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INDIAN POLITY

COMPLETE EDITION

All 92 Chapters — The Constitution, Government & Polity of India

Constitutional Framework

System of Government

Central & State Government

Local Government

Constitutional Bodies

Non-Constitutional Bodies

Political Dynamics

Landmark Judgements

A COMPLETE, EXAM-FOCUSED STUDY GUIDE • UPSC / STATE PSC / JUDICIARY

The Whole of Indian Polity — Ten Parts

This edition covers all **92 chapters** of the standard polity syllabus. The first four foundational chapters are treated in full depth; the remaining chapters are condensed into focused, exam-ready cards giving you the articles, composition, functions and key facts you actually need to recall. Use the part map below to navigate.

Part	Theme	Chapters
I	The Constitutional Framework	1 – 12
II	System of Government	13 – 17
III	Central Government	18 – 29
IV	State Government	30 – 38
V	Local Government	39 – 42
VI	Constitutional Bodies	43 – 54
VII	Non-Constitutional Bodies	55 – 71
VIII	Other Constitutional Dimensions	72 – 78
IX	Political Dynamics	79 – 90
X	Working of the Constitution & Landmark Judgements	91 – 92

How to use this guide Each compact chapter card is colour-coded: **Articles** **Key Facts** **Exam Tips** and cases. Read a full part in one sitting, then self-test from the bolded terms. The foundational chapters (1–4) repay slow, careful reading; the body and dynamics chapters are best revised rapidly and repeatedly.

PART ONE

The Constitutional Framework

Before institutions, there is the document that creates them. This part traces how British rule slowly built the scaffolding of Indian governance, how a sovereign people then wrote their own charter, and what foundational ideas — features, the Preamble, territory, citizenship, rights, duties and the power to amend — hold the whole structure together.

Historical Background

From a trading company's regulation to a free nation's framework, 1773–1947.

The Indian Constitution did not appear overnight in 1950. Its institutions — a parliamentary executive, a federal distribution of powers, a public service, an independent audit, even the office that became the President — were assembled piece by piece across 174 years of British legislation. Understanding this evolution explains *why* so much of our Constitution feels familiar to anyone who studied the colonial Acts.

British constitutional development in India falls into two clean phases: the period when the East India Company governed in the Crown's name (the **Company Rule, 1773–1858**), and the period when the British Crown governed directly (the **Crown Rule, 1858–1947**). The first phase is a story of Parliament gradually reining in a commercial corporation; the second is a story of slow, grudging Indianisation of the administration and legislature.

A. The Company Rule (1773–1858)

Regulating Act of 1773

This was the first step by the British Parliament to control and regulate the affairs of the Company in India. Its constitutional significance is that it recognised, for the first time, the political and administrative functions of the Company.

- It designated the Governor of Bengal as the **Governor-General of Bengal** (Warren Hastings being the first) and created an Executive Council of four members to assist him.
- It made the Governors of Bombay and Madras **subordinate** to the Governor-General of Bengal — earlier the three presidencies had been independent.
- It provided for a **Supreme Court at Calcutta (1774)** with one Chief Justice and three other judges.
- It prohibited Company servants from private trade and from accepting bribes or gifts from natives.
- It strengthened Crown control by requiring the Court of Directors to report on revenue, civil and military affairs in India.

Amending Act of 1781 (Act of Settlement)

Passed to fix the defects of the Regulating Act, it freed the Governor-General-in-Council from the jurisdiction of the Supreme Court for acts done in an official capacity, and clearly demarcated the jurisdiction of the Supreme Court.

Pitt's India Act of 1784

Why it matters It established a system of **double government**. The Company's commercial affairs stayed with the Court of Directors, but its political affairs were placed under a new **Board of Control** representing the British Government. This was the first time the Company's territories were called the "British possessions in India," and the British Government was given supreme control over Indian affairs.

Charter Act of 1833

This was the final step toward centralisation in British India.

- It made the Governor-General of Bengal the **Governor-General of India** (Lord William Bentinck being the first), vesting in him all civil and military powers.
- It deprived the Governors of Bombay and Madras of their legislative powers, giving the Governor-General of India **exclusive legislative power** for the whole of British India.
- It ended the Company's commercial activities — it became a purely administrative body.
- It attempted to introduce **open competition** for the civil service (though this was negated after opposition from the Court of Directors).

Charter Act of 1853

- It separated, for the first time, the **legislative and executive functions** of the Governor-General's Council, creating a separate Legislative Council (the "Indian Central Legislative Council").
- It introduced an **open competition** system for the civil services, throwing them open to Indians too (the Macaulay Committee of 1854 followed).
- It introduced, for the first time, **local representation** in the Legislative Council.

B. The Crown Rule (1858–1947)

Government of India Act, 1858 — "Act for the Good Government of India"

Enacted after the Revolt of 1857, this Act abolished the Company and transferred powers of government, territories and revenues directly to the British Crown.

- It ended the Company rule and the **double government** of Pitt's Act by abolishing the Board of Control and Court of Directors.
- It created a new office, the **Secretary of State for India**, a member of the British Cabinet with complete authority over Indian administration, assisted by a 15-member Council of India.
- The Governor-General was given the additional title of **Viceroy** — the direct representative of the Crown (Lord Canning being the first Viceroy).

Indian Councils Acts of 1861, 1892 and 1909

Act	Key constitutional contributions
1861	Began the process of representative institutions by associating Indians with law-making (Lord Canning nominated three Indians in 1862). Restored legislative powers to Bombay and Madras (decentralisation). Recognised the portfolio system and empowered the Viceroy to issue ordinances.
1892	Increased the number of non-official members and enlarged the functions of legislative councils — members could now discuss the budget and address questions to the executive. Introduced a limited and indirect element of election .
1909 <i>Morley-Minto Reforms</i>	Considerably increased the size of legislative councils. For the first time associated Indians with the executive councils of the Viceroy and Governors (Satyendra Prasad Sinha became the first Indian to join the Viceroy's Executive Council). Introduced a communal electorate for Muslims — earning Lord Minto the title "Father of Communal Electorate."

Government of India Act, 1919 — Montagu-Chelmsford Reforms

Landmark Features

- It relaxed central control over the provinces by demarcating **central and provincial subjects**.
- It introduced, in the provinces, **dyarchy** — a division of provincial subjects into **Transferred** (administered by the Governor with ministers responsible to the legislature) and **Reserved** (administered by the Governor and his Executive Council, not responsible to the legislature).
- It introduced, for the first time, **bicameralism** and **direct elections** at the centre.
- It extended communal representation to Sikhs, Indian Christians, Anglo-Indians and Europeans.
- It created the office of the **High Commissioner for India** in London and provided for a **Public Service Commission** (set up 1926).
- It provided for a statutory commission to review its working after ten years — the **Simon Commission (1927)**.

Government of India Act, 1935

A lengthy and detailed document (321 sections, 10 schedules) and the most direct ancestor of the 1950 Constitution.

- It provided for an **All-India Federation** of provinces and princely states (which never came into being, as the princely states did not join).
- It abolished dyarchy in the provinces and introduced **provincial autonomy** instead.
- It provided for the adoption of **dyarchy at the centre** (never implemented).
- It introduced bicameralism in six of the eleven provinces.
- It provided for a **Federal Court** (established 1937) and a **Reserve Bank of India**.
- It abolished the Council of India.

Indian Independence Act, 1947

Based on the Mountbatten Plan of 3 June 1947, this Act ended British rule and declared India an independent and sovereign nation from 15 August 1947.

- It provided for the **partition** of India and the creation of two independent dominions, India and Pakistan.
- It abolished the office of the Secretary of State for India and the suzerainty of the Crown over the princely states.
- It empowered the Constituent Assemblies of the two dominions to frame and adopt any constitution and to repeal any Act of the British Parliament, including the Independence Act itself.

Memory hook — sequence of major Acts "Really Pretty Cute Cats Get Inside Mango Gardens In" → Regulating 1773 · Pitt's 1784 · Charter 1833 · Charter 1853 · GOI 1858 · Indian Councils 1861/1892/1909 · Montford 1919 · GOI 1935 · Independence 1947.

The Acts of the Crown Rule — A Closer Look

The Government of India Act, 1858, abolished the East India Company and transferred the powers of government, territories and revenues to the British Crown. It created the office of the Secretary of State for India (a member of the British Cabinet), assisted by a fifteen-member Council of India. The Indian Councils Acts of 1861, 1892 and 1909 gradually introduced the representative principle and associated Indians with law-making. The Act of 1909 (the Morley-Minto Reforms) is notorious for introducing **communal representation** for Muslims by accepting the concept of a separate electorate.

The Government of India Act, 1919 (the Montagu-Chelmsford Reforms) introduced **dyarchy** in the provinces, dividing provincial subjects into "transferred" and "reserved" lists, and separated the central and provincial budgets. The Government of India Act, 1935 — the lengthiest enactment of the British Parliament till then — provided for an All-India Federation and provincial autonomy, and is the single most important source of the present Constitution.

Borrowings from the 1935 Act A very large part of the present Constitution — the federal scheme, the office of the Governor, the emergency provisions, the public service commissions, and much administrative detail — is drawn directly from the Government of India Act, 1935.

The Regulating Act and the Pitt's India Act

The **Regulating Act of 1773** was the first step taken by the British Parliament 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 being Warren Hastings), created an Executive Council of four members to assist him, and subordinated the Governors of Bombay and Madras to the Governor-General of Bengal. It also provided for the establishment of a Supreme Court at Calcutta (1774) and prohibited the servants of the Company from engaging in private trade or accepting bribes.

The **Pitt's India Act of 1784** distinguished between the commercial and political functions of the Company, and created a new body called the Board of Control to manage the political affairs, thereby

establishing a system of "double government". The **Charter Act of 1833** made the Governor-General of Bengal the Governor-General of India (the first being Lord William Bentinck) and concentrated all civil and military powers in him, marking the final step towards the centralisation of administration in British India.

Why this history matters The institutions of modern Indian government — a centralised executive, a professional civil service, codified law and an organised judiciary — were not created overnight in 1950. They grew incrementally through these enactments, which is why a sound grasp of the constitutional and administrative history of British India is the indispensable foundation for understanding the present Constitution.

The Cripps Mission, the Cabinet Mission and Independence

The immediate constitutional background to independence lies in a series of British proposals. The August Offer (1940) for the first time acknowledged the Indians' right to frame their own constitution. The Cripps Mission (1942) proposed a constitution-making body to be set up after the war, but its proposals were rejected by all sides. The Cabinet Mission (1946) rejected the demand for a separate Pakistan in its full form but proposed a loose federation and provided the scheme under which the Constituent Assembly was actually constituted. Finally, the Mountbatten Plan (June 1947) accepted partition, and the Indian Independence Act, 1947 gave effect to it, creating the two dominions of India and Pakistan with effect from 15 August 1947.

The Indian Independence Act, 1947 The Act ended British paramountcy over the princely states, leaving them free to accede to either dominion, and conferred on the Constituent Assemblies of the two dominions full power to frame and adopt any constitution and to repeal any Act of the British Parliament, including the Independence Act itself. India thus became free to write its own Constitution as a sovereign body.

Exam Pointers

- "Father of Local Self-Government in India" — **Lord Ripon** (Resolution of 1882).
- First Governor-General of Bengal — **Warren Hastings**; first Governor-General of India — **Lord William Bentinck**; first Viceroy — **Lord Canning**.
- Communal electorate introduced by the Act of **1909**; extended in **1919**.
- Dyarchy in provinces → 1919; provincial autonomy → 1935. Do not confuse the two.

Making of the Constitution

The Constituent Assembly: who wrote our Constitution, how, and over how long.

India's Constitution was framed by a **Constituent Assembly** set up under the **Cabinet Mission Plan of 1946**. The Assembly took **2 years, 11 months and 18 days** to complete its task, holding 11 sessions over 165 days. The idea of a Constituent Assembly was first put forward in 1934 by **M. N. Roy**, a pioneer of the communist movement in India.

Composition of the Constituent Assembly

- The total strength was fixed at **389** — 296 from British India and 93 from the princely states. After Partition, the strength of the Assembly for India was reduced to **299**.
- Seats were allotted to provinces in proportion to population (roughly 1 seat per 10 lakh people).
- Seats in each province were divided among **Muslims, Sikhs and the General** category in proportion to their population.
- Representatives of provinces were **indirectly elected** by members of the provincial assemblies, who themselves were elected on a limited franchise.

Key dates and personalities

- First meeting: **9 December 1946**. The Muslim League boycotted it and demanded a separate state of Pakistan.
- **Dr. Sachchidananda Sinha** was the temporary (provisional) chairman — the eldest member.
- **Dr. Rajendra Prasad** was elected the permanent Chairman/President of the Assembly on 11 December 1946.
- **H. C. Mukherjee** was the Vice-President; **B. N. Rau** was the Constitutional Advisor.

The Objectives Resolution

On **13 December 1946**, Jawaharlal Nehru moved the historic **Objectives Resolution**, laying down the fundamentals and philosophy of the constitutional structure. It was adopted on 22 January 1947 and, in a modified form, became the **Preamble** of the Constitution.

Major Committees of the Constituent Assembly

Committee	Chairman
Drafting Committee	Dr. B. R. Ambedkar
Union Powers Committee	Jawaharlal Nehru
Union Constitution Committee	Jawaharlal Nehru
Provincial Constitution Committee	Sardar Vallabhbhai Patel
Advisory Committee on Fundamental Rights & Minorities	Sardar Vallabhbhai Patel
Rules of Procedure Committee	Dr. Rajendra Prasad
States Committee (negotiating with states)	Jawaharlal Nehru
Steering Committee	Dr. Rajendra Prasad

The **Drafting Committee** (set up 29 Aug 1947) Its seven members were Dr. B. R. Ambedkar (Chairman), N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Ayyar, Dr. K. M. Munshi, Syed Mohammad Saadulla, N. Madhava Rau (replaced B. L. Mitter) and T. T. Krishnamachari (replaced D. P. Khaitan). Ambedkar is rightly called the "**Chief Architect of the Constitution**".

Enactment and Enforcement

- The Constitution was **adopted on 26 November 1949** (this is "Constitution Day" / Samvidhan Divas). On that date some provisions — citizenship, elections, provisional Parliament, etc. — came into force at once.
- The Constitution **came into force on 26 January 1950**, a date chosen to honour the **Purna Swaraj** (complete independence) resolution of 1930.
- The original Constitution had a **Preamble, 395 Articles in 22 Parts, and 8 Schedules**.

Important facts to memorise

- The Constituent Assembly also acted as the first **Parliament** of India (provisional) until 1952; Dr. Rajendra Prasad was its President in that role too.
- The national flag was adopted on 22 July 1947; the national anthem and national song were adopted on 24 January 1950.
- The final session signed the Constitution on 24 January 1950.

Common criticisms (and replies) Critics called it a **non-representative body** (members were indirectly elected, not by universal franchise), a **non-sovereign body** (created by the British), and a **lawyer-politician dominated** body that took too long. Supporters note it represented all sections, worked by consensus, and produced a remarkably durable document.

The Major Committees of the Constituent Assembly

The work of drafting was distributed among a number of committees. The most important were the Union Powers Committee, the Union Constitution Committee and the Provincial Constitution Committee, the Drafting Committee, and the Advisory Committee on Fundamental Rights and Minorities.

Committee	Chairman
Drafting Committee	Dr. B. R. Ambedkar
Union Constitution Committee	Jawaharlal Nehru
Provincial Constitution Committee	Sardar Vallabhbhai Patel
Advisory Committee on Fundamental Rights	Sardar Vallabhbhai Patel
Rules of Procedure Committee	Dr. Rajendra Prasad

The Drafting Committee, set up in August 1947, had seven members and was the most important of all. It scrutinised the draft prepared by the constitutional adviser, Sir B. N. Rau, and prepared the draft Constitution that was debated clause by clause.

By the numbers The Constituent Assembly took **2 years, 11 months and 18 days** to complete its task. The Constitution was adopted on **26 November 1949** and came into force on **26 January 1950**, chosen to commemorate the "Purna Swaraj" day of 1930.

Composition and Criticism of the Constituent Assembly

The Constituent Assembly was constituted in 1946 under the scheme of the Cabinet Mission Plan. Its members were elected indirectly by the members of the provincial assemblies, and seats were allocated among the provinces and the princely states in proportion to their population. After the partition, the strength of the Assembly was reduced, and it became the Constituent Assembly for India alone. Dr. Rajendra Prasad was elected its President, and Dr. B. R. Ambedkar chaired the Drafting Committee.

The Assembly has been criticised on several grounds: that it was not a directly elected body and so was not fully representative; that it was dominated by a single party and by the legal profession; that it took a long time to complete its work; and that it was not a sovereign body in the strict sense, since it was created under a British plan. These criticisms are answered by pointing to the broadly representative character of the membership, the painstaking and deliberative nature of its work, and the enduring quality of the document it produced.

Landmark dates The Objectives Resolution was moved on 13 December 1946. The Assembly adopted the national flag (22 July 1947), the national anthem and national song (24 January 1950), and elected the first President of India. The Constitution was adopted on 26 November 1949 (celebrated as Constitution Day) and came into force on 26 January 1950.

The Enacting and the Functioning of the Assembly

The Constituent Assembly was not merely a constitution-making body; it also functioned as the first Parliament of independent India until the first general elections, and it ratified India's membership of the Commonwealth. It performed two distinct sets of functions, presided over by Dr. Rajendra Prasad in its constituent role and using a separate arrangement in its legislative role. The painstaking, clause-by-clause consideration of the draft, the accommodation of amendments, and the high quality of the debates have led many to regard the Assembly's work as a model of deliberative constitution-making.

Adoption and signing The Constitution was adopted on 26 November 1949, when it received the signatures of the members and the President of the Assembly; certain provisions relating to citizenship, elections and the provisional Parliament came into force at once, and the rest on 26 January 1950, the date now celebrated as Republic Day. The Assembly thereafter continued as the provisional Parliament until the first general elections of 1951–52.

Exam Pointers "Idea of Constituent Assembly first given by M. N. Roy (1934)." · "Demanded officially by INC in 1935." · "Time taken = 2 years 11 months 18 days." · Do not confuse adoption date (26 Nov 1949) with commencement date (26 Jan 1950).

Concept of the Constitution

What a constitution is, how constitutions are classified, and why constitutionalism matters.

A **constitution** is the fundamental law of a land — the body of rules that establishes the organs of government, distributes power among them, defines their relationship with each other and with the citizen, and limits the exercise of that power. It is the source from which all other laws derive their validity; a law inconsistent with it is void.

Functions of a Constitution

- It **constitutes** the State — it creates the legislature, executive and judiciary and confers authority on them.
- It **distributes and limits** power, preventing the concentration of authority and protecting the individual against the State.
- It expresses the **aspirations and values** of the people (seen most clearly in the Preamble and the Directive Principles).
- It provides for its own **amendment**, allowing the document to evolve.

Classification of Constitutions

Basis	Types	Where India fits
Form	Written (e.g. USA) vs Un-written (e.g. UK)	Written — the longest written constitution in the world.
Ease of amendment	Rigid (hard to amend) vs Flexible (easy)	A blend — some parts need only a simple majority, others a special majority, others special majority plus state ratification.
Form of government	Federal vs Unitary	Quasi-federal — "federal in form, unitary in spirit."
Executive type	Parliamentary vs Presidential	Parliamentary — the real executive is responsible to the legislature.

Constitutionalism

The crucial distinction Having a constitution is not the same as **constitutionalism**. Constitutionalism is the principle of **limited government** — that power is not arbitrary but bound by law, and that the rights of

citizens are protected even against the State. A country can have a written constitution and still lack constitutionalism if power is exercised arbitrarily.

The Indian Constitution embodies constitutionalism through devices such as the **separation of powers**, **judicial review**, the **rule of law**, **fundamental rights**, and the **basic structure doctrine**, all of which keep governmental power within constitutional limits.

Constitutionalism — The Idea Behind the Document

A constitution by itself is merely a body of rules; "constitutionalism" is the political philosophy that government must be both empowered and **limited** by those rules. It insists that the exercise of power be channelled through known procedures and restrained by enforceable checks — an independent judiciary, fundamental rights, the rule of law and the separation of powers. A state may have a constitution without genuine constitutionalism; the Indian Constitution, by contrast, embodies constitutionalism through its justiciable rights and its system of judicial review.

Classifications of constitutions Constitutions are classified as **written** (American, Indian) or **unwritten** (British); and as **rigid** or **flexible**. The Indian Constitution is written and is partly rigid and partly flexible — a deliberate blend of stability and adaptability.

The Constitution as the Supreme Law

A written constitution such as India's is the supreme or fundamental law of the land: all other laws must conform to it, and any law inconsistent with it is void. This supremacy is enforced through judicial review, by which the courts test the validity of laws against the constitutional text. The supremacy of the Constitution is itself a part of its basic structure, and it distinguishes a constitutional democracy from a system of mere parliamentary sovereignty, in which the legislature is the supreme law-maker.

Procedure established by law vs due process The Indian Constitution adopted the expression "procedure established by law" (from the Japanese Constitution) rather than the American "due process of law". The difference, originally significant, has narrowed since *Maneka Gandhi* (1978), in which the Supreme Court held that any procedure depriving a person of life or liberty must be fair, just and reasonable — effectively reading a measure of substantive fairness into Article 21.

Why the Distinctions Matter for Interpretation

Understanding the nature of the Constitution is not a merely academic exercise; it directly affects how the document is interpreted and applied. Because the Constitution is written and supreme, the courts can and must test the validity of laws against it. Because it is partly rigid, certain provisions enjoy a higher degree of protection and can be changed only by a special process. Because it embodies constitutionalism, the powers it confers are read as limited by the rights it guarantees and the structure it establishes. These features together make the Constitution not just a legal text but the framework within which all public power is exercised and judged.

A means and an end The Constitution is at once a means — a framework of rules and institutions for the exercise of power — and an end, in that it embodies and seeks to realise the values of justice, liberty,

equality and fraternity set out in its Preamble. Its interpretation is therefore guided not only by the letter of its provisions but also by the purposes and ideals it was designed to achieve.

Exam Pointer Remember the line "the Constitution is the supreme law of the land" links to **Article 13**, which makes laws inconsistent with fundamental rights void, and to the doctrine of **judicial review**.

Salient Features of the Constitution

The defining characteristics — borrowed, blended and uniquely Indian.

The Indian Constitution is famous for being a "**bag of borrowings**" — its framers studied the constitutions of many countries and adapted what suited Indian conditions. Yet the result is not a copy: features were modified, combined and supplemented to address India's diversity, poverty and history. These are the salient features most asked about in examinations.

1. Longest Written Constitution

It is the bulkiest written constitution in the world. Reasons include India's vast size and diversity, the influence of the Government of India Act 1935, a single constitution for both centre and states, and the dominance of legal luminaries who left little to interpretation.

2. Drawn from Various Sources — Borrowed Features

Source country	Borrowed features
Government of India Act, 1935	Federal scheme, office of Governor, judiciary, public service commissions, emergency provisions, administrative details (the largest single source).
British (UK)	Parliamentary government, rule of law, legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges, bicameralism.
United States	Fundamental Rights, independence of judiciary, judicial review, impeachment of the President, removal of judges, post of Vice-President.
Ireland	Directive Principles of State Policy, nomination of members to Rajya Sabha, method of election of the President.
Canada	Federation with a strong centre, residuary powers with the centre, appointment of state governors by the centre, advisory jurisdiction of the Supreme Court.
Australia	Concurrent List, freedom of trade and commerce, joint sitting of the two Houses.
Weimar (Germany)	Suspension of Fundamental Rights during emergency.
USSR (erstwhile)	Fundamental Duties, ideal of justice (social, economic, political) in the Preamble.
France	Republic, ideals of liberty, equality and fraternity in the Preamble.
South Africa	Procedure for amendment, election of members of Rajya Sabha.
Japan	Procedure established by law (Article 21).

3. A Blend of Rigidity and Flexibility

It is neither wholly rigid like the American Constitution nor wholly flexible like the British. Article 368 provides for two kinds of amendments (special majority; special majority plus state ratification), while many provisions can be altered by Parliament with a simple majority.

4. Federal System with Unitary Bias

It establishes a federation with all the usual features — two governments, division of powers, written constitution, supremacy of the constitution, rigidity, independent judiciary and bicameralism. But it also contains many unitary or non-federal features — a strong centre, single constitution, single citizenship, flexibility of the constitution, integrated judiciary, all-India services, emergency provisions and appointment of governors by the centre. Hence it is best described as **quasi-federal**.

5. Other Salient Features (at a glance)

- **Parliamentary form of government** at the centre and in the states.
- **Synthesis of parliamentary sovereignty and judicial supremacy.**
- **Rule of law** and an **integrated and independent judiciary.**
- **Fundamental Rights** (Part III) and **Directive Principles** (Part IV).
- **Fundamental Duties** (Part IVA, added by the 42nd Amendment, 1976).
- **A secular state** — no state religion.
- **Universal adult franchise** — every citizen above 18 may vote.
- **Single citizenship** for the whole of India.
- **Independent bodies** — Election Commission, CAG, UPSC, etc.
- **Emergency provisions** to protect sovereignty and unity.
- **Three-tier government** after the 73rd and 74th Amendments (1992).
- **Co-operative societies** recognised after the 97th Amendment (2011).

Memory hook — borrowed sources "US gives Rights, Ireland gives Directives, Canada gives a strong Centre, Britain gives Parliament." Anchor each major feature to one country and the table becomes easy to reproduce.

Sources of the Constitution — A Comparative Map

The framers studied the constitutions of many countries and borrowed the best features of each, adapting them to Indian conditions.

Source	Borrowed features
Government of India Act, 1935	Federal scheme, Governor, judiciary, public service commissions, emergency provisions.
British Constitution	Parliamentary government, rule of law, single citizenship, writs, cabinet system.
United States	Fundamental Rights, judicial review, independence of the judiciary, impeachment, the Vice-President.
Irish Constitution	Directive Principles, nomination to the Rajya Sabha, the method of electing the President.
Canada	A strong centre, residuary powers with the centre, appointment of Governors.
Weimar (Germany)	Suspension of Fundamental Rights during an emergency.
Australia	The Concurrent List, freedom of trade and commerce, joint sittings.
USSR (erstwhile)	Fundamental Duties; the ideal of justice in the Preamble.
France	The ideals of liberty, equality and fraternity; the republic.
South Africa	The amendment procedure; election of Rajya Sabha members.

A growing document At its commencement the Constitution had 395 articles in 22 parts and 8 schedules; today it has over 470 articles, 25 parts and 12 schedules — the lengthiest written constitution in the world.

Other Salient Features

Beyond its length and its borrowed features, the Constitution has several other salient characteristics. It establishes a **parliamentary form of government** at both levels, a **blend of federalism with a unitary bias**, an **integrated and independent judiciary**, a system of **fundamental rights balanced by fundamental duties and directive principles**, **universal adult franchise**, **single citizenship**, a **three-tier government** (after the 73rd and 74th Amendments), and **independent constitutional bodies** such as the Election Commission and the CAG. It is also characterised by **secularism**, by **emergency provisions** that allow the system to respond to crises, and by a **synthesis of parliamentary sovereignty and judicial supremacy**.

A blend, not a copy Although the Constitution borrowed extensively, the framers did not copy blindly; they adapted each borrowed feature to Indian conditions and welded the borrowings into a coherent and original whole. As Dr. Ambedkar observed, there was nothing to be ashamed of in borrowing, for the framers had improved upon what they borrowed and had not engaged in "plagiarism".

Criticisms of the Constitution and Their Answers

The Constitution has attracted several criticisms. It has been called a "borrowed" document, a "carbon copy of the 1935 Act", too lengthy and complicated, un-Gandhian in not making the village the basic unit, a "lawyers' paradise" because of its legalistic language, and unsuited to Indian conditions because of its foreign inspiration. To these the framers and later commentators have replied that borrowing the best features and adapting them is a strength, not a weakness; that the length is the price of a single constitution for a vast and diverse country; that the village did find its place through the later panchayati raj amendments; and that the document has, in practice, proved remarkably durable and adaptable.

The verdict of experience Perhaps the strongest answer to the early criticisms is the test of time: the Constitution has held together an extraordinarily diverse country, weathered numerous crises, accommodated peaceful transfers of power, and adapted through amendment and interpretation to changing needs — an achievement that has led many to regard it as one of the most successful constitutions of the modern era.

Exam Pointers The single largest source of borrowed material is the **GOI Act, 1935**. "Procedure established by law" comes from **Japan**; "due process" influence comes from the **USA**. Fundamental Duties and the socialist ideal trace to the **erstwhile USSR**.

PART ONE · CONTINUED

Core Constitutional Provisions

The Preamble that states our aims, the territory the Constitution governs, the citizens it binds, the rights it guarantees, the duties it expects, the directives it sets for the State, and the power by which it may itself be changed — and the limit on that power.

Preamble of the Constitution

The philosophy and aims of the Constitution distilled into a single paragraph.

The Preamble is the preface to the Constitution — a brief introductory statement that embodies the ideals and aspirations of the people and the basic philosophy on which the entire document rests. It is based on the **Objectives Resolution** drafted and moved by Jawaharlal Nehru on 13 December 1946 and adopted by the Constituent Assembly on 22 January 1947. N. A. Palkhivala, the eminent jurist, called the Preamble the *"identity card of the Constitution."*

Text and the Four Components

The Preamble reveals four essential things about the Constitution: the **source of authority**, the **nature of the Indian State**, its **objectives**, and the **date of its adoption**.

- **Source of authority:** the words "We, the people of India... do hereby adopt, enact and give to ourselves this Constitution" declare that the Constitution derives its authority from the people of India. Sovereignty rests with the people.
- **Nature of the State:** India is declared a Sovereign, Socialist, Secular, Democratic Republic.
- **Objectives:** Justice, Liberty, Equality and Fraternity.
- **Date of adoption:** 26 November 1949.

Key Words Explained

Word	Meaning in the Indian context
Sovereign	India is internally supreme and externally free — not subject to the control of any foreign power. It can acquire or cede territory.
Socialist	Added by the 42nd Amendment (1976). India follows "democratic socialism" — a mixed economy where public and private sectors co-exist, aiming to end poverty, ignorance, disease and inequality of opportunity.
Secular	Added by the 42nd Amendment (1976). The State has no religion of its own; all religions enjoy equal protection and respect (Articles 25–28 embody this).
Democratic	The government derives authority from the will of the people expressed through elections. Covers political, social and economic democracy.
Republic	The head of State (the President) is elected, not hereditary, and holds office for a fixed term. Political sovereignty rests with the people, not a monarch.

The Four Objectives

- **Justice** — social, economic and political (inspired by the Russian Revolution). Sought through the Fundamental Rights and the Directive Principles.
- **Liberty** — of thought, expression, belief, faith and worship (inspired by the French Revolution).
- **Equality** — of status and of opportunity; absence of privilege for any section.
- **Fraternity** — a sense of brotherhood assuring the dignity of the individual and the unity and integrity of the nation (the word "integrity" was added by the 42nd Amendment).

Is the Preamble part of the Constitution?

- **Berubari Union case (1960)**: the Supreme Court held that the Preamble is the key to the makers' minds but is **not** a part of the Constitution.
- **Kesavananda Bharati case (1973)**: the Court reversed its earlier stand and held that the Preamble is a part of the Constitution and can be amended under Article 368, subject to the basic structure.
- **LIC of India case (1995)**: reaffirmed that the Preamble is an integral part of the Constitution.

Justiciability The Preamble is **non-justiciable** — it is neither a source of power nor a source of prohibition, and its provisions are not enforceable in courts. Yet it aids in the interpretation of ambiguous provisions.

The Preamble in Constitutional Interpretation

Although non-justiciable, the Preamble has real interpretive force. Where the language of an article is ambiguous, the courts look to the Preamble to discover the intention of the makers and to choose the construction that best advances its objectives. In **Kesavananda Bharati**, the majority drew on the Pre-

amble to identify the basic features of the Constitution, treating its ideals — sovereignty, the democratic and republican form, secularism, and the dignity of the individual — as part of the unamendable core. Thus the Preamble, while it confers no power and imposes no prohibition of its own, supplies the values against which the rest of the document is read.

A common misconception The Preamble is **not** a source of any substantive power, nor does it limit the powers of the legislature. Powers flow from the specific articles, not from the Preamble. Equally, the Preamble cannot override the express provisions of the Constitution; it is an aid to interpretation, not a super-provision.

The Significance of the Keywords

Each keyword of the Preamble carries a settled constitutional meaning developed through judicial interpretation. "Sovereign" affirms that India is subject to no external authority; "Socialist" (read with the Directive Principles) commits the state to reducing inequalities of income, status and opportunity through a mixed economy rather than doctrinaire state ownership; "Secular" means that the state has no religion of its own and treats all religions equally, as elaborated in Articles 25 to 28; "Democratic" embraces not only political but also social and economic democracy; and "Republic" signifies that all public offices, from the President downwards, are open to every citizen and that the head of state is elected.

Positive and negative secularism The Indian conception of secularism is distinctive: rather than a strict "wall of separation" between religion and the state, it permits the state to engage with religions even-handedly, to regulate secular activities associated with religious practice, and to intervene to reform social practices — a model sometimes described as "principled distance" or "positive secularism".

The Preamble and the Identity of the Constitution

The Preamble has been described as the key to the mind of the makers and as the identity card of the Constitution. It declares the source of authority (the people of India), the nature of the polity (sovereign, socialist, secular, democratic and republican), the objectives (justice, liberty, equality and fraternity), and the date of its adoption. The words "socialist", "secular" and "integrity" were added by the 42nd Amendment (1976), reflecting the values that were considered to be implicit in the original text. The fraternity it proclaims is to assure both the dignity of the individual and the unity and integrity of the nation.

Is the Preamble a part of the Constitution? In the *Berubari* case the Supreme Court initially held that the Preamble was not a part of the Constitution; but in *Kesavananda Bharati* it overruled this view and held that the Preamble is a part of the Constitution, though it is neither a source of power nor a limitation on power. It can be amended under Article 368, subject to the basic-structure doctrine, as confirmed when the 42nd Amendment amended it.

Exam Pointers

- The Preamble has been amended **only once** — by the 42nd Amendment, 1976, which added "Socialist", "Secular" and "Integrity".
- The ideal of "liberty, equality, fraternity" was taken from the **French Revolution**; "justice" from the **Russian Revolution**.

- Berubari (1960) vs Kesavananda (1973) is a favourite question — remember the reversal.

Union and Its Territory

Articles 1 to 4 — describing the nation and the power to reshape its map.

Part I of the Constitution (Articles 1 to 4) deals with the Union and its territory. It describes India as a "Union of States," establishes the components of Indian territory, and gives Parliament the power to admit, establish and reorganise states. Crucially, this power can be exercised by a simple legislative majority — making the Indian map remarkably easy to redraw.

Article 1 — Name and Type of Polity

Article 1 declares that "India, that is Bharat, shall be a Union of States." Dr. Ambedkar explained that the phrase "Union of States" was preferred to "Federation of States" for two reasons: the Indian federation is **not the result of an agreement** among the states (as the American federation was), and consequently **no state has the right to secede** from the federation. The federation is a Union because it is indestructible.

The territory of India is classified into three categories:

- Territories of the **states**.
- The **Union Territories**.
- Territories that may be **acquired** by the Government of India at any time.

"Union of India" vs "Territory of India" The expression "Union of India" includes only the states which share a federal relationship with the centre. "Territory of India" is wider — it includes the states, the union territories, and any territories that may be acquired. UTs and acquired territories do not enjoy a federal relationship with the centre; they are directly administered by it.

Articles 2 and 3 — Reorganisation of States

Art-icle	Power conferred
Article 2	Parliament may admit into the Union, or establish , new states on such terms as it thinks fit. This relates to states <i>not already part</i> of the Union of India.
Article 3	Parliament may form a new state , increase or diminish the area of any state, or alter the boundaries or name of any state. This relates to the <i>internal</i> re-adjustment of existing states.

Article 3 lays down two conditions: (i) a bill to this effect can be introduced in Parliament only with the **prior recommendation of the President**; and (ii) before recommending the bill, the President must **refer it**

to the concerned state legislature for its views within a specified period. However, the President (and Parliament) are **not bound** by the views of the state legislature, and the bill may be referred again if amended.

Article 4 — Consequential Provisions

Laws made under Articles 2 and 3 are **not** to be considered as amendments of the Constitution under Article 368, and can therefore be passed by a **simple majority** and by the ordinary legislative process.

Cession of Territory — Berubari Union (1960) The Supreme Court held that the power of Parliament to "diminish the area of a state" under Article 3 does **not** include ceding Indian territory to a foreign country. Cession of Indian territory can be done only by a **constitutional amendment** under Article 368. Settlement of a mere boundary dispute, however, does not require an amendment.

Evolution of States and UTs

- The **Dhar Commission (1948)** and the **JVP Committee (1948)** initially advised against linguistic reorganisation.
- The death of **Potti Sriramulu** and the creation of **Andhra (1953)**, the first state formed on a linguistic basis, changed the course.
- The **Fazl Ali Commission (States Reorganisation Commission, 1953)** led to the **States Reorganisation Act, 1956** and the 7th Constitutional Amendment, reorganising states largely on linguistic lines.
- Later creations include Maharashtra and Gujarat (1960), Nagaland, Haryana, Himachal Pradesh, the north-eastern states, Goa, and the trio of Chhattisgarh, Uttarakhand and Jharkhand (2000), Telangana (2014), and the reorganisation of Jammu & Kashmir into two UTs (2019).

Exchange and Cession of Territory

A distinction must be drawn between the **cession** of territory to a foreign state and the **settlement** of a boundary dispute. The former alienates Indian territory and, following the Berubari opinion, requires a constitutional amendment; the latter merely ascertains an existing boundary and can be done by executive action. This distinction became important in disputes such as the India-Bangladesh land boundary, settled by the **100th Constitutional Amendment Act, 2015**, which gave effect to the exchange of enclaves between the two countries.

The 100th Amendment (2015) To implement the Land Boundary Agreement with Bangladesh, the 100th Amendment amended the First Schedule to transfer certain enclave territories. This is a textbook illustration of the principle that the acquisition or cession of territory affecting the First Schedule is carried out through a constitutional amendment.

The Process and Politics of State Reorganisation

The reorganisation of states has been one of the most significant exercises in nation-building. After initial resistance to organising states on a linguistic basis, the creation of Andhra in 1953 and the report of the

States Reorganisation Commission led to the comprehensive reorganisation of 1956. Subsequent decades saw the bifurcation of bilingual states, the creation of new states in the north-east, the formation of Chhattisgarh, Uttarakhand and Jharkhand in 2000, the creation of Telangana in 2014, and the reorganisation of Jammu and Kashmir in 2019. Each of these was effected through the procedure under Article 3, by a simple majority of Parliament.

The President's reference is not a veto Although Article 3 requires the President to refer a state-reorganisation bill to the legislature of the affected state for its views, this reference is consultative only. The state legislature's views are not binding, and Parliament may proceed even if the state opposes the change — a striking illustration of the centralising character of the federal scheme.

The Difference Between a State and a Union Territory

The distinction between a state and a union territory lies at the heart of the federal scheme. The states share sovereignty with the centre under the constitutional division of powers and have their own elected governments with a defined sphere of autonomy. The union territories, by contrast, are administered by the centre, which retains far greater control even where a territory has been granted a legislature and a council of ministers. The framers adopted the expression "Union of India" rather than "Federation of States" deliberately, to signify that the Indian federation is not the result of an agreement among the states and that no state has a right to secede from it.

An indestructible union of destructible states India has been described as an "indestructible union of destructible states", in contrast to the American "indestructible union of indestructible states". Parliament can, by a simple majority and the ordinary legislative process under Article 3, form new states and alter the areas, boundaries and names of existing states, so that the states have no guaranteed territorial integrity against the will of the Union Parliament.

Exam Pointers "Union of States" — borrowed phrasing influenced by Canada; signals an indestructible union. Article 3 needs the President's prior recommendation and a reference to the state legislature (views not binding). Cession of territory → amendment; boundary adjustment → no amendment.

Citizenship

Articles 5 to 11 — who belongs to the Indian polity, and how that bond is made and unmade.

Citizenship denotes the full and equal membership of a political community. India provides for **single citizenship** for the whole country — there is no separate state citizenship, unlike the dual citizenship of the United States. The Constitution (Articles 5 to 11) deals only with the question of who was a citizen at its commencement; the acquisition and loss of citizenship thereafter is governed by the **Citizenship Act, 1955**.

Constitutional Provisions (Articles 5–11)

Article	Provision
5	Citizenship at the commencement of the Constitution (by domicile).
6	Rights of citizenship of persons who migrated to India from Pakistan.
7	Rights of citizenship of certain migrants to Pakistan (who later returned).
8	Rights of citizenship of persons of Indian origin residing outside India.
9	Persons voluntarily acquiring citizenship of a foreign state are not citizens.
10	Continuance of the rights of citizenship.
11	Parliament's power to regulate citizenship by law.

Acquisition of Citizenship (Citizenship Act, 1955)

- **By birth:** persons born in India within specified date ranges and conditions.
- **By descent:** persons born outside India to an Indian parent, subject to registration at an Indian consulate.
- **By registration:** for certain categories such as persons of Indian origin, or those married to Indian citizens, after a qualifying residence.
- **By naturalisation:** for foreigners (not illegal migrants) who fulfil residence and other qualifications and take an oath of allegiance.
- **By incorporation of territory:** when a new territory becomes part of India.

Loss of Citizenship

- **By renunciation:** a voluntary declaration by a citizen of full age.
- **By termination:** automatically, when a citizen voluntarily acquires the citizenship of another country.
- **By deprivation:** a compulsory termination by the Government of India in cases of fraud, disloyalty, etc.

Single Citizenship — and its rationale Despite a federal structure, the Constitution provides for only Indian citizenship. The framers hoped this would promote fraternity and unity and discourage regional and communal loyalties. Note, however, that Articles 15, 16, 19(1)(d–e) and others still permit some distinctions (e.g. residence requirements for certain jobs, special provisions for some states).

OCI and the diaspora The Overseas Citizen of India (OCI) scheme is **not** dual citizenship. OCIs enjoy several economic, educational and cultural rights but cannot vote, cannot hold constitutional offices (President, Vice-President, judges), cannot be members of legislatures, cannot enter government service, and cannot buy agricultural land. The earlier PIO card scheme was merged with the OCI scheme.

The Citizenship (Amendment) Act, 2019 — Debate and Context

The 2019 amendment to the Citizenship Act provided that members of six specified communities (Hindu, Sikh, Buddhist, Jain, Parsi and Christian) who entered India from Pakistan, Bangladesh or Afghanistan on or before 31 December 2014 would not be treated as illegal migrants and would be eligible for citizenship on relaxed terms. Supporters described it as humanitarian relief for persecuted religious minorities of neighbouring theocratic states; critics argued that linking citizenship to religion sits uneasily with the secular and equality principles of the Constitution. The measure must be read together with the law on the National Register of Citizens, with which it is often discussed.

Single citizenship and its qualifications Although India provides for single citizenship, the Constitution still permits certain residence-based distinctions — for example, special provisions allowing states to reserve some posts for residents, and the protections under Articles 371-A to 371-J — so that "single citizenship" does not mean identical treatment everywhere.

Overseas Indians: OCI, PIO and NRI

The relationship of the Indian state with its diaspora is mediated through several categories. A **Non-Resident Indian (NRI)** is an Indian citizen residing abroad and retains full citizenship and political rights. A **Person of Indian Origin** and an **Overseas Citizen of India** are foreign nationals of Indian origin granted certain facilities; the PIO scheme was merged into the OCI scheme. An OCI is not a citizen and does not enjoy political rights such as the right to vote, the right to contest elections, or eligibility for constitutional offices and government service, and faces restrictions on acquiring agricultural land.

No dual citizenship India does not permit dual citizenship in the full sense. Under Article 9 and the Citizenship Act, a person who voluntarily acquires the citizenship of another country automatically ceases to be an Indian citizen. The OCI card confers a lifelong visa and various facilities but stops well short of citizenship.

Acquisition and Loss of Citizenship

The Citizenship Act, 1955 provides five ways of acquiring Indian citizenship — by birth, by descent, by registration, by naturalisation, and by the incorporation of territory — and three ways of losing it — by renunciation (a voluntary act), by termination (which occurs automatically when a citizen voluntarily acquires the citizenship of another country), and by deprivation (a compulsory termination by the government on specified grounds, such as obtaining citizenship by fraud or showing disloyalty to the Constitution). The constitutional provisions in Articles 5 to 11 dealt only with citizenship at the commencement of the Constitution and left the rest to be regulated by Parliament.

Parliament's plenary power Article 11 expressly empowers Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to it, and this power overrides the preceding articles. It is under this power that the Citizenship Act and its several amendments have been enacted, making the law of citizenship almost entirely a matter of ordinary legislation rather than constitutional entrenchment.

Exam Pointers The Citizenship (Amendment) Act, **2019** offers an accelerated path to citizenship for certain religious-minority migrants (Hindu, Sikh, Buddhist, Jain, Parsi, Christian) from Pakistan, Bangladesh and Afghanistan who entered before 31 Dec 2014. The Constitution itself does not define detailed modes of acquisition — that is left to the 1955 Act under Article 11.

Fundamental Rights

Articles 12 to 35, Part III — the cornerstone of Indian liberty, justiciable and supreme.

The Fundamental Rights are enshrined in Part III of the Constitution (Articles 12 to 35), described as the "Magna Carta of India." They guarantee civil liberties to all, place limitations on the State, and are **justiciable** — a person can move the courts directly for their enforcement. They are not absolute but subject to **reasonable restrictions**, and most can be suspended during a national emergency (except Articles 20 and 21).

The Six Fundamental Rights

Originally the Constitution provided for seven Fundamental Rights. The Right to Property (Article 31) was deleted from Part III by the **44th Amendment (1978)** and made an ordinary legal right under **Article 300A**. Today there are six categories:

Right	Articles	Core guarantees
Right to Equality	14–18	Equality before law; prohibition of discrimination; equality of opportunity; abolition of untouchability and titles.
Right to Freedom	19–22	Six freedoms; protection in respect of conviction; protection of life and personal liberty; protection against arbitrary arrest.
Right against Exploitation	23–24	Prohibition of traffic in human beings and forced labour; prohibition of child labour in hazardous work.
Right to Freedom of Religion	25–28	Freedom of conscience and of religious practice; freedom to manage religious affairs; freedom from religious taxes and instruction.
Cultural & Educational Rights	29–30	Protection of the interests of minorities; right of minorities to establish and administer educational institutions.
Right to Constitutional Remedies	32	The right to move the Supreme Court for enforcement of fundamental rights.

Important Articles in Detail

- **Article 12** defines "the State" to include the government and Parliament of India, the governments and legislatures of states, and all local and other authorities. This is crucial because Fundamental Rights are mainly available against the State.

- **Article 13** declares that all laws inconsistent with the Fundamental Rights shall be void, and provides the basis for **judicial review**.
- **Article 14** guarantees equality before law and equal protection of the laws.
- **Article 19** guarantees six freedoms — speech and expression, assembly, association, movement, residence, and profession (the freedom to acquire property was removed in 1978).
- **Article 21** protects life and personal liberty; after Maneka Gandhi (1978) it requires a fair, just and reasonable procedure.
- **Article 21A** (added by the 86th Amendment, 2002) makes free and compulsory education for children aged 6 to 14 a fundamental right.
- **Article 22** provides safeguards against arbitrary arrest and detention, with separate provisions for preventive detention.
- **Article 32** — called by Dr. Ambedkar the "heart and soul" of the Constitution — empowers citizens to approach the Supreme Court directly through the writs.

The Five Writs (Articles 32 and 226)

- **Habeas Corpus** — "to have the body"; against unlawful detention.
- **Mandamus** — "we command"; directs a public official to perform a duty.
- **Prohibition** — issued by a higher court to prevent a lower court from exceeding its jurisdiction.
- **Certiorari** — to quash the order of a lower court or tribunal.
- **Quo-Warranto** — "by what authority"; challenges the legality of a person holding a public office.

The Supreme Court (Art. 32) can issue writs only for fundamental rights; the High Courts (Art. 226) can issue them for fundamental rights *and* for other legal rights — making the High Courts' writ jurisdiction wider.

Landmark Cases

- **Maneka Gandhi v. Union of India (1978)**: linked Articles 14, 19 and 21 and introduced the "due process" standard into Article 21.
- **K. S. Puttaswamy v. Union of India (2017)**: a nine-judge bench declared the Right to Privacy a fundamental right under Article 21.

Memory hook — the six rights "Every Friday Even Religious Children Celebrate" → Equality (14–18) · Freedom (19–22) · Exploitation [against] (23–24) · Religion (25–28) · Cultural & Educational (29–30) · Constitutional Remedies (32).

Classification of the Fundamental Rights by Beneficiary

Some Fundamental Rights are available to **all persons** (including foreigners and, in some contexts, legal persons such as companies), while others are available only to **citizens**. Articles 14 (equality before law), 20, 21, 21-A, 22, 23, 24, 25-28 are available to all persons. Articles 15, 16, 19, 29 and 30 are available only to citizens.

Other Important Provisions in Part III

- **Article 15** prohibits discrimination on grounds of religion, race, caste, sex or place of birth, while permitting special provisions for women, children and backward classes (and, after the 103rd Amendment, the economically weaker sections).
- **Article 16** guarantees equality of opportunity in public employment and enables reservation in appointments and promotions.
- **Article 17** abolishes untouchability; **Article 18** abolishes titles (except military and academic distinctions).
- **Article 20** protects against ex-post-facto laws, double jeopardy and self-incrimination; **Article 22** provides safeguards against arrest and rules for preventive detention.
- **Article 33** permits the modification of rights for the armed forces; **Article 34** for martial-law areas; **Article 35** reserves to Parliament the power to make laws giving effect to certain rights.

Reasonable restrictions None of the Fundamental Rights is absolute. The freedoms in Article 19, for instance, are subject to reasonable restrictions on grounds such as the sovereignty and integrity of India, public order, decency, morality, defamation and incitement to an offence. The reasonableness of a restriction is itself open to judicial review.

The Doctrines Governing Fundamental Rights

Several judicial doctrines govern the operation of Part III. The **doctrine of severability** allows a court to strike down only the unconstitutional part of a law, leaving the rest intact. The **doctrine of eclipse** holds that a pre-Constitution law inconsistent with a Fundamental Right is not dead but dormant, and revives if the inconsistency is later removed. The **doctrine of waiver** does not apply — a citizen cannot waive their Fundamental Rights. Article 13 makes laws inconsistent with the Fundamental Rights void, and is the textual foundation of judicial review.

