

UPPSC PRELIMS

QRS

QUICK
REVISION
SERIES

Last-Minute Revision Notes

INDIAN POLITY & GOVERNANCE

Constitution • Government • Governance

01 Historical Background & Constitution Making	09 Local Government, UTs, Scheduled Areas
02 Features, Preamble, Union & Territory	10 Constitutional Bodies
03 Citizenship, FRs, DPSP, Duties, Amendment	11 Non-Constitutional Bodies
04 Parliamentary & Federal System, Emergency	12 Co-operatives, Language, Services
05 President, VP, PM, Council of Ministers	13 Parties, Elections, Anti-Defection
06 Parliament & Parliamentary Committees	14 Landmark Judgements & Doctrines
07 Supreme Court, Judicial Review, PIL	15 World Constitutions
08 State Government: Governor, CM, HC	

Facts reviewed and updated to October 2026

Contents

1. Historical Background & Making of the Constitution.....	5
Historical Background.....	5
Making of the Constitution.....	8
2. Features, Preamble, Union & Territory	13
Concept of the Constitution	13
Salient Features of the Constitution.....	14
Preamble of the Constitution.....	20
Union and Its Territory.....	21
3. Citizenship, Fundamental Rights, DPSP, Duties, Amendment, Basic Structure.....	24
Citizenship.....	24
Fundamental Rights	28
Directive Principles of State Policy	36
Fundamental Duties.....	39
Amendment of the Constitution	40
Basic Structure of the Constitution	40
4. Parliamentary & Federal System, Centre-State Relations, Emergency.....	43
Parliamentary System	43
Federal System	44
Centre-State Relations.....	45
Inter-State Relations	51
Emergency Provisions.....	53
5. President, Vice-President, PM, Council of Ministers.....	58
President.....	58
Vice-President.....	62
Prime Minister.....	63
Central Council of Ministers.....	64
Cabinet Committees.....	66
6. Parliament & Parliamentary Committees	67
Parliament.....	67
Parliamentary Committees.....	79
Indian Parliamentary Group.....	82
7. Supreme Court, Judicial Review, Activism, PIL.....	83
Supreme Court.....	83
Judicial Review.....	88
Judicial Activism.....	89
Public Interest Litigation.....	89
8. State Government: Governor, CM, Legislature, High Court, Tribunals	91
Governor.....	91
Chief Minister	94
State Council of Ministers.....	95
State Legislature	96
High Court	99
Subordinate Courts.....	101
Tribunals.....	102
Consumer Commissions.....	103
Lok Adalats and Other Courts	103
9. Local Government, Union Territories, Scheduled Areas.....	105
Panchayati Raj.....	105
Municipalities.....	108
Union Territories	112

Scheduled and Tribal Areas	114
10. Constitutional Bodies.....	116
Election Commission.....	116
Union Public Service Commission.....	117
State Public Service Commission	119
Finance Commission.....	120
Goods and Services Tax Council.....	121
National Commission for SCs	122
National Commission for STs.....	122
National Commission for BCs	123
Special Officer for Linguistic Minorities.....	123
Comptroller and Auditor General of India.....	123
Attorney General of India.....	125
Advocate General of the State	125
Constitutional Prescriptions	126
11. Non-Constitutional Bodies	130
Non-Constitutional Bodies.....	130
NITI Aayog	131
National Human Rights Commission	132
State Human Rights Commission	133
National Commission for Women.....	133
National Commission for Protection of Child Rights	134
National Commission for Minorities.....	134
Central Information Commission	135
State Information Commission	135
Central Vigilance Commission.....	135
Central Bureau of Investigation	136
Lokpal and Lokayuktas.....	137
National Investigation Agency	137
National Disaster Management Authority	138
Bar Council of India.....	138
Law Commission of India	139
Delimitation Commission of India	139
North Eastern Council	140
12. Co-operatives, Official Language, Public Services, Special Provisions	141
Co-operative Societies.....	141
Official Language	142
Public Services.....	143
Rights and Liabilities of the Government.....	144
Special Provisions Relating to Certain Classes.....	146
Special Provisions for Some States	147
13. Political Dynamics: Parties, Elections, Reforms, Anti-Defection	149
Political Parties.....	149
Role of Regional Parties	150
Elections.....	151
Election Laws.....	152
Electoral Reforms	153
Voting Behaviour	155
Coalition Government.....	155
Anti-Defection Law.....	156
Pressure Groups	156
National Integration.....	157
Foreign Policy	158
National Commission to Review the Working of the Constitution	159
14. Landmark Judgements & Doctrines.....	162
Landmark Judgements and Their Impact.....	162
Judgements Expanding the Scope of Article 21	167

