and state and central organisation in their ambit.
- Rules provide for exact and elaborate criteria for the identification of sites for landfills and waste processing facilities.
- For census towns with population below 1 million or for all local bodies having a population of 0.5 million or more, common or stand alone sanitary landfills will have to be set-up in three years.
- Common or regional sanitary landfills to be set-up by all local bodies and census towns with a population under 0.5 million will have to be completed in three years.

It is not mandatory on part of waste generator to ensure that the waste generated in one district cannot be moved to another district.

**20. Which of the following statements is/are correct regarding the Maternity Benefit (Amendment) Act, 2017?**

[IAS 2019]

- Pregnant women are entitled for three months pre-delivery and three months post-delivery paid leave.
- Enterprises with creches must allow the mother minimum six creche visits daily.
- Women with two children get reduced entitlements.

**Select the correct answer using the code given below.**

- (a) 1 and 2 (b) Only 2 (c) Only 3 (d) 1, 2 and 3

**Exp. (c)** Maternity Benefit (Amendment) Act, 2017 aims to regulate the employment of women during period of child birth. The Act has introduced the following changes

- Increased the duration of paid maternity leave available for women employees from 12 weeks to 26 weeks. However, women who are expecting after having 2 children, the duration of the leave remains unaltered at 12 weeks.
- The paid maternity leave can be availed 8 weeks before expected date of delivery.

It has mandated creche facility for every establishment employing 50 or more employees. The women employees should be permitted to visit facility four times during the day.

**21. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement?**

[IAS 2018]

- (a) Article 14 and the provisions under the 42nd Amendment to the Constitution.  
(b) Article 17 and the Directive Principles of State Policy in Part IV.  
(c) Article 21 and the freedoms guaranteed in Part III.  
(d) Article 24 and the provisions under the 44th Amendment to the Constitution.

**Exp. (c)** Article 21 of the Constitution of India, 1950 provides that, "No person shall be deprived of his life or personal liberty except according to procedure established by law." 'Life' in Article 21 of the Constitution is not merely the physical act of breathing but it is with dignity. To provide dignity Supreme Court of India has recognised many rights as part of Article 21 for e.g. Right to healthy environment, Right to Shelter, right to sleep, Right against Handcuffing and now Right to Privacy. Supreme Court in its judgement in Puttaswamy case held that without Right to Privacy it is very difficult to maintain dignity and liberty of the citizens.

**22. Regarding Money Bill, which of the following statements is not correct?**

[IAS 2018]

- (a) A bill shall be deemed to be a Money Bill if it contains only provisions relating to imposition, abolition, remission, alteration or regulation of any tax.  
(b) A Money Bill has provisions for the custody of the Consolidated Fund of India or the Contingency Fund of India.  
(c) A Money Bill is concerned with the appropriation of money out of the Contingency Fund of India.  
(d) A Money Bill deals with the regulation of borrowing of money or giving of any guarantee by the Government of India.

**Exp. (c)** A bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters

- The imposition, abolition, remission, alteration or regulation of any tax.
- The regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India.
- The custody of the Consolidated Fund or the Contingency Fund of India, the payment of money into or the withdrawal of money from any such fund.
- The appropriation of money out of the Consolidated Fund of India(not contingency fund).

**23. With reference to the election of the President of India, consider the following statements.**

[IAS 2018]

- The value of the vote of each MLA varies from state to state.

2. The value of the vote of MPs of the Lok Sabha is more than the value of the vote of MPs of the Rajya Sabha.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 and 2

**Exp. (a)** Value of MLA vote  

$$= \frac{\text{Total population of the state} \times \text{Value of vote of an MP}}{\text{No. of constituencies in the state} \times 1000}$$

So, value of votes of MLA varies as per the population of particular state.

First statement is correct

Value of vote of an MLA from UP = 208, Sikkim = 7, Karnataka = 131, Delhi = 58

The formula for determining the number of votes held by an MP is:  
 Value of an MP Vote = The sum of vote value of elected members of all the Legislative Assemblies/ The sum of elected members of both the houses of Parliament.

Total Members of Parliament (Elected) = Lok Sabha (543) + Rajya Sabha (233) = 776

- Value of each vote =  $5,49,495 / 776 = 708.11$ , rounded to 708
- Total value of votes of Parliament =  $776 \times 708 = 5,49,408$

The total value of votes of MPs of LS (3.8L) > which is more than the Value of Votes of MPs of RS (1.6L)

Second statement may not be correct since it is asking about value of vote not votes. Depends on how UPSC interpret it.

**24. In the Federation established by The Government of India Act of 1935, residuary power were given to the** [IAS 2018]

- (a) Federal Legislature (b) Governor General  
(c) Provincial Legislature (d) Provincial Governors

**Exp. (b)** The Government of India act, 1935 provided for the establishment of an All-India Federation consisting of provinces and princely states as units. The Act divided the powers between the Centre and units in terms of three lists—Federal List (for Centre, with 59 items), Provincial List (for provinces, with 54 items) and the Concurrent List (for both, with 36 items). Residuary powers were given to the Viceroy (Governor General). However, the federation never came into being as the princely states did not join it.

**25. Consider the following statements.** [IAS 2018]

1. The Speaker of the Legislative Assembly shall vacate his/her office if he/she ceases to be a member of the Assembly.
2. Whenever the Legislative Assembly is dissolved, the Speaker shall vacate his/her office immediately.

**Which of the statements given above is/are correct ?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)**  
 (i) Article 179 deals with vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.  
 Member holding office as Speaker or Deputy Speaker of an Assembly  
 • Shall vacate his office if he ceases to be a member of the Assembly  
 • May at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office

- May be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly

- (ii) The Speaker holds office from the date of her election till immediately before the first meeting of the Legislative Assembly after the dissolution of the one to which she was elected. She is eligible for re-election on the dissolution of the Legislative Assembly, although the Speaker ceases to be a member of the House, she does not vacate her office.

**26. Which of the following reflects the most appropriate relationship between law and liberty?** [IAS 2018]

- (a) If there are more laws, there is less liberty  
(b) If there are no laws there is no liberty  
(c) If there is liberty, laws have to be made by people  
(d) If laws are changed too often liberty is in danger.

**Exp. (b)** This question is debatable but can be understood logically.

Suppose, you are in an organisation which has no laws and regulations and every person is doing whatever he/she wants to. Do you think such an organisation can grow and set standards. Here crisis of commons can happen where one individual can take the liberty of another because there is no law prohibit or counter him.

In other condition suppose you have so many laws in an organisation. Here if the laws are rational then they will not inhibit the liberty of an individual.

Suppose laws are made by people then it is possible that due to disagreement and undue motives laws may not be suitable for some sections of the society which can inhibit their liberty.

Suppose laws are changed too often, yes to a certain extent this situation can cause confusion but still if the changes are rational and in good faith with the satisfaction of the people then they will not take liberty of the individuals.

Once John Locke said that "Where there is no law there is no freedom and the purpose of a law is not to abolish or restrain but to preserve and enlarge freedom".

**27. Consider the following statements.** [IAS 2018]

1. No criminal proceeding shall be instituted against the Governor of a state in any court during his terms of office.
2. The emoluments and allowances of the Governor of a state shall not be diminished during his terms of office.

**Which of the statements given is /are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (c)** According to Article 361(2) of the Constitution, No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office.

According to Article 158(4) of the Constitution, the emoluments and allowances of the Governor shall not be diminished during his term of office.

**28. Which of the following are regarded as the main features of the "Rule of Law"?** [IAS 2018]

1. Limitation of powers
2. Equality before law
3. People's responsibility to the Government
4. Liberty and civil rights

**Select the correct answer using the codes given below.**

- (a) 1 and 3 (b) 2 and 4 (c) 1, 2 and 4 (d) 1, 2, 3 and 4

**Exp. (c)**

1. Limitations of power refers to absence of arbitrary power which ensures no man is punished except for a breach of law.
2. Equality before the law refers to equal subjection of all citizens to the ordinary law of the land administered by the ordinary law courts.
3. People's responsibility to the Government does not come under the ambit of Rule of Law.
4. The Constitution is the result of the rights of the individual as defined and enforced by courts of law, rather than Constitution being the source of the individual rights. The centre piece of rule of law is liberty and civil rights.

**29. If President of India exercises his power as provided under Article 356 of the Constitution in respect of a particular state, then [IAS 2018]**

- (a) the assembly of the state is automatically dissolved
- (b) the powers of the Legislature of that state shall be exercisable by or under the authority of the Parliament
- (c) Article 19 is suspended in that state
- (d) the President can make laws relating to that state

**Exp. (b)** Article 356 deals with the provisions in case of failure of constitutional machinery in State. It says that if the President, on receipt of report from the Governor of the state or otherwise, is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of this Constitution, the President may

- Assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the legislature of the state.
- Declare that the powers of the legislature of the state shall be exercisable by or under the authority of parliament.

**30. With the reference to Parliament of India, which of the following parliamentary committees scrutinises and reports to the house whether the power to make regulations, rules, sub-rules, by-laws, etc Conferred by the constitution or delegated by the Parliament are being properly exercised by the executive within the scope of such delegation? [IAS 2018]**

- (a) Committee on Government Assurances
- (b) Committee on Subordinate Legislation
- (c) Rules Committee
- (d) Business Advisory Committee

**Exp. (b)** The Parliament has to perform complex and varied kind of functions. A committee can be called a parliamentary committee if it is appointed or elected by the house or nominated by the Speaker or the Chairman it has a secretariat provided by the Lok Sabha/Rajya Sabha secretariat.