Amendability of the Fundamental Rights

Whether the Fundamental Rights could be amended was the central constitutional controversy of the first decades, running from Shankari Prasad through Golak Nath to Kesavananda Bharati, which finally held that they may be amended but not in a manner that destroys the basic structure of the Constitution.

Article 31C and the DPSPs Article 31C protects laws giving effect to the directive principles in Article 39(b) and (c) from challenge under Articles 14 and 19, reflecting the constitutional effort to harmonise the Fundamental Rights with the goals of social and economic justice in the Directive Principles.

The Six Categories of Fundamental Rights

After the deletion of the right to property as a fundamental right by the 44th Amendment, the Constitution now guarantees six categories of Fundamental Rights: the right to equality (Articles 14 to 18), the right to freedom (Articles 19 to 22), the right against exploitation (Articles 23 and 24), the right to freedom of religion (Articles 25 to 28), cultural and educational rights (Articles 29 and 30), and the right to

constitutional remedies (Article 32). The last of these — described by Dr. Ambedkar as the "heart and soul" of the Constitution — empowers a citizen to move the Supreme Court directly for the enforcement of the other rights through the writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto.

The five writs Habeas corpus secures the release of a person unlawfully detained; mandamus commands a public authority to perform its legal duty; prohibition forbids a lower court or tribunal from exceeding its jurisdiction; certiorari quashes the order of a lower court or tribunal that has acted without or in excess of jurisdiction; and quo warranto questions the legal authority of a person to hold a public office. The High Courts can issue these writs under Article 226 for an even wider range of purposes than the Supreme Court under Article 32.

Exam Pointers Right to Property removed by 44th Amendment → now Art. 300A (a constitutional/legal right, not a fundamental right). Articles 20 and 21 cannot be suspended even during a national emergency (44th Amendment). Article 31C protects laws giving effect to certain DPSPs.

Directive Principles of State Policy

Articles 36 to 51, Part IV — the conscience of the Constitution and a charter for social democracy.

The Directive Principles of State Policy (DPSP), contained in Part IV (Articles 36 to 51), were borrowed from the Irish Constitution. They are instructions or directives to the State that are to be kept in mind while framing laws and policies. Dr. Ambedkar described them as "novel features" of the Constitution. Unlike the Fundamental Rights, the DPSPs are **non-justiciable** — they cannot be enforced in a court of law — yet Article 37 declares them "fundamental in the governance of the country."

Classification of the Directive Principles

Though not formally classified in the Constitution, the DPSPs are conventionally grouped into three categories.

Category	Examples (Articles)
Socialist principles	Art. 38 (welfare, minimising inequalities) · Art. 39 (adequate means of livelihood, distribution of resources, equal pay) · Art. 39A (free legal aid) · Art. 41 (right to work, education, public assistance) · Art. 42 (just conditions of work and maternity relief) · Art. 43 (living wage) · Art. 47 (nutrition, standard of living).
Gandhian principles	Art. 40 (organisation of village panchayats) · Art. 43 & 43B (cottage industries, co-operatives) · Art. 46 (promotion of SCs, STs and weaker sections) · Art. 47 (prohibition of intoxicating drinks) · Art. 48 (organising agriculture and animal husbandry, protecting cows).
Liberal-Intellectual principles	Art. 44 (Uniform Civil Code) · Art. 45 (early childhood care and education) · Art. 48 (modern agriculture) · Art. 48A (protection of environment, forests and wildlife) · Art. 49 (protection of monuments) · Art. 50 (separation of judiciary from the executive) · Art. 51 (promotion of international peace).

Fundamental Rights vs Directive Principles

Fundamental Rights	Directive Principles
Justiciable — enforceable in courts.	Non-justiciable — not enforceable.
Negative — restrain the State.	Positive — require the State to act.
Aim at political democracy.	Aim at social and economic democracy.
Establish "the rule of the individual."	Seek the welfare of the community.

The conflict and its resolution

- **Champakam Dorairajan (1951):** in a conflict, Fundamental Rights would prevail; DPSPs must run subsidiary to FRs.
- **Golak Nath (1967):** FRs cannot be amended even to implement DPSPs.
- **Kesavananda Bharati (1973) & the 25th Amendment:** Article 31C was introduced to protect laws implementing DPSPs under Art. 39(b) and (c).
- **Minerva Mills (1980):** held that the **harmony and balance** between Fundamental Rights and Directive Principles is itself part of the basic structure; neither has absolute primacy.

Amendments adding new DPSPs The 42nd Amendment (1976) added Articles 39A (legal aid), 43A (workers' participation in management) and 48A (environment). The 44th Amendment (1978) added Article 38(2) (minimising inequalities in income). The 97th Amendment (2011) added Article 43B (co-operative societies).

Implementation of the Directive Principles

Though non-justiciable, the Directive Principles have profoundly shaped public policy. Successive governments have enacted laws and launched programmes to give them effect — land-reform and zamindari-abolition laws (Article 39), the minimum-wage and equal-pay legislation (Articles 39 and 43), the legal-services and free-legal-aid machinery (Article 39-A), the panchayati raj system (Article 40), the right to education (Article 45, later Article 21-A), environmental protection laws (Article 48-A), and the establishment of village and cottage industries (Article 43). The Directive Principles thus operate as a continuing mandate to the State, and the courts increasingly read them together with the Fundamental Rights to give content to rights such as the right to a clean environment and the right to health under Article 21.

Directives outside Part IV Certain directives are placed outside Part IV but are similar in character — for example, Article 335 (claims of SCs and STs to services), Article 350-A (instruction in the mother tongue) and Article 351 (development of the Hindi language).

The Place of the DPSPs in Governance

Although they cannot be enforced in a court, the Directive Principles are described by Article 37 as fundamental in the governance of the country, and it is the duty of the state to apply them in making laws. They have been the inspiration for a vast body of welfare and reform legislation, and the courts increasingly read them together with the Fundamental Rights, so that rights such as the right to a clean environment, to health, and to education have been derived from the combined effect of Article 21 and the relevant directives. The DPSPs thus function as a continuing moral and political mandate, and as a yardstick by which the performance of governments may be judged.

Why they were made non-justiciable The framers made the directives non-justiciable partly because the newly independent state lacked the resources to guarantee them immediately, and partly because their realisation depends on policy choices best left to the elected branches. Their non-enforceability is therefore a recognition of practical and democratic constraints, not a measure of their importance.

The Classification of the Directive Principles

Although the Constitution does not classify the Directive Principles, commentators group them into three broad categories. The **socialistic** principles aim at a welfare state and social and economic justice (Articles 38, 39, 39-A, 41, 42, 43, 43-A and 47). The **Gandhian** principles reflect the programme of the freedom movement (the organisation of village panchayats, the promotion of cottage industries, the upliftment of the weaker sections, and the prohibition of intoxicants and cow slaughter — Articles 40, 43, 43-B, 46, 47 and 48). The **liberal-intellectual** principles represent the ideals of liberalism (a uniform civil code, the separation of the judiciary from the executive, the protection of the environment and monuments, and the promotion of international peace — Articles 44, 45, 48, 48-A, 49 and 51).

The conflict and its resolution The relationship between the Fundamental Rights and the Directive Principles was a source of conflict in the early decades. The settled position, after *Minerva Mills*, is that the two are complementary and supplementary to each other and that the harmony and balance between them is itself part of the basic structure; neither has absolute primacy over the other.

Exam Pointers DPSPs are non-justiciable (Art. 37). The Uniform Civil Code is Art. 44. Separation of judiciary from executive is Art. 50. Promotion of international peace is Art. 51 (the only directive concerning external affairs).

Fundamental Duties

Article 51A, Part IVA — what the Constitution asks of its citizens in return.

The original Constitution contained Fundamental Rights and Directive Principles but no Fundamental Duties. The duties were added by the **42nd Amendment Act, 1976**, on the recommendation of the **Swaran Singh Committee**, drawing inspiration from the Constitution of the erstwhile USSR. They are contained in a single article — **Article 51A** — in a new Part IVA. Like the Directive Principles, the Fundamental Duties are **non-justiciable**.

The Eleven Fundamental Duties

Originally ten duties were prescribed; the **86th Amendment Act (2002)** added the eleventh. Every citizen of India has the duty to:

1. Abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
2. Cherish and follow the noble ideals that inspired the national struggle for freedom.
3. Uphold and protect the sovereignty, unity and integrity of India.
4. Defend the country and render national service when called upon.
5. Promote harmony and the spirit of common brotherhood, and renounce practices derogatory to the dignity of women.
6. Value and preserve the rich heritage of the country's composite culture.
7. Protect and improve the natural environment — forests, lakes, rivers and wildlife — and have compassion for living creatures.
8. Develop the scientific temper, humanism and the spirit of inquiry and reform.
9. Safeguard public property and abjure violence.
10. Strive towards excellence in all spheres of individual and collective activity.
11. **(11th)** Provide opportunities for education to one's child or ward between the ages of six and fourteen years.

Key features

- The duties apply only to **citizens** (not to foreigners).
- They are **non-justiciable** — there is no legal sanction for their violation, though Parliament may provide for it.
- The Verma Committee (1999) identified some legal provisions already enforcing certain duties (e.g. the Prevention of Insults to National Honour Act).

Significance and Criticism

The Fundamental Duties serve as a constant reminder to citizens that, while the Constitution confers rights, it also expects them to observe certain basic norms of democratic conduct and civic behaviour. They help to promote a sense of discipline and commitment, and the courts have used them as a yardstick in interpreting laws and in upholding the validity of statutes that seek to give them effect (for instance, laws on environmental protection echo the duty in Article 51-A(g)).

Critics, however, point out that the list is non-justiciable and vaguely worded, that some duties are difficult to understand for the common citizen, and that important duties — such as the duty to vote or to pay taxes — were omitted. The Verma Committee (1999) recommended operationalising the duties through education and, where appropriate, legal enforcement.

Rights and duties are correlative The framers of the duties drew on the idea that rights and duties are two sides of the same coin: the enjoyment of rights by all is possible only when each citizen also discharges the corresponding duties towards the community and the nation.

Enforcement and the Verma Committee

Although the Fundamental Duties are non-justiciable, Parliament can enact laws to enforce particular duties, and several existing laws already do so — for example, the laws protecting national symbols, preventing the destruction of public property, protecting the environment and forests, and promoting harmony. The Justice Verma Committee (1999) examined how the duties might be operationalised and recommended a combination of education and, where appropriate, legal measures, so that the duties would become a living part of civic culture rather than mere exhortations.

Duties and the interpretation of rights The courts have used the Fundamental Duties as an aid in interpreting constitutional and statutory provisions and in upholding the validity of laws that seek to give them effect. For instance, the duty to protect the environment in Article 51-A(g) has reinforced the judicial recognition of the right to a clean environment under Article 21.

The List of Fundamental Duties

Article 51-A, inserted by the 42nd Amendment on the recommendation of the Swaran Singh Committee, originally listed ten Fundamental Duties; an eleventh — the duty of a parent or guardian to provide opportunities for the education of their child between the ages of six and fourteen — was added by the 86th Amendment. The duties include abiding by the Constitution and respecting its ideals and institutions, the national flag and the national anthem; cherishing the ideals of the freedom struggle; upholding the sovereignty, unity and integrity of India; defending the country and rendering national service when called upon; promoting harmony and the spirit of common brotherhood; preserving the rich heritage of the composite culture; protecting the natural environment; developing the scientific temper; safeguarding public property and abjuring violence; and striving towards excellence.

A moral and educative force Even though they are not enforceable in a court of law, the Fundamental Duties have a moral and educative value: they remind citizens of their obligations to the nation and the community, they guide the interpretation of laws, and they provide a constitutional basis for legislation

that seeks to give them effect, thereby contributing to the building of a responsible and disciplined citizenry.

Exam Pointers Source — erstwhile USSR; recommended by the Swaran Singh Committee; added by the 42nd Amendment (1976). There are now **eleven** duties — the eleventh (education) added by the 86th Amendment (2002), which also added Art. 21A and amended Art. 45.

Amendment of the Constitution

Article 368 — the carefully calibrated machinery for constitutional change.

The procedure for amending the Constitution is laid down in Part XX, **Article 368**. The framers sought a middle path between the dangerous rigidity of the American Constitution and the excessive flexibility of the British. The result is a document that can be changed by three different procedures depending on the nature of the provision — a blend that has allowed over a hundred amendments while preserving constitutional stability.

The Three Methods of Amendment

Method	Requirement	Examples
Simple majority <i>outside Article 368</i>	A simple majority of members present and voting in each House (like an ordinary law).	Admission/establishment of new states; alteration of state areas, boundaries or names; creation/abolition of state legislative councils; citizenship.
Special majority <i>Article 368</i>	A majority of the total membership of each House <i>and</i> a majority of two-thirds of the members present and voting.	Fundamental Rights; Directive Principles; most other provisions.
Special majority + state ratification <i>Article 368</i>	Special majority of Parliament <i>plus</i> ratification by the legislatures of at least half the states by a simple majority.	Election of the President; extent of executive power of the Union and states; the Supreme Court and High Courts; distribution of legislative powers; the Seventh Schedule; representation of states in Parliament; Article 368 itself.

The Procedure

- An amendment can be initiated only by introducing a **bill** in either House of Parliament (not in state legislatures).
- The bill can be introduced by a minister or a private member and does **not** require the prior permission of the President.
- The bill must be passed in each House by the required majority **separately**; there is **no provision for a joint sitting** in case of disagreement.
- Where state ratification is required, it must be obtained before the bill is presented to the President.

- After the 24th Amendment (1971), the President is **bound** to give assent to a constitutional amendment bill.

The amending power and its limits Whether Parliament's amending power is unlimited was the central question in a series of cases culminating in **Kesavananda Bharati (1973)**, which held that Parliament can amend any provision but cannot alter the **basic structure** of the Constitution. The 24th Amendment affirmed Parliament's power to amend Fundamental Rights; the 42nd Amendment tried to make the amending power unlimited and to bar judicial review, but those clauses were struck down in *Minerva Mills* (1980).

Why the Procedure Is Both Rigid and Flexible

The genius of Article 368 lies in calibrating the difficulty of amendment to the importance of the provision. Ordinary matters can be altered by a simple majority; the bulk of the Constitution requires a special majority; and the truly federal provisions require, in addition, the assent of the states. This graduated scheme protects the federal bargain — the centre cannot unilaterally rewrite the terms of the federation — while leaving the document flexible enough to evolve. Over a hundred amendments since 1950 testify to this flexibility, even as the basic-structure doctrine preserves the core.

Amendment vs ordinary law An amendment under Article 368 is distinct from an ordinary law: it changes the Constitution itself, requires the prescribed special majority (and sometimes state ratification), and — after the 24th Amendment — must receive the President's assent. The word "law" in Article 13, the Supreme Court has held, does not include a constitutional amendment, which is why amendments are tested against the basic structure rather than against Article 13.

Notable Amendments and the Limits of the Power

Over a hundred amendments have been made to the Constitution, ranging from the technical to the transformative. Some — such as the 42nd Amendment — attempted sweeping changes, while others gave constitutional status to new institutions (the panchayats, the municipalities, the GST Council) or advanced social justice (reservation provisions). The amending power, though wide, is not unlimited: it cannot be used to destroy the basic structure, and certain clauses that sought to make the power unlimited or to oust judicial review were themselves struck down. The amendment procedure thus embodies a balance between the need for change and the protection of the constitutional core.

A comparative note The Indian amendment procedure is more flexible than the American (which requires ratification by three-fourths of the states) but more rigid than the British (where no special procedure exists). This calibrated approach — easy for ordinary matters, harder for the bulk, hardest for federal provisions — is one of the Constitution's most admired features.

The Three Categories of the Amendment Procedure

Article 368 and the rest of the Constitution together provide for three kinds of amendment. First, certain provisions can be amended by a **simple majority** of Parliament, in the same way as ordinary legislation, and these are expressly taken outside the scope of Article 368 (for example, the admission of new states,

the creation or abolition of legislative councils, and changes to citizenship). Second, the bulk of the Constitution can be amended by a **special majority** of Parliament — a majority of the total membership of each House and a two-thirds majority of the members present and voting. Third, the provisions affecting the federal structure require, in addition to the special majority, **ratification by at least half of the state legislatures**.

Which provisions need state ratification? The provisions requiring ratification by half the states include the election of the President, the extent of the executive power of the Union and the states, the Supreme Court and the High Courts, the distribution of legislative powers between the centre and the states, any of the lists in the Seventh Schedule, the representation of the states in Parliament, and Article 368 itself. These are precisely the provisions that define the federal bargain.

Exam Pointers No joint sitting for amendment bills. State ratification needs only a **simple majority** in half the states, with no time limit. Borrowed the amendment procedure partly from **South Africa**. Distinguish the three methods by the *type of provision* being amended.

Basic Structure of the Constitution

A judicial doctrine that places the soul of the Constitution beyond the reach of amendment.

The "basic structure" doctrine is one of the most important contributions of the Indian judiciary to constitutional law. It holds that although Parliament has wide powers to amend the Constitution under Article 368, it cannot use that power to **damage or destroy the essential features** — the basic structure — of the Constitution. The doctrine emerged from a long tug-of-war between Parliament and the Supreme Court over the amendability of Fundamental Rights.

The Evolution of the Doctrine

Case (year)	What it held
Shankari Prasad (1951)	Parliament's power to amend under Article 368 includes the power to amend Fundamental Rights; the word "law" in Article 13 does not include a constitutional amendment.
Sajjan Singh (1965)	Reaffirmed Shankari Prasad — Fundamental Rights can be amended.
Golak Nath (1967)	Reversed the earlier view — Fundamental Rights are "transcendental" and cannot be amended. A constitutional amendment is "law" under Article 13.
Kesavananda Bharati (1973)	The landmark 13-judge bench overruled Golak Nath: Parliament can amend any part of the Constitution, including Fundamental Rights, but cannot destroy its basic structure .
Indira Nehru Gandhi (1975)	Applied the doctrine to strike down a clause of the 39th Amendment; free and fair elections held to be part of the basic structure.
Minerva Mills (1980)	Struck down parts of the 42nd Amendment; judicial review and the balance between FRs and DPSPs are part of the basic structure.
Waman Rao (1981)	Clarified that the doctrine applies to amendments made after 24 April 1973 (the date of the Kesavananda judgment).

Elements of the Basic Structure

The Supreme Court has not given an exhaustive list; the doctrine is applied case by case. Features judicially recognised as basic include:

- Supremacy of the Constitution.
- Sovereign, democratic and republican nature of the polity.
- Secular character of the Constitution.

- Separation of powers.
- Federal character of the Constitution.
- Unity and integrity of the nation.
- Rule of law.
- Judicial review.
- Free and fair elections.
- Independence of the judiciary.
- Harmony between Fundamental Rights and Directive Principles.
- The principle of equality.

Why it matters The doctrine ensures that the Constitution's identity survives even as it is amended. It is itself regarded as part of the basic structure, and was reaffirmed in cases such as the **NJAC judgment (2015)**, where the Court held that the independence of the judiciary — a basic feature — could not be compromised.

The Doctrine in Practice After 1973

Since *Kesavananda*, the basic-structure doctrine has been the most powerful tool of judicial review of constitutional amendments. It was used to strike down parts of the 39th and 42nd Amendments, to invalidate the attempt to place laws beyond review in the Ninth Schedule where they damage the basic structure (**I. R. Coelho, 2007**), and to strike down the **National Judicial Appointments Commission (2015)** as impairing the independence of the judiciary. The doctrine has also influenced constitutional courts in several other countries.

Critics argue that the doctrine gives unelected judges a veto over the amending power of an elected Parliament, and that the list of "basic features" is open-ended and uncertain. Defenders reply that it is the only safeguard against a temporary majority dismantling the constitutional order itself, and that its very flexibility allows it to respond to new threats.

A uniquely Indian contribution The basic-structure doctrine is widely regarded as one of the most significant contributions of Indian constitutional jurisprudence to the constitutional law of the world, balancing parliamentary sovereignty with constitutional supremacy.

Criticisms and Global Influence of the Doctrine

The basic-structure doctrine has been criticised as conferring on an unelected judiciary a power to override the considered amendments of an elected Parliament, and as resting on a list of "basic features" that is nowhere defined and is settled case by case. Its defenders argue that it is the indispensable safeguard against the capture and dismantling of the constitutional order by a transient majority, and that its open-endedness allows it to meet new and unforeseen threats. The doctrine has influenced constitutional courts in several other countries that have faced similar questions about the limits of the amending power.

An evolving list The features judicially recognised as "basic" have grown over time to include the supremacy of the Constitution, the rule of law, judicial review, federalism, secularism, the separation of powers, free and fair elections, the independence of the judiciary, and the balance between the Fundamental Rights and the Directive Principles. The list is illustrative and is not closed.

The Elements Recognised as the Basic Structure

From *Kesavananda Bharati* onwards, the courts have identified, on a case-by-case basis, a number of features as forming part of the basic structure of the Constitution. These include the supremacy of the Constitution; the sovereign, democratic and republican nature of the polity; the secular and federal character of the Constitution; the separation of powers among the legislature, the executive and the judiciary; the unity and integrity of the nation; the principle of free and fair elections; the rule of law; judicial review; the independence of the judiciary; the harmony and balance between the Fundamental Rights and the Directive Principles; the parliamentary system; and the powers of the Supreme Court under Articles 32, 136, 141 and 142 and of the High Courts under Articles 226 and 227.

An evolving and illustrative list The list of basic features is not closed or exhaustive; the courts have repeatedly emphasised that it evolves and that whether a particular feature forms part of the basic structure is to be determined in each case on the basis of the constitutional scheme as a whole. This flexibility is both the strength of the doctrine — allowing it to meet new threats — and the source of the criticism that it lacks precise definition.

Exam Pointers The doctrine was **propounded in *Kesavananda Bharati* (1973)**. It is judge-made and not written in the text. The list of basic features is illustrative, not exhaustive. The doctrine applies prospectively (*Waman Rao*). Distinguish *Golak Nath* (FRs cannot be amended) from *Kesavananda* (FRs can be amended but not the basic structure).

PART TWO

System of Government

How authority is organised: the choice of a parliamentary rather than presidential executive, a federal rather than unitary distribution of power, the threads that bind the centre to the states and the states to one another, and the constitutional machinery for governing in a crisis.

Parliamentary System

The Westminster model — a nominal head, a real executive, and responsibility to the legislature.

The Constitution establishes a parliamentary form of government, both at the centre and in the states. Also known as the Westminster, cabinet or responsible government model, its defining principle is that the executive is **responsible to and removable by the legislature**. The framers chose it over the American presidential system because of India's familiarity with it under British rule and because it ensures day-to-day accountability of the executive to the people's representatives.

Constitutional Basis

Articles 74 and 75 deal with the parliamentary system at the centre, and Articles 163 and 164 with the parliamentary system in the states. Article 74 provides for a Council of Ministers headed by the Prime Minister to aid and advise the President. Article 75 provides that the ministers are collectively responsible to the Lok Sabha.

Features of the Parliamentary System

- **Nominal and real executives:** the President is the nominal (de jure) head, while the Prime Minister is the real (de facto) head.
- **Majority party rule:** the party that wins a majority in the Lok Sabha forms the government.
- **Collective responsibility:** the Council of Ministers is collectively responsible to the Lok Sabha — the bedrock principle.
- **Political homogeneity:** ministers usually belong to the same party and share an ideology.
- **Double membership:** ministers are members of both the legislature and the executive.
- **Leadership of the Prime Minister:** the PM is the leader of the Council of Ministers, of Parliament, and of the ruling party.
- **Dissolution of the lower House:** the Lok Sabha can be dissolved by the President on the PM's recommendation.
- **Secrecy:** ministers operate on the principle of confidentiality and take the oath of secrecy.

Parliamentary vs Presidential Government

Parliamentary	Presidential
Executive is part of the legislature.	Executive is separate from the legislature.
Dual executive (nominal + real).	Single executive (the President is both head of state and head of government).
Executive responsible to the legislature.	Executive not responsible to the legislature.
Lower House can be dissolved.	Fixed tenure; no dissolution.

Merits and demerits The system's merits are harmony between the legislature and executive, responsible government, prevention of despotism, and a ready alternative government. Its demerits include instability, no continuity of policy, against the separation of powers, and government by amateurs.

Why India Chose the Parliamentary Model

The Constituent Assembly preferred the parliamentary system to the presidential one for several reasons. India had long experience of parliamentary institutions under British rule, which made the system familiar and workable. The framers valued **responsibility over stability**: a government that must retain the confidence of the legislature is more accountable on a day-to-day basis than a fixed-term president. The parliamentary system was also better suited to a plural society, since it allows the representation of diverse groups and the formation of broad coalitions. Dr. Ambedkar observed that a democratic executive must satisfy two conditions — stability and accountability — and that the presidential system offers more stability while the parliamentary system offers more accountability; the Assembly chose accountability.

Features distinctive to India The Indian parliamentary system departs from the British model in important ways: India is a republic with an elected head of state (not a hereditary monarch); there is no system of legal privileges or a titled aristocracy; and parliamentary sovereignty is limited by a written constitution, judicial review and the basic-structure doctrine. Thus India has parliamentary government but not parliamentary supremacy.

Merits and Demerits in Detail

The parliamentary system has notable merits: it ensures harmony between the legislature and the executive, since the executive is drawn from and answerable to the legislature; it provides for responsible government, with daily accountability through questions, debates and motions; it prevents despotism, since authority is dispersed among a body of ministers rather than concentrated in one person; and it makes a ready alternative government available in the same legislature. Its demerits include the risk of instability (especially under coalitions), the absence of continuity in policy across governments, a conflict with the strict separation of powers, and a tendency towards "government by amateurs", since ministers are chosen for political rather than administrative reasons.

The role of the civil service The amateurism of ministers is offset by a permanent, expert and neutral civil service, which provides continuity and technical competence. The minister sets policy and bears political responsibility, while the civil servant implements it — a division of labour central to the working of the parliamentary system.

Distinction Between the Parliamentary and Presidential Systems

The two great models of democratic government differ in fundamental respects. In the parliamentary system the executive is a part of, and is responsible to, the legislature, the head of state and the head of government are different persons, and the tenure of the executive is not fixed but depends on the confidence of the legislature. In the presidential system the executive is separate from and not responsible to the legislature, the same person is both head of state and head of government, and the executive enjoys a fixed tenure. India chose the former for both the Union and the states, while the United States exemplifies the latter.

Nominal and real executives A defining feature of the parliamentary system is the distinction between the nominal (de jure) executive and the real (de facto) executive. The President (or the Governor) is the nominal head in whom the executive power is formally vested, while the real power is exercised by the Council of Ministers headed by the Prime Minister (or the Chief Minister), who actually governs and is answerable to the legislature.

Exam Pointers "Collective responsibility is the bedrock principle" — Article 75(3). The Council of Ministers is collectively responsible only to the **Lok Sabha**, not the Rajya Sabha. The parliamentary system is sometimes called "government by the cabinet" — Ivor Jennings called the cabinet "the steering wheel of the ship of state."

Federal System

A federation with a strong centre — "federal in form, unitary in spirit."

The Constitution establishes a federal system, though the word "federation" appears nowhere in it — Article 1 describes India as a "Union of States." The Indian federation combines the usual federal features with a strong unitary bias, which is why scholars describe it variously as "quasi-federal" (K. C. Wheare), a "federation with a centralising tendency," or a system that is "federal in form but unitary in spirit."

Federal Features

- Dual polity (Union and states).
- Written Constitution.
- Division of powers (Seventh Schedule — Union, State and Concurrent Lists).
- Supremacy of the Constitution.
- Rigid Constitution (federal provisions need state ratification).
- Independent judiciary.
- Bicameralism.

Unitary (Non-Federal) Features

- Strong centre with more powers.
- States not indestructible (Article 3).
- Single Constitution for centre and states.
- Flexibility of the Constitution.
- No equality of state representation in the Rajya Sabha.
- Emergency provisions.
- Single citizenship.
- Integrated judiciary.
- All-India services.
- Appointment of the Governor by the centre.
- Integrated audit (CAG) and election machinery.

Judicial view In **S. R. Bommai (1994)**, the Supreme Court held that federalism is a basic feature of the Constitution. The Court has described the Indian model as one where the centre is stronger but the states are not mere agents of the centre — they have an independent constitutional existence.

Why a strong centre? The framers, conscious of the trauma of Partition and the dangers of fissiparous tendencies, deliberately created a strong centre to preserve the unity and integrity of the nation while still accommodating regional diversity through a federal structure.

Cooperative and Competitive Federalism

Beyond the textual division of powers, Indian federalism functions through evolving practices. **Cooperative federalism** describes the centre and states working together on shared goals through institutions such as the Inter-State Council, the GST Council and the NITI Aayog. **Competitive federalism** describes states competing with one another to attract investment and to improve governance, encouraged by performance rankings and indices. The trend since 1991 has been towards greater fiscal and policy bargaining between the tiers, even as the constitutional tilt towards the centre remains.

Tendencies Towards Centralisation and Decentralisation

Centralising tendencies include the planning process (historically), central transfers, and the use of central agencies. Decentralising tendencies include the rise of regional parties and coalition governments, the 73rd and 74th Amendments empowering local bodies, and the growing assertiveness of states in forums such as the GST Council. Indian federalism is therefore best understood as dynamic rather than static.

Scholarly labels K. C. Wheare called India "quasi-federal"; Granville Austin described it as "cooperative federalism"; and the Supreme Court in *Bommai* held that, though the centre is stronger, the states are not mere appendages of the centre but have an independent constitutional existence.

Comparison with the American and Canadian Models

Indian federalism is best understood by comparison. The American federation was formed by the "coming together" of previously independent states, which retained substantial powers and equal representation in the Senate; residuary powers lie with the states. The Canadian federation, like the Indian, was a "holding together" arrangement with a strong centre and residuary powers at the centre. India followed the Canadian model more closely, but went further in centralisation through the emergency provisions, the all-India services, the single constitution and citizenship, and the centre's power over state boundaries. Hence the characterisation of India as "quasi-federal" or "federal in form but unitary in spirit".

Federalism as a basic feature Despite the strong centre, the Supreme Court has held that federalism is part of the basic structure of the Constitution. The states have an independent constitutional existence and are not mere administrative agencies of the centre, even though the balance of power tilts towards the Union.

The Federal and Unitary Features Listed

The Constitution combines federal and unitary features. The **federal features** include a written and rigid (in part) constitution, the division of powers between the centre and the states through three lists, the supremacy of the Constitution, an independent judiciary, and bicameralism. The **unitary features** include a strong centre, the existence of states that can be reorganised at the centre's will, a single constitution and citizenship, the flexibility of much of the Constitution, the emergency provisions, the all-India services, the integrated judiciary, the appointment of Governors by the centre, and the centre's powers over the states in various spheres. The balance tilts towards the centre, especially in times of emergency.

Why a strong centre? The framers deliberately created a strong centre in the light of the conditions prevailing at the time of independence — the partition, the integration of the princely states, and the need to preserve the unity and integrity of a vast and diverse country and to promote planned national development. The strong centre was thus a conscious response to the centrifugal pressures the new nation faced.

Exam Pointers The Indian federation was formed by the "coming together" model only in part; it is largely a "holding together" federation. K. C. Wheare: "quasi-federal." Federalism is part of the basic structure (Bommai). The Rajya Sabha represents states but *not* equally — representation is by population.

Centre–State Relations

Legislative, administrative and financial relations between the two tiers of government.

The Constitution divides all powers — legislative, executive and financial — between the centre and the states. However, there is no division of judicial power, as the Constitution establishes an integrated judicial system to enforce both central and state laws. Centre–state relations are studied under three heads: legislative (Articles 245–255), administrative (Articles 256–263) and financial (Articles 268–293).

Legislative Relations (Articles 245–255)

The Seventh Schedule divides subjects into three lists:

List	Legislates	Nature
Union List	Parliament alone	Subjects of national importance (defence, foreign affairs, banking, currency).
State List	State legislatures	Subjects of local/state importance (police, public health, agriculture).
Concurrent List	Both centre and states	Subjects of common interest (criminal law, marriage, education). In a conflict, central law prevails (Article 254).

The **residuary powers** (subjects not in any list) rest with the centre (Article 248). Parliament can legislate on State List subjects in extraordinary situations — in the national interest (Article 249, on a Rajya Sabha resolution), during a national emergency, when states make a request (Article 252), or to implement international agreements (Article 253).

Administrative Relations (Articles 256–263)

- States must exercise their executive power so as to ensure compliance with the laws of Parliament (Article 256).
- The centre may give directions to states (Article 257); failure to comply can invite President's Rule.
- All-India Services (IAS, IPS, IFoS) serve both the centre and the states.
- The President may set up an **Inter-State Council** (Article 263) to investigate and discuss subjects of common interest.

Financial Relations (Articles 268–293)

- The Constitution divides taxing powers; the **Finance Commission** (Article 280) recommends the distribution of tax revenues and grants-in-aid.
- The **101st Amendment (2016)** introduced the GST, a major restructuring of indirect taxation, with the GST Council (Article 279A) as the decision-making body.
- Grants-in-aid to states (statutory under Article 275 and discretionary under Article 282).

Commissions on centre–state relations The **Sarkaria Commission (1983)** and the **Punchhi Commission (2007)** examined centre–state relations and recommended reforms — including restraint in the use of Article 356, consultation with states, and a more cooperative federalism.

Extraordinary Powers of Parliament over the State List

Although the State List is normally the exclusive domain of the states, the Constitution allows Parliament to legislate on State subjects in five extraordinary situations: (1) in the national interest, on a Rajya Sabha resolution passed by a two-thirds majority (Article 249); (2) during a national emergency (Article 250); (3) when two or more states make a request (Article 252); (4) to implement international treaties and agreements (Article 253); and (5) during President's Rule in a state. These provisions reveal the centralising bias of the federal scheme.

Trends in Centre–State Financial Relations

The financial relationship has been reshaped by the introduction of the GST (101st Amendment), the abolition of the Planning Commission and the creation of the NITI Aayog, and the recommendations of successive Finance Commissions on the devolution of central taxes. The states' demand for a larger share of resources and greater fiscal autonomy remains a recurring theme of centre–state relations.

Committees and commissions The administrative reforms in centre–state relations have been shaped by the Rajamannar Committee (1969), the Sarkaria Commission (1983) and the Punchhi Commission (2007), all of which broadly favoured a stronger but more consultative federation, restraint in the use of Article 356, and an effective Inter-State Council.

The Doctrine of Pith and Substance and Repugnancy

Disputes over legislative competence are resolved using settled doctrines. The **doctrine of pith and substance** looks to the true nature and character of a law to determine which list it falls under, so that an incidental encroachment on another list does not invalidate it. The **doctrine of colourable legislation** prevents a legislature from doing indirectly what it cannot do directly. The **doctrine of repugnancy** (Article 254) provides that, where a state law on a Concurrent List subject conflicts with a central law, the central law prevails and the state law is void to the extent of the repugnancy — unless the state law has received the President's assent, in which case it prevails in that state.

Residuary powers with the centre Unlike the American model, the residuary power of legislation — over matters not enumerated in any of the three lists — is vested in Parliament (Article 248), reinforcing the centralising tilt of the Indian federation.

The Three Dimensions of Centre–State Relations

Centre–state relations are conveniently studied under three heads. **Legislative relations** (Articles 245 to 255) concern the territorial and subject-wise distribution of legislative power through the Union, State and Concurrent Lists and the centre's power to legislate on state subjects in specified situations. **Administrative relations** (Articles 256 to 263) concern the obligation of the states to comply with central laws, the centre's power to give directions to the states, the all-India services, and mechanisms of cooperation such as the Inter-State Council. **Financial relations** (Articles 268 to 293) concern the distribution of taxing powers and revenues, grants-in-aid, the role of the Finance Commission, and borrowing.

The GST as a turning point The 101st Amendment introducing the Goods and Services Tax marked a major change in financial relations, as both the centre and the states surrendered some of their independent taxing powers to a common tax administered through the GST Council. This pooling of fiscal sovereignty is one of the most significant developments in the history of Indian centre–state relations.

Exam Pointers Residuary powers → centre (unlike the USA). Concurrent List conflict → central law prevails (Art. 254). Art. 249 lets Parliament legislate on a State subject "in the national interest" with a two-thirds Rajya Sabha resolution. GST = 101st Amendment.

Inter-State Relations

Coordination, dispute resolution and free trade among the states.

For the smooth functioning of the federal system, the Constitution makes provisions for coordination between the states and for resolving disputes among them. These include adjudication of inter-state water disputes, coordinating machinery such as councils, mutual recognition of public acts and records, and freedom of inter-state trade and commerce.

Inter-State Water Disputes (Article 262)

Article 262 empowers Parliament to provide for the adjudication of disputes relating to the waters of inter-state rivers and river valleys, and to bar the jurisdiction of the Supreme Court and other courts in such disputes. Under this, the **Inter-State River Water Disputes Act, 1956** provides for the constitution of tribunals.

Inter-State Council (Article 263)

The President may establish an Inter-State Council to inquire into and advise upon disputes between states, and to discuss subjects of common interest. On the recommendation of the **Sarkaria Commission**, the Inter-State Council was established in **1990**.

Public Acts, Records and Judicial Proceedings (Article 261)

Full faith and credit must be given throughout India to the public acts, records and judicial proceedings of the centre and of every state. This ensures that, for example, a judgment of one state's court is enforceable in another.

Freedom of Trade, Commerce and Intercourse (Articles 301–307)

- Article 301 guarantees freedom of trade, commerce and intercourse throughout the territory of India.
- This freedom is subject to reasonable restrictions in the public interest (Article 302) and to non-discriminatory taxation.
- Parliament may appoint an authority to carry out these provisions (Article 307).

Zonal Councils Zonal Councils are **statutory** bodies (set up under the States Reorganisation Act, 1956), not constitutional bodies. There are six of them (including the North Eastern Council, which is separate). They promote cooperation and coordination among states in each zone.

Adjudication of Inter-State Water Disputes in Practice

Under the Inter-State River Water Disputes Act, 1956, a number of tribunals have been constituted to adjudicate major disputes — for example, over the Krishna, Godavari, Narmada and Cauvery rivers. Because Article 262 permits Parliament to oust the jurisdiction of even the Supreme Court in such disputes, the tribunal's award is intended to be final, though the Supreme Court has in practice entertained appeals on questions of law. Persistent delays in the working of these tribunals have prompted proposals for a single permanent tribunal with multiple benches.

Coordinating institutions compared Note the distinction between the **Inter-State Council** (a constitutional body under Article 263, advisory, dealing with disputes and common interests) and the **Zonal Councils** (statutory bodies under the States Reorganisation Act, 1956, promoting inter-state cooperation within zones). The North Eastern Council is a separate statutory body for the north-eastern region.

Trade, Commerce and the Coordinating Bodies

Part XIII (Articles 301 to 307) guarantees the freedom of trade, commerce and intercourse throughout the territory of India, subject to reasonable restrictions in the public interest and to non-discriminatory taxation, so that the country functions as a single economic unit. This economic unity is complemented by institutional mechanisms for coordination: the Inter-State Council (Article 263) for the discussion of common interests and disputes, the Zonal Councils for cooperation within regions, and, in the fiscal sphere, the GST Council, which has further integrated the national market by harmonising indirect taxation.

One nation, one market The combined effect of the freedom of inter-state trade, the single economic citizenship, and the GST regime is to make India a common economic market, in which goods, services and capital can move freely across state boundaries — an objective the framers regarded as essential to national unity and prosperity.

The Mechanisms for Inter-State Coordination

The Constitution and subsequent legislation provide several mechanisms for coordination among the states and between the states and the centre. The adjudication of inter-state water disputes is provided for under Article 262 and the Inter-State River Water Disputes Act. The Inter-State Council under Article 263 is a forum for the discussion of subjects of common interest and the resolution of disputes. Full faith and credit is to be given throughout India to the public acts, records and judicial proceedings of the centre and every state (Article 261). The freedom of inter-state trade, commerce and intercourse is guaranteed by Part XIII.

Zonal Councils and the NEC In addition to the constitutional Inter-State Council, the States Reorganisation Act, 1956 created five Zonal Councils (Northern, Central, Eastern, Western and Southern) as statutory advisory bodies to promote cooperation among the states of each zone; the north-eastern states are served by the separate North Eastern Council. These bodies discuss matters of common concern such as economic and social planning, border disputes, linguistic minorities and inter-state transport.

Exam Pointers Article 262 bars court jurisdiction in water disputes (tribunals decide). The Inter-State Council (Art. 263) was set up in 1990 on the Sarkaria recommendation. Zonal Councils are statutory, not constitutional.

Emergency Provisions

Articles 352 to 360 — the constitutional machinery for meeting a crisis.

The emergency provisions are contained in Part XVIII (Articles 352 to 360). They are intended to enable the centre to meet any abnormal situation effectively and to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution. During an emergency, the federal structure can be converted into a unitary one — a feature borrowed from the German (Weimar) Constitution and the Government of India Act, 1935.

The Three Types of Emergency

Type	Article	Ground
National Emergency	352	War, external aggression or armed rebellion (or imminent danger thereof).
President's Rule (State Emergency)	356	Failure of the constitutional machinery in a state.
Financial Emergency	360	A threat to the financial stability or credit of India.

National Emergency (Article 352)

- Proclaimed by the President when the security of India is threatened by war, external aggression or armed rebellion.
- "External Emergency" (war/aggression) and "Internal Emergency" (armed rebellion) are the two species.
- Must be approved by both Houses within one month, by a special majority; once approved, it continues for six months and can be extended indefinitely with parliamentary approval every six months.
- **Effects:** the centre may give executive directions to states; Parliament may legislate on State List subjects; the distribution of revenues may be altered; and Fundamental Rights under Article 19 are automatically suspended (only during a war/external aggression emergency).

President's Rule (Article 356)

- Imposed when the President is satisfied that the government of a state cannot be carried on in accordance with the Constitution.

- Must be approved by both Houses within two months; continues for six months at a time, with a maximum of three years (subject to conditions after one year).
- **Effects:** the state executive is dismissed and the state comes under the President (acting through the Governor); the state legislature is suspended or dissolved; Parliament legislates for the state.

Financial Emergency (Article 360)

Proclaimed when the financial stability or credit of India is threatened. It allows the centre to direct states to observe financial propriety and to reduce salaries, including those of judges. **It has never been proclaimed.**

The 44th Amendment safeguards (1978) Enacted after the misuse of the 1975 emergency, the 44th Amendment: substituted "armed rebellion" for "internal disturbance"; required the **written advice of the Cabinet** for a Article 352 proclamation; provided that Articles 20 and 21 **cannot be suspended** even during an emergency; and made parliamentary approval and revocation easier.

S. R. Bommai v. Union of India (1994) This landmark judgment held that the proclamation of President's Rule under Article 356 is subject to **judicial review**, that the power must be used sparingly and only on relevant grounds, and that the floor of the assembly is the proper place to test a government's majority. It dramatically curbed the misuse of Article 356.

Effects of a National Emergency on the Federal Structure

During a national emergency the normal federal distribution of powers is suspended in important respects. The centre becomes entitled to give executive directions to the states on any matter; Parliament becomes empowered to make laws on subjects in the State List (though such laws lapse six months after the emergency ends); the President may modify the distribution of financial resources between the centre and the states; and the life of the Lok Sabha and of the state assemblies may be extended one year at a time. In effect, the Constitution can be transformed from a federal into a virtually unitary system for the duration of the emergency.

President's Rule — Use and Misuse

Article 356 has been one of the most controversial provisions of the Constitution, having been invoked many times, often for partisan reasons, to dismiss state governments. The Sarkaria Commission recommended that it be used only as a last resort, and the Supreme Court in **S. R. Bommai** laid down that the proclamation is subject to judicial review, that the majority of a government should be tested on the floor of the House, and that a dissolved assembly can be revived if the proclamation is struck down.

The 38th, 42nd and 44th Amendments The 38th and 42nd Amendments had expanded and insulated the emergency powers; the 44th Amendment (1978) reversed much of this, introducing safeguards such as the requirement of written Cabinet advice, the protection of Articles 20 and 21, and easier parliamentary control over the proclamation.

Financial Emergency and the Overall Scheme

A financial emergency under Article 360 may be proclaimed if the President is satisfied that the financial stability or credit of India or any part of it is threatened. During its operation, the centre may give directions to the states to observe canons of financial propriety, may direct the reduction of salaries and allowances (including those of the judges), and may require money bills and other financial bills passed by the state legislatures to be reserved for the President's consideration. This provision has never been invoked. Taken together, the three kinds of emergency give the Constitution the flexibility to meet military, political and financial crises while subjecting that flexibility, after the 44th Amendment and Bommai, to important safeguards and judicial review.

Effect on the Fundamental Rights During a national emergency, the six freedoms in Article 19 are automatically suspended (only in the case of war or external aggression), and the President may suspend the right to move the courts for the enforcement of specified Fundamental Rights — but, after the 44th Amendment, the rights under Articles 20 and 21 can never be suspended, a direct response to the experience of the 1975 emergency.

The Three Types of Emergency Compared

The Constitution provides for three kinds of emergency. A **national emergency** (Article 352) may be proclaimed on the ground of war, external aggression or armed rebellion, and affects the whole country or a part of it, converting the federal system into a virtually unitary one. **President's Rule** (Articles 356 and 365) is imposed when the government of a state cannot be carried on in accordance with the Constitution, and transfers the state's executive and legislative powers to the centre. A **financial emergency** (Article 360) may be proclaimed when the financial stability or credit of India is threatened. Each requires parliamentary approval and is subject, after the 44th Amendment and Bommai, to important safeguards and to judicial review.

The 1975 emergency and its lessons The proclamation of a national emergency on the ground of "internal disturbance" in 1975, and the subsequent excesses, led to the 44th Amendment, which replaced "internal disturbance" with "armed rebellion", required the written recommendation of the Cabinet, made the rights under Articles 20 and 21 non-suspendable, and tightened parliamentary control. These changes were designed to prevent the misuse of the emergency power that the country had experienced.

Exam Pointers National Emergency declared three times — 1962 (China), 1971 (Pakistan) and 1975 (internal). Financial Emergency — never used. Articles 20 and 21 are non-suspendable (44th Amendment). Bommai (1994) made Article 356 justiciable.

PART THREE

The Central Government

The institutions of the Union: the President and Vice-President; the Prime Minister and the Council of Ministers who wield the real executive power; the Parliament that makes the laws and holds the executive to account; and the Supreme Court that guards the Constitution.

The President

Articles 52 to 78 — the constitutional head of the Union and the first citizen of India.

The President of India is the head of the State and the formal head of the executive, legislature, judiciary and armed forces. Article 53 vests the executive power of the Union in the President, to be exercised directly or through subordinate officers. In practice, however, the President is a **nominal** executive who acts on the aid and advice of the Council of Ministers headed by the Prime Minister, who is the **real** executive.

Election (Articles 54 and 55)

- The President is elected **indirectly** by an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the legislative assemblies of the states and of the union territories of Delhi and Puducherry.
- The election is held in accordance with the system of **proportional representation by means of a single transferable vote**, and the voting is by secret ballot.
- The Constitution ensures uniformity in the scale of representation of states and parity between the states as a whole and the Union.

Qualifications, Oath and Term

- **Qualifications:** a citizen of India; at least 35 years of age; qualified for election as a member of the Lok Sabha; not holding any office of profit.
- **Term:** five years; eligible for re-election any number of times.
- The President's oath is administered by the **Chief Justice of India**.

Impeachment (Article 61)

The President can be removed only by impeachment for "violation of the Constitution." The charge may be initiated by either House of Parliament; it must be signed by one-fourth of the members and passed by a two-thirds majority of the total membership of that House. The other House then investigates the charge, and if it too passes the resolution by a two-thirds majority, the President is removed. Notably, the nominated members can participate in impeachment, while the elected members of state assemblies (who take part in the election) cannot.

Powers of the President

Cat-egory	Illustrative powers
Execut-ive	Appointment of the PM, ministers, judges, Governors, the CAG, the Attorney General, ambassadors; administration of UTs.
Legislat-ive	Summoning, proroguing and dissolving Parliament; addressing and sending messages; nominating members; assenting to bills; promulgating ordinances (Article 123).
Financial	Money bills require the President's recommendation; the budget is laid before Parliament on the President's behalf; the contingency fund is at the President's disposal.
Judicial	Pardoning power (Article 72) — pardon, reprieve, respite, remission and commutation, including in death sentences and court-martial cases.
Diplomat-ic	International treaties and agreements are negotiated in the President's name; represents India in international forums.
Military	Supreme Commander of the defence forces.
Emer-gency	National emergency (352), President's Rule (356) and financial emergency (360).

The Presidential Veto

- **Absolute veto** — withholding assent altogether.
- **Suspensive veto** — returning a bill for reconsideration (which Parliament can override by re-passing it).
- **Pocket veto** — taking no action, since the Constitution sets no time limit (famously used by President Zail Singh on the Indian Post Office (Amendment) Bill).
- The President has **no veto over a constitutional amendment bill** (24th Amendment makes assent mandatory).

Article 74 — binding advice The 42nd Amendment made it explicit that the President must act on the advice of the Council of Ministers. The 44th Amendment added that the President may require the Council to reconsider its advice, but must act according to the advice tendered after such reconsideration.

The Ordinance-Making Power (Article 123)

When Parliament is not in session, Article 123 empowers the President to promulgate ordinances that have the same force and effect as an Act of Parliament. An ordinance must be laid before both Houses when they reassemble and ceases to operate six weeks from the reassembly unless approved earlier; it can also be withdrawn at any time. The power is co-extensive with the legislative power of Parliament

and is exercised on the advice of the Council of Ministers. The Supreme Court has held that the **re-promulgation** of ordinances to bypass the legislature is a "fraud on the Constitution" (D. C. Wadhwa, 1987; reaffirmed in Krishna Kumar Singh, 2017), and that ordinances are subject to judicial review.

A discretionary office? The President is generally bound by ministerial advice, but certain situations call for the exercise of judgement — choosing a Prime Minister in a hung Lok Sabha, dismissing a government that has lost majority, or deciding whether to grant a dissolution. These "situational discretions", though narrow, give the office real significance in moments of political uncertainty.

The Pardoning Power in Detail (Article 72)

Under Article 72, the President can grant pardons, reprieves, respites and remissions of punishment, or suspend, remit or commute the sentence of any person convicted of an offence. This power is wider than the Governor's in two respects: the President alone can pardon a sentence of death, and the President alone can deal with punishments inflicted by courts-martial. The pardoning power is exercised on the advice of the Council of Ministers, and the Supreme Court has held that its exercise is subject to judicial review on limited grounds — for example, where the decision is arbitrary, mala fide, or based on wholly irrelevant considerations.

Veto powers recapitulated The President's options on a bill are the absolute veto (withholding assent), the suspensive veto (returning a non-money bill for reconsideration, which Parliament can override), and the pocket veto (taking no action, since no time limit is prescribed). On a constitutional amendment bill, however, the President has no veto and must give assent.