Judgements Relating to the Amendments	169
Important Doctrines of Constitutional Interpretation	170
15. World Constitutions.....	175
World Constitutions	175



CHAPTER 01

Historical Background & Making of the Constitution

Historical Background

Key Dates

- East India Company: charter by Elizabeth I (1600); came 1608; diwani of Bengal, Bihar, Orissa in 1765 (after Buxar 1764, from Shah Alam)
- Crown took over in 1858; independence August 15, 1947

Company Rule (1773-1858)

Acts of Company Rule

Act	Key features
Regulating Act 1773	First step to regulate Company; Governor of Bengal made Governor-General (Warren Hastings first); Executive Council of 4; Bombay and Madras subordinated; Supreme Court at Calcutta 1774 (CJ + 3 judges); private trade and bribes banned
Amending Act 1781	Also Act of Settlement; Governor-General and Council exempt from Supreme Court for official acts; revenue matters excluded; personal law of defendants; appeals from Provincial Courts to Governor-General-in-Council
Pitt's India Act 1784	Commercial (Court of Directors) vs political (Board of Control) functions; double government; 'British possessions in India' first used
Act of 1786	Cornwallis got power to override council and Commander-in-Chief post
Charter Act 1793	Overriding power extended to all Governor-Generals and Governors; monopoly extended 20 years; Board of Control paid from Indian revenues
Charter Act 1813	Ended trade monopoly (except tea and China); asserted Crown sovereignty; missionaries allowed; education; local taxation
Charter Act 1833	Governor-General of India (Lord William Bentinck first); Bombay and Madras lost legislative power; Regulations became Acts; Company purely administrative; civil service competition attempted
Charter Act 1853	Last Charter Act; legislative and executive functions separated (6 legislative councillors); open competition for civil services; Macaulay Committee 1854; no period fixed for Company rule; local representation (4 of 6 from Madras, Bombay, Bengal, Agra)

Crown Rule (1858-1947)

Government of India Act of 1858

- Enacted after the Revolt of 1857
- Abolished East India Company; powers transferred to British Crown
- Governor-General of India redesignated Viceroy of India
- First Viceroy: Lord Canning
- Abolished Board of Control and Court of Directors (ended double government)
- Created office of Secretary of State for India (member of British Cabinet)
- 15-member Council of India (advisory body) to assist Secretary of State
- Secretary of State-in-Council made a body corporate, capable of suing and being sued

Indian Councils Act of 1861

- Beginning of representative institutions: Viceroy to nominate Indians as non-official members
- 1862: Lord Canning nominated three Indians (Raja of Benaras, Maharaja of Patiala, Sir Dinkar Rao)
- Restored legislative powers of Bombay and Madras Presidencies (decentralisation)
- New legislative councils: Bengal (1862), North-Western Provinces (1886), Punjab (1897)
- Recognised 'portfolio' system introduced by Lord Canning in 1859
- Viceroy empowered to issue ordinances in emergency without council's concurrence
- Life of such an ordinance: six months

Indian Councils Act of 1892

- Increased number of additional (non-official) members; official majority retained
- Councils given power to discuss the budget and address questions to the executive
- Nomination of non-official members on recommendation of bodies (limited and indirect election)
- The word 'election' was not used in the Act

Indian Councils Act of 1909 (Morley-Minto Reforms)

- Lord Morley: Secretary of State; Lord Minto: Viceroy
- Central legislative council strength raised from 16 to 60
- Official majority retained in Central council; non-official majority allowed in provincial councils
- Members allowed to ask supplementary questions and move resolutions on budget
- First association of Indians with executive councils of Viceroy and Governors
- Satyendra Prasad Sinha: first Indian in Viceroy's executive council (Law Member)
- Separate electorate for Muslims introduced; Muslim members elected only by Muslim voters
- Lord Minto: Father of Communal Electorate
- Separate representation for presidency corporations, chambers of commerce, universities, zamindars