Some of the important parliamentary committees are:

- **Committee on Subordinate Legislation** The Committee scrutinises and reports to the house to know whether the powers are making regulations, rules, sub-rules, by-laws etc conferred by the Constitution or delegated by the Parliament are being properly exercised by the executive within the scope of such delegation. The committee in both the houses consists of 15 members.
- **Business Advisory Committee** The function of the committee is to recommend to the government to bring forward particular subjects for discussion in the house and recommend allocation of time for such discussions.
- **Committee on Government Assurances** This committee scrutinises the assurances, promises, undertakings etc given by ministers from time-to-time. It also reports to the respective

house and to see whether such implementation has taken place within the minimum time necessary for the purpose. The committee consists of 15 members in Lok Sabha and 10 members in Rajya Sabha.

- **Rules Committee** It considers matters of procedure and conduct of business in the house and recommends any amendments or additions to the rules of procedure and conduct of business in the house.

**31. Consider the following statements [IAS 2018]**

1. In the first Lok Sabha, the single largest party in the opposition was the Swatantra Party.
2. In the first Lok Sabha, a leader of the opposition was recognised for the first time in 1969.
3. In the first Lok Sabha, if the party does not have a minimum 75 members, its leaders cannot be recognised as the leaders of the opposition.

**Which of the statements given above is/ are correct?**

- (a) 1 and 3 In the first
- (b) Only 2
- (c) 2 and 3 Lok Sabha
- (d) 1, 2 and 3

**Exp. (b)** Statement 1 is incorrect. In the first Lok Sabha, Communist Party of India (CPI) was the party in opposition, led by Comrade Shripad Amrut Dange. The Indian National Congress had 364 of the 489 seats and 45% of the total votes polled and CPI had 16 seats.

Statement 2 is correct. For the first time in 1969, leader of opposition was recognised. He was Ram Subhag Singh. Statement 3 is incorrect. The post received statutory recognition through the salary and allowances of leaders of opposition in Parliament Act, 1977. It defines the term "Leader of the Opposition" as that member of the Lok Sabha or the Rajya Sabha who, for the time being, is the leader of that house of the party in opposition to the government having the greatest numerical strength and recognised, as such, by the chairman of the Rajya Sabha or the speaker of the Lok Sabha. A party needs to have 54 members. (at least 10%).

**32. Consider the following statements [IAS 2018]**

1. The Parliament of India can place a particular law in the 9th Schedule of the Constitution of India
2. The validity of law placed in 9th Schedule cannot be examined by any court and no judgement can be made on it.

**Which of the statements given above is/ are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (a)** The first amendment to the Indian Constitution added the 9th Schedule to the Constitution. It was introduced by the Nehru Government to save laws from judicial scrutiny. Laws included under the 9th Schedule are related to Land reforms, reservation, nationalisation of private properties, etc. Parliament has amended the constitution to include various provisions under 9th schedule.

The mandate of 9th schedule is to prevent judicial scrutiny but in a landmark ruling in *IR Coelho versus State of Tamil Nadu*, 2007, the Supreme Court of India ruled that all laws (including those in the 9th Schedule) would be open to judicial review if they violated the basic structure of the Constitution. The Supreme Court judgement laid that the laws placed under 9th Schedule after 24th April, 1973. shall be open to challenge in court if they violated Fundamental Rights guaranteed under Article 14, 19, 20 and 21 of the Constitution.

**33. Which of the following statements is/are true of the Fundamental Duties of an Indian citizen? [IAS 2017]**

1. A legislative process has been provided to enforce these duties.
2. They are correlative to legal duties.

**Select the correct answer using the code given below :**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** Part IVA of Indian Constitution deals with Fundamental Duties. Originally, the Constitution of India did not contain these duties. Fundamental duties were added by 42nd and 86th Constitutional Amendment Acts. As of now there are 11 Fundamental Duties. Citizens are morally obligated by the Constitution to perform these duties. However, like the Directive Principles, these are non-justifiable, without any legal sanction in case of their violation or non-compliance.

- 34. Which one of the following objectives is not embodied in the Preamble to the Constitution of India? [IAS 2017]**

- (a) Liberty of thought (b) Economic liberty  
(c) Liberty of expression (d) Liberty of belief

**Exp. (b)** As our Preamble states

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.

Preamble clearly portrays the vision of the Constitution makers as in what kind of rights and society they envisages for India.

- 35. Democracy's superior virtue lies in the fact that it calls into activity [IAS 2017]**

- (a) the intelligence and character of ordinary men and women  
(b) the methods for strengthening executive leadership.  
(c) a superior individual with dynamism and vision.  
(d) a band of dedicated party workers.

**Exp. (a)** A democracy is superior, because it allows a right to every adult citizen, without any educational and wealth criterion. Democracy is a system of government in which the citizens exercise power directly or elect representatives from among themselves to form a governing body, such as a parliament.

*Other features of democracy are as follows :*

- Popular sovereignty
- Political freedom and equality
- Protection of minority rights
- Independence of judiciary

- 36. The main advantages of the parliamentary form of government is that [IAS 2017]**

- (a) the executive and legislature work independently.  
(b) it provides continuity of policy and is more efficient.  
(c) the executive remains responsible to the legislature.  
(d) the head of the government cannot be changed without election.

**Exp. (c)** The main advantage of the parliamentary form of the government executive remains responsible to the legislature and through legislature it is responsible to and answerable to people. Executive branch is directly responsible to the legislature. A parliamentary system is a system of democratic governance of a state where the executive branch derives its democratic legitimacy from its ability to command the confidence of the legislative branch.

- 37. In the context of India, which one of the following is the correct relationship between Rights and Duties? [IAS 2017]**

- (a) Rights are correlative with Duties.

- (b) Rights are personal and hence independent of society and Duties.  
(c) Rights, not Duties, are important for the advancement of the personality of the citizen.  
(d) Duties, not Rights, are important for the stability of the State.

**Exp. (a)** The Constitution of India, the longest written Constitution of the world, has envisaged a holistic approach towards civic life in a democratic polity. Certain rights have been guaranteed within the Constitution as Fundamental Rights. Since human conduct cannot be confined to the realm of Fundamental Rights, the Constitution has envisaged certain duties, which are correlated to the rights, and those duties have been described as Fundamental Duties.

- 38. The mind of the makers of the Constitution of India is reflected in which of the following? [IAS 2017]**

- (a) The Preamble  
(b) The Fundamental Rights  
(c) The Directive Principles of State Policy  
(d) The Fundamental Duties

**Exp. (a)** A Preamble to the Constitution serves as a key to open the minds of the framers, and shows the general purpose for which they made the several provisions in the Constitution.

The Preamble to a Constitution embodies the fundamental values and the philosophy, on which the Constitution is based, and the aims and objectives, which the founding fathers of the Constitution enjoined the polity to strive to achieve. The importance and utility of the Preamble has been pointed out in several decisions of the Supreme Court of India.

- 39. The Parliament of India exercises control over the functions of the Council of Ministers through [IAS 2017]**

1. Adjournment motion
2. Question hour
3. Supplementary questions

**Select the correct answer using the code given below :**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) 1, 2 and 3

**Exp. (d)** The Parliament keeps a day-to-day watch over the activities of the Executive. As ours is a parliamentary system of government, the executive is responsible to the Parliament for all acts.

- Members of the Parliament have a right to ask questions and supplementary question to the Ministers. Any lapses or mishandling on the part of the government can be exposed in the Parliament.
- Adjournment motions may be moved to discuss serious administrative lapses. Through adjournment motions, matters of public importance can be brought to the notice of the government by the members of the Parliament.

- 40. With reference to the Parliament of India, consider the following statements : [IAS 2017]**

1. A private member's bill is a bill presented by a Member of Parliament who is not elected but only nominated by the President of India.
2. Recently, a private member's bill has been passed in the Parliament of India for the first time in its history.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** Members of Parliament other than ministers are called private members and bills presented by them are known as private member's bills. Any MP can introduce a bill

in Parliament. Private member bills are bills introduced in Parliament by MPs who are not ministers. Only 14 private members' bills had been passed since independence. The Rights of Transgender Persons Bill, 2014, passed by the Rajya Sabha on Friday is the first private member's bill to get the upper house's approval in the past 45 years.

**41. One of the implications of equality in society is the absence of** [IAS 2017]

- (a) Privileges (b) Restraints (c) Competition (d) Ideology

**Exp. (a)** Equality in society is 'The Absence of Special Privileges'. Thus, no person, family or class or group or persons in a society can be granted special privileges if we have to achieve equality and liberty in a society.

**42. Which principles among the following was added to the Directive Principles of State Policy by the 42nd Amendment to the Constitution?** [IAS 2017]

- (a) Equal pay for equal work for both men and women  
(b) Participation of workers in the management of industries  
(c) Right to work, education and public assistance  
(d) Securing living wage and human conditions of work to workers.

**Exp. (b)** 42nd Amendment Act added participation of workers in the management of industries.

New directives was added by new articles 39A, 43A, 48A which, respectively, provide for equal justice and free legal aid to economically backward classes, participation of workers in the management of industries, and protection and improvement of environment and safeguarding of forests and wildlife.