Election, Qualifications and Impeachment

The President is elected indirectly by an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the legislative assemblies of the states and of the union territories of Delhi and Puducherry, through a system of proportional representation by means of the single transferable vote, with voting by secret ballot. A uniform "value" is given to the votes through a formula designed to maintain parity between the Union and the states and uniformity among the states. The President holds office for five years and can be removed before the expiry of the term only through the process of impeachment for the violation of the Constitution.

The impeachment process Impeachment is a quasi-judicial process. The charge may be initiated by either House, must be signed by at least one-fourth of the total members of that House, and requires fourteen days' notice; it must then be passed by a majority of not less than two-thirds of the total membership of that House, after which the other House investigates the charge and, if it too passes the resolution by a two-thirds majority, the President stands removed. The nominated members of Parliament, who do not take part in the President's election, may participate in the impeachment.

Exam Pointers Elected by proportional representation, single transferable vote, secret ballot. Nominated MPs vote in impeachment but not in the election; elected MLAs vote in the election but not in impeachment. Pardoning power under Article 72 (wider than the Governor's Article 161). Pocket veto — no time limit.

The Vice-President

Articles 63 to 71 — the second-highest constitutional office, modelled on the American Vice-President.

The office of the Vice-President of India is modelled on the lines of the American Vice-President. The Vice-President is the second-highest dignitary of the country after the President and acts as the ex-officio Chairman of the Rajya Sabha. The office ensures that there is always a person available to discharge the functions of the President and to preside over the Council of States.

Election and Qualifications

- Elected by an electoral college consisting of the members of **both Houses of Parliament** (both elected and nominated members), by proportional representation with a single transferable vote.
- **Qualifications:** a citizen of India; at least 35 years of age; qualified for election as a member of the Rajya Sabha; not holding any office of profit.
- **Term:** five years; eligible for re-election.

Two contrasts with the President's election (1) The Vice-President's electoral college includes **nominated** members of Parliament (the President's does not). (2) The Vice-President's electoral college does **not** include the state legislative assemblies (the President's does). This is because the Vice-President has no role in state matters.

Functions

- Acts as the **ex-officio Chairman of the Rajya Sabha** (similar to the Speaker of the Lok Sabha) and is not a member of the House.
- Acts as President when a vacancy occurs in that office due to resignation, removal, death or otherwise, for a **maximum of six months**, within which a new President must be elected.

Removal

The Vice-President can be removed by a resolution of the Rajya Sabha passed by an effective majority (a majority of all the then members) and agreed to by the Lok Sabha. No formal "grounds" are mentioned in the Constitution, and a 14-day notice is required.

The Vice-President as Chairman of the Rajya Sabha

The bulk of the Vice-President's working life is spent presiding over the Council of States. In this capacity the Vice-President maintains order, decides points of order, interprets the rules, and exercises a casting

vote in the case of a tie. Unlike the Speaker of the Lok Sabha, who is a member of the House, the Vice-President is **not a member** of the Rajya Sabha and therefore has no original vote — only the casting vote. When the Vice-President acts as President (during a vacancy), the Deputy Chairman, or another member, presides over the Rajya Sabha.

Comparison with the United States The Indian Vice-President's role is modelled on, but not identical to, that of the American Vice-President. Both preside over the upper House, but the American Vice-President can become President for the remainder of the term on a vacancy, whereas the Indian Vice-President only acts as President for a maximum of six months, within which a fresh election must be held.

Conditions of Office and the Significance of the Office

The Vice-President is not entitled to the emoluments of the office of Vice-President while acting as President; during that period the Vice-President receives the salary and allowances of the President. The Vice-President draws a salary in the capacity of the ex-officio Chairman of the Rajya Sabha. The office, though it carries no executive power of its own, is constitutionally significant because it ensures the orderly continuity of the highest office in the event of a vacancy and provides an impartial presiding officer for the Council of States.

Why the electoral colleges differ The Vice-President's electoral college consists only of the members of the two Houses of Parliament (including the nominated members) and excludes the state legislatures, because the Vice-President has no functions in relation to the states. The President's electoral college, by contrast, includes the elected members of the state assemblies, reflecting the President's position as the head of the whole federation.

Election, Qualifications and Removal of the Vice-President

The Vice-President is elected by an electoral college consisting of the members of both Houses of Parliament (both elected and nominated), by proportional representation through the single transferable vote and a secret ballot. To be eligible, a person must be a citizen of India, have completed thirty-five years of age, and be qualified for election as a member of the Rajya Sabha; he must not hold any office of profit. The Vice-President holds office for five years but may be removed earlier by a resolution of the Rajya Sabha passed by an effective majority (a majority of all the then members) and agreed to by the Lok Sabha; no formal ground need be stated, and fourteen days' notice is required.

Contrast with the President's removal The procedure for removing the Vice-President is markedly simpler than the impeachment of the President: it requires only a resolution of the Rajya Sabha (with the agreement of the Lok Sabha) rather than a two-thirds majority of both Houses, and no specific ground such as "violation of the Constitution" need be established. This reflects the lesser constitutional weight of the office in normal times.

Exam Pointers Ex-officio Chairman of the Rajya Sabha. Acts as President for a maximum of six months. Removal initiated only in the Rajya Sabha. Unlike the President's impeachment, no specific ground is required.

The Prime Minister

Article 75 — the real head of government and the keystone of the cabinet arch.

In the scheme of parliamentary government, the President is the nominal executive (de jure) and the Prime Minister is the real executive (de facto). The Prime Minister is the head of the government, the leader of the Council of Ministers, the leader of the majority party, and the chief link between the President and the cabinet. As the political head of the administration, the PM is the most powerful functionary in the Indian political system.

Appointment

Article 75 simply says that the Prime Minister shall be appointed by the President. By convention, the President appoints the leader of the majority party in the Lok Sabha as the Prime Minister. When no party has a clear majority, the President may use personal discretion in selecting the person most likely to command a majority. A person who is not a member of either House can be appointed PM, but must become a member within **six months**.

Powers and Functions

- **In relation to the Council of Ministers:** recommends persons for appointment as ministers; allocates and reshuffles portfolios; presides over cabinet meetings; can ask a minister to resign or advise the President to dismiss one; the PM's resignation or death dissolves the entire Council of Ministers.
- **In relation to the President:** the principal channel of communication; advises on the appointment of important officials such as the CAG, the Attorney General, the chairman and members of the UPSC and the Election Commission.
- **In relation to Parliament:** the leader of the Lower House; advises the President on summoning and proroguing Parliament and on dissolving the Lok Sabha; announces government policies.
- **Other roles:** chairman of the NITI Aayog; leader of the nation in international affairs; head of key cabinet committees and the Cabinet Secretariat.

Relationship with the President Article 74 — there shall be a Council of Ministers with the PM at its head to aid and advise the President. Article 78 — it is the duty of the PM to communicate to the President all decisions of the Council of Ministers, to furnish information, and to submit matters for the consideration of the Council if the President so requires.

The Changing Position of the Prime Minister

The real authority of the office depends greatly on the personality of the incumbent and on whether the government is a single-party majority or a coalition. In an era of single-party dominance the Prime Minister is overwhelmingly powerful — described as the "moon among the stars" and the keystone of the cabinet arch. In a coalition, the office is constrained by the need to accommodate allies, share portfolios and govern by consensus through a common minimum programme. The growth of the Prime Minister's Office (PMO) as a powerful secretariat has further enhanced the centralisation of executive authority in the office.

Relationship with the President The Prime Minister is the principal channel of communication between the President and the Council of Ministers under Article 78. The PM communicates all decisions of the Council to the President, furnishes such information as the President may call for, and, if the President so requires, submits for the consideration of the Council any matter on which a minister has taken a decision but which the Council has not considered.

The Prime Minister's Office and the National Stage

The authority of the Prime Minister has been reinforced by the growth of the Prime Minister's Office (PMO) — a powerful secretariat that coordinates policy across ministries and supports the Prime Minister in discharging the many roles of the office. As the head of government, the Prime Minister leads the nation in foreign affairs, chairs key bodies such as the NITI Aayog and the principal cabinet committees, and is the chief crisis manager of the country. The office thus combines the leadership of the party, the leadership of the legislature, and the leadership of the executive in a single hand.

First among equals — or much more? The classic description of the Prime Minister as "first among equals" (*primus inter pares*) understates the reality in a single-party majority government, where the Prime Minister's pre-eminence over colleagues is overwhelming. In a coalition, however, the description regains its force, as the Prime Minister must continually accommodate the interests of allied parties.

Appointment and the Question of Qualifications

The Constitution does not lay down any specific procedure for the selection and appointment of the Prime Minister beyond providing that he is appointed by the President. By convention, the President appoints the leader of the majority party in the Lok Sabha; where no party has a clear majority, the President exercises a degree of judgement in inviting the person most likely to command the confidence of the House, who must then prove his majority on the floor within a stipulated time. The Prime Minister may be a member of either House of Parliament, and a person who is not a member of either House at the time of appointment must become one within six months.

The floor test Following the Bommai and later judgments, the question of whether a government enjoys a majority is to be determined not by the subjective assessment of the head of state but by a "floor test" — an actual vote on the floor of the House. This principle, applied at both the central and the state levels, has reduced the scope for the partisan exercise of discretion by the President or the Governor in situations of political uncertainty.

Exam Pointers The PM can be a member of either House. Six-month rule for a non-member. "Keystone of the cabinet arch" and "primus inter pares" (first among equals) are classic descriptions. The PM's removal automatically removes the entire Council of Ministers.

Central Council of Ministers

Articles 74 and 75 — the real executive authority of the Union.

The Council of Ministers, headed by the Prime Minister, is the real executive authority in the parliamentary system. Article 74 provides for the Council to aid and advise the President, and Article 75 deals with the appointment, tenure, responsibility, qualifications, oath and salaries of the ministers. The Constitution does not specify the size or classification of the Council; these are governed by convention and by the needs of the situation.

Composition and Categories

The Council of Ministers consists of three categories of ministers, in a descending order of rank:

Category	Role
Cabinet Ministers	Head important ministries (home, defence, finance, external affairs). They form the Cabinet — the inner ring that determines policy.
Ministers of State	Either given independent charge of ministries/departments, or attached to cabinet ministers.
Deputy Ministers	Attached to cabinet ministers or ministers of state to assist them; not given independent charge.

Council of Ministers vs Cabinet The **Council of Ministers** is a wider body (all three categories) that rarely meets as a whole. The **Cabinet** is a smaller body of senior ministers that actually meets regularly and is the real centre of policy-making. The word "Cabinet" was inserted into the Constitution (Article 352) only by the 44th Amendment, 1978.

The 91st Amendment Cap (2003)

To curb the practice of forming oversized ministries, the 91st Amendment provided that the total number of ministers, including the Prime Minister, shall not exceed **15 per cent** of the total strength of the Lok Sabha.

Responsibility

- **Collective responsibility (Article 75(3)):** the Council of Ministers is collectively responsible to the Lok Sabha. They sink or swim together; if the Lok Sabha passes a no-confidence motion, the entire Council must resign.

- **Individual responsibility (Article 75(2)):** ministers hold office during the pleasure of the President, who removes a minister on the advice of the PM.

Collective and Individual Responsibility in Depth

The principle of collective responsibility means that the Council of Ministers works as a team: a decision of the Cabinet binds all ministers, who must support it in public or resign; and if the Lok Sabha passes a vote of no-confidence, the entire Council — including ministers drawn from the Rajya Sabha — must resign. Individual responsibility means that each minister is answerable for the working of their department, and the Governor or President can drop a minister on the advice of the head of government even when the Council as a whole retains the confidence of the House.

Legal vs political responsibility The Constitution provides for political responsibility to the legislature but does not expressly provide for the legal responsibility of ministers (such as the counter-signature of executive acts found in some countries). In India, the courts can inquire whether the constitutionally required advice was tendered, but not into the contents of that advice (Article 74(2)).

Ministerial Responsibility and Constitutional Provisions

The Council of Ministers operates under the twin principles of collective and individual responsibility, but the Constitution adds further detail. Article 75(4) requires that a minister take an oath of office and secrecy administered by the President; Article 75(5) requires that a minister who is not a member of either House for six consecutive months ceases to be a minister; and Article 75(6) leaves the salaries and allowances of ministers to be determined by Parliament. Article 74(2) provides that the question whether any, and if so what, advice was tendered by the ministers to the President shall not be inquired into by any court — protecting the confidentiality of executive advice.

Categories of ministers revisited The Cabinet Ministers head major ministries and sit in the Cabinet, the inner body that determines policy; the Ministers of State may hold independent charge or assist Cabinet Ministers; and the Deputy Ministers assist other ministers and never hold independent charge. Above all stands the Prime Minister, whose departure dissolves the entire Council.

The 91st Amendment and the Size of the Council

The 91st Amendment (2003) made two important changes affecting the Council of Ministers. First, it limited the total number of ministers, including the Prime Minister, to fifteen per cent of the total strength of the Lok Sabha (and, at the state level, of the Legislative Assembly, subject to a minimum of twelve). Second, it provided that a member of either House disqualified on the ground of defection shall also be disqualified from being appointed a minister. These changes were designed to reduce the size and cost of governments and to remove the incentive for defection by the lure of ministerial office.

The nature of cabinet government The real executive authority is exercised by the Cabinet, the inner ring of the Council of Ministers, which formulates policy, takes the most important decisions, coordinates the work of the government, and bears collective responsibility to the Lok Sabha. The full Council of Ministers rarely meets as a body; it is the Cabinet that, in practice, directs the government of the country.

Exam Pointers 15% cap by the 91st Amendment (2003). Collective responsibility to the Lok Sabha is the bedrock. The Cabinet is the core of the Council. Article 75(4) — the President administers the oath; Article 75(5) — a minister must become a member of Parliament within six months.

Cabinet Committees

The engine room of executive decision-making — outside the Constitution, but indispensable.

Cabinet committees are an organic part of the machinery of government but find **no mention in the Constitution**. They are extra-constitutional, established under the Rules of Business of the Government of India. The Prime Minister constitutes them, decides their composition and functions, and may reconstitute them. They reduce the burden on the full Cabinet by sorting out issues and taking decisions, though the Cabinet can review their decisions.

Nature and Types

- They are of two kinds — **standing** (permanent) and **ad hoc** (temporary).
- Their membership varies (usually three to eight); they include only cabinet ministers, though non-cabinet ministers may be invited.
- The Prime Minister heads the most important committees; if the PM is a member of a committee, the PM invariably presides over it.

Important Cabinet Committees

Committee	Concern
Cabinet Committee on Political Affairs	Major policy and political matters — often called the "super-cabinet."
Cabinet Committee on Economic Affairs	Economic policy and coordination.
Cabinet Committee on Security	Defence, national security and key strategic appointments.
Appointments Committee of the Cabinet	Senior appointments in the central government.
Committees on Parliamentary Affairs, Accommodation, Investment & Growth, etc.	Specialised functional areas.

Functions Cabinet committees resolve issues, formulate proposals for the Cabinet's consideration, and take decisions. The Cabinet may review their decisions, but in practice their decisions usually stand. They are an effective instrument for the speedy disposal of government business.

The Cabinet Secretariat and the Cabinet Secretary

The work of the Cabinet and its committees is serviced by the Cabinet Secretariat, headed by the Cabinet Secretary — the senior-most civil servant of the country and the administrative head of the secretariat. The secretariat provides secretarial assistance to the Cabinet and its committees, prepares agendas and records decisions, and coordinates among ministries to resolve inter-departmental differences. It thus complements the political work of the cabinet committees with the administrative machinery needed to implement their decisions.

Kitchen cabinet In addition to the formal Cabinet and its committees, prime ministers have often relied on an informal "inner cabinet" or "kitchen cabinet" — a small circle of trusted colleagues and advisers (sometimes including non-ministers). Though extra-constitutional and criticised for bypassing the formal structure, it has been a persistent feature of executive decision-making.

Standing and Ad Hoc Committees of the Cabinet

Cabinet committees are of two broad kinds — standing committees, which are permanent, and ad hoc committees, which are temporary and constituted for a specific purpose. The number and composition of the committees are not fixed by law but are decided by the Prime Minister according to the needs of the time, and they may be reconstituted or wound up at will. By distributing the workload, focusing expertise, and resolving inter-ministerial differences before matters reach the full Cabinet, the committees are an indispensable instrument for the efficient conduct of government business.

Groups of Ministers In addition to the standing cabinet committees, governments have frequently constituted Groups of Ministers (GoMs) — ad hoc bodies of ministers set up to examine specific issues and to recommend decisions to the Cabinet. Like the cabinet committees, GoMs are extra-constitutional devices for the speedy and considered disposal of government business.

The Distinction Between the Cabinet and the Council of Ministers

Although the terms are often used interchangeably, the Cabinet and the Council of Ministers are distinct. The Council of Ministers is the wider body comprising all the ministers of the three ranks, and it is this body that is referred to in Article 74; it never meets as a whole. The Cabinet is the smaller, inner body of the senior-most ministers (the Cabinet Ministers), which is the real centre of executive power and decision-making. The cabinet committees are still smaller bodies that sift the work before it reaches the Cabinet. The word "Cabinet" was inserted into Article 352 by the 44th Amendment, giving it explicit constitutional recognition.

The role of the Cabinet The Cabinet is the highest decision-making authority in the system of parliamentary government; it is the chief policy-formulating body of the executive, the supreme directing authority over the administration, the coordinator of central policy, and the principal adviser to the head of state. Its decisions bind all ministers under the principle of collective responsibility, and the committees enable it to deal efficiently with the vast volume of government business.

Exam Pointers Not mentioned in the Constitution; established under the Rules of Business. The CCPA is the "super-cabinet." The PM presides over the major committees. Membership is restricted to cabinet ministers (others may be invited).

Parliament

Articles 79 to 122 — the supreme legislative organ and the grand inquest of the nation.

Parliament is the legislative organ of the Union government. Under Article 79, it consists of three parts — the **President**, the **Rajya Sabha** (Council of States) and the **Lok Sabha** (House of the People). Though the President is not a member of either House, the President is an integral part of Parliament because a bill cannot become law without the President's assent and the President performs several functions in relation to Parliament.

Composition of the Two Houses

	Rajya Sabha (Council of States)	Lok Sabha (House of the People)
Maximum strength	250 (238 representing states and UTs + 12 nominated by the President)	552 (530 from states + 20 from UTs + provision now adjusted by amendment)
Manner of election	Indirectly elected by state assemblies (proportional representation, single transferable vote)	Directly elected by the people (first-past-the-post)
Tenure	Permanent body, not subject to dissolution; one-third retire every two years (six-year terms)	Five years, subject to earlier dissolution
Presiding officer	The Vice-President (ex-officio Chairman)	The Speaker
Minimum age	30 years	25 years

Presiding Officers

The Lok Sabha is presided over by the **Speaker**, assisted by the Deputy Speaker; the Rajya Sabha by the **Chairman** (Vice-President), assisted by the Deputy Chairman. The Speaker is the guardian of the powers and privileges of the House, decides whether a bill is a money bill, and exercises a casting vote in the event of a tie. The Speaker's decision on the disqualification of members under the anti-defection law is subject to judicial review.

The Legislative Process

- **Ordinary bills** may originate in either House and need the agreement of both Houses; a deadlock can be resolved through a **joint sitting** (Article 108), presided over by the Speaker.

- **Money bills (Article 110)** can be introduced only in the Lok Sabha and only on the President's recommendation; the Rajya Sabha can only make recommendations (within 14 days), which the Lok Sabha may accept or reject. There is no joint sitting for money bills.
- **Constitutional amendment bills** follow Article 368 — no joint sitting.

Parliamentary Devices and Procedures

- **Question Hour** — the first hour, devoted to questions (starred, unstarred, short-notice).
- **Zero Hour** — an Indian innovation, immediately after Question Hour; not mentioned in the rules.
- **Motions** — adjournment, no-confidence, censure, calling attention.
- **Quorum** — one-tenth of the total membership of the House.
- **Budget** — the annual financial statement (Article 112).

Powers of the Rajya Sabha The Rajya Sabha has two exclusive powers: (1) under Article 249, it can authorise Parliament to legislate on a State List subject in the national interest; and (2) under Article 312, it can authorise the creation of new All-India Services. Both require a two-thirds majority resolution.

Privileges, Sessions and Devices in Depth

Parliamentary privileges (Article 105) are the special rights and immunities enjoyed by the Houses, their committees and members, such as freedom of speech in Parliament and immunity from court proceedings for anything said or any vote given. The President summons each House at least twice a year, so that not more than six months may intervene between two sessions. A session comprises the budget, monsoon and winter sittings. Among the financial procedures, the budget passes through stages including the general discussion, the scrutiny by departmental committees, the voting on demands for grants, and the passing of the Appropriation and Finance Bills.

Anti-Defection and the Tenth Schedule

The disqualification of members on the ground of defection is decided by the presiding officer under the Tenth Schedule. The presiding officer's decision is subject to judicial review (Kihoto Hollohan, 1992), and the courts have urged that such decisions be taken within a reasonable time.

Money Bill vs Financial Bill Every Money Bill is a Financial Bill, but not every Financial Bill is a Money Bill. A Money Bill (Article 110) deals only with the matters specified in that article and is certified by the Speaker; the Rajya Sabha has only fourteen days and can merely recommend. Other Financial Bills follow the ordinary procedure, in which the Rajya Sabha has full powers.

Sessions, Sittings and the Legislative Calendar

The President summons each House from time to time, but the maximum gap between two sessions of a House cannot exceed six months, so that Parliament must meet at least twice a year. A session is the period between the first sitting of a House and its prorogation. The principal sittings are the Budget

Session (February to May), the Monsoon Session (July to September) and the Winter Session (November to December). The presiding officer adjourns the House from sitting to sitting, the President prorogues a session, and the President dissolves the Lok Sabha at the end of its term or earlier.

Functions and Powers of Parliament

Parliament performs legislative, executive (oversight), financial, constituent (amending), electoral and judicial functions. Through devices such as the question hour, motions, and the work of its committees, it holds the executive to account; through the budget and the financial committees, it controls public finance; and through Article 368, it amends the Constitution.

Lapsing of bills on dissolution On the dissolution of the Lok Sabha, all bills pending in the Lok Sabha lapse, and a bill passed by the Lok Sabha but pending in the Rajya Sabha also lapses; but a bill pending in the Rajya Sabha that has not been passed by the Lok Sabha does not lapse. Bills pending before a joint sitting, and bills returned by the President for reconsideration, do not lapse.

The Two Houses Compared

Parliament consists of the President and the two Houses — the Lok Sabha (the House of the People) and the Rajya Sabha (the Council of States). The Lok Sabha is the popular, directly elected House, with a normal term of five years (extendable during an emergency), and is the more powerful chamber, especially in financial matters and in the power to make and unmake governments. The Rajya Sabha is the permanent House representing the states, not subject to dissolution, with one-third of its members retiring every two years; its members are elected by the elected members of the state assemblies, and twelve are nominated by the President.

The special powers of the Rajya Sabha The Rajya Sabha, as the representative of the states, has two exclusive powers under Articles 249 and 312: it can authorise Parliament to make a law on a State List subject in the national interest, and it can authorise the creation of one or more new all-India services — in both cases by a resolution passed by a two-thirds majority of the members present and voting. These powers underline its character as the chamber of the states in the federal scheme.

Exam Pointers Money bill — Lok Sabha supreme; the Speaker certifies; Rajya Sabha has 14 days. Joint sitting (Art. 108) only for ordinary bills; never for money or amendment bills. Zero Hour is not mentioned in the rules of procedure. Quorum = one-tenth.

Parliamentary Committees

Where the detailed scrutiny of legislation, finance and administration actually happens.

The functions of Parliament are varied and its volume of work enormous; the time at its disposal is limited. It cannot give close consideration to all legislative and other matters on the floor of the House. Much of its business is therefore transacted in committees, often described as "miniature legislatures." A parliamentary committee is appointed or elected by the House (or nominated by the Speaker/Chairman), works under their direction, and presents its report to the House.

Classification

Broadly, parliamentary committees are of two kinds:

- **Standing committees** — permanent and continuous, constituted every year. They include the financial committees, the departmentally related standing committees, and committees to inquire, scrutinise and control.
- **Ad hoc committees** — temporary, constituted for a specific purpose and ceasing to exist once that purpose is fulfilled (for example, select and joint committees on bills).

The Financial Committees

Committee	Function & key facts
Public Accounts Committee	Examines the annual audit reports of the CAG. By convention, its chairman is from the Opposition. Has 22 members (15 Lok Sabha + 7 Rajya Sabha). Ministers cannot be members.
Estimates Committee	Examines the estimates included in the budget and suggests economies. The largest committee, with 30 members, all from the Lok Sabha.
Committee on Public Undertakings	Examines the reports and accounts of public sector undertakings. Has 22 members (15 + 7).

Departmentally Related Standing Committees (DRSCs)

There are **24** DRSCs covering all central ministries and departments. Each has 31 members (21 from the Lok Sabha and 10 from the Rajya Sabha). They examine demands for grants, bills and the long-term policy of the ministries — strengthening parliamentary control over the executive.

Importance Committees enable detailed, non-partisan scrutiny away from the glare of the floor, allow expert testimony, and provide continuity. They are vital instruments of parliamentary oversight of the executive and of public finances.

Committees to Inquire, Scrutinise and Control

Beyond the financial committees and the departmental standing committees, Parliament has a range of other committees: the Committee on Petitions, the Committee of Privileges, the Committee on Government Assurances, the Committee on Subordinate Legislation, the Committee on Papers Laid on the Table, the Business Advisory Committee, the Rules Committee, the General Purposes Committee, and the House Committee, among others. Together they enable Parliament to scrutinise delegated legislation, hold the government to its assurances, protect the dignity of the House, and manage its own business.

Why committees strengthen Parliament Because the full House lacks the time and expertise to examine every matter in detail, committees allow for closer, less partisan and more expert scrutiny, conducted away from the public glare. They can summon officials and experts, take evidence, and produce reports that improve both legislation and oversight — earning them the description "Parliament in miniature".

The Estimates and Public Undertakings Committees

The financial committees together secure parliamentary control over public money. The **Estimates Committee** — the largest committee, with thirty members drawn only from the Lok Sabha — examines the estimates in the budget and suggests economies in administration, earning it the description of a "continuous economy committee". The **Committee on Public Undertakings** examines the reports and accounts of public sector undertakings and assesses whether they are being run on sound business principles. The **Public Accounts Committee**, working on the CAG's reports, completes the cycle by examining whether money has been spent as Parliament intended.

Why ministers are excluded Ministers are not appointed members of the financial committees, because the very purpose of these committees is to scrutinise the executive of which the ministers are a part. Their exclusion preserves the committees' role as instruments of legislative oversight rather than executive self-assessment.

The Departmentally Related Standing Committees

A major development in the committee system was the establishment, in 1993, of the departmentally related standing committees, now numbering twenty-four, each covering one or more ministries. These committees consider the demands for grants of the ministries, examine bills referred to them, consider the annual reports of the ministries, and consider national basic long-term policy documents. By enabling detailed, expert and relatively non-partisan scrutiny of the work of the executive, they have substantially strengthened the capacity of Parliament to hold the government to account, away from the adversarial atmosphere of the floor of the House.

The strength of the committee system The committee system addresses the fundamental constraints of a large legislature — limited time, limited expertise, and the partisan character of floor debate. In

committee, members can examine matters in depth, summon officials and experts, take evidence in a calmer setting, and reach across party lines, producing reports that improve both legislation and oversight. For this reason the committees are often described as the engine room of parliamentary work.

Exam Pointers PAC examines the CAG reports — chaired by the Opposition by convention. The Estimates Committee is the largest (30 members, all Lok Sabha). There are 24 DRSCs. Ministers cannot be members of financial committees.

Indian Parliamentary Group

An autonomous link between India's Parliament and the parliaments of the world.

The Indian Parliamentary Group (IPG) is an autonomous, non-official body formed in **1949**, on the motion of the first Speaker of the Lok Sabha, G. V. Mavalankar. It serves as a link between the Parliament of India and the various parliamentary institutions of the world, and as a forum for parliamentarians to acquire information and develop personal contacts.

Aims and Functions

- To promote personal contacts between members of the Indian Parliament.
- To study questions of public and international importance.
- To arrange lectures, discussions and meetings on parliamentary subjects.
- To organise visits of foreign parliamentary delegations and to send Indian delegations abroad.

International affiliations The IPG functions as the **National Group of the Inter-Parliamentary Union (IPU)** and the **main branch of the Commonwealth Parliamentary Association (CPA)** in India. Membership is open to members of both Houses; associate membership is open to former members.

Activities and Significance of the IPG

The Indian Parliamentary Group organises orientation programmes and study circles for members, arranges talks by distinguished persons on national and international questions, brings out publications, and facilitates the participation of Indian parliamentarians in international conferences. Through its affiliation with the Inter-Parliamentary Union and the Commonwealth Parliamentary Association, it enables Indian legislators to exchange experience with their counterparts abroad, strengthening parliamentary diplomacy and the global community of legislatures.

An autonomous body The IPG is neither a constitutional nor a statutory body; it is an autonomous, voluntary association of members of Parliament. Its President is, by convention, the Speaker of the Lok Sabha, underlining its close but informal relationship with the institution of Parliament.

The IPG and Parliamentary Diplomacy

Through its affiliation with the Inter-Parliamentary Union and the Commonwealth Parliamentary Association, the Indian Parliamentary Group is the principal vehicle of parliamentary diplomacy for India. It facilitates the participation of Indian legislators in international conferences, hosts visiting delegations, and enables the exchange of legislative experience with parliaments around the world. In an era in which inter-parliamentary contact supplements traditional government-to-government diplomacy, the IPG per-

forms a useful bridging role between the Indian legislature and the wider community of democratic legislatures.

Membership and leadership Membership of the IPG is open to all members of both Houses of Parliament, and former members may be associate members. By convention, the Speaker of the Lok Sabha is the President of the Group, and the Secretary-General of the Lok Sabha acts as its secretary, reflecting the close but informal link between the Group and the institution of Parliament.

The Place of the IPG in Parliamentary Life

The Indian Parliamentary Group occupies a useful, if informal, place in the life of Parliament. As the national group of the Inter-Parliamentary Union and the main branch of the Commonwealth Parliamentary Association in India, it links Indian legislators to a worldwide network of parliamentarians and provides them with opportunities for the exchange of experience and for participation in international parliamentary deliberations. Within the country, its study circles, orientation programmes and talks help to keep members informed on national and international questions and to develop their capacity as legislators.

A bridge between Parliament and the world By facilitating parliamentary diplomacy — the contact and co-operation between legislatures across national boundaries — the IPG complements the work of the executive in foreign affairs and helps to project the experience of the world's largest democracy in international forums. Its informal and voluntary character allows it to perform this bridging role without the constraints that attach to formal governmental channels.

Exam Pointers Formed in 1949; an autonomous, non-official body. National group of the IPU; main branch of the CPA in India. First Speaker G. V. Mavalankar was associated with its formation.

Supreme Court

Articles 124 to 147 — the apex court, the guarantor of rights and the guardian of the Constitution.

The Indian Constitution establishes an integrated judicial system with the Supreme Court at the top. The Supreme Court is the highest court of appeal, the guarantor of the Fundamental Rights, and the guardian and final interpreter of the Constitution. It enjoys a federal character (deciding disputes between governments) and acts as a court of record. The provisions relating to it are contained in Articles 124 to 147.

Composition and Appointment

- The Supreme Court consists of the Chief Justice of India and other judges; the sanctioned strength is the Chief Justice plus **33** other judges (34 in all).
- Judges are appointed by the President. In practice, appointments are governed by the **Collegium system** evolved through the "Judges Cases."
- **Qualifications:** a citizen of India who has been a judge of a High Court for five years, or an advocate of a High Court for ten years, or is, in the President's opinion, a distinguished jurist.
- A judge holds office until the age of **65** and can be removed only by the process under Article 124(4).

Jurisdiction

Type	Scope
Original (Article 131)	Disputes between the centre and states, or among states.
Writ (Article 32)	Enforcement of the Fundamental Rights through the five writs.
Appellate	Constitutional, civil and criminal appeals from High Courts; and appeal by special leave (Article 136).
Advisory (Article 143)	The President may seek the Court's opinion on a question of law or fact of public importance (opinion not binding).

Other Powers and Features

- A **court of record** (Article 129) — its proceedings are recorded for perpetual memory and it can punish for contempt.

- Power of **judicial review** — to examine the constitutionality of laws and executive orders.
- The law declared by the Supreme Court is binding on all courts (Article 141).
- Its decrees and orders are enforceable throughout India (Article 142), and it can do "complete justice."

The Collegium and the NJAC Through the First, Second and Third Judges Cases, the Court evolved the **Collegium system**, giving the judiciary primacy in appointments. The **99th Amendment** created the National Judicial Appointments Commission (NJAC) to replace it, but in 2015 the Supreme Court struck down the NJAC as violating the independence of the judiciary — a basic feature — and restored the collegium.

The Collegium System and Judicial Appointments

The method of appointing judges has evolved through three "Judges Cases". In the First Judges Case (1981) the Court gave primacy to the executive; in the Second (1993) and Third (1998) it reversed this and evolved the **collegium** — a body of the Chief Justice of India and senior judges whose recommendations are binding on the executive. The 99th Amendment created the National Judicial Appointments Commission to replace the collegium, but in 2015 the Court struck it down as impairing the independence of the judiciary, which it held to be part of the basic structure. The debate over transparency and accountability in appointments continues.

Independence of the Judiciary

The Constitution secures the independence of the Supreme Court through several devices: the mode of appointment, security of tenure, fixed service conditions that cannot be varied to a judge's disadvantage, expenses charged on the Consolidated Fund, a ban on practice after retirement, the power to punish for contempt, and the difficult removal procedure requiring a special majority of both Houses.

Complete justice — Article 142 Article 142 empowers the Supreme Court to pass any decree or order necessary for doing "complete justice" in any cause or matter before it. This extraordinary power has been used in landmark cases to fashion remedies where the existing law was silent or inadequate, though the Court has cautioned that it must be exercised within the limits of the constitutional scheme.

The Jurisdictions of the Supreme Court in Detail

The Supreme Court's jurisdiction is unusually wide. Its **original jurisdiction** (Article 131) covers disputes between the centre and the states or among the states. Its **writ jurisdiction** (Article 32) makes it the protector of the Fundamental Rights. Its **appellate jurisdiction** covers constitutional, civil and criminal appeals from the High Courts, together with the discretionary power to grant special leave to appeal from any court or tribunal (Article 136). Its **advisory jurisdiction** (Article 143) allows the President to seek its opinion on questions of law or fact of public importance, though such an opinion is not binding.

Court of record and contempt As a court of record under Article 129, the Supreme Court's judgments are recorded as precedents of evidentiary value, and it has the power to punish for its own contempt — a power that protects the dignity and authority of the judicial process. Under Article 137, it also has the power to review its own judgments.

Composition, Qualifications and Removal of Judges

The Supreme Court consists of the Chief Justice of India and such number of other judges as Parliament may by law prescribe. To be appointed a judge, a person must be a citizen of India and must have been a judge of a High Court for at least five years, or an advocate of a High Court for at least ten years, or, in the opinion of the President, a distinguished jurist. The judges hold office until the age of sixty-five and can be removed only through the process laid down in Article 124 — by an order of the President following an address by both Houses of Parliament, supported by a special majority, on the ground of proved misbehaviour or incapacity.

The removal procedure in practice The removal of a judge is governed by the Judges (Inquiry) Act, 1968, under which a motion must be admitted by the presiding officer, an inquiry conducted by a committee of a Supreme Court judge, a Chief Justice of a High Court and a distinguished jurist, and, if the charge is found proved, the motion passed by both Houses by the requisite special majority. No judge of the Supreme Court has ever been removed by this process, which is deliberately difficult so as to secure the independence of the judiciary.

Exam Pointers Sanctioned strength: CJI + 33 = 34. Retirement age 65. Removal like the impeachment of a President's analogue — address by special majority for "proved misbehaviour or incapacity." Article 32 (heart and soul), Article 136 (SLP), Article 141 (binding precedent), Article 143 (advisory). NJAC struck down in 2015.

Judicial Review

The power of the courts to test the validity of laws against the Constitution.

Judicial review is the power of the judiciary to examine the constitutionality of legislative enactments and executive orders of both the central and state governments. If they are found to violate the Constitution, they can be declared illegal, unconstitutional and void (null and void). The Constitution does not use the term "judicial review" expressly, but it is provided for implicitly and through various articles.

Constitutional Basis

- **Article 13** — laws inconsistent with the Fundamental Rights are void; this is the principal basis.
- **Articles 32 and 226** — the writ jurisdiction of the Supreme Court and High Courts.
- **Article 131, 132, 133, 134** and others — appellate and original jurisdiction enabling review.
- **Articles 245 and 246** — review of the legislative competence of laws.

Scope

Judicial review extends to: (1) the constitutional amendments; (2) legislation by Parliament and state legislatures, as well as subordinate legislation; and (3) administrative action of the centre and states.

A basic feature In **Minerva Mills (1980)** and several later cases, the Supreme Court held that judicial review is part of the **basic structure** of the Constitution and therefore cannot be taken away even by a constitutional amendment.

Judicial Review of the Three Categories

Judicial review in India operates over three categories of action. First, **constitutional amendments** are reviewed against the basic-structure doctrine (Kesavananda; Minerva Mills; I. R. Coelho). Second, **legislation** — both parliamentary and state, and subordinate legislation — is reviewed for legislative competence, for violation of Fundamental Rights, and for any other constitutional infirmity. Third, **administrative action** is reviewed for legality, reasonableness and procedural fairness. The doctrine of "severability" allows the court to strike down only the offending part of a law, and the doctrine of "eclipse" allows a pre-Constitution law inconsistent with Fundamental Rights to revive if the inconsistency is later removed.

Indian vs American judicial review The scope of judicial review in India is narrower than in the United States. The American Constitution speaks of "due process of law", giving courts a wide power to assess the substantive fairness of laws, whereas the Indian Constitution uses "procedure established by

law" (Article 21). After Maneka Gandhi, however, Indian courts read in a requirement that the procedure be fair, just and reasonable, narrowing the gap.

Severability, Eclipse and the Ninth Schedule

Judicial review operates through a set of subsidiary doctrines. By the doctrine of severability, a court strikes down only the offending portion of a law; by the doctrine of eclipse, a pre-Constitution law inconsistent with a Fundamental Right is rendered dormant rather than dead and revives if the inconsistency is removed. The Ninth Schedule, introduced by the First Amendment to protect agrarian-reform laws from challenge, was once thought to place such laws beyond review; but in *I. R. Coelho* (2007) the Court held that even Ninth Schedule laws are open to review if they damage the basic structure.

A check on all three categories Judicial review thus extends to constitutional amendments (tested against the basic structure), to legislation (tested for competence and for conformity with the Fundamental Rights and other provisions), and to administrative action (tested for legality, reasonableness and procedural fairness), making it a comprehensive check on the exercise of public power.

The Constitutional Basis of Judicial Review

Although the expression "judicial review" is not used in the Constitution, the power is firmly grounded in several provisions: Article 13, which declares laws inconsistent with the Fundamental Rights to be void; Articles 32 and 226, which confer the power to issue writs for the enforcement of rights; Articles 131 to 136, which define the jurisdiction of the Supreme Court; and Articles 245 and 246 read with the Seventh Schedule, which delimit the legislative competence of the centre and the states. The power has been held to be a basic feature of the Constitution and therefore beyond the reach of the amending power.

A check, not a veto on policy Judicial review is concerned with the legality and constitutionality of an action, not with its wisdom or expediency. The courts do not sit in judgment over the policy choices of the legislature and the executive; they examine only whether those choices fall within the powers conferred by the Constitution and conform to its provisions. This self-imposed limitation distinguishes legitimate judicial review from an undue interference with the functions of the other organs.

Exam Pointers The term is borrowed in concept from the US (*Marbury v. Madison*), but the Indian model rests on "procedure established by law." Article 13 is the bedrock. Judicial review is part of the basic structure. The Ninth Schedule laws too are now subject to review if they damage the basic structure (*I. R. Coelho*, 2007).

Judicial Activism

The proactive role of the judiciary in protecting the rights of citizens and promoting justice.

Judicial activism denotes the proactive role played by the judiciary in the protection of the rights of citizens and in the promotion of justice in society. In other words, it implies the assertive role played by the judiciary to force the other two organs of the government — the legislature and the executive — to discharge their constitutional duties. It is also known as "judicial dynamism."

Causes and Methods

- The near-collapse of responsible government and the failure of the legislature and executive to discharge their functions.
- Public confidence in the judiciary, and the desire of judges to play a creative role.
- It manifests through the expansive interpretation of **Article 21**, the entertaining of **Public Interest Litigation**, taking **suo motu** cognisance, and issuing guidelines where laws are silent (as in Vishaka).

Judicial activism vs judicial overreach While judicial activism fills genuine gaps in protecting rights and enforcing duties, its excessive form — where courts effectively take over policy-making or executive functions — is criticised as "judicial overreach," disturbing the separation of powers.

Forms and Examples of Judicial Activism

Judicial activism in India has taken several forms: the expansive interpretation of rights (especially Article 21); the entertaining of public interest litigation and epistolary jurisdiction; the issuing of guidelines to fill legislative gaps (as in the Vishaka guidelines on workplace sexual harassment, and the D. K. Basu guidelines on arrest); the use of continuing mandamus to monitor the implementation of orders; and the appointment of expert committees and commissioners to assist the court. Through these means the judiciary has intervened in areas such as environmental protection, prison reform, custodial justice, and the right to food.

The line against overreach The Supreme Court itself has cautioned, in cases such as the "Divisional Manager, Aravali Golf Club" judgment, that judges must observe self-restraint and not usurp the functions of the legislature or the executive. The legitimacy of judicial activism rests on the failure of the other organs to discharge their duties; where they function properly, the space for activism narrows.

Guidelines, Continuing Mandamus and Self-Restraint

Among the most visible instruments of judicial activism are the issuing of binding guidelines to fill a legislative vacuum (as in the Vishaka guidelines on workplace sexual harassment and the D. K. Basu

guidelines on arrest and detention), the device of "continuing mandamus" by which the court retains a case to monitor the implementation of its orders, and the appointment of expert committees and commissioners to gather facts. The Court has, however, repeatedly emphasised the need for self-restraint, warning that activism must not slide into the usurpation of legislative or executive functions, which would itself violate the separation of powers.

The legitimacy of activism Judicial activism draws its legitimacy from the failure of the other organs to discharge their constitutional responsibilities; where the legislature and the executive act effectively, the proper scope for judicial intervention correspondingly narrows. The challenge is to protect rights without disturbing the constitutional balance among the organs of state.

Judicial Restraint as the Counterpart of Activism

Judicial activism is balanced by the complementary principle of judicial restraint, which counsels the courts to respect the domains of the legislature and the executive and to refrain from substituting their own views for the policy choices of the elected branches. The proper relationship between the organs is one of mutual respect within the scheme of the separation of powers: each is supreme within its own sphere, and none should encroach upon the others. The legitimacy of judicial intervention depends on its being confined to the protection of rights and the enforcement of constitutional limits, rather than the making of policy.

The criticism of "judicial overreach" Critics of excessive activism warn of "judicial overreach" — the assumption by the courts of functions that properly belong to the legislature or the executive, such as the framing of detailed policy or the day-to-day administration of programmes. They argue that such overreach strains the separation of powers, exceeds the institutional competence of the courts, and may undermine the very legitimacy on which judicial authority rests. The challenge is to protect rights without governing.

Exam Pointers Pioneered in India by Justices V. R. Krishna Iyer and P. N. Bhagwati. Tools — PIL, suo motu action, expansive Article 21. The opposite criticism is "judicial overreach." Examples include environmental directions, prison reforms and the Vishaka guidelines.

Public Interest Litigation

Opening the doors of the court to the poor, the voiceless and the public interest.

Public Interest Litigation (PIL), also known as social action litigation, is litigation undertaken to secure public interest and to demonstrate the availability of justice to socially and economically disadvantaged sections. It is a remarkable feature of the Indian judicial system, introduced through judicial activism in the late 1970s and the 1980s, principally by Justices P. N. Bhagwati and V. R. Krishna Iyer.

The Defining Feature — Relaxed Locus Standi

The most distinctive feature of PIL is the relaxation of the traditional rule of **locus standi**. Under the conventional rule, only a person whose own legal right was violated could approach the court. Under PIL, **any public-spirited person** can move the court on behalf of those who, due to poverty, ignorance or a socially or economically disadvantaged position, are themselves unable to seek relief. Even a letter or a postcard addressed to the court has been treated as a writ petition ("epistolary jurisdiction").

Scope and Significance

- PIL can be filed against the State/government for the enforcement of constitutional or legal rights of a class of persons.
- It has been used in areas such as bonded labour, prisoners' rights, environmental protection, child labour and the right to a clean environment.
- It democratises access to justice and makes the judiciary an instrument of social change.

Guarding against misuse The Supreme Court has cautioned that PIL must not be misused for personal, political or oligarchic gain ("publicity interest litigation" or "private interest litigation"). Courts may impose costs on frivolous petitions and have laid down guidelines to prevent abuse.

The Evolution and Procedure of PIL

Public interest litigation grew out of the recognition that the traditional adversarial system, with its strict rule of standing, left the poor and the marginalised without an effective remedy. The courts relaxed the rules of standing and of procedure: a letter or a newspaper report could be treated as a petition (epistolary jurisdiction), the court could appoint commissioners to gather facts, and it could pass continuing directions to monitor compliance. Landmark PILs concerned the rights of undertrial prisoners (Hussainara Khatoon), bonded labourers (Bandhua Mukti Morcha), the inmates of protective homes, and the protection of the environment (the M. C. Mehta cases).

Guarding the instrument The Supreme Court has framed guidelines to prevent the abuse of PIL for personal, political or commercial ends, and has imposed exemplary costs on frivolous or motivated petitions. The aim is to keep the instrument available for the genuine vindication of public interest while preventing it from becoming a tool for "publicity" or "private" interest litigation.

The Significance and Safeguards of PIL

Public interest litigation has democratised access to justice, brought the concerns of the poor and the voiceless before the courts, and made the judiciary an instrument of social transformation in areas such as environmental protection, the rights of prisoners and labourers, and the right to food. Its very openness, however, creates the risk of abuse — for personal publicity, for private gain, or to settle political scores. The courts have therefore framed guidelines to filter genuine public-interest petitions from frivolous or motivated ones, and have imposed costs on those who misuse the jurisdiction.

Epistolary jurisdiction A hallmark of Indian PIL is the "epistolary jurisdiction", under which even a letter or a postcard addressed to the court, or a newspaper report, may be treated as a writ petition. This dispenses with the formalities of pleading and standing, so that the inability of the disadvantaged to approach the court in the conventional manner does not defeat their access to justice.

The Contribution of PIL to Indian Democracy

Public interest litigation has been one of the most distinctive contributions of the Indian judiciary to the practice of constitutional democracy. By relaxing the rules of standing and procedure, it opened the doors of the higher courts to the poor, the illiterate and the disadvantaged, and to public-spirited citizens acting on their behalf. Through PIL the courts have advanced the rights of prisoners, bonded and child labourers, the inmates of homes and asylums, and the victims of environmental degradation, and have compelled the state to discharge its constitutional and statutory obligations.

The balance to be struck The continuing challenge with public interest litigation is to preserve its great value as an instrument of social justice while preventing its misuse for publicity, private gain or political ends, and while ensuring that it does not become a vehicle for the courts to take over functions that belong to the other organs. The courts have sought to strike this balance through guidelines, the imposition of costs on frivolous petitions, and a measure of self-restraint in the relief they grant.

Exam Pointers Pioneers — Justices P. N. Bhagwati and V. R. Krishna Iyer. Key idea — relaxation of locus standi; epistolary jurisdiction. First notable PILs concerned the rights of prisoners and bonded labourers (e.g. Hussainara Khatoon).

PART FOUR

The State Government

The Constitution provides a common framework for the states that mirrors the centre: a Governor as constitutional head, a Chief Minister and Council of Ministers as the real executive, a State Legislature to make laws, and a High Court and subordinate courts to administer justice — together with tribunals and alternative forums that bring justice closer to the people.

Governor

Articles 153 to 167 — the constitutional head of the state and the link to the centre.

The Governor is the chief executive head of a state. Like the President at the centre, the Governor is a nominal executive head (a constitutional head). The Governor also acts as an agent of the central government. Therefore, the office of the Governor has a dual role. There is usually a Governor for each state, but the 7th Amendment (1956) facilitated the appointment of the same person as Governor for two or more states.

Appointment and Conditions

- The Governor is **not directly elected** by the people nor indirectly elected as the President is; the Governor is **appointed by the President** by warrant under hand and seal (in effect, by the central government).
- **Qualifications:** a citizen of India and at least 35 years of age. By convention, the Governor should be an outsider (not belonging to the state) and the state's chief minister should be consulted.
- **Term:** holds office during the pleasure of the President; the normal term is five years, but there is no security of tenure.

Powers and Functions

Cat-egory	Illustrative powers
Execut-ive	Appoints the Chief Minister, ministers, the Advocate General, members of the State Public Service Commission, and the State Election Commissioner; administers the affairs of the state in the Governor's name.
Legislat-ive	Summons, prorogues and dissolves the state legislature; addresses it; gives assent to bills; can reserve a bill for the President; promulgates ordinances (Article 213); nominates members to the legislative council.
Finan-cial	Money bills can be introduced in the assembly only on the Governor's recommendation; the budget is laid before the legislature on the Governor's behalf.
Judicial	Pardoning power under Article 161 (cannot pardon a death sentence and has no power over court-martial sentences); consulted on the appointment of district judges.

Discretionary Powers

Unlike the President, the Governor enjoys certain **constitutional discretionary powers**: reserving a bill for the President's consideration; recommending President's Rule in a state; exercising functions as the administrator of an adjoining UT; and determining the amount payable by an autonomous tribal district council in certain states. The Governor also has **situational discretion**, such as appointing a Chief Minister when no party has a clear majority, dismissing the Council of Ministers when it cannot prove confidence, and dissolving the assembly if the Council loses majority.

Pardoning power — President vs Governor The Governor's power under Article 161 differs from the President's under Article 72 in two ways: the Governor **cannot pardon a death sentence** (though the Governor can suspend, remit or commute it), and the Governor has **no power in respect of court-martial punishments**. Both of these belong only to the President.

The Governor and the Centre — A Contested Office

Because the Governor is appointed by, and holds office during the pleasure of, the centre, the office sits at the friction-point of centre–state relations. Critics argue that Governors have at times acted as agents of the ruling party at the centre — in recommending President's Rule, in delaying assent to bills, in the timing of invitations to form a government after a hung verdict, and in reserving bills for the President. The Sarkaria and Punchhi Commissions therefore recommended that Governors be eminent and non-partisan persons, appointed in consultation with the Chief Minister, given a fixed tenure, and removed only for compelling reasons after due process.

Nabam Rebia (2016) and others In the Nabam Rebia case (2016), concerning Arunachal Pradesh, the Supreme Court held that the Governor's discretion is limited and that the Governor cannot, on their own, decide the schedule of the assembly or act in a manner that undermines the elected government. The judgment reinforced that the Governor is a constitutional head bound, in most matters, by the advice of the Council of Ministers.

The Governor's Powers in Detail

The Governor enjoys executive, legislative, financial and judicial powers analogous to those of the President at the state level. The executive power of the state is vested in the Governor and exercised on the advice of the Council of Ministers; the Governor appoints the Chief Minister and, on the Chief Minister's advice, the other ministers, the Advocate General, and the members of the State Public Service Commission. In the legislative sphere, the Governor summons, prorogues and dissolves the legislature, addresses and sends messages to it, nominates members to the Legislative Council where one exists, and gives or withholds assent to bills or reserves them for the President. The Governor also has the power to promulgate ordinances under Article 213 when the legislature is not in session.

Reservation of bills The Governor may reserve certain bills for the consideration of the President — and must do so where a bill would derogate from the powers of the High Court. A bill reserved for the President does not become law until the President assents; the President may also direct the Governor to return a reserved bill (other than a money bill) to the legislature for reconsideration.

The Discretionary Powers of the Governor

Unlike the President, the Governor is expressly given certain discretionary powers by the Constitution (Article 163), in the exercise of which he is not bound by the advice of the Council of Ministers. These include the reservation of a bill for the consideration of the President, the recommendation for the imposition of President's Rule in the state, and the exercise of functions as the administrator of an adjoining union territory (where so appointed). In addition, the Governor has certain "situational" discretions analogous to those of the President — the appointment of a Chief Minister when no party has a clear majority, the dismissal of a government that has lost the confidence of the House, and the dissolution of the assembly in certain circumstances.

Special responsibilities Beyond the general discretion, the Governors of certain states are entrusted with "special responsibilities" under the Constitution — for example, in relation to the tribal areas, law and order, or development boards — in the discharge of which they may act in their individual judgment after consulting the Council of Ministers. These special responsibilities reflect the asymmetric and context-sensitive character of the Indian federal arrangement.

Exam Pointers Appointed by the President; holds office during the President's pleasure (no fixed tenure). 7th Amendment allows the same Governor for two or more states. Article 161 (Governor) is narrower than Article 72 (President). The Governor has genuine discretionary powers that the President generally lacks.

Chief Minister

Article 164 — the real head of the state government.

In the scheme of parliamentary government at the state level, the Governor is the nominal executive head (de jure) while the Chief Minister is the real executive head (de facto). In other words, the Chief Minister is the head of the state government, just as the Prime Minister is the head of the central government. The position of the Chief Minister at the state level is analogous to that of the Prime Minister at the centre.

Appointment

The Constitution does not contain any specific procedure for the selection and appointment of the Chief Minister. Article 164 only says that the Chief Minister shall be appointed by the Governor. By convention, the Governor appoints the leader of the majority party in the legislative assembly. When no party has a clear majority, the Governor exercises personal discretion in selecting and appointing the Chief Minister, usually choosing the person most likely to command the confidence of the assembly. A person who is not a member of the legislature can be appointed Chief Minister, but must get elected to the legislature within six months.

Powers and Functions

- **In relation to the Council of Ministers:** recommends the persons to be appointed ministers; allocates and reshuffles portfolios; presides over its meetings; can ask a minister to resign; the resignation or death of the Chief Minister collapses the entire Council.
- **In relation to the Governor:** the principal channel of communication; advises on the appointment of important officials such as the Advocate General and members of the State Public Service Commission.
- **In relation to the State Legislature:** advises the Governor on summoning, proroguing and dissolving the assembly; announces government policies on the floor of the House.

Constitutional duties (Article 167) The Chief Minister must communicate to the Governor all decisions of the Council of Ministers, furnish information the Governor calls for, and place before the Council any matter on which a minister has decided but which the Council has not considered, if the Governor so requires.

The Chief Minister in the Federal Scheme

As the political head of the state, the Chief Minister is the most important link between the state and the centre, and increasingly an actor on the national stage through forums such as the NITI Aayog Governing Council, the GST Council and the Inter-State Council. Within the state, the office combines the roles of head of government, leader of the legislature and leader of the ruling party. Its real power, like that of the Prime Minister, varies with the personality of the incumbent and the nature of the government — single-party or coalition.

Position analogous to the PM Everything said about the Prime Minister in relation to the President applies, with the necessary changes, to the Chief Minister in relation to the Governor: appointment, the six-month rule for a non-member, the channel of communication (Article 167), and the consequence that the resignation or death of the head of government brings down the whole Council of Ministers.

Powers and Functions of the Chief Minister

The Chief Minister's functions mirror those of the Prime Minister at the state level. In relation to the Council of Ministers, the Chief Minister recommends the persons to be appointed ministers, allocates and reshuffles portfolios, presides over its meetings, and guides and coordinates its work; the Chief Minister's resignation or death dissolves the entire Council. In relation to the Governor, the Chief Minister is the principal channel of communication under Article 167, conveying the decisions of the Council and furnishing such information as the Governor may call for. The Chief Minister also leads the government in the legislature and advises the Governor on the summoning and dissolution of the House.

The link with the centre As the elected head of the state government, the Chief Minister is a crucial actor in centre–state relations and in the institutions of cooperative federalism, representing the state in the NITI Aayog Governing Council, the GST Council, the Inter-State Council and the Zonal Councils, and bargaining for the state's share of resources and policy attention.

The Governor and the Chief Minister

The relationship between the Governor and the Chief Minister mirrors that between the President and the Prime Minister. The Governor is the constitutional head who, in the vast majority of matters, acts on the advice of the Council of Ministers headed by the Chief Minister; the Chief Minister is the real head of the state government. Article 167 makes the Chief Minister the channel of communication between the Governor and the Council, obliging him to communicate the decisions of the Council, to furnish information called for by the Governor, and to place before the Council any matter on which a minister has decided but which the Council has not considered.

A potential flashpoint Because the Governor is a central appointee while the Chief Minister leads an elected state government, their relationship can become a flashpoint in centre–state relations, particularly when different parties are in power at the two levels. Disputes over the summoning of the assembly, the timing of floor tests, assent to bills, and the recommendation of President's Rule have repeatedly tested the constitutional conventions governing the office of the Governor.

Exam PointersAppointed by the Governor (leader of the majority party). Six-month rule for a non-member. The Chief Minister is the bridge between the Governor and the Council of Ministers. Article 167 mirrors Article 78 at the centre.

State Council of Ministers

Articles 163 and 164 — the real executive at the state level.

As at the centre, a parliamentary system of government is established in the states. Article 163 provides for a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of the Governor's functions, except where the Governor is required to act in discretion. Article 164 contains other provisions relating to ministers, including their appointment, term, responsibility, qualifications, oath and salaries.

Composition and Appointment

- The Chief Minister is appointed by the Governor; the other ministers are appointed by the Governor on the advice of the Chief Minister.
- The Council, as at the centre, consists of three categories — Cabinet Ministers, Ministers of State and Deputy Ministers.
- The total number of ministers, including the Chief Minister, must not exceed **15 per cent** of the total strength of the legislative assembly, with a minimum of 12 (91st Amendment, 2003).

Responsibility

The principle of **collective responsibility** (Article 164(2)) — the Council of Ministers is collectively responsible to the legislative assembly of the state. **Individual responsibility** (Article 164(1)) — ministers hold office during the pleasure of the Governor, who removes a minister on the advice of the Chief Minister.

A constitutional safeguard The 91st Amendment also disqualifies a member of either House of a state legislature, who is disqualified on the ground of defection, from being appointed a minister — strengthening the anti-defection regime.

The Doctrine of Pleasure and Anti-Defection at the State Level

State ministers hold office during the pleasure of the Governor, but since the Governor acts on the advice of the Chief Minister, in practice a minister stays only so long as the Chief Minister wishes. The 91st Amendment strengthened the anti-defection regime at the state level by providing that a member disqualified on the ground of defection is also debarred from being appointed a minister until they are re-elected. This was intended to remove the incentive for defection by the lure of office.

Limits on the Council's size Before the 91st Amendment, some states had very large councils of ministers, used to shore up majorities. The cap of 15% of the assembly's strength (with a minimum of 12) was introduced precisely to curb this practice and to reduce the cost of government.

Composition and Working of the State Council

The state Council of Ministers, like its central counterpart, consists of three categories — Cabinet Ministers, Ministers of State and Deputy Ministers — with the Chief Minister at its head. The Cabinet, the inner core, determines policy. The principle of collective responsibility to the Legislative Assembly governs its working: a vote of no-confidence passed by the assembly obliges the entire Council to resign. Each minister also bears individual responsibility for the conduct of their department and holds office during the pleasure of the Governor, which in practice means during the pleasure of the Chief Minister.

Confidentiality of advice As at the centre (Article 74(2)), Article 163(3) provides that the question whether any, and if so what, advice was tendered by the ministers to the Governor shall not be inquired into by any court. The courts may examine whether the constitutionally required advice was given, but not the contents of that advice.

The Council of Ministers and the Assembly

The state Council of Ministers is collectively responsible to the Legislative Assembly, the directly elected House, and not to the Legislative Council where one exists. This means that the Council of Ministers stays in office only so long as it enjoys the confidence of the assembly, and a vote of no-confidence passed by the assembly compels the entire Council to resign. The principle ensures that the executive remains continuously answerable to the representatives of the people, which is the essence of responsible parliamentary government at the state level.

Appointment of a non-member As with the Prime Minister and the central ministers, a person who is not a member of the state legislature can be appointed Chief Minister or a minister, but must secure election to the legislature within six consecutive months, failing which he ceases to hold office. This allows the inclusion of capable persons in the government for a limited period while preserving the principle that ministers must ultimately be answerable to an elected House.

Exam Pointers 15% cap with a minimum of 12 (91st Amendment). Collective responsibility to the assembly. Article 163 reserves the Governor's discretion; the Governor's discretion is wider than the President's.

State Legislature

Articles 168 to 212 — the law-making organ of the state, unicameral or bicameral.

The State Legislature occupies a position at the state level analogous to that of Parliament at the centre. Articles 168 to 212 deal with its organisation, composition, duration, officers, procedures, privileges and powers. Unlike Parliament, which is bicameral, the state legislatures are mostly unicameral; only a few states have a second chamber.

Structure

- Most states have a **unicameral** legislature, consisting of the Governor and the Legislative Assembly.
- A few states have a **bicameral** legislature, consisting of the Governor, the Legislative Assembly and the Legislative Council.
- Under Article 169, Parliament can create or abolish a Legislative Council if the Legislative Assembly of the state passes a resolution to that effect by a special majority. This is not deemed a constitutional amendment under Article 368.

Legislative Assembly (Vidhan Sabha)

- The directly elected House, representing the people of the state.
- Maximum strength 500, minimum 60 (with exceptions for some smaller states).
- Normal term of five years, subject to earlier dissolution.
- Presided over by the **Speaker**, assisted by the Deputy Speaker.

Legislative Council (Vidhan Parishad)

- A permanent body, like the Rajya Sabha; one-third of its members retire every two years.
- Its strength must not exceed one-third of the strength of the assembly, and not be less than 40.
- Members are partly elected (by local bodies, graduates, teachers and the assembly) and partly nominated by the Governor.
- It is a **secondary chamber** with limited powers — it can only delay legislation and cannot effectively block it.

Limited power of the Council Unlike the Rajya Sabha (which is co-equal with the Lok Sabha on most ordinary bills), the Legislative Council can delay an ordinary bill for a maximum of about four months. There is **no joint sitting** at the state level to resolve a deadlock; the will of the assembly ultimately prevails.

Powers and Limitations of the Legislative Council

The Legislative Council is a weaker chamber than the Legislative Assembly. In respect of an ordinary bill, the Council can only delay it for a maximum of about four months (three months on the first occasion and one month when the bill comes again); thereafter the will of the assembly prevails, and there is no provision for a joint sitting. In respect of a Money Bill, the Council has even less power — it can only make recommendations within fourteen days, which the assembly may accept or reject. The Council cannot remove the Council of Ministers, since the ministers are responsible only to the assembly.

Arguments for and against a second chamber Supporters of the Legislative Council argue that it provides a forum for experienced persons and experts (through nomination and special electorates) and acts as a revising chamber that checks hasty legislation. Critics argue that it is an expensive and largely powerless body that merely delays legislation and serves to accommodate defeated or favoured politicians, which is why several states have abolished theirs.

Creation and Abolition of the Legislative Council

The Constitution provides for a flexible scheme: a Legislative Council may be created or abolished by Parliament if the Legislative Assembly of the state passes a resolution to that effect by a special majority. The composition of the Council reflects a mix of indirect election and nomination: about one-third of its members are elected by local bodies, one-twelfth by graduates, one-twelfth by teachers, one-third by the members of the assembly, and the remainder are nominated by the Governor from persons distinguished in literature, science, art, the cooperative movement and social service. This composition is designed to bring experience and expertise into the legislative process.

A permanent but weaker house Like the Rajya Sabha, the Legislative Council is a continuing chamber that is not subject to dissolution, with one-third of its members retiring every two years. But it is far weaker than the Rajya Sabha relative to its assembly, since it cannot ultimately prevent the passage of even an ordinary bill and has no effective power over money bills.

The Composition of the State Legislature

The state legislature consists of the Governor and either one House (the Legislative Assembly) or two Houses (the Legislative Assembly and the Legislative Council). The Legislative Assembly consists of members directly elected from territorial constituencies on the basis of universal adult franchise, with a normal term of five years. The maximum strength of an assembly is five hundred and the minimum sixty (with some smaller assemblies for particular states). The Governor may nominate one member from the Anglo-Indian community in the past, a provision that has since lapsed. Seats are reserved for the Scheduled Castes and the Scheduled Tribes in proportion to their population.

Powers of the Assembly over the Council In a bicameral state legislature, the Legislative Assembly is by far the more powerful House. Over an ordinary bill, the Council can delay but not ultimately prevent passage, and there is no provision for a joint sitting to resolve a deadlock; over a money bill, the Council can only make recommendations within fourteen days. The Council also has no role in the survival of the government, which is responsible only to the assembly.

Exam Pointers Council creation/abolition under Article 169 (special-majority assembly resolution, then Parliament — simple majority). Council strength: $\leq 1/3$ of the assembly, ≥ 40 . No joint sitting at the state level. The Council is a weak second chamber.

High Court

Articles 214 to 231 — the apex court of a state and a court of record.

The High Court stands at the head of the judiciary in a state. It is the second-highest tier of the integrated judicial system; below it are the subordinate courts, and above it is the Supreme Court. The institution of the High Court originated in India in 1862, when High Courts were established at Calcutta, Bombay and Madras. Articles 214 to 231 contain the provisions relating to the organisation, jurisdiction, powers and independence of the High Courts.

Composition and Appointment

- Each High Court consists of a Chief Justice and such other judges as the President may from time to time appoint.
- Judges are appointed by the President; the collegium system governs the actual selection.
- **Qualifications:** a citizen of India who has held a judicial office for ten years, or has been an advocate of a High Court for ten years.
- A High Court judge holds office until the age of **62** and is removed by the same process as a Supreme Court judge.
- Under Article 231, Parliament can establish a **common High Court** for two or more states.

Jurisdiction and Powers

Power	Scope
Original jurisdiction	Matters of admiralty, will, marriage, contempt, and election petitions; also disputes relating to revenue.
Writ jurisdiction (Article 226)	Can issue writs for the enforcement of Fundamental Rights and for any other purpose — making it wider than the Supreme Court's Article 32.
Appellate jurisdiction	Hears appeals in civil and criminal matters from subordinate courts.
Supervisory jurisdiction (Article 227)	Power of superintendence over all courts and tribunals within its territorial jurisdiction.
Court of record (Article 215)	Records of its proceedings are of evidentiary value; can punish for contempt.

Why Article 226 is wider than Article 32 The Supreme Court's writ power under Article 32 is itself a Fundamental Right and is available only for the enforcement of Fundamental Rights. The High Court's writ power under Article 226 extends to the enforcement of Fundamental Rights *and* ordinary legal rights — "for any other purpose." Hence the High Court's writ jurisdiction is broader in scope.

The High Court in the Judicial System

The High Court occupies a pivotal position: it is at once a constitutional court (through its writ jurisdiction under Article 226), the highest court of appeal in the state, and the supervisor and controller of the entire subordinate judiciary (Articles 227 and 235). Its independence is secured by devices similar to those protecting the Supreme Court — the mode of appointment through the collegium, security of tenure, charged salaries, and a difficult removal procedure. The transfer of High Court judges (Article 222) is effected by the President in consultation with the collegium.

A flexible institution The Constitution permits great flexibility in the organisation of the High Courts: a single High Court may serve two or more states or a state and a union territory (Article 231), the jurisdiction of a High Court may be extended or restricted by Parliament, and benches may be located at places other than the principal seat to bring justice closer to litigants.

Jurisdiction and Powers of the High Court

The High Court combines several jurisdictions: original jurisdiction in certain matters; an extensive writ jurisdiction under Article 226 (wider than the Supreme Court's, since it extends to the enforcement of ordinary legal rights as well as Fundamental Rights); appellate jurisdiction in civil and criminal matters; supervisory jurisdiction over all courts and tribunals within its territory under Article 227; and control over the subordinate judiciary under Article 235. As a court of record, it has the power to punish for contempt. These powers together make the High Court the principal guardian of the rule of law within the state.

Article 226 vs Article 32 A litigant may approach the High Court under Article 226 for the enforcement of both Fundamental Rights and other legal rights, whereas the Supreme Court's writ jurisdiction under Article 32 is confined to the enforcement of Fundamental Rights. The High Court's writ jurisdiction is therefore wider in scope, which is why most writ petitions are first filed in the High Court.

The Position of the High Court in the Constitution

The Constitution provides for a High Court for each state, though Parliament may establish a common High Court for two or more states or for a state and a union territory. Each High Court consists of a Chief Justice and such other judges as the President may from time to time appoint. The judges are appointed by the President in consultation with the collegium, hold office until the age of sixty-two, and can be removed only through the same process as a judge of the Supreme Court. The High Court is a court of record and is the highest court of the state, exercising original, appellate, writ, supervisory and control jurisdictions.

Transfer of judges Article 222 empowers the President to transfer a judge from one High Court to another, in consultation with the collegium. Although the power has at times been controversial — particularly

when transfers have been perceived as punitive — the settled position is that transfers must be made in the public interest and not as a punishment, and that the consent of the judge, while desirable, is not a legal precondition.

Exam Pointers Oldest High Courts: Calcutta, Bombay, Madras (1862); Calcutta is the oldest. Retirement age 62. Article 226 wider than Article 32. Article 227 = power of superintendence. Common High Court possible under Article 231.

State Judiciary (Subordinate Courts)

Articles 233 to 237 — the district and lower courts that deliver everyday justice.

Below the High Court, there is a hierarchy of subordinate courts in each state, often called the district courts and other lower courts. They function below and under the control of the High Court. Articles 233 to 237 in Part VI of the Constitution make provisions to regulate the organisation of subordinate courts and to ensure their independence from the executive.

Structure of the Subordinate Courts

- At the top of the subordinate judiciary in a district is the **District and Sessions Judge** — exercising both civil (as District Judge) and criminal (as Sessions Judge) jurisdiction.
- Below the District Judge are courts of **civil jurisdiction** (such as the Subordinate Judge and Munsiff) and courts of **criminal jurisdiction** (such as the Chief Judicial Magistrate and Judicial Magistrates).

Appointment and Control

- **Article 233:** the appointment, posting and promotion of district judges is made by the **Governor** in consultation with the High Court.
- **Article 234:** the recruitment of persons other than district judges to the judicial service is made by the Governor in accordance with the rules made after consulting the State Public Service Commission and the High Court.
- **Article 235:** the High Court has **control** over the district courts and the courts subordinate to them (posting, promotion, leave, discipline).

Independence of the lower judiciary By placing the control of the subordinate judiciary in the hands of the High Court (Article 235), the Constitution insulates the lower courts from executive interference, advancing the directive in Article 50 — the separation of the judiciary from the executive.

Reforms in the Subordinate Judiciary

The subordinate judiciary is the tier of the justice system with which ordinary citizens interact most. Concerns about delay, vacancies and pendency have prompted reforms such as the establishment of fast-track courts, the computerisation of court records, the creation of an all-India judicial service (proposed under Article 312 but not yet established), and measures to improve the recruitment, training and infrastructure of the lower courts. The independence of this tier is secured by placing its control in the hands of the High Court (Article 235), insulating it from the executive.

The proposed All-India Judicial Service Article 312 permits the creation of an All-India Judicial Service (for posts not below that of a district judge) on a resolution of the Rajya Sabha. Successive Law Commissions and committees have recommended it to improve the quality and uniformity of the subordinate judiciary, but it has not yet been established owing to concerns expressed by some states and High Courts.

Structure and Independence of the District Judiciary

The subordinate courts are organised in a hierarchy, with the District Judge at the apex of the district, exercising both original and appellate jurisdiction in civil and criminal matters. The appointment, posting and promotion of district judges are made by the Governor in consultation with the High Court (Article 233), and the control over the district courts and the courts subordinate to them — including posting, promotion and the grant of leave — is vested in the High Court (Article 235). This insulation of the subordinate judiciary from the executive is a key guarantee of its independence.

Separation of the judiciary from the executive Article 50, a Directive Principle, requires the state to take steps to separate the judiciary from the executive in the public services. This separation, largely achieved, ensures that those who adjudicate are not subordinate to those who prosecute or administer — a cornerstone of the rule of law.

The Hierarchy of the Subordinate Courts

Below the High Court lies the hierarchy of the subordinate courts, which handle the bulk of litigation in the country. On the civil side, the District Judge stands at the apex of the district, with subordinate judges and munsifs below; on the criminal side, the Sessions Judge is at the apex, with the various classes of magistrates below. The District Judge usually combines the functions of the highest civil and criminal court of the district, being designated the District and Sessions Judge. The appointment, posting and promotion of district judges are governed by Articles 233 and 234, and the control over the subordinate judiciary is vested in the High Court by Article 235.

Recruitment of district judges Article 233 provides that the appointment of district judges is made by the Governor in consultation with the High Court, and that a person not already in government service may be appointed a district judge if he has been an advocate or a pleader for not less than seven years and is recommended by the High Court. The recruitment of other members of the subordinate judiciary is made under Article 234 in accordance with rules framed after consultation with the State Public Service Commission and the High Court.

Exam Pointers District judges appointed by the Governor in consultation with the High Court (Art. 233). The High Court controls the subordinate judiciary (Art. 235). The District and Sessions Judge is the highest judicial authority in a district.

Tribunals

Articles 323A and 323B — quasi-judicial bodies for speedy, specialised adjudication.

Originally, the Constitution did not contain provisions with respect to tribunals. The **42nd Amendment Act, 1976**, on the recommendation of the Swaran Singh Committee, added a new Part XIV-A with two articles — Article 323A (administrative tribunals) and Article 323B (tribunals for other matters). Tribunals are quasi-judicial bodies set up to reduce the burden on the regular courts and to provide speedy and inexpensive justice with the help of subject experts.

Administrative Tribunals (Article 323A)

- Article 323A empowers Parliament to provide for the establishment of administrative tribunals for adjudicating disputes relating to recruitment and conditions of service of persons in public services.
- Under this, the **Administrative Tribunals Act, 1985**, established the **Central Administrative Tribunal (CAT)** and provided for State Administrative Tribunals.
- CAT exercises original jurisdiction in service matters of central government employees.

Tribunals for Other Matters (Article 323B)

Article 323B empowers Parliament and the state legislatures to provide for the establishment of tribunals for the adjudication of disputes relating to matters such as taxation, foreign exchange, industrial and labour disputes, land reforms, elections, food, and rent. Examples include the income tax appellate tribunal, the National Green Tribunal and various other specialised tribunals.

Judicial oversight — Chandra Kumar (1997) In **L. Chandra Kumar v. Union of India (1997)**, the Supreme Court held that the power of judicial review of the High Courts (Article 226/227) and the Supreme Court (Article 32) is part of the **basic structure** and cannot be excluded by setting up tribunals. Hence, decisions of tribunals are subject to scrutiny by the High Courts.

Reform of the Tribunal System

The proliferation of tribunals raised concerns about their independence, the qualifications of their members, the multiplicity of appellate routes, and the dilution of the High Courts' jurisdiction. In response, the Supreme Court (in cases such as Chandra Kumar and the NCLT/Madras Bar Association judgments) laid down that tribunals must be free from executive control in their composition and functioning, that appeals must lie to the constitutional courts, and that the High Courts' power of review cannot be ousted. Parliament has since rationalised and merged several tribunals to reduce their number.

Why tribunals exist Tribunals were created to provide speedy, inexpensive and specialised adjudication and to relieve the regular courts of a heavy and technical caseload. Their decisions are, however, always subject to the supervisory jurisdiction of the High Courts and the Supreme Court, so that the constitutional guarantee of judicial review is preserved.

The Administrative and Other Tribunals

The 42nd Amendment inserted Part XIV-A, comprising Article 323-A (administrative tribunals) and Article 323-B (tribunals for other matters). Under Article 323-A, Parliament enacted the Administrative Tribunals Act, 1985, establishing the Central Administrative Tribunal and the State Administrative Tribunals to adjudicate disputes relating to the recruitment and service conditions of public servants. Article 323-B permits the legislatures to set up tribunals for matters such as taxation, foreign exchange, industrial and labour disputes, land reforms, elections and rent. The aim was to relieve the regular courts and to provide speedy and specialised adjudication.

Chandra Kumar and judicial review In *L. Chandra Kumar* (1997), the Supreme Court held that the power of judicial review vested in the High Courts under Article 226 and in the Supreme Court under Article 32 is part of the basic structure and cannot be ousted by the tribunals. Tribunal decisions are therefore subject to review by a division bench of the High Court, preserving the supremacy of the constitutional courts.

The Distinction Between the Two Categories of Tribunals

The tribunals provided for in Part XIV-A fall into two categories. Under Article 323-A, Parliament alone may provide for administrative tribunals to adjudicate disputes relating to recruitment and conditions of service of public servants; only one tribunal for the centre and one for each state (or a joint tribunal) may be established, and no hierarchy of tribunals is contemplated. Under Article 323-B, the appropriate legislature — Parliament or a state legislature — may provide for tribunals for other specified matters such as taxation, foreign exchange, industrial and labour disputes, land reforms, elections, food, rent and tenancy; here a hierarchy of tribunals is permissible.

Preserving judicial review The constitutional validity of these provisions was upheld, but with the crucial qualification, established in *Chandra Kumar*, that the power of judicial review of the High Courts and the Supreme Court cannot be excluded. Appeals from the decisions of the tribunals therefore lie to a division bench of the High Court, and the tribunals function as supplementary to, rather than substitutes for, the constitutional courts.

Exam Pointers Tribunals added by the 42nd Amendment (Part XIV-A, Articles 323A and 323B) on the Swaran Singh Committee's recommendation. CAT under the 1985 Act. Tribunals' decisions are subject to High Court review (*Chandra Kumar*, 1997).

Consumer Commissions

A three-tier mechanism for simple, speedy redressal of consumer grievances.

To protect the interests of consumers and to provide a simple, speedy and inexpensive mechanism for the redressal of their grievances, a three-tier quasi-judicial machinery was established. Originally created under the Consumer Protection Act, 1986, the framework has been modernised by the **Consumer Protection Act, 2019**, which also created the Central Consumer Protection Authority (CCPA) to regulate matters relating to consumer rights, unfair trade practices and misleading advertisements.

The Three Tiers

Forum	Level & jurisdiction
District Consumer Disputes Redressal Commission	At the district level — handles complaints up to a prescribed pecuniary limit.
State Consumer Disputes Redressal Commission	At the state level — handles higher-value complaints and appeals from the district commission.
National Consumer Disputes Redressal Commission	At the national level — handles the highest-value complaints and appeals from the state commissions.

Salient Features of the 2019 Act

- Establishment of the **Central Consumer Protection Authority (CCPA)** to promote and enforce consumer rights.
- Provisions for **product liability** and for action against misleading advertisements.
- Recognition of **e-commerce** and direct selling within the consumer-protection framework.
- Provision for **mediation** as an alternative dispute-resolution mechanism.

Consumer Rights and the 2019 Framework

The consumer-protection framework recognises six basic consumer rights: the right to safety, the right to be informed, the right to choose, the right to be heard, the right to seek redressal, and the right to consumer education. The Consumer Protection Act, 2019 modernised the machinery to meet the challenges of e-commerce and digital transactions: it created the Central Consumer Protection Authority (CCPA) to act against unfair trade practices and misleading advertisements, introduced the concept of

product liability, provided for mediation cells attached to the commissions, and enhanced the pecuniary jurisdiction of each tier.

A quasi-judicial machinery The District, State and National Commissions are quasi-judicial bodies: they follow the principles of natural justice, can summon and enforce the attendance of parties, and pass enforceable orders, while offering a simpler and cheaper process than the regular civil courts.

The Three-Tier Consumer Dispute Machinery

The Consumer Protection Act establishes a three-tier quasi-judicial machinery: the District Consumer Disputes Redressal Commission, the State Commission, and the National Commission, each with a defined pecuniary jurisdiction, with appeals lying from the district to the state and from the state to the national level, and finally to the Supreme Court. The 2019 Act enhanced the pecuniary limits, provided for the filing of complaints electronically and at the consumer's place of residence, introduced mediation as an alternative, and created the Central Consumer Protection Authority to regulate matters affecting consumers at large, such as misleading advertisements and unfair trade practices.

Product liability and e-commerce A significant innovation of the 2019 Act is the concept of "product liability", which makes the manufacturer, the service provider and the seller liable for harm caused by a defective product or deficient service. The Act also brings e-commerce and direct selling within its scope, addressing the realities of the modern digital marketplace.

The Significance of the Consumer Protection Framework

The consumer-protection framework gives concrete expression to the idea that the buyer of goods and the recipient of services is entitled to protection against unfair, unsafe and deceptive practices. By providing a simple, speedy and inexpensive remedy through a three-tier quasi-judicial machinery, and by recognising a charter of consumer rights, the framework empowers the ordinary consumer against the superior bargaining power of producers and sellers. The 2019 Act modernised this framework to address the realities of e-commerce, misleading advertisements, and the global supply chains of the contemporary economy.

The Central Consumer Protection Authority A major innovation of the 2019 Act is the Central Consumer Protection Authority, a regulator empowered to protect and enforce the rights of consumers as a class. It can investigate violations, order the recall of unsafe goods and services, order reimbursement, impose penalties for misleading advertisements, and proceed against manufacturers, endorsers and publishers of such advertisements — moving consumer protection from purely individual redress towards collective regulatory enforcement.

Exam Pointers Three-tier: District, State, National Commissions. 1986 Act replaced by the 2019 Act. The 2019 Act created the CCPA and introduced product liability, e-commerce coverage and mediation.

Lok Adalats and Other Courts

Alternative forums that take justice to the doorstep of the people.

To make the constitutional promise of equal justice and free legal aid (Article 39A) a reality, several alternative institutions of justice have been created. The most prominent is the Lok Adalat — a forum where disputes pending in (or at the pre-litigation stage before) a court are settled amicably. Other forums include family courts, Gram Nyayalayas and fast-track courts, each designed to reduce delay and improve access.

Lok Adalats

- "Lok Adalat" means "People's Court." It is based on the Gandhian principle of settlement by conciliation and compromise.
- Lok Adalats were given statutory status under the **Legal Services Authorities Act, 1987**.
- An award (decision) of a Lok Adalat is deemed to be a **decree of a civil court** and is final and binding; no appeal lies against it.
- There is no court fee, and matters already settled can save the cost and time of regular litigation.

Other Forums

- **Permanent Lok Adalats** for public utility services (transport, postal, telegraph, etc.).
- **Family Courts** — set up under the Family Courts Act, 1984, for matrimonial and family disputes.
- **Gram Nyayalayas** — village courts established under the Gram Nyayalayas Act, 2008, for speedy and inexpensive justice in rural areas.
- **Fast-Track Courts** — for the speedy disposal of long-pending and sensitive cases.

Legal Services Authorities The Legal Services Authorities Act, 1987 created a nationwide network — NALSA (National), SLSAs (State), DLSAs (District) and Taluk Legal Services Committees — to provide free legal aid to the weaker sections and to organise Lok Adalats.

The Wider Architecture of Alternative Justice

Lok Adalats are one part of a wider movement to make justice accessible, speedy and inexpensive. The Legal Services Authorities Act, 1987 created a four-tier structure — the National Legal Services Authority (NALSA) at the apex, State Legal Services Authorities, District Legal Services Authorities and Taluk Legal Services Committees — to provide free legal aid to the weaker sections and to organise Lok Adalats. Permanent Lok Adalats deal with public-utility services, while Gram Nyayalayas and family courts

address rural and family disputes respectively. Together these institutions advance the constitutional promise of equal justice and free legal aid under Article 39-A.

Why Lok Adalat awards are final An award of a Lok Adalat is deemed to be a decree of a civil court and is final and binding on the parties, with no appeal — because the settlement is itself based on the consent and compromise of the parties. This finality is what makes the Lok Adalat a swift and effective mechanism for reducing the burden of litigation.

NALSA and the Free Legal Aid Machinery

The Legal Services Authorities Act, 1987 gives effect to Article 39-A, which directs the state to ensure that the operation of the legal system promotes justice on a basis of equal opportunity and to provide free legal aid so that no citizen is denied justice by reason of economic or other disabilities. The Act created a nationwide network — the National, State, District and Taluk legal services bodies — to provide free legal aid to eligible persons (including women, children, members of the Scheduled Castes and Tribes, victims of trafficking, persons with disabilities, and those in custody) and to organise Lok Adalats for the amicable settlement of disputes.

Permanent Lok Adalats For disputes relating to public utility services (such as transport, postal, telegraph, power and water supply), Permanent Lok Adalats have been established with the power not merely to facilitate a settlement but, where the parties fail to agree, to decide the dispute on its merits, provided it does not involve an offence. This gives them an adjudicatory power that ordinary Lok Adalats lack.

The Place of Lok Adalats in the Justice System

Lok Adalats are an important component of the alternative dispute resolution movement, which seeks to reduce the burden on the regular courts and to provide accessible, speedy and inexpensive justice. They are particularly suited to the settlement of disputes that are capable of compromise — such as motor-accident claims, matrimonial and family disputes, money-recovery matters, and disputes relating to public utility services. Because the award is based on the consent of the parties and is deemed to be a decree of a civil court that is final and binding with no appeal, the Lok Adalat avoids both the cost and the delay of conventional litigation.

Gram Nyayalayas Complementing the Lok Adalats, the Gram Nyayalayas Act, 2008 provides for the establishment of village courts at the intermediate panchayat level to provide access to justice to the citizens at their doorsteps and to ensure that justice is not denied to any citizen by reason of social, economic or other disabilities. These village courts exercise both civil and criminal jurisdiction and follow a summary and conciliatory procedure.

Exam Pointers Lok Adalats — statutory status under the Legal Services Authorities Act, 1987; award is a civil-court decree with no appeal. NALSA at the national level. Gram Nyayalayas Act, 2008. Article 39A is the directive principle behind free legal aid.

PART FIVE

Local Government

The third tier of Indian democracy — the panchayats in the villages and the municipalities in the towns and cities — given constitutional status in 1992, together with the special arrangements for union territories and for the scheduled and tribal areas.

Panchayati Raj

Part IX, Articles 243 to 243-O — democracy at the grassroots in rural India.

Panchayati Raj signifies the system of rural local self-government in India. "Local self-government" means the management of local affairs by local bodies elected by the local people. The Panchayati Raj system was given constitutional status by the landmark **73rd Constitutional Amendment Act of 1992**, which added Part IX ("The Panchayats") and the Eleventh Schedule to the Constitution. This amendment implemented Article 40 of the Directive Principles, which directs the State to organise village panchayats.

Evolution

- **Balwant Rai Mehta Committee (1957):** recommended a three-tier Panchayati Raj system; this became the basis of the system.
- **Ashok Mehta Committee (1977):** recommended a two-tier system and other reforms.
- Rajasthan was the first state to establish Panchayati Raj, inaugurated at Nagaur in 1959; Andhra Pradesh followed soon after.

Salient Features of the 73rd Amendment

Feature	Provision
Gram Sabha	A body consisting of all registered voters in a village — the foundation of the system.
Three-tier system	Village (Gram Panchayat), intermediate (Panchayat Samiti) and district (Zila Parishad) levels — the intermediate tier may be omitted in small states.
Reservation	Seats reserved for SCs and STs in proportion to their population; not less than one-third for women (many states now provide 50%).
Duration	A fixed term of five years; elections must be held within six months of dissolution.
State Election Commission	Conducts elections to the panchayats.
State Finance Commission	Reviews the financial position of the panchayats every five years.
Eleventh Schedule	Lists 29 functional items placed within the purview of the panchayats.

PESA Act, 1996 The provisions of Part IX were extended to the Fifth Schedule (tribal) areas through the **Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996** — the PESA Act — which gives Gram Sabhas in those areas significant powers over local resources and customs.

The Powers, Authority and Finances of Panchayats

Under Article 243-G, the state legislature may endow the panchayats with such powers and authority as are necessary to enable them to function as institutions of self-government, including the preparation of plans and the implementation of schemes for economic development and social justice in relation to the 29 subjects in the Eleventh Schedule. Their finances come from taxes, duties and fees they are authorised to levy, from grants-in-aid, and from the funds devolved on the recommendation of the State Finance Commission (Article 243-I), whose recommendations are also examined by the Union Finance Commission.

The gap between law and practice Despite the constitutional mandate, the actual empowerment of panchayats varies widely across states. Common shortcomings include inadequate devolution of "funds, functions and functionaries" (the "three Fs"), excessive control by the state bureaucracy, irregular elections in some states, and limited own-source revenue — issues that successive committees have urged states to address.

The Three-Tier Structure and Reservations

The 73rd Amendment provides for a three-tier structure of panchayats — at the village, intermediate and district levels — though states with a population not exceeding twenty lakh may dispense with the intermediate level. It mandates regular elections every five years conducted by the State Election Commission, the reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population, and the reservation of not less than one-third of the seats (and of the offices of chairperson) for women. It also provides for a State Finance Commission to review the financial position of the panchayats every five years.

The exempted areas The provisions of Part IX do not apply to the Fifth and Sixth Schedule areas, to certain other regions such as the hill areas of Manipur and the Darjeeling Gorkha Hill Council region, and originally to Nagaland, Meghalaya and Mizoram. For the scheduled areas, the panchayati raj system was extended separately through the PESA Act, 1996, with special protections for the Gram Sabha.

The Gram Sabha and the Spirit of Self-Government

At the foundation of the panchayati raj system lies the Gram Sabha — the body consisting of all the persons registered in the electoral rolls of a village within the area of a panchayat. The Constitution leaves it to the state legislature to determine the powers and functions of the Gram Sabha, but in the spirit of the 73rd Amendment it is meant to be the primary body of direct democracy at the village level, exercising powers of supervision and accountability over the elected panchayat. In the scheduled areas, the PESA Act, 1996 confers on the Gram Sabha substantial powers over land, natural resources and customary practices.

The 29 subjects of the Eleventh Schedule The Eleventh Schedule, added by the 73rd Amendment, lists twenty-nine subjects — including agriculture, land improvement, minor irrigation, animal husbandry, fisheries, rural housing, drinking water, roads, rural electrification, poverty alleviation, education, health and the public distribution system — in relation to which the state legislature may devolve powers and responsibilities on the panchayats so that they may function as institutions of self-government.

Exam Pointers 73rd Amendment (1992); Eleventh Schedule (29 subjects). Balwant Rai Mehta Committee → three-tier. Rajasthan was the first state (1959, Nagaur). One-third reservation for women. PESA Act (1996) extends panchayats to Fifth Schedule areas.

Municipalities

Part IX-A, Articles 243-P to 243-ZG — urban local self-government.

Municipalities are the institutions of urban local self-government. They were given constitutional status by the **74th Constitutional Amendment Act of 1992**, which added Part IX-A ("The Municipalities") and the Twelfth Schedule to the Constitution. This amendment is the urban counterpart of the 73rd Amendment and gave a constitutional foundation to the governance of India's growing towns and cities.

The Three Types of Municipalities

Body	For an area that is...
Nagar Panchayat	A "transitional area" — being transformed from rural to urban.
Municipal Council	A smaller urban area.
Municipal Corporation	A larger urban area.

Salient Features

- **Wards Committees** in municipalities with a population of three lakh or more.
- **Reservation** of seats for SCs, STs and women (not less than one-third), as in the panchayats.
- A fixed term of **five years**; elections conducted by the State Election Commission.
- A **State Finance Commission** reviews the finances of municipalities.
- **District Planning Committees** (Article 243-ZD) and **Metropolitan Planning Committees** (Article 243-ZE) prepare development plans.
- The **Twelfth Schedule** lists 18 functional items within the purview of the municipalities.

Other urban bodies Besides the statutory municipal bodies, urban areas may also be served by special-purpose agencies such as town area committees, cantonment boards, port trusts, notified area committees and development authorities.

Planning Committees and Urban Governance

The 74th Amendment provided for two planning bodies to integrate rural and urban development: the **District Planning Committee** (Article 243-ZD), which consolidates the plans prepared by the panchayats and the municipalities in the district, and the **Metropolitan Planning Committee** (Article 243-ZE) for met-

ropolitan areas with a population of ten lakh or more. Under Article 243-W, the state legislature may endow municipalities with powers in relation to the 18 subjects in the Twelfth Schedule, including urban planning, water supply, public health, sanitation and slum improvement.

Challenges of urban local government Indian municipalities face the challenges of rapid urbanisation, weak finances, dependence on state transfers, and the parallel existence of para-statal development authorities and special-purpose agencies that often dilute the authority of the elected municipal bodies. Strengthening municipal finance and autonomy remains a central concern of urban reform.

Composition and Reservations in Municipalities

The 74th Amendment provides for three types of urban local bodies — the Nagar Panchayat for an area in transition from rural to urban, the Municipal Council for a smaller urban area, and the Municipal Corporation for a larger urban area. As with the panchayats, it mandates elections every five years by the State Election Commission, the reservation of seats for the Scheduled Castes and Tribes in proportion to population, and the reservation of not less than one-third of the seats and chairperson offices for women. It also provides for Ward Committees in larger municipalities to bring governance closer to the people.

Wards Committees and District/Metropolitan Planning Committees The amendment created a chain of planning bodies: Ward Committees within large municipalities, District Planning Committees to consolidate the plans of the rural and urban bodies in a district, and Metropolitan Planning Committees for large metropolitan areas — an institutional attempt to integrate development planning from the ward up to the metropolis.

The Twelve Subjects and the Functioning of Municipalities

The Twelfth Schedule, added by the 74th Amendment, lists eighteen subjects — including urban planning, the regulation of land use, the planning for economic and social development, roads and bridges, water supply, public health and sanitation, fire services, urban forestry, the protection of the environment, slum improvement, urban poverty alleviation, and the provision of urban amenities — in relation to which the state legislature may endow the municipalities with the powers and responsibilities necessary to enable them to function as institutions of self-government. The actual devolution, however, varies considerably from state to state.

The challenge of municipal finance The effective functioning of urban local bodies depends critically on their financial autonomy, which remains a persistent weakness. Municipalities depend heavily on transfers from the state government, their own sources of revenue are limited, and the recommendations of the State Finance Commissions on the devolution of resources have often been inadequately implemented. Strengthening municipal finance is therefore central to realising the promise of the 74th Amendment.

Exam Pointers 74th Amendment (1992); Twelfth Schedule (18 subjects). Three types — Nagar Panchayat, Municipal Council, Municipal Corporation. District and Metropolitan Planning Committees. One-third reservation for women.

Union Territories

Articles 239 to 241 — the centrally administered areas of the Indian Union.

The Union Territories are areas that are administered directly by the central government, in contrast to the states, which have their own elected governments enjoying a constitutional division of powers with the centre. The creation of Union Territories was justified on grounds such as political and administrative considerations, cultural distinctiveness, strategic importance, and the special treatment of backward and tribal people. Articles 239 to 241 in Part VIII of the Constitution deal with the Union Territories.

Administration

- Every Union Territory is administered by the President acting through an **administrator**, who is variously designated a Lieutenant Governor or an Administrator (Article 239).
- Some Union Territories — **Delhi (NCT)**, **Puducherry** and **Jammu & Kashmir** — have their own legislative assemblies and councils of ministers, but with powers more limited than those of the states.
- Parliament can make laws on any subject (of the three lists) for the Union Territories, even on subjects in the State List.

Special Provisions for Delhi (Article 239-AA)

The 69th Constitutional Amendment Act (1991) gave Delhi a special status as the National Capital Territory (NCT) of Delhi, with a Legislative Assembly and a Council of Ministers. However, the assembly cannot legislate on the subjects of public order, police and land, which remain with the centre. The relationship between the elected government and the Lieutenant Governor of Delhi has been the subject of significant litigation.

Reorganisation of Jammu & Kashmir (2019) The Jammu and Kashmir Reorganisation Act, 2019 reorganised the former state of Jammu & Kashmir into two Union Territories — Jammu & Kashmir (with a legislature) and Ladakh (without a legislature) — following the abrogation of the special status under Article 370.

The Special Case of Delhi and the Litigation over Services

The governance of the National Capital Territory of Delhi has generated significant constitutional litigation over the division of powers between the elected government and the Lieutenant Governor. The Supreme Court has clarified that the Lieutenant Governor is bound by the aid and advice of the Council of Ministers except in the three reserved matters (police, public order and land), and that the elected government has

primacy over most areas of administration — although the precise control over services has been the subject of further constitutional and legislative developments.

Categories of union territories The union territories fall into two broad categories: those with a legislature and a council of ministers (Delhi, Puducherry and Jammu & Kashmir), which enjoy a measure of self-government but with the centre retaining significant control; and those administered wholly by the centre through an administrator (such as Chandigarh, Ladakh, and the island territories).

Administration of the Union Territories

Article 239 provides that every union territory is administered by the President acting through an administrator appointed by him, who may be designated as a Lieutenant Governor or an Administrator. The Constitution permits Parliament to create local legislatures and councils of ministers for the union territories, as it has done for Delhi (under Article 239-AA), Puducherry and Jammu and Kashmir. The Supreme Court can have jurisdiction extended to the union territories, and Parliament can make laws on any subject for them, including subjects in the State List.

The High Courts of the union territories Some union territories fall within the jurisdiction of the High Court of a neighbouring state (for example, Chandigarh under the Punjab and Haryana High Court), while Delhi and Jammu and Kashmir have their own High Courts. This reflects the flexible constitutional arrangements for the administration of justice in the union territories.

The Constitutional Status and Administration of the UTs

The union territories are centrally administered areas that, for reasons of strategic importance, small size, distinct culture, or other special circumstances, were not made full-fledged states. They are administered by the President through administrators of differing designations, and Parliament has plenary power to legislate for them, including on subjects in the State List. Some union territories have been granted a measure of self-government through a legislature and a council of ministers, but with the centre retaining significant powers, while others are administered directly without any local legislature.

The special position of Delhi The National Capital Territory of Delhi occupies a unique position under Article 239-AA, inserted by the 69th Amendment, which gives it a Legislative Assembly and a Council of Ministers with powers over all matters in the State and Concurrent Lists except public order, police and land, which remain with the centre. The precise distribution of powers between the elected government of Delhi and the Lieutenant Governor has been the subject of significant constitutional litigation and legislative change.

Exam Pointers Administered by the President through an administrator/Lieutenant Governor (Art. 239). Delhi (NCT) special status under Article 239-AA (69th Amendment, 1991) — police, public order and land excluded. Puducherry, Delhi and J&K have legislatures.

Scheduled and Tribal Areas

The Fifth and Sixth Schedules — special administration for tribal communities.

The Constitution makes special provisions for the administration of certain areas designated as "scheduled areas" and "tribal areas." These areas are inhabited by tribal populations, and the special arrangements are designed to protect their distinctive culture, customs, land and economic interests from exploitation, and to promote their welfare. Article 244 provides for the administration of these areas through the Fifth Schedule and the Sixth Schedule.

Fifth Schedule

- Provides for the administration and control of the **scheduled areas and scheduled tribes** in states other than Assam, Meghalaya, Tripura and Mizoram.
- The executive power of the centre extends to giving directions to the states regarding the administration of these areas.
- The Governor of the state has special responsibilities and reports annually to the President.
- A **Tribes Advisory Council** (of up to 20 members, three-fourths being representatives of the scheduled tribes) advises on the welfare and advancement of the scheduled tribes.

Sixth Schedule

- Provides for the administration of the **tribal areas in the four north-eastern states — Assam, Meghalaya, Tripura and Mizoram.**
- These areas are administered through **Autonomous District Councils** and **Autonomous Regional Councils**, which enjoy considerable legislative, judicial, executive and financial powers.
- The councils can make laws on land, forests, marriage, inheritance and social customs, and can constitute village courts to try certain disputes.

Fifth vs Sixth Schedule The Fifth Schedule applies to scheduled areas in states *other than* the four north-eastern states named above, and operates largely through the Governor and the Tribes Advisory Council. The Sixth Schedule applies *only* to the tribal areas of Assam, Meghalaya, Tripura and Mizoram, and operates through autonomous councils with real self-governing powers.

PESA and the Forest Rights Act

Two important laws strengthen tribal self-governance in the scheduled areas. The **Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)** extends the panchayati raj system to the Fifth Schedule areas while recognising the powers of the Gram Sabha over natural resources,

minor forest produce, land and customary practices. The **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** recognises the rights of forest-dwelling communities over land and forest resources they have traditionally used. Together they aim to give tribal communities a real say in the management of their lands and resources.

Two distinct schedules, two distinct mechanisms The Fifth Schedule relies on the Governor's special role and the Tribes Advisory Council, and applies to scheduled areas across many states; the Sixth Schedule creates genuinely self-governing Autonomous District and Regional Councils, and applies only to the tribal areas of Assam, Meghalaya, Tripura and Mizoram.

The Administration of the Scheduled and Tribal Areas

The Fifth Schedule provides for the administration and control of the scheduled areas and the Scheduled Tribes in states other than the four north-eastern states. It casts a special responsibility on the Governor, who reports annually to the President on the administration of these areas, and provides for a Tribes Advisory Council to advise on matters concerning the welfare and advancement of the Scheduled Tribes. The Governor may direct that a particular law of Parliament or of the state legislature shall not apply, or shall apply with modifications, to a scheduled area, to protect tribal interests.

The Sixth Schedule councils The Sixth Schedule, applicable to the tribal areas of Assam, Meghalaya, Tripura and Mizoram, goes much further, creating Autonomous District Councils and Regional Councils with genuine legislative, executive, judicial and financial powers over matters such as land, forests, the administration of justice in tribal disputes, and the levy of certain taxes — a far stronger model of self-government than the Fifth Schedule's advisory machinery.

The Rationale of the Special Administrative Arrangements

The special arrangements for the scheduled and tribal areas rest on the recognition that the tribal communities have a distinct way of life, distinctive customs and institutions, and a special relationship with their land and forests, and that the ordinary administrative and legal arrangements may be ill-suited to protect their interests. The Fifth and Sixth Schedules therefore provide for a degree of protection and autonomy designed to shield tribal communities from exploitation and the loss of their land, and to allow them to manage their own affairs in accordance with their customs, while promoting their welfare and advancement.

The role of the Governor and the President In the Fifth Schedule areas, the Governor has a special role — reporting to the President on the administration of the scheduled areas, and empowered to direct that particular laws shall not apply or shall apply with modifications to protect tribal interests — while the President has the power to declare areas to be scheduled areas. In the Sixth Schedule areas, the autonomous councils exercise wide self-governing powers, with the Governor and the President exercising supervisory and appellate functions.

Exam Pointers Article 244 — Fifth and Sixth Schedules. Fifth Schedule — scheduled areas (other than the four NE states); Tribes Advisory Council; Governor's role. Sixth Schedule — Assam, Meghalaya, Tripura, Mizoram; Autonomous District Councils.

PART SIX

Constitutional Bodies

Institutions that owe their existence directly to the Constitution itself — the guardians of elections, recruitment, public finance, fiscal federalism and the rights of the disadvantaged. Because they are written into the Constitution, their status, powers and independence cannot be diluted by an ordinary law.

Election Commission

Article 324 — the independent guardian of free and fair elections.

The Election Commission of India is a permanent and independent body established by the Constitution to ensure free and fair elections in the country. Article 324 provides that the power of superintendence, direction and control of elections to Parliament, the state legislatures, the office of the President and the office of the Vice-President is vested in the Election Commission. It is a national body common to both the central and state governments.

Composition

- The Election Commission consists of the **Chief Election Commissioner (CEC)** and such number of other Election Commissioners as the President may from time to time fix.
- Since 1993 it has been a **multi-member body**, consisting of the CEC and two other Election Commissioners; they enjoy equal powers and decisions are taken by majority.
- They are appointed by the President; they hold office for six years or until the age of 65, whichever is earlier.

Independence and Removal

To secure its independence, the Constitution provides that the **Chief Election Commissioner** can be removed only in the same manner and on the same grounds as a judge of the Supreme Court (by an address of both Houses of Parliament passed by a special majority). The other Election Commissioners cannot be removed except on the recommendation of the CEC.

Functions

- Determining the territorial areas of constituencies and preparing the electoral rolls.
- Granting recognition to political parties and allotting election symbols.
- Notifying the schedule of elections and scrutinising nominations.
- Enforcing the **Model Code of Conduct** during elections.
- Advising the President and Governors on matters relating to the disqualification of members.

The Election Commission does not run local body elections The Election Commission of India conducts elections to Parliament, state legislatures, and the offices of President and Vice-President. Elections to the panchayats and municipalities are conducted by the separate **State Election Commissions**, established under the 73rd and 74th Amendments.

Independence and Powers of the Commission

The independence of the Election Commission rests on the security of tenure of the Chief Election Commissioner (removable only like a Supreme Court judge), service conditions that cannot be varied to disadvantage, and the constitutional vesting of the conduct of elections in the Commission. During elections the Commission enforces the Model Code of Conduct, can transfer officials, regulate campaign conduct, and even postpone or countermand a poll. It also registers political parties, allots symbols, and decides disputes over splits and mergers of parties.

Areas of reform Concerns about the Commission's independence have centred on the process of appointing the Election Commissioners. In response to litigation, a framework involving a high-level selection committee has been put in place, reflecting the continuing effort to insulate the Commission from executive influence and to enhance public confidence in the fairness of elections.

Composition, Tenure and Removal

The Election Commission consists of the Chief Election Commissioner and such other Election Commissioners as the President may fix; since 1993 it has functioned as a three-member body. The commissioners hold office for six years or until the age of sixty-five, whichever is earlier. The Chief Election Commissioner can be removed only in the same manner and on the same grounds as a judge of the Supreme Court — that is, by an order of the President following an address by both Houses of Parliament supported by a special majority — whereas the other Election Commissioners can be removed by the President only on the recommendation of the Chief Election Commissioner. This asymmetry has been the subject of debate.

Functions across three domains The Commission's functions are administrative (preparing rolls, conducting polls, allotting symbols, enforcing the Model Code), advisory (advising the President and Governors on questions of disqualification of sitting members), and quasi-judicial (deciding disputes over the recognition of parties and the allotment of symbols, and over splits and mergers).

The Independence and the Significance of the Commission

The Election Commission is one of the most important institutions of Indian democracy, for the legitimacy of the entire political system rests on the conduct of free and fair elections. Its independence is secured by the constitutional status of the office, the security of tenure of the Chief Election Commissioner, and the charging of the commissioners' salaries on the Consolidated Fund. Over the decades the Commission has progressively asserted its authority — enforcing the Model Code of Conduct, regulating campaign finance and conduct, introducing electronic voting and the VVPAT, and acting firmly against electoral malpractices — and has earned wide respect for the credibility of Indian elections.

The selection of the commissioners The manner of appointing the Election Commissioners had long been a matter of debate, since the Constitution left it to be regulated by law and, in the absence of such a law, to the executive. Following judicial intervention, a statutory framework involving a high-level selection committee has been put in place, intended to insulate the appointments from purely executive control and to enhance public confidence in the impartiality of the Commission.

Exam Pointers Article 324; multi-member since 1993. CEC removed like a Supreme Court judge; other ECs only on the CEC's recommendation. Model Code of Conduct. Local body elections → State Election Commission.

Union Public Service Commission

Articles 315 to 323 — the central recruiting agency and the watchdog of the merit system.

The Union Public Service Commission (UPSC) is the central recruiting agency in India. It is an independent constitutional body, established under Articles 315 to 323 in Part XIV. The UPSC conducts examinations for appointment to the All-India Services, the central services and the public services of the centrally administered territories, and advises the government on a range of personnel matters.

Composition

- The UPSC consists of a chairman and other members appointed by the **President**.
- The Constitution does not specify the strength; it authorises the President to determine it.
- About one-half of the members should be persons who have held office under the Government of India or a state for at least ten years.
- Members hold office for a term of **six years** or until they attain the age of **65 years**, whichever is earlier.

Functions

- Conducting examinations for appointment to the services of the Union.
- Assisting states in framing and operating schemes of joint recruitment (if requested).
- Advising on all matters relating to methods of recruitment, principles of promotion and transfer, and disciplinary matters.
- Presenting an **annual report** on its work to the President, which is laid before Parliament.

A limited advisory body The advice tendered by the UPSC is only of an advisory nature and is **not binding** on the government. However, the government must lay before Parliament a memorandum explaining the cases where the advice of the commission was not accepted, so that Parliament can hold the executive accountable.

Limitations and Role of the UPSC

While the UPSC is the watchdog of the merit system, its role is purely advisory and several matters fall outside its purview — for example, reservations and the representation of backward classes are decided by the government, and certain posts and services may be excluded from its consultation by regulations. The government must, however, place before Parliament a memorandum explaining the cases in which the Commission's advice was not accepted, preserving accountability. The Commission's chairman and

members are insulated by a difficult removal procedure: removal only by the President, on the ground of misbehaviour, after a Supreme Court inquiry.

A bulwark of the civil service By conducting impartial competitive examinations and advising on appointments, promotions and disciplinary matters, the UPSC protects the permanent civil service from political patronage and helps to maintain the neutrality, integrity and continuity of administration that the framers prized.

Composition, Tenure and Functions of the UPSC

The Commission consists of a chairman and other members appointed by the President, holding office for six years or until the age of sixty-five, whichever is earlier. To secure their independence, their conditions of service cannot be varied to their disadvantage after appointment, and the expenses of the Commission are charged on the Consolidated Fund of India. The UPSC conducts the examinations for the all-India and central services, advises on methods of recruitment and on the principles to be followed in appointments, promotions and transfers, and is consulted on disciplinary matters affecting civil servants.

Restriction on re-employment To protect the impartiality of the Commission, the Constitution restricts the future employment of its members: the chairman of the UPSC is ineligible for further government employment, and a member is eligible to be appointed chairman of the UPSC or of a State Public Service Commission but for no other office under the government. These restrictions guard against the temptation to favour the executive in the hope of post-retirement office.

The UPSC and the Merit System

The Union Public Service Commission is the central recruiting agency for the all-India and central services and the guardian of the merit system in the public services. By conducting impartial competitive examinations and by advising the government on appointments, promotions, transfers and disciplinary matters, it protects the civil service from political patronage and helps to maintain a neutral, permanent and professional administration. Its advice is not binding, but the requirement that the government lay before Parliament a memorandum explaining any case in which its advice was not accepted preserves a measure of accountability.

Matters excluded from consultation Certain matters fall outside the purview of the UPSC: reservations for backward classes in appointments, the affairs of certain services and posts that may be excluded by regulations, and temporary or officiating appointments for periods not exceeding a year. The President can also exclude posts, services and matters from the purview of the Commission, subject to the regulations being laid before Parliament — illustrating that the Commission's role, though central, is defined and bounded.

Exam Pointers Articles 315–323; central recruiting agency. Members: 6 years or age 65. Chairman removed by the President on the ground of misbehaviour only after a Supreme Court inquiry. Advice is non-binding; reasons for non-acceptance are laid before Parliament.

State Public Service Commission

Articles 315 to 323 — the recruiting agency for the state services.

Parallel to the UPSC at the centre, the Constitution provides for a State Public Service Commission (SPSC) in each state. The same articles (315 to 323) that deal with the UPSC also deal with the SPSC. The SPSC is the recruiting agency for the state services and the watchdog of the merit system at the state level.

Composition

- The SPSC consists of a chairman and other members appointed by the **Governor** of the state.
- The strength is left to the discretion of the Governor.
- Members hold office for a term of **six years** or until they attain the age of **62 years**, whichever is earlier (note the difference from the UPSC's 65).

Appointment and Removal — a key contrast

Although the chairman and members of the SPSC are **appointed by the Governor**, they can be **removed only by the President** (and not by the Governor). This safeguard, on the same grounds and in the same manner as the removal of UPSC members, secures the independence of the SPSC from the state executive.

Functions

The SPSC performs functions analogous to those of the UPSC, but in respect of the state services — conducting examinations, advising on recruitment, promotion, transfer and disciplinary matters, and submitting an annual report to the Governor, which is laid before the state legislature.

Joint State Public Service Commission The Constitution also provides for a **Joint State Public Service Commission (JSPSC)** for two or more states. Unlike the UPSC and the SPSC, which are constitutional bodies, the JSPSC is a **statutory body** created by an Act of Parliament on the request of the states concerned.

The Significance of the SPSC

The State Public Service Commission performs at the state level the same merit-protecting role that the UPSC performs at the centre. Its independence is secured by a crucial constitutional design: although its members are appointed by the Governor, they can be removed only by the President, and only on the ground of misbehaviour after an inquiry by the Supreme Court. This dual arrangement keeps the state

commission free from pressure by the state executive, which might otherwise be tempted to influence recruitment to the state services.

Constitutional vs statutory commissions The UPSC and the SPSC are constitutional bodies; the Joint State Public Service Commission, which two or more states may share, is a statutory body created by Parliament. A staff selection commission or recruitment board set up by a government for subordinate posts is neither — it is an executive body.

Independence and Functions of the SPSC

The State Public Service Commission consists of a chairman and members appointed by the Governor, holding office for six years or until the age of sixty-two, whichever is earlier. Although appointed by the Governor, they can be removed only by the President, on the same grounds and in the same manner as a member of the UPSC — a deliberate constitutional safeguard that places their removal beyond the reach of the state executive. The Commission conducts examinations for the state services and advises the state government on recruitment, promotion, transfer and disciplinary matters.

Re-employment of members As with the UPSC, the future employment of the members of the State Public Service Commission is restricted to preserve their impartiality: the chairman of an SPSC is eligible to become the chairman or a member of the UPSC, or the chairman of another SPSC, but is otherwise ineligible for further government employment.

The SPSC and the State Services

The State Public Service Commission is the constitutional body charged with the recruitment to the services of the state and with advising the state government on matters of appointment, promotion, transfer and discipline. Its constitutional design — appointment by the Governor but removal only by the President — is intended to give it independence from the state executive comparable to that which the UPSC enjoys at the centre. The Commission presents an annual report on its work to the Governor, who lays it before the state legislature together with a memorandum explaining any case in which the Commission's advice was not accepted.

The Joint State Public Service Commission The Constitution allows two or more states to have a Joint State Public Service Commission, which may be created by Parliament on the request of the state legislatures concerned. Unlike the UPSC and the SPSC, which are constitutional bodies, the Joint SPSC is a statutory body; its members are appointed by the President and are deemed to be members of an SPSC for the purposes of the constitutional provisions governing their conditions of service and removal.

Exam Pointers Appointed by the Governor but removable only by the President. Members: 6 years or age 62 (note: UPSC is 65). JSPSC is statutory, not constitutional. Annual report to the Governor → state legislature.

Finance Commission

Article 280 — the balancing wheel of fiscal federalism.

The Finance Commission is a quasi-judicial constitutional body established under Article 280. It is constituted by the President every **fifth year** or at such earlier time as the President considers necessary. Its primary task is to recommend the distribution of financial resources between the centre and the states, making it the key institution of fiscal federalism — the "balancing wheel" that keeps the financial relations between the two tiers in equilibrium.

Composition

- The Finance Commission consists of a chairman and four other members appointed by the President.
- They hold office for the period specified by the President and are eligible for reappointment.
- The qualifications and the manner of selection of the members are determined by Parliament.

Functions

The Finance Commission is required to make recommendations to the President on:

- The **distribution of the net proceeds of taxes** between the centre and the states (vertical devolution) and the allocation among the states (horizontal devolution).
- The principles that should govern the **grants-in-aid** to the states out of the Consolidated Fund of India.
- The measures needed to **augment the funds of the states** to supplement the resources of the panchayats and municipalities (on the basis of the recommendations of the State Finance Commissions).
- Any other matter referred to it by the President in the interests of sound finance.

Advisory in nature The recommendations made by the Finance Commission are only of an **advisory** nature and are not binding on the government. It is up to the central government to implement its recommendations on the distribution of revenues. The first Finance Commission was constituted in 1951 under the chairmanship of K. C. Neogy.

Vertical and Horizontal Devolution

The core task of the Finance Commission is to recommend how the divisible pool of central taxes should be shared. **Vertical devolution** determines the share of the states as a whole in the central taxes; **horizontal devolution** distributes that share among the individual states using a formula that typically weighs factors such as population, area, income distance (the gap between a state's per-capita income and the

highest), demographic performance and forest cover. The Commission also recommends grants-in-aid, including revenue-deficit grants and grants for local bodies and disaster management.

Finance Commission and NITI Aayog With the abolition of the Planning Commission, the Finance Commission has become the principal constitutional channel of resource transfer to the states, while the NITI Aayog acts as an advisory think-tank without fund-allocation powers. This has sharpened the focus on the recommendations of the Finance Commission in centre–state fiscal relations.

Composition and Quasi-Judicial Character

The Finance Commission is constituted by the President every fifth year, or earlier, and consists of a chairman and four other members. Parliament has prescribed the qualifications of the members: the chairman is chosen from among persons with experience in public affairs, and the members from among judges (or persons qualified to be judges) of a High Court, persons with knowledge of government finance and accounts, persons with experience in financial matters and administration, and persons with special knowledge of economics. The Commission has been described as a quasi-judicial body whose recommendations, though advisory, are almost always accepted by the government.

Terms of reference and grants In addition to recommending the distribution of taxes between the centre and the states (vertical) and among the states (horizontal), the Commission recommends the principles governing grants-in-aid to the states out of the Consolidated Fund, and measures to augment the funds of the states to supplement the resources of the panchayats and municipalities on the basis of the recommendations of the State Finance Commissions.

The Role of the Finance Commission in Fiscal Federalism

The Finance Commission is the principal constitutional instrument for maintaining fiscal balance in the federation. Because the centre commands the more elastic and productive sources of revenue while the states bear a large share of the responsibility for public services, a transfer of resources from the centre to the states is essential; the Finance Commission, as an impartial and expert body constituted every five years, recommends how this transfer should be effected. Its recommendations on the sharing of taxes and on grants-in-aid, though formally advisory, are in practice almost always accepted, giving it great influence over the fiscal relations of the federation.

A balancing institution By correcting both the vertical imbalance (between the centre and the states as a whole) and the horizontal imbalance (among the states of differing capacity and need), the Finance Commission helps to ensure that all states, including the poorer ones, can provide a reasonable standard of public services. With the abolition of the Planning Commission, its role as the constitutional channel of resource transfer has assumed even greater prominence.

Exam Pointers Article 280; constituted every five years. Chairman + 4 members. Recommends tax devolution and grants-in-aid. Recommendations are advisory. First chairman: K. C. Neogy (1951). After the 73rd/74th Amendments, it also looks at augmenting state funds for local bodies.

Goods and Services Tax Council

Article 279-A — pooled sovereignty in indirect taxation.

The Goods and Services Tax (GST) Council is a constitutional body established under Article 279-A, which was inserted by the **101st Constitutional Amendment Act, 2016**. The Council was created to administer and govern the GST regime, India's most ambitious indirect-tax reform, which subsumed a host of central and state taxes into a single tax with the slogan "One Nation, One Tax." The Council embodies the idea of cooperative federalism and "pooled sovereignty."

Composition

- The **Union Finance Minister** is the chairperson of the Council.
- The Union Minister of State in charge of revenue or finance is a member.
- The minister in charge of finance or taxation, or any other minister nominated by each state government, is a member.
- The members from the state governments choose one among themselves as the **Vice-Chairperson**.

Voting and Functions

In the GST Council, the centre has a weight of one-third of the total votes cast, and all the states together have a weight of two-thirds. Every decision must be taken by a majority of **not less than three-fourths** of the weighted votes of the members present and voting — a mechanism that ensures neither the centre nor the states alone can dominate. The Council makes recommendations on the taxes to be subsumed, the rates, exemptions, model GST laws, threshold limits and special provisions for certain states.

A unique federal experiment The GST Council is often cited as a model of cooperative federalism because both the centre and the states sit together and decide indirect-tax policy jointly. The Supreme Court has clarified that the Council's recommendations are **persuasive, not binding** — both the centre and states have the power to legislate on GST.

The Architecture of GST and Cooperative Federalism

The GST is a destination-based, multi-stage tax levied on the supply of goods and services, with credit for taxes paid at earlier stages. It is collected as Central GST and State GST on intra-state supplies, and as Integrated GST on inter-state supplies. The 101st Amendment required both the centre and the states to give up some of their taxing powers and to pool their sovereignty in the GST Council, making it a striking experiment in cooperative federalism. The Council's weighted-voting design — one-third for the

centre and two-thirds for the states, with a three-fourths threshold — ensures that neither side can act without substantial agreement from the other.

Recommendations are not binding In a 2022 ruling, the Supreme Court clarified that the recommendations of the GST Council are **persuasive and not binding**, since both Parliament and the state legislatures have simultaneous power to legislate on GST. The Court emphasised that Indian federalism contemplates a dialogue between the centre and the states rather than the dominance of one over the other.

The Composition and Voting in the GST Council

The GST Council, established under Article 279-A, is chaired by the Union Finance Minister and includes the Union Minister of State for Finance and a minister nominated by each state government. Decisions are taken by a majority of not less than three-fourths of the weighted votes of the members present and voting, with the centre's vote weighing one-third and the states' votes together weighing two-thirds of the total votes cast. A quorum of one-half of the total members is required. This design ensures that no decision can be taken without substantial agreement between the centre and a large body of states.

The Council's mandate The Council makes recommendations on the taxes to be subsumed under the GST, the goods and services that may be exempted, the model GST laws, the rates including floor rates with bands, and special provisions for certain states. It is thus the central institution of the GST regime and a leading example of pooled, cooperative federalism in the fiscal sphere.

The Significance of the GST Council in the Federal Scheme

The GST Council is a unique constitutional body in which the centre and the states sit together to take decisions on the most important indirect tax in the country. It embodies the principle of "pooled sovereignty", under which the two levels of government surrender a part of their independent taxing powers and exercise them jointly through a common forum. The weighted-voting design ensures that neither the centre nor any group of states can impose its will unilaterally, requiring instead a broad consensus. The Council has been widely cited as a model for cooperative federalism in other spheres.

Consensus in practice Although the Constitution provides for decision by a three-fourths majority of the weighted votes, the Council has, for the most part, taken its decisions by consensus, reflecting the spirit of cooperation that underlies the GST regime. The Supreme Court's clarification that the Council's recommendations are persuasive rather than binding has been understood as reinforcing, rather than undermining, this cooperative and dialogic character of fiscal federalism.

Exam Pointers Article 279-A; created by the 101st Amendment (2016). Chaired by the Union Finance Minister. Decisions need a three-fourths majority of weighted votes (centre = 1/3, states = 2/3). Recommendations are persuasive, not binding.

National Commission for Scheduled Castes

Article 338 — the constitutional protector of the Scheduled Castes.

48

The National Commission for Scheduled Castes (NCSC) is a constitutional body established under Article 338 to safeguard the interests of the Scheduled Castes. Initially, the Constitution provided for a single Special Officer (Commissioner) for SCs and STs. Later, a combined National Commission for SCs and STs was created, which was then bifurcated into two separate commissions by the **89th Constitutional Amendment Act, 2003** — one for SCs (Article 338) and one for STs (Article 338-A).

Composition

- The Commission consists of a chairperson, a vice-chairperson and three other members, all appointed by the **President**.
- Their conditions of service and tenure are determined by the President.

Functions

- To investigate and monitor all matters relating to the constitutional and legal safeguards for the SCs.
- To inquire into specific complaints regarding the deprivation of rights and safeguards.
- To participate in and advise on the planning of socio-economic development.
- To present annual and special reports to the President on the working of the safeguards.

Powers of a civil court While investigating any matter or inquiring into any complaint, the Commission has all the powers of a civil court — summoning witnesses, requiring documents, receiving evidence on affidavit, and so on. The Commission's functions also extend to other backward classes and Anglo-Indians in certain matters, as directed by the President.

Procedure and Reports of the Commission

While investigating any matter or inquiring into a complaint, the National Commission for Scheduled Castes has all the powers of a civil court — summoning witnesses, requiring the production of documents, receiving evidence on affidavit, and requisitioning public records. The central and state governments are required to consult the Commission on all major policy matters affecting the Scheduled Castes. The Commission submits annual and special reports to the President, which are laid before Parliament along with a memorandum explaining the action taken on its recommendations.

Constitutional safeguards monitored The Commission monitors the working of safeguards such as the reservation of seats and posts, the protections under the Protection of Civil Rights Act and the Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, and the special provisions for the educational and economic advancement of the Scheduled Castes.

Composition and Reporting of the NCSC

The National Commission for Scheduled Castes consists of a chairperson, a vice-chairperson and three other members appointed by the President. Its functions include investigating and monitoring the working of the constitutional and legal safeguards for the Scheduled Castes, inquiring into specific complaints of the deprivation of their rights, participating in and advising on the planning of their socio-economic development, and presenting reports to the President on the working of those safeguards. The central and state governments are required to consult the Commission on all major policy matters affecting the Scheduled Castes.

Other groups under its umbrella The Commission is also required to discharge similar functions with respect to the "other backward classes" and the Anglo-Indian community as the President may specify, and its functions in relation to certain other communities have been clarified over time, reflecting the evolving understanding of who the constitutional safeguards are meant to protect.

The NCSC and the Safeguards for the Scheduled Castes

The National Commission for Scheduled Castes is the constitutional watchdog for the rights and safeguards of the Scheduled Castes. It investigates and monitors the working of the safeguards, inquires into specific complaints of the violation of rights, and advises on and participates in the planning of the socio-economic development of the Scheduled Castes. Its reports to the President, laid before Parliament with action-taken memoranda, bring the condition of the Scheduled Castes and the working of the safeguards to the attention of the legislature, and the requirement of consultation on major policy decisions gives it a voice in governance.

The constitutional safeguards The safeguards whose working the Commission monitors include the abolition of untouchability (Article 17), the prohibition of discrimination (Article 15), equality of opportunity in public employment with provision for reservation (Article 16), the reservation of seats in the legislatures (Articles 330 and 332), the promotion of educational and economic interests (Article 46), and the protections under laws such as the Protection of Civil Rights Act and the Prevention of Atrocities Act.

Exam Pointers Article 338; separated from the STs commission by the 89th Amendment (2003). Chairperson + vice-chairperson + 3 members, appointed by the President. Civil-court powers. Reports to the President.

National Commission for Scheduled Tribes

Article 338-A — the constitutional protector of the Scheduled Tribes.

49

The National Commission for Scheduled Tribes (NCST) is a constitutional body established under Article 338-A. It came into being through the **89th Constitutional Amendment Act, 2003**, which bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate commissions. The NCST safeguards the interests of the Scheduled Tribes and monitors the implementation of the various protections provided to them.

Composition

Like the NCSC, the NCST consists of a chairperson, a vice-chairperson and three other members appointed by the President, with their tenure and conditions of service determined by the President.

Functions

- Investigating and monitoring matters relating to the safeguards provided for the STs.
- Inquiring into specific complaints regarding the deprivation of the rights of the STs.
- Advising on the planning process of socio-economic development and evaluating its progress.
- Matters relating to the **ownership rights of minor forest produce**, mineral and water resources of the STs, and the safeguarding of their land and resources under laws such as the Forest Rights Act, 2006.

Distinct concerns of the STs The NCST addresses concerns that are unique to the tribal communities, such as the rights over forest land and resources, the protection of tribal land from alienation, the prevention of illegal mining, and the welfare measures in the scheduled and tribal areas governed by the Fifth and Sixth Schedules.

Distinct Mandate over Tribal Resources

The National Commission for Scheduled Tribes carries a mandate that goes beyond that of the Scheduled Castes Commission, because the concerns of tribal communities are bound up with their land, forests and natural resources. The Commission monitors the implementation of laws such as the PESA Act, 1996 and the Forest Rights Act, 2006, examines measures to prevent the alienation of tribal land and to restore land that has been alienated, and advises on the conferment of ownership rights over minor forest produce. Like the Scheduled Castes Commission, it has the powers of a civil court and reports to the President.

Coordination in the scheduled areas In discharging its functions, the Commission works alongside the constitutional machinery for the scheduled and tribal areas under the Fifth and Sixth Schedules, including the Governors' special responsibilities and the Tribes Advisory Councils, to ensure that the development of tribal communities respects their distinct identity and customary rights.

The Bifurcation of 2003 and the NCST's Mandate

The National Commission for Scheduled Tribes came into being through the 89th Amendment (2003), which bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies. The NCST consists of a chairperson, a vice-chairperson and three other members. Beyond the functions common to the two commissions, the NCST has special responsibilities relating to the tribal way of life — the protection of tribal land and resources, the conferment of forest rights, the working of the autonomous councils, and measures to ensure that development does not displace or impoverish tribal communities.

Reports and consultation Like the NCSC, the NCST submits its reports to the President, which are laid before Parliament along with a memorandum on the action taken; the governments are bound to consult it on major policy decisions affecting the Scheduled Tribes. Its reports have drawn attention to issues such as land alienation, displacement by development projects, and the implementation of the Forest Rights Act.

The NCST and the Distinct Concerns of the Tribes

The National Commission for Scheduled Tribes was carved out as a separate body precisely because the concerns of the tribal communities, bound up with their land, forests and distinctive way of life, require focused attention. In addition to the functions it shares with the Scheduled Castes Commission, it has special responsibilities relating to the protection of tribal land and resources, the conferment of rights over minor forest produce, the working of the laws for the scheduled and tribal areas, and the prevention of the alienation and displacement of tribal communities by development projects.

Land, forests and displacement Among the most pressing issues the Commission addresses are the alienation of tribal land to non-tribals, the displacement of tribal communities by large development and mining projects, and the implementation of the protective laws such as PESA and the Forest Rights Act. Its reports have repeatedly drawn attention to the gap between the protective intent of the law and the reality on the ground, urging more effective implementation and rehabilitation.

Exam Pointers Article 338-A; created by the 89th Amendment (2003). Chairperson + vice-chairperson + 3 members. Special concern with forest rights and tribal resources. Civil-court powers; reports to the President.

National Commission for Backward Classes

Article 338-B — constitutional status for the protector of the OBCs.

50

The National Commission for Backward Classes (NCBC) was originally a statutory body set up under the National Commission for Backward Classes Act, 1993, following the Supreme Court's directions in the Mandal case (Indra Sawhney, 1992). It was given **constitutional status** by the **102nd Constitutional Amendment Act, 2018**, which inserted Article 338-B, placing it on the same footing as the commissions for the SCs and STs.

Composition

- The Commission consists of a chairperson, a vice-chairperson and three other members appointed by the **President**.
- Their conditions of service and tenure are determined by the President.

Functions

- To investigate and monitor matters relating to the safeguards provided for the socially and educationally backward classes.
- To inquire into specific complaints regarding the deprivation of their rights and safeguards.
- To advise on and evaluate the socio-economic development of the backward classes.
- To examine requests for inclusion of any class in the central list of backward classes and to hear complaints of over-inclusion or under-inclusion.

The 102nd Amendment and Article 342-A Along with constitutional status for the NCBC, the 102nd Amendment also inserted Article 342-A, which provides that the President shall specify the socially and educationally backward classes, and that any inclusion or exclusion from the central list shall be by an Act of Parliament. The 105th Amendment (2021) later restored the power of the states to maintain their own state lists of backward classes.

The Mandal Background and the 102nd Amendment

The institutional history of the National Commission for Backward Classes is rooted in the **Mandal Commission** report and the Supreme Court's judgment in **Indra Sawhney (1992)**, which upheld reservation for the Other Backward Classes subject to the exclusion of the "creamy layer" and a ceiling of fifty per cent. The statutory NCBC was created in 1993 to examine requests for inclusion in the central list of OBCs. The 102nd Amendment (2018) then raised the body to constitutional status and inserted Article

342-A, under which the President notifies the backward classes and any change in the central list is made by Parliament.

The 105th Amendment (2021) A controversy over whether the 102nd Amendment had taken away the states' power to identify their own backward classes was resolved by the 105th Amendment (2021), which expressly restored to the states and union territories the power to prepare and maintain their own state lists of socially and educationally backward classes.

From Statutory to Constitutional Body

The National Commission for Backward Classes was originally set up as a statutory body in 1993, following the Supreme Court's directions in *Indra Sawhney*, primarily to examine requests for the inclusion of communities in, or their exclusion from, the central list of Other Backward Classes. The 102nd Amendment (2018) raised it to a constitutional body by inserting Article 338-B and conferred on it the power to investigate and monitor the safeguards for the socially and educationally backward classes, to inquire into complaints, and to advise on their socio-economic development — functions parallel to those of the commissions for the Scheduled Castes and Tribes.

Identification of backward classes Article 342-A, inserted by the 102nd Amendment, provides for the President to specify the socially and educationally backward classes in relation to each state and union territory, with changes to the central list to be made by Parliament. The 105th Amendment (2021) clarified and restored the power of the states to maintain their own state lists of backward classes.

The NCBC and the Question of Backwardness

The National Commission for Backward Classes addresses the constitutional concern for the socially and educationally backward classes — communities that, while not subject to the historical disabilities of untouchability or the distinct circumstances of the tribes, suffer from social and educational backwardness that warrants special measures. Following its elevation to constitutional status by the 102nd Amendment, the Commission examines requests for inclusion in or exclusion from the lists of backward classes, monitors the safeguards, inquires into complaints, and advises on the socio-economic development of these classes.

The creamy layer and the ceiling Two principles, laid down in *Indra Sawhney*, govern reservation for the backward classes: the exclusion of the "creamy layer" — the relatively advanced sections among the backward classes, who are not entitled to the benefit of reservation — and the ceiling of fifty per cent on the total extent of reservation, which may be breached only in extraordinary circumstances. These principles continue to shape the jurisprudence and the policy of reservation for the backward classes.

Exam Pointers Article 338-B; constitutional status by the 102nd Amendment (2018). Origin in the *Mandal/Indra Sawhney* case (1992). Article 342-A relates to the specification of backward classes. The 105th Amendment (2021) restored states' power over their own lists.

Special Officer for Linguistic Minorities

Article 350-B — the constitutional guardian of India's linguistic minorities.

In a country of many languages, the protection of the linguistic minorities is a constitutional concern. The office of the Special Officer for Linguistic Minorities was created by the **Seventh Constitutional Amendment Act, 1956**, which inserted Article 350-B, on the recommendation of the States Reorganisation Commission. The Special Officer is also commonly referred to as the Commissioner for Linguistic Minorities.

Constitutional Provisions

- **Article 29** protects the interests of minorities by guaranteeing the right to conserve their distinct language, script and culture.
- **Article 350-A** directs every state and local authority to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups.
- **Article 350-B** provides for the appointment by the President of a Special Officer for Linguistic Minorities, to investigate all matters relating to the safeguards provided for them.

Functions

The Special Officer investigates all matters relating to the safeguards provided for the linguistic minorities under the Constitution and reports to the President upon those matters at such intervals as the President may direct. The President places all such reports before each House of Parliament and sends them to the governments of the states concerned.

A constitutional, but non-statutory, office The office is provided for in the Constitution (Article 350-B), but the Constitution does not specify its qualifications, tenure, salaries or procedure for removal. These matters, and the headquarters of the office, are determined by the executive. Its recommendations, like those of similar bodies, are advisory.

Linguistic Diversity and Constitutional Safeguards

India's linguistic diversity is protected by a cluster of provisions read together with the office of the Special Officer for Linguistic Minorities. Article 29 protects the right of any section of citizens to conserve its distinct language, script or culture; Article 30 guarantees minorities the right to establish and administer educational institutions of their choice; Article 350-A directs that primary education be available in the mother tongue to children of linguistic minorities; and Article 347 allows the President to recognise a

language spoken by a substantial proportion of a state's population for official purposes. The Special Officer investigates the working of these safeguards and reports to the President.

A monitoring, advisory office Headquartered with regional offices, the office of the Commissioner for Linguistic Minorities monitors the implementation of the safeguards by the states and the centre and makes recommendations, but, like comparable bodies, its findings are advisory in nature.

The Constitutional Basis and the Reports

The office of the Special Officer for Linguistic Minorities owes its existence to Article 350-B, inserted by the 7th Amendment (1956) on the recommendation of the States Reorganisation Commission. The Special Officer, designated the Commissioner for Linguistic Minorities, investigates all matters relating to the safeguards provided for linguistic minorities under the Constitution and reports to the President on those matters at such intervals as the President may direct. These reports are laid before each House of Parliament and sent to the governments of the states concerned, so that the working of the safeguards is brought to the notice of the legislatures.

The safeguards monitored The safeguards whose working the Commissioner monitors include the right to receive primary education in the mother tongue (Article 350-A), the right to submit representations for the redress of grievances in any language (Article 350), and the recognition of a language for official purposes within a state where a substantial proportion of the population desires it (Article 347).

The Protection of India's Linguistic Diversity

The office of the Special Officer for Linguistic Minorities reflects the constitutional commitment to protect India's extraordinary linguistic diversity. In a country with many languages and numerous linguistic minorities within each state, the safeguards for linguistic minorities — the right to conserve their language and culture, the right to establish and administer educational institutions, the provision of primary education in the mother tongue, and the right to submit representations in their own language — are essential to the accommodation of diversity within the national framework. The Special Officer monitors the working of these safeguards and reports to the President.

The advisory character of the office Like several other monitoring bodies, the Commissioner for Linguistic Minorities has an essentially investigative and advisory role; the office cannot itself enforce the safeguards but brings their working to the attention of the President, Parliament and the state governments through its reports. Its effectiveness therefore depends on the responsiveness of the governments and on the vigilance of the legislatures to which its reports are submitted.

Exam Pointers Article 350-B; created by the 7th Amendment (1956) on the SRC's recommendation. Linked to Articles 29 and 350-A. Investigates safeguards for linguistic minorities; reports to the President.

Comptroller and Auditor General of India

Articles 148 to 151 — the guardian of the public purse.

52

The Comptroller and Auditor General of India (CAG) is an independent constitutional authority established under Article 148. The CAG is the head of the Indian Audit and Accounts Department and is the guardian of the public purse, controlling the entire financial system of the country at both the central and state levels. Dr. B. R. Ambedkar said that the CAG would be the most important officer under the Constitution of India.

Appointment, Tenure and Independence

- The CAG is appointed by the President by warrant under hand and seal.
- The CAG holds office for a term of **six years** or until the age of **65 years**, whichever is earlier.
- The CAG can be removed by the President only in the same manner and on the same grounds as a judge of the Supreme Court (an address by both Houses of Parliament passed by a special majority).
- The salary and conditions of service cannot be varied to the CAG's disadvantage after appointment; the administrative expenses are charged on the Consolidated Fund of India.

Duties and Powers

- Audits the accounts relating to all expenditure from the Consolidated Fund of India, of each state, and of each UT having a legislative assembly.
- Audits all expenditure from the Contingency Fund and the Public Account.
- Audits the receipts and expenditure of bodies and authorities substantially financed from the central or state revenues, and of government companies and corporations.
- Submits audit reports to the President (or Governor), who lays them before Parliament (or the state legislature).

"Auditor" but not "Comptroller" Despite the name, the CAG of India is only an **auditor** general, not a comptroller general — in Britain the CAG controls the issue of money from the public exchequer, but in India the CAG has **no control over the issue of money**; that power lies with the executive, and the CAG audits the accounts only **after** the expenditure is made. The CAG's reports are examined by the Public Accounts Committee.

The Reports of the CAG and Parliamentary Control of Finance

The CAG submits three kinds of audit reports to the President — on the appropriation accounts, on the finance accounts, and on public undertakings — which are laid before Parliament and stand referred to

the Public Accounts Committee and the Committee on Public Undertakings. Through this chain, the CAG completes the circle of financial accountability: Parliament sanctions the money, the executive spends it, the CAG audits the spending, and the parliamentary committees examine the audit. The CAG thus secures the accountability of the executive to the legislature in financial matters and upholds the principle that public money may be spent only as Parliament has authorised.

Audit, not control It bears emphasis that, unlike the British Comptroller and Auditor General, the Indian CAG has control only over the audit side and not over the issue of money from the Consolidated Fund — the executive issues the money, and the CAG examines, after the event, whether it was spent lawfully, economically and for the purpose intended.

Duties, Powers and the Provisions of the Constitution

The Comptroller and Auditor General is appointed by the President and can be removed only in the manner provided for a judge of the Supreme Court. The salary and conditions of service are determined by Parliament and cannot be varied to his disadvantage after appointment; the administrative expenses of his office are charged on the Consolidated Fund. He audits the accounts relating to the Consolidated Funds, the Contingency Funds and the Public Accounts of the centre and the states, the trading and manufacturing accounts of government departments, and the accounts of government companies and corporations as prescribed.

Guardian of the public purse Dr. Ambedkar regarded the CAG as one of the most important officers under the Constitution — in some respects more important than the judiciary — because he is the guardian of the public purse, ensuring that the executive spends the money granted by the legislature in accordance with the law and for the purposes for which it was sanctioned.

The CAG and the Cycle of Financial Accountability

The Comptroller and Auditor General is the linchpin of the system of financial accountability that runs from the legislature, through the executive, and back to the legislature. Parliament grants the money through the budget and the Appropriation Act; the executive spends it; the CAG audits the spending and reports whether it was lawful, regular, economical, efficient and effective; and the parliamentary financial committees examine the audit reports and call the executive to account. Through this cycle, the constitutional principle that no money may be spent without the authority of the legislature is given practical effect.

Types of audit The CAG conducts not only the traditional "regularity" audit — examining whether expenditure has been incurred in accordance with the law and the sanctioned purpose — but also "propriety" audit, which examines the wisdom, faithfulness and economy of expenditure, and increasingly "performance" or "efficiency-cum-effectiveness" audit, which examines whether public programmes have achieved their intended objectives economically and efficiently. These wider forms of audit have made the CAG's reports a powerful instrument of public accountability.

Exam Pointers Article 148; "most important officer" (Ambedkar). Term: 6 years or age 65. Removed like a Supreme Court judge. Audits after the fact; no control over the issue of money. Reports examined by the PAC. Cannot take any further office under the government after retirement.

Attorney General of India

Article 76 — the highest law officer of the Union.

The Attorney General of India (AGI) is the highest law officer in the country. The office is created by Article 76. The Attorney General is the chief legal adviser to the Government of India and its primary lawyer in the Supreme Court. The office is modelled on the corresponding office in England.

Appointment and Term

- The Attorney General is appointed by the **President** and must be a person qualified to be appointed a judge of the Supreme Court (a citizen of India who has been a High Court judge for five years, or an advocate of a High Court for ten years, or an eminent jurist).
- The Constitution does not fix the term; the AGI holds office during the **pleasure of the President** and may be removed by the President at any time.
- The AGI is not a member of the Cabinet and is not debarred from private legal practice (with restrictions against acting against the government).

Duties and Rights

- To advise the Government of India on legal matters referred to the AGI by the President.
- To perform other legal duties assigned by the President.
- The AGI has the right of audience in **all courts** in India and the right to **speak and take part in the proceedings of both Houses of Parliament** (and their committees) without the right to vote.
- The AGI enjoys all the privileges and immunities available to a Member of Parliament.

Other law officers The Attorney General is assisted by a **Solicitor General** and additional Solicitors General. Note, however, that only the office of the Attorney General is created by the Constitution; the offices of the Solicitor General and the Additional Solicitors General are **not** mentioned in the Constitution.

The Law Officers of the Union

The Attorney General is the first law officer of the Government of India and is assisted by the Solicitor General and the Additional Solicitors General, who together represent the Union in important litigation. The Attorney General appears on behalf of the government in cases of constitutional importance, advises on legal questions referred by the government, and may be required to discharge such legal duties as the President assigns. Although a part-time office whose holder may engage in private practice, the Attorney

General must not advise or hold a brief against the Government of India, nor defend an accused in a criminal prosecution without the government's permission.

Only the AG is a constitutional office Of the law officers, only the office of the Attorney General is created by the Constitution (Article 76); the Solicitor General and the Additional Solicitors General are statutory/executive appointments and are not mentioned in the Constitution, though they perform analogous functions.

Functions, Rights and Limitations of the AG

The Attorney General appears on behalf of the Government of India in all cases in the Supreme Court in which the government is concerned, represents the government in any reference made by the President under Article 143, and appears in any High Court in cases concerning the government. He has the right of audience in all courts in India and the right to take part in the proceedings of both Houses of Parliament and their committees (without the right to vote), but he is not a member of the Cabinet and does not draw a fixed salary, being paid such remuneration as the President determines.

A part-time office with limits Because the Attorney General is not a full-time government servant and is permitted private practice, the Constitution and convention impose limits to avoid a conflict of interest: he should not advise or hold a brief against the Government of India, should not defend an accused in a criminal prosecution without the government's permission, and should not accept a directorship in a company without similar permission.

The Attorney General and the Government's Legal Business

The Attorney General for India is the chief legal adviser of the government and its principal advocate in the courts. As the first law officer, he advises the government on legal matters of importance, represents it in significant litigation in the Supreme Court and the High Courts, and appears in presidential references under Article 143. He is assisted by the Solicitor General and the Additional Solicitors General, who are not constitutional functionaries but who together with the Attorney General constitute the law officers who conduct the legal business of the Union government.

Not a member of the Cabinet Although the Attorney General has the right to attend and speak in the proceedings of both Houses of Parliament and their committees, he is not a member of the Cabinet and has no vote. He is appointed by the President, holds office during the President's pleasure, and receives such remuneration as the President determines; the office is not a whole-time salaried post, and the holder is permitted private practice, subject to the limitations designed to avoid a conflict of interest with his duties to the government.

Exam Pointers Article 76; highest law officer. Appointed by the President; holds office during the President's pleasure (no fixed term). Right of audience in all courts; can speak in Parliament but cannot vote. Solicitor General is not a constitutional office.

Advocate General of the State

Article 165 — the highest law officer of a state.

The Advocate General of the State is the highest law officer in a state, and corresponds to the Attorney General of India at the centre. The office is created by Article 165. The Advocate General is the chief legal adviser to the state government and represents it in the courts.

Appointment and Term

- The Advocate General is appointed by the **Governor** and must be a person qualified to be appointed a judge of a High Court.
- The Constitution does not fix the term; the Advocate General holds office during the **pleasure of the Governor**.
- The remuneration is determined by the Governor.

Duties and Rights

- To advise the state government on legal matters referred by the Governor.
- To perform other legal functions assigned by the Governor.
- The Advocate General has the right of audience in all courts within the state, and the right to **speak and take part in the proceedings of both Houses of the state legislature** (and their committees) without the right to vote.
- Enjoys the privileges and immunities available to a member of the state legislature.

Centre and state law officers compared The Advocate General (state) is the exact counterpart of the Attorney General (centre): appointed by the executive head (Governor / President), holds office during the pleasure of that head, qualified to be a judge of the relevant court (High Court / Supreme Court), and entitled to speak in the legislature but not to vote.

The Advocate General in the State's Legal System

As the chief law officer of the state, the Advocate General advises the state government on legal matters, represents it in the High Court and other courts, and may be entrusted with such legal functions as the Governor assigns. The Advocate General enjoys the right of audience in all courts within the state and the right to participate in the proceedings of the state legislature without the right to vote. Like the Attorney General, the office is held during the pleasure of the appointing authority, and the holder generally continues so long as the government that appointed them remains in office.

Symmetry between centre and state The Advocate General (state) and the Attorney General (centre) form a matched pair: appointed by the executive head, qualified to be a judge of the relevant court, holding office during pleasure, entitled to address the legislature but not to vote, and serving as the principal legal adviser and advocate of the government.

Functions and Position of the Advocate General

The Advocate General of the state, appointed by the Governor under Article 165, must be qualified to be a judge of a High Court. He gives advice to the state government on legal matters referred to him by the Governor, performs such other legal duties as may be assigned, and discharges the functions conferred by the Constitution or any other law. He has the right of audience in all courts within the state and, like the Attorney General at the centre, the right to speak and take part in the proceedings of the state legislature and its committees without the right to vote.

Tenure and remuneration The Constitution does not fix the term of the Advocate General, who holds office during the pleasure of the Governor (in practice, so long as the government that appointed him remains in office) and receives such remuneration as the Governor determines. The grounds and procedure for his removal are not laid down, leaving the matter to convention and the pleasure doctrine.

The Advocate General and the State's Legal Business

The Advocate General for the state, the counterpart of the Attorney General at the state level, is the chief legal adviser of the state government and its principal advocate in the courts. He advises the state government on legal matters referred to him by the Governor, performs such legal duties as may be assigned, and appears on behalf of the state in the High Court and other courts. He has the right of audience throughout the state and the right to speak in the proceedings of the state legislature and its committees, but without the right to vote.

The law officers of the state Just as the Attorney General is assisted by the Solicitor General and the Additional Solicitors General at the centre, the Advocate General is assisted at the state level by law officers such as the Additional Advocates General, the Government Pleaders and the Public Prosecutors, who conduct the civil and criminal litigation of the state. Of all these, only the office of the Advocate General is created by the Constitution; the others are statutory or executive appointments.

Exam Pointers Article 165; highest law officer of a state. Appointed by the Governor; holds office during the Governor's pleasure. Qualified to be a High Court judge. Right to speak in the state legislature but not to vote.

PART SEVEN

Non-Constitutional Bodies

Bodies that are *not* mentioned in the Constitution but are created either by an executive resolution of the government or by an Act of Parliament. They include the country's premier think-tank, its anti-corruption and human-rights watchdogs, its investigating agencies, and its specialised regulatory and advisory institutions.

Constitutional Prescriptions — A Consolidated Reference

A single comparative view of composition, tenure, oath and removal across the major authorities.

Before turning to the non-constitutional bodies, it is useful to consolidate, in one place, the Constitution's prescriptions on the **composition, qualifications, tenure, oath and removal** of the major constitutional functionaries studied so far. This comparative reference is one of the most frequently examined areas of polity, because the differences between offices — who appoints, for how long, and how they are removed — are precisely where confusion creeps in.

Tenure at a Glance

Authority	Term / retirement
President / Vice-President	5 years
Supreme Court judge	Up to age 65
High Court judge	Up to age 62
CAG	6 years or age 65
Chief Election Commissioner	6 years or age 65
UPSC chairman/members	6 years or age 65
SPSC chairman/members	6 years or age 62

Removal at a Glance

Authority	How removed
President	Impeachment for "violation of the Constitution" (Article 61).
Vice-President	Rajya Sabha resolution (effective majority) agreed to by the Lok Sabha.
SC / HC judges, CAG, CEC	By the President, after an address by both Houses (special majority) for "proved misbehaviour or incapacity."
UPSC / SPSC members	By the President, on the ground of misbehaviour, after a Supreme Court inquiry (note: SPSC members are appointed by the Governor but removed by the President).

Using the Reference Effectively

The value of this consolidated reference lies in revising the offices in **contrasting pairs** rather than one at a time, because examinations test precisely the points where offices differ. Compare, for instance, the appointing authority and the removing authority of the SPSC (appointed by the Governor, removed by the President); the retirement ages of the Supreme Court and High Court judges (65 versus 62); the electoral colleges of the President and the Vice-President (the President's includes state assemblies and excludes nominated MPs; the Vice-President's includes nominated MPs and excludes state assemblies); and the pardoning powers of the President and the Governor (the Governor cannot pardon a death sentence or deal with court-martial punishments).

Charged vs voted expenditure A related reference point is the distinction between expenditure "charged" on the Consolidated Fund (non-votable — the salaries of the President, the judges, the CAG, the Speaker, and the like) and expenditure that must be voted by the legislature. Charged expenditure secures the independence of these high offices by placing their emoluments beyond the annual vote.