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

- August 20, 1917 declaration: gradual introduction of responsible government
- Came into force in 1921
- Subjects classified into central and provincial by Devolution Rules
- Provincial subjects divided into transferred and reserved: introduced **dyarchy** (Greek di-arche, double rule)
- First time bicameralism and direct elections: Council of State (Upper House), Legislative Assembly (Lower House)
- Three of six members of Viceroy's executive council (other than Commander-in-Chief) to be Indian
- Separate electorates extended to Sikhs, Indian Christians, Anglo-Indians and Europeans
- Limited franchise on basis of property, tax or other qualifications
- High Commissioner for India created in London
- Public service commission provided; Central Public Service Commission set up in 1926 (Lee Commission 1923-24)
- Provincial budgets separated from Central budget (first time)
- Statutory commission to be appointed after ten years

- Chamber of Princes (Narendra Mandal) inaugurated 1921

Dyarchy in provinces (1919)

Category	Subjects	Administered by
Transferred	Public health, education, local self-government, agriculture	Governor with Ministers responsible to legislative council
Reserved	Police, administration of justice, prisons, land revenue, finance	Governor and executive council; not responsible to legislature

- Simon Commission (Nov 1927): 7 members, all British, boycotted; chairman Sir John Simon; report 1930; Round Table Conferences; White Paper led to 1935 Act

Communal Award and Poona Pact

- Communal Award: August 1932, announced by Prime Minister Ramsay MacDonald
- Continued separate electorates for Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans
- Extended separate electorates to depressed classes (Scheduled Castes)
- Gandhiji undertook fast unto death in Yerawada Jail (Poona)
- Poona Pact: agreement between Congress and Dr. B.R. Ambedkar
- Poona Pact retained Hindu joint electorate and gave reserved seats to depressed classes
- Poona Pact provisions incorporated in Government of India Act 1935

Government of India Act of 1935

- Second milestone towards responsible government; 321 Sections and 10 Schedules
- Provided for All-India Federation of provinces and princely states (never came into being)
- Residuary powers given to Viceroy (Governor-General)
- Abolished dyarchy in provinces; introduced provincial autonomy (effective 1937, discontinued 1939)
- Provided dyarchy at the Centre (never came into operation)
- Bicameralism in six of eleven provinces: Bengal, Bombay, Madras, Bihar, Assam, United Provinces
- Reserved seats for depressed classes; special representation to women and labour
- Abolished the Council of India (established 1858)
- Franchise extended: about 14 per cent of population got voting right
- Provided Reserve Bank of India
- Federal Public Service Commission, Provincial PSC and Joint PSC provided
- Federal Court set up in 1937
- Burma (Myanmar) separated from India
- New provinces created: Orissa and Sind
- Federal Railway Authority and Auditor-General of India provided

Three Lists under the 1935 Act

List	For	Items
Federal List	Centre	59
Provincial List	Provinces	54
Concurrent List	Both	36

Indian Independence Act of 1947

- Feb 20, 1947: PM Clement Attlee declared British rule to end by June 30, 1948
- June 3, 1947: Mountbatten Plan (partition plan), accepted by Congress and Muslim League
- Bill introduced July 4, 1947; Royal Assent July 18, 1947; in force August 15, 1947
- Declared India independent from August 15, 1947
- Created two dominions: India and Pakistan (right to secede from Commonwealth)

- Abolished office of Viceroy; Governor-General for each dominion appointed by the King on advice of dominion cabinet
- Constituent Assemblies empowered to frame constitutions and repeal British laws, including the Independence Act itself
- Constituent Assemblies to legislate till new constitutions were enforced
- Abolished office of Secretary of State for India (functions to Secretary of State for Commonwealth Affairs)
- Lapse of British paramountcy over princely states
- Princely states free to join India, Pakistan or remain independent
- Governance by 1935 Act (with modifications) in interim
- Deprived British Monarch of veto; Governor-General given power to assent to bills
- Governor-General and provincial governors made constitutional (nominal) heads
- Title of Emperor of India dropped from royal titles
- Boundary Commission headed by Radcliffe determined India-Pakistan boundary
- Lord Mountbatten: first Governor-General of Dominion of India
- Mountbatten swore in Jawaharlal Nehru as first Prime Minister
- Interim Government (1946): Nehru was Vice-President of Viceroy's Council; Liaquat Ali Khan held Finance
- First Cabinet (1947): Nehru PM; Patel Home and States; Ambedkar Law; R.K. Shanmugham Chetty Finance; Baldev Singh Defence; Azad Education; Amrit Kaur Health