**43. Which one of the following statements is correct?**

- (a) Right are claims of the state against the citizens. [IAS 2017]  
(b) Rights are privileges which are incorporated in the constitution of a state.  
(c) Rights are claims of the citizens against the state.  
(d) Rights are privileges of a few citizens against the many.

**Exp. (c)** Rights are claims of citizens of India against the states. They prevent the establishment of an authoritarian and despotic rule in the country, and protect the liberties and freedoms of the people against the invasion by the state. They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature. In short, they aim at establishing 'a government of laws and not of men'.

**44. Local self-government can be best explained as an exercise in** [IAS 2017]

- (a) Federalism (b) Democratic decentralisation  
(c) Administrative delegation (d) Direct democracy

**Exp. (b)** The main purpose of democratic decentralisation, however, is to bring fundamental changes in the traditional outlook about the power structure of the government.

Thus, democratic decentralisation means decentralisation of power. The source from which this power is decentralised is based on the democratic structure and hence, such decentralisation is called the democratic decentralisation.

**45. Consider the following statements:** [IAS 2017]

With reference to the Constitution of India, the Directive Principles of State Policy constitute limitations upon

1. Legislative function 2. Executive function

**Which of the above statement is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** DPSP does not place any limitation on legislative and executive functions; it is simply a guideline, nevertheless the important aspect of the directive principles is the emphasis on building an egalitarian society based on the concept of socio-economic justice.

**46. Consider the following statements :** [IAS 2017]

1. In the election for Lok Sabha or State Assembly, the winning candidate must get at least 50% of the votes polled, to be declared elected.
2. According to the provisions laid down in the Constitution of India, in Lok Sabha, the Speaker's post goes to the majority party and the Deputy Speaker's to the opposition.

**Which of the statements given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** 1st statement is wrong as the winning candidate is the one who secures majority votes.

2nd statement is wrong as the Lok Sabha only by consensus decided that speaker comes from ruling party and deputy speaker comes from the main opposition party.

**47. Right to vote and to be elected in India is a** [IAS 2017]

- (a) Fundamental Right (b) Natural Right  
(c) Constitutional Right (d) Legal Right

**Exp. (c, d) Article-326** Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; but is to say, every person who is a citizen of India and who is not less than twenty one years of age on such date as may be fixed in that behalf by or under any law made by the appropriate legislature and is not otherwise disqualified under this constitution or any law made by the appropriate Legislature on the ground of non residence, unsoundness of mind, criminal or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

Article-84 (b) of Constitution of India provides that the minimum age for becoming a candidate for Lok Sabha election shall be 25 years. Similar provision exists for a candidate to the Legislative Assemblies vide Article-173 (b) of the Constitution read with Sec. 36 (2) of the RP Act 1950.

SC judgement once declared right to vote and be elected as legal rights.

**48. In India, Judicial Review implies** [IAS 2017]

- (a) the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders.
- (b) the power of the Judiciary to question the wisdom of the laws enacted by the Legislatures.
- (c) the power of the Judiciary to review all the legislative enactments before they are assented to by the President.
- (d) the power of the Judiciary to review its own judgements given earlier in similar or different cases.

**Exp. (a)** Judicial review is a process under which executive and (in some countries) legislative actions are subject to review by the judiciary. The power of courts to assess whether a law is in compliance with the constitution. A court with judicial review power may invalidate laws and decisions that are incompatible with a higher authority; an executive decision may be invalidated for being unlawful or a statute may be invalidated for violating the terms of a written Constitution. Judicial review is one of the checks and balances in the separation of powers: the power of the judiciary to supervise the legislative and executive branches

when the latter exceed their authority. The doctrine varies between jurisdictions, so the procedure and scope of judicial review may differ between and within countries.

**49. Which of the following are not necessarily the consequences of the proclamation of the President's rule in a State?** [IAS 2017]

1. Dissolution of the State Legislative Assembly
2. Removal of the Council of Ministers in the State
3. Dissolution of the local bodies

Select the correct answer using the code given below :

- (a) 1 and 2    (b) 1 and 3    (c) 2 and 3    (d) 1, 2 and 3

**Exp. (b)** Dissolution of State Legislative Assembly and dissolution of local bodies is not necessarily an outcome of the proclamation of president's rule, local bodies get dissolved by the State Legislature not by the proclamation of president's rule.

At proclamation of emergency of this type only suspension of the assembly or Council of Ministers can take place pending its approval by the parliament and the judicial review of the proclamation.

So, statement 1 and 3 are correct in response to the question.

**50. Which of the following are envisaged by the Right against exploitation in the Constitution of India?** [IAS 2017]

1. Prohibition of traffic in human beings and forced labour
2. Abolition of untouchability
3. Protection of the interests of minorities
4. Prohibition of employment of children in factories and mines.

Select the correct answer using the code given below :

- (a) 1, 2 and 4    (b) 2, 3 and 4  
(c) 1 and 4    (d) 1, 2, 3 and 4

**Exp. (c)** The Rights against exploitation is provided under Articles-23 and 24 of the Constitution of India. Right to personal liberty is never real if some people are exposed to exploitation by others. Article-23 and 24 of the Constitution are designed to prevent exploitation of men by men.

Article-23 Prohibition of traffic in human beings and forced labour.

Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article-24 forbids employment of child-labour in factories or in hazardous works. The article reads no child below the age of fourteen years, shall be employed to work in any factory or mine or, engaged in any other hazardous employment.

**51. Out of the following statements, choose the one that brings out the principle underlying the cabinet form of government:** [IAS 2017]

- (a) An arrangement for minimising the criticism against the government whose responsibilities are complex and hard to carry out to the satisfaction of all.
- (b) A mechanism for speeding up the activities of the government whose responsibilities are increasing day by day.
- (c) A mechanism of parliamentary democracy for ensuring collective responsibility of the government to the people.
- (d) A device for strengthening the hands of the head of the government whose hold over the people is in a state of decline.

**Exp. (c)** The principle of collective responsibility finds place in Article-75(3) where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha. In other words, this provision means that a Council of Ministers which loses confidence of the Lok Sabha is obliged to resign. The ministers fall and stand together.

**52. Which one of the following is not a feature of Indian federalism?** [IAS 2017]

- (a) There is an independent judiciary in India.
- (b) Powers have been clearly divided between the Centre and the States.
- (c) The federating units have been given unequal representation in the Rajya Sabha.
- (d) It is the result of an agreement among the federating units.

**Exp. (d)** The main federal features of the Indian Constitution are as follows:

Written Constitution, Division of Powers, Independent Judiciary, Bicameral Legislature.

Federalism in India had not been the result of an agreement among the units and the constituent units of the Indian federation had no right to secede from it.

**53. The Parliament of India acquires the power to legislate on any item in the State List in the national interest if a resolution to that effect is passed by the**

- (a) Lok Sabha by a simple majority of its total membership.
- (b) Lok Sabha by a majority of not less than two-thirds of its total membership.
- (c) Rajya Sabha by a simple majority of its total membership.
- (d) Rajya Sabha by a majority of not less than two-thirds of its members present and voting.

[IAS 2016]

**Exp. (d)** The Article 249 of Indian Constitution reads that the power of Parliament to legislate with respect to a matter in the state in the national interest requires the Council of States to pass a resolution supported by not less than two-third of the members present and voting.

**54. Consider the following statements** [IAS 2016]

1. The minimum age prescribed for any person to be a member of Panchayat is 25 years.
2. A Panchayat reconstituted after premature dissolution continues only for the remainder period.

Which of the statements given above is/are correct?

- (a) Only 1    (b) Only 2  
(c) Both 1 and 2    (d) Neither 1 nor 2

**Exp. (b)** A candidate for the seat of Member or Sarpanch of Gram Panchayat, must be registered voter in the electoral roll of that Gram Panchayat. A candidate can not be disqualified if he is less than 25 years but more than 21 years.

Every Panchayat unless sooner dissolved under any law for the time being in force, shall continue for five years from the date of appointment. A Panchayat constituted upon dissolution of a Panchayat before expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been to dissolved.

**55. With reference to the 'Gram Nyayalaya Act', which of the following statements is/are correct?** [IAS 2016]

1. As per the Act, Gram Nyayalayas can hear only civil cases and not criminal cases.
2. The Act allows local social activists as mediators/reconciliators.

Select the correct answer using the codes given below

- (a) Only 1    (b) Only 2  
(c) Both 1 and 2    (d) Neither 1 nor 2

**Exp. (b)** As per the Act, Gram Nyayalayas can hear both criminal and civil cases, and appeals in civil cases will have to be disposed of in six months. The Act also makes the judicial process participatory and decentralised because it allows appointment of local social activists and lawyers as mediators/econciliators.

**56. Consider the following statements [IAS 2015]**

1. The Executive Power of the Union of India is vested in the Prime Minister.
2. The Prime Minister is the Ex-officio Chairman of the Civil Services Board.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** Articles 52 to 78 in Part-V of the Constitution deal with the Union Executive, which consists of the President, the Vice-President, the Prime Minister, the Council of Ministers and the Attorney General of India. As per Article 53 (1), the Executive Power of the Union shall be vested in the President and shall be exercised by him either directly or through officers sub-ordinate to him in accordance with this Constitution. The Cabinet Secretary is the Ex-officio Chairman of the Civil Services Board.