Tabulating the Differences That Matter

For revision, it helps to assemble the recurring points of contrast into a single mental table. **Appointing and removing authorities:** who appoints and who removes each office-holder, and on what grounds. **Tenure and age limits:** the fixed terms (six years for the CEC, the CAG, the UPSC and SPSC members) and the retirement ages (sixty-five for the Supreme Court judges and the UPSC, sixty-two for the High Court judges and the SPSC). **Constitutional, statutory or executive status:** whether a body is created by the Constitution, by a statute, or by an executive order. **Advisory or binding:** whether a body's recommendations bind the government.

Constitutional, statutory, executive — a key triad Constitutional bodies (such as the Election Commission, the UPSC, the Finance Commission, the CAG, the NCSC, the NCST and the NCBC) derive their existence directly from the Constitution; statutory bodies (such as the NHRC, the CIC, the CVC, the NCW, the Lokpal and the NIA) are created by Acts of Parliament; and executive bodies (such as the NITI Aayog, the CBI and the Law Commission) are created by executive resolutions or orders. Correctly classifying a body is one of the most frequently tested points.

The Logic of the Consolidated Reference

This reference chapter draws together, for systematic revision, the recurring structural features of the constitutional offices and bodies treated in the preceding chapters. The constitutional system is best understood not as a collection of isolated offices but as an interlocking architecture in which each body has a defined source of authority, a method of appointment and removal, a tenure, a sphere of functions, and a relationship to the other organs. Mastering the pattern — and the systematic exceptions to it — is the key to retaining the mass of detail and to answering the comparative questions that examinations favour.

Patterns worth memorising Several patterns recur across the bodies: the use of a difficult removal procedure (like that for a Supreme Court judge) to secure independence; the charging of salaries on the Consolidated Fund to insulate high offices from the annual vote; the restriction of post-retirement employment to preserve impartiality; and the device of appointment by one authority but removal by another (as with the SPSC). Recognising these patterns turns a list of disconnected facts into a coherent and memorable structure.

Exam Pointers The single most testable contrast: the President is removed by **impeachment**; judges, the CAG and the CEC are removed by the **same process as a Supreme Court judge**. SPSC members are appointed by the Governor but removable only by the President. Retirement ages — SC 65, HC 62; SPSC 62, UPSC 65.

NITI Aayog

The National Institution for Transforming India — the government's premier policy think-tank.

The NITI Aayog (National Institution for Transforming India) was established in **2015** through an executive resolution of the Government of India, replacing the erstwhile **Planning Commission** (which had been set up in 1950, also by an executive resolution). The NITI Aayog serves as the apex public-policy think-tank of the Government of India and aims to foster cooperative and competitive federalism. It is neither a constitutional body nor a statutory body.

From Planning Commission to NITI Aayog

- The Planning Commission followed a "top-down" model and allocated funds to states; the NITI Aayog follows a "bottom-up" approach and acts as an advisory think-tank with **no fund-allocation powers**.
- The NITI Aayog seeks to involve the states as equal partners in planning — the essence of cooperative federalism.

Composition

- **Chairperson:** the Prime Minister.
- **Governing Council:** the Chief Ministers of all states and the Lieutenant Governors/administrators of the union territories.
- **Regional Councils:** formed to address specific regional issues.
- A **Vice-Chairperson**, full-time members, part-time members, ex-officio members (Union ministers) and a Chief Executive Officer (CEO) appointed by the Prime Minister.

Objectives and initiatives The NITI Aayog formulates strategic and long-term policies, provides a platform for centre–state coordination, monitors and evaluates implementation, and fosters a culture of innovation. It is associated with initiatives such as the Aspirational Districts Programme, various indices (e.g. health, education, water management) and the Atal Innovation Mission.

Functions, Initiatives and Criticism

The NITI Aayog designs long-term strategic frameworks, acts as a platform for centre–state and inter-ministerial coordination, monitors and evaluates the implementation of programmes, and serves as a knowledge and innovation hub. Among its initiatives are the Aspirational Districts Programme, various sectoral indices (on health, education, water, innovation and the Sustainable Development Goals), and the Atal Innovation Mission. Critics argue that, by giving up the Planning Commission's power to allocate

funds, the NITI Aayog has become a purely advisory body with limited leverage over the states, while supporters see this as the very point — replacing top-down planning with cooperative, evidence-based policy advice.

From Five-Year Plans to a think-tank The shift from the Planning Commission to the NITI Aayog marked the end of centralised five-year planning and the move to a more flexible, federal and outcome-oriented approach, in which the states are treated as partners in development rather than as recipients of centrally drawn plans.

The Composition and the Hubs of the NITI Aayog

The NITI Aayog is chaired by the Prime Minister and includes a Governing Council comprising all the Chief Ministers and the Lieutenant Governors of the union territories, regional councils for specific issues, a Vice-Chairperson, full-time and part-time members, ex-officio members drawn from the Council of Ministers, and a Chief Executive Officer appointed by the Prime Minister. It is organised around two principal hubs — a "Team India" hub that serves as the interface with the states, and a "Knowledge and Innovation" hub that builds its capacity as a think-tank. This structure reflects its twin roles of fostering cooperative federalism and providing evidence-based policy advice.

A fundamental shift The replacement of the Planning Commission by the NITI Aayog in 2015 represented a shift from a top-down, centrally planned model — in which the centre allocated funds to the states through five-year plans — to a bottom-up, cooperative model in which the states are treated as equal partners and the central body advises rather than allocates. The fund-allocation function passed largely to the Finance Commission and the line ministries.

The NITI Aayog and the Future of Planning

The NITI Aayog represents a deliberate reimagining of the role of the central planning body in a maturing federal economy. In place of the directive, fund-allocating Planning Commission, it offers a collaborative think-tank that frames long-term strategy, fosters cooperative and competitive federalism, monitors and evaluates the implementation of programmes, and serves as a repository of knowledge and a catalyst of innovation. Its effectiveness is debated — some see its lack of financial leverage as a weakness, others as the very source of its value as an honest broker of policy advice.

Cooperative and competitive federalism The NITI Aayog has sought to promote both cooperative federalism — through the Governing Council of Chief Ministers and through joint work on shared goals — and competitive federalism, by ranking the states on a range of indices and thereby encouraging them to compete in improving governance and outcomes. This twin emphasis reflects the broader shift towards treating the states as active partners in, and drivers of, national development.

Exam Pointers Established in 2015 by an executive resolution; replaced the Planning Commission. Neither constitutional nor statutory. Chaired by the PM; has a Governing Council of all CMs and LGs. It is a think-tank with no power to allocate funds.

National Human Rights Commission

The apex watchdog of human rights, established under a statute of 1993.

The National Human Rights Commission (NHRC) is a **statutory body** established in 1993 under the provisions of the **Protection of Human Rights Act, 1993**. It is the watchdog of human rights in the country — that is, the rights relating to the life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in international covenants and enforceable by Indian courts. It is not a constitutional body.

Composition

- A multi-member body consisting of a chairperson and several members.
- The chairperson should be a **former Chief Justice of India or a former judge of the Supreme Court**.
- The members include serving or former judges and persons with knowledge of human rights, as well as ex-officio members (the chairpersons of various national commissions).
- They are appointed by the President on the recommendation of a high-powered committee headed by the Prime Minister; they hold office for three years or until the age of 70, whichever is earlier.

Functions and Limitations

- Inquiring into violations of human rights (or negligence in their prevention) by public servants, either suo motu or on a petition.
- Intervening in court proceedings involving human rights, reviewing the safeguards, and promoting human-rights literacy.
- Its functions are largely **recommendatory**; it cannot itself punish or award final relief. It can only recommend action and approach the courts.
- It cannot inquire into a matter after the expiry of one year from the date of the violation, and its role in respect of the armed forces is restricted.

A recommendatory body The NHRC is often described as a "toothless tiger" because its recommendations are not binding on the government. Nonetheless, it plays an important role in highlighting violations, securing accountability, and shaping public opinion and policy on human rights.

The Composition and Working of the NHRC in Detail

The chairperson and members are appointed by the President on the recommendation of a six-member committee comprising the Prime Minister (as chairperson), the Speaker of the Lok Sabha, the Deputy

Chairman of the Rajya Sabha, the leaders of the opposition in both Houses, and the Union Home Minister. The chairpersons of the National Commissions for the SCs, the STs, women, minorities, backward classes and child rights, and the Chief Commissioner for Persons with Disabilities, are deemed members for certain purposes. While inquiring, the Commission has the powers of a civil court and may recommend compensation, the prosecution of guilty officials, or other remedial measures.

Why it is called a recommendatory body The NHRC cannot itself punish the violators of human rights or award final, binding relief; it can only make recommendations to the government and approach the courts. Its powers in respect of the armed forces are limited, and it cannot inquire into a matter after one year from the date of the alleged violation. These limitations have led to the criticism that it lacks teeth, even as it remains an important institution of moral and constitutional accountability.

The Functions and Limitations of the NHRC

The functions of the National Human Rights Commission include inquiring into complaints of the violation of human rights or of negligence in their prevention by a public servant, intervening in court proceedings involving allegations of such violations, visiting jails and detention centres to study the conditions of inmates, reviewing the safeguards provided by the Constitution and the laws, studying treaties and international instruments, undertaking research, and spreading human-rights literacy. It submits an annual report to the central government and to the state governments concerned, which are laid before the respective legislatures along with the action-taken memoranda.

The principal limitations The Commission's powers are essentially recommendatory; it cannot enforce its decisions or award final relief, and it must approach the courts to give effect to its recommendations. It cannot inquire into a matter after one year from the date of the alleged violation, and its role in respect of the armed forces is confined to seeking a report from the central government and making recommendations. These limitations have prompted recurring calls to strengthen the Commission.

The NHRC and the Protection of Human Rights

The National Human Rights Commission is the apex body for the protection and promotion of human rights in the country. Established under the Protection of Human Rights Act, 1993, it inquires into violations and negligence in their prevention, intervenes in proceedings involving allegations of violations, studies the conditions of inmates of custodial institutions, reviews the constitutional and legal safeguards, undertakes research and education, and makes recommendations to the government. Though its powers are essentially recommendatory, it has played an important role in raising awareness of human-rights issues and in holding the state to account.

The Paris Principles The establishment of national human-rights institutions such as the NHRC is in keeping with the Paris Principles adopted by the United Nations, which set out the standards for the status, composition, powers and methods of operation of such institutions — emphasising independence, pluralism, a broad mandate, and adequate powers of investigation. The extent to which a national institution conforms to these principles is a measure of its credibility and effectiveness.

Exam Pointers Statutory body under the Protection of Human Rights Act, 1993. Chairperson — former CJI or SC judge. Tenure — 3 years or age 70. Recommendatory powers; one-year limitation; limited role over the armed forces.

State Human Rights Commission

The state-level counterpart of the NHRC.

The Protection of Human Rights Act, 1993 also provides for the establishment of a State Human Rights Commission (SHRC) in the states. The SHRC investigates the violation of human rights at the state level and can be set up by a state government for the human rights specified in the State List and the Concurrent List.

Composition

- A multi-member body consisting of a chairperson and members.
- The chairperson should be a **former Chief Justice or a judge of a High Court**.
- The chairperson and members are appointed by the Governor on the recommendation of a committee headed by the Chief Minister.
- They hold office for three years or until the age of 70, whichever is earlier; though appointed by the Governor, they can be removed only by the **President**.

Functions and Limitations

The SHRC can inquire into violations of human rights only in respect of the subjects mentioned in the State List and the Concurrent List of the Seventh Schedule. Its functions, like those of the NHRC, are essentially recommendatory; it submits its annual report to the state government.

Jurisdictional limit Crucially, an SHRC **cannot** inquire into a matter that is already being inquired into by the NHRC or another statutory commission. Its jurisdiction is confined to the State and Concurrent List subjects, avoiding overlap with the NHRC.

The Relationship between the NHRC and the SHRCs

The State Human Rights Commissions operate within the same statutory framework as the National Commission but with a jurisdiction confined to the subjects in the State List and the Concurrent List. An SHRC cannot inquire into a matter already pending before the NHRC or another statutory commission, which avoids duplication. The chairperson and members are appointed by the Governor on the recommendation of a committee headed by the Chief Minister, but — to preserve their independence from the state executive — they can be removed only by the President.

A two-tier human-rights machinery Together the NHRC and the SHRCs form a two-tier institutional machinery for the protection of human rights, complemented by Human Rights Courts that may be designated in each district for the speedy trial of offences arising out of the violation of human rights.

Jurisdiction and Composition of the SHRC

A State Human Rights Commission can inquire into the violation of human rights only in respect of matters relatable to the entries in the State List and the Concurrent List of the Seventh Schedule. It consists of a chairperson and members appointed by the Governor on the recommendation of a committee headed by the Chief Minister and including the Speaker of the Legislative Assembly, the Home Minister, the Leader of the Opposition, and (where there is a Legislative Council) its Chairman and the Leader of the Opposition there. To preserve independence, the members can be removed only by the President, not by the Governor.

Human Rights Courts The Protection of Human Rights Act also provides for the establishment of Human Rights Courts in each district, for the purpose of providing speedy trials of offences arising out of the violation of human rights. A Court of Session is specified as a Human Rights Court for this purpose, with a special public prosecutor, complementing the work of the national and state commissions.

The SHRC and Human Rights at the State Level

The State Human Rights Commission carries the protection of human rights to the level of the state, dealing with violations relatable to the subjects in the State and Concurrent Lists. Its structure and powers parallel those of the National Commission, and the two are designed to work as a complementary, two-tier machinery. The requirement that the members of the State Commission, though appointed by the Governor, can be removed only by the President is a significant safeguard of their independence from the state executive whose conduct they may be called upon to scrutinise.

Division of jurisdiction To avoid duplication and conflict, the law provides that a State Human Rights Commission shall not inquire into a matter that is already being inquired into by the National Commission or by any other commission constituted under a law in force. This division of jurisdiction ensures that the national and state commissions, and the various specialised commissions, function as a coordinated rather than a competing set of institutions for the protection of rights.

Exam Pointers Under the same 1993 Act. Chairperson — former Chief Justice/judge of a High Court. Appointed by the Governor but removable only by the President. Jurisdiction limited to State and Concurrent List subjects.

National Commission for Women

The statutory voice for the rights and welfare of women.

The National Commission for Women (NCW) is a statutory body established in 1992 under the **National Commission for Women Act, 1990**. It is the apex national-level organisation representing the interests of women in India. The Commission was set up to review the constitutional and legal safeguards for women, to recommend remedial legislative measures, to facilitate the redressal of grievances, and to advise the government on policy matters affecting women.

Composition

- A chairperson, committed to the cause of women, nominated by the central government.
- Five members, also nominated by the central government, drawn from among persons of ability, integrity and standing with experience in relevant fields.
- A member-secretary nominated by the central government.

Functions

- Investigating and examining all matters relating to the safeguards provided for women under the Constitution and other laws.
- Reviewing existing provisions and recommending amendments to meet any lacunae.
- Taking up cases of violation of the rights of women and looking into complaints and suo motu notices.
- Funding litigation involving issues affecting a large body of women, and reporting on the working of the safeguards.

The Work of the National Commission for Women

In discharging its mandate, the Commission inspects jails, remand homes and other places of custody where women are kept, takes up cases of deprivation of women's rights, examines and recommends amendments to laws affecting women (such as those on dowry, domestic violence and workplace harassment), and undertakes promotional and educational work. While inquiring into complaints it has the powers of a civil court. Its recommendations, however, are advisory, and it depends on the central government and the states to act on them.

Complemented by State Commissions The work of the National Commission for Women is complemented by the State Commissions for Women, set up under state legislation, which address the protection of women's rights at the state level and channel complaints and recommendations to the state governments.

The Mandate and Composition of the NCW

The National Commission for Women, established under the National Commission for Women Act, 1990, consists of a chairperson committed to the cause of women, five members drawn from various fields, and a member-secretary. Its functions include investigating and examining the safeguards for women under the Constitution and the laws, reviewing those laws and recommending amendments, taking up cases of the violation of women's rights with the appropriate authorities, looking into complaints and taking suo motu notice of matters relating to the deprivation of women's rights, and advising on the socio-economic planning and development of women.

A statutory, recommendatory body Although it has the powers of a civil court while inquiring into complaints, the National Commission for Women is a statutory and not a constitutional body, and its recommendations are advisory. Its effectiveness therefore depends substantially on the responsiveness of the central and state governments to its recommendations and on its capacity to mobilise public opinion.

The NCW and the Advancement of Women

The National Commission for Women is the apex statutory body for the protection and promotion of the interests of women. It reviews the constitutional and legal safeguards for women, recommends remedial legislative measures, facilitates the redressal of grievances, and advises the government on policy matters affecting women. It has taken up issues ranging from domestic violence, dowry and workplace harassment to the working conditions of women and their representation in public life, and has used its powers of inquiry and its capacity to mobilise public opinion to advance the cause of gender justice.

The constitutional foundation The work of the Commission rests on a strong constitutional foundation: the equality guaranteed by Articles 14, 15 and 16, the express permission in Article 15(3) for the state to make special provision for women and children, the directive principles relating to equal pay and humane conditions of work and maternity relief (Articles 39 and 42), and the fundamental duty to renounce practices derogatory to the dignity of women (Article 51-A(e)). Together these provide the charter that the Commission seeks to give effect to.

Exam Pointers Statutory body under the National Commission for Women Act, 1990 (set up 1992). Recommendatory in nature, with civil-court powers while investigating. Submits reports to the central government.

National Commission for Protection of Child Rights

The statutory guardian of the rights of the child.

The National Commission for Protection of Child Rights (NCPCR) is a statutory body established in 2007 under the **Commissions for Protection of Child Rights Act, 2005**. The Commission works to ensure that all laws, policies, programmes and administrative mechanisms are in consonance with the child-rights perspective enshrined in the Constitution of India and the United Nations Convention on the Rights of the Child. A child is defined as a person up to the age of 18 years.

Composition

- A chairperson who is a person of eminence and has done outstanding work for the welfare of children.
- Six members, at least two of whom should be women, drawn from fields such as education, child health, child development, juvenile justice and the elimination of child labour.

Functions

- Examining and reviewing the safeguards provided for the protection of child rights and recommending measures for their effective implementation.
- Inquiring into the violation of child rights and recommending the initiation of proceedings.
- Monitoring the implementation of laws such as the **Right to Education Act, 2009** and the Protection of Children from Sexual Offences (POCSO) Act, 2012.
- Examining matters relating to children in need of special care and protection.

Monitoring the RTE and Protecting Children

A central function of the NCPCR is to monitor the implementation of the Right of Children to Free and Compulsory Education Act, 2009, including the norms for schools, the prohibition of capital fees and screening procedures, and the reservation of seats for disadvantaged groups. The Commission also monitors the working of the Juvenile Justice Act and the POCSO Act, inquires into complaints of the violation of child rights, inspects institutions meant for children, and undertakes research and awareness work. While inquiring, it exercises the powers of a civil court, and State Commissions for the Protection of Child Rights perform analogous functions at the state level.

A rights-based approach The Commission's mandate is anchored in a rights-based view of childhood, drawing on the constitutional provisions for children (such as Articles 21-A, 24, 39 and 45) and on the United Nations Convention on the Rights of the Child, to which India is a party.

The Composition and the Statutory Framework

The National Commission for Protection of Child Rights was set up in 2007 under the Commissions for Protection of Child Rights Act, 2005, and consists of a chairperson who is a person of eminence in the field of child welfare and six members, at least two of whom must be women, drawn from fields such as education, child health, juvenile justice, and the elimination of child labour. The Commission is mandated to ensure that all laws, policies and administrative mechanisms are in consonance with the rights of the child as guaranteed by the Constitution and the United Nations Convention on the Rights of the Child.

Monitoring key child-protection laws The Commission is the designated authority for monitoring the implementation of the Right to Education Act, the Protection of Children from Sexual Offences (POCSO) Act and the Juvenile Justice Act, and it can inquire into complaints and take suo motu notice of matters relating to the deprivation of child rights, with the powers of a civil court while doing so.

The NCPCR and the Rights of the Child

The National Commission for Protection of Child Rights is the statutory body charged with ensuring that all laws, policies and programmes conform to the rights of the child. It monitors the implementation of the key child-protection laws, inquires into the violation of child rights, examines the factors that inhibit the enjoyment of those rights by vulnerable and marginalised children, inspects institutions meant for children, and undertakes research and awareness work. Its approach is rooted in the recognition that children are not merely objects of welfare but bearers of rights that the state is bound to protect.

The constitutional and international framework The protection of child rights draws on a rich constitutional framework — the right to free and compulsory education (Article 21-A), the prohibition of the employment of children in hazardous work (Article 24), the protection of children against abuse and exploitation (Article 39), and the provision for early childhood care and education (Article 45) — read together with India's obligations under the United Nations Convention on the Rights of the Child, to which the Commission's mandate gives institutional expression.

Exam Pointers Statutory body under the Commissions for Protection of Child Rights Act, 2005 (set up 2007). Monitors the RTE Act, 2009 and the POCSO Act. A "child" is a person up to 18 years.

National Commission for Minorities

The statutory protector of the notified religious minorities.

The National Commission for Minorities (NCM) is a statutory body established under the **National Commission for Minorities Act, 1992**. The Union Government has notified six communities as minorities — **Muslims, Christians, Sikhs, Buddhists, Parsis (Zoroastrians) and Jains** (Jains were added in 2014). The Commission safeguards and protects the interests of these notified minority communities.

Composition

- A chairperson, a vice-chairperson and five members, all nominated by the central government from among persons of eminence, ability and integrity.
- Five members, including the chairperson, should be from amongst the minority communities.
- They hold office for a term of three years.

Functions

- Evaluating the progress of the development of the minorities under the Union and the states.
- Monitoring the working of the safeguards provided in the Constitution and in laws.
- Making recommendations for the effective implementation of safeguards and looking into specific complaints.
- Conducting studies and research on the question of the under-representation and welfare of minorities.

The Constitutional and Statutory Basis of Minority Protection

The work of the National Commission for Minorities rests on a broader constitutional foundation: Articles 25 to 28 guarantee freedom of religion; Articles 29 and 30 protect the cultural and educational rights of minorities, including their right to establish and administer educational institutions; and Article 350-B provides for the protection of linguistic minorities. The Commission evaluates the progress of the development of the notified minorities, monitors the working of these safeguards, looks into specific complaints, and conducts studies, making recommendations to the central and state governments.

Religious and linguistic minorities It is important to distinguish the protection of **religious minorities** (the focus of the National Commission for Minorities) from the protection of **linguistic minorities** (the focus of the Special Officer under Article 350-B). The two regimes overlap but address different dimensions of minority identity.

The Notified Minorities and the Functions of the NCM

The National Commission for Minorities was established under the National Commission for Minorities Act, 1992. The central government has notified six communities as minorities for the purposes of the Act — Muslims, Christians, Sikhs, Buddhists, Parsis (Zoroastrians) and Jains. The Commission evaluates the progress of the development of the minorities, monitors the working of the constitutional and legal safeguards, looks into specific complaints regarding the deprivation of their rights, conducts studies and research, and makes recommendations for the effective implementation of safeguards and for the welfare of the minorities.

Who is a minority? The Constitution itself does not define "minority", and the question of identifying minorities — whether at the national or the state level — has generated litigation. The Supreme Court has indicated that the status of a community as a minority, for the purposes of the rights under Articles 29 and 30, is to be determined with reference to the demography of the state concerned rather than the country as a whole.

The NCM and the Protection of Minorities

The National Commission for Minorities is the statutory body for the protection of the interests of the notified religious minorities. It evaluates the progress of their development, monitors the working of the constitutional and legal safeguards, takes up specific complaints regarding the deprivation of their rights, conducts studies and research, and makes recommendations for the effective implementation of the safeguards and for the welfare of the minorities. Its work gives institutional form to the constitutional commitment to protect the religious and cultural identity of minority communities within a secular and plural polity.

The rights of minorities under Articles 29 and 30 The cultural and educational rights of minorities are protected by Articles 29 and 30: Article 29 protects the right of any section of citizens to conserve its distinct language, script or culture, while Article 30 confers on religious and linguistic minorities the right to establish and administer educational institutions of their choice, and forbids the state from discriminating against such institutions in the grant of aid. These rights are central to the constitutional accommodation of India's diversity.

Exam Pointers Statutory body under the National Commission for Minorities Act, 1992. Six notified minorities — Muslims, Christians, Sikhs, Buddhists, Parsis and Jains (Jains added in 2014).
Recommendatory functions; term of three years.

Central Information Commission

The apex appellate authority under the Right to Information Act, 2005.

The Central Information Commission (CIC) was established in 2005 under the provisions of the landmark **Right to Information Act, 2005**. It is a high-powered, independent statutory body that hears appeals from those who have not been able to obtain information from central public authorities and that decides important questions relating to the right to information. The RTI Act gave practical shape to the citizens' right to know, which flows from the freedom of speech and expression under Article 19.

Composition

- A Chief Information Commissioner and not more than ten Information Commissioners.
- They are appointed by the President on the recommendation of a committee consisting of the Prime Minister, the Leader of the Opposition in the Lok Sabha, and a Union Cabinet Minister nominated by the Prime Minister.

Powers and the 2019 Amendment

- The CIC has the power to inquire into complaints, to order public authorities to provide information, and to impose penalties on defaulting officers.
- While inquiring, it has the powers of a civil court — summoning witnesses, requiring documents, and so on.
- The **RTI (Amendment) Act, 2019** empowered the central government to prescribe the term, salaries and conditions of service of the Chief Information Commissioner and the Information Commissioners (at both the central and state levels) — a change criticised by some as affecting the body's independence.

The Right to Information and the Working of the CIC

The Right to Information Act, 2005 obliges every public authority to maintain and proactively disclose information and to designate Public Information Officers to receive and respond to requests. A citizen denied information may appeal to a designated appellate authority and then to the Central Information Commission, which can order disclosure, impose penalties on officers who refuse without reasonable cause, and recommend disciplinary action. The Act exempts certain categories of information (such as those affecting national security, or held in a fiduciary capacity), subject to a public-interest override.

The 2019 amendment and independence The RTI (Amendment) Act, 2019 empowered the central government to prescribe by rules the tenure, salaries and conditions of service of the Chief Information Commissioner and the Information Commissioners, at both the central and state levels. Critics argued that this could affect the independence of the information commissions, since their terms were previously fixed by the statute itself.

The Structure and Powers of the CIC

The Central Information Commission consists of the Chief Information Commissioner and up to ten Information Commissioners, appointed by the President on the recommendation of a committee consisting of the Prime Minister, the Leader of the Opposition in the Lok Sabha, and a Union Cabinet Minister nominated by the Prime Minister. The Commission inquires into complaints, decides second appeals, and has the powers of a civil court in respect of summoning witnesses, requiring the production of documents, and receiving evidence. It can require a public authority to take steps to comply with the Act, impose penalties on defaulting officers, and recommend disciplinary action.

A powerful transparency tool The Right to Information Act has been described as one of the most empowering laws for the ordinary citizen, transforming the relationship between the citizen and the state by reversing the colonial presumption of official secrecy and establishing, instead, a presumption in favour of disclosure, subject only to carefully defined exemptions and a public-interest override.

The CIC and the Architecture of Transparency

The Central Information Commission stands at the apex of the machinery created by the Right to Information Act to give effect to the citizen's right to know. By deciding second appeals and complaints, ordering the disclosure of wrongly withheld information, imposing penalties on defaulting officers, and requiring public authorities to comply with their obligations of proactive disclosure, the Commission enforces the statutory presumption in favour of openness. The Act has transformed the relationship between the citizen and the state, reversing the colonial culture of official secrecy.

Proactive disclosure A key feature of the Right to Information Act is the obligation of every public authority to disclose proactively a wide range of information about its organisation, functions, decisions, norms and finances, so that citizens need to resort to formal requests as little as possible. The effective implementation of this obligation of "suo motu" disclosure is regarded as central to realising the transformative potential of the right to information.

Exam Pointers Statutory body under the RTI Act, 2005. Chief Information Commissioner + up to 10 Information Commissioners. Appointed by the President on a committee's recommendation. The 2019 amendment gave the centre power over their tenure and salaries.

State Information Commission

The state-level appellate authority under the RTI Act.

The Right to Information Act, 2005 also provides for the constitution of a State Information Commission (SIC) at the state level. The SIC is a high-powered independent body that hears appeals and complaints pertaining to the offices, financial institutions, public sector undertakings and other public authorities under the concerned state government.

Composition

- A State Chief Information Commissioner and not more than ten State Information Commissioners.
- They are appointed by the Governor on the recommendation of a committee consisting of the Chief Minister (as chairperson), the Leader of the Opposition in the Legislative Assembly, and a state Cabinet Minister nominated by the Chief Minister.

Powers

The SIC has powers analogous to those of the CIC, but in respect of the state public authorities. It can order the disclosure of information, impose penalties on defaulting officers, and exercise the powers of a civil court while inquiring into complaints. Following the 2019 amendment, the tenure and service conditions of its members are prescribed by the central government.

The State Information Commission in Practice

The State Information Commission completes the two-tier appellate structure under the Right to Information Act, dealing with appeals and complaints concerning the public authorities of the state. Its powers mirror those of the Central Information Commission: it can require a public authority to provide information in a particular form, order an inquiry, impose penalties on defaulting Public Information Officers, and recommend disciplinary action. Following the 2019 amendment, the tenure and service conditions of its members are prescribed by the central government.

Transparency as an extension of free speech The right to information is understood as flowing from the freedom of speech and expression under Article 19(1)(a), since an informed citizenry is essential to a functioning democracy. The information commissions are the institutional guarantors of this right against the public authorities.

Appointment, Tenure and Powers of the SIC

The State Information Commission consists of the State Chief Information Commissioner and up to ten State Information Commissioners, appointed by the Governor on the recommendation of a committee consisting of the Chief Minister, the Leader of the Opposition in the Legislative Assembly, and a Cabinet Minister nominated by the Chief Minister. The jurisdiction of the Commission extends to all the public authorities of the state. It decides second appeals and complaints, and exercises the same powers of a civil court and the same enforcement and penalty powers as the Central Information Commission, but in relation to the state's public authorities.

Effect of the 2019 amendment Before the RTI (Amendment) Act, 2019, the tenure (five years) and the status of the information commissioners were fixed by the statute itself. The amendment empowered the central government to prescribe the term and the conditions of service of the commissioners at both the central and the state levels by rules, a change criticised as potentially affecting their independence.

The SIC and Transparency at the State Level

The State Information Commission completes, at the level of the state, the two-tier appellate machinery of the Right to Information Act. Its jurisdiction extends to the public authorities of the state, and its powers to decide appeals and complaints, to order disclosure, to impose penalties and to require compliance mirror those of the Central Information Commission. Together the central and state commissions form a nationwide network of independent adjudicatory bodies that give the citizen an effective remedy against the wrongful denial of information by any public authority.

A right rooted in free expression The Supreme Court has held that the right to information is implicit in the freedom of speech and expression guaranteed by Article 19(1)(a), since the citizen cannot meaningfully participate in democratic governance, or hold the government to account, without access to information about its functioning. The information commissions are therefore the institutional guarantors of a right that is itself an emanation of a fundamental freedom.

Exam Pointers Statutory body under the RTI Act, 2005. State Chief Information Commissioner + up to 10 State Information Commissioners. Appointed by the Governor on a committee headed by the Chief Minister. Jurisdiction over state public authorities.

Central Vigilance Commission

The apex integrity institution in the fight against corruption.

The Central Vigilance Commission (CVC) is the apex vigilance institution, free of control from any executive authority, charged with monitoring all vigilance activity under the central government and advising various authorities in planning, executing, reviewing and reforming their vigilance work. It was set up in **1964** on the recommendation of the **Santhanam Committee** on the prevention of corruption, and was given **statutory status** by the Central Vigilance Commission Act, 2003.

Composition

- A multi-member body consisting of a Central Vigilance Commissioner (chairperson) and not more than two Vigilance Commissioners.
- They are appointed by the President on the recommendation of a three-member committee consisting of the Prime Minister, the Union Home Minister and the Leader of the Opposition in the Lok Sabha.
- They hold office for a term of four years or until the age of 65, whichever is earlier.

Functions

- Exercising superintendence over the functioning of the Delhi Special Police Establishment (the CBI) in so far as it relates to the investigation of offences under the Prevention of Corruption Act.
- Inquiring into offences alleged to have been committed by certain categories of public servants.
- Tendering advice to the central government and its organisations on vigilance matters.
- Exercising the powers of a designated agency under the Lokpal and Lokayuktas Act for preliminary inquiries.

The Vineet Narain case (1997) The statutory status of the CVC, and the supervisory power it exercises over the CBI's anti-corruption work, flowed from the Supreme Court's directions in the **Vineet Narain v. Union of India (1997)** case (the Jain Hawala case), which sought to insulate investigating agencies from political interference.

The CVC and the Integrity Machinery

The Central Vigilance Commission sits at the apex of the integrity machinery of the central government. It exercises superintendence over the vigilance administration of the central ministries and organisations, advises them on vigilance matters, and supervises the functioning of the Central Bureau of Investigation in so far as it relates to offences under the Prevention of Corruption Act. The Chief Vigilance Officers in the various ministries and departments act as the CVC's distant arms. Under the Lokpal and Lokayuktas

Act, the CVC also conducts preliminary inquiries into complaints referred by the Lokpal in respect of certain categories of officials.

An advisory but influential body Although the CVC's directions are largely advisory, its central position in the anti-corruption architecture, its statutory independence, and its supervisory role over the CBI's corruption cases make it one of the most important integrity institutions of the Union government.

The Composition and Functions of the CVC

The Central Vigilance Commission was given statutory status by the CVC Act, 2003, following the Supreme Court's directions in the Vineet Narain case. It is a multi-member body consisting of a Central Vigilance Commissioner as the chairperson and up to two Vigilance Commissioners, appointed by the President on the recommendation of a committee consisting of the Prime Minister, the Union Home Minister and the Leader of the Opposition in the Lok Sabha. They hold office for four years or until the age of sixty-five, whichever is earlier, and can be removed by the President only in the manner laid down in the Act.

Superintendence over the CBI One of the most significant functions of the CVC is the exercise of superintendence over the functioning of the Delhi Special Police Establishment (the CBI) in so far as it relates to the investigation of offences under the Prevention of Corruption Act. The CVC also tenders advice to the central government on vigilance matters and exercises superintendence over the vigilance administration of the ministries.

The CVC and the Fight Against Corruption

The Central Vigilance Commission is the apex integrity institution of the central government, exercising superintendence over the vigilance administration of the central ministries and organisations and over the CBI's investigation of corruption offences. By advising on vigilance matters, by overseeing the work of the Chief Vigilance Officers, and by its role under the Lokpal and Lokayuktas Act, the Commission contributes to the prevention and detection of corruption in the central government. Its independence is secured by its statutory status and by the manner of appointment and removal of its members.

The integrity ecosystem The fight against corruption in the central government involves an ecosystem of institutions — the CVC, the CBI, the Lokpal, the Chief Vigilance Officers, and the departmental vigilance machinery — operating alongside the Prevention of Corruption Act and other laws. The CVC occupies a central, coordinating place in this ecosystem, even though its powers are largely advisory and the actual investigation and prosecution are carried out by other agencies.

Exam Pointers Set up in 1964 (Santhanam Committee); statutory since 2003. Central Vigilance Commissioner + up to two Vigilance Commissioners. Supervises the CBI's corruption work. Statutory status linked to the Vineet Narain case (1997).

Central Bureau of Investigation

India's premier investigating agency — created not by a statute of its own, but by a resolution.

The Central Bureau of Investigation (CBI) is the premier investigating agency of the central government, playing an important role in the prevention of corruption and maintaining integrity in administration. It was established in **1963** by a resolution of the Ministry of Home Affairs, on the recommendation of the Santhanam Committee. Interestingly, the CBI is **not a statutory body** in the sense of having a dedicated Act of its own; it derives its powers from the **Delhi Special Police Establishment Act, 1946**.

Composition and Functioning

- The CBI is headed by a **Director**, appointed on the recommendation of a high-powered committee consisting of the Prime Minister, the Chief Justice of India (or a Supreme Court judge nominated by the CJI) and the Leader of the Opposition.
- The Director has security of tenure of two years, as provided by the Lokpal and Lokayuktas Act, 2013.
- The CBI functions under the superintendence of the Central Vigilance Commission for corruption cases and otherwise under the Department of Personnel and Training.

Jurisdiction and the Consent Requirement

The CBI's jurisdiction is restricted to the union territories, though it can be extended to a state with the **consent of that state government**. The High Courts and the Supreme Court can, however, order the CBI to investigate a crime anywhere in the country without the consent of the state — a power frequently exercised in important cases.

Functions of the CBI The CBI investigates corruption and economic offences, special crimes (such as serious and organised crime, terrorism and sensational cases), and matters entrusted to it by the courts and the central government. It is also the National Central Bureau of **Interpol** in India.

Autonomy, Accountability and the "Caged Parrot"

The CBI's dependence on the Delhi Special Police Establishment Act, its need for the consent of states to operate within them, and its administrative control by the government have raised recurring concerns about its autonomy. The Supreme Court famously described it as a "caged parrot speaking in its master's voice" and, in the Vineet Narain case, directed measures to insulate it from political interference — including the supervisory role of the CVC over corruption cases and a fixed tenure for the Director. The

withdrawal of "general consent" by some states has also limited the CBI's reach, while the courts retain the power to entrust investigations to it directly.

Not a statutory body of its own A point of frequent confusion: the CBI was set up by an executive resolution and draws its police powers from the Delhi Special Police Establishment Act, 1946. It is therefore not a body created by a dedicated statute, even though it functions under a statutory grant of police powers and is supervised under the CVC Act for corruption cases.

The Organisation and Functions of the CBI

The Central Bureau of Investigation derives its powers from the Delhi Special Police Establishment Act, 1946, and functions under the Department of Personnel and Training. It investigates cases of corruption, economic offences, and serious and organised crime, and important conventional crimes referred to it. It also functions as the National Central Bureau of India for the International Criminal Police Organisation (Interpol), coordinating with the police forces of other countries. To investigate an offence within a state, the CBI requires the consent of the state government, unless the matter is entrusted to it by a constitutional court.

General and specific consent States ordinarily grant the CBI "general consent" to operate within their territory, but several states have at times withdrawn this general consent, requiring the CBI to obtain case-by-case consent. Even then, the High Courts and the Supreme Court can directly entrust an investigation to the CBI without the state's consent, since the power of the constitutional courts is not fettered by the consent requirement.

The CBI and the Investigation of Serious Crime

The Central Bureau of Investigation is the premier investigating agency of the country for serious and organised crime, corruption, and economic offences, and for cases of national and international importance. Although it began as an anti-corruption agency, its remit has expanded to cover a wide range of conventional and special crimes referred to it by the central and state governments and the constitutional courts. It also serves as the national point of contact for Interpol. Concerns about its autonomy have led to judicial and legislative measures to insulate it from political interference.

The debate over a statutory charter One of the recurring proposals for reform is the enactment of a comprehensive, dedicated statute for the CBI, giving it a clear legal charter, functional autonomy, financial independence and accountability, in place of its present reliance on the Delhi Special Police Establishment Act. Successive committees and commissions have recommended such a measure to strengthen the agency's independence and to enhance public confidence in the impartiality of its investigations.

Exam Pointers Established in 1963 by a resolution; not a statutory body of its own. Derives powers from the Delhi Special Police Establishment Act, 1946. Needs state consent to operate within a state (but courts can override). Interpol's national bureau in India.

Lokpal and Lokayuktas

The anti-corruption ombudsman at the centre and in the states.

The Lokpal and the Lokayuktas are the anti-corruption ombudsmen of India. The institution of the ombudsman originated in the Scandinavian countries. In India, the idea was first recommended by the **First Administrative Reforms Commission (1966)**, which suggested the creation of two special authorities — the Lokpal (at the centre) and the Lokayukta (in the states). After decades of effort, the **Lokpal and Lokayuktas Act, 2013** was enacted, providing for the establishment of a Lokpal for the Union and a Lokayukta for each state.

Composition of the Lokpal

- A chairperson and a maximum of eight members, of whom 50 per cent should be judicial members.
- The chairperson should be a former Chief Justice of India, a former judge of the Supreme Court, or an eminent person.
- Not less than 50 per cent of the members should be from among the SCs, STs, OBCs, minorities and women.
- They are appointed by the President on the recommendation of a selection committee headed by the Prime Minister.

Jurisdiction and Powers

- The Lokpal's jurisdiction covers the Prime Minister (with certain safeguards and exclusions), ministers, members of Parliament, and groups of central government employees and officials.
- The Lokpal can recommend the transfer or suspension of public servants connected with allegations of corruption and can direct the preservation of records and the prevention of the destruction of evidence.
- The Lokpal can exercise superintendence over, and give direction to, the CBI in respect of cases referred by it.

The Prime Minister within the Lokpal's ambit The Act brings the Prime Minister within the jurisdiction of the Lokpal, but with safeguards — corruption allegations relating to international relations, security, public order, atomic energy and space are excluded, and an inquiry against the PM requires the approval of a two-thirds majority of the full bench of the Lokpal.

The Long Road to the Lokpal and the Lokayuktas in the States

The idea of an ombudsman, recommended by the First Administrative Reforms Commission in the form of a Lokpal at the centre and Lokayuktas in the states, was the subject of repeated legislative attempts over several decades before the Lokpal and Lokayuktas Act was finally enacted in 2013, following a sustained anti-corruption movement. Many states had already established Lokayuktas under their own legislation; the 2013 Act made it obligatory for every state to constitute a Lokayukta within a year. The Lokpal can inquire into allegations of corruption against a wide range of public functionaries and can recommend prosecution, the attachment of assets, and disciplinary action.

Safeguards around the Prime Minister The Act brings the Prime Minister within the Lokpal's jurisdiction, but with carefully drawn safeguards: allegations relating to international relations, external and internal security, public order, atomic energy and space are excluded, and an inquiry against a sitting Prime Minister requires the approval of at least two-thirds of the full bench of the Lokpal, held in camera.

Composition and Jurisdiction of the Lokpal

The Lokpal consists of a chairperson — who is or has been a Chief Justice of India, a judge of the Supreme Court, or an eminent person — and up to eight members, half of whom must be judicial members and at least half of whom must be from among the Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities and women. The chairperson and members are appointed by the President on the recommendation of a selection committee consisting of the Prime Minister, the Speaker of the Lok Sabha, the Leader of the Opposition, the Chief Justice of India or a judge nominated by him, and an eminent jurist.

Who falls within its jurisdiction The Lokpal's jurisdiction extends to the Prime Minister (with safeguards), ministers, members of Parliament, and officials of the central government across all groups, as well as the office-bearers of certain societies and trusts that receive substantial government or foreign funding. The corresponding Lokayuktas, which every state is obliged to establish, exercise analogous jurisdiction over the functionaries of the state governments.

The Lokpal and the Anti-Corruption Architecture

The Lokpal is the apex anti-corruption ombudsman at the level of the Union, empowered to inquire into allegations of corruption against a wide range of public functionaries, including the Prime Minister (with safeguards), ministers, members of Parliament, and central government officials. It can order a preliminary inquiry or investigation through agencies such as the CBI, exercise superintendence over them in the matters referred, order the attachment and confiscation of assets acquired through corrupt means, and recommend prosecution. The corresponding Lokayuktas perform analogous functions in the states.

A long-awaited institution The enactment of the Lokpal and Lokayuktas Act in 2013, after decades of debate and a sustained popular movement against corruption, marked the culmination of a long effort to create an independent, statutory ombudsman to combat corruption in high places. The Act made it obligatory for every state to establish a Lokayukta, thereby seeking to create a nationwide architecture of anti-corruption ombudsmen at both the central and the state levels.

Exam Pointers Idea from the Scandinavian ombudsman; first recommended by the First ARC (1966). The Lokpal and Lokayuktas Act, 2013. Chairperson + up to 8 members (50% judicial). The PM is within its jurisdiction, with safeguards.

National Investigation Agency

The central counter-terrorism law-enforcement agency.

The National Investigation Agency (NIA) is the central agency to combat terror in India. It acts as the central counter-terrorism law-enforcement agency. The agency was established under the **National Investigation Agency Act, 2008**, in the wake of the November 2008 Mumbai terror attacks, which exposed the need for a dedicated agency to investigate offences affecting the security of the nation.

Mandate and Powers

- The NIA investigates and prosecutes offences affecting the sovereignty, security and integrity of India, the security of the State, and friendly relations with foreign states.
- It deals with offences under specified Acts, including those relating to terrorism, and offences under the Unlawful Activities (Prevention) Act.
- The agency can investigate scheduled offences **across the country** without the special permission of the states (a feature strengthened by the NIA (Amendment) Act, 2019, which also extended its jurisdiction to certain offences committed outside India).

A specialised, central agency The NIA is empowered to deal with terror-related crimes as a central agency without seeking the permission of the state governments — a deliberate departure from the consent requirement that applies to the CBI. This was considered necessary because terrorism transcends state boundaries.

The NIA and the Counter-Terrorism Framework

The National Investigation Agency was conceived as a federal agency to investigate and prosecute offences that have inter-state and international ramifications and that affect the security of the nation. It deals with scheduled offences under specified laws, including the Unlawful Activities (Prevention) Act and laws relating to terrorism, hijacking, and the financing of terror. The NIA (Amendment) Act, 2019 widened its powers, allowing it to investigate certain additional offences (such as human trafficking and cyber-terrorism) and to investigate scheduled offences committed outside India, subject to international law.

No state consent required Unlike the CBI, the NIA does not require the consent of a state government to investigate a scheduled offence anywhere in the country. This reflects the recognition that terrorism and offences against national security transcend state boundaries and call for a unified, central response.

The Structure and the Special Courts

The National Investigation Agency, established under the NIA Act, 2008 in the aftermath of the Mumbai terror attacks, functions under the Ministry of Home Affairs and is headed by a Director-General. It investigates and prosecutes the "scheduled offences" listed in the Act, which include offences under the laws relating to terrorism, the security of the state, the hijacking of aircraft and ships, and the financing of terror. The Act provides for the constitution of Special Courts for the speedy trial of these offences, and appeals from the Special Courts lie to the High Court.

The 2019 widening of powers The NIA (Amendment) Act, 2019 expanded the agency's mandate to cover additional offences such as human trafficking, the manufacture or sale of prohibited arms, cyber-terrorism and offences under the Explosive Substances Act, and empowered it to investigate scheduled offences committed outside India, subject to international treaties and the domestic laws of other countries — strengthening India's response to transnational terrorism.

The NIA and the Federal Investigation of Terror

The National Investigation Agency is the central counter-terrorism law-enforcement agency, established to investigate and prosecute offences affecting the sovereignty, security and integrity of the country, including terrorism and its financing. As a federal agency that can investigate scheduled offences anywhere in the country without the consent of the state governments, and, after the 2019 amendment, certain offences committed abroad, it provides a unified and coordinated response to threats that, by their nature, cross state and national boundaries.

Balancing security and federalism The NIA's power to investigate scheduled offences without the consent of the states represents a significant concentration of investigative authority at the centre in the interest of national security. While this is justified by the transnational and inter-state character of terrorism, it also raises questions of federal balance, since law and order and the police are ordinarily State subjects. The design reflects the constitutional judgment that the security of the nation as a whole warrants a central response.

Exam Pointers Statutory body under the NIA Act, 2008; set up after the 26/11 Mumbai attacks. Investigates terror and offences against national security. Operates across states without their consent. The 2019 amendment extended its reach, including to certain offences abroad.

National Disaster Management Authority

The apex statutory body for disaster management in India.

The National Disaster Management Authority (NDMA) is the apex statutory body for disaster management in India. It was established under the **Disaster Management Act, 2005**. The NDMA is responsible for laying down the policies, plans and guidelines for disaster management to ensure a timely and effective response to disasters, and for building the resilience of communities.

Composition and Structure

- The NDMA is headed by the **Prime Minister** as its ex-officio chairperson.
- It has up to nine other members, one of whom is designated the Vice-Chairperson.
- At the state level, the State Disaster Management Authority is headed by the Chief Minister, and at the district level, the District Disaster Management Authority is headed by the District Collector/Magistrate.
- The **National Disaster Response Force (NDRF)** is the specialised force for disaster response, and the National Institute of Disaster Management handles training and research.

Functions

- Laying down policies and approving the national plan for disaster management.
- Laying down guidelines to be followed by the central ministries and the state authorities.
- Coordinating the enforcement and implementation of disaster-management policy and plans.
- Recommending the provision of funds and taking measures for prevention, mitigation, preparedness and capacity-building.

The Disaster-Management Structure and the Response Forces

The Disaster Management Act, 2005 created a three-tier institutional structure: the National Disaster Management Authority, headed by the Prime Minister; the State Disaster Management Authorities, headed by the Chief Ministers; and the District Disaster Management Authorities, headed by the District Collectors. The National Executive Committee assists the NDMA, the National Institute of Disaster Management handles capacity-building and research, and the National Disaster Response Force is the specialised, multi-skilled force for response. The framework marked a shift from a relief-centric to a holistic approach emphasising prevention, mitigation and preparedness.

From relief to resilience The modern approach to disaster management stresses building the resilience of communities and infrastructure before disasters strike, rather than merely providing relief afterwards.

The NDMA's guidelines and the integration of disaster risk reduction into development planning embody this shift.

The Funds, the Plans and the Guidelines

The Disaster Management Act provides for the constitution of disaster-response and mitigation funds at the national, state and district levels, and requires the preparation of disaster-management plans at each level, integrating prevention, mitigation, preparedness, response, relief and rehabilitation. The National Disaster Management Authority lays down policies, plans and guidelines, and approves the national plan and the plans of the central ministries. The National Institute of Disaster Management is responsible for capacity-building, training and research, and the National Disaster Response Force is deployed for specialised response in threatening or actual disaster situations.

The Sendai Framework India's approach to disaster management is aligned with the Sendai Framework for Disaster Risk Reduction (2015–2030), which emphasises understanding disaster risk, strengthening disaster-risk governance, investing in resilience, and enhancing preparedness for effective response and "building back better" in recovery and reconstruction.

The NDMA and the Management of Disasters

The National Disaster Management Authority is the apex body for disaster management in the country, responsible for laying down the policies, plans and guidelines for disaster management and for coordinating their enforcement and implementation. Chaired by the Prime Minister, and supported by the National Executive Committee, the National Institute of Disaster Management and the National Disaster Response Force, it leads a three-tier structure that extends to the states and the districts. The framework embodies a shift from a reactive, relief-centred approach to a proactive emphasis on prevention, mitigation and preparedness.

A holistic and integrated approach The Disaster Management Act, 2005 conceives of disaster management as a continuous and integrated process of planning, organising, coordinating and implementing measures across the entire cycle of a disaster — prevention, mitigation, preparedness, response, relief, rehabilitation and reconstruction. This holistic approach, integrating disaster risk reduction into development planning, marks a significant advance over the earlier, fragmented and largely reactive arrangements.

Exam Pointers Statutory body under the Disaster Management Act, 2005. Chaired by the Prime Minister. NDRF is the response force. Three tiers — National (NDMA), State (SDMA) and District (DDMA).

Bar Council of India

The statutory regulator of the legal profession and legal education.

The Bar Council of India (BCI) is a statutory body established under the **Advocates Act, 1961**. It regulates the legal profession and legal education in India. It performs the regulatory functions of prescribing standards of professional conduct and etiquette, exercising disciplinary jurisdiction over the bar, and setting standards for legal education and granting recognition to universities whose degree in law serves as a qualification for enrolment as an advocate.

Composition

- The Attorney General of India and the Solicitor General of India are ex-officio members.
- One member elected by each State Bar Council from among its members.
- The members elect a chairman and a vice-chairman from among themselves.

Functions

- To lay down standards of professional conduct and etiquette for advocates.
- To lay down the procedure to be followed by its disciplinary committee and those of the State Bar Councils.
- To safeguard the rights, privileges and interests of advocates.
- To promote legal education and lay down standards in consultation with the universities and the State Bar Councils, and to recognise law degrees.
- To conduct the All India Bar Examination as a condition for practice.

Regulating the Profession and Legal Education

The Bar Council of India discharges a dual regulatory role. As the regulator of the profession, it lays down standards of professional conduct and etiquette, exercises disciplinary jurisdiction over advocates (through its disciplinary committees, with appeals lying ultimately to the Supreme Court), and protects the rights and interests of advocates. As the regulator of legal education, it prescribes the standards for law schools, inspects and recognises institutions whose degrees qualify a person for enrolment, and conducts the All India Bar Examination as a condition for the right to practise. The State Bar Councils perform analogous functions at the state level.

A self-regulating profession The scheme of the Advocates Act, 1961 makes the legal profession largely self-regulating, with the elected Bar Councils — rather than the government — setting and enforcing professional standards, an arrangement intended to protect the independence of the bar.

Composition and Functions of the Bar Council of India

The Bar Council of India is a statutory body created under the Advocates Act, 1961. Its members include the Attorney General of India and the Solicitor General of India as ex-officio members, together with members elected by the State Bar Councils from among their own members. It performs the functions of laying down standards of professional conduct and etiquette for advocates, exercising disciplinary jurisdiction, safeguarding the rights and interests of advocates, promoting and supporting law reform, recognising universities whose law degrees qualify for enrolment, and conducting seminars and organising legal education.

Discipline and appeals Disciplinary proceedings against an advocate for professional or other misconduct are heard by the disciplinary committee of the State Bar Council, with an appeal to the disciplinary committee of the Bar Council of India, and a further appeal to the Supreme Court. This layered structure of professional self-regulation, culminating in the apex court, balances the autonomy of the profession with ultimate judicial oversight.

The Bar Council and the Legal Profession

The Bar Council of India is the apex statutory body for the regulation of the legal profession and legal education in the country. As the regulator of the profession, it prescribes the standards of professional conduct and etiquette, exercises disciplinary jurisdiction over advocates, and protects their rights and interests. As the regulator of legal education, it lays down the standards for law schools, recognises the institutions whose degrees qualify for enrolment, and conducts the All India Bar Examination. The State Bar Councils perform corresponding functions at the state level.

The independence of the bar The self-regulating character of the legal profession, with the elected Bar Councils rather than the government setting and enforcing professional standards, is closely connected to the independence of the bar — itself an essential condition of the independence of the judiciary and the rule of law. An independent bar, free to represent unpopular causes and to hold the state to account in the courts, is widely regarded as a bulwark of constitutional government.

Exam Pointers Statutory body under the Advocates Act, 1961. Regulates the legal profession and legal education. The Attorney General and Solicitor General are ex-officio members. Conducts the All India Bar Examination.

Law Commission of India

The advisory body for the reform and consolidation of the law.

The Law Commission of India is neither a constitutional body nor a statutory body. It is an **executive body** established by an order of the Government of India. Its major function is to work for legal reform. The Commission is constituted from time to time for a fixed tenure and works as an advisory body to the Ministry of Law and Justice. Its membership primarily comprises legal experts.

History and Composition

- The origins of law reform in India lie in the first Law Commission established in 1834 under the Charter Act of 1833, chaired by Lord Macaulay (which led to the Indian Penal Code).
- The first Law Commission of independent India was established in 1955, with M. C. Setalvad (the first Attorney General) as its chairman.
- Each Commission is headed by a chairperson (usually a retired judge) and consists of full-time and part-time members.

Functions

- Reviewing and repealing obsolete laws.
- Examining existing laws in the light of the Directive Principles and suggesting improvements and reforms.
- Considering and conveying its views on any subject relating to law referred to it by the government.
- Preparing and submitting reports on various subjects, which are recommendatory in nature.

The Contribution of the Law Commission

Although it is only an advisory body whose reports are not binding, the Law Commission of India has had a profound influence on Indian law. Its reports have led to important reforms in civil and criminal procedure, in the law of evidence, in personal laws, and in the structure of the judiciary, and have examined contemporary questions such as electoral reform, the uniform civil code, the death penalty, and the simplification and repeal of obsolete laws. Each Commission works for a fixed term and submits reports either suo motu or on references from the government.

Neither statutory nor constitutional The Law Commission is an executive body constituted by a government order; it has no statutory or constitutional basis. Its strength lies not in any binding authority but in the expertise of its members and the persuasive quality of its reasoned reports.

The Composition and the Method of Working

The Law Commission of India is constituted by the government for a fixed term, with a chairperson (usually a retired judge of the Supreme Court or a High Court), full-time and part-time members, and ex-officio members. It takes up subjects for study either on a reference from the government or on its own initiative, examines existing laws in the light of changing social and economic conditions, considers proposals for the consolidation, codification and repeal of obsolete laws, and submits reports containing its recommendations, often with draft legislation annexed.

Influence out of proportion to its status Though it is merely an advisory executive body whose reports do not bind the government, the Law Commission has been one of the most influential institutions of legal reform in India. Its reports have shaped major statutes and amendments, and have informed the work of Parliament, the government and the courts across an enormous range of legal subjects since the first Commission of independent India in 1955.

The Law Commission and Continuous Law Reform

The Law Commission of India is the principal institution for the systematic review and reform of the laws of the country. Constituted from time to time for a fixed term, it studies the existing laws in the light of changing social and economic conditions, examines proposals for the codification, consolidation and repeal of laws, and submits reports with recommendations, often accompanied by draft legislation. Its reports, though advisory, have profoundly influenced the development of Indian law across the civil, criminal, procedural and constitutional fields.

From the colonial commissions to the present The tradition of law commissions in India dates back to the colonial era, the first having been established in 1834 under Lord Macaulay, whose work led to the Indian Penal Code and other foundational statutes. The first Law Commission of independent India was constituted in 1955, and successive commissions have since carried forward the work of keeping the vast body of Indian law under continuous review and reform.

Exam Pointers An executive (non-statutory, non-constitutional) body. The first Law Commission of independent India (1955) was chaired by M. C. Setalvad. Its reports are advisory. It works for legal reform and the repeal of obsolete laws.

Delimitation Commission of India

The high-powered body that redraws the electoral map.

The Delimitation Commission of India is a high-powered body whose function is to redraw the boundaries of the various parliamentary and assembly constituencies based on the most recent census. Its main objective is to provide equal representation to equal segments of the population and to ensure a fair division of geographical areas, so that one political party does not have an undue advantage. The Commission is constituted by the central government under a Delimitation Commission Act.

Composition

- A serving or retired judge of the Supreme Court as chairperson.
- The Chief Election Commissioner or an Election Commissioner nominated by the CEC.
- The State Election Commissioners of the concerned states (as ex-officio members).

A Body Beyond Judicial Reach

The orders of the Delimitation Commission have the **force of law** and cannot be called in question before any court. The orders are laid before the Lok Sabha and the concerned state legislative assemblies, but no modifications are permitted — this finality is intended to keep the redrawing of constituencies free from litigation and delay.

The freeze on delimitation To encourage population control without penalising states that did so, the number of seats in the Lok Sabha and the state assemblies (on the basis of the 1971 census) was frozen by constitutional amendments, and this freeze on the readjustment of the **number** of seats has been extended until after the first census taken after 2026.

Delimitation, Representation and the Population Freeze

Delimitation seeks to ensure that, as far as possible, each elected representative stands for roughly the same number of people, so that the principle of "one person, one vote, one value" is respected. Because a strict application of this principle would shift seats towards the more populous states, and would penalise states that had successfully controlled their population, the **number** of seats in the Lok Sabha and the state assemblies was frozen on the basis of the 1971 census and the freeze has been extended until after the first census taken after 2026. Within states, however, the boundaries of constituencies have been redrawn following later censuses.

Orders beyond challenge To keep the redrawing of constituencies free from endless litigation and delay, the law provides that the orders of the Delimitation Commission have the force of law and cannot be questioned in any court, and that they are laid before the legislatures only for information, without the power to modify them.

The Composition and the Mechanics of Delimitation

A Delimitation Commission is constituted by the central government under a Delimitation Act enacted by Parliament after each census. It consists of a serving or retired judge of the Supreme Court as chairperson, the Chief Election Commissioner or a nominee, and the State Election Commissioners of the states concerned. Associate members (drawn from the members of Parliament and the state legislatures of the area) assist it but have no vote. The Commission readjusts the number and boundaries of the constituencies and reserves seats for the Scheduled Castes and Scheduled Tribes in accordance with the constitutional provisions.

Why its orders cannot be questioned To ensure that elections are not delayed or disrupted by litigation over constituency boundaries, the law provides that the orders of the Delimitation Commission have the force of law and are not to be called in question before any court. The orders are laid before the Lok Sabha and the state assemblies, but they may not be modified by the legislatures.

Delimitation and the Principle of Equal Representation

Delimitation is the process of fixing the number and boundaries of the territorial constituencies for the legislatures so as to give effect, as far as practicable, to the principle of equal representation — that each elected member should represent roughly the same number of people. It is carried out by an independent Delimitation Commission after each census, on the basis of the latest census figures, and includes the reservation of seats for the Scheduled Castes and the Scheduled Tribes in accordance with the constitutional provisions. The independence of the Commission and the finality of its orders are designed to keep the process free from political manipulation.

The freeze on the number of seats To avoid penalising the states that had successfully controlled their population, the total number of seats in the Lok Sabha and the state assemblies was frozen on the basis of the 1971 census, and this freeze has been extended until after the first census taken after the year 2026. Within this freeze on the total number of seats, the boundaries of constituencies have nevertheless been readjusted on the basis of later censuses to maintain equality of representation within each state.

Exam Pointers Constituted under a Delimitation Commission Act; chaired by a Supreme Court judge, with the CEC/an EC as a member. Its orders have the force of law and cannot be questioned in court. The number of seats is frozen until after the first census after 2026.

PART EIGHT

Other Constitutional Dimensions

A cluster of specialised provisions that complete the constitutional picture — regional development, co-operatives, the official language, the public services, the legal position of the State, and the special arrangements made for certain classes and certain states.

North Eastern Council

A statutory body for the integrated development of the North-East.

The North Eastern Council (NEC) is a statutory advisory body constituted under the **North Eastern Council Act, 1971**. It is the nodal agency for the economic and social development of the north-eastern region, which consists of eight states. The NEC functions as a regional planning body for the region and reflects the special attention the Constitution and Parliament have given to the integrated development of the North-East.

Composition and Functions

- The Council includes the Governors and Chief Ministers of the constituent states and members nominated by the President.
- The Union Minister of the Department of North Eastern Region (DoNER) is associated with it.
- It functions as a regional planning body, prepares unified and coordinated regional plans, and reviews the implementation of projects.
- It promotes balanced and coordinated development, security and inter-state coordination in the region.

Sikkim added By an amendment to the North Eastern Council Act in 2002, Sikkim was added as the eighth member state of the Council, so that the NEC now covers all eight north-eastern states.

The North-East and the Ministry of DoNER

The development of the north-eastern region is supported by a dedicated institutional architecture: the North Eastern Council as the regional planning body, and the Ministry of Development of the North Eastern Region (DoNER), created to give focused attention to the region's needs. The Council prepares integrated regional plans, promotes inter-state coordination on matters such as power, transport, flood control and security, and reviews the implementation of projects, while the Ministry channels resources and coordinates the efforts of the central agencies in the region.

A region of special constitutional concern The north-eastern states enjoy a range of special constitutional protections — the Sixth Schedule autonomous councils, the special provisions under Articles 371-A to 371-H, and the work of the North Eastern Council — reflecting the framers' and Parliament's recognition of the region's distinct history, ethnic diversity and developmental challenges.

The Composition and the Reorganised Council

The North Eastern Council was set up under the North Eastern Council Act, 1971, and originally comprised the Governors and Chief Ministers of the constituent states. Following an amendment, the Council

was reconstituted with the Governors and Chief Ministers of the north-eastern states as members, and the Union Home Minister and the Minister of DoNER associated with its work, the latter being designated to give it political direction. It functions as the regional planning and advisory body for the north-east, formulating integrated regional plans and recommending priorities for the balanced development of the region.

A nodal agency for the region The Council was further mandated to function as a regional planning body and a nodal agency for the economic and social development of the north-eastern region, coordinating with the central ministries and the state governments on inter-state projects in sectors such as power, irrigation, flood control, transport and communications, while DoNER ensures focused attention to the region within the central government.

The North-East and the Idea of Regional Development

The institutional arrangements for the north-eastern region reflect the recognition that its distinct geography, ethnic diversity, history and developmental challenges call for a focused and coordinated approach. The North Eastern Council, as the regional planning body, and the Ministry of Development of the North Eastern Region, as the nodal ministry, together seek to promote the balanced and integrated development of the region, to coordinate inter-state projects, and to give the north-east a stronger voice in the councils of the nation. These arrangements complement the constitutional protections of the Sixth Schedule and Articles 371-A to 371-H.

Connectivity and the "Act East" policy The development of the north-east is closely linked to the improvement of connectivity — by road, rail, air and digital means — within the region and with the rest of the country, and to India's "Act East" policy, which seeks to use the region as a land bridge to South-East Asia. The strategic location of the north-east, bordering several countries, gives its development a significance that extends well beyond the region itself.

Exam Pointers Statutory body under the North Eastern Council Act, 1971. Covers eight states (Sikkim added in 2002). Functions as a regional planning and advisory body. Associated with the Ministry of DoNER.

Co-operative Societies

Part IX-B — constitutional recognition of the co-operative movement.

Co-operative societies have long played an important role in the economic life of India, particularly in agriculture, credit and rural development. The **97th Constitutional Amendment Act, 2011** gave a constitutional status and protection to co-operative societies. It made three major changes — it made the right to form co-operative societies a fundamental right, it added a new Directive Principle, and it inserted a new Part IX-B to govern co-operatives.

The Three Changes Made by the 97th Amendment

- It amended **Article 19(1)(c)** to include the right to form **co-operative societies** as a fundamental right.
- It inserted a new Directive Principle — **Article 43-B** — directing the State to promote the voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.
- It added a new **Part IX-B** ("The Co-operative Societies", Articles 243-ZH to 243-ZT) containing provisions on the incorporation, regulation and winding up of co-operatives, their boards, elections and audit.

A partial striking down In **Union of India v. Rajendra N. Shah (2021)**, the Supreme Court struck down the part of the 97th Amendment dealing with the co-operative societies operating within a single state, holding that co-operative societies are a State subject and that such an amendment required ratification by the states. The provisions relating to multi-state co-operative societies, however, were upheld.

The Co-operative Movement and Constitutional Status

Co-operatives have historically been important in rural credit, agricultural marketing, dairying, housing and banking. By inserting Part IX-B, the 97th Amendment sought to ensure that co-operative societies function on democratic principles — with regular elections, fixed terms for their boards, professional management, and timely audit — and are protected from arbitrary supersession by the state. The amendment also recognised the right to form co-operatives as a fundamental right and added a directive principle promoting their autonomous functioning.

The federal objection (2021) In **Union of India v. Rajendra N. Shah (2021)**, the Supreme Court struck down the provisions of Part IX-B in so far as they applied to co-operative societies operating within a single state, holding that "co-operative societies" is a State subject and that an amendment affecting it required ratification by at least half the state legislatures, which had not been obtained. The provisions concerning multi-state co-operatives were upheld, since those fall within the Union's competence.

Part IX-B and the Principles of Co-operative Governance

Part IX-B, inserted by the 97th Amendment, lays down a framework for the democratic and autonomous functioning of co-operative societies. It provides for the regular conduct of elections to the boards of co-operative societies before the expiry of their term, a fixed term of five years for the elected boards, a maximum number of directors with the reservation of seats for the Scheduled Castes or Tribes and for women, the supersession of a board only in limited circumstances and for a limited period, the audit of accounts within a prescribed time, and access to information for the members. The aim was to professionalise and democratise the co-operative movement.

A lesson in federalism The partial striking down of Part IX-B in *Union of India v. Rajendra N. Shah* (2021) — on the ground that the amendment touched a State subject and had not been ratified by the requisite number of state legislatures — is an important illustration of the procedural safeguards in Article 368 for amendments that affect the federal distribution of powers, and of the consequences of disregarding them.

Co-operatives and Economic Democracy

The co-operative movement embodies the principle of economic democracy — the voluntary association of persons of limited means for their mutual economic benefit, on the basis of self-help and democratic control. Co-operatives have been important in rural credit, agricultural marketing and processing, dairying, fisheries, housing, consumer supplies and banking, and have given millions of ordinary people a stake in economic activity. The 97th Amendment sought to strengthen this movement by ensuring the democratic, autonomous and professional functioning of co-operative societies and by protecting them from arbitrary interference.

The directive principle on co-operatives The 97th Amendment added Article 43-B to the Directive Principles, which directs the state to endeavour to promote the voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies. This directive complements the fundamental right to form co-operative societies, recognised by the same amendment as part of the freedom of association under Article 19(1)(c), giving the co-operative movement a stronger constitutional foundation.

Exam Pointers 97th Amendment (2011): fundamental right (Art. 19), Directive Principle (Art. 43-B), and Part IX-B. The provisions relating to single-state co-operatives were struck down in 2021 for want of state ratification.

Official Language

Part XVII, Articles 343 to 351 — balancing Hindi, English and the regional languages.

The Constitution contains elaborate provisions dealing with the question of language, contained in Part XVII (Articles 343 to 351). These were the subject of intense debate in the Constituent Assembly, and the solution adopted is a careful balance between Hindi, English and the many regional languages of India.

Key Provisions

- **Article 343:** the official language of the Union is **Hindi in the Devanagari script**. The use of English for official purposes was to continue for fifteen years, but the Official Languages Act, 1963 provided for its continued use thereafter.
- **Articles 345–347:** a state legislature may adopt one or more of the languages in use in the state, or Hindi, as the official language(s) of that state.
- **Articles 348–349:** the language of the Supreme Court, the High Courts and authoritative texts of laws is to be English, unless otherwise provided.
- **Articles 350–351:** the right to submit representations for the redress of grievances in any language; facilities for instruction in the mother tongue; and the duty of the Union to promote the spread of Hindi.

The Eighth Schedule

The Eighth Schedule of the Constitution lists the **scheduled languages**. Originally it contained 14 languages; it now contains **22** languages, following amendments that added Sindhi (21st Amendment), Konkani, Manipuri and Nepali (71st Amendment), and Bodo, Dogri, Maithili and Santhali (92nd Amendment).

The Language Settlement and Its Working

The language provisions represent a delicate compromise. Hindi in the Devanagari script was made the official language of the Union, with English continuing for official purposes; the Official Languages Act, 1963 (amended in 1967) provided for the indefinite continuation of English alongside Hindi, partly to reassure the non-Hindi-speaking states. The states are free to adopt their own official languages, and a three-language formula was promoted in education. The Eighth Schedule, which began with fourteen languages, now lists twenty-two, the latest additions being Bodo, Dogri, Maithili and Santhali by the 92nd Amendment.

Classical languages Distinct from the Eighth Schedule, the central government has accorded the status of "classical language" to several languages (such as Tamil, Sanskrit, Telugu, Kannada, Malayalam and Odia) on the basis of criteria relating to antiquity and a distinct literary tradition. This status is an executive recognition and is separate from inclusion in the Eighth Schedule.

The Committee of Parliament and the Three-Language Formula

The official-language settlement is supported by institutional and policy mechanisms. A Committee of Parliament on Official Language reviews the progress made in the use of Hindi for the official purposes of the Union and reports to the President, who may issue directions on its recommendations. In the sphere of education, the three-language formula — broadly, the study of the regional language, Hindi and English (or another language) — was promoted to balance national integration with respect for linguistic diversity, though its implementation has varied across the states and has periodically been the subject of controversy.

The directive to develop Hindi Article 351 casts a duty on the Union to promote the spread and development of the Hindi language so that it may serve as a medium of expression for the composite culture of India, drawing for its vocabulary primarily on Sanskrit and secondarily on other languages. This directive coexists with the constitutional protections for the other languages of India, reflecting the framers' careful balancing of unity and diversity.

Language, Identity and National Unity

The official-language provisions of the Constitution sought to balance the practical need for a common language of administration with respect for the country's linguistic diversity and the sensitivities of the non-Hindi-speaking regions. The retention of English alongside Hindi, the freedom of the states to choose their own official languages, the protection of linguistic minorities, and the steady expansion of the Eighth Schedule together reflect a pragmatic and accommodative approach to one of the most sensitive questions facing a multilingual nation. The management of linguistic diversity has been central to the success of India as a united and democratic country.

The Eighth Schedule The Eighth Schedule, which lists the languages recognised by the Constitution, began with fourteen languages and now contains twenty-two, following successive amendments — the most recent additions being Bodo, Dogri, Maithili and Santhali by the 92nd Amendment (2003). Recognition in the Eighth Schedule carries certain consequences, such as representation on the Official Language Commission and the obligation of the Union to develop these languages, and demands for the inclusion of further languages are a recurring feature of linguistic politics.

Exam Pointers Article 343 — Hindi in Devanagari as the official language of the Union; English continued by the Official Languages Act, 1963. The Eighth Schedule now has 22 languages. The 92nd Amendment added Bodo, Dogri, Maithili and Santhali.

Public Services

Part XIV, Articles 308 to 323 — the permanent administrative machinery of the State.

The administration of the country is carried on by a variety of public services. The Constitution contains provisions relating to these services in Part XIV (Articles 308 to 323). The framers retained a key feature of the British administrative system — a permanent, professional and politically neutral civil service that gives continuity and stability to the administration regardless of changes in government.

Classification of the Services

Category	Description
All-India Services	Common to the centre and the states — the IAS, the IPS and the Indian Forest Service (IFoS). Members are recruited and trained by the centre but serve in the states.
Central Services	Concerned with the administration of subjects in the Union List — e.g. the Indian Foreign Service, the Indian Revenue Service.
State Services	Concerned with the administration of subjects in the State List, recruited by the state governments.

Constitutional Safeguards

- **Article 309:** empowers the legislatures to regulate the recruitment and conditions of service.
- **Article 310:** the "doctrine of pleasure" — civil servants hold office during the pleasure of the President or the Governor.
- **Article 311:** provides important safeguards against arbitrary dismissal, removal or reduction in rank — a civil servant cannot be dismissed by an authority subordinate to the one that appointed them, and must be given a reasonable opportunity to be heard.
- **Article 312:** empowers the creation of new All-India Services on a resolution of the Rajya Sabha.

The All-India Services and the Doctrine of Pleasure

The All-India Services occupy a unique place in the federal scheme: their members are recruited and trained by the centre but serve in both the centre and the states, providing a measure of administrative unity across the federation. Article 312 allows Parliament to create new All-India Services on a resolution of the Rajya Sabha passed by a two-thirds majority. The "doctrine of pleasure" under Article 310 means

that civil servants hold office during the pleasure of the President or the Governor, but Article 311 hedges this with important procedural safeguards, so that a civil servant cannot be dismissed, removed or reduced in rank without a fair inquiry and a reasonable opportunity to be heard, save in certain specified exceptional situations.

A neutral, permanent service The framers retained a permanent, professional and politically neutral civil service to provide continuity and expertise across changes of government. The constitutional safeguards under Article 311, together with the role of the public service commissions, are designed to protect this neutrality from political pressure.

The Protections under Article 311

While civil servants hold office during the pleasure of the President or the Governor under Article 310, Article 311 hedges this doctrine with two crucial safeguards. First, a civil servant cannot be dismissed or removed by an authority subordinate to the one that appointed him. Second, he cannot be dismissed, removed or reduced in rank except after an inquiry in which he has been informed of the charges and given a reasonable opportunity of being heard. These safeguards are subject to specified exceptions — for example, where a person is dismissed on the ground of conduct that has led to a conviction on a criminal charge, or where the disciplinary authority is satisfied, for reasons to be recorded, that it is not reasonably practicable to hold an inquiry, or where the President or the Governor is satisfied that, in the interest of the security of the state, it is not expedient to hold one.

Balancing accountability and security of tenure The combination of the pleasure doctrine with the safeguards of Article 311 reflects a balance: the state must be able to maintain discipline and remove the unfit, but the civil servant must enjoy enough security of tenure to act honestly and impartially without fear of arbitrary dismissal for political reasons.

The Public Services and the Steel Frame

The public services constitute the permanent executive — the administrative machinery through which the policies of the government are implemented and the day-to-day governance of the country is carried on. The Constitution provides for the all-India services, the central services and the state services, and secures the independence and impartiality of the services through the doctrine of pleasure tempered by the safeguards of Article 311, and through the role of the public service commissions in recruitment and discipline. The all-India services, in particular, provide a measure of administrative unity and a common standard across the federation.

The all-India services The all-India services — the Indian Administrative Service, the Indian Police Service and the Indian Forest Service — are unique in that their members are recruited and trained by the centre but serve under both the centre and the states, holding key posts in both. This arrangement, a continuation of the colonial "steel frame", was retained by the framers, despite some misgivings, as a means of maintaining administrative standards and a sense of national unity in the services, and Article 312 permits the creation of further such services.

Exam Pointers Three categories — All-India, Central and State services. The IAS, IPS and IFoS are the All-India Services. Article 310 = doctrine of pleasure; Article 311 = safeguards against arbitrary dismissal; Article 312 = creation of new All-India Services (Rajya Sabha resolution).

Rights and Liabilities of the Government

76

Articles 294 to 300 — the State as a holder of property and a party to contracts and suits.

The Constitution contains provisions with respect to the property, contracts, rights, liabilities, obligations and suits of the Union and the states in Part XII (Articles 294 to 300). These provisions treat the State as a juristic person capable of owning property, entering into contracts, and suing and being sued in the courts.

Key Provisions

- **Articles 294–295:** the succession of property, assets, rights, liabilities and obligations from the pre-Constitution governments to the Union and the states.
- **Article 296:** property accruing to the State by escheat, lapse or as bona vacantia (ownerless property).
- **Article 298:** the executive power of the Union and the states extends to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts.
- **Article 299:** a government contract must be expressed to be made by the President or the Governor and executed by an authorised person, in the prescribed manner, to bind the government.
- **Article 300:** the Union and the states can **sue and be sued** in their respective names.

Suits against the State Article 300 enables the government to sue and be sued, carrying forward the position that existed before the Constitution. The distinction between the "sovereign" and "non-sovereign" functions of the State, developed through case law, has historically influenced the extent of the State's liability in tort, though this distinction has been steadily narrowed by the courts.

Government Contracts and Liability in Tort

Article 299 prescribes the form of government contracts: they must be expressed to be made by the President or the Governor and executed on their behalf by an authorised person; a contract not conforming to these requirements does not bind the government, though equitable remedies may sometimes follow. On the question of the State's liability in tort, the courts historically drew a distinction between "sovereign" and "non-sovereign" functions, exempting the former from liability; but this distinction has been progressively narrowed, and the modern trend, especially where fundamental rights are infringed, is to hold the State liable and to award compensation.

Property as a constitutional right Although the right to property ceased to be a fundamental right after the 44th Amendment, Article 300-A provides that no person shall be deprived of their property save by

authority of law. The State's power of compulsory acquisition is therefore subject to the requirement of a valid law and, increasingly, to standards of fairness and compensation.

Suits, Contracts and the Liability of the State

Article 300 provides that the Government of India and the governments of the states may sue and be sued in the name of the Union and the states respectively, subject to the provisions of any law made by Parliament or the state legislatures. Article 299 governs the form of contracts: they must be expressed to be made by the President or the Governor, and executed on his behalf by an authorised person, in such manner as he may direct; a contract not complying with these formalities is not enforceable against the government, although the courts have in appropriate cases granted equitable relief to prevent unjust enrichment.

Sovereign immunity in decline The old distinction between "sovereign" and "non-sovereign" functions — by which the state escaped tortious liability for acts done in the exercise of sovereign power — has been progressively eroded by the courts. Where the violation of a fundamental right is involved, the modern approach is to hold the state liable and to award compensation as a public-law remedy, narrowing the scope of sovereign immunity considerably.

The Government as a Legal Person

The Constitution treats the Union and the states as juristic persons capable of holding property, of making contracts, of carrying on trade or business, and of suing and being sued. The provisions on property, contracts and suits (Articles 294 to 300) regulate the legal relations of the government in these respects, while Article 300-A protects the citizen against the deprivation of property save by authority of law. The progressive narrowing of the doctrine of sovereign immunity has brought the government increasingly within the reach of the ordinary law of liability, in keeping with the principle of the rule of law.

The rule of law and the state A central principle of the constitutional order is that the government and its officials are subject to the ordinary law of the land and are answerable in the ordinary courts for their acts, just as private persons are. The erosion of the old immunities of the state, and the development of public-law remedies such as compensation for the violation of fundamental rights, are expressions of this principle, which subjects the exercise of public power to legal accountability.

Exam Pointers Article 298 — the State can carry on trade and hold property. Article 299 — formal requirements of a valid government contract. Article 300 — the government can sue and be sued. Article 300-A (right to property) is separate and is a legal/constitutional right.

Special Provisions Relating to Certain Classes

Part XVI — safeguards for the SCs, STs, OBCs, minorities and Anglo-Indians.

The Constitution provides for certain special provisions for the benefit of the weaker and disadvantaged sections of society — the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes, the minorities, and (historically) the Anglo-Indian community. These provisions are mainly contained in Part XVI (Articles 330 to 342) and are intended to ensure their adequate representation and to promote their educational and economic interests.

The Main Safeguards

- **Reservation of seats:** reservation of seats for the SCs and STs in the Lok Sabha (Article 330) and in the state legislative assemblies (Article 332).
- **Special representation:** claims of the SCs and STs to services and posts are to be considered, consistently with administrative efficiency (Article 335).
- **Reservation in services:** reservation in appointments and promotions, through enabling provisions in Article 16.
- **Special officers and commissions:** the commissions for the SCs, STs and BCs, and the Special Officer for Linguistic Minorities, monitor the safeguards.
- **Educational safeguards:** protection of the cultural and educational rights of minorities under Articles 29 and 30.

The end of the Anglo-Indian nomination The Constitution originally provided for the nomination of members of the Anglo-Indian community to the Lok Sabha and certain state assemblies (Articles 331 and 333). The **104th Amendment (2019)** discontinued this nomination of Anglo-Indians, while extending the reservation of seats for the SCs and STs.

Reservation and the Evolving Jurisprudence

The special provisions for the disadvantaged classes are buttressed by an extensive body of constitutional jurisprudence. The Supreme Court in *Indra Sawhney* (1992) upheld reservation for the Other Backward Classes, subject to the exclusion of the "creamy layer" and a ceiling of fifty per cent on total reservation, while permitting the breach of that ceiling only in extraordinary circumstances. Later amendments have provided for reservation in promotions (with conditions) and for a ten-per-cent reservation for the economically weaker sections (the 103rd Amendment, 2019), each of which has been the subject of further litigation.

The 104th Amendment The 104th Amendment (2019) extended the reservation of seats for the Scheduled Castes and Scheduled Tribes in the Lok Sabha and the state assemblies for a further period, while discontinuing the provision for the nomination of members of the Anglo-Indian community — a recognition that the original ground for that special nomination had diminished over time.

The Special Provisions for Specific Classes

Part XVI of the Constitution contains special provisions relating to certain classes — the Scheduled Castes, the Scheduled Tribes, the backward classes and (originally) the Anglo-Indian community. These include the reservation of seats in the Lok Sabha and the state assemblies for the Scheduled Castes and Tribes (Articles 330 and 332), claims to services and posts (Article 335), the appointment of commissions to investigate the conditions of the backward classes (Article 340), and the specification of the Scheduled Castes, Scheduled Tribes and (after the 102nd Amendment) the socially and educationally backward classes (Articles 341, 342 and 342-A).

The end of Anglo-Indian nomination The provision for the nomination of members of the Anglo-Indian community to the Lok Sabha and to certain state assemblies (Articles 331 and 333) was allowed to lapse by the 104th Amendment (2019), which extended the reservation of seats for the Scheduled Castes and Tribes but did not extend the nomination of the Anglo-Indians, on the view that the original justification had diminished.

Reservation, Representation and Social Justice

The special provisions for the Scheduled Castes, the Scheduled Tribes and the backward classes give effect to the constitutional commitment to social justice — the commitment to overcome the historical disabilities and continuing disadvantages of these communities and to secure their effective participation in the political, economic and social life of the nation. The reservation of seats in the legislatures, the reservation of posts in public employment, the special provisions for educational advancement, and the machinery of the commissions together constitute a comprehensive framework of affirmative action unparalleled in its scope.

The economically weaker sections The 103rd Amendment (2019) added a new dimension to the framework of reservation by providing for the reservation of up to ten per cent of seats and posts for the economically weaker sections of citizens not already covered by the existing reservations. This extension of reservation on a purely economic criterion, over and above the existing reservations based on social and educational backwardness, has been the subject of debate and litigation regarding its place within the constitutional scheme of equality.

Exam Pointers Part XVI; reservation of seats under Articles 330 (Lok Sabha) and 332 (state assemblies). Article 335 — claims to services consistent with efficiency. The 104th Amendment (2019) ended the Anglo-Indian nomination and extended SC/ST seat reservation.

Special Provisions for Some States

Articles 371 to 371-J — asymmetric federalism for distinct regional needs.

The Constitution contains special provisions for as many as a dozen states, contained in Articles 371 to 371-J (in Part XXI). The intention behind these provisions is to meet the aspirations of the people of the backward regions of the states, to protect the cultural and economic interests of the tribal people, to combat local insurgency, or to protect the interests of the local people. These provisions are a striking example of India's "asymmetric federalism" — different states being treated differently to suit their special circumstances.

Illustrative Provisions

Article	State(s) and concern
371	Maharashtra and Gujarat — special responsibility of the Governor for development boards.
371-A	Nagaland — protection of Naga customary law, religious practices and land.
371-B	Assam — a committee of the assembly for the tribal areas.
371-C	Manipur — a committee of the assembly for the hill areas.
371-D, 371-E	Andhra Pradesh and Telangana — equitable opportunities in employment and education.
371-F	Sikkim — special provisions following its accession.
371-G	Mizoram — protection of Mizo customary law and land.
371-H	Arunachal Pradesh — special responsibility of the Governor for law and order.
371-I	Goa — provisions relating to the assembly.
371-J	Karnataka — special provisions for the Hyderabad–Karnataka region.

Asymmetric Federalism and Its Rationale

The special provisions for individual states are the clearest expression of India's "asymmetric federalism" — the principle that different states may be treated differently to accommodate their distinct historical, cultural, tribal and developmental circumstances. Some provisions protect customary law and land rights (as in Nagaland and Mizoram); some create development boards or assembly committees for backward

or hill regions (as in Maharashtra, Gujarat, Assam, Manipur and Karnataka); and some address the equitable distribution of opportunities (as in Andhra Pradesh and Telangana). These provisions illustrate the Constitution's pragmatic flexibility in holding a diverse nation together.

Temporary, transitional and special Part XXI is titled "Temporary, Transitional and Special Provisions". It originally included Article 370, which conferred a special status on Jammu and Kashmir; the special status under Article 370 was abrogated in 2019, and the former state was reorganised into two union territories.

The Range of Special Provisions under Articles 371 to 371-J

The special provisions for individual states are spread across Articles 371 to 371-J. They include development boards for regions such as Vidarbha, Marathwada, Saurashtra and Kutch (Maharashtra and Gujarat); the protection of the religious and social practices, customary law and land of the Nagas (Article 371-A) and the Mizos (Article 371-G); committees of the legislative assembly for the tribal and hill areas of Assam and Manipur; special responsibilities of the Governors of certain states; protections relating to Sikkim (Article 371-F) on its accession; and special provisions for the Hyderabad-Karnataka region (Article 371-J). Each provision responds to a specific historical or regional circumstance.

The abrogation of Article 370 Article 370, which had conferred a special status on the State of Jammu and Kashmir as a temporary provision, was rendered inoperative by a presidential order and a parliamentary resolution in 2019, and the state was reorganised into the union territories of Jammu and Kashmir and Ladakh by the Jammu and Kashmir Reorganisation Act, 2019.

Asymmetric Federalism and National Unity

The special provisions for individual states demonstrate that the Indian federation is not a uniform arrangement but an asymmetric one, in which different states and regions are accommodated on terms suited to their particular circumstances. Far from weakening the union, this flexibility has been a source of strength, enabling the constitutional order to absorb and reconcile the most diverse claims — of tribal communities, of distinct linguistic and cultural groups, of regions with special developmental needs, and of areas with a particular history — within a single national framework. The capacity to accommodate diversity has been central to the durability of the Indian union.

Temporary, transitional and special Part XXI, which contains these provisions, is titled "Temporary, Transitional and Special Provisions", reflecting the framers' expectation that some of them would be needed only for a limited period while others would be of a more lasting character. The history of this Part — including the eventual abrogation of the special status of Jammu and Kashmir under Article 370 in 2019 — illustrates the evolving and contested nature of the constitutional accommodation of regional difference.

Exam Pointers Articles 371 to 371-J — temporary, transitional and special provisions for about a dozen states. 371-A (Nagaland) and 371-G (Mizoram) protect customary law and land. These provisions illustrate India's asymmetric federalism.

PART NINE

Political Dynamics

The living politics of the Constitution: the parties and pressure groups that compete for power, the elections and electoral reforms that decide who governs, the behaviour of voters, the rise of coalitions, the law against defection, and the larger questions of national integration and foreign policy.

Political Parties

The organised vehicles of democratic competition.

A political party is a group of people who come together to contest elections and hold power in the government. Parties agree on some policies and programmes for society with a view to promoting the collective good. They are an indispensable part of a democracy, for they articulate interests, contest elections, form governments and provide an opposition. India has a multi-party system, shaped by its enormous social diversity.

The Party System in India

- India has a **multi-party system** with national parties, state (regional) parties and a large number of registered unrecognised parties.
- The system has evolved from a one-party-dominant phase, through phases of coalition and multi-party competition.
- Parties are registered with the **Election Commission** under the Representation of the People Act, 1951.

Recognition as National or State Parties

The Election Commission grants recognition to parties as **national** or **state** parties on the basis of their performance in elections (the share of votes and the number of seats won, according to laid-down criteria). Recognition brings privileges such as a reserved election symbol, free broadcast time and access to electoral rolls.

Why parties matter Parties perform vital functions — contesting elections, putting forward policies, making laws, forming and running governments, acting as the opposition, shaping public opinion, and providing a link between the government and the citizen. Their internal democracy and funding remain areas of ongoing reform.

The Party System and Its Evolution

The Indian party system has passed through several phases — a period of single-party dominance after independence, a phase of fragmentation and the rise of regional and coalition politics from the late 1960s and especially after 1989, and more recent realignments. Parties are registered with the Election Commission, and recognition as a national or state party — based on thresholds of vote share and seats — confers privileges such as a reserved symbol, free broadcast time and a say in the setting of the

campaign agenda. The financing of parties, their internal democracy, and the influence of money have remained central concerns of reform.

Functions of parties Political parties perform indispensable democratic functions: they contest elections, aggregate and articulate interests, formulate policies and programmes, form and run governments, provide an organised opposition, recruit political leadership, and act as a link between the citizen and the state. A healthy party system is therefore essential to the working of representative democracy.

Recognition of Parties and the Symbols Order

The recognition of political parties as "national" or "state" parties by the Election Commission, under the Election Symbols (Reservation and Allotment) Order, depends on the satisfaction of thresholds relating to the percentage of valid votes polled and the number of seats won in general elections to the Lok Sabha or the state assemblies. Recognition confers significant advantages: a reserved election symbol, free time on the state-owned broadcast media, a smaller number of proposers for nominations, access to the electoral rolls, and a role in the consultations on the dates of elections and on the Model Code of Conduct.

Registration and de-recognition All parties must be registered with the Election Commission under Section 29-A of the Representation of the People Act, 1951, which gives them certain benefits such as tax exemptions; but registration is distinct from recognition. A party may lose its recognised status if its performance in successive elections falls below the prescribed thresholds, though the Commission has from time to time relaxed the rule to avoid frequent de-recognition.

Political Parties and the Working of Democracy

Political parties are the indispensable agents of representative democracy, mediating between the citizen and the state, organising political competition, and giving structure and direction to the otherwise inchoate mass of individual opinions and interests. The character of the party system — whether it is dominated by a single party, polarised between two, or fragmented among many — profoundly shapes the working of the political system. The Indian party system has evolved through phases of single-party dominance, fragmentation and coalition, and more recent realignments, each with its own consequences for governance and federalism.

The challenge of internal democracy A recurring concern about Indian political parties is the lack of internal democracy — the concentration of power in the hands of the party leadership, the absence of regular and genuine internal elections, the influence of money, and the prevalence of dynastic succession in some parties. The strengthening of internal democracy, the transparency of party funding, and the regulation of the functioning of parties are therefore central themes in the debate on the reform of the political system.

Exam Pointers India has a multi-party system. Parties are registered and recognised by the Election Commission. Recognition (national/state) depends on vote-share and seats and brings a reserved symbol and other privileges.

Role of Regional Parties

Federalism expressed through politics.

Regional parties are those whose influence and appeal are confined to a particular state or region, articulating the aspirations, interests and identities of the people of that region. They have become an increasingly significant feature of Indian politics, especially in the era of coalition governments, where they have often held the balance of power at the centre and have strengthened the federal character of the polity.

Characteristics and Role

- They focus on regional issues — language, culture, regional development and the interests of the state vis-à-vis the centre.
- They have given political voice to regional and sub-regional identities and have deepened democracy by bringing new groups into the political process.
- In the coalition era, regional parties became indispensable partners in central governments, enhancing the bargaining power of the states.

A double-edged contribution Regional parties strengthen federalism and democratic participation, but their rise has also been associated with concerns about regionalism, instability of coalitions and the parochialisation of national politics. On balance, they have made Indian federalism more genuinely participatory.

Regional Parties and the Federal Balance

The rise of regional parties has transformed Indian politics, particularly since the era of coalition governments began. By giving political voice to regional identities, languages and developmental aspirations, they have deepened democratic participation and strengthened the bargaining power of the states within the federation. In the coalition era they have often held the balance of power at the centre, shaping national policy and securing resources and attention for their regions. At the same time, the assertion of narrow regional interests can sometimes strain national cohesion.

Regional parties and federalism Scholars note that the growth of regional parties has made Indian federalism more genuinely participatory and has acted as a counterweight to centralisation, even as it has introduced new complexities into coalition management and national policy-making.

The Classification and Role of Regional Parties

Regional parties may be broadly classified into those confined to a particular state and oriented towards regional or linguistic identity, those that espouse the interests of a particular community or section, and those that are essentially breakaway factions of larger parties. Their growth has been driven by the assertion of regional and linguistic identities, the uneven pattern of development across regions, and dissatisfaction with the policies of the national parties. In the era of coalition politics, they have come to play a decisive role in the formation of governments at the centre and in shaping the federal agenda.

A double-edged influence While regional parties have deepened democracy by giving political voice to regional aspirations and have strengthened the bargaining position of the states, the assertion of narrow regional or sectional interests can, in some circumstances, complicate national policy-making and place strains on the cohesion of the federation — a tension inherent in a diverse, federal democracy.

Regional Parties and the Plural Polity

The flourishing of regional parties is one of the most striking features of Indian democracy and a powerful expression of its plural and federal character. By articulating regional identities, languages, cultures and developmental aspirations, regional parties have brought a vast range of interests into the political mainstream and have given the regions a strong voice at both the state and the national levels. In the era of coalition politics they have repeatedly held the balance of power at the centre, shaping national policy and securing attention and resources for their regions.

National and state parties The Election Commission classifies parties as "national" or "state" (regional) parties on the basis of their electoral performance, and this recognition carries privileges such as a reserved symbol and access to broadcast media. The distinction is not static: parties may gain or lose recognition with changes in their electoral fortunes, and the line between a large regional party and a small national party can be fluid, reflecting the dynamic and competitive nature of the party system.

Exam Pointers Regional parties articulate regional aspirations and have become decisive in coalition politics. They strengthen federalism but can encourage regionalism.

Elections

The mechanism through which the people choose their representatives.

Elections are the central mechanism of representative democracy — the means by which the people periodically choose their representatives and hold them accountable. The Indian electoral system is built on the principle of **universal adult franchise** (Article 326), under which every citizen who is 18 years of age or above has the right to vote, without discrimination. The conduct of elections is entrusted to the independent Election Commission.

Features of the Indian Electoral System

- **Universal adult franchise:** every citizen aged 18 or above can vote (the age was lowered from 21 to 18 by the 61st Amendment, 1988).
- **First-past-the-post system:** for elections to the Lok Sabha and the state legislative assemblies, the candidate who gets the most votes in a constituency wins.
- **Territorial constituencies:** the country is divided into territorial constituencies of roughly equal population.
- **Reservation of seats:** for the SCs and STs in proportion to their population.
- **Independent machinery:** the Election Commission of India superintends, directs and controls the entire process.

The Election Process

The process involves the delimitation of constituencies, the preparation of electoral rolls, the notification of elections, the nomination and scrutiny of candidates, the campaign (subject to the Model Code of Conduct), the poll (largely through Electronic Voting Machines), the counting of votes, and the declaration of results.

The Machinery and Integrity of Elections

The conduct of elections involves a long chain of activities — the delimitation of constituencies, the preparation and revision of electoral rolls, the issue of the notification, the filing and scrutiny of nominations, the campaign governed by the Model Code of Conduct, the poll conducted largely through Electronic Voting Machines with Voter Verifiable Paper Audit Trail, the counting of votes, and the declaration of results. The independence of the Election Commission, the secrecy of the ballot, and the principle of universal adult franchise together secure the integrity of the process and the legitimacy of the government that emerges from it.

First-past-the-post and its effects India's first-past-the-post system, in which the candidate with the most votes in a constituency wins, tends to produce stable single-party or coalition majorities and a strong link between the representative and the constituency, but it can also translate a plurality of votes into a disproportionate share of seats — a feature that has fuelled debate about proportional representation.

The Machinery and the Conduct of Elections

The conduct of elections is governed by the Representation of the People Acts of 1950 and 1951, together with the rules and the orders of the Election Commission. The 1950 Act deals with the allocation of seats and the preparation of electoral rolls, while the 1951 Act deals with the actual conduct of elections, the qualifications and disqualifications of candidates, corrupt practices and electoral offences, and the resolution of disputes. Universal adult franchise (Article 326) entitles every citizen who is not less than eighteen years of age and is not otherwise disqualified to be registered as a voter.

EVMs, VVPAT and NOTA The introduction of Electronic Voting Machines, supplemented by the Voter Verifiable Paper Audit Trail to provide a verifiable record of each vote, and the provision of the "None of the Above" (NOTA) option following a Supreme Court direction, are among the most significant changes in the mechanics of voting, intended to make elections more efficient, transparent and reflective of the voter's choice.

Elections and the Legitimacy of Government

Free and fair elections are the foundation of the legitimacy of democratic government, for it is through elections that the people confer authority on those who govern in their name and hold them periodically to account. The elaborate machinery of Indian elections — the independent Election Commission, the universal adult franchise, the secret ballot, the regulation of campaign conduct, and the resolution of disputes through election petitions — is designed to ensure that the verdict of the people is freely given and faithfully recorded. The peaceful conduct of elections on a vast scale, and the orderly transfer of power that follows, are among the great achievements of Indian democracy.

The scale of Indian elections The general elections to the Lok Sabha are the largest exercise of democratic choice in the world, involving an electorate of hundreds of millions, conducted over multiple phases, with elaborate arrangements for the security and secrecy of the ballot and for the deployment of electronic voting machines and personnel across the length and breadth of the country. The successful management of an electoral exercise of this magnitude is a remarkable feat of organisation and a testament to the strength of the country's democratic institutions.

Exam Pointers Universal adult franchise — Article 326; voting age lowered to 18 by the 61st Amendment (1988). First-past-the-post for the Lok Sabha and assemblies. EVMs and the Model Code of Conduct. The Election Commission conducts the process.

Election Laws

The statutory framework that governs the conduct of elections.

While the broad framework of elections is set out in the Constitution (Part XV, Articles 324 to 329), the detailed law governing elections is contained in statutes enacted by Parliament. The two principal statutes are the **Representation of the People Act, 1950** and the **Representation of the People Act, 1951**, supplemented by rules and by the orders of the Election Commission.

The Two Principal Acts

Statute	Subject matter
Representation of the People Act, 1950	The allocation of seats, the delimitation of constituencies, the qualifications of voters, and the preparation of electoral rolls.
Representation of the People Act, 1951	The actual conduct of elections, the qualifications and disqualifications of members, corrupt practices and electoral offences, and the resolution of election disputes.

Disqualifications and Disputes

- The 1951 Act lays down grounds of disqualification for membership — conviction for certain offences, corrupt practices, failure to lodge election expenses, and holding an office of profit.
- Election disputes are decided through **election petitions** presented to the High Court, with an appeal to the Supreme Court.
- **Article 329** bars the interference of courts in electoral matters once the process has begun, except through an election petition.

Disqualifications, Corrupt Practices and Disputes

The Representation of the People Act, 1951 specifies the qualifications and disqualifications for membership of the legislatures, defines corrupt practices and electoral offences (such as bribery, undue influence and the appeal to religion or caste), regulates election expenditure, and provides for the resolution of disputes through election petitions. A person convicted of certain offences is disqualified, and the Supreme Court has held that a sitting legislator convicted of an offence attracting disqualification is disqualified immediately, removing the earlier protection that allowed continuance pending appeal.

Courts and the electoral process Article 329 bars the interference of the courts in electoral matters once the process has begun, channelling all challenges to the conduct of an election into the mechanism of

the election petition, to be filed in the High Court after the result is declared, with an appeal to the Supreme Court. This is designed to prevent the electoral process from being stalled by litigation.

Corrupt Practices, Disqualifications and Disputes

The Representation of the People Act, 1951 defines a range of "corrupt practices" — including bribery, undue influence, the appeal to vote or refrain from voting on grounds of religion, race, caste, community or language, the promotion of enmity between classes, and the publication of false statements about a candidate — the commission of which can lead to the setting aside of an election. It also lays down the disqualifications for membership, including conviction for certain offences, corrupt practices, failure to lodge an account of election expenses, and holding an office of profit. Disputes are resolved through election petitions filed in the High Court.

Disqualification on conviction The Supreme Court has held that a sitting member of a legislature who is convicted of an offence attracting disqualification stands disqualified from the date of conviction, striking down the statutory protection that had earlier allowed such a member to continue pending an appeal. This ruling significantly strengthened the effort to keep persons convicted of serious offences out of the legislatures.

Electoral Law and the Integrity of the Process

The body of electoral law — principally the Representation of the People Acts of 1950 and 1951, together with the rules and the orders of the Election Commission — regulates every aspect of the electoral process, from the preparation of electoral rolls and the qualifications and disqualifications of candidates to the conduct of the campaign, the control of corrupt practices and electoral offences, the regulation of expenditure, and the resolution of disputes. The integrity of the electoral process depends on the strict enforcement of these laws and on the vigilance of the Election Commission, the courts and the citizenry.

Office of profit One of the disqualifications for membership of the legislatures is the holding of an "office of profit" under the government, the purpose of which is to preserve the independence of the legislature from the executive by preventing the holders of lucrative or influential government offices from also sitting as legislators. The determination of what constitutes an office of profit has generated considerable controversy and litigation, and Parliament has from time to time exempted specified offices from the disqualification by law.

Exam Pointers Two key statutes — the RPA 1950 (rolls, constituencies) and the RPA 1951 (conduct, disqualifications, disputes). Election disputes via election petitions to the High Court. Article 329 bars court interference once the process has begun.

Electoral Reforms

Making elections freer, fairer and cleaner.

Over the decades, a series of electoral reforms have been introduced to make the electoral process more free, fair, transparent and participatory, and to combat the influence of money and muscle power, criminalisation and other distortions. These reforms have come through constitutional amendments, statutory changes, the orders of the Election Commission and the judgments of the courts.

Major Reforms

- Lowering the voting age from 21 to 18 (61st Amendment, 1988).
- The introduction of **Electronic Voting Machines (EVMs)** and, later, the **Voter Verifiable Paper Audit Trail (VVPAT)**.
- The introduction of the **"None of the Above" (NOTA)** option, following a Supreme Court ruling.
- Mandatory disclosure by candidates of their criminal antecedents, assets and liabilities, and educational qualifications.
- Limits on, and the auditing of, election expenditure.
- Disqualification on conviction, and provisions to curb the criminalisation of politics.
- Restrictions on exit polls and on opinion polls during the election period.

Continuing concerns Despite these reforms, concerns remain about the role of money in elections, the criminalisation of politics, the lack of internal democracy in parties, paid news, and the transparency of political funding. Bodies such as the Law Commission and various committees have made further recommendations in these areas.

The Course of Electoral Reform

Electoral reform in India has been driven by constitutional amendments, statutory changes, the orders of the Election Commission, and the judgments of the courts. Landmark measures include the lowering of the voting age to eighteen, the introduction of Electronic Voting Machines and the Voter Verifiable Paper Audit Trail, the NOTA option, the mandatory disclosure by candidates of their criminal antecedents and financial position, limits on and the auditing of election expenditure, and steps to curb the criminalisation of politics. Bodies such as the Law Commission, the Goswami Committee, the Vohra Committee and the Election Commission itself have proposed further reforms.

The unfinished agenda Important concerns remain only partly addressed — the role of unaccounted money in elections, the transparency of political funding, the criminalisation of politics, the lack of internal

democracy in parties, the regulation of paid news and misinformation, and the debate over the simultaneous conduct of elections to Parliament and the state assemblies.

The Committees and the Reforms They Inspired

The agenda of electoral reform has been shaped by a succession of committees and commissions — among them the Tarkunde Committee, the Dinesh Goswami Committee, the Vohra Committee (on the criminalisation of politics), the Indrajit Gupta Committee (on the state funding of elections), the Law Commission in several of its reports, and the National Commission to Review the Working of the Constitution. Their recommendations have addressed the funding of elections, the curbing of the criminalisation of politics, the regulation of opinion and exit polls, the disclosure of candidates' antecedents, and the internal democracy of political parties.

The continuing debate on funding The transparency of political funding remains one of the most contested areas of reform. Measures such as caps on expenditure, the requirement to disclose donations above a threshold, and various schemes of funding have all been debated, and the question of how to reduce the influence of unaccounted money in elections without unduly burdening legitimate political activity is still unresolved.

The Reform Agenda and Its Prospects

The reform of the electoral system remains a continuing and contested project. The agenda includes the curbing of the influence of money and the criminalisation of politics, the enhancement of the transparency of political funding, the strengthening of the internal democracy of parties, the regulation of paid news, misinformation and the misuse of social media, the improvement of the machinery of election administration, and the debate over far-reaching changes such as the simultaneous conduct of elections to Parliament and the state assemblies. Progress has been incremental, driven by the interplay of legislation, judicial decisions and the orders of the Election Commission.

The debate on simultaneous elections One of the most debated reform proposals is the holding of simultaneous elections to the Lok Sabha and the state assemblies — the "one nation, one election" idea — advocated on the grounds of reducing the cost and disruption of frequent elections, but criticised on the grounds that it raises difficult constitutional and federal questions, including the synchronisation of the terms of the legislatures and the consequences of a government losing its majority mid-term.

Exam Pointers 61st Amendment lowered the voting age to 18. EVMs and VVPAT; NOTA (introduced after a Supreme Court ruling). Mandatory disclosure of criminal and financial details. Restrictions on exit/opinion polls.

Voting Behaviour

The study of how, and why, people vote as they do.

Voting behaviour, also known as electoral behaviour, refers to the patterns and determinants of the way people vote in elections. Its systematic study is called **psephology**. Understanding voting behaviour helps explain the outcomes of elections and the working of democracy in a diverse society like India.

Determinants of Voting Behaviour in India

- **Caste** — historically a significant factor in mobilisation.
- **Religion and community** — appeals to religious identity.
- **Region and language** — regional and linguistic loyalties.
- **Performance and development** — the record of the incumbent government.
- **Charisma and leadership** — the personality of leaders.
- **Money and patronage** — the influence of money power.
- **Ideology and party loyalty**.
- **The "wave" factor** — a strong national or regional sentiment in a particular election.

A maturing electorate While identity factors such as caste and religion remain important, studies suggest that the Indian electorate is increasingly influenced by issues of governance, development and performance. The high and rising participation of women, youth and marginalised groups reflects the deepening of democratic participation.

Determinants and Trends in Voting Behaviour

The systematic study of voting behaviour, or psephology, examines the factors that shape electoral choices and the patterns of turnout. In India these factors include caste and community, religion, region and language, the performance and record of the incumbent, the personality and charisma of leaders, the influence of money and patronage, ideology and party loyalty, and the "wave" sentiment of a particular election. Survey-based studies suggest that, while identity factors remain significant, issues of governance, welfare delivery and development increasingly influence the vote, and that the participation of women, youth and marginalised groups has been rising.

A deepening democracy The steady rise in voter turnout, the increasing participation of historically marginalised groups, and the growing weight of performance and welfare considerations are often cited as evidence of the deepening and maturing of Indian democracy over successive elections.

The Study of Elections and the Patterns It Reveals

The systematic study of voting behaviour draws on survey research, the analysis of aggregate results, and theories of voting drawn from political science and sociology. In the Indian context, scholars have examined the interplay of long-standing identities (caste, religion, region and language) with shorter-term factors (the performance of incumbents, the appeal of leaders, specific issues, and the mood of a particular election), and have traced changes over time, such as the growing participation of women and the marginalised, the increasing weight of welfare delivery and governance, and the periodic occurrence of decisive electoral "waves".

From identity to issues While identity remains an important factor in Indian elections, many studies suggest a gradual broadening of the bases of electoral choice to include the assessment of governance, the delivery of welfare and services, and aspirations for development. This evolution is often interpreted as a sign of the deepening and maturing of democratic citizenship over successive elections.

Voting Behaviour and the Democratic Citizen

The study of voting behaviour illuminates the way in which citizens engage with the democratic process and the factors that shape their political choices. In India, the interplay of enduring social identities with the assessment of governance and the appeal of leaders and issues produces a complex and evolving pattern of electoral behaviour. The steady rise in participation, particularly among women, the young and the marginalised, and the growing weight of considerations of governance and welfare, are often read as signs of an increasingly engaged and discerning democratic citizenry.

The role of the media and technology The growth of the mass media, and more recently of digital and social media, has had a profound effect on voting behaviour and on the conduct of campaigns, shaping the information available to voters, the framing of issues, and the strategies of the parties. The same technologies that enhance the reach and immediacy of political communication also raise concerns about misinformation, manipulation and the polarisation of opinion, making their regulation an important question for the health of democracy.

Exam Pointers The study of voting behaviour is called psephology. Determinants include caste, religion, region, language, performance, charisma, money and the wave factor. Indian voting behaviour blends identity with developmental concerns.

Coalition Government

Government by alliance in the multi-party era.

A coalition government is a government formed by two or more political parties that come together because no single party has secured a majority of seats on its own. The term "coalition" is derived from the Latin word *coalitio*, meaning "to grow together." Coalition politics has been a defining feature of Indian governance at the centre and in many states, particularly since the late 1980s.

Features of Coalition Politics

- The partners agree on a **Common Minimum Programme (CMP)** — a shared agenda that papers over their ideological differences.
- Power is shared through the distribution of ministries and positions among the partners.
- Decision-making is by **consensus and bargaining**, often through a coordination committee.
- Coalitions tend to be less stable than single-party governments, as the withdrawal of support by a partner can bring down the government.

Merits and demerits Coalitions reflect the country's diversity, accommodate regional aspirations, and promote consensus and federal bargaining. On the other hand, they can be unstable, may slow down decisive policy-making, and can give disproportionate influence to small parties holding the balance of power.

The Working of Coalition Governments

A coalition government rests on an agreement among its constituent parties, usually embodied in a Common Minimum Programme that sets out a shared agenda while accommodating their differences. Power is shared through the distribution of ministries, and decisions are taken by consensus, often through a coordination committee. Coalitions reflect and accommodate the country's diversity and strengthen federal bargaining, but they can be less stable than single-party governments, since the withdrawal of support by a key partner can bring down the government, and they may give disproportionate influence to small parties holding the balance.

An enduring feature Coalition politics has been a recurrent feature of governance both at the centre and in many states, especially since the late 1980s. Far from being an aberration, it is now understood as a normal mode of democratic government in a plural society, requiring the arts of negotiation, accommodation and consensus.

The Merits and Demerits of Coalition Government

Coalition governments have important merits in a diverse society: they reflect and accommodate the plurality of interests and regions, they reduce the concentration of power in a single party, they encourage consensus and the federal sharing of power, and they make government more representative of the country's diversity. Their demerits include a tendency towards instability, the risk of policy paralysis or the lowest-common-denominator policy-making, the disproportionate influence of small parties holding the balance, and the difficulty of fixing responsibility when many parties share power. The arts of negotiation and accommodation are therefore essential to their success.

The Common Minimum Programme A coalition government typically governs on the basis of a Common Minimum Programme, a negotiated statement of shared policies that sets out the agreed agenda while leaving aside the contentious issues on which the partners differ. The CMP, together with a coordination committee of the partners, is the principal instrument for holding a coalition together and managing the inevitable tensions among its constituents.

Coalition Government and the Federal Spirit

The era of coalition government has, in important respects, deepened the federal and consensual character of the Indian political system. The need to accommodate a plurality of parties, many of them regional, has compelled greater consultation, bargaining and power-sharing, and has strengthened the position of the states in the national decision-making process. While coalitions can be less stable and decisive than single-party majority governments, they can also be more representative and more attentive to the diversity of the country, and the experience of coalition governance has shown that stable and effective government is possible even in conditions of considerable political fragmentation.

From instability to accommodation The early experience of coalition and minority governments was marked by instability, but over time the political class has developed the conventions, understandings and instruments — such as the Common Minimum Programme and the coordination committee — needed to make coalition government work. The maturing of coalition politics is therefore one aspect of the broader maturing of Indian democracy and of its capacity to manage diversity and disagreement through accommodation rather than confrontation.

Exam Pointers A coalition is formed when no single party has a majority. Hallmarks — a Common Minimum Programme, power-sharing and consensus. Strengthens federal bargaining but can be unstable.

Anti-Defection Law

The Tenth Schedule — curbing the evil of political horse-trading.

The phenomenon of legislators changing parties for personal gain — the "Aaya Ram, Gaya Ram" syndrome — threatened the stability of governments and the integrity of the democratic process. To combat this, the **52nd Constitutional Amendment Act, 1985** added the **Tenth Schedule** to the Constitution, containing the anti-defection law. It lays down the process by which legislators may be disqualified on the ground of defection.

Grounds of Disqualification

- A member of a political party is disqualified if they **voluntarily give up** the membership of their party.
- A member is disqualified if they **vote or abstain** from voting in the House contrary to the direction (whip) of their party, unless condoned by the party.
- An independent member is disqualified if they join a political party after the election.
- A nominated member is disqualified if they join a party after six months.

The Deciding Authority and the Merger Exception

The question of disqualification on the ground of defection is decided by the **presiding officer** of the House (the Speaker or the Chairman). Originally, the law exempted a "split" (by one-third of the members), but the **91st Amendment (2003)** deleted this exception; now only a **merger** (where two-thirds of the members of a party agree to merge with another) is protected.

Kihoto Hollohan v. Zachillhu (1992) The Supreme Court upheld the validity of the anti-defection law but held that the decision of the presiding officer on disqualification is subject to **judicial review**. It also held that the law does not violate the freedom of speech of legislators.

The Working and Limits of the Anti-Defection Law

The anti-defection law in the Tenth Schedule was designed to combat the instability and corruption caused by legislators changing sides for personal gain. It disqualifies a member who voluntarily gives up party membership or votes against the party whip, and — after the 91st Amendment deleted the "split" exception — protects only a genuine merger by two-thirds of a party's members. The presiding officer decides questions of disqualification, subject to judicial review. Critics argue that, by binding members to the party whip, the law curtails the independence of legislators and concentrates power in the party leadership, and that the absence of a time limit for the presiding officer's decision has allowed it to be misused.

Kihoto Hollohan and after In Kihoto Hollohan (1992), the Supreme Court upheld the law but made the presiding officer's decision subject to judicial review and held that the whip applies only to votes critical to the survival of the government and to matters integral to the party's programme. Later cases have urged that decisions on disqualification be taken within a reasonable period, ideally a few months.

The Provisions of the Tenth Schedule in Detail

The Tenth Schedule, inserted by the 52nd Amendment (1985) and amended by the 91st Amendment (2003), provides for the disqualification of a member of a legislature on the ground of defection. A member of a political party is disqualified if he voluntarily gives up his membership of the party or if he votes or abstains from voting contrary to the direction of his party (the whip) without prior permission and without the act being condoned within fifteen days. An independent member is disqualified if he joins a party after the election, and a nominated member if he joins a party after six months. The decision rests with the presiding officer.

The merger exception The only protection now available is the "merger" of a political party with another, which is deemed to have taken place if at least two-thirds of the members of the legislature party agree to the merger. The original "split" exception, which had protected a faction of one-third of the members, was deleted by the 91st Amendment, since it had been used to facilitate large-scale defections in the guise of splits.

Anti-Defection and the Stability of Government

The anti-defection law was enacted to address the evil of unprincipled defections — the frequent changing of party allegiance by legislators for personal gain — which had undermined the stability of governments and corrupted the political process. By disqualifying members who defect, the law has substantially reduced the incidence of individual defections and has contributed to the stability of governments. Its working, however, has revealed difficulties — particularly the delay and the alleged partiality in the decisions of the presiding officers, and the tension between party discipline and the freedom of the individual legislator — that continue to be the subject of debate and proposals for reform.

Proposals for reform Among the reforms proposed to address the shortcomings of the anti-defection law are the transfer of the power to decide questions of disqualification from the presiding officer to an independent authority such as the President or the Governor acting on the advice of the Election Commission, the prescription of a time limit within which such questions must be decided, and the confinement of the application of the whip to votes that are critical to the survival of the government, so as to preserve the legislator's freedom on other matters.

Exam Pointers Tenth Schedule added by the 52nd Amendment (1985). The 91st Amendment (2003) deleted the "split" exception; only a two-thirds "merger" is now protected. The presiding officer decides, subject to judicial review (Kihoto Hollohan, 1992).

Pressure Groups

Organised interests that seek to influence policy without seeking office.

A pressure group is an organised group of people that seeks to influence the policies and decisions of the government in order to promote its own interests, without itself seeking to capture political power or contest elections. Pressure groups are also called interest groups. They are an important feature of a vibrant democracy and act as a link between the citizens and the government.

Types of Pressure Groups in India

Type	Examples
Business groups	FICCI, CII, ASSOCHAM.
Trade unions	INTUC, AITUC, BMS and other labour federations.
Agrarian groups	Farmers' organisations and associations.
Professional groups	The Indian Medical Association, Bar associations, teachers' associations.
Caste, religious and community groups	Various community and caste associations.
Ideological / cause groups	Environmental, human-rights and civil-society organisations.

Methods and Significance

- Pressure groups use methods such as lobbying, petitioning, advocacy, public campaigns, strikes and demonstrations.
- They articulate and aggregate interests, provide expertise and feedback to the government, and mobilise public opinion.
- Unlike political parties, they do not seek to form the government; they seek to influence it.

Pressure Groups and the Policy Process

Pressure groups influence public policy through a variety of methods — lobbying legislators and officials, petitioning, advocacy and public campaigns, the use of the media, litigation, and, where necessary, strikes and demonstrations. They serve democratic functions by articulating and aggregating interests, supplying the government with information and expertise, and mobilising public opinion. Their proliferation

reflects the growing complexity and pluralism of society. Unlike political parties, they do not seek to capture power but to influence those who hold it.

Strengths and dangers While pressure groups enrich democracy by giving organised expression to diverse interests, they can also distort the policy process if powerful and well-resourced groups secure undue influence at the expense of unorganised or weaker sections. Transparency in lobbying and the openness of the policy process are therefore important safeguards.

The Types and Techniques of Pressure Groups

Pressure groups in India may be classified into business groups, trade unions, agrarian and peasant organisations, professional associations, student and youth organisations, religious and communal organisations, caste-based groups, linguistic and tribal organisations, and ideological or cause-based groups (such as those for civil liberties, the environment and women's rights). They employ a range of techniques — petitioning and lobbying, the cultivation of public opinion through the media, advocacy and litigation, and, where these fail, direct action such as strikes, demonstrations and other forms of agitation.

Pressure groups vs political parties The crucial distinction between a pressure group and a political party is that the party seeks to capture and exercise governmental power by contesting elections and forming governments, whereas the pressure group seeks only to influence the holders of power in favour of its particular interest or cause, without itself seeking to govern. The two may nevertheless interact closely, with parties drawing support from sympathetic groups.

Pressure Groups and Civil Society

Pressure groups are an important part of the wider domain of civil society — the realm of voluntary association that lies between the individual and the state. Through their advocacy, their mobilisation of opinion, and their representation of particular interests and causes, they enrich democratic life, supplement the work of political parties, and provide channels through which citizens can influence public policy between elections. A vibrant civil society, with a multiplicity of pressure groups and voluntary organisations, is widely regarded as a condition and a sign of a healthy democracy.

The growth of civil society organisations Alongside the traditional pressure groups based on economic or sectional interests, recent decades have seen the proliferation of civil society organisations and non-governmental organisations devoted to causes such as the protection of the environment, the defence of civil liberties and human rights, the empowerment of women, the rights of the marginalised, and transparency and accountability in government. These organisations have become significant actors in the policy process and in the holding of the state to account.

Exam Pointers Pressure groups (interest groups) influence policy without seeking power — the key contrast with political parties. Types include business (FICCI, CII), trade unions, agrarian, professional and cause groups. Methods include lobbying, advocacy and agitation.

National Integration

Forging unity out of India's extraordinary diversity.

National integration is the awareness of a common identity amongst the citizens of a country. It means that, though we belong to different castes, religions, regions and speak different languages, we recognise the fact that we are all one. It is a feeling that binds together the diverse people of the nation into a single, harmonious whole. National integration is essential for the stability, progress and security of the country.

Challenges to National Integration

- **Communalism** — the use of religion for political ends and inter-religious tension.
- **Regionalism** — excessive attachment to one's region at the cost of the nation.
- **Casteism** — the politicisation and divisiveness of caste.
- **Linguism** — conflicts over language.
- **Extremism and insurgency** — separatist and secessionist movements.
- **Economic disparities** — uneven regional development.

Promoting Integration

Several constitutional values and institutions promote national integration — single citizenship, the Fundamental Duties, secularism, the ideal of fraternity in the Preamble, an integrated judiciary, the all-India services, and bodies such as the **National Integration Council**. Education, cultural exchange and inclusive development also play a vital role.

Building National Integration

National integration is fostered by constitutional design and by conscious policy. The Constitution promotes it through single citizenship, the guarantee of fundamental rights to all, the secular character of the state, the ideal of fraternity in the Preamble, the Fundamental Duties, an integrated judiciary, the all-India services, and provisions for inter-state coordination. Beyond the text, integration is advanced through inclusive and balanced development, education that fosters a shared civic identity, cultural exchange, and institutions such as the National Integration Council that bring together leaders across the political and social spectrum.

Unity in diversity The Indian approach to national integration does not seek uniformity but "unity in diversity" — the accommodation of many languages, religions, regions and cultures within a single

national framework. The challenge is to balance the recognition of diversity with the cultivation of a common sense of belonging to the nation.

The Obstacles to and the Promotion of National Integration

The principal obstacles to national integration include regionalism and the demand for separate states or greater autonomy; communalism and the politicisation of religious identity; casteism in social and political life; linguistic conflicts; and, in some regions, insurgency and extremism. National integration is promoted through the constitutional design already noted, through inclusive and balanced development that reduces regional and group disparities, through education that cultivates a shared civic identity and respect for diversity, through cultural exchange and national festivals, and through institutions such as the National Integration Council.

The National Integration Council The National Integration Council is a non-statutory body, comprising senior political leaders, administrators and eminent persons from various walks of life, which is convened from time to time to deliberate on the problems of communalism, casteism and regionalism that threaten national unity, and to recommend measures to combat them and to strengthen the bonds of nationhood.

National Integration and the Tasks Ahead

National integration — the welding of a diverse population into a cohesive nation, conscious of its common identity and committed to its common future — is a continuing task rather than a finished achievement. It requires the constant management of the tensions of a plural society, the reduction of the disparities and grievances that feed regionalism and separatism, the containment of the forces of communalism and casteism, and the cultivation of a shared civic identity that transcends, without effacing, the diverse identities of the people. The constitutional order, with its commitment to unity in diversity, provides the framework within which this task is pursued.

Emotional integration Beyond the structural and institutional measures, national integration has an emotional and psychological dimension — the development among the people of a sense of belonging to a single nation, of pride in a shared heritage, and of fellow-feeling that overrides the divisions of region, religion, language and caste. The fostering of this "emotional integration", through education, culture and the experience of common citizenship, is widely regarded as the deepest and most enduring foundation of national unity.

Exam Pointers National integration = a sense of common identity amid diversity. Challenges — communalism, regionalism, casteism, linguism, extremism. Promoted by single citizenship, Fundamental Duties, secularism and the National Integration Council.

Foreign Policy

India's principles and conduct in its relations with the world.

The foreign policy of a country is the set of principles and objectives that guide its relations with other countries and with international organisations. India's foreign policy has been shaped by its history, its civilisational values, its national interests and its constitutional commitments. **Article 51** of the Directive Principles directs the State to promote international peace and security, to maintain just and honourable relations between nations, and to foster respect for international law and treaty obligations.

Guiding Principles

- **Non-Alignment** — the refusal to join either bloc during the Cold War, while retaining the freedom to judge each issue on its merits.
- **Panchsheel** — the Five Principles of Peaceful Coexistence (mutual respect for territorial integrity and sovereignty, non-aggression, non-interference, equality and mutual benefit, and peaceful coexistence).
- **Anti-colonialism and anti-racism** — support for the liberation of colonised peoples.
- **Promotion of world peace** — support for the United Nations and for disarmament.
- **The Gujral Doctrine** — a policy of generosity towards India's smaller neighbours.

Continuity and change While the foundational values endure, India's foreign policy has evolved with the changing world — from non-alignment to strategic autonomy and multi-alignment, with a growing emphasis on economic diplomacy, regional cooperation, energy security and a larger role in global governance.

The Evolution of India's Foreign Policy

India's foreign policy has evolved from the non-alignment of the Cold War era — which sought to preserve strategic autonomy by refusing to join either bloc — towards a posture often described as "multi-alignment" or "strategic autonomy", marked by engagement with all major powers on the basis of national interest. Enduring themes include the promotion of world peace and disarmament, support for the United Nations and multilateralism, the principles of Panchsheel, opposition to colonialism and racism, and a special concern for relations with neighbours (reflected in approaches such as the Gujral Doctrine and "Neighbourhood First"). Economic diplomacy, energy security, the diaspora, and a larger role in global governance have gained prominence.

A constitutional directive Article 51, a Directive Principle, enjoins the State to promote international peace and security, to maintain just and honourable relations between nations, to foster respect for international

law and treaty obligations, and to encourage the settlement of international disputes by arbitration — supplying the constitutional values that underlie the conduct of foreign policy.

The Determinants and Instruments of Foreign Policy

India's foreign policy is shaped by determinants such as its geography and strategic location, its history and civilisational heritage, its economic needs and development priorities, its security environment, the size and aspirations of its population and diaspora, and its values and political traditions. The instruments through which it is pursued include diplomacy and treaty-making, participation in multilateral institutions, economic and developmental cooperation, defence and strategic partnerships, cultural diplomacy, and engagement with the Indian diaspora. The conduct of foreign relations is an executive function, with Parliament exercising oversight.

Panchsheel and the principles of conduct The five principles of peaceful coexistence — mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence (Panchsheel) — have long been articulated as guiding principles of India's relations with other states, alongside its support for the United Nations, disarmament, and the peaceful settlement of disputes.

Foreign Policy and the National Interest

The foreign policy of a country is the pursuit of its national interest in its relations with other states and in the international arena. India's foreign policy seeks to safeguard its security and territorial integrity, to create an external environment conducive to its economic development, to protect the interests of its citizens and its diaspora abroad, and to enhance its standing and influence in the world. Within these enduring objectives, the emphases and strategies have evolved with changing circumstances — from the non-alignment of the Cold War era to the multi-aligned engagement and strategic autonomy of the present.

India and global governance A persistent theme of India's foreign policy is the quest for a larger role in the institutions of global governance, including a permanent seat on a reformed United Nations Security Council, and the reshaping of the international order to reflect more fairly the interests and aspirations of the developing world. As a large, populous and rapidly growing democracy, India increasingly seeks to be a maker and not merely a taker of the rules of the international system.

Exam Pointers Article 51 (DPSP) directs the promotion of international peace. Core principles — Non-Alignment, Panchsheel (the Five Principles), anti-colonialism, and the Gujral Doctrine.

National Commission to Review the Working of the Constitution

The Venkatachaliah Commission — a stock-taking after fifty years.

The National Commission to Review the Working of the Constitution (NCRWC) was set up by the Government of India in the year **2000** to make a comprehensive review of the working of the Constitution after fifty years of its operation. It was headed by a former Chief Justice of India, **M. N. Venkatachaliah**, and is therefore also known as the Venkatachaliah Commission.

Mandate and Approach

- The Commission was asked to examine, in the light of the experience of the past fifty years, how far the existing provisions of the Constitution were adequate to meet the needs of efficient, smooth and effective government, and to recommend changes — but **within the framework of the basic structure** and parliamentary democracy.
- It was emphasised that the Commission was not to suggest changes that would alter the basic features or the democratic, secular and federal character of the Constitution.

Major Recommendations

- Strengthening the institutions of governance and electoral reforms.
- Measures to enhance the accountability of the executive and to improve the functioning of the legislature.
- Reforms relating to the judiciary, the anti-defection law, and the protection of fundamental and human rights.
- Recommendations to improve centre–state relations and the working of the federal system.

The NCRWC and Constitutional Reform

The National Commission to Review the Working of the Constitution, headed by former Chief Justice M. N. Venkatachaliah, was tasked with examining, after fifty years of working, how far the Constitution had served the goals of good governance, and with recommending changes strictly within the framework of its basic structure and the parliamentary democratic system. Its 2002 report made a large number of recommendations touching on the legislature, the executive, the judiciary, fundamental rights and duties, electoral reform, the anti-defection law, and centre–state relations, several of which have informed later reforms.

Within the basic structure A defining feature of the Commission's mandate was the express instruction that it should not recommend any change that would alter the basic features of the Constitution or its democratic, secular and federal character. This reflected the settled position, since *Kesavananda Bharati*, that the basic structure is beyond the reach even of constitutional amendment.

The Recommendations and the Legacy of the NCRWC

The recommendations of the National Commission to Review the Working of the Constitution (2002) ranged across the entire constitutional system. They touched on strengthening the institutions of parliamentary democracy, improving the functioning of the legislature and the committee system, reforming the electoral process and the anti-defection law, enlarging the scope of certain fundamental rights and making the fundamental duties more effective, decentralising power to local bodies, and improving centre–state relations and the working of the Inter-State Council. Several of these recommendations have informed subsequent reforms, while others remain part of the continuing debate on constitutional reform.

Reform within continuity The work of the Commission exemplifies the Indian approach to constitutional change: a willingness to review and improve the working of the system in the light of experience, combined with a firm commitment to preserving the basic structure and the fundamental character of the Constitution as a democratic, secular and federal polity.

Constitutional Review and the Living Constitution

The work of the National Commission to Review the Working of the Constitution exemplifies a distinctive feature of the Indian constitutional order — its capacity for periodic self-examination and reform within the bounds of its basic structure. The Constitution is treated not as a static and unalterable text but as a living framework, to be kept under review in the light of experience and adapted, through amendment and interpretation, to the changing needs of society, while preserving its fundamental character and the values it enshrines. This combination of adaptability and continuity has been a principal source of its durability.

The limits of review The express stipulation that the Commission should not recommend any change affecting the basic structure underscores the settled constitutional principle that, however extensive the power of review and amendment, there are certain fundamental features of the Constitution that lie beyond the reach even of the constituent power, and that define the identity of the constitutional order itself. Reform, in the Indian scheme, operates within and not against this enduring framework.

Exam Pointers NCRWC set up in 2000; chaired by former CJI M. N. Venkatachaliah. It reviewed the working of the Constitution after fifty years, strictly within the basic-structure framework. Submitted its report in 2002.

PART TEN

Working of the Constitution & Landmark Judgements

The Constitution is a living document, and much of its meaning has been shaped in the courtroom. This final part gathers the landmark judgements that have defined Indian constitutional law and traces how a single article — Article 21 — has been expanded into a charter of human rights.

Landmark Judgements and Their Importance

The decisions that have defined Indian constitutional law.

The Supreme Court, as the final interpreter and guardian of the Constitution, has delivered a series of landmark judgements that have profoundly shaped Indian constitutional law. These judgements have settled the meaning of key provisions, balanced competing rights and powers, and protected the essential features of the Constitution. A grasp of these cases is indispensable for understanding the living Constitution.

A Compendium of Landmark Cases

Case	Significance
A. K. Gopalan (1950)	Early, narrow reading of Article 21 (later overruled).
Champakam Dorairajan (1951)	Led to the First Amendment; FRs prevail over DPSPs.
Golak Nath (1967)	Held that FRs cannot be amended.
Kesavananda Bharati (1973)	Propounded the basic structure doctrine.
Maneka Gandhi (1978)	Expanded Article 21; "procedure established by law" must be fair, just and reasonable.
Minerva Mills (1980)	Judicial review and the FR–DPSP balance are part of the basic structure.
S. R. Bommai (1994)	Made Article 356 justiciable; secularism a basic feature.
Vishaka (1997)	Guidelines against sexual harassment at the workplace.
I. R. Coelho (2007)	Ninth Schedule laws are subject to the basic-structure test.
K. S. Puttaswamy (2017)	Declared the right to privacy a fundamental right under Article 21.

Why landmark cases matter Landmark judgements give concrete meaning to abstract constitutional text, adapt the Constitution to changing times, and act as a check on the legislature and the executive. Together they constitute the body of constitutional precedent that, under Article 141, binds all courts in India.

The Method and Authority of Constitutional Precedent

The landmark judgments derive their authority from Article 141, under which the law declared by the Supreme Court is binding on all courts within the territory of India, and from the Court's role as the final interpreter of the Constitution. Through techniques such as the reading-in of rights, the harmonious construction of competing provisions, the doctrine of severability, and the basic-structure test, the Court has given concrete and evolving meaning to the constitutional text. The body of precedent thus built up forms an indispensable part of the living Constitution, adapting it to changing social and economic conditions.

Overruling and evolution Constitutional law evolves not only by the laying down of new principles but also by the overruling of earlier ones — as when *Maneka Gandhi* departed from *A. K. Gopalan*, and *Kesavananda Bharati* departed from *Golak Nath*. This capacity for self-correction allows the Constitution to respond to new understandings while preserving its essential continuity.

How the Landmark Judgements Shaped the Constitution

The landmark judgements of the Supreme Court have, over the decades, given the constitutional text its living meaning. Through them the Court has settled the relationship between the Fundamental Rights and the Directive Principles, defined and defended the basic structure, expanded the scope of the right to life and personal liberty, secured the independence of the judiciary, regulated the use of the emergency and President's Rule provisions, and given content to the guarantees of equality, free speech and secularism. The cumulative effect has been to keep the Constitution responsive to changing social, economic and political conditions while preserving its essential identity.

A living constitution The idea of a "living constitution" — one whose meaning evolves through interpretation to meet the needs of successive generations — is exemplified by the body of landmark judgements. The Court's power under Article 141 to declare the law, combined with its willingness to reconsider and overrule its own earlier decisions, allows the Constitution to grow without the need for constant formal amendment.

The Landmark Judgements and Constitutional Development

The body of landmark judgements of the Supreme Court constitutes, in effect, a second source of constitutional law alongside the text itself. Through its interpretation of the Constitution in successive cases, the Court has resolved the great controversies of constitutional development — the relationship between the Fundamental Rights and the Directive Principles, the limits of the amending power, the scope of the right to life and personal liberty, the independence of the judiciary, the use of the emergency provisions, and the meaning of equality, liberty and secularism. The study of these judgements is therefore indispensable to an understanding of the Constitution as it actually operates.

The dialogue between the organs Constitutional development in India has proceeded through a continuing dialogue among the organs of state — the legislature amending the Constitution and enacting laws, the executive administering them, and the judiciary interpreting both the Constitution and the laws and, where necessary, testing their validity. The landmark judgements are the principal record of the judi-

ciary's part in this dialogue, and they reveal both the power and the self-imposed limits of judicial review in the constitutional scheme.

Exam Pointers Kesavananda Bharati (1973) — basic structure. Maneka Gandhi (1978) — expanded Article 21. Minerva Mills (1980) — judicial review basic. Bommai (1994) — Article 356 justiciable. Puttaswamy (2017) — right to privacy.

Judgements Expanding the Scope of Article 21

How "life and personal liberty" grew into a charter of rights.

Article 21 — "No person shall be deprived of his life or personal liberty except according to procedure established by law" — is the most dynamic provision of the Constitution. Through a series of creative judgements, the Supreme Court has read into the right to life and personal liberty a vast range of unenumerated rights, transforming a narrow guarantee into a comprehensive charter of human rights. The turning point was the Maneka Gandhi case (1978), after which the right to life came to mean the right to live with dignity.

Rights Read into Article 21

Right	Illustrative case
Right to a speedy trial	Hussainara Khatoon (1979)
Right to free legal aid	M. H. Hoskot; Hussainara Khatoon
Right to livelihood	Olga Tellis (1985)
Right to a clean and healthy environment	M. C. Mehta cases; Subhash Kumar
Right to education (now Article 21-A)	Unni Krishnan (1993)
Right to health and medical care	Parmanand Katara; Paschim Banga Khet Mazdoor Samity
Right to privacy	K. S. Puttaswamy (2017)
Right to die with dignity (passive euthanasia)	Common Cause (2018)
Right to shelter	Chameli Singh; Shantistar Builders

From negative liberty to positive rights The expansion of Article 21 illustrates the transformation of the right to life from a mere protection against arbitrary deprivation (a "negative" liberty) into a source of positive rights and obligations on the State — to provide a clean environment, basic health, education, shelter and dignity. This is the clearest example of judicial activism and the living-Constitution philosophy.

Pair the right with its case Livelihood → Olga Tellis · speedy trial → Hussainara Khatoon · clean environment → M. C. Mehta · education → Unni Krishnan → Article 21-A · privacy → Puttaswamy · death with dignity → Common Cause.

The Transformation of Article 21

The expansion of Article 21 is the most striking illustration of the living-Constitution philosophy. Beginning with the narrow reading in *A. K. Gopalan*, the right to life and personal liberty was transformed, after *Maneka Gandhi*, into a guarantee of a life with dignity, requiring any procedure that deprives a person of life or liberty to be fair, just and reasonable. From this foundation the Court has read in a wide range of rights — to livelihood, shelter, a clean environment, health, education, a speedy trial, legal aid, privacy and even death with dignity — and has imposed corresponding positive obligations on the State. The 86th Amendment, which converted the right to education into the express Article 21-A, shows how judicial expansion can crystallise into the constitutional text itself.

From negative to positive rights The journey of Article 21 traces the movement of constitutional thought from a purely "negative" conception of liberty — freedom from arbitrary state action — to a "positive" conception that obliges the state to create the conditions, such as a clean environment, basic health and education, in which a life of dignity becomes possible.

The Rights Read into Article 21

The transformation of Article 21 from a narrow guarantee against arbitrary deprivation into a fountainhead of rights is the most far-reaching development in Indian constitutional law. From the foundation laid in *Maneka Gandhi*, the Court has read into the right to life and personal liberty a wide array of rights: the right to live with human dignity, to livelihood, to shelter, to a clean and healthy environment, to health and medical care, to education, to a speedy trial, to free legal aid, to privacy, to travel abroad, to a fair procedure in detention, and even the right to die with dignity in the limited sense of refusing futile medical treatment. Each of these has been derived by reasoning that a life worthy of the constitutional guarantee requires more than mere animal existence.

The privacy judgement In the landmark decision recognising the right to privacy as intrinsic to the right to life and personal liberty under Article 21 and to the freedoms guaranteed by Part III, a nine-judge bench unanimously held privacy to be a constitutionally protected right, illustrating how Article 21 continues to expand to meet the challenges of a changing society, including those posed by technology and the digital age.

Article 21 and the Future of Rights

The expansion of the right to life and personal liberty under Article 21 is a continuing process, as the courts bring within its protection new rights responsive to changing social, economic and technological conditions. From the foundations of dignity, fairness and reasonableness laid in *Maneka Gandhi*, the Court has derived a wide and growing array of rights, and has shown a willingness to recognise further rights as the needs of a just and humane society require. The story of Article 21 is thus an open one, and it exemplifies the capacity of the Constitution to grow and to remain relevant across generations.

Rights in the digital age The recognition of the right to privacy as part of the right to life and personal liberty has opened a new frontier in the development of Article 21, as the courts grapple with the implications of digital technology, data collection, surveillance and the power of both the state and private

actors over personal information. The continuing evolution of Article 21 to meet these challenges illustrates the enduring vitality of the idea of a living Constitution responsive to the conditions of its time.

Exam Pointers Maneka Gandhi (1978) is the turning point. Article 21 now includes the rights to livelihood, a clean environment, education, health, privacy, shelter and death with dignity. The 86th Amendment converted the right to education into the express Article 21-A.

END OF THE MAIN TEXT

The Appendices

What follows is a set of ready-reference appendices — the Schedules, the Parts, the most important Articles, the major Amendments, a landmark-cases compendium and a bank of practice questions — designed to consolidate everything you have studied and to sharpen it for the examination hall.

The Twelve Schedules of the Constitution



The lists, tables and classifications appended to the Constitution.

The Constitution originally had eight schedules; four more were added by later amendments, bringing the total to twelve. The schedules contain detailed matter — lists of states, allocations of seats, lists of subjects, forms of oaths, and so on — kept separate from the main text for convenience.

Schedule	Subject matter
First	The names of the states and the union territories and their territorial extent.
Second	The salaries, allowances and privileges of the President, the Governors, the Speakers, the judges, the CAG and other office-holders.
Third	The forms of oaths and affirmations for various office-holders (ministers, legislators, judges, the CAG).
Fourth	The allocation of seats in the Rajya Sabha to the states and union territories.
Fifth	The administration and control of the scheduled areas and the scheduled tribes.
Sixth	The administration of the tribal areas in Assam, Meghalaya, Tripura and Mizoram.
Seventh	The division of powers — the Union List, the State List and the Concurrent List.
Eighth	The recognised (scheduled) languages — currently 22.
Ninth	Acts and regulations protected from judicial review (added by the 1st Amendment, 1951; but now subject to the basic-structure test after I. R. Coelho, 2007).
Tenth	The anti-defection law (added by the 52nd Amendment, 1985).
Eleventh	The powers and responsibilities of the panchayats — 29 subjects (added by the 73rd Amendment, 1992).
Twelfth	The powers and responsibilities of the municipalities — 18 subjects (added by the 74th Amendment, 1992).

Exam Pointers Remember the four added schedules: 9th (1st Amendment), 10th (52nd), 11th (73rd) and 12th (74th). The 7th has the three legislative lists. The 8th has 22 languages.

The Parts of the Constitution

The thematic divisions of the constitutional text.

The Constitution is divided into parts, each dealing with a distinct theme. The original Constitution had 22 parts; subsequent amendments added and modified several. The most important parts are set out below.

Part	Subject	Articles
I	The Union and its territory	1–4
II	Citizenship	5–11
III	Fundamental Rights	12–35
IV	Directive Principles of State Policy	36–51
IV-A	Fundamental Duties	51-A
V	The Union Government	52–151
VI	The State Governments	152–237
VIII	The Union Territories	239–242
IX	The Panchayats	243–243-O
IX-A	The Municipalities	243-P–243-ZG
IX-B	The Co-operative Societies	243-ZH–243-ZT
XI	Relations between the Union and the States	245–263
XII	Finance, property, contracts and suits	264–300-A
XIV	Services under the Union and the States	308–323
XIV-A	Tribunals	323-A, 323-B
XV	Elections	324–329
XVIII	Emergency provisions	352–360
XX	Amendment of the Constitution	368

Important Articles at a Glance

The articles most frequently asked in examinations.

C

The following articles recur in examinations more than any others. Commit the number and the one-line description to memory — they are the scaffolding of the entire subject.

Article	Subject
1	Name and territory of the Union ("Union of States")
3	Formation of new states; alteration of areas, boundaries or names
14	Equality before law
19	Six freedoms (speech, assembly, association, movement, residence, profession)
21	Protection of life and personal liberty
21-A	Right to education (6–14 years)
32	Right to constitutional remedies (the writs)
40	Organisation of village panchayats (DPSP)
44	Uniform Civil Code (DPSP)
50	Separation of the judiciary from the executive (DPSP)
51	Promotion of international peace (DPSP)
51-A	Fundamental Duties
72 / 161	Pardoning power of the President / Governor
74 / 75	Council of Ministers and the Prime Minister
76 / 165	Attorney General / Advocate General
110	Definition of a Money Bill
123 / 213	Ordinance-making power of the President / Governor
124	Establishment of the Supreme Court
148	Comptroller and Auditor General
226	Power of the High Courts to issue writs (wider than Art. 32)
239-AA	Special provisions for Delhi (NCT)
243 / 243-P	Panchayats / Municipalities
280	Finance Commission
312	All-India Services
324	Election Commission

352 / 356 / 360	National Emergency / President's Rule / Financial Emergency
368	Power of Parliament to amend the Constitution

Major Constitutional Amendments

The amendments that changed the course of constitutional development.



Of the many amendments to the Constitution, a handful are landmarks. Knowing what each of these did — and the article or schedule it touched — is essential.

Amendment	What it did
1st (1951)	Added the Ninth Schedule; placed reasonable restrictions on certain freedoms.
7th (1956)	Reorganisation of states on a linguistic basis; common High Courts; the Special Officer for Linguistic Minorities.
24th (1971)	Affirmed Parliament's power to amend any part; made the President's assent to amendment bills mandatory.
42nd (1976)	The "Mini-Constitution" — added "Socialist", "Secular", "Integrity" to the Preamble; added Fundamental Duties and the words relating to tribunals; many changes (several later reversed).
44th (1978)	Removed the Right to Property from the FRs (to Art. 300-A); added safeguards to the emergency provisions; protected Arts. 20 and 21.
52nd (1985)	Added the Tenth Schedule — the anti-defection law.
61st (1988)	Lowered the voting age from 21 to 18.
73rd (1992)	Constitutional status to the panchayats; added Part IX and the Eleventh Schedule.
74th (1992)	Constitutional status to the municipalities; added Part IX-A and the Twelfth Schedule.
86th (2002)	Right to education (Art. 21-A); the 11th Fundamental Duty; amended Art. 45.
91st (2003)	Strengthened the anti-defection law; capped the Council of Ministers at 15%.
97th (2011)	Co-operative societies — fundamental right, Art. 43-B, and Part IX-B.
101st (2016)	The Goods and Services Tax (GST); created the GST Council (Art. 279-A).
102nd (2018)	Constitutional status to the NCBC (Art. 338-B); Art. 342-A.
103rd (2019)	10% reservation for the economically weaker sections (EWS).
104th (2019)	Extended SC/ST seat reservation; ended the Anglo-Indian nomination.
105th (2021)	Restored the power of the states to identify their own backward classes.

Landmark Cases Compendium

A quick-revision table of the cases that shaped the Constitution.

A consolidated table of the most important constitutional cases, for last-minute revision.

Case (year)	Ratio / significance
A. K. Gopalan (1950)	Narrow reading of personal liberty; later overruled.
Champakam Dorairajan (1951)	FRs prevail over DPSPs; led to the 1st Amendment.
Berubari Union (1960)	Preamble not part of the Constitution; cession of territory needs an amendment.
Golak Nath (1967)	FRs cannot be amended.
Kesavananda Bharati (1973)	Basic structure doctrine; Preamble is part of the Constitution.
Indira Nehru Gandhi (1975)	Free and fair elections are part of the basic structure.
Maneka Gandhi (1978)	Article 21 procedure must be fair, just and reasonable.
Minerva Mills (1980)	Judicial review and the FR–DPSP balance are basic features.
Waman Rao (1981)	Basic-structure doctrine applies prospectively (post-24 April 1973).
Olga Tellis (1985)	Right to livelihood is part of the right to life.
Indra Sawhney (1992)	Upheld OBC reservation; the 50% ceiling; the "creamy layer".
Kihoto Hollohan (1992)	Anti-defection — the presiding officer's decision is subject to review.
S. R. Bommai (1994)	Article 356 justiciable; secularism a basic feature.
Vishaka (1997)	Guidelines against workplace sexual harassment.
I. R. Coelho (2007)	Ninth Schedule laws subject to the basic-structure test.
K. S. Puttaswamy (2017)	Right to privacy is a fundamental right.
Common Cause (2018)	Right to die with dignity (passive euthanasia).

Practice Question Bank

Self-test your recall across the whole syllabus.

Attempt these questions without looking back. The answer key follows at the end. Use them to identify the chapters you need to revisit.

Set 1 — Constitutional Framework

1. Which words were added to the Preamble by the 42nd Amendment? (a) *Sovereign, Democratic* (b) *Socialist, Secular, Integrity* (c) *Republic, Justice* (d) *Liberty, Equality*
2. Which article empowers Parliament to form new states? (a) *Art. 1* (b) *Art. 2* (c) *Art. 3* (d) *Art. 4*
3. The Right to Property was removed from the Fundamental Rights by which amendment? (a) *24th* (b) *42nd* (c) *44th* (d) *86th*
4. "Procedure established by law" in Article 21 was expanded in which case? (a) *Gopalan* (b) *Maneka Gandhi* (c) *Golak Nath* (d) *Bommai*
5. The basic structure doctrine was propounded in: (a) *Golak Nath* (b) *Kesavananda Bharati* (c) *Minerva Mills* (d) *Berubari*

Set 2 — Government and Institutions

1. The President is elected by: (a) *direct election* (b) *proportional representation, single transferable vote* (c) *simple majority* (d) *the Lok Sabha alone*
2. The maximum cap on the size of the Council of Ministers (centre) is: (a) *10%* (b) *12%* (c) *15%* (d) *20%*
3. A Money Bill is defined in: (a) *Art. 108* (b) *Art. 110* (c) *Art. 112* (d) *Art. 117*
4. The writ jurisdiction wider than Article 32 is under: (a) *Art. 131* (b) *Art. 143* (c) *Art. 226* (d) *Art. 227*
5. The retirement age of a High Court judge is: (a) *60* (b) *62* (c) *65* (d) *70*

Set 3 — Bodies and Dynamics

1. The Finance Commission is constituted under: (a) *Art. 263* (b) *Art. 280* (c) *Art. 324* (d) *Art. 338*
2. NITI Aayog is a: (a) *constitutional body* (b) *statutory body* (c) *body created by executive resolution* (d) *registered society*
3. The anti-defection law is contained in the: (a) *9th Schedule* (b) *10th Schedule* (c) *11th Schedule* (d) *12th Schedule*
4. The GST Council was created by which amendment? (a) *73rd* (b) *86th* (c) *101st* (d) *102nd*
5. The CAG is described in the Constitution under: (a) *Art. 76* (b) *Art. 148* (c) *Art. 280* (d) *Art. 324*

Answer Key 1-(b) · 2-(c) · 3-(c) · 4-(b) · 5-(b) · 6-(b) · 7-(c) · 8-(b) · 9-(c) · 10-(b) · 11-(b) · 12-(c) · 13-(b) · 14-(c) · 15-(b).

How to use this bank For every question you got wrong, return to the relevant chapter and re-read its "Exam Pointers" box. Then attempt the question again a day later. Spaced repetition of this kind is the single most effective revision technique for a fact-dense subject like polity.

END OF THE COMPLETE EDITION

Revise • Recall • Repeat

You have now studied the whole of Indian Polity — all ninety-two chapters, from the historical background of 1773 to the judgements expanding Article 21 — together with the schedules, articles, amendments and cases that hold it all together.

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Knowledge is the lamp that lights the path to success.