Commonly Confused - Acts and Their Firsts

Regulating Act 1773: first Governor-General (Bengal) Warren Hastings; Supreme Court at Calcutta

Pitt's India Act 1784: double government (Court of Directors + Board of Control)

Charter Act 1833: first Governor-General of India Lord William Bentinck

GoI Act 1858: first Viceroy Lord Canning; Board of Control and Court of Directors abolished

Charter Act 1853: legislative and executive functions separated; open competition

Making of the Constitution

Demand for a Constituent Assembly

Steps towards the Constituent Assembly

Year	Event
1934	M.N. Roy first put forward idea of Constituent Assembly
1935	INC officially demanded Constituent Assembly
1938	Nehru: Constitution to be framed by Constituent Assembly elected on adult franchise
1939	INC resolution endorsed the demand
1940	August Offer: demand accepted in principle by British Government
1942	Cripps Proposals (Sir Stafford Cripps); rejected by Muslim League
1946	Cabinet Mission (Pethick Lawrence, Cripps, A.V. Alexander); arrived March 24; plan published May 16

- Muslim League wanted two autonomous states with two Constituent Assemblies
- Cabinet Mission rejected two Constituent Assemblies

Composition of the Constituent Assembly

- Constituted in November 1946 under the Cabinet Mission Plan
- Total strength 389: British India 296 + princely states 93
- British India 296 = 292 from eleven governors' provinces + 4 from four Chief Commissioners' provinces
- Seats allotted roughly one for every million population
- British provinces' seats divided among Muslims, Sikhs and General
- Election by members of each community in provincial assembly: proportional representation by single transferable vote
- Princely states' representatives nominated by heads of states
- Partly elected, partly nominated; indirectly elected
- Elections held July-August 1946 for 296 seats
- 93 princely state seats not filled initially (states stayed away)
- Mahatma Gandhi was not a member
- Results: Congress 208, Muslim League 73, others 15 (independents 8)
- Community strength (296): Hindus 163, Muslims 80, SCs 31, Indian Christians 6, Backward Tribes 6, Sikhs 4, Anglo-Indians 3, Parsees 3
- Women members: 15 (e.g. Sarojini Naidu, Hansa Mehta, Sucheta Kripalani, Vijayalakshmi Pandit, Durgabai, Renuka Ray)

Working of the Constituent Assembly

- First meeting: December 9, 1946; Muslim League boycotted; 207 members attended
- Dr. Sachchidananda Sinha: oldest member, temporary Chairman (French practice)
- December 11, 1946: Dr. Rajendra Prasad elected permanent Chairman (President)
- January 25, 1947: H.C. Mukherjee elected Vice-President
- July 16, 1947: V.T. Krishnamachari elected second Vice-President

Objectives Resolution

Point	Fact
Moved by	Jawaharlal Nehru
Moved on	December 13, 1946
Adopted unanimously	January 22, 1947
Significance	Its modified version forms the Preamble
Core declaration	India an Independent Sovereign Republic; Union of territories
Units	Autonomous units with residuary powers
Source of power	All power derived from the people

Changes by the Independence Act

- Assembly became fully sovereign (could abrogate or alter any British law relating to India)
- Assembly became a legislative body (Dominion Legislature) in addition to constitution-making
- Constituent body chaired by Dr. Rajendra Prasad; legislative body chaired by G.V. Mavalankar
- Mavalankar elected Speaker of Dominion Legislature on November 17, 1947
- Both functions continued till November 26, 1949
- Muslim League members from areas in Pakistan withdrew
- Strength fell from 389 to 299
- Indian provinces: 296 reduced to 229; princely states: 93 reduced to 70
- April 28, 1947: representatives of six states in Assembly (Baroda, Bikaner, Jaipur, Patiala, Rewa, Udaipur)

Other Functions Performed

- Ratified India's Commonwealth membership: May 1949
- Adopted national flag: July 22, 1947
- Adopted national anthem: January 24, 1950
- Adopted national song: January 24, 1950
- Elected Dr. Rajendra Prasad first President of India: January 24, 1950
- Final session: January 24, 1950; continued as provisional parliament from January 26, 1950
- Provisional Parliament ceased April 17, 1952; first elected Parliament May 1952

Constituent Assembly in numbers

Item	Figure
Sessions	11
Total time	2 years, 11 months, 18 days
Days Draft Constitution considered	114
Countries' constitutions studied	About 60
Expenditure	Rs 64 lakh
Amendments tabled (second reading)	7,635
Amendments moved, discussed and disposed of	2473
Members signing on 24 January 1950 (adopted 26 Nov 1949)	284 of 299
Drafting Committee sittings	141 days

Committees of the Constituent Assembly

Major Committees and Chairmen

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

Sub-Committees of the Advisory Committee

Sub-Committee	Chairman
Fundamental Rights	J.B. Kripalani
Minorities	H.C. Mukherjee
North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas	Gopinath Bardoloi
Excluded and Partially Excluded Areas (other than Assam)	A.V. Thakkar
North-West Frontier Tribal Areas	Not functioning (areas went to Pakistan)

- Other minor committees: Credentials (A.K. Ayyar), House (Pattabhi Sitaramayya), Order of Business (K.M. Munshi), Linguistic Provinces Commission (S.K. Dar), Special Committee on Draft Constitution (Nehru), Citizenship (S. Varadachari)

Drafting Committee

- Set up on August 29, 1947; seven members
- Most important committee of the Assembly

Members of the Drafting Committee

Member	Note
Dr. B.R. Ambedkar	Chairman
N. Gopalaswamy Ayyangar	-
Alladi Krishnaswamy Ayyar	-
Dr. K.M. Munshi	-
Syed Mohammad Saadullah	-
N. Madhava Rau	Replaced B.L. Mitter (resigned, ill-health)
T.T. Krishnamachari	Replaced D.P. Khaitan (died 1948)

- First draft published February 1948; eight months given for public comments
- Second draft published October 1948
- Naziruddin Ahmed called it the 'Drifting Committee'

Enactment of the Constitution

Readings of the Draft Constitution

Stage	Period	Fact
First reading	November 4, 1948	Ambedkar introduced draft; general discussion for five days (till Nov 9)
Second reading	November 15, 1948–October 17, 1949	Clause by clause consideration
Third reading	November 14, 1949	Ambedkar moved 'Constitution as settled by the Assembly be passed'
Passed	November 26, 1949	Adopted 26 Nov 1949; 284 members signed on 24 Jan 1950

- Constitution as adopted: Preamble, 395 Articles, 8 Schedules
- Preamble enacted after the entire Constitution
- November 26, 1949: date mentioned in the Preamble as adoption date
- Dr. B.R. Ambedkar (Law Minister) piloted the Draft Constitution
- Ambedkar: 'Father of the Constitution of India' and 'chief architect'
- Constitution Day (Samvidhan Divas): November 26 every year (decided November 19, 2015)

Enforcement of the Constitution

- Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392, 393 came into force on November 26, 1949
- Remaining provisions came into force on January 26, 1950 (date of commencement; Republic Day)
- January 26 chosen as Purna Swaraj Day was celebrated on it in 1930 (Lahore Session, December 1929)
- Repealed: Indian Independence Act 1947 and Government of India Act 1935
- Abolition of Privy Council Jurisdiction Act (1949) continued

- Article 393 Short title; 394 Commencement; 394A Hindi text; 395 Repeals

Experts Committee of the Congress

- Appointed July 8, 1946 by INC to prepare material for the Constituent Assembly
- Chairman: Jawaharlal Nehru
- Members: M. Asaf Ali, K.M. Munshi, N. Gopalaswami Ayyangar, K.T. Shah, D.R. Gadgil, Humayun Kabir, K. Santhanam
- Krishna Kripalani co-opted as member and convener
- Two sittings: New Delhi (July 20-22, 1946) and Bombay (August 15-17, 1946)
- Drafted a resolution closely resembling the Objectives Resolution