**57. When a Bill is referred to a joint sitting of both the Houses of the Parliament, it has been passed by [IAS 2015]**

- (a) a simple majority of members present and voting  
(b) three-fourth majority of members present and voting  
(c) two-third majority of the Houses  
(d) absolute majority of the Houses

**Exp. (a)** There are two occasions on which the joint sitting of both the Houses of the Parliament is convened

1. Special Address by the President at the commencement of the first session after each general election to the House of the people and to commencement of the first session of each year, the President shall address both the Houses of the Parliament assembled together.
2. For resolving any deadlock over the passage of a Bill—(Article 108).

There are three situations which can lead to a deadlock between two Houses of the Parliament:

- (i) If the Bill is rejected by the other House.
- (ii) If the House have finally disagreed as to the amendments to be made in the Bill.
- (iii) If more than 6 months have elapsed from the date of the receipt of the Bill by the other House without the Bill being passed by it.

**58. There is a Parliamentary System of Government in India because the [IAS 2015]**

- (a) Lok Sabha is elected directly by the people  
(b) Parliament can amend the Constitution  
(c) Rajya Sabha cannot be dissolved  
(d) Council of Ministers is responsible to the Lok Sabha

**Exp. (d)** The Constitution of India provides for a Parliamentary System of Government both at the Centre and in States. Articles 74 and 75 deal with the Parliamentary system at the Centre and Articles-163 and 164 in the States. The Parliamentary System of Government is the one in which the executive is responsible to the legislature for its policies and acts. The Parliamentary Government is also known as **Cabinet Government** or **Responsible Government**. It is prevalent in Britain, Japan, Canada, India etc. In this system, the real Executive is accountable to the Parliament and stays in office so long as it enjoys the latter's confidence.

**59. Who/Which of the following is the custodian of the Constitution of India? [IAS 2015]**

- (a) The President of India  
(b) The Prime Minister of India  
(c) The Lok Sabha Secretariat  
(d) The Supreme Court of India

**Exp. (d)** The Supreme Court of India is the custodian of the Constitution of India.

**60. The provisions in fifth Schedule and sixth Schedule in the Constitution of India are made in order to [IAS 2015]**

- (a) protect the interests of Scheduled Tribes  
(b) determine the boundaries between state  
(c) determine the powers, authority and responsibilities of Panchayats  
(d) protect the interests of all the border states

**Exp. (a)** First Schedule of the Constitution deals with the administration and control of Scheduled areas and Scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram.  
Sixth Schedule of the Constitution deals with the administration of the Tribal Areas in the four North-Eastern states of Assam, Meghalaya, Tripura and Mizoram.

**61. Consider the following statements [IAS 2015]**

1. The Legislative Council of a State in India can be larger in size than half of the Legislative Assembly of that particular state.
2. The Governor of a State nominates the Chairman of Legislative Council of that particular state.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (d)** According to the Article 171(1) of Indian Constitution, the total number of members in the Legislative Council of a State shall not exceed one-third of the total number of members in the Legislative Assembly of that state. The total number of members in the Legislative Council of a State shall in no case be less than 40.

According to Article 171 (3) (e), the remainder i.e. one-sixth members of the total number of members of a Legislative Council of a State, nominated by the Governor from amongst persons, who have special knowledge or practical experience of literature, science, art, cooperative movement and social Service. The Chairman of Legislative Council is elected by the Council itself from amongst its members.  
Hence, option (d) is correct.

**62. "To uphold and protect the sovereignty, unity and integrity of India" is a provision made in the [IAS 2015]**

- (a) Preamble of the Constitution  
(b) Directive Principles of State Policy  
(c) Fundamental Rights (d) Fundamental Duties

**Exp. (d)** On the recommendation of Sardar Swaran Singh committee, Fundamental Duties are included in the Indian Constitution by the 42nd Constitutional Amendment Act, 1976, which included 10 Fundamental Duties. With the 86th Constitutional Amendment Act, 2002, one more duty was added to the list.

The Fundamental Duties are dealt by Article 51 A Part-IV (A) of the Constitution, which provides for total 11 Fundamental Duties for every citizen of India. "To uphold and protect the sovereignty, unity and integrity of India" is one of them.

**63. The ideal of 'Welfare State' in the Indian Constitution is enshrined in its** [IAS 2015]

- (a) Preamble
- (b) Directive Principles of State Policy
- (c) Fundamental Rights
- (d) seventh Schedule

**Exp. (b)** The Directive Principles of State Policy are enumerated in Part-IV of the Constitution from Article 36 to 51. It has been borrowed from the Irish Constitution. On the basis of their content and direction, it can be classified into three broad categories i.e. socialist, Gandhian and liberal-intellectual. The socialist principles aim at providing social and economic justice and set the path towards welfare state.

**64. Consider the following statements regarding a No-Confidence motion in India.** [IAS 2014]

1. There is no mention of a No-Confidence Motion in the Constitution of India.
2. A Motion of No-Confidence can be introduced in the Lok Sabha only.

**Which of the statement(s) given above is / are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (c)** The Constitution does not mention either a confidence motion or a No-Confidence motion. Article 75 does specify that the Council of Ministers shall be collectively responsible to the House of the People. This implies that the majority of Lok Sabha MPs must not be against to Prime Minister and his Cabinet. The No-Confidence motion can be brought only in the Lok Sabha. Article 118 of the Constitution permits each House of Parliament to make its own rules for conduct of business. Rule 198 of the Lok Sabha specifies the procedure for a Motion of No-Confidence. Any member may give a written notice; the speaker shall read the Motion of No-Confidence in the House and ask all House persons to rise who favour that the motion be taken up. If there are 50 MPs in the speaker allots a date for discussing the motion.

**65. The power to increase the number of judges in the Supreme Court of India is vested in** [IAS 2014]

- (a) the President of India
- (b) the Parliament
- (c) the Chief Justice of India
- (d) the Law Commission

**Exp. (b)** The Parliament is given the power to increase the number of Supreme Court Judges, according to the needs and circumstances. The original Constitution of 1950 envisaged a Supreme Court with a Chief Justice and 7 puisne Judges-leaving it to Parliament to increase this number. In the early years, all the Judges of the Supreme Court sat together to hear the cases presented before them.

**66. Which one of the following is the largest Committee of the Parliament?** [IAS 2014]

- (a) The Committee on Public Accounts
- (b) The Committee on Estimates
- (c) The Committee on Public Undertakings
- (d) The Committee on Petitions

**Exp. (b)** The Committee on Estimates consists of 30 members, who are elected by the Lok Sabha every year from amongst its members. The Committee on Public Undertakings consists of 15 members elected by the Lok Sabha and 7 members of Rajya Sabha are associated with it. A minister is not eligible for election to this committee. The term of the Committee is one year. Committee on Public Accounts consists of 15 members elected by the Lok Sabha and 7 members of the Rajya Sabha are

associated with it. A minister is not eligible for election to this Committee. The term of the Committee is one year. Committee on Petitions (Lok Sabha) consists of 15 members nominated by the Speaker. A minister is not nominated to this Committee. The function of the committee is to consider and report on petitions presented to the House.

**67. In the Constitution of India, promotion of international peace and security is included in the** [IAS 2014]

- (a) Preamble to the Constitution
- (b) Directive Principles of State Policy
- (c) Fundamental Duties
- (d) 9th Schedule

**Exp. (b)** Promotion of international peace and security is included under the Article 51 of the Directive Principles of State Policy contained in Part IV of the Indian Constitution.

*According to the Article 51, the state shall endeavour to:*

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised people with one another and
- (d) encourage settlement of international disputes by arbitration.

**68. The sales tax you pay while purchasing a toothpaste is a** [IAS 2014]

- (a) tax imposed by the Central Government and State Government
- (b) tax imposed by the Central Government, but collected by the State Government
- (c) tax imposed by the State Government, but collected by the Central Government
- (d) tax imposed and collected by the State Government

**Exp. (d)** Under financial relations between the Union Government and the States discussed in Articles 268 to 293 of the Constitution of India. Sales tax is the tax imposed and collected by the states. So, the correct answer is option (d).

**69. With reference to Indian History, the Members of the Constituent assembly from the Provinces were** [IAS 2013]

- (a) directly elected by the people of those Provinces
- (b) nominated by the Indian National Congress and the Muslim league
- (c) elected by the Provincial Legislative assemblies
- (d) selected by the government for their expertise in constitutional matters

**Exp. (c)** The members of the Constituent assembly were elected by the Provincial Legislative assemblies. 93 seats in the assembly were also allotted to the princely states, which were to be filled by nomination by the heads of the Princely States. However, the nominated seats remained unfilled as the Princely States stayed away from the Constituent Assembly.

**70. Consider the following statements** [IAS 2013]

1. An amendment to the Constitution of India can be initiated by an introduction of a Bill in the Lok Sabha only.
2. If such an amendment seeks to make changes in the federal character of the Constitution, the amendment also requires to be ratified by the Legislature of all the States of India.

**Which of the statement(s) given above is/ are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (d)** Statement 1 is incorrect. A Constitutional Amendment can be initiated in any House of Parliament. Statement 2 is also incorrect. If certain federal features of the Constitution are to be amended then apart from Parliamentary approval they require to be ratified by the Legislatures of half the states. Also remember that Constitutional Amendment Bills do not require prior approval of the President and they cannot be passed by a joint Sitting of both Houses of Parliament.

**71. Consider the following statements, Attorney General of India can [IAS 2013]**

1. take part in the proceedings of the Lok Sabha.
2. be a member of a committee of the Lok Sabha.
3. speak in the Lok Sabha.
4. vote in the Lok Sabha.

**Which of the statement(s) given above is /are correct?**

- (a) Only 1 (b) 2 and 4 (c) 1, 2 and 3 (d) 1 and 3

**Exp. (c)** Article 88 of the Constitution provides that the Attorney General has the right to speak in and take part in the proceedings of either House of Parliament or a Joint Sitting of the two Houses or any of their committees. He however, does not have the power to vote in any such proceedings according to the same Article.

**72. The Parliament can make any law for whole or any part of India for implementing international treaties [IAS 2013]**

- (a) with the consent of all the states
- (b) with the consent of the majority of states
- (c) with the consent of the states concerned
- (d) without the consent of any state

**Exp. (d)** Article 253 of the Constitution of India provides that the Union Parliament can make any law to implement international treaties and obligations. In such a case, the Parliament is not bounded by the usual division of legislative subjects between the Union and the States and does not need the consent of any of the states concerned.

**73. The government enacted the Panchayat Extension to Scheduled Areas (PESA) Act in 1996. Which one of the following is not identified as its objective? [IAS 2013]**

- (a) To provide self- governance
- (b) To recognise traditional rights
- (c) To create autonomous regions
- (d) To free tribal people from exploitation

**Exp. (c)** The PESA act was enacted because the provisions under the 73rd and 74th Amendment Acts did not automatically extend to the 5th Schedule areas. It was meant to provide institutions of local self-governance in the Scheduled Areas. The act was also meant to recognise the traditional rights of the tribals. The act does not have any provisions of creating any autonomous regions. Option (d) is also correct. The Act tried to fulfil this objective by giving the Gram Sabhas under this Act powers to prevent alienation of land, control of minor minerals etc.

**74. 'Economic Justice' as one of the objectives of the Indian Constitution has been provided in [IAS 2013]**

- (a) the Preamble and the Fundamental Rights
- (b) the Preamble and the Directive Principles of State Policy
- (c) the Fundamental Rights and the Directive Principles of State Policy
- (d) None of the above

**Exp. (b)** The Preamble explicitly provides for Economic Justice as an objective of the Indian Constitution. The part on Directive Principles of State Policy on the other hand contains several

articles, which provide for economic justice. e.g. Article 38(1) says "The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order, in which justice, social, economic and political shall inform all the institutions of the national life."

**75. Consider the following statements about the Parliamentary Committee on Public Accounts [IAS 2013]**

1. consists of not more than 25 members of the Lok Sabha.
2. scrutinises appropriation and finance accounts of the government.
3. examines the report of the Comptroller and Auditor General of India.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3 (c) Only 3 (d) All of these

**Exp. (b)** PAC consists of only 22 members, of which 15 are from Lok Sabha and 7 from Rajya Sabha. The PAC examines the report of the Comptroller and Auditor General, which also includes the examination of the appropriation and finance accounts of the Government of India.

**76. In the context of India, which of the following principles is/are implied institutionally in the Parliamentary Government? [IAS 2013]**

1. Members of the Cabinet are members of the Parliament.
2. Ministers hold the office till they enjoy confidence in the Parliament.
3. Cabinet is headed by the Head of the State.

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) Only 3 (c) 2 and 3 (d) All of these

**Exp. (a)** In the Parliamentary system as existing in India, Members of the Cabinet have to be members of the Parliament. If they are not members of the Parliament at the time of appointment as Cabinet Ministers then they have to do so in 6 months. Article 75 (3) ministers shall be collectively responsible to the House of people i.e. Lok Sabha. Thus, statements 1 and 2 are correct. Statement 3 is however, incorrect. Cabinet is headed by the Head of the Government, the Prime Minister. The Head of the State is the President.

**77. Which of the following bodies does not/do not find mention in the Constitution? [IAS 2013]**

1. National Development council
2. Planning commission
3. Zonal councils

**Select the correct answer using the codes given below**

- (a) 1 and 2 (b) Only 2 (c) 1 and 3 (d) All of these

**Exp. (d)** None of the bodies mentioned above are found in the Constitution. The Planning commission and the National Development council are not even statutory bodies and have been set by executive orders in 1950 and 1952 respectively. The Zonal Councils are statutory bodies and were set-up under the States Reorganisation Act of 1956.

**78. Consider the following statements [IAS 2013]**

1. The Council of Ministers in the centre shall be collectively responsible to the Parliament.
2. The Union Ministers shall hold the office during the pleasure of the President of India.
3. The Prime Minister shall communicate to the President about the proposals for legislation.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**Exp. (b)** According to Article 75(3) of the Constitution, the Council of Ministers is collectively responsible to the Lok Sabha and not the Parliament. Statement 2 is correct and according to Article 75(2), the ministers hold office during the pleasure of the President. Statement 3 is also correct. Article 78 provides that it shall be the duty of the Prime Minister to communicate to the President all decisions of the Council of Ministers related to the administration of the affairs of the Union and proposals for legislation.

**79. Consider the following statements [IAS 2013]**

1. National Development council is an organ of the Planning commission.
2. The Economic and Social planning is kept in the Concurrent list in the Constitution of India.
3. The Constitution of India prescribes that Panchayats should be assigned the task of preparation of plans for economic development and social justice.

**Which of the statements given above is /are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**Exp. (b)** Statement 1 is incorrect because the NDC is an advisory body to the Planning commission and not its organ. Statement 2 is correct seventh Schedule of the Constitution contains economic and social planning as its 20th item in Concurrent list. Statement 3 is also correct and such a prescription is given in Article 243(G) of the Constitution, which was added by the 73rd Amendment Act in 1992.

**80. Consider the following statements [IAS 2013]**

1. The Chairman and the Deputy Chairman of the Rajya Sabha are not the members of that House.
2. While the nominated members of the two Houses of the Parliament have no voting right in the presidential election, they have the right to vote in the election of the Vice-President.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** Statement 1 is incorrect. The Chairman of Rajya Sabha is the Vice-President. However, the Deputy Chairman is a member of the Rajya Sabha and is elected from among them. Statement 2 is correct. The electoral college in the presidential election consists of only the elected members of the Parliament and State Legislative assemblies. The Vice-Presidential election however, has as part of its electoral college all the members of the Parliament, whether elected or nominated.

**81. Who among the following constitute the National Development council? [IAS 2013]**

1. The Prime Minister
2. The Chairman, Finance Commission
3. Ministers of the Union Cabinet
4. Chief Ministers of the States

**Select the correct answer using the codes given below**

- (a) 1, 2 and 3 (b) 1, 3 and 4  
(c) 2 and 4 (d) All of the se

**Exp. (b)** The National Development council consists of the Prime Minister, Cabinet Ministers, members of the Planning

commission, all the State Chief Ministers. Chairman of the Finance commission is not its member. It is an advisory body to the Planning commission and its function is to approve the Five Year Plans prepared by the Planning commission before they are implemented.

**82. Which of the following is/are the principal feature(s) of the Government of India Act, 1919? [IAS 2012]**

1. Introduction of dyarchy in the executive government of the provinces.
2. Introduction of separate communal electorates for Muslims.
3. Devolution of legislative authority by the centre to the provinces.

**Select the correct answer using the codes given below**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**Exp. (c)** Government of India Act, 1919, also known as **Montague-Chelmsford reforms** introduced dyarchy in the executive government of the provinces and devolved the legislative authority by the centre to the provinces, but the separate communal electorate was introduced by Government of India Act, 1909.

**83. The Prime Minister of India, at the time of his or her appointment [IAS 2012]**

- (a) need not necessarily be a member of one of the Houses of the Parliament but must become a member of one of the Houses within 6 months
- (b) need not necessarily be a member of one of the Houses of the Parliament but must become a member of the Lok Sabha within 6 months
- (c) must be a member of one Houses of the Parliament
- (d) must be a member of the Lok Sabha

**Exp. (a)** It is nowhere written in the Constitution that the Prime Minister at the time of appointment must be a member of any House of the Parliament. The ordinary rules which governs the appointment of minister in the 'Council of Ministers' is applicable to the Prime Minister also. **Article 75(5)** says that a minister who for any period of 6 consecutive months is not a member of House of Parliament shall at the expiration of that period cease to be a Minister.

**84. A deadlock between the Lok Sabha and the Rajya Sabha calls for a joint sitting of the Parliament during the passage of [IAS 2012]**

1. Ordinary Legislation
2. Money Bill
3. Constitution Amendment Bill

**Select the correct answer using the codes given below**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**Exp. (a)** Article 108 of the Constitution which deals with the joint sitting of Parliament to resolve deadlocks specifically mentions that joint sitting cannot be resorted to in case of a Money Bill. Joint sitting for a Money Bill is not necessary as Rajya Sabha has no power to block its passage. A Constitution Amendment Bill has to be passed by both Houses separately (Article 368). Thus, joint sitting is applicable only in the case of Ordinary Bill.

# PREVIOUS YEARS' QUESTIONS

# SOLVED PAPERS

## Set 2

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- 1. Which of the following is/are among the Fundamental Duties of citizens laid down in the Indian Constitution?** [IAS 2012]

1. To preserve the rich heritage of our composite culture.
2. To protect the weaker sections from social injustice.
3. To develop the scientific temper and spirit of inquiry.
4. To strive towards excellence in all spheres of individual and collective activity.

Select the correct answer using the codes given below

(a) 1 and 2 (b) Only 2 (c) 1, 3 and 4 (d) All of these

**Exp. (c)** Fundamental Duties are contained in Article 51A of the Constitution and there is no duty which specifically talks of protecting the weaker sections from social injustice. Following are the duties mentioned in clauses (f), (h) and (j)

- 51A (f) to value and preserve the rich heritage of our composite culture.
- 51 A (h) to develop the scientific temper humanism and the spirit of inquiry and reform.
- 51 A (j) to strive towards excellence in all spheres but individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

- 2. What is the provision to safeguard the autonomy of the Supreme Court of India?** [IAS 2012]

1. While appointing the Supreme Court Judges, the President of India has to consult the Chief Justice of India.
2. The Supreme Court Judges can be removed by the Chief Justice of India only.
3. The salaries of the Judges are charged on the Consolidated Fund of India to which the legislature does not have to vote.
4. All appointments of officers and staffs of the Supreme Court of India are made by the Government only after consulting the Chief Justice of India.

Which of the statement(s) given above is/are correct?

- (a) 1 and 3 (b) 3 and 4  
(c) Only 4 (d) All of these

**Exp. (a)** Article 124 of Constitution provides that President has to consult the Chief Justice of India in the appointment to Supreme Court judges. The same article talks about removal of judges and it says that judges can be removed only by an order of the President after an address for such removal is passed in both Houses of Parliament with special majority.

- 3. The distribution of powers between the centre and the states in the Indian Constitution is based on the scheme provided in the** [IAS 2012]

- (a) Morley-Minto Reforms, 1909  
(b) Montague-Chelmsford Act, 1919  
(c) Government of India Act, 1935  
(d) Indian Independence Act, 1947

**Exp. (c)** Government of India Act, 1935, provided the formula for the distribution of powers between the centre and the states and after independence, this formed the basis for the distribution of powers between the Union and the States in the Indian Constitution.

- 4. In the areas covered under the Panchayat (Extension to the Scheduled Areas) Act, 1996, what is the role/power of Gram Sabha?** [IAS 2012]

1. Gram Sabha has the power to prevent alienation of land in the Scheduled Areas.
2. Gram Sabha has the ownership of minor forest produce.
3. Recommendation of Gram Sabha is required for granting prospecting licence or mining lease for any mineral in the Scheduled Areas.

Which of the statement(s) given above is/are correct?

- (a) Only 1  
(b) 1 and 2  
(c) 2 and 3  
(d) All of these

**Exp. (d)** The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 is an Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Some provisions include :

Every Gram Sabha shall be competent of safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.

The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas.

- 5. In the Parliament of India, the purpose of an adjournment motion is** [IAS 2012]

- (a) to allow a discussion on a definite matter of urgent public importance
- (b) to let opposition members collect information from the ministers
- (c) to allow a reduction of specific amount in demand for grant
- (d) to postpone the proceedings to check the inappropriate or violent behaviour on the part of some members

**Exp. (a)** The primary object of an adjournment motion is to draw the attention of the House to a recent matter of urgent public importance having serious consequences and in regard to which a motion or a resolution with proper notice will be too late.

**6. Consider the following provisions under the Directive Principles of State Policy as enshrined in the Constitution of India [IAS 2012]**

1. Securing for citizens of India a Uniform Civil Code.
2. Organising Village Panchayats.
3. Promoting cottage industries in rural areas.
4. Securing for all the workers reasonable leisure and cultural opportunities.

**Which of the above are the Gandhian Principles that are reflected in the Directive Principles of State Policy?**

- (a) 1, 2 and 4 (b) 2 and 3 (c) 1, 3 and 4 (d) All of these

**Exp. (b)** Articles 40, 47 and 48 are based on Gandhian principle. They are as follows:

- Article 40 Organisation of Village Panchayats
- Article 47 Proper nutrition and standard of living
- Article 48 Prevention of cow slaughter, organisation of agriculture and animal husbandry.

**7. Consider the following statements [IAS 2012]**

1. Union Territories are not represented in the Rajya Sabha.
2. It is within the purview of the Chief Election Commissioner to adjudicate the election disputes.
3. According to the Constitution of India, the Parliament consists of the Lok Sabha and the Rajya Sabha only.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) None of these

**Exp. (d)** Out of the 7 Union Territories, Delhi and Puducherry have representation in Rajya Sabha. Parliament has enacted section 80-A of the representation of the People Act, 1951 providing that the 'High Court' shall be the Authority for presentation of election petitions under Article 329(b) of the Constitution. Parliament consist of the President of the Lok Sabha and the Rajya Sabha.

**8. Consider the following statements regarding the office of the Lok Sabha Speaker [IAS 2012]**

1. He/She holds the office during the pleasure of the President.
2. He/She need not be a member of the House at the time of his/her election but has to become a member of the House within 6 months from the date of his/her election.
3. If he/she intends to resign, the letter of his/her resignation has to be addressed to the Deputy Speaker.

**Which of the statement(s) given above is /are correct?**

- (a) 1 and 2 (b) Only 3  
(c) All of these (d) None of these

**Exp. (b)** The House of the People as soon as may be after its first meeting chooses the Speaker from among the member of the House. (Article 93)

- He holds the office during the life of the House, but his office may terminate earlier in the following ways.
- By his/her ceasing to be the member of the House.
- By resignation in writing, addressed to the Deputy Speaker.
- By removal from office by a resolution, passed by a majority of all the then members of the House.

**9. Which of the following are included in the original jurisdiction of the Supreme Court? [IAS 2012]**

1. A dispute between the Government of India and one or more states.
2. A dispute regarding elections to either House of the Parliament or that of Legislature of a State.

3. A dispute between the Government of India and a Union Territory.
4. A dispute between two or more states.

*Select the correct answer using the codes given below*

- (a) 1 and 2 (b) 2 and 3  
(c) 1 and 4 (d) 3 and 4

**Exp. (c) Original Jurisdiction**

**Writs** Article 32 guarantees the right to move the Supreme Court for enforcement of Fundamental Rights.

**Original Suits** Article 131 grants exclusive jurisdiction to the Supreme Court in any dispute between

- (i) Government of India and one or more states or
- (ii) between Government of India and any state or states on one side and one or more other states on the other side
- (iii) between two or more states

**10. In India, if a religious sect/community is given the status of a national minority, what special advantages it is entitled to? [IAS 2011]**

1. It can establish and administer exclusive educational institutions.
2. The President of India automatically nominates a representative of the community to the Lok Sabha.
3. It can derive benefits from the Prime Minister's 15-Point Programme.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1 (b) 2 and 3  
(c) 1 and 3 (d) All of these

**Exp. (c)** No special representation for minorities is given under the Constitution.

**11. The authorisation for the withdrawal of funds from the Consolidated Fund of India must come from [IAS 2011]**

- (a) the President of India
- (b) the Parliament of India
- (c) the Prime Minister of India
- (d) the Union Finance Minister

**Exp. (b)** Any withdrawal of amount from the Consolidated Fund of India must be approved from the Parliament as given in **Article 266**.

**12. All revenues received by the Union Government by way of taxes and other receipts for the conduct of government business are credited to the [IAS 2011]**

- (a) Contingency Fund of India
- (b) Public Account
- (c) Consolidated Fund of India
- (d) Deposits and Advances Fund

**Exp. (c)** Article 266 explains this.

**13. When the Annual Union budget is not passed by the Lok Sabha? [IAS 2011]**

- (a) The budget is modified and presented again
- (b) The budget is referred to the Rajya Sabha for suggestions
- (c) The Union Finance Minister is asked to resign
- (d) The Prime Minister submits the resignation of Council of Ministers

**Exp. (a)** This is perhaps the most contentious question given this time. Option (d), though favoured by many, is not tenable as the only single way for the resignation of Prime Minister and Union Council of Ministers is a defeat in the Lok Sabha through the No-Confidence motion.

Referring to the Rajya Sabha may seem correct, but the significance of the Rajya Sabha is very low in financial matters. The correct answer is option (a). The logic behind this is that if the budget has not been passed owing to some policy disagreement by legislators over taxation or expenditure and the government intends to modify them and bring in a modified budget acceptable to all, it is completely valid for the government to withdraw the budget and pass a modified one.

**14. Under the Constitution of India, which one of the following is not a fundamental duty? [IAS 2011]**

- (a) To vote in public elections
- (b) To develop the scientific temper
- (c) To safeguard public property
- (d) To abide by the Constitution and respect its ideals

**Exp. (a)** Fundamental Duties under Article 51-A of the Indian Constitution. To develop the scientific temper is under sub-clause (n) of Article 51-A.

**15. With reference to the Finance Commission of India, which of the following statements is correct? [IAS 2011]**

- (a) It encourages the inflow of foreign capital for infrastructure development
- (b) It facilitates the proper distribution of finances among the Public Sector Undertakings
- (c) It ensures transparency in financial administration
- (d) None of the above

**Exp. (d)** Article 280 has provisions with regard to Finance commission.

**16. In India, a Metropolitan Planning committee [IAS 2011]**

- 1. is constituted under the provisions of the Constitution of India.
- 2. prepares the draft development plans for metropolitan area.
- 3. has the role responsibility for implementing government sponsored schemes in the metropolitan area.

**Which of the statement(s) given above is/are correct?**

- (a) 1 and 2
- (b) Only 1
- (c) 1 and 3
- (d) All of the above

**Exp. (a)** The Metropolitan Planning committee plays an advisory role rather than an executive role.

**17. What is the difference between 'vote-on-account' and 'interim budget'? [IAS 2011]**

- 1. The provision of a 'vote-on-account' is used by a regular government, while 'interim budget' is a provision used by a caretaker government.
- 2. A 'vote-on-account' only deals with the expenditure in government's budget while an 'interim budget' includes both expenditure and receipts.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (c)** The government usually goes for vote-on-account in two situations. First, when the government is unable to pass a full budget in the Parliament for some reason before 31st March, which is when the financial year ends. Second, when the term of the incumbent government ends close to 31st March. A vote-on-account is different from both interim and full budget as it deals only with expenditure while interim and complete budget deal with both expenditure and receipts.

**18. The 'Instrument of Instructions' contained in the Government of India Act, 1935 have been incorporated in the Constitution of India in the year 1950 as**

[IAS 2010]

- (a) Fundamental Rights
- (b) Directive Principles of State Policy
- (c) Extent of Executive Power of State
- (d) Conduct of Business of the Government of India

**Exp. (b)** The Directive Principles are like instruments which were issued to the General-Governor, Governors of colonies and to those of India by the British Government under the 1935 Act, under the Draft Constitution. It was proposed to issue such instructions to the President and Governors. The text of these instruments of the instructions is found in fourth Schedule of the Constitution of India.

**19. Consider the following with reference to the Constitution of India [IAS 2010]**

- 1. Fundamental Rights
- 2. Fundamental Duties
- 3. Directive Principles of the State Policy

**Which of the above provisions of the Constitution of India is/are fulfilled by the National Social Assistance Programme (NSAP), launched by the Government of India?**

- (a) Only 1
- (b) Only 3
- (c) 1 and 3
- (d) All of these

**Exp. (b)** NSAP is a social assistance programme for poor households launched on 15th August, 1995 and represents a significant step towards the fulfillment of the Directive Principles in Articles 41 and 42 of the Constitution recognising the concurrents responsibility of the Central and State Governments in the matter. The NSAP will include for the time being, three benefits as its components, viz

- (i) National Old Age Pension Scheme (NOAPS)
- (ii) National Family Benefit Scheme (NFBS)
- (iii) National Maternity Benefit Scheme (NMBS)

• **Article 41** Right to work, to education and to public assistance in certain cases.

• **Article 42** Provision for just and humane conditions of work and maternity relief.

**20. The Supreme Court of India tenders advice to the President of India on matters of law or fact [IAS 2010]**

- 1. on its own initiative (on any matter of larger public interest).
- 2. if he seeks such an advice.
- 3. only if the matters relate to the Fundamental Rights of the citizens.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Only 3
- (d) 1 and 2

**Exp. (b)** **Article 143** Power of President to consult Supreme Court

(i) If at any time, it appears to the President that a question of law or fact has arisen or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(ii) The President may notwithstanding anything in the provision to Article 131, refer a dispute of the kind mentioned in the said provision to the Supreme Court for opinion and the Supreme Court shall after such hearing as it thinks fit, report to the President its opinion thereon.

**21.** With reference to Lok Adalats, which of the following statements is correct ? [IAS 2010]

- (a) Lok Adalats have the jurisdiction to settle the matters at pre-litigation stage and not those matters pending before any court
- (b) Lok Adalats can deal with matters which are civil and not criminal in nature
- (c) Every Lok Adalats consists of either serving or retired judicial officers only and not any other person
- (d) None of the above

**Exp. (d)** Lok Adalat is a system of alternative dispute resolution which was developed in India. The idea of Lok Adalat was mainly advocated by justice PN Bhagwati. They are usually presided over by retired judges, social activist or other members of the legal profession. The Lok Adalats can deal with all civil cases, matrimonial disputes, land disputes, partition/property disputes, labour disputes etc and compoundable criminal cases.

**22.** Who of the following shall cause every recommendation made by the Finance commission to be laid before each House of Parliament? [IAS 2010]

- (a) The President of India
- (b) The Speaker of the Lok Sabha
- (c) The Prime Minister of India
- (d) The Union Finance Minister

**Exp. (a)** The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum, as to the action taken thereon to be laid before each House of the Parliament.

**23.** If a Panchayat is dissolved, elections are to be held within [IAS 2009]

- (a) 1 month
- (b) 3 months
- (c) 6 months
- (d) 1 year

**Exp. (c)** A clear term of 5 years has been provided for every Panchayat and elections must take place before the expiry of the term. It can however, be dissolved earlier on specific grounds, in which case election must take place within 6 months of its dissolution. A Panchayat constituted after premature dissolution is to continue only for the remaining period, however there would be no need for fresh elections of the remaining time is less than 6 months.

**24.** Consider the following statements [IAS 2009]

- 1. The Governor of Punjab is concurrently the Administrator of Chandigarh.
- 2. The Governor of Kerala is concurrently the Administrator of Lakshadweep.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (a)** The Governor of Punjab is concurrently the Administrator of Chandigarh. The Constitution provides in Article 239 that save as otherwise provided by Parliament by law, every union territory shall be administered by the President acting through an Administrator to be appointed by him with such designation as he may specify. The Administrators are variously designated Lieutenant Governor in Puducherry and Andaman and Nicobar Islands, Administrators in Chandigarh, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep.

**25.** Consider the following statements [IAS 2009]

- 1. The Advocate General of a State in India is appointed by the President of India upon the recommendation of the Governor of the concerned state.
- 2. As provided in Civil Procedure Code, High Courts have original, appellate and advisory jurisdiction at the state level.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (d)** Each state has an Advocate General, an official corresponding to the Attorney General of India and with similar functions for the state. According to the Article 165, he is appointed by the Governor and holds office during the pleasure of the Governor. Only a person qualified to be a Judge of High Court can be appointed to the post. His remuneration is determined by the Governor. Article 177 empowers him to speak and to take part in the proceedings of the legislature of the state, but he has no right to vote in it.

**26.** In India, the first Municipal Corporation was set-up in which one among the following? [IAS 2009]

- (a) Kolkata
- (b) Chennai
- (c) Mumbai
- (d) Delhi

**Exp. (b)** In India, the first Municipal corporation was set-up in Chennai, the capital of Tamil Nadu in 1687-88. In most of the states, Municipal corporations have been established for major cities under specific act of Municipal Legislature. But now, a constitutional basis have been given to local self-government units in urban areas through the 74th Amendment act. Originally introduced as the Constitution (65th Amendment) Bill in 1989 by the Prime Minister Rajiv Gandhi.

**27.** Consider the following statements with reference to Lok Adalats [IAS 2009]

- 1. An award made by a Lok Adalat is deemed to be a decree of a civil court and no appeal lies against there to before any court.
- 2. Matrimonial/Family disputes are not covered under Lok Adalat.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (a)** Lok Adalats which are voluntary agencies at present are monitored and overseen by State Legal Aid and Advice Boards. It has proved to be a successful alternative forum for resolution of disputes through conciliatory methods. The Legal Services Authority Act, 1987, have been enacted, which will provide a statutory footing to the Legal Aid Movement. Under the act, there shall be legal service authorities at the central, state and district levels. These authorities will have their own funds. Further, the Lok Adalats, which are at present informal agencies, will acquire statutory authority. Every award of the Lok Adalat shall be deemed to be a decree of a civil court or order of any other court or tribunal and shall be final and binding on all the parties to the dispute. It also provides that in respect of cases decided at a Lok Adalat, the court fee paid by the parties will be refunded.

**28.** Consider the following statements with reference to Union Government [IAS 2009]

- 1. The Constitution of India provides that all Cabinet Ministers shall be compulsorily the sitting members of the Lok Sabha only.
- 2. The Union Cabinet Secretariat operates under the direction of the Ministry of Parliamentary Affairs.

**Which of the statement(s) given above is/are correct?**

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Exp. (d)** The Council of Ministers seldom meets as a body. It is the cabinet, an inner body within the council, which shapes the policy of the government. Cabinet ministers hold charge of key portfolios. There is no bar on the appointment of a person from outside the

legislature as minister, he cannot continue for more than 6 months unless he secures a seat in either House of Parliament in the meantime.

A minister, who is a member of one house has a right to speak in and to take part in the proceedings of the other house, though he has no right to vote in the house of which he is not a member. The Union Cabinet Secretariat is not operated under the direction of the Ministry of Parliament Affairs.

- 29. Which one of the following Constitutional Amendments state that the total number of ministers, including the Prime Minister in the Council of Ministers shall not exceed 15% of the total number of members of the House of the People?** [IAS 2009]

(a) 90th (b) 91st (c) 92nd (d) 93rd

**Exp. (b)** 91st Constitutional Amendment states that the total number of ministers, including Prime Minister in the Council of Ministers shall not exceed 15% of the total number of members of the house. It is added in the Article 75 (i) in 2003 after 91st Amendment.

- 30. Consider the following statements** [IAS 2009]

1. Central Administrative Tribunal (CAT) was set-up during the Prime Ministership of Lal Bahadur Shastri.
2. The members for CAT are drawn from both judicial and administrative streams.

**Which of the statement(s) given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** Central Administrative Tribunal (CAT) was set-up under Administrative Tribunals Act, 1985, which came into force in July, 1985. It was set-up during the Prime Ministership of Rajiv Gandhi. In pursuance of the provisions of Article 323 A in Part XIV-A of the Constitution, the Administrative Tribunals Act, 1985 was enacted by the Parliament. Under this act, the Central Administrative Tribunal was set-up in November, 1985 to provide speedy and inexpensive justice to Central Government employees in respect of their service matters. The tribunals are to adjudicate disputes and complaints relating to recruitment and conditions of services of persons appointed to public services and posts in connection with affairs of the Union Government. It has all the jurisdiction, power and authority of a court in the specified matters. A tribunal can be checked by High Court for exceeding its jurisdiction or if its order is contrary to natural justice.

- 31. Consider the following statements with reference to Union Government** [IAS 2009]

1. The number of ministries at the centre on 15th August, 1947 was 18.
2. The number of ministries at the centre at present is 36.

**Which of the statement(s) given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)** The number of ministries at the centre on 15th August, 1947 was 18. In present time, total number of ministries are 48.

- 32. In India, who is the Chairman of the National Water Resources council?** [IAS 2009]

(a) Prime Minister  
(b) Minister of Water Resources  
(c) Minister of Environment and Forests  
(d) Minister of Science and Technology

**Exp. (a)** In India, Prime Minister is the Chairman of the National Water Resources council. In March, 1983, National Water Resources council was founded. Its Deputy Chairman is Minister of Water Resources.

- 33. Under the administration of which one of the following is the Department of Atomic Energy (DAE)?** [IAS 2009]

(a) Prime Minister's Office  
(b) Cabinet Secretariat  
(c) Ministry of Power  
(d) Ministry of Science and Technology

**Exp. (a)** Department of Atomic Energy is come under the administration of Prime Minister's office. The Department of Atomic Energy was set-up in 1954, is the executive agency for implementing the Atomic Energy Programme.

*There are three public sector undertakings under the administrative control of DAE which are :*

1. The Indian Rare Earth's Limited (IREL) which has set-up the Orissa Sands Complex (OSCom) at Chhattarpur for enhancing Rare Earth's production.
2. The Uranium Corporation of India Limited (UCIL) with mines at Jaduguda in Jharkhand.
3. The Electronics Corporation of India Limited (ECIL) which manufactures electronic instruments and equipments for nuclear as well as non-nuclear user.

- 34. Consider the following statements with reference to Union Government** [IAS 2009]

1. The ministries/departments of the Government of India are created by the Prime Minister on the advice of the Cabinet Secretary.
2. Each of the ministries is assigned to a minister by the President of India on the advice of the Prime Minister.

**Which of the statement(s) given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** The ministries/departments of the Government of India are not created on the recommendation of Cabinet Secretary by the Prime Minister. Cabinet Secretary is the head of Cabinet Secretariat. He is also the Chairman by post of Civil Services Board. Each of the ministries is assigned to a minister by the President of India on the advice of the Prime Minister.

- 35. Consider the following statements** [IAS 2009]

1. The Chairman of the Committee on Public Accounts is appointed by the Speaker of the Lok Sabha.
2. The Committee on Public Accounts comprises members of the Lok Sabha, members of Rajya Sabha and a few eminent persons of industry and trade.

**Which of the statement(s) given above is/are correct?**

(a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)** The Lok Sabha Speaker appoints the Chairman of all Parliamentary committee. So, the Chairman of the Committee on Public Accounts is appointed by the Speaker of Lok Sabha. Hence, Statement (1) is correct. Public Accounts committee is a financial committee; it consists of 22 members—15 from the Lok Sabha and 7 from the Rajya Sabha—all elected by the proportional representation system. By convention, a Lok Sabha member, from a major opposition party, is appointed as its Chairman. Minister cannot be its members. It is assisted by the Comptroller and Auditor General of India.

- 36. Which of the following is/are included in the Directive Principles of State Policy (DPSP)?** [IAS 2008]

1. Prohibition of traffic in human beings and forced labour.
2. Prohibition of consumption except for medicinal purposes of intoxicating drinks and of other drugs which are injurious to health.

Select the correct answer using the codes given below

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** Statement 1 is incorrect because prohibition of traffic in human beings and forced labour is a Fundamental Right enshrined under Article 23 of the Indian Constitution. Statement 2 is correct according to the provisions of Article 47 of the Indian Constitution, which provides that the state shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health. Part IV of the Constitution deals with DPSP's.

- 37. Under which one of the following Constitution Amendment Acts, four languages under the 8th Schedule of the Constitution of India, thereby raising their number to 22?** [IAS 2008]

- (a) Constitution (90th Amendment) Act  
(b) Constitution (91st Amendment) Act  
(c) Constitution (92nd Amendment) Act  
(d) Constitution (93rd Amendment) Act

**Exp. (c)** The 92nd Amendment of the Constitution of India, amended the eighth Schedule of the Constitution so as to include Bodo, Dogri, Santhali and Maithili languages, thereby raising the total number of languages listed in the Schedule to 22. This amendment came into force in July, 2004 after receiving the presidential assent.

- 38. Consider the following statements** [IAS 2008]

1. Justice VR Krishna Iyer was the Chief Justice of India.
2. Justice VR Krishna Iyer is considered as one of the progenitors of Public Interest Litigation (PIL) in the Indian judicial system.

Which of the statement(s) given above is/are correct?

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** VR Krishna Iyer became a Judge of the Supreme Court of India in 1973. During this time, the Supreme Court interpreted Article 21 of the Constitution of India in the sense that the National Government was obliged to provide free legal services to accused people in custody. He retired from the Supreme Court in November, 1980. Justice Krishna Iyer was never became the Chief Justice of India. VR Krishna Iyer known for his human right approach and literary merit in decision-making.

**Source** The Constitution of India—DD Basu.

- 39. Which Schedule of Constitution of India contains special provisions for the administration and control of scheduled areas in several states?** [IAS 2008]

- (a) 3rd (b) 5th (c) 7th (d) 9th

**Exp. (d)** 9th Schedule of the Constitution of India contains special provisions for administration and control of scheduled area and schedule tribes in several states.

- 40. How many High Courts in India have jurisdiction over more than one state (union territories not included)?**

- (a) 2 (b) 3 (c) 4 (d) 5 [IAS 2008]

**Exp. (b)** There are three High Courts, which have jurisdiction over more than one state

- (i) Guwahati High Court

- (ii) Punjab and Haryana High Court

- (iii) Bombay High Court

At present, there are 24 High Courts in India.

- 41. Who was the Speaker of the first Lok Sabha?** [IAS 2007]

- (a) Hukum Singh (b) GV Mavalankar  
(c) KM Munshi (d) UN Dhebar

**Exp. (b)** GV Mavalankar (17th November, 1947—5th May, 1952) was the Speaker of first Lok Sabha.

- 42. Who among the following have been the Union Finance Ministers of India?** [IAS 2007]

1. VP Singh 2. R Venkataraman  
3. YB Chavan 4. Pranab Mukherjee

Select the correct answer using the codes given below

- (a) 1, 2 and 3 (b) 1, 3 and 4 (c) 2 and 4 (d) All of these

**Exp. (d)**

- 43. Consider the following statements** [IAS 2007]

1. The Judges (Inquiry) Bill, 2006 contemplates to establish a Judicial Council which will receive complaints against Judges of the Supreme Court including the Chief Justice of India, High Court Chief Justice and Judges.
2. Under the Protection of Women from Domestic Violence Act, 2005, a woman can file a petition before a first class Judicial Magistrate.

Which of the statement(s) given above is/are correct ?

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (b)** The Judges (Inquiry) Bill, 2006 contemplates to establish a Judicial council which will receive complaints against Judges of Supreme Court and High Court, except Chief Justice of India. But for the purpose of the reference procedure, not the complaint procedure, the Chief Justice of India will be included. The amendment also seeks to introduce a Code of Ethics for the judiciary. The act empowers the magistrate to pass protection order in favour of the abused to prevent the abuser from aiding or committing an act of domestic violence or any other specified act.

- 44. Consider the following statements** [IAS 2007]

1. The mode of removal of a Judge of a High Court in India is same as that of removal of a Judge of the Supreme Court.
2. After retirement from the office, a permanent Judge of a High Court cannot plead or act in any court or before any authority in India.

Which of the statement(s) given above is/are correct ?

- (a) Only 1 (b) Only 2  
(c) Both 1 and 2 (d) Neither 1 nor 2

**Exp. (a)** After retirement, a Judge of High Court cannot serve in any court or before any authority in India except in the Supreme Court and High Court other than the High Court in which he had held the office (Article 220).

- 45. Which one of the following subjects is under the Union list in the Seventh Schedule of the Constitution of India?** [IAS 2006]

- (a) Regulation of labour and safety in mines and oil-fields  
(b) Agriculture  
(c) Fisheries (d) Public health

**Exp. (a)** According to the provisions of Article 246 and Seventh Schedule agriculture, fisheries and public health are included in the state list. So, in this question, regulation of labour and safety in mines and oil-fields is under the Union List.