



INSIGHTSIAS

SIMPLIFYING IAS EXAM PREPARATION

INSTA PT 2020

EXCLUSIVE

POLITY

May 2019 – February 2020

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Constitutional / Non-Constitutional / Statutory / Regulatory / Various Quasi-Judicial Bodies

1. Recommendations of the 15th Finance Commission

The 15th Finance Commission is headed by **N K Singh**.

How revenue has been divided?

- FC has considered the **2011 population** along with **forest cover, tax effort, area of the state, and “demographic performance”** to arrive at the states’ share in the divisible pool of taxes.
- In order to reward population control efforts by states, the Commission developed a criterion for demographic effort — which is essentially the ratio of the state’s population in 1971 to its fertility rate in 2011 — with a weight of 12.5%.
- The total area of states, area under forest cover, and “income distance” were also used by the FC to arrive at the tax-sharing formula.

Key recommendations:

- The Commission has reduced **the vertical devolution** — the share of tax revenues that the Centre shares with the states — from 42% to 41%.
- The Commission has said that it intends to set up **an expert group to initiate a non-lapsable fund for defence expenditure**.

LOSERS AND GAINERS

STATE	SHARE IN TAXES, 14th FC	SHARE IN TAXES, 15th FC	INCREASE/DECREASE
Karnataka	4.71%	3.64%	-1.07
Kerala	2.50%	1.94%	-0.56
Maharashtra	5.53%	6.13%	0.61
Rajasthan	5.49%	5.98%	0.49
Bihar	9.66%	10.06%	0.40

2. Finance Commission of India

The Finance Commission is **constituted by the President under article 280 of the Constitution**, mainly to give its recommendations on distribution of tax revenues between the Union and the States and amongst the States themselves.

Two distinctive features of the Commission’s work involve **redressing the vertical imbalances between the taxation powers and expenditure responsibilities of the centre and the States respectively and equalization of all public services across the States**.

What are the functions of the Finance Commission?

It is the duty of the Commission to make **recommendations to the President** as to:

1. the **distribution between the Union and the States** of the net proceeds of taxes which are to be, or may be, divided between them and the allocation **between the States** of the respective shares of such proceeds;
2. the principles which should govern the **grants-in-aid** of the revenues of the States out of the Consolidated Fund of India;
3. the measures needed to **augment the Consolidated Fund of a State** to supplement the resources of the Panchayats and Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;
4. any other matter referred to the Commission by the President in the interests of sound finance.

Who appoints the Finance Commission and what are the qualifications for Members?

The Finance Commission is appointed by the President under **Article 280 of the Constitution**.

As per the provisions contained in **the Finance Commission [Miscellaneous Provisions] Act, 1951 and The Finance Commission (Salaries & Allowances) Rules, 1951**, the Chairman of the

Commission is selected from among persons who have had experience in public affairs, and the four other members are selected from among persons who:

1. are, or have been, or are qualified to be appointed as Judges of a High Court; or
2. have special knowledge of the finances and accounts of Government; or
3. have had wide experience in financial matters and in administration; or
4. have special knowledge of economics.

When was the first Commission Constituted and how many Commissions have been Constituted so far?

The First Finance Commission was constituted vide Presidential Order dated 22.11.1951 under the chairmanship of **Shri K.C. Neogy** on 6th April, 1952. Fifteenth Finance Commissions have been Constituted so far at intervals of every five years.

3. Autonomous District Council

The **Tripura Tribal Areas Autonomous District Council (TTAADC)** has passed resolutions to codify the customary laws of three tribal clans- **Mizo, Kaipeng and Malsom**.

What are Autonomous District Council?

As per **the Sixth Schedule**, the four states viz. **Assam, Meghalaya, Tripura and Mizoram** contain the Tribal Areas which are technically different from the Scheduled Areas.

Though these areas fall within the executive authority of the state, provision has been made for the creation of **the District Councils and regional councils for the exercise of the certain legislative and judicial powers**.

Each district is **an autonomous district and Governor can modify / divide the boundaries of the said Tribal areas by notification**.

The Governor may, by public notification:

- (a) Include any area.
- (b) exclude any area.
- (c) create a new autonomous district.
- (d) increase the area of any autonomous district.
- (e) diminish the area of any autonomous district.
- (f) alter the name of any autonomous district.
- (g) define the boundaries of any autonomous district.

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Constitution of District Councils and Regional Councils:

- (1) There shall be a **District Council** for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.
- (2) There shall be a separate **Regional Council** for each area constituted an autonomous region.
- (3) Each District Council and each Regional Council shall be a body corporate by the name respectively of the District Council of (name of district) and the Regional Council of (name of region), shall have perpetual succession and a common seal and shall by the said name sue and be sued.

125th Constitutional Amendment Bill is related to increase the financial and executive powers of the 10 Autonomous Councils in the Sixth Schedule.

Other tribes in Tripura:

1. Bhil.
2. Bhutia.
3. Chaimal.
4. Chakma.

5. Garo.
6. Halam.
7. Jamatia.
8. Khashia.
9. Kuki.
10. Lepcha.
11. Lushai.
12. Mog.
13. Munda.
14. Noatia.
15. Orang.
16. Reang.

4. Chief Vigilance Commissioner (CVC)

It is the apex vigilance institution **created via executive resolution (based on the recommendations of Santhanam committee) in 1964** but was **conferred with statutory status in 2003**.

It **submits its report to the President of India**.

Composition:

Consists of **central vigilance commissioner along with 2 vigilance commissioners**.

Appointment:

They are **appointed by the President of India on the recommendations of a committee** consisting of Prime Minister, Union Home Minister and Leader of the Opposition in Lok Sabha (if there is no LoP then the leader of the single largest Opposition party in the Lok Sabha).

Term:

Their term is 4 years or 65 years, whichever is earlier.

Removal:

The Central Vigilance Commissioner or any Vigilance Commissioner can be removed from his office **only by order of the President on the ground of proved misbehavior or incapacity after** the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought to be removed.

5. Law commission of India

The Union Cabinet has approved **the creation of the 22nd Law Commission**. The law ministry will now notify the new panel, which will have a **term of three years**.

Composition:

1. Apart from having a full-time chairperson, the commission will have four full-time members, including a member-secretary.
2. Law and Legislative Secretaries in the Law Ministry will be the ex-officio members of the commission.
3. It will also have not more than five part-time members.
4. A retired Supreme Court judge or Chief Justice of a High Court will head the Commission.

Roles and functions:

1. The Law Commission shall, on a reference made to it by the Central Government or suo motu, undertake **research in law and review of existing laws** in India for making reforms and enacting new legislation.

- It shall also undertake studies and research for bringing **reforms in the justice delivery** systems for elimination of delay in procedures, speedy disposal of cases, reduction in cost of litigation, etc.

About the law commission of India:

It is an **executive body** established by an order of the Government of India.

- Originally formed in 1955, the commission is reconstituted every three years and so far, 277 reports have been submitted to the government.
- The last Law Commission, under **Justice B.S. Chauhan (retd.)**, had submitted reports and working papers on key issues such as simultaneous elections to the Lok Sabha and the Assemblies and a uniform civil code.

Prior to independence, **the First Law Commission** was established in 1834 by the British Government under the **Chairmanship of Lord Macaulay**.

6. Central Consumer Protection Authority

The government is all set to establish a **Central Consumer Protection Authority**.

What is the Central Consumer Protection Authority?

The authority is being constituted under **Section 10(1) of The Consumer Protection Act, 2019**.

Aim: To **protect the rights of the consumer** by cracking down on unfair trade practices, and false and misleading advertisements that are detrimental to the interests of the public and consumers. It will be headquartered in the **National Capital Region of Delhi** but the central government may set up regional offices in other parts of the country.

Powers and Functions:

- Inquire or investigate** into matters relating to **violations of consumer rights** or unfair trade practices suo motu, or on a complaint received, or on a direction from the central government.
- Recall goods or withdrawal of services that are “dangerous, hazardous or unsafe.
- Pass an **order for refund** the prices of goods or services so recalled to purchasers of such goods or services; discontinuation of practices which are unfair and prejudicial to consumer’s interest”.
- Impose a penalty up to Rs 10 lakh, with imprisonment up to two years, on the manufacturer or endorser of false and misleading advertisements. The penalty may go up to Rs 50 lakh, with imprisonment up to five years, for every subsequent offence committed by the same manufacturer or endorser.
- Ban the endorser of a false or misleading advertisement** from making endorsement of any products or services in the future, for a period that may extend to one year. The ban may extend up to three years in every subsequent violation of the Act.
- File complaints of violation of consumer rights or unfair trade practices** before the District Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission, and the National Consumer Disputes Redressal Commission.

Composition:

- It will have a **Chief Commissioner as head, and only two other commissioners as members** — one of whom will deal with matters relating to goods while the other will look into cases relating to services.
- The CCPA will have an **Investigation Wing that will be headed by a Director General**.
- District Collectors** too, will have the power to investigate complaints of violations of consumer rights, unfair trade practices, and false or misleading advertisements.

7. Zonal Councils

Zonal councils are Statutory bodies established under **the States Reorganisation Act 1956** and not constitutional bodies. They are only deliberative and advisory bodies.

Aim: to promote interstate cooperation and coordination.

There are five Zonal councils namely:

- The **Northern Zonal Council**, comprising the States of Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh.
- The **Central Zonal Council**, comprising the States of Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh.
- The **Eastern Zonal Council**, comprising the States of Bihar, Jharkhand, Orissa, and West Bengal.
- The **Western Zonal Council**, comprising the States of Goa, Gujarat, Maharashtra and the Union Territories of Daman & Diu and Dadra & Nagar Haveli.
- The **Southern Zonal Council**, comprising the States of Andhra Pradesh, Telangana, Karnataka, Kerala, Tamil Nadu and the Union Territory of Puducherry.

The North Eastern States i.e. (i) Assam (ii) Arunachal Pradesh (iii) Manipur (iv) Tripura (v) Mizoram (vi) Meghalaya (vii) Sikkim and (viii) Nagaland are not included in the Zonal Councils and their special problems are looked after by the North Eastern Council, set up under the North Eastern Council Act, 1971.

Composition:

Chairman – The Union Home Minister is the Chairman of each of these Councils.

Vice Chairman – The Chief Ministers of the States included in each zone act as Vice-Chairman of the Zonal Council for that zone by rotation, each holding office for a period of one year at a time.

Members– Chief Minister and two other Ministers are nominated by the Governor from each of the States and two members from Union Territories included in the zone.

Advisers– One person nominated by the Planning Commission (which has been replaced by NITI Ayog now) for each of the Zonal Councils, Chief Secretaries and another officer/Development Commissioner nominated by each of the States included in the Zone.

Union Ministers are also invited to participate in the meetings of Zonal Councils depending upon necessity.

The main objectives of setting up of Zonal Councils are:

- Bringing out national integration.
- Arresting the growth of acute State consciousness, regionalism, linguism and particularistic tendencies.
- Enabling the Centre and the States to co-operate and exchange ideas and experiences.
- Establishing a climate of co-operation amongst the States for successful and speedy execution of development projects.

8. North Eastern Council

- NEC was **established under the North Eastern Council Act, 1971** as an apex level body for securing balanced and coordinated development and facilitating coordination with the States.
- Subsequent to the Amendment of 2002, NEC has been mandated to **function as a regional planning body for the North Eastern Area and while formulating a regional plan** for this area, shall give priority to the schemes and projects benefiting two or more states provided that in the case of Sikkim, **the Council shall formulate specific projects and schemes for that State.**
- The **Union Cabinet**, in June 2018, approved the proposal of Ministry of Development of North Eastern Region (DoNER) for the nomination of the **Union Home Minister as ex-officio**

Chairman of North Eastern Council (NEC). The Cabinet also approved that Minister of State (Independent Charge), **Ministry of DoNER would serve as Vice Chairman of the Council.**

- NEC and all the Governors and Chief Ministers of North Eastern States will be Members.

9. Removal of State Chief Information Commissioner

Removal of State Chief Information Commissioner or State Information Commissioner:

- The State Chief Information Commissioner or a State Information Commissioner shall be removed from his office **only by order of the Governor on the ground of proved misbehaviour or incapacity** after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.
- The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner.

The Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be:

1. is adjudged an *insolvent*; or
2. has been *convicted* of an offence which, in the opinion of the Governor, involves *moral turpitude*; or
3. engages during his term of office in *any paid employment outside the duties of his office*; or
4. is, in the opinion of the Governor, unfit to continue in office by reason of *infirmary of mind or body*; or
5. has acquired such *financial or other interest* as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
6. If the State Chief Information Commissioner or a State Information Commissioner in any way, *concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates* in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall be deemed to be guilty of misbehaviour.

10. Central Bureau of Investigation (CBI)

- CBI, India's first agency to **investigate corruption**, operates under the jurisdiction of the **Ministry of Personnel, Public Grievances and Pensions.**
- **It's evolution:**
 - The **Special Police Establishment**, was set up in 1941, six years before independence from British rule to probe bribery and corruption in the country during World War II.
 - In 1946, it was brought under the Home Department and its remit was expanded to investigate corruption in central and state governments under the **Delhi Special Police Establishment Act.**
 - The special police force became the Central Bureau of Investigation after the Home Ministry, which is in charge of domestic security, decided to expand its powers and change its name in 1963.

11. Administrative Tribunal

- The tribunal is a **quasi-judicial body** on the lines of Central Administrative Tribunal for redressal of the grievance of state employees concerning their employment.
- Tribunal orders can be challenged before the High Court.
- **Under which law are the Tribunals setup?**

- **Article 323-A**, which came by way of 42nd constitutional amendment in 1976, enabled the Centre to enact The **Administrative Tribunals Act, 1985** for setting-up the Tribunals for adjudication over “disputes and complaints with respect to recruitment and conditions of service of persons appointed to the public service and posts in connection with the affairs of the Union and the States.”
- **The Centre under the Act can establish the Tribunal** for its own employees and **also has the power to establish one for a state** after receiving a request from the state government.
- Two or more states can also agree for a single tribunal.

Composition:

- The Tribunal is to be headed by a Chairman or Chairperson – a retired High Court Judge, and a number of Judicial and Administrative Members.
- The Chairperson can be removed only by the President of India.
- The Tribunal can also have benches at different locations.

12. Foreigners’ Tribunals

- The MHA has amended the **Foreigners (Tribunals) Order, 1964**,
- **Changes proposed as per the amendment:**
 - It has empowered district magistrates in all States and Union Territories to set up tribunals to **decide whether a person staying illegally in India is a foreigner or not**.
 - The amended Foreigners (Tribunal) Order, 2019 also empowers individuals to approach the Tribunals.
 - The amended order also allows District Magistrates to refer individuals who haven’t filed claims against their exclusion from NRC to the Tribunals to decide if they are foreigners or not.
- **Current Practice:**
 - So far, the powers to constitute tribunals were vested only with the Centre.
- **How do Foreigners’ Tribunals work?**
 - The Foreigners’ Tribunals are **quasi-judicial bodies** meant to “furnish opinion on the question as to whether a person is or is not a foreigner within the meaning of **Foreigners Act, 1946**”.
 - In 1964, the Centre passed the **Foreigners’ (Tribunals) Order under provisions of Section 3 of the Act**.
 - The FTs get **two kinds of cases**: those against whom a “reference” has been made by border police, and those whose names in the electoral rolls have a D (Doubtful) against them.
- **Under what provision do Foreigners’ Tribunals pass ex parte orders?**
 - **Section 9 of the Foreigners Act** says that “the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall lie upon such person”.
 - Thus, **the accused has to prove he or she is an Indian**. Since the onus is on the person, if he or she is absconding and doesn’t appear before the **tribunal, the member can pass an ex parte order**.
- **Can an accused contest an ex parte order?**
 - The said order **may be reviewed by the Foreigners’ Tribunal if sufficient reasons are shown by the proceedee** for his absence or for having no knowledge about the cases, within the absence or for having no knowledge about such order.
- **What happens if an exparte order does not come up for review, or a review fails?**
 - If police can track the person after the order, he or she will be arrested and put into a detention camp. If not, the person will be an ‘untraced foreigner’. Many ‘declared foreigners’ appeal in the High Court and then the Supreme Court against an order by the FT.

13. Competition Commission of India

- It is a **statutory body** of the Government of India, responsible for enforcing the **Competition Act, 2002** throughout India and to prevent activities that have an adverse effect on competition.
- **Functions of the commission:**
 - It is the duty of the Commission to **eliminate practices having adverse effect on competition**, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of India.
 - The Commission is also required to **give opinion on competition issues** on a reference received from a statutory authority established under any law and to undertake competition advocacy, **create public awareness** and impart training on competition issues.
- **The Competition Act:**
 - The Competition Act, 2002, as amended by the Competition (Amendment) Act, 2007, prohibits anti-competitive agreements, abuse of dominant position by enterprises and regulates combinations (acquisition, acquiring of control and M&A), which causes or likely to cause an appreciable adverse effect on competition within India.

14. NITI Aayog

- The Government, in January 2015, replaced Planning Commission with NITI Aayog (National Institution for Transforming India).
- **Aim:** to achieve Sustainable Development Goals and to **enhance cooperative federalism** by fostering the involvement of State Governments of India in the economic policy-making process using a bottom-up approach.
- **Role of NITI Aayog:**
 - The institution has to provide governments at the central and state levels with relevant **strategic and technical advice** across the spectrum of key elements of policy. This includes matters of national and international importance on the economic front, dissemination of best practices from within the country as well as from other nations, the infusion of new policy ideas and specific issue-based support. The institution has to be able to respond to the changing and more integrated world that India is part of.

Composition of NITI Aayog:

- **Chairperson:** Prime Minister of India as the Chairperson.
- **Governing Council** comprising the Chief Ministers of all the States and Lt. Governors of Union Territories.
- **Regional Councils** will be formed to address specific issues and contingencies impacting more than one state or a region. These will be formed for a specified tenure.
- The Regional Councils will be convened by the Prime Minister and will comprise of the Chief Ministers of States and Lt. Governors of Union Territories in the region. These will be chaired by the Chairperson of the NITI Aayog or his nominee.
- Experts, specialists and practitioners with relevant domain knowledge as **special invitees nominated by the Prime Minister.**

The full-time organizational framework will comprise of, in addition to the Prime Minister as the Chairperson:

- **Vice-Chairperson:** To be appointed by the Prime Minister.
- **Members:** Full-time.
- **Part-time members:** Maximum of 2 from leading universities research organizations and other relevant institutions in an ex-officio capacity. Part time members will be on a rotational basis.
- **Ex Officio members:** Maximum of 4 members of the Union Council of Ministers to be nominated by the Prime Minister.

- **Chief Executive Officer:** To be appointed by the Prime Minister for a fixed tenure, in the rank of Secretary to the Government of India.

15. Debts Recovery Tribunals

Debt Recovery Tribunals were established **to facilitate the debt recovery involving banks and other financial institutions with their customers.**

DRTs were set up after the passing of **Recovery of Debts due to Banks and Financial Institutions Act (RDBBFI), 1993.**

Section 3 of the RDBBFI Act empowers the Central government to establish DRTs.

Appeals against orders passed by DRTs lie before **Debts Recovery Appellate Tribunal (DRAT).**

Powers and functions:

- The Debts Recovery Tribunal (DRT) enforces provisions of the Recovery of Debts Due to Banks and Financial Institutions (RDBBFI) Act, 1993 and also Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests (SARFAESI) Act, 2002.
- The Debts Recovery Tribunal (DRT) are fully empowered to pass comprehensive orders and **can travel beyond the Civil procedure Code** to render complete justice. A Debts Recovery Tribunal (DRT) can hear cross suits, counter claims and allow set offs.
- However, a Debts Recovery Tribunal (DRT) **cannot hear claims of damages or deficiency of services or breach of contract or criminal negligence on the part of the lenders.** In addition, a Debts Recovery Tribunal (DRT) **cannot express an opinion beyond its domain, or the list pending before it.**

Other key facts:

- A DRT is **presided over by a presiding officer who is appointed by the central govt.** and who shall be qualified to be a District Judge; with tenure of 5 years or the age of 62, whichever is earlier.
- No court in the country other than the SC and the HCs and that too, only under **articles 226 and 227 of the Constitution have jurisdiction over this matter.**
- The central government, in 2018, raised **the pecuniary limit from Rs 10 lakh to Rs 20 lakh** for filing application for recovery of debts in the Debts Recovery Tribunals by such banks and financial institutions.

Executive

1. Office of Profit

If an MLA or an MP holds a government office and receives benefits from it, then that office is termed as an “office of profit”.

A person will be **disqualified if he holds an office of profit** under the central or state government, other than an office declared not to disqualify its holder by a law passed by Parliament or state legislature.

What are the basic criteria to disqualify an MP or MLA?

Basic disqualification criteria for an MP are laid down in **Article 102** of the Constitution, and for an MLA in **Article 191**.

They can be disqualified for: a) Holding an office of profit under government of India or state government; b) Being of unsound mind; c) Being an undischarged insolvent; d) Not being an Indian citizen or for acquiring citizenship of another country.

What is the underlying principle for including ‘office of profit’ as criterion for disqualification?

Makers of the Constitution wanted that **legislators should not feel obligated to the Executive in any way**, which could influence them while discharging legislative functions. In other words, an MP or MLA should be free to carry out her duties without any kind of governmental pressure. The intent is that **there should be no conflict between the duties and interests of an elected member**. The office of profit law simply seeks **to enforce a basic feature of the Constitution- the principle of separation of power between the legislature and the executive**.

Reason for controversies:

1. The expression “office of profit” has **not been defined in the Constitution or in the Representation of the People Act, 1951**.
2. It is for **the courts to explain the significance and meaning of this concept**. Over the years, courts have decided this issue in the context of specific factual situations.

2. Pardoning Powers of President

Clemency powers of the President under article 72:

It says that the President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.

- **Pardon** –A pardon completely absolves the offender from all sentences and punishment and disqualifications and places him in the same position as if he had never committed the offence.
- **Commutation**– Commutation means exchange of one thing for another. In simple words to replace the punishment with less severe punishment. For example for Rigorous imprisonment-simple imprisonment.
- **Reprieve**– Reprieve means temporary suspension of death sentence. For example- pending a proceeding for pardon or commutation.
- **Respite** – Respite means awarding a lesser punishment on some special grounds. For example- the Pregnancy of women offender.
- **Remissions**– Remission means the reduction of the amount of sentence without changing its character, for example, a sentence of 1 year may be remitted to 6 months.

The President can exercise these powers:

- In all cases where the punishment or sentence is by a court martial;
- In all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

- In all cases where the sentence is a sentence of death.

The pardoning power of President is wider than the governor and it differs in the following two ways:

The power of the President to grant pardon **extends in cases where the punishment or sentence is by a Court Martial** but Article 161 does not provide any such power to the Governor.

The President can **grant pardon in all cases where the sentence given is sentence of death but pardoning power of Governor does not extend to death sentence cases.**

Key facts:

- This power of pardon shall be exercised by the President **on the advice of Council of Ministers.**
- The **constitution does not provide for any mechanism to question the legality of decisions of President or governors exercising mercy jurisdiction.**
- But the SC in **Epuru Sudhakar case** has given a small window for **judicial review** of the pardon powers of President and governors for the purpose of ruling out any arbitrariness.

3. Office of Governor

By exercising his authority under **Article 156** of the constitution, President appoints Governors.

- Governors of States in India:
 - The **nominal head** of a state, unlike the Chief Minister who is the real head of a state in India.
 - According to 7th Constitutional Amendment Act 1956, the same person can be the Governor of two or more states.
 - **Appointment:** The governors and lieutenant-governors are appointed by the president.
 - **Removal:** The term of governor's office is normally 5 years but it can be terminated earlier by: **Dismissal by the president** on the advice of the prime minister of the country. The term is subject to pleasure of the president.
 - There is **no provision of impeachment**, as it happens for the president.
- **Some discretionary powers are as follows:**
 - **Can dissolve the legislative assembly** if the chief minister advises him to do following a vote of no confidence. Following which, it is up to the Governor what he/ she would like to do.
 - Can recommend the president about the failure of the constitutional machinery in the state.
 - Can **reserve a bill** passed by the state legislature for president's assent.
 - Can **appoint anybody as chief minister** if there is no political party with a clear-cut majority in the assembly.
 - Determines the amount payable by the Government of Assam, Meghalaya, Tripura and Mizoram to an autonomous Tribal District Council as royalty accruing from licenses for mineral exploration.
 - Can seek information from the chief minister with regard to the administrative and legislative matters of the state.
 - Can **refuse to sign to an ordinary bill** passed by the state legislature.

4. Governor's Role when no party has staked claim to form a government

What is the Governor's role in such circumstances?

The Governor would be expected to go as per an order of preference set out in **the Sarkaria Commission recommendations**, which have also been **ratified by the Supreme Court**. By the order of preference, the Governor can invite:

- A pre-poll alliance of parties.
- Invite the single largest party which stakes a claim to form government.

- Invite a post-poll alliance of parties, with all the partner in the coalition joining the government.
- Invite a post-poll alliance of parties, with some becoming part of the government and some supporting from outside.

The **Governor can only summon the new House for the first sitting only after a new government is sworn in and the Cabinet has suggested a suitable date.** The process of swearing-in of the newly elected members and appointment of the new Speaker can be held thereafter.

What after swearing in?

- Once any formation is sworn in, it will **need to pass the floor test**, which will reveal whether the executive enjoys the confidence of the legislature as mandated by the Constitution.
- In the floor test, the person sworn in as **the CM has to prove that s/he enjoys the confidence of the House.** If the confidence motion fails, the Chief Minister has to resign.
- If more than one person stake claim to form the government and the **majority is not clear, the Governor has the powers to call a special session to assess who has the majority.**
- **The date for the floor test is decided by the Governor** in consultation with the new government.

If no government can be formed, is President's rule likely?

Article 356 of the Constitution provides for the imposition of President's Rule in a state in "**case of failure of the constitutional machinery in the state**".

As per the constitutional stipulation, it can be imposed in cases where the President, **on receipt of report from the Governor of the state or otherwise**, is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution.

5. President's Rule in the Indian Context

Article 356 of the Constitution of India gives President of India the power to suspend state government and impose President's rule on any state in the country if "**if he is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution**".

- Upon the imposition of this rule, there would be **no Council of Ministers.** The Vidhan Sabha is either dissolved or prorogued.
- The **state will fall under the direct control of the Union government**, and the Governor will continue to be head the proceedings, representing the President of India – who is the Head of the State.
- The imposition of the President's rule requires the sanction of both the houses of Parliament.
- If approved, it can go on for a period of six months. However, the imposition cannot be extended for more than three years, and needs to be brought before the two houses every six months for approval.

How does it affect the people of the state?

While day to day operations of the state will not be affected, President's rule would mean that **for the next six months no major government decisions will be made.** No projects will be sanctioned, and no major policy decisions including subsidies and others will be made — keeping the progress in a can until the next government is formed.

Revocation:

- A proclamation of President's Rule may be **revoked by the President at any time by a subsequent proclamation.** Such a proclamation does not require parliamentary approval.
- This happens, in case, the leader of a party produces letters of support from a majority of members of the Assembly, and stakes his claim to form a government.

What was the issue in Maharashtra?

No single party had got majority in the House, and no alliance could be formed claiming a majority. Hence the governor of the state recommended President's Rule, which was imposed.

Why is the governor's move being criticised?

When the governor of Maharashtra could not find any party or combination of parties that appeared to have a majority in the Assembly, before recommending imposition of President's Rule, he should have sent a message to the House under **Article 175(2)**, after summoning it under Article 174(1), asking the House to assemble, deliberate and then inform him within a reasonable period of time in whom it has confidence, so that he could be appointed chief minister.

In **Bommai's case**, it was held that imposition of President's Rule is a last option, to be resorted to only when all other recourses have failed. Hence without resorting to the options available, recommending imposition of President's Rule straightaway is clearly seen as unconstitutional.



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Parliament / State Legislatures / Union Territories / Local Self-Government

1. President's address to both Houses of Parliament

Article 87(1) says: "At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons."

First Constitutional Amendment: Originally, the Constitution required the President to address both Houses of Parliament at the commencement of "every session". This requirement was changed by the First Amendment to the Constitution.

What is in President's address?

The President's speech essentially **highlights the government's policy priorities** and plans for the upcoming year. It is **drafted by the Cabinet**, and provides a broad framework of the government's agenda and direction.

What procedures follow the address?

After the President or Governor delivers the address, a debate takes place not only on the contents of the address but also the broad issues of governance in the country. This then paves the way for discussion on the Budget.

If the President disagrees with the text of the speech, are they still bound to read it?

The President or a Governor cannot refuse to perform the constitutional duty of delivering an address to the legislature. But **there can be situations when they deviate from the text of the speech prepared by the government.**

So far, there have been no instances of President doing so. But there has been an occasion when a Governor skipped a portion of the address to the Assembly.

2. Motion of thanks to President's Address

Motion of Thanks is a motion in Indian Parliament which follows the address of the President of India to the joint sitting of Lok Sabha and Rajya Sabha at the commencement of first session of a new Lok Sabha and first session of every year.

Amendments to the "Motion of Thanks":

Notices of amendments to Motion of Thanks on the President's Address can be tabled after the President has delivered his Address. **Amendments may refer to matters contained in the Address as well as to matters, in the opinion of the member, the Address has failed to mention.** Amendments can be moved to the Motion of Thanks in such form as may be considered appropriate by the Speaker.

Limitations:

The only limitations are that **members cannot refer to matters which are not the direct responsibility of the Central Government and that the name of the President cannot be brought in during the debate** since the Government and not the President is responsible for the contents of the Address.

Provisions governing them:

President's Address and Motion of Thanks are governed by **Articles 86 (1) and 87 (1) of the Constitution and Rules 16 to 24 of the Rules of Procedure and Conduct of Business in Lok Sabha.**

Its passage:

Members of Parliament vote on this motion of thanks. This motion must be passed in both of the houses.

A failure to get motion of thanks passed amounts to defeat of government and leads to collapse of government. This is why, the Motion of Thanks is deemed to be **a no-confidence motion**.

Constitutional provisions on this:

Article 86(1) of the Constitution provides that the President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Article 87 provides for the special address by the President. Clause (1) of that article provides that at the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year, the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons. No other business is transacted till the President has addressed both Houses of Parliament assembled together.

3. Private member's Bill

Who is a Private Member?

Any MP who is not a Minister is referred to as a private member.

Admissibility of a private member's Bill:

The admissibility is **decided by the Chairman for Rajya Sabha and Speaker in the case of Lok Sabha**.

The procedure is roughly the same for both Houses:

- The Member must give at least a month's notice before the Bill can be listed for introduction.
- The House secretariat examines it for compliance with constitutional provisions and rules on legislation before listing.

Is there any exception?

While government Bills can be introduced and discussed on any day, **private member's Bills can be introduced and discussed only on Fridays**.

To date, Parliament has passed 15 such Bills, six of them in 1956.

In the 14th Lok Sabha, of the over 300 private member's Bills introduced, roughly **four per cent were discussed, the remaining 96 per cent lapsed without a single dialogue**.

4. Unparliamentary speech and conduct

Despite **Article 105(2) of the constitution**, Whatever an MP says is subject to **the discipline of the Rules of Parliament, the "good sense" of Members, and the control of proceedings by the Speaker**.

These checks ensure that **MPs cannot use "defamatory or indecent or undignified or unparliamentary words" inside the House**.

The Presiding Officers — Speaker of Lok Sabha and Chairperson of Rajya Sabha — have the job of keeping these bad words out of Parliament's records.

Examples of unparliamentary- (Breif overview for understanding):

Among the words and phrases that have been deemed unparliamentary are "scumbag", "shit", "badmashi", "bad" (as in "An MP is a bad man"), and "bandicoot", which is unparliamentary if an MP uses it for another, but which is fine if he uses it for himself.

If the Presiding Officer is a "lady", no MP can address her as "beloved Chairperson".

The government or another MP cannot be accused of “bluffing”. “Bribe”, “blackmail”, “bribery”, “thief”, “thieves”, “dacoits”, “bucket of shit”, “damn”, “deceive”, “degrade”, and “darling”, are all unparliamentary.

MPs or Presiding Officers can't be accused of being “double minded”, having “double standards”, being of “doubtful honesty”, being “downtrodden”, indulging in “double talk”, being “lazy”, “lousy”, a “nuisance” or a “loudmouth”.

The government can't be called “andhi-goongi”, or one of “Ali Baba aur 40 chor”. An illiterate MP can't be called “angotha chhaap”, and it is unparliamentary to suggest that a member should be sent to the “ajayabghar” (museum).

5. Parliamentary privileges

Parliamentary privileges are **certain rights and immunities enjoyed by members of Parliament, individually and collectively**, so that they can “effectively discharge their functions”. When any of these rights and immunities are disregarded, the offence is called **a breach of privilege** and is punishable under law of Parliament.

Parliamentary privileges are defined in **Article 105** of the Indian Constitution and those of State legislatures in **Article 194**.

Who can move it? How?

A notice is moved in the form of a motion by **any member of either House against those being held guilty of breach of privilege**. Each House also claims the right to punish as contempt actions which, while not breach of any specific privilege, are offences against its authority and dignity.

What are the rules governing privilege?

Besides, **Rule No 222 in Chapter 20 of the Lok Sabha Rule Book and correspondingly Rule 187 in Chapter 16 of the Rajya Sabha rulebook** govern privilege.

It says that a member may, with the consent of the Speaker or the Chairperson, raise a question involving a breach of privilege either of a member or of the House or of a committee thereof.

The rules however **mandate that any notice should be relating to an incident of recent occurrence and should need the intervention of the House**.

Privileges of Parliamentarians:

1. Freedom of Speech:

The members of Parliament enjoy freedom of speech and expression. No member can be taken to task anywhere outside the four walls of the House (e.g. court of law) or cannot be discriminated against for expressing his/her views in the House and its Committees.

2. Freedom from Arrest:

It is understood that no member shall be arrested in a civil case 40 days before and after the adjournment of the House (Lok Sabha or Rajya Sabha) and also when the House is in session. It also means that no member can be arrested within the precincts of the Parliament without the permission of the House to which he/she belongs.

3. Exemption from attendance as witnesses:

The members of Parliament also enjoy freedom from attendance as witnesses.

Privileges of Parliament:

Right to publish debates and proceedings:

- Though by convention, the Parliament does not prohibit the press to publish its proceedings, yet technically the House has every such right to forbid such publication.
- Again, while a member has the privilege of freedom of speech in Parliament, he has no right to publish it outside Parliament.

- Anyone violating this rule can be held responsible for any libellous matter it may contain under the common law rules.

Right to exclude strangers:

Each house of Parliament enjoys the right to exclude strangers (no-members or visitors) from the galleries at any time and to resolve to debate with closed doors.

Right to punish members and outsiders for breach of its privileges:

- In India, the Parliament has been given punitive powers to punish those who are adjudged guilty of contempt of the House.
- Such contempt can be committed by the members of any House or any outsider. When a member of the House is involved for parliamentary misbehaviour or commits contempt he can be expelled from the House.

Right to regulate the internal affairs of the House:

The House has the right to regulate its internal affairs. A member of the House is free to say whatever he likes subject only to the internal discipline of the House or the Committee concerned.

What is the role of the Speaker/Rajya Sabha Chair?

The Speaker/RS chairperson is **the first level of scrutiny of a privilege motion. The Speaker/Chair can decide on the privilege motion himself or herself or refer it to the privileges committee of Parliament.** If the Speaker/Chair gives consent under Rule 222, the member concerned is given an opportunity to make a short statement.

What is the privileges committee?

In the Lok Sabha, **the Speaker nominates a committee of privileges consisting of 15 members as per respective party strengths.** A report is then presented to the House for its consideration. The Speaker may permit a half-hour debate while considering the report. The Speaker may then pass final orders or direct that the report be tabled before the House.

A resolution may then be moved relating to the breach of privilege that has to be unanimously passed. **In the Rajya Sabha, the deputy chairperson heads the committee of privileges, that consists of 10 members.**

6. Elections to Rajya Sabha

The Constitution provides that the Rajya Sabha shall **consist of 250 members, of which 12 members shall be nominated by the President** from amongst persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service; and not more than 238 representatives of the States and of the Union Territories.

How are the members elected?

Elections to the Rajya Sabha are indirect.

- Members representing States are elected by elected members of legislative assemblies of the States in accordance with the system of **proportional representation by means of the single transferable vote.**
- Members representing Union Territories are chosen in such manner as Parliament may by law prescribe.

Related facts:

- The Rajya Sabha is **not subject to dissolution**; one-third of its members retire every second year.
- According to Section 154 of the Representation of the People Act 1951, a member chosen to fill a casual vacancy will serve for the remainder of his predecessor's term of office.

- Members of a state's Legislative Assembly vote in the Rajya Sabha elections in what is called proportional representation with the single transferable vote (STV) system. Each MLA's vote is counted only once.

7. Police and public order in Delhi

The NCT of Delhi, under **Article 239 AA**, has been given a special status.

It gives powers of law-making and administration to an elected legislature and the council of ministers. But, puts two subjects — **public order and police** — **directly under the Union government, however, with exceptions**- Two sections of **Criminal Procedure Code (CrPC) —129 & 130** — give the Executive Magistrate certain powers relating to “unlawful assembly”. Under these two limited powers, **the Executive Magistrate**, who reports to the Chief Minister, **can issue orders relating to public security**.

What is CrPC 129?

If a group is found in unlawful assembly under Section 129 CrPC, the Executive Magistrate can issue orders to these persons to disperse. If this fails, the magistrate can use the civil force — which is the police.

What is CrPC section 130?

If efforts under CrPC section 129 fail, the Executive Magistrate, under Section 130 CrPC, can call **an officer of the armed forces of the Union** to disperse the assembly. This section states that it can be invoked for “**public security**”.

However, this Section empowers **the officer to decide, on his own, the manner in which the unlawful assembly has to be dispersed by forces under his command**.

How are these powers different from the powers of a full-fledged state?

While **public order and police are under the state list**, the state government may request the Union government to make available armed forces to help restore public order.

Even in circumstances where public disorder is not so serious as to fall in the category of an “**internal disturbance**” as defined in **Article 355** of the Constitution, the Union Government may accede to the request.

But, as per CrPC 130, except for the limited purpose of dispersing an “unlawful assembly” and arresting its members, neither the state government nor any authority under it has been conferred by the Constitution **any legal right to call the armed forces while dealing with a public disorder or “internal disturbance”**.

Also, **the Seventh Schedule of the Constitution** states that use of the armed forces in the maintenance of public order is outside the purview of the states.

8. Legislative Council

Besides Andhra Pradesh, five other states have Vidhan Parishads — Bihar, Karnataka, Maharashtra, Telangana, UP. Jammu and Kashmir had a Council until the state was bifurcated into the Union Territories of J&K and Ladakh.

What are the Legislative Councils, and why are they important?

India has **a bicameral system i.e.**, two Houses of Parliament. At the state level, the equivalent of the Lok Sabha is the Vidhan Sabha or Legislative Assembly; that of the Rajya Sabha is the Vidhan Parishad or Legislative Council.

How is a legislative council created?

Under **Article 169** of the constitution, **Parliament may by law create or abolish the second chamber in a state if the Legislative Assembly of that state passes a resolution to that effect by a special majority**.

Strength of the house:

As per **article 171 clause (1)** of the Indian Constitution, the total number of members in the legislative council of a state **shall not exceed one third of the total number of the members in the legislative Assembly** of that state and the total number of members in the legislative council of a state **shall in no case be less than 40**.

How are members of the Council elected?

- 1/3rd of members are elected by members of the Assembly.
- 1/3rd by electorates consisting of members of municipalities, district boards and other local authorities in the state.
- 1/12th by an electorate consisting of teachers.
- 1/12th by registered graduates.
- The remaining members are nominated by the Governor from among those who have distinguished themselves in literature, science, art, the cooperative movement, and social service.

9. Anglo- Indians in Lok Sabha and Assemblies

Parliament **passed the Constitution (126th Amendment) Bill**, doing away with the provision for nomination of Anglo Indians to Lok Sabha and some state Assemblies.

Background:

The term Anglo-Indian first appeared in the **Government of India Act, 1935**.

Meaning of Anglo Indians in India:

The term Anglo Indian is defined **as per the article 366 (2) of the Indian constitution; "a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India."**

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Anglo Indians in Parliament and Legislative Assemblies:

Under **article 331**; President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the people, nominate not more than two members of that community to the Lok Sabha.

In the same way **the governor of the state is authorised to nominate 1 Anglo Indian in the lower house of the State Legislature** (in case of under representation).

According to the 10th schedule of the Constitution, any Anglo-Indian member can take the membership of any party within 6 months of the nomination. After the membership; they are bound to the party whip and they have to work in the house according to the party's agenda.

STATE-WISE ENUMERATION

West Bengal	9
Odisha	4
Chhattisgarh	3
Maharashtra	16
Andhra Pradesh	62
Karnataka	9
Kerala	124
Tamil Nadu	69

(Source: All India Anglo Indian Association)

10. Strength of Lok Sabha

- **Article 81 of the Constitution** defines the composition of the House of the People or Lok Sabha.
- It states that **the House shall not consist of more than 550 elected members of whom not more than 20 will represent UTs**.
- It also mandates that **the number of Lok Sabha seats allotted to a state would be such that the ratio between that number and the population of the state is, as far as possible, the same for all states**. This is to ensure that every state is equally represented.
- **Exceptions:** However, this logic does **not apply to small states whose population is not more than 60 lakh**.

Basis for determination of population:

As per Clause 3 of Article 81, population, for the purpose of allocation of seats, means “population as ascertained at the last preceding Census of which the relevant figures have been published” — in other words, the last published Census.

However, as a result of an amendment to this Clause in 2003, **the “population” now means population as per the 1971 Census — and will be so until the first Census that is taken after 2026.**

11. Leader of the Opposition

- The LOP is **leader of the largest party** that has not less than one-tenth of the total strength of the house.
- It is a **statutory post** defined in the **Salaries and Allowances of Leaders of Opposition in Parliament Act, 1977.**
- As per the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, the **majority required is decided by the heads of the houses**, that is speaker and chairman as the case may be.
- **Significance of the office:**
 - LoP is referred to as the ‘shadow Prime Minister’.
 - She/he is expected to be ready to take over if the government falls.
 - The LoP also plays an important role in bringing cohesiveness and effectiveness to the opposition’s functioning in policy and legislative work.
 - LoP plays a crucial role in bringing bipartisanship and neutrality to the appointments in institutions of accountability and transparency – CVC, CBI, CIC, Lokpal etc.

12. WHIP

- A whip in parliamentary parlance is a **written order** that party members be present for an important vote, or that they vote only in a particular way.
- **How is it used?**
 - In India **all parties can issue a whip to their members.** Parties appoint a **senior member from among their House contingents to issue whips** — this member is called a Chief Whip, and he/she is assisted by additional Whips.
- **Kinds of Whips:**
 - A **one-line whip**, underlined once, is usually issued to inform party members of a vote, and allows them to abstain in case they decide not to follow the party line.
 - A **two-line whip** directs them to be present during the vote.
 - A **three-line whip** is the strongest, employed on important occasions such as the second reading of a Bill or a no-confidence motion, and places an obligation on members to toe the party line.
- **Defiance of Whip:**
 - In India, rebelling against a three-line whip can put a lawmaker’s membership of the House at risk. The anti- defection law allows the Speaker/Chairperson to disqualify such a member; the only exception is when more than a third of legislators vote against a directive, effectively splitting the party.

13. Administration of Oath in Legislature

Article 164(3) says: “Before a Minister enters upon his office, **the Governor shall administer to him the oaths of office and of secrecy** according to the forms set out for the purpose in **the Third Schedule.**”

The Third Schedule requires the taker of the oath to either “swear in the name of God” or to “solemnly affirm” to “bear true faith and allegiance to the Constitution...”.

Can it be altered?

Art 164 makes it clear that **the text of the oath is sacrosanct**, and the person taking the oath has to read it out exactly as it is, in the given format.

If a person wanders from the text, it is the responsibility of the person administering the oath — in this instance the Governor — to interrupt and ask the person being sworn in to read it out correctly.

Role of the Governor:

The Governor's approval is key.

- According to experts, if the person administering the oath approves the oath, the matter is closed. Immediately on taking the oath, the person who has been sworn in, must sign a register.
- The register is attested by the Secretary to the Governor, which means it has been approved by the Governor.
- Once Governor takes it as read, and the Secretary to the Governor has attested that the oath has been administered, and the gazette notification has come out, then it is no longer an issue, it cannot be legally challenged.

14. Parliamentary standing committees

Most committees are 'standing' as their existence is uninterrupted and usually reconstituted on an annual basis.

Some are 'select' committees formed for a specific purpose, for instance, to deliberate on a particular bill. Once the Bill is disposed of, that select committee ceases to exist. **Some standing committees are departmentally related.**

The three financial committees are the Public Accounts Committee, the Estimates Committee and the Committee on Public Undertakings.

Powers:

Parliamentary committees draw their authority from **Article 105** (on privileges of Parliament members) and **Article 118** (on Parliament's authority to make rules for regulating its procedure and conduct of business).

Committee meetings are 'closed door' and **members are not bound by party whips.**

15. Floor Test or Trust Vote

- A floor test is a **constitutional mechanism**. It is used to determine if the incumbent government enjoys the support of the legislature.
- **How it takes place?**
 - This voting process happens in the state's Legislative Assembly or the Lok Sabha at the central level.
 - Technically, the chief minister of a state is appointed by the Governor. The appointed chief minister usually belongs to the single largest party or the coalition which has the 'magic number'. The **magic number is the total number of seats required to form a government, or stay in power**. It is the half-way mark, plus one. **In case of a tie, the Speaker casts the deciding vote**
 - However, at times, a government's majority can be questioned. **The leader of the party claiming majority has to move a vote of confidence.**
 - If some MLAs remain absent or abstain from voting, the **majority is counted on the basis of those present and voting**. This effectively reduces the strength of the House and in turn brings down the majority-mark.
 - The voting process can happen orally, with electronic gadgets or a ballot process.
 - The **Governor can also ask the Chief Minister to prove his or her majority in the House** if the stability of the government comes into question.

- Composite floor test:
 - While there is another test, Composite floor test, which is **necessitated when more than one person stake the claim to form the government and the majority is not clear.**
 - **Governor may call a special session to assess** who has the majority. The majority is counted based on those present and voting and this can be done through voice vote also.

16. Jammu and Kashmir Bifurcation

Jammu and Kashmir is no more a state; it has been **divided into two Union Territories.**

The Jammu and Kashmir Reorganisation Act, 2019 also comes into effect from **31st October 2019.**

Here is what has changed in Jammu and Kashmir, and Ladakh:

- The Constitution of Jammu and Kashmir and the Ranbir Penal Code will cease to exist.
- The Union Territory of J&K will have a legislature while the UT of Ladakh will have no legislature.
- Both the Union Territories will have Lieutenant Governors as administrators who will be appointed by the President of India. Their tenure will be determined by the President.
- Four sitting members of the Council of States representing the existing state of Jammu and Kashmir shall be deemed to have been elected to fill the seats allotted to the Union Territory of Jammu and Kashmir.

Legislative assembly of J&K:

- The **Delimitation of Parliamentary Constituencies Order, 1976** shall stand amended as directed in the Second Schedule of the Act.
- The Election Commission may conduct the elections to the House of the People for the Union Territory of Jammu and Kashmir as per the allocation of seats specified in the Delimitation of Parliamentary Constituencies Order, 1976 as amended by this Act.
- The provisions which are applicable to "Union territory of Puducherry" shall also apply to the "Union territory of Jammu and Kashmir."
- **Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes** in the Legislative Assembly of the Union territory of Jammu and Kashmir.
- There shall be a Council of Ministers consisting of not more than ten per cent of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has the power to make laws.

Abolition of legislative council:

- On the abolition of the Legislative Council, every member thereof shall cease to be such members.
- All Bills pending in the Legislative Council immediately before the appointed day shall lapse on the abolition of the Council.

Powers of Lieutenant Governor:

- The Lieutenant Governor of Ladakh shall be assisted by advisor(s) to be appointed by the Central Government.
- Lieutenant Governor of Union territory of Jammu and Kashmir may nominate two members to the Legislative Assembly to give representation to women, if in his opinion, women are not adequately represented in the Legislative Assembly.
- The **Chief Minister shall be appointed by the Lieutenant Governor** and the other Ministers shall be appointed by the Lieutenant Governor on the advice of the Chief Minister.
- The Ministers shall hold office during the pleasure of the Lieutenant Governor and the Council of Ministers shall be collectively responsible to the Legislative Assembly.

- Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Fourth Schedule.

High Court:

- The High Court of Jammu and Kashmir shall be the common High Court for the Union territory of Jammu and Kashmir and Union territory of Ladakh.
- The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the Union territory of Jammu and Kashmir and Union territory of Ladakh on the basis of population ratio.

All India Services officials:

- The members of the cadres of Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing State of Jammu and Kashmir, on and from the appointed day, shall continue to function on the existing cadres.
- The centre will be in direct control of the Jammu and Kashmir police and law and order matters.

17. Difference between states and UTs

- States have their own elected government, but in Union Territory (UT) is administered by the Central Government.
- The state is administered by Chief minister, whereas UT is administered by Administrator appointed by President.
- The states have the Governor as its executive head, in UTs, President is its executive head.
- A state mandatorily has its own Legislative Assembly and make law for the state, for UT, it is not mandatory to have a Legislative Assembly.
- Powers in states are distributed through Federal mode that is powers divided between states and center. Whereas, in case of UTs, powers are Unitary in nature that is power is in the hands of the Center.

18. Chhattisgarh panchayats to have disabled quota

The **Chhattisgarh** Cabinet has approved an amendment to **the State Panchayati Raj Act, 1993**, which makes **mandatory the presence of a person with disabilities in all panchayats across the state**.

This will make it **the only State to have such members in all panchayats**.

Under the Constitution the disabled have been guaranteed the following fundamental rights:

- The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.
- **Article 15(1)** enjoins on the Government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth.
- **Article 15 (2)** States that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public.
- There shall be **equality of opportunity for all citizens** (including the disabled) in matters relating to employment or appointment to any office under the State.
- No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law as provided by **Article 17** of the Constitution.

- Every person including the disabled has his life and liberty guaranteed under **Article 21** of the Constitution.

19. Gram Sabha

The term Gram Sabha *is defined in the Constitution of India under Article 243(b).*

Gram Sabha is *the primary body of the Panchayati Raj system and by far the largest.*

It is *a permanent body.*

The power to annul a decision of the Gram Sabha rests with the Gram Sabha only.

Composition:

1. Persons, those who are above 18 years of age.
2. Living in the village.
3. Whose names are included in the electoral rolls for the Panchayat at the village level.

Powers and functions:

Constitution mentions that *Gram Sabha exercises such powers and performs such functions at the village level as the Legislature of a State may, by law, provide.*

Important and specific functions of Gram Sabha:

- To help **implementation of the development programmes** and schemes of the Panchayat.
- To **identify beneficiaries** for different programmes and schemes. However, if the Gram Sabha fails to identify such beneficiaries within a reasonable time, the Gram Panchayat shall identify the beneficiaries.
- To solicit support — in cash or kind or both and voluntary labour — from the public for community welfare programmes.
- To support the programmes of mass education and family welfare.
- To promote unity and harmony among all sections of the society in the village.
- To seek clarification from the Mukhiya, Up-Mukhiya and other members of the Gram Panchayat about any particular activity, scheme, income and expenditure.
- To discuss and recommend appropriate action with regard to reports of the Vigilance Committee.
- Other related matters brought to the notice of the Gram Sabha.
- To consider levy of taxes, rates, rents & fees & enhancement of rates thereof.
- To consider all such matters as may be referred by the Gram Panchayat for its decision.

20. Starred and unstarred questions

Members have a right to ask questions to elicit information on matters of public importance within the special cognizance of the Ministers concerned. The questions are of four types:

1. Starred Questions: A Starred Question is one to which a member desires an oral answer from the Minister in the House and is required to be distinguished by him/her with an asterisk. Answer to such a question may be followed by supplementary questions by members.

2. Unstarred Questions: An Unstarred Question is one to which written answer is desired by the member and is deemed to be laid on the Table of the House by Minister. Thus it is not called for oral answer in the House and no supplementary question can be asked thereon.

3. Short Notice Questions: A member may give a notice of question on a matter of public importance and of urgent character for oral answer at a notice less than 10 days prescribed as the minimum period of notice for asking a question in ordinary course. Such a question is known as 'Short Notice Question'.

4. Questions to Private Members: A Question may also be addressed to a Private Member (Under Rule 40 of the Rules of Procedure and Conduct of Business in Lok Sabha), provided that the subject matter of the question relates to some Bill, Resolution or other matter connected with the business of the House for which that Member is responsible. The procedure in regard to such questions is same as that followed in the case of questions addressed to a Minister with such variations as the Speaker may consider necessary.

21. Renaming of States

The procedure of renaming of the state can be **initiated by either the Parliament or the State Legislator** and the procedure is as follows:

- The renaming of a state **requires Parliamentary approval under Article 3 and 4** of the Constitution.
- A bill for renaming a state may be introduced in the Parliament on the recommendation of the President.
- Before the introduction of the bill, **the President shall send the bill to the respective state assembly** for expressing their views within a stipulated time. **The views of the state assembly are not binding**, neither on the President nor on the Parliament.
- On the expiry of the period, the bill will be sent to the Parliament for deliberation. **The bill in order to take the force of a law must be passed by a simple majority.**
- The bill is **sent for approval to the President**. After the approval of the said bill, the bill becomes a law and the name of the state stands modified.

Initiation by a State:

- If any fresh proposal comes from states to the Home Ministry, it will prepare a note for the Union Cabinet for an amendment to the Schedule 1 of the Constitution. Thereafter, a Constitution Amendment Bill will be introduced in Parliament, which has to approve it with a simple majority, before the President gives his assent to it.

22. Can an individual simultaneously be a member of both Houses of Parliament

- If a person is **elected simultaneously to both Rajya Sabha and Lok Sabha**, and if he has not yet taken his seat in either House, he can choose, within 10 days from the later of the dates on which he is chosen to those Houses, the House of which he would like to be a member. **[Article 101(1) of the Constitution read with Section 68(1) of The Representation of the People Act, 1951]**
- The member must intimate his choice in writing to the Secretary to the Election Commission of India (ECI) within the 10-day window, failing which his seat in Rajya Sabha will fall vacant at the end of this period. [Sec 68(2), RPA 1951]. The choice, once intimated, is final. [Sec 68(3), RPA, 1951]
- No such option is, however, available to a person who is already a member of one House and has contested the election for membership of the other House. So, **if a sitting Rajya Sabha member contests and wins a Lok Sabha election, his seat in the Upper House becomes automatically vacant on the date he is declared elected to Lok Sabha**. The same applies to a Lok Sabha member who contests an election to Rajya Sabha. [Sec 69 read with Sec 67A, RPA 1951]
- Elected on two Lok Sabha seats:
 - **Under Sec 33(7) of RPA, 1951**, an individual can contest from two parliamentary constituencies but, if elected from both, he has to resign one seat within 14 days of the declaration of the result, failing which both his seats shall fall vacant. [Sec 70, RPA, 1951 read with Rule 91 of the Conduct of Elections Rules, 1961]
- **State Assembly and Lok Sabha:**

- **Under Article 101(2) of the Constitution** (read with Rule 2 of the Prohibition of Simultaneous Membership Rules, 1950, made by the President under this Article) members of state legislatures who have been elected to Lok Sabha must resign their seats within 14 days “from the date of publication in the Gazette of India or in the Official Gazette of the State, whichever is later, of the declaration that he has been so chosen”, failing which their seats in Lok Sabha shall automatically fall vacant.

23. Lok Sabha Speaker

- The **chairman or the Presiding Officer of Lok Sabha** is called Speaker.
- The nature of duties of the Speaker is technically an “**arbiter**” or a “**quasi-judicial body**”.
- The speaker of the Lok Sabha is **elected from all other members by simple majority**.
- Any member of Parliament is eligible to be nominated as a speaker but most commonly the **candidate of ruling party** or the party with majority wins this post.
- However, there are certain cases when the elected Speaker does not belong to the majority ruling party of Lok Sabha (G. M. C. Balyogi, Manohar Joshi, Somnath Chatterjee).
- **Functions and Powers of Lok Sabha Speakers:**
 - Speaker of Lok Sabha is basically the **head of the house** and **presides over the sittings** of Parliament and controls its working.
 - The constitution has tried to ensure the **independence of Speaker** by charging his salary on the consolidated Fund of India and the same is not subject to vote of Parliament.
 - While debating or during general discussion on a bill, the members of the parliament have to address only to the Speaker.
 - Whenever there is a **joint sitting** of both houses of Parliament the Speaker of the Lok Sabha presides over this meeting.
 - The Speaker of Lok Sabha comes at **sixth position in the Order of Precedence** of Government of India.
 - In the normal circumstances the Speaker does not casts his vote over any matter in Lok Sabha. But whenever there is a tie on votes between the ruling party and opposition, the Speaker at that time can exercise his vote.
 - It is the **Speaker who decides the agenda of various discussions**.
 - The speaker has the power to **adjourn or suspend the house/meetings** if the quorum is not met.
 - The Speaker ensures the **discipline and decorum** of the house. If the speaker finds the behavior of a member of Parliament is not good, he/she can punish the unruly members by suspending.
 - The Speaker **decides** whether a bill brought to the house is a **money bill or not**.
 - Speaker is the final and sole authority to allow different types of motions and resolutions such as No Confidence Motion, Motion of Adjournment, Censure Motion etc.
 - The Speaker of Lok Sabha does not leave the office just after dissolution of the assembly. He continues to be in the office till the newly formed assembly takes its first meeting and elects the new Speaker.
- **The Speaker of Lok Sabha automatically disqualifies from his post if:**
 - he is no longer the Member of Parliament.
 - if he tenders his resignation to the Deputy Speaker.
 - if he holds the office of profit under central government or any state government.
 - if he is of unsound mind and that too declared by the court of law.
 - if he is declared undischarged insolvent.
 - if he is no longer the citizen of India or voluntarily accepts the citizenship of any other country.
 - if he is removed from the post of Speaker by passing a resolution by majority of the members of Lok Sabha. This is to note that during resolution for removal of Speaker, the Speaker is not in position to cast his vote even if there is tie.
- **Speaker and the Committees:**

- The Committees of the House function under the overall direction of the Speaker. All such Committees are constituted by her or by the House.
- The Chairmen of all Parliamentary Committees are nominated by her.
- Any procedural problems in the functioning of the Committees are referred to her for directions.
- Committees like the **Business Advisory Committee, the General Purposes Committee and the Rules Committee work directly under her Chairmanship.**

24. Pro-tem Speaker

- Pro-tem Speaker is a temporary speaker appointed for a limited period of time.
- The need for pro-tem speaker:
 - The **speaker of the Lok Sabha/legislative assembly vacates the office immediately before the first meeting of the newly elected house.**
 - Hence **President/governor appoints the pro-tem speaker to preside over the sittings of the house.**

Appointment:

- Usually the **senior most member is elected as the pro-tem speaker.**
- The **president/governor will administer the oath of the office** for the pro-tem speaker.
- When the house elects the new speaker the office of the pro-tem speaker ceases to exist. Hence **the office of the pro-tem speaker is a temporary one which will be in existence for few days.**
- **Duties and functions:**
 - The main duty of the pro-tem speaker is to administer the oath to the newly elected members.
 - Pro-tem also enables the house to elect the new speaker.
- **Powers:**
 - The Bombay High Court in its 1994 judgement in the **Surendra Vassant Sirsat case** holds that a pro-tem is Speaker of the House “for all purposes with all powers, privileges and immunities” until the Speaker is elected.
 - The Odisha High Court also agreed in the **Godavaris Misra versus Nandakisore Das, Speaker, Orissa Legislative Assembly case** when it said the “powers of the Speaker pro-tem are co-extensive with the powers of elected Speaker”.
 - The pro-tem speaker also has **same powers, privileges as that of the Speaker.**

Key facts:

- **Article 180 (1)** of the Constitution gives the Governor the power to appoint a pro-tem Speaker. The Article says that if the chair of the Speaker falls vacant and there is no Deputy Speaker to fill the position, the duties of the office shall be performed “by such member of the Assembly as the Governor may appoint for the purpose”.

25. Cabinet Secretary

- A cabinet secretary is appointed for a **fixed tenure of two years.**
- According to **All India Services (Death-Cum-Retirement-Benefits) Rules, 1958**, the government can give extension in service to a cabinet secretary provided the total tenure does not exceed four years.
- As per the modified rules, the central government may give an extension in service for a further period not exceeding three months, beyond the period of four years to a cabinet secretary.
- **Role of the cabinet secretary:**
 - The cabinet secretariat is under the **direct charge of the prime minister.**
 - The administrative head of the secretariat is the cabinet secretary who is also **the ex-officio chairman of the civil services board.**
- **Functions:**

- The cabinet secretariat **assists in decision-making in government** by ensuring inter-ministerial coordination, ironing out differences amongst ministries or departments and evolving consensus through the instrumentality of the standing or ad hoc committees of secretaries.
- **Management of major crisis situations in the country** and coordinating activities of various ministries in such a situation is also one of the functions of the cabinet secretariat.
- Cabinet Secretariat is responsible for the **administration of the Government of India (Transaction of Business) Rules, 1961** and the **Government of India (Allocation of Business) Rules 1961**, facilitating smooth transaction of business in Ministries/ Departments of the Government.

26. Miscellaneous Points

- A **Code of Conduct for members of Rajya Sabha** has been in force since 2005; there is no such code for Lok Sabha.



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Judiciary

1. Gram Nyayalayas

Gram Nyayalayas or village courts are established under **the Gram Nyayalayas Act, 2008** for speedy and easy access to justice system in the rural areas of India.

The Act came into force from **2 October 2009**.

Not all states have taken steps to notify Gram Nyayalayas.

Composition:

The Gram Nyayalayas are presided over by a **Nyayadhikari**, who will have the same power, enjoy same salary and benefits of **a Judicial Magistrate of First Class**. Such Nyayadhikari are to be **appointed by the State Government in consultation with the respective High Court**.

Jurisdiction:

- A Gram Nyayalaya have jurisdiction over an area specified by a notification by the State Government in consultation with the respective High Court.
- The Court can function as **a mobile court** at any place within the jurisdiction of such Gram Nyayalaya, after giving wide publicity to that regards.
- They have both **civil and criminal jurisdiction over the offences**.
- The pecuniary jurisdiction of the Nyayalayas are **fixed by the respective High Courts**.
- Gram Nyayalayas has been given power to accept certain evidences which would otherwise not be acceptable under Indian Evidence Act.

Procedure to be followed:

Gram Nyayalayas can follow special procedures in civil matters, in a manner it deem just and reasonable in the interest of justice.

Gram Nyayalayas **allow for conciliation of the dispute and settlement of the same in the first instance**.

Appeals:

Appeal in criminal cases shall lie to the Court of Session, which shall be heard and disposed of within a period of six months from the date of filing of such appeal.

Appeal in civil cases shall lie to the District Court, which shall be heard and disposed of within a period of six months from the date of filing of the appeal.

2. Review Petition

Under **Article 137**, the Supreme Court has **the power to review any of its judgments or orders**.

Scope for review:

When a review takes place, the law is that **it is allowed not to take fresh stock of the case but to correct grave errors that have resulted in the miscarriage of justice**.

The court has **the power to review its rulings to correct a "patent error" and not "minor mistakes of inconsequential import"**.

- **In a 1975 ruling, Justice Krishna Iyer** said a review can be accepted "only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility".

In a 2013 ruling, the Supreme Court has laid down **three grounds for seeking a review of a verdict it has delivered**:

1. The discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the petitioner or could not be produced by him.
2. Mistake or error apparent on the face of the record.

3. Any other sufficient reason. It means ***a reason that is analogous to the other two grounds.***

Who can file a review petition?

As per the Civil Procedure Code and the Supreme Court Rules, ***any person aggrieved by a ruling can seek a review.*** However, the court exercises ***its discretion to allow a review petition only when it shows the grounds for seeking the review.***

3. Curative Petition

It is ***the last judicial resort available for redressal of grievances in court*** which is normally decided by judges in-chamber. It is ***only in rare cases that such petitions are given an open-court hearing.***

The concept was first evolved by the Supreme Court of India in ***Rupa Ashok Hurra vs. Ashok Hurra and another case (2002)*** on the question whether an aggrieved person is entitled to any relief against the final judgement/order of the Supreme Court, even after the dismissal of a review petition.

The concept of the curative petition is supported by ***Article 137*** of the Indian Constitution.

- It provides that in the matter of laws and rules made under ***Article 145***, the Supreme Court has the power to review any judgement pronounced (or order made) by it.
- Such a petition needs to be ***filed within 30 days from the date of judgement or order.***

Procedure:

1. A curative petition may be filed after a review plea against the final conviction is dismissed.
2. It can be entertained if the petitioner establishes that there was a violation of the principles of natural justice, and that he was not heard by the court before passing an order.

4. Contempt of Court

In India, ***the Contempt of Courts Act, 1971***, divides contempt into civil contempt and criminal contempt.

'Civil contempt' is a 'wilful disobedience to any judgment, decree, direction, order, writ or other processes of a Court or wilful breach of an undertaking given to the court'.

'Criminal contempt' is 'the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which:

1. Scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court.
2. Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding.
3. Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.'

Is criticism allowed?

Yes. The Contempt of Courts Act, 1971, very clearly states that fair criticism of any case which has been heard and decided is not contempt.

Contempt of Courts (Amendment) Act, 2006:

The statute of 1971 has been amended by the Contempt of Courts (Amendment) Act, 2006 ***to include the defence of truth under Section 13 of the original legislation.***

Constitutional Background:

- **Article 129:** Grants Supreme Court the power to punish for contempt of itself.
- **Article 142(2):** Enables the Supreme Court to investigate and punish any person for its contempt.
- **Article 215:** Grants every High Court the power to punish for contempt of itself.

5. Strength of Supreme Court judges

- Cabinet had approved increasing strength of Supreme Court judges from **31** to **34**.
- **Background:**
 - The **Supreme Court (Number of Judges) Act, 1956** originally provided for a maximum of 10 judges (excluding the CJI). This number was increased to 13 by the Supreme Court (Number of Judges) Amendment Act, 1960, and to 17 in 1977.
 - In 1988, the judge strength of the SC was increased to 26, and then again after two decades in 2009, it was increased to 31, including the CJI, to expedite disposal of cases to keep pace with the rate of institution.
- **Who appoints judges to the SC?**
 - In exercise of the powers conferred by clause (2) of **Article 124** of the Constitution of India, the **appointments are made by the President of India**.
 - The names are recommended by the **Collegium**.

Eligibility to become a Supreme Court judge:

- The norms relating to the eligibility has been envisaged in the Article 124 of the Indian Constitution.
- To become a judge of the Supreme court, an individual should be an Indian citizen.
- In terms of age, a person should not exceed 65 years of age.
- The person should serve as a judge of one high court or more (continuously), for at least five years or the person should be an advocate in the High court for at least 10 years or a distinguished jurist.

Is the collegium's recommendation final and binding?

- The collegium sends its final recommendation to the President of India for approval. The President can either accept it or reject it. In the case it is rejected, the recommendation comes back to the collegium. **If the collegium reiterates its recommendation to the President, then he/she is bound by that recommendation.**

6. How Supreme Court chooses the Chief Justice of India?

The Chief Justice of India is traditionally **appointed by the outgoing Chief Justice of India** on the day of his (or her) retirement.

By convention, the outgoing Chief Justice of India **selects the most senior then-sitting Supreme Court judge**.

Seniority at the apex court is determined not by age, but by:

1. The date a judge was appointed to the Supreme Court.
2. If two judges are elevated to the Supreme Court on the same day:
 - a) The one who was sworn in first as a judge would trump another.
 - b) If both were sworn in as judges on the same day, the one with more years of high court service would 'win' in the seniority stakes.
 - c) An appointment from the bench would 'trump' in seniority an appointee from the bar.

Is it a part of the Constitution?

The Constitution of India does not have any provision for criteria and procedure for appointing the CJI. **Article 124(1)** of the Indian Constitution says there "shall be a Supreme Court of India consisting of a Chief Justice of India".

The closest mention is in **Article 126**, which deals with the appointment of an acting CJI.

In the absence of a constitutional provision, *the procedure relies on custom and convention.*

What is the procedure?

The procedure to appoint the next CJI is laid out in the Memorandum of Procedure (MoP) between the government and the judiciary:

- The procedure is initiated by the Law Minister seeking the recommendation of the outgoing CJI at the 'appropriate time', which is near to the date of retirement of the incumbent CJI.
- The CJI sends his recommendation to the Law Ministry; and in the case of any qualms, the CJI can consult the collegium regarding the fitness of an SC judge to be elevated to the post.
- After receiving recommendation from the CJI, the law minister forwards it to the Prime Minister who then advises the President on the same.
- The President administers the oath of office to the new CJI.

Does the government get a say?

Except for the law minister seeking the recommendation from the incumbent CJI, and forwarding it to the Prime Minister, *the government has no say in the appointment of the CJI.*

Vis-à-vis the appointment of the CJI and the appointment of SC judges, the key difference is that in the former, the government cannot send the recommendation of the CJI (or the collegium) back to them for reconsideration; while in the latter, the government can do so. However, if the collegium reiterates those names, then the government cannot object any further.

7. Removal of judges

- **Article 124(4) and the Judges Inquiry Act 1968** determine the procedure of removal of the judges:
- A **motion of impeachment** addressed to the President is to be **signed by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha** and then delivered to the Speaker of Lok Sabha or the Chairman of Rajya Sabha.
- The motion is to be investigated by a Committee of 3 judges of the Supreme Court and a distinguished jurist.
- If the Committee finds the judge guilty of misbehavior or that he suffers from incapacity, the motion along with the report of the committee is **taken up for consideration in the House where motion was moved.**
- The judge is then removed by the requisite majority, i.e. **majority of total and 2/3 of its members present and voting.**
- **Key facts:**
 - A member of the higher judiciary, which means the Judges and Chief Justices of the Supreme Court of India and the state High Courts, can be removed from service **only through the process of impeachment under Article 124 (4) of the Constitution.**
 - A judge is removable from his office, only **on the grounds of proved misbehavior or incapacity.**
 - Parliament is empowered to regulate the procedure for the investigation and proof of such misbehavior or incapacity.
 - A judge may be **removed from his office only by an order of the president.**
 - The words "misbehaviour" or "incapacity" have neither been defined nor clarified in the Constitution.

8. Kerala High Court bans all forms of agitations in schools, colleges

The **Kerala High Court** has ruled that **strikes, rallies and gheraos that affect regular classes should not be held on the campuses of schools and colleges.**

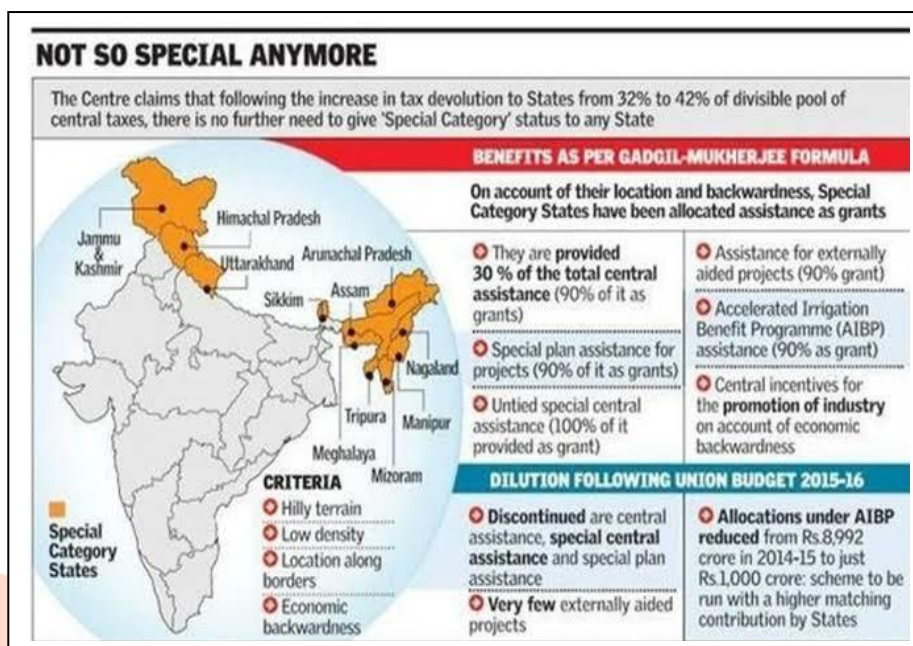
Centre – State Relations

1. Special category status

There is **no provision of SCS in the Constitution**; the Central government extends financial assistance to states that are at a comparative disadvantage against others. The concept of SCS emerged in 1969 when **the Gadgil formula** (that determined Central assistance to states) was approved.

Some prominent guidelines for getting SCS status:

- Must be economically backward with poor infrastructure.
- The states must be located in hilly and challenging terrain.
- They should have low population density and significant tribal population.
- Should be strategically situated along the borders of neighboring countries.



Benefits states confer with special category status:

1. The central government bears 90 percent of the state expenditure on all centrally-sponsored schemes and external aid while rest 10 percent is given as loan to state at zero percent rate of interest.
2. Preferential treatment in getting central funds.
3. Concession on excise duty to attract industries to the state.
4. 30 percent of the Centre's gross budget also goes to special category states.
5. These states can avail the benefit of debt-swapping and debt relief schemes.
6. States with special category status are exempted from customs duty, corporate tax, income tax and other taxes to attract investment.
7. Special category states have the facility that if they have unspent money in a financial year; it does not lapse and gets carry forward for the next financial year.

Other benefits:

Besides tax breaks and other benefits, the State with SCS will get 90% of all the expenditure on Centrally sponsored schemes as Central grant. The rest of the 10% will also be given as a loan at zero per cent interest. Usually, the ratio for general category States is 70% loan and 30% grant.

When was the first Special Category status bestowed?

First SCS was accorded in 1969 to Jammu and Kashmir, Assam and Nagaland. Over the years, eight more states were added to the list — Arunachal Pradesh, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Tripura and, finally, in 2010, Uttarakhand. Until 2014-15, SCS meant these 11 states received a variety of benefits and sops.

2. Centre-state disputes and Article 131

Kerala became the first state to challenge **the Citizenship (Amendment) Act (CAA)** before the Supreme Court under **Article 131 of the Constitution**.

Under **Article 131 of the Constitution**, the Supreme Court has **original jurisdiction** to deal with any dispute between the Centre and a state; the Centre and a state on the one side and another state on the other side; and two or more states.

In a 1978 judgment, *State of Karnataka v Union of India*, Justice P N Bhagwati had said that for the Supreme Court to accept a suit under Article 131, the state need not show that its legal right is violated, but only that the dispute involves a legal question.

Article 131 cannot be used to settle political differences between state and central governments headed by different parties.

The Supreme Court has **three kinds of jurisdictions: original, appellate and advisory**.

1. Under its **advisory jurisdiction**, the President has the power to seek an opinion from the apex court under Article 143 of the Constitution.
2. Under its **appellate jurisdiction**, the Supreme Court hears appeals from lower courts.

3. Instrument of Accession

From 2020, people in the Union Territory of Jammu and Kashmir will have **a public holiday on October 26 for the first time**. **The day**, which will be observed as **Accession Day**, marks **the signing of the Instrument of Accession by the last Dogra ruler of J&K, Maharaja Hari Singh, with the then Governor-General of India, Lord Mountbatten**.

What happened on October 26?

As per **the Indian Independence Act, 1947**, **British India was divided into India and Pakistan and the roughly 580 princely states** that had signed subsidiary alliances with the British had their sovereignty restored to them. In essence, **these princely states were given the option to remain independent or to join the Dominion of India or Pakistan**.

According to **Section 6(a) of the Act**, before joining India or Pakistan, these states had to sign **an Instrument of Accession**, in which they would specify **the terms on which they were becoming part of the new dominions**.

What is Instrument of Accession of J&K?

It is **a legal document executed by Maharaja Hari Singh**, the then ruler of the princely state of Jammu & Kashmir, on October 26, 1947.

It declared that **the state of Jammu and Kashmir accedes to India**.

The IoA gave India's Parliament **the power to legislate in respect of J&K only on the matters of defence, external affairs and communications**.

Apart from defence, communications and external affairs, the IoA mentions **ancillary subjects that include elections to the dominion legislature and offences against laws with respect to any of the said matters**.

Using IoA, **Article 370 was incorporated in the Constitution of India**.

Inter – State Relations

1. Cauvery Water Management Authority (CMA)

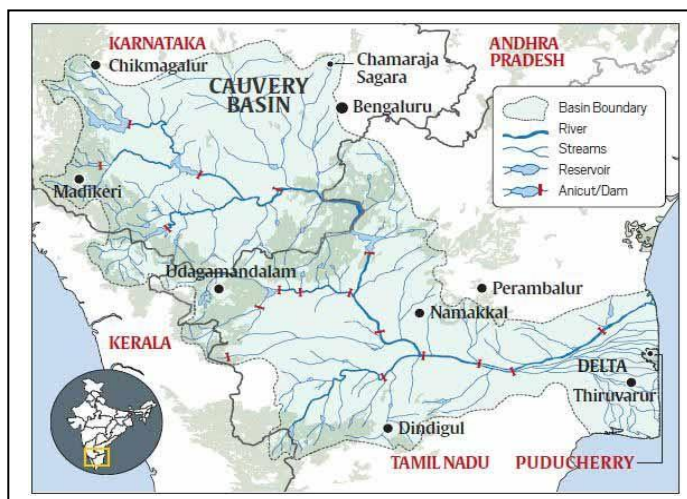
Tamil Nadu and Puducherry have strongly objected to Karnataka's bid to seek approval for the Mokedatu dam project at the fifth **Cauvery Water Management Authority (CWMA) meeting** in New Delhi. Following the objections, the CWMA dropped the discussion on Karnataka's application.

What is Mokedatu Project?

A multi-purpose balancing reservoir project over Mokedatu, built at a cost of Rs 5,912, was aimed at solving the drinking water problems of Bengaluru and Ramnagar district. This project was also touted as one that could generate hydroelectricity to meet the power demand in the state.

Why does Tamil Nadu object?

- The state contended that “the proposed reservoir would affect the natural flows of the river Cauvery.
- It argued that Cauvery was already a deficit basin and the construction of the project, or any other project “would drastically affect the lower riparian State in getting their due share of waters.



About CWMA:

It has been created as per **the Cauvery Management Scheme** earlier framed by Centre and approved by Supreme Court.

Composition and Powers of CMA:

1. The authority will comprise a chairman, a secretary and eight members.
2. Out of the eight members, two will be full time, while two will be part time members from centre's side.
3. Rest four will be part time members from states.

Functions:

- The main mandate of the CMA will be to secure implementation and compliance of the Supreme Court's order in relation to “storage, apportionment, regulation and control of Cauvery waters”.
- CMA will also advise the states to take suitable measures to improve water use efficiency.
- It will do so by promoting use of micro-irrigation, change in cropping patterns, improved farm practices and development of command areas.
- The CMA will also prepare an annual report covering its activities during the preceding year.

2. Kalasa-Banduri Nala project

Undertaken by **the Government of Karnataka** to improve drinking water supply to **the Districts of Belagavi, Dharwad, and Gadag**.

It involves building across Kalasa and Banduri, two tributaries of the Mahadayi river to divert 7.56 TMC of water to the **Malaprabha** river.

About Mahadayi river?

- It is a **west flowing river**.
- **Origin**: Degaon village, Belgaum district.
- Called **Mandovi** in Goa.
- **Travels** 35 km in Karnataka; 82 km in Goa before joining the Arabian Sea.

What's the dispute?

Goa raised objection to **Kalasa-Banduri project** planned in 1989.

Goa filed a complaint seeking setting up of a tribunal in July 2002.

Goa moved the Supreme Court in 2006 seeking the constitution of a tribunal.

The Mahadayi Water Disputes Tribunal was set up in November 2010.



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Electoral Issues / Electoral Reforms

1. Voting Rights of Prisoners

The Delhi High Court had rejected a petition seeking voting rights for prisoners.

Observations made by the Court:

- The right to cast vote is neither a fundamental right nor a common law right and is **only provided by a statute**.
- The right to vote provided under the statute — **Representation of the People Act** — was **subject to restrictions imposed by the law**, which does not allow prisoners to cast vote from jails.

Who can vote and who cannot?

Under **Section 62(5) of the Representation of the People Act, 1951**, individuals in lawful custody of the police and those serving a sentence of imprisonment after conviction cannot vote. Undertrial prisoners are also excluded from participating in elections even if their names are on electoral rolls.

Only those under preventive detention can cast their vote through postal ballots.

2. Star campaigner

A recognised political party can have 40 star campaigners and an unrecognised (but registered) political party can have 20.

The list of star campaigners has to be communicated to the Chief Electoral Officer and Election Commission within a week from the date of notification of an election.

Advantages:

The expenditure incurred on campaigning by such campaigners is **exempt from being added to the election expenditure of a candidate**. However, this only applies when a star campaigner limits herself to a general campaign for the political party she represents.

Candidates **cannot afford to breach their expenditure limit (Rs 28 lakh in case of Delhi elections)**.

What if a star campaigner campaigns specifically for one candidate?

- If a candidate or her election agent shares the stage with a star campaigner at a rally, then the entire expenditure on that rally, other than the travel expenses of the star campaigner, is added to the candidate's expenses.
- Even if the candidate is not present at the star campaigner's rally, but there are posters with her photographs or her name on display, the entire expenditure will be added to the candidate's account.
- This applies even if the star campaigner mentions the candidate's name during the event. When more than one candidate shares the stage, or there are posters with their photographs, then the expenses of such rally/meeting are equally divided between all such candidates.

Does removal from the star campaigner's list bar them from campaigning?

No, that decision will only be taken by the EC once the barred leaders reply to the showcause notices served to them. However, the removal from the star campaigner's list does **make campaigning difficult for them**.

This is because whichever constituency they hold their election meeting or rally at, irrespective of whether they limit themselves to general party propaganda or not, **the entire expenditure of the event will be added to the account of the candidate contesting from that seat**.

3. Registration of political parties

Registration of Political parties is governed by the provisions of **Section 29A of the Representation of the People Act, 1951**.

A party seeking registration under the said Section with the Commission has to submit an application to the Commission within **a period of 30 days following the date of its formation as per guidelines prescribed by the Election Commission of India** in exercise of the powers conferred by **Article 324 of the Commission of India and Section 29A of the Representation of the People Act, 1951**.

To be eligible for a 'State Political Party,' the Election Commission has set the following criteria:

For any political party to be eligible for recognition as a State Party in a state, it has to satisfy any of the five conditions listed below:

1. Secure at least 6% of the valid vote & win at least 2 seats in an Assembly General Election.
2. Secure at least 6% of the valid vote & win at least 1 seats in a Lok Sabha General Election
3. Win at least 3% of the seats or at least 3 seats , whichever is more, in an Assembly General Election
4. Win at least 1 out of every 25 seats from a state in a Lok Sabha General Election
5. Secure at least 8% of the total valid vote in an Assembly or a Lok Sabha General Election.

Benefits:

- If a party is recognised as a State Party', **it is entitled for exclusive allotment of its reserved symbol to the candidates** set up by it in the State in which it is so recognised, and if a party is recognised as a 'National Party' it is **entitled for exclusive allotment of its reserved symbol** to the candidates set up by it throughout India.
- Recognised 'State' and 'National' parties need only one proposer for filing the nomination and are also **entitled for two sets of electoral rolls** free of cost at the time of revision of rolls and their candidates get one copy of electoral roll free of cost during General Elections.
- They also **get broadcast/telecast facilities** over Akashvani/Doordarshan during general elections.
- Political parties are entitled to nominate "**Star Campaigners**" during General Elections. A recognized National or State party can have a maximum of 40 "Star campaigners" and a registered un-recognised party can nominate a maximum of 20 'Star Campaigners'".
- The travel expenses of star campaigners are not to be accounted for in the election expense accounts of candidates of their party.

4. Political Parties Registration Tracking Management System

It is **a new online tracking system for political parties** launched recently by **the Election Commission of India**.

It will allow them to track their registration applications submitted to the poll panel on a real-time basis.

It will apply for parties registering from January 1, 2020.

How it works?

It will enable those applying for the party registration from January 1 to track the progress of their application using the system. The users will get status updates through SMS and e-mail.

5. Absentee voters

The Law Ministry amended **the Conduct of Election Rules, 1961**, to extend the facility of postal ballots to people who are unable to cast their vote because of service conditions.

The amendment comes after the EC wrote to the Law Ministry two months ago proposing **that voters on duty in fields such as aviation, shipping, Railways, emergency services, those**

employed in long-distance road transport, the elderly, the physically-challenged, and journalists covering elections should be allowed to vote by postal ballot in upcoming Assembly elections.

Key facts:

- A concept of '**absentee voter**' has been introduced and defined for the elections.
- People under the new category can choose **to vote through postal ballot by filling up Form 12D** and submitting it to the nodal officer within five days of notification of an election.
- These votes will be **registered at a special centre specified by the Election Commission (EC)**.

Definition- absentee voter: An absentee voter is someone who is **employed in "essential services"**. The EC will **notify which jobs and professions are covered under "essential services"** after consulting the government.

6. Electronically transmitted Postal Ballot System (ETPBS)

- ETPBS is developed by Election Commission of India with the help of Centre for Development of Advanced Computing (C-DAC), **for the use of the Service Voters**.
- It is a fully secured system, having two layers of security. Secrecy is maintained through the use of OTP and PIN and no duplication of casted Electronically Transmitted Postal Ballot (ETPB) is possible due to the unique QR Code.
- **Persons working in paramilitary forces and the military and government officials deployed in diplomatic missions outside India are classified as Service Voters.**
- **Significance and benefits:**
 - This system enables the entitled service voters to cast their vote using an electronically received postal ballot from anywhere outside their constituency.
 - The voters who make such a choice will be entitled for Postal Ballot delivered through Electronic Media for a particular election.
 - The developed System is implemented inline with the existing Postal Ballot System. Postal Ballot will be transmitted through Electronic Means to the voters.
 - It enables the voters to cast their vote on an electronically received postal ballot from their preferred location, which is outside their originally assigned voting constituency.
 - This system would be an easier option of facilitating voting by the electors as the time constraint for dispatch of postal ballot has been addressed using this system.
- **Class of Electors who are eligible for ETPBS:**
 - Service Voters, other than those who opt for proxy voting (Classified Service Voters).
 - The wife of a Service Voter who ordinarily resides with him.
 - Overseas Voters.
- **Features:**
 - Service voters can avail this service from anywhere outside their constituency.
 - System facilitates creation of service voter electoral roll data.
 - Easy, Efficient and Hassle free.
 - It is a secure system, having two layer security.
 - OTP is required to download encrypted Electronically Transmitted Postal Ballot file.
 - Secrecy is maintained and no duplicate of casted ETPB is possible due to QR code.
 - PIN is required to decrypt, print and deliver ETPB.

7. Rule 49MA

- Rule 49MA is mentioned under 'The Conduct of Elections Rules'.
- Under the rule, where printer for paper trail is used, if an elector after having recorded his vote under rule 49M alleges that the paper slip generated by the printer has shown the name or symbol of a candidate other than the one he voted for, the presiding officer shall obtain a

written declaration from the elector as to the allegation, after warning the elector about the consequence of making a false declaration.

- The rules outline that if after investigation, the allegation of EVM malfunctioning is found to be false or incorrect, then the complainant can be prosecuted under Section 177 of the Indian Penal Code for “furnishing false information”.
- In such a case, a jail term of six months or a fine of Rs 1,000 or both is guaranteed.

8. Election Manifestos

Election manifestos are not legally enforceable documents. This has been reiterated by the Supreme Court in 2015.

1. In 2013, the Election Commission of India, acting on directions given by the Supreme Court, added ***guidelines on election manifestos in the Model Code of Conduct (MCC).***



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Events / Celebrations

1. Constitution Day of India

Constitution day which is also known as the **Samvidhan Divas** is celebrated every year on November 26 **to mark the day on which the Constitution of India was adopted**. While the adoption of the Constitution took place on November 26, 1949, it **came into effect on January 26, 1950**.

The draft of the constitution was prepared by the drafting committee under BR Ambedkar's aegis. According to the government notification, the Constitution Day was also a tribute to Ambedkar.

Earlier, this day was commemorated as National Law Day, after a resolution by the Supreme Court Bar Association, a lawyers' body, in 1979.



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Citizenship

1. National Register of Citizens (NRC)

- The NRC is the **list of Indian citizens** and was prepared in 1951, following the census of 1951.
- The process of NRC update was taken up in Assam as per a Supreme Court order in 2013.
- In order to wean out cases of illegal migration from Bangladesh and other adjoining areas, **NRC updation was carried out under The Citizenship Act, 1955, and according to rules framed in the Assam Accord.**
- The final updated NRC for Assam, published 31 August 2019, contained 31 million names out of 33 million population.
- **What's the issue?**
 - Cut-off date for detecting and deporting foreigners- **March 24, 1971**– was agreed upon while signing the **Assam Accord in August 1985** to end a six-year violent agitation against foreigners in the State.
 - However, it was demanded to declare **1951 as the cut-off year** for determining citizenship as in other parts of India.



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Important Statutory / Constitutional Provisions

1. Reservation in promotion in public posts not a fundamental right: SC

The Supreme Court has recently ruled that **the states are not bound to provide reservation in appointments and promotions and that there is no fundamental right to reservation in promotions.**

What has the court said?

- Reservation in promotion in public posts cannot be claimed as a fundamental right.
- Articles 16 (4) and 16 (4-A)** of the Constitution does not confer individuals with a fundamental right to claim reservation in promotion. **It only empowers the State to make a reservation in matters of appointment and promotion** in favour of the Scheduled Castes and the Scheduled Tribes, only if in the opinion of the State **they are not adequately represented in the services of the State.**
- State governments are not bound to make a reservation and **have discretion in providing reservations.**
- The judgment also noted that **even the courts could not issue a mandamus directing the States to provide reservation.**

FROM YES TO NO TO MAYBE

<ul style="list-style-type: none"> ➤ Reservation in promotions allowed since 1955 till the SC held it unconstitutional in 1992 ➤ In 1995, law was amended to allow it ➤ The new law was challenged in SC and in 2006, the court said that before framing any law, the state will have to satisfy the test of: <ol style="list-style-type: none"> 1. Backwardness 2. Inadequate representation 3. Overall efficiency 		<ul style="list-style-type: none"> ➤ Relying on the 2006 SC judgment, several high courts struck down reservations in promotion ➤ UPA government introduced a bill that said all SCs and STs shall be deemed backward. The bill awaits passing by Parliament ➤ On Tuesday, the apex court allowed promotions temporarily till it decides on the legality of the law
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- Article 335 recognises that special measures need to be adopted for considering the claims of SCs and STs in order to bring them to a level-playing field.
- In its landmark 1992 decision in **Indra Sawhney vs Union of India**, the Supreme Court had held that reservations under **Article 16(4)** could only be provided at the time of entry into government service but not in matters of promotion.

2. Delimitation of Constituencies

- Bifurcation of J&K into two UTs has led to redrawing of Assembly constituency boundaries. While, the UT of Ladakh will not have its own legislature, J&K will. This would be similar to Puducherry or Delhi.
- For the delimitation exercise, the population figures of 2011 census shall be taken as the basis.
- The J&K Representation of the People Act 1957 has now been invalidated and, instead, delimitation will be done as per the Representation of the People Act, 1950 (as amended from time to time) and provisions of Sections 59, 60 of Act 34 of 2019.

Why is delimitation needed?

- Delimitation is **the act of redrawing boundaries of Lok Sabha and state Assembly seats to represent changes in population.**
- In this process, the number of seats allocated to different states in Lok Sabha and the total number seats in a Legislative Assembly may also change.
- The main objective of delimitation is **to provide equal representation to equal segments of a population.**

- It also aims at a **fair division of geographical areas** so that one political party doesn't have an advantage over others in an election.

Who carries out the exercise?

1. Delimitation is undertaken by a highly powerful commission. They are formally known as **Delimitation Commission or Boundary Commission**.
2. These bodies are so powerful that its orders have the force of law and they cannot be challenged before any court.
3. The **commissions' orders are enforced as per the date specified by the President of India**. Copies of these orders are laid before the Lok Sabha or the concerned Legislative Assembly. **No modifications are permitted.**

How is delimitation carried out?

- Delimitation is **carried out by an independent Delimitation Commission**.
- The Constitution mandates that **its orders are final and cannot be questioned before any court** as it would hold up an election indefinitely.
- Under Article 82, the Parliament enacts a Delimitation Act after every Census.
- Once the Act is in force, the Union government sets up a **Delimitation Commission**.
- **Composition:** The commission is made up of a retired Supreme Court judge, the Chief Election Commissioner and the respective State Election Commissioners.
- **Functions:** The Commission is supposed to determine the number and boundaries of constituencies in a way that the population of all seats, so far as practicable, is the same. The Commission is also tasked with identifying seats reserved for Scheduled Castes and Scheduled Tribes; these are where their population is relatively large.
- All this is done on the basis of the latest Census and, **in case of difference of opinion among members of the Commission, the opinion of the majority prevails.**
- The draft proposals of the Delimitation Commission are published in the Gazette of India, official gazettes of the states concerned and at least two vernacular papers for public feedback.
- The Commission also holds public sittings. After hearing the public, it considers objections and suggestions, received in writing or orally during public sittings, and carries out changes, if any, in the draft proposal.
- The final order is published in the Gazette of India and the State Gazette and comes into force on a date specified by the President.

How often has delimitation been done in the past?

- The **first delimitation exercise in 1950-51 was carried out by the President** (with the help of the Election Commission), as the Constitution at that time was silent on who should undertake the division of states into Lok Sabha seats.
- This delimitation was temporary as the **Constitution mandated redrawing of boundaries after every Census**. Hence, another delimitation was due after the 1951 Census. Subsequently, the Delimitation Commission Act was enacted in 1952.
- **Delimitation Commissions have been set up four times** — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002. There was no delimitation after the 1981 and 1991 Censuses.

Composition of the Commission:

According to the Delimitation Commission Act, 2002, the Delimitation Commission appointed by the Centre has to have three members: a serving or retired judge of the Supreme Court as the chairperson, and the Chief Election Commissioner or Election Commissioner nominated by the CEC and the State Election Commissioner as ex-officio members.

3. Sedition

Sedition, which falls under **Section 124A of the Indian Penal Code**, is defined as **any action that brings or attempts to bring hatred or contempt towards the government of India and has been illegal in India since 1870.**

Kedarnath Singh vs State of Bihar:

Section 124A has been challenged in various courts in specific cases. The validity of the provision itself was upheld by a Constitution Bench in 1962, in **Kedarnath Singh vs State of Bihar.**

- That judgment went into the issue of whether the law on sedition is consistent with the fundamental right under **Article 19 (1) (a)** which guarantees each citizen's freedom of speech and expression.
- The Supreme Court laid down that every citizen has a right to say or write about the government, by way of criticism or comment, as long as it does not "incite people to violence" against the government established by law or with the intention of creating public disorder.

4. National Security Act

It is **a stringent law that allows preventive detention for months**, if authorities are satisfied that a person is a threat to national security or law and order.

The person **does not need to be charged during this period of detention.**

The goal is to prevent the individual from committing a crime.

It was **promulgated on September 23, 1980**, during the Indira Gandhi government.

As per the National Security Act, the grounds for preventive detention of a person include:

1. acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India.
2. regulating the continued presence of any foreigner in India or with a view to making arrangements for his expulsion from India.
3. preventing them from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do.

Duration:

Under the National Security Act, an individual can be detained without a charge for up to **12 months**; the state government needs to be intimated that a person has been detained under the NSA.

A person detained under the National Security Act **can be held for 10 days without being told the charges against them.**

Appeal: The detained person can appeal before a high court advisory board but they are not allowed a lawyer during the trial.

5. Section 144 of the Criminal Procedure Code (Cr.PC)

It gives power to a District Magistrate, a sub-divisional Magistrate or any other Executive Magistrate on behalf of the State Government to issue an order to an individual or the general public in a particular place or area **to "abstain from a certain act" or "to take certain order with respect to certain property in his possession or under his management".**

This **order can be passed against a particular individual or general public.** The order can be passed even **ex-parte.**

As held by the Supreme Court, **mere apprehension of danger is not a sufficient ground to curb citizens' rights by invoking Section 144 CrPC.**

Implications:

1. Section 144 restricts carrying any sort of weapon in that area where it has been imposed and people can be detained for violating it. The maximum punishment for such an act is three years.
2. According to the order under this section, there shall be no movement of public and all educational institutions shall also remain closed and there will be a complete bar on holding any kind of public meetings or rallies during the period of operation of this order.
3. Section 144 also empowers the authorities **to block the internet access**.

Duration of Section 144 order:

No order under Section 144 shall remain in force for more than two months but the state government can extend the validity for two months and maximum up to six months. It can be withdrawn at any point of time if situation becomes normal.

As per the Section, the order can be passed only “if such Magistrate considers”, that the direction is likely to prevent:

1. obstruction, annoyance or injury to any person lawfully employed.
2. danger to human life, health or safety.
3. disturbance of the public tranquility, or a riot or affray.

6. Section 144 of CrPC and suspension of internet services

What procedure does the government follow to suspend Internet services?

The **Information Technology Act, 2000**, the **Criminal Procedure Code (CrPC), 1973** and the **Telegraph Act, 1885** are the three laws that deal with suspension of Internet services.

But **before 2017**, Internet suspension orders were issued under section 14 of the CrPC.

In 2017, the central government notified **the Temporary Suspension of Telecom Services (Public Emergency or Public Service) Rules under the Telegraph Act** to govern suspension of Internet.

These Rules derive their powers from **Section 5(2) of the Indian Telegraph Act**, which talks about interception of messages in the “interests of the sovereignty and integrity of India”.

Despite the 2017 rules, **the government has often used the** broad powers under Section 144.

Temporary Suspension of Telecom Services [Public Emergency or Public Service] Rules, 2017:

- According to these rules, only the Home Secretary of the country and a secretary of a state’s home department can pass such an order.
- These also state that any such order should be taken up by a review committee within five days.

7. State can regulate minority institutions

In an important judgement which could have bearing on running of all **government-aided minority educational institutions** across the country, the Supreme Court has held that **such institutions cannot claim to have absolute right in deciding appointment of teachers and it can be regulated by a government to ensure excellence in imparting education**.

Article 30:

It says **all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice**.

Observations made by the Supreme Court:

The essence of Article 30(1) is to ensure equal treatment between the majority and the minority institutions and that rules and regulations would apply equally to the majority institutions as well as to the minority institutions.

Constitutional Provisions regarding Minority Educational Institutions:

Article 30(1) recognizes linguistic and religious minorities but not those based on race, ethnicity. It recognizes the right of religious and linguistic minorities to establish and administer educational institutions, in effect recognizing the role educational institutions play in preserving distinct culture. **A majority community can also establish and administer educational institution but they will not enjoy special rights under Article 30(1)(a).**

Special rights enjoyed by religious minority institutions are:

- Under Art 30(1)(a), MEI enjoy right to education as a Fundamental Right. In case the property is taken over by state, due compensation to be provided to establish institutions elsewhere
- Under Article 15(5), MEIs are not considered for reservation
- Under Right to Education Act, MEI not required to provide admission to children in the age group of 6-14 years upto 25% of enrolment reserved for economically backward section of society
- In St Stephens vs Delhi University case, 1992, SC ruled that MEIs can have 50% seats reserved for minorities
- In TMA Pai & others vs State of Karnataka & others 2002 case, SC ruled that MEIs can have separate admission process which is fair, transparent and merit based. They can also separate fee structure but should not charge capitation fee.

8. Eighth Schedule

Efforts are being made to include Tulu in the Eighth Schedule of the Constitution.

If included in the Eighth Schedule, Tulu would get recognition from the Sahitya Akademi. Tulu books would be translated into other recognised Indian languages. Members of Parliament and MLAs could speak in Tulu in Parliament and State Assemblies, respectively. Candidates could write all-India competitive examinations like the Civil Services exam in Tulu.

Tulu is a Dravidian language whose speakers are concentrated in two coastal districts of Karnataka and in Kasaragod district of Kerala. Kasaragod district is called '*Sapta bhasha Samgama Bhumi* (the confluence of seven languages)', and Tulu is among the seven.

The Eighth Schedule to the Constitution of India lists the official languages of the Republic of India.

As per **Articles 344(1) and 351 of the Indian Constitution**, the eighth schedule includes the recognition of 22 languages.

According to the 2001 Census, India has 30 languages that are spoken by more than a million people each.

Article 29 of the Constitution provides that a section of citizens having a distinct language, script or culture have the right to conserve the same. Both the state and the citizens have an equal responsibility to conserve the distinct language, script and culture of a people.

The Yuelu Proclamation, made by the UNESCO at Changsha, The People's Republic of China, in 2018, says: "The protection and promotion of linguistic diversity helps to improve social inclusion and partnerships".

9. Private property is a human right: Supreme Court

The Supreme Court has recently held that **a citizen's right to own private property is a human right and the state cannot take possession of it without following due procedure and authority of law.**

Right to Property:

'Right to private property was previously a fundamental right' under Article 31 of the Constitution.

Property ceased to be a fundamental right with **the 44th Constitution Amendment in 1978**. Nevertheless, **Article 300A** required the state to follow due procedure and authority of law to deprive a person of his or her private property. The **right to property is now considered to be not only a constitutional or statutory right, but also a human right**.

10. Anti-Defection Law

The **Anti-Defection Law** was passed in 1985 through **the 52nd amendment to the Constitution**. It added **the Tenth Schedule** to the Indian Constitution.

- It lays down **the process by which legislators may be disqualified on grounds of defection** by the Presiding Officer of a legislature based on a petition by any other member of the House.
- The decision on question as to disqualification on ground of defection is referred to the Chairman or **the Speaker of such House, and his decision is final**.
- The law applies to both Parliament and state assemblies.

According to it, **a member of a House belonging to any political party becomes disqualified for being a member of the House, if:**

1. He voluntarily gives up his membership of such political party; or
2. He votes or abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within 15 days.
3. An independent candidate joins a political party after the election.
4. A nominated member joins a party six months after he becomes a member of the legislature.

Exceptions to the disqualification on the ground of defection:

1. If a member goes out of his party as a result of a merger of the party with another party. A merger takes place when two-thirds of the members of the party have agreed to such merger.
2. If a member, after being elected as the presiding officer of the House, voluntarily gives up the membership of his party or rejoins it after he ceases to hold that office.

11. Citizenship (Amendment) Act, 2019

1. It seeks **to allow illegal migrants from certain minority communities in Afghanistan, Bangladesh and Pakistan** eligible for Indian citizenship by amending the Citizenship Act of 1955.
2. It seeks **to grant citizenship to people from minority communities** — Hindus, Sikhs, Buddhists, Jains, Parsis and Christians — after 6 years of stay in India even if they do not possess any proper document. The current requirement is 12 years of stay.
3. Under the 2019 amendment, migrants who had entered India by 31 December 2014, and had suffered "religious persecution or fear of religious persecution" in their country of origin were made eligible for citizenship.
4. It provides that **the registration of Overseas Citizen of India (OCI) cardholders may be cancelled if they violate any law**.

12. National Investigation Agency Act

- The law governs the functioning of India's premier counter-terror agency. It was passed in the wake of the 26/11 Mumbai terrorist attacks.
- It makes **the National Investigation Agency the only truly federal agency in the country**, along the lines of the FBI in the United States, more powerful than the CBI.

- It gives the NIA **powers to take suo motu cognisance of terror activities in any part of India and register a case, to enter any state without permission from the state government, and to investigate and arrest people.**

The 2019 NIA Amendment Act:

It expanded **the type of offences that the investigative body could investigate and prosecute.**

The agency can now investigate offences related to human trafficking, counterfeit currency, manufacture or sale of prohibited arms, cyber-terrorism, and offences under **the Explosive Substances Act, 1908.**

The amendment also enables the **central government to designate sessions courts as special courts for NIA trials.**

It also allows an **NIA officer to conduct raids, and seize properties** that are suspected to be linked to terrorist activities **without taking prior permission of the Director General of Police of a state.**

The investigating officer only requires sanction from the Director General of NIA.

13. Grounds for divorce under Hindu law

Supreme Court used extraordinary powers under **Article 142 of the Constitution** to grant divorce in a case of **“irretrievable breakdown of marriage”.**

What is “irretrievable breakdown of marriage”?

The situation that exists when either or both spouses are no longer able or willing to live with each other, thereby destroying their husband and wife relationship with no hope of resumption of spousal duties.

Currently, **Hindu marriage law does not include “irretrievable breakdown of marriage” as a ground for divorce.** However, the apex court in a number of cases has provided the said relief using its extraordinary powers that allow it to do “complete justice”.

What are the grounds for divorce under Hindu Law?

The Hindu Marriage Act, 1955, lays down the law for divorce, which applies to Hindus, Buddhists, Jains, and Sikhs.

1. **Under Section 13 of the Act,** the grounds for divorce include: “voluntary sexual intercourse with any person other than his or her spouse”; “cruelty”; desertion “for a continuous period of not less than two years immediately preceding the presentation of the petition”; “ceas(ing) to be a Hindu by conversion to another religion”; and being “incurably of unsound mind”.
2. In addition, **Section 13B** provides for “divorce by mutual consent”.
3. **Section 27 of The Special Marriage Act, 1954** provides the grounds for grant of divorce in the case of marriages solemnised under that Act.

However, neither of the two Acts provide for “irretrievable breakdown of marriage” as a ground for divorce.

Article 142 “provide(s) a unique power to the Supreme Court, to do **“complete justice” between the parties,** i.e., where at times law or statute may not provide a remedy, the Court can extend itself to put a quietus to a dispute in a manner which would befit the facts of the case.

14. Indian Penal Code

The IPC replaced **Mohammedan Criminal Law,** which had a very close relationship with Islam. Thus, the IPC laid the foundation of secularism.

It was widely appreciated as a state-of-the-art code and was, indeed, **the first codification of criminal law in the British Empire.**

How significant it is?

Today, it is the longest serving criminal code in the common-law world.

- Paying a compliment to *Macaulay's masterpiece*, James Stephen had remarked that "*The Indian Penal Code is to the English criminal law what a manufactured article ready for use is to the materials out of which it is made. It is to the French Penal Code and, I may add, to the North German Code of 1871, what a finished picture is to a sketch.*"
- Today, most of the commonwealth follows the IPC and legislators would find it difficult to improve it in terms of precision, comprehensibility, comprehensiveness and accessibility.

15. India's Federalism

- By design, India's federal institutions place relatively weak checks on the power of a government with a parliamentary majority.
- The design of federalism places fewer checks on the power of national majorities. For instance, the composition of the Rajya Sabha mirrors the composition of the Lok Sabha, rather than providing equal representation to States regardless of size, and the Rajya Sabha has weaker powers than the Lower House.
- Fewer powers are constitutionally allocated to federal subunits exclusively compared to more demos- constraining federations.
- Placing this kind of flexibility in the hands of the Central government was deliberate and designed to enable decisive Central action to protect national integrity in the aftermath of Partition.
- By granting the Central government the power to create new States or alter State boundaries under Article 3, and not giving State governments a veto over bifurcation, the Constitution enabled the Central government to accommodate linguistic and ethnic diversities in a way that would have been much harder in a more rigid federal system.
- It also enabled the Central government to adopt asymmetrical measures in the first place without facing a backlash from other regions that might have resented the 'special' treatment of minority regions.
- **Asymmetric federalism:**
 - Asymmetric federalism involves the granting of differential rights to certain federal subunits, often in recognition of their distinctive ethnic identity.
 - Asymmetric constitutional provisions are a common feature of federalism in diverse societies.
 - However, asymmetric arrangements are often contested by majority national communities and by other regions without special arrangements.
- **Criticism of asymmetric arrangements:**
 - Asymmetric provisions are discriminatory, for instance, by placing prescriptions on who can own property in particular regions, or because they privilege certain kinds of 'special' identities over others.
 - Alternatively, asymmetric status is presented as contributing to secessionist claims.
 - Autonomy arrangements are also presented as anti-egalitarian because they prevent the extension of rights in force elsewhere in a country.

16. Provisions related to interstate river water disputes

- **Entry 17 of State List** deals with water i.e. water supply, irrigation, canal, drainage, embankments, water storage and water power.
- **Entry 56 of Union List** empowers the Union Government for the regulation and development of inter-state rivers and river valleys to the extent declared by Parliament to be expedient in the public interest.
- **Article 262:** In the case of disputes relating to waters, it provides
- **Clause 1:** Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

- **Clause 2:** Parliament may, by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as mentioned above.

17.State having its own flag

- Karnataka government has indicated that it may not pursue with the Centre a proposal made by the earlier government, for a separate state flag.
- Is there any provision in the constitution prohibiting a state from having its own flag?
 - **Supreme Court** has said that there is **no prohibition in the Constitution for the State to have its own flag**. However, the manner in which the state flag is hoisted should not dishonour the national flag.
 - **Under the Constitution**, a flag is not enumerated in the Seventh Schedule. However, **Article 51A** rules that every citizen shall abide by the Constitution and respect its ideals and institutions, the national flag, and the national anthem.
- Is it regulated under any parliamentary Act?
 - The **Emblems and Names (Prevention of Improper Use) Act, 1950** and **The Prevention of Insults to National Honour Act, 1971** regulates the hoisting of the national flag.
 - **Emblems and Names (Prevention of improper use) Act 1950** prohibits the use of National Symbols for commercial use in India.
 - **Under the 1971 Act**, insulting the national flag by burning it, mutilating it, defacing it, is prohibited.
 - Even **the Flag Code of India, 2002** does not impose prohibitions on a State flag. The Code expressly authorises the flying of other flags under the condition that they should not be hoisted from the same masthead as the national flag or placed higher than it.
 - By implication, the Code provides space for a State flag as long as it does not offend the dignity and honour of the national flag.

18.Uniform Civil Code

- A Uniform Civil Code is one that would provide for **one law for the entire country, applicable to all religious communities** in their personal matters such as marriage, divorce, inheritance, adoption etc.
- **Article 44** of the Constitution lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India.
- Article 44 is one of the directive principles. These, as defined in Article 37, are not justiciable (not enforceable by any court) but the principles laid down therein are fundamental in governance. Fundamental rights are enforceable in a court of law.
- While **Article 44 uses the words “state shall endeavour”**, other Articles in the ‘Directive Principles’ chapter use words such as “in particular strive”; “shall in particular direct its policy”; “shall be obligation of the state” etc.
- Article 43 mentions “state shall endeavour by suitable legislation” while the phrase “by suitable legislation” is absent in Article 44. All this implies that the duty of the state is greater in other directive principles than in Article 44.
- All Hindus of the country are not governed by one law, nor are all Muslims or all Christians. Not only British legal traditions, even those of the Portuguese and the French remain operative in some parts.
- In the Northeast, there are more than 200 tribes with their own varied customary laws. The Constitution itself protects local customs in Nagaland. Similar protections are enjoyed by Meghalaya and Mizoram.

19.Article 35A of the Indian Constitution

- Article 35A of the Indian Constitution was an article that empowered the Jammu and Kashmir state's legislature to define "permanent residents" of the state and provide special rights and privileges to those permanent residents. It was added to the Constitution through a

Presidential Order, i.e., The Constitution (Application to Jammu and Kashmir) Order, 1954 – issued by the President of India on 14 May 1954, under Article 370. The state of Jammu and Kashmir defined these privileges to include the ability to purchase land and immovable property, ability to vote and contest elections, seeking government employment and availing other state benefits such as higher education and health care. Non-permanent residents of the state, even if Indian citizens, were not entitled to these 'privileges'.

- On 5 August 2019, the President of India Ram Nath Kovind issued a Presidential Order, whereby all the provisions of the Indian Constitution are to apply to the State without any special provisions. This would imply that the State's separate Constitution stands inoperative, including the privileges sanctioned by the Article 35A.

20. Article 371 of the Constitution

- What is Article 371 all about?
 - Articles 369 through 392 appear in Part XXI of the Constitution, titled 'Temporary, Transitional and Special Provisions'.
 - Article 371 of the Constitution includes "special provisions" for 11 states, including six states of the Northeast.
 - Articles 370 and 371 were part of the Constitution at the time of its commencement on January 26, 1950; Articles 371A through 371J were incorporated subsequently.
- Overview:
- **Article 371, Maharashtra and Gujarat:**
 - Governor has "special responsibility" to establish "separate development boards" for "Vidarbha, Marathwada, and the rest of Maharashtra", and Saurashtra and Kutch in Gujarat; ensure "equitable allocation of funds for developmental expenditure over the said areas", and "equitable arrangement providing adequate facilities for technical education and vocational training, and adequate opportunities for employment" under the state government.
- **Article 371A (13th Amendment Act, 1962), Nagaland:**
 - Inserted after a 16-point agreement between the Centre and the Naga People's Convention in 1960, which led to the creation of Nagaland in 1963.
 - Parliament cannot legislate in matters of Naga religion or social practices, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law, and ownership and transfer of land without concurrence of the state Assembly.
- **Article 371B (22nd Amendment Act, 1969), Assam:**
 - The President may provide for the constitution and functions of a committee of the Assembly consisting of members elected from the state's tribal areas.
- **Article 371C (27th Amendment Act, 1971), Manipur:**
 - The President may provide for the constitution of a committee of elected members from the Hill areas in the Assembly, and entrust "special responsibility" to the Governor to ensure its proper functioning.
- **Article 371D (32nd Amendment Act, 1973; substituted by The Andhra Pradesh Reorganisation Act, 2014), Andhra Pradesh and Telangana:**
 - President must ensure "equitable opportunities and facilities" in "public employment and education to people from different parts of the state". He may require the state government to organise "any class or classes of posts in a civil service of, or any class or classes of civil posts under, the State into different local cadres for different parts of the State". He has similar powers vis-à-vis admissions in educational institutions.
- **Article 371E:**
 - Allows for the establishment of a university in Andhra Pradesh by a law of Parliament. But this is not a "special provision" in the sense of the others in this part.
- **Article 371F (36th Amendment Act, 1975), Sikkim:**

- The members of the Legislative Assembly of Sikkim shall elect the representative of Sikkim in the House of the People. To protect the rights and interests of various sections of the population of Sikkim, Parliament may provide for the number of seats in the Assembly, which may be filled only by candidates from those sections.
- **Article 371G (53rd Amendment Act, 1986), Mizoram:**
 - Parliament cannot make laws on “religious or social practices of the Mizos, Mizo customary law and procedure, administration of civil and criminal justice involving decisions according to Mizo customary law, ownership and transfer of land... unless the Assembly... so decides”.
- **Article 371H (55th Amendment Act, 1986), Arunachal Pradesh:**
 - The Governor has a special responsibility with regard to law and order, and “he shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken”.
- **Article 371J (98th Amendment Act, 2012), Karnataka:**
 - There is a provision for a separate development board for the Hyderabad-Karnataka region. There shall be “equitable allocation of funds for developmental expenditure over the said region”, and “equitable opportunities and facilities” for people of this region in government jobs and education. A proportion of seats in educational institutions and state government jobs in Hyderabad-Karnataka can be reserved for individuals from that region.
 - Article 371I deals with Goa, but it does not include any provision that can be deemed ‘special’.

21. Articles in News

- **Article 130** says that “the Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.”
- According to **Article-34b**, Hindi (in Devanagari script) is the official language of the Union.
- Under **Article-351**, it is the duty of the Union to encourage the spread of the Hindi language so that it may serve as a medium of communication.
- **Article 14** of the Constitution guarantees equality before the law. That means **un-equals cannot be treated equally**.
- **Article 341:**
 - Article 341 of the Constitution provides certain privileges and concessions to the members of Scheduled Castes.
 - Under the provision of Article 341, first list of SCs in relation to a states/UT is to be issued by a notified Order of the President after consulting concerned state Government.
 - But the clause (2) of Article 341 envisages that, any subsequent inclusion in or exclusion from the list of Scheduled Castes can be effected through an Act of Parliament.
 - Parliament alone is vested with the power to include or exclude any entry in the SC list under Article 341 of the Constitution.
 - (Reservation to Scheduled Castes is there only in the Lok Sabha, not in Rajya Sabha).
- **Article 256:**
 - Article 256 of the Constitution obligates the State government to ensure implementation of the laws made by Parliament. If the State government fails to do so, the Government of India is empowered to give “such directions to a State as may appear... to be necessary”. The refusal to enforce the law even after the Centre issues directions would empower the President to impose President’s Rule in those States under Articles 356 and 365. The Supreme Court of India has also confirmed this reading of the law in *S.R. Bommai v. Union of India* — arguably the most significant case on Indian federalism.

Important Acts / Bills

1. Supreme Court upholds changes to SC/ST atrocities law

The Supreme Court has upheld a 2018 amendment which **barred persons** accused of committing atrocities against those belonging to the Scheduled Castes and the Scheduled Tribes from **getting anticipatory bail**.

The Court upheld the constitutionality of **Section 18A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act of 2018**. The sole purpose of Section 18A was to nullify a controversial March 20, 2018, judgment of the Supreme Court diluting the stringent anti-bail provisions of the original Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989.

Strengthening the law

■ The SC, in *Dr. Subhash Kashinath Mahajan vs State of Maharashtra*, held on March 20, 2018: No absolute bar against grant of anticipatory bail under the anti-atrocities law if no prima facie case is made out or if judicial scrutiny reveals the complaint to be prima facie *mala fide*

■ Parliament introduces an amendment in 2018. Inserts Section 18A in the original Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989. Section 18A re-affirms the original legislative intention that Section 438 CrPC (pre-arrest bail) is not applicable to accused booked under the atrocities law

■ Prathvi Raj Chouhan and other petitioners challenge the amendments as arbitrary

■ February 10, 2020 judgment in Prathvi Raj Chouhan case: Justices Arun Mishra and Vineet Saran uphold Section 18A. However, the judges add that the High Courts will have an "inherent power" to grant anticipatory bail in cases in which prima facie an offence under the 1989 law is not made out

■ Justice S. Ravindra Bhat adds a caveat about the use of this "inherent power" by courts. He says it should be used "only sparingly and in very exceptional cases". Otherwise, miscarriage of justice may result. The intention of Parliament to protect SCs and STs will be defeated

■ "It is important to keep oneself reminded that while sometimes (perhaps mostly in urban areas) false accusations are made, those are not necessarily reflective of the prevailing and wide spread social prejudices against members of these oppressed classes"; Justice Bhat



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Views of the Court:

- A **High Court** would also have an "**inherent power**" to grant anticipatory bail in cases in which prima facie an offence under the anti-atrocities law is not made out.
- Besides, a **High Court**, in "exceptional cases", could also **quash cases** to prevent the misuse of the anti-atrocities law.
- However, the courts should take care to use this power to grant anticipatory bail "**only sparingly and in very exceptional cases**". It should not become a norm lest it leads to miscarriage of justice and abuse of the process of law.

What's there in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act of 2018?

1. A **preliminary inquiry is not essential** before lodging an FIR under the act and **the approval of senior police officials is not needed**.
2. There is **no provision for anticipatory bail** to the accused being charged with SC/ST Act.

2. Disha Bill

The Andhra Pradesh Legislative Assembly passed the Andhra Pradesh Disha Bill, 2019 (Andhra Pradesh Criminal Law (Amendment) Act 2019). The bill provides for awarding death sentence for offences of rape and gangrape and expediting trials of such cases to within 21 days.

Miscellaneous

1. Land Boundary Agreement (LBA)

More than four years after the historic **Land Boundary Agreement (LBA)** between India and Bangladesh, a report released by civil rights organisations on the situation in erstwhile **enclaves** states that **protest and resistance have become an essential part of their survival in India.**

Under the Land Boundary Agreement between, **the Bangladeshi enclaves in India and Indian enclaves in Bangladesh were transferred on July 31, 2015.**

The agreement involved handing over 17,000 acres of land to Bangladesh in return for 7,000 acres in 162 enclaves in West Bengal, Assam, Tripura and Meghalaya.

It also required **an amendment to the Constitution (the 119th amendment Bill).**

2. Inner Line Permit (ILP)

- It is a document required by **non- natives** to visit or stay in a state that is protected under the ILP system.
- At present, four Northeastern states are covered, namely, **Arunachal Pradesh, Mizoram, Manipur and Nagaland.** (The inclusion of Manipur in Inner Line Permit was announced on 10 December 2019)
- **Both the duration of stay and the areas allowed to be accessed** for any non native are determined by the ILP.
- The ILP is **issued by the concerned state government** and can be availed both by applying online or in person.

HISTORY:

- **The Inner Line Permit is an extension of the Bengal Eastern Frontier Regulation Act 1873.** The Britishers framed regulations restricting entry in certain designated areas. This was done to protect the Crown's interest in certain states by preventing "British subjects" (Indians) from trading within these regions.
- In 1950, **the term 'British subjects' was replaced with 'Citizens of India'.** Today, all non natives require the permit. This was done to protect the indigenous tribal communities of these states from exploitation.

What about foreigners?

An ILP is **only valid for domestic tourists.** For foreign tourists in:

- **Manipur:** No permit is required. But, have to register themselves.
- **Mizoram:** No permit is required. But, need to register.
- **Nagaland:** No permit is required. However, they need to register.
- **Arunachal Pradesh:** Tourists need a Protected Area Permit (PAP) from the Ministry of Home Affairs, Government of India.

3. Protected Area Permit (PAP)

The **Foreigners (Protected Areas) Order 1958** states that a Protected Area Permit (PAP) is required for non-Indian citizens to visit certain areas in India (mainly in the Northeast India). Indian citizens who are not resident in these areas need an Inner Line Permit (ILP) to enter these places.

Citizens of Pakistan, Bangladesh, China and Myanmar can get the PAP only with approval of the Ministry of Home Affairs

In addition, the **Foreigners (Restricted Areas) Order 1963** states that a Restricted Area Permit (RAP) is required for non-Indians to visit certain areas in India. As of 2009, RAP are required for all visits to the Union Territory of the Andaman and Nicobar Islands and parts of the state of Sikkim. Indian citizens do not need special permission to visit Restricted Areas.

Areas for which a PAP is required

- All of Arunachal Pradesh
- Parts of Himachal Pradesh
- Parts of Ladakh
- Parts of Rajasthan
- Parts of Sikkim
- Parts of Uttarakhand

Formerly required for

- All of Manipur
- All of Mizoram
- All of Nagaland

4. National Population Register

- It is a Register of usual residents of the country.
- It is being prepared at the local (Village/sub-Town), sub-District, District, State and National level under provisions of the Citizenship Act 1955 and the Citizenship (Registration of Citizens and issue of National Identity Cards) Rules, 2003.
- It is mandatory for every usual resident of India to register in the NPR.
- Objectives: To create a comprehensive identity database of every usual resident in the country.
- **Who is a usual resident?**
 - A usual resident is defined for the purposes of NPR as a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more.
- **Components:**
 - The NPR database would contain demographic as well as biometric details.
 - As per the provisions of the NPR, a resident identity card (RIC) will be issued to individuals over the age of 18.
 - This will be a chip-embedded smart card containing the demographic and biometric attributes of each individual.
 - The UID number will also be printed on the card.

5. National Anthem

- On December 27, 1911, the National Anthem was first sung at the Calcutta session of the Congress.
- 'Jana Gana Mana' was adopted as the country's National Anthem by the Constituent Assembly of India on January 24, 1950, the last day of its last session.
- Reverence to the National Anthem is a Fundamental duty as per Article 51A (a) of the Constitution.
- Originally written in Bengali, it is the first of five stanzas of a poem written and later set to notations by Rabindranath Tagore.

6. What Legal Rights do Deities Enjoy?

Who is recognised as a juristic person?

In *Shiromani Gurdwara Parbandhak Committee vs Som Nath Dass and Others (2000)*, the Supreme Court said: "The very words Juristic Person connote **recognition of an entity to be in law**

a person which otherwise it is not. In other words, it is **not an individual natural person but an artificially created person which is to be recognised to be in law as such.**"

Gods, corporations, rivers, and animals, have all been treated as juristic persons by courts.

The Practice of treating deities as juristic persons:

- Started under the British: Temples owned huge land and resources, and British administrators held that the legal owner of the wealth was the deity, with a shebait or manager acting as trustee.
- In 1887, the Bombay High Court held in the Dakor Temple case: "Hindu idol is a juridical subject and the pious idea that it embodies is given the status of a legal person."
- This was reinforced in the 1921 order in Vidya Varuthi Thirtha vs Balusami Ayyar, where the court said, "under the Hindu law, the image of a deity is a 'juristic entity', vested with the capacity of receiving gifts and holding property".

Is every deity a legal person?

However, **not every deity is a legal person.** This **status is given to an idol only after its public consecration, or pran pratishtha.** In **Yogendra Nath Naskar vs Commissioner Of Income-Tax (1969)**, the Supreme Court ruled: "It is not all idols that will qualify for being 'juristic person' but only when it is consecrated and installed at a public place for the public at large."

Rights deities have:

1. Own property.
2. Pay taxes
3. Sue and being sued.
4. Do not have fundamental rights or other constitutional rights (Sabarimala case).

7. What is a Waqf?

What is a waqf?

Property given in the name of God for religious and charitable purposes.

In legal terms, permanent dedication by a person professing Islam, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable.

How is waqf created?

- A waqf can be formed through a deed or instrument, or a property can be deemed waqf if it has been used for religious or charitable purposes for a long period of time.
- The proceeds are typically used to finance educational institutions, graveyards, mosques and shelter homes.
- A person creating the waqf cannot take back the property and the waqf would be a continuing entity.
- **A non-Muslim can also create a waqf** but the individual must profess Islam and the objective of creating the waqf has to be Islamic.

How is a waqf governed?

- Governed by **the Waqf Act, 1995.**
- A survey commissioner under the Act lists all properties declared as waqf by making local investigation, summoning witnesses and requisitioning public documents.
- The waqf is **managed by a mutawali**, who acts as a supervisor. It is similar to a trust established under the Indian Trusts Act, 1882, but trusts can be set up for a broader purpose than religious and charitable uses. A trust established can also be dissolved by the board unlike a waqf.

What is a Waqf Board?

It is **a juristic person with power to acquire and hold property and to transfer any such property.**

The board **can sue and be sued in a court** as it is recognised as a legal entity or juristic person.

Composition:

Each state has a Waqf Board headed by a chairperson, one or two nominees from the state government, Muslim legislators and parliamentarians, Muslim members of the state Bar Council, recognised scholars of Islamic theology and mutawalis of the waqfs with an annual income of Rs 1 lakh and above.

Powers and functions:

The Waqf Board has powers under the law to administer the property and take measures for the recovery of lost properties of any waqf, to sanction any transfer of immovable property of a waqf by way of sale, gift, mortgage, exchange or lease. However, the sanction shall not be given unless at least two thirds of the members of the Waqf Board vote in favour of such transaction.

Central Waqf Council (CWC)

- Central Wakf Council is a statutory body established in 1964 by the Government of India under Wakf Act, 1954 (now a sub section the Wakf Act, 1995).
- It has been established for the purpose of advising Centre on matters pertaining to working of the State Wakf Boards and proper administration of the Wakfs in the country.
- It is a permanent dedication of movable or immovable properties for religious, pious or charitable purposes as recognized by Muslim Law, given by philanthropists.
- The Council is headed by a Chairperson, who is the Union Minister in charge of Wakfs and there are maximum 20 other members, appointed by Government of India as stipulated in the Wakf Act.



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