Criticism of the Constituent Assembly

- Not representative: not elected by universal adult franchise
- Not sovereign: created by British proposals; met with British permission
- Time consuming: US framers took less than four months
- Dominated by Congress: Granville Austin said 'The Assembly was the Congress and the Congress was India'
- Lawyer-politician domination
- Hindu dominated: Lord Viscount Simon ('a body of Hindus'); Winston Churchill ('only one major community')

Important Facts

- Symbol (seal) of Constituent Assembly: elephant
- Constitutional Advisor (Legal Advisor): Sir B.N. Rau
- Secretary: H.V.R. Iyengar
- Chief draftsman: S.N. Mukherjee
- Calligrapher of original English Constitution: Prem Behari Narain Raizada (flowing italic style)
- Decorated by Shantiniketan artists including Nand Lal Bose and Beohar Rammanohar Sinha
- Beohar Rammanohar Sinha illuminated the Preamble
- Hindi version calligraphed by Vasant Krishan Vaidya; decorated by Nand Lal Bose

Commonly Confused - Constituent Assembly Officers

Temporary Chairman: Dr. Sachchidananda Sinha
 Permanent President: Dr. Rajendra Prasad
 Vice-Presidents: H.C. Mukherjee and V.T. Krishnamachari
 Constitutional Advisor: B.N. Rau
 Speaker (legislative): G.V. Mavalankar
 Drafting Committee Chairman: B.R. Ambedkar

Remember - Strength Changes

Original plan: 389 (296 + 93)
 After partition: 299 (229 + 70)
 Congress 208, Muslim League 73 (of 296)
 First meeting attended by 207 members
 284 members signed on 24 January 1950 (Constitution adopted 26 November 1949)

Remember - Who Chaired What

Nehru: Union Powers, Union Constitution, States Committee
 Patel: Provincial Constitution, Advisory Committee
 Rajendra Prasad: Rules of Procedure, Steering, Finance and Staff, Flag (ad-hoc)
 Ambedkar: Drafting Committee

CHAPTER 02

Features, Preamble, Union & Territory

Concept of the Constitution

- 'Constitution' derives from Latin **constituere** (to establish / set up)
- Also called: fundamental law, supreme law, grundnorm, basic law, instrument of government

Functions (Elliot Bulmer) and Qualities

- Functions: define political community, its identity/values, citizens' rights and duties, institutions, power-sharing, religious identity, social/economic goals
- 7 qualities: Brevity, Clarity, Definiteness, Comprehensiveness, Suitability, Stability, Adaptability

Classification

Types of constitutions

Basis	Types	Key points	Examples
Evolution	Evolved (cumulative)	Slow growth; conventions, practices, judicial decisions	Britain
Evolution	Enacted (conventional)	Made by constituent assembly / king / parliament	USA, India
Incorporation	Written (documentary, codified)	Book or series of documents	USA, Canada, Japan, France, India
Incorporation	Unwritten (non-documentary, uncoded)	Conventions, charters, statutes, judicial decisions	UK, New Zealand, Israel
Amendment (Lord Bryce)	Rigid (inelastic)	Special procedure for amendment	USA, Australia, Switzerland
Amendment (Lord Bryce)	Flexible (elastic)	Amended like ordinary law	UK, New Zealand
Power distribution	Federal	Division of power between Centre and regions	USA, Switzerland, Australia, Canada, Russia, Brazil
Power distribution	Unitary	Power concentrated in national government	UK, France, Japan, China, Italy, Norway
Purpose (Bulmer)	Procedural	Structures of institutions; limits on government power	-
Purpose (Bulmer)	Prescriptive	Also assumes consensus on societal goals	-

- Written = documentary = codified; Evolved/Unwritten are broadly the same
- India: neither rigid nor flexible - synthesis of both
- India: both federal and unitary features - **quasi-federal** (K.C. Wheare)

Constitutionalism

- Essence: **limited government**; antithesis of arbitrary power

- A country may have a constitution without constitutionalism (e.g. dictatorship)
- Constitutional government = government according to rule, limited by the constitution (Wheare)
- Definitions: Friedrich (restraints on government), Roucek (limited government), Wheare (rule vs arbitrary), Ybema (rulers bound by rules)

Elements of Constitutionalism (Louis Henkin - 8)

- Popular sovereignty
- Rule of law
- Democratic (responsible and accountable) government
- Separation of powers (checks and balances)
- Independent judiciary
- Civilian control of the military
- Police governed by law and judicial control
- Respect for individual rights

Remember

Constitutionalism classification of types by Bryce = rigid/flexible

Bulmer = functions list + procedural/prescriptive

Henkin = 8 elements of constitutionalism

Wheare = quasi-federal for India

Salient Features of the Constitution

- 42nd Amendment (1976) = '**Mini-Constitution**'
- Major changes to original features: 7th, 42nd, 44th, 73rd, 74th, 97th, 101st Amendments
- Kesavananda Bharati (1973): Parliament cannot alter the **basic structure** under Art. 368

1. Longest Written Constitution

- Originally 395 Articles, 22 Parts, 8 Schedules; now about 470 Articles, 25 Parts, 12 Schedules
- Since 1951: about 20 Articles and Part VII deleted; about 95 Articles added
- Parts added: IV-A, IX-A, IX-B, XIV-A
- Schedules added: 9, 10, 11, 12
- Factors for size: geography/diversity; GoI Act 1935 influence; one Constitution for Centre and states; dominance of legal luminaries
- Original number of Articles in other constitutions: USA 7, Australia 128, China 138, Canada 147
- J&K: own constitution and Art. 370 status till 2019
 - Constitution (Application to J&K) Order, 2019 superseded the 1954 Order
 - J&K Reorganisation Act, 2019 created UTs of J&K and Ladakh

2. Drawn from Various Sources

- Ambedkar: framed after 'ransacking all known Constitutions of the world'
- Structural part: GoI Act 1935 (about 250 provisions)
- Philosophical part: FRs from USA, DPSP from Ireland
- Political part (cabinet government): Britain

3. Blend of Rigidity and Flexibility (Art. 368)

- Special majority of Parliament
 - 2/3 of members present and voting + majority of total membership of each House
- Special majority + ratification by half of the states
- Some provisions by simple majority (outside Art. 368)

4. Federal System with Unitary Bias

- Federal features: two governments, division of powers, written and supreme Constitution, rigidity, independent judiciary, bicameralism
- Unitary features: strong Centre, single Constitution, single citizenship, flexibility, integrated judiciary, Governor appointed by Centre, All-India Services, emergency provisions
- The word 'Federation' is nowhere used; Art. 1 says 'Union of States'
- Wheare: quasi-federal; Morris Jones: bargaining federalism; Granville Austin: co-operative federalism; Jennings: federation with centralising tendency

5. Parliamentary Form of Government

- Adopted from Britain ('Westminster model'); also at state level
- Features: nominal and real executive; majority party rule; collective responsibility; ministers are members of legislature; PM/CM leadership; dissolution of lower House
- Differences from Britain: Indian Parliament not sovereign; India is a republic (elected head)

6. Parliamentary Sovereignty + Judicial Supremacy

- India: 'procedure established by law' (Art. 21); USA: 'due process of law'
- Hence judicial review in India is narrower than in USA

7. Integrated and Independent Judiciary

- Single hierarchy: Supreme Court - High Courts - Subordinate courts; enforces both Central and state laws
- Independence: security of tenure, fixed service conditions, expenses charged on Consolidated Fund, no discussion of conduct in legislature, ban on practice after retirement, contempt power, separation from executive

8. Fundamental Rights (Part III)

Six Fundamental Rights

Right	Articles
Equality	14-18
Freedom	19-22
Against Exploitation	23-24
Freedom of Religion	25-28
Cultural and Educational	29-30
Constitutional Remedies	32

- Originally 7 FRs; Right to Property (Art. 31) deleted by 44th Amendment (1978); now legal right under **Art. 300-A** (Part XII)
- Justiciable; writs: habeas corpus, mandamus, prohibition, certiorari, quo warranto
- Suspended during National Emergency except Arts. 20 and 21

9. DPSP (Part IV)

- Ambedkar: 'novel feature'
- Three categories: socialistic, Gandhian, liberal-intellectual
- Non-justiciable; sanction is political (public opinion)
- Minerva Mills (1980): Constitution founded on balance between FRs and DPSPs

10. Fundamental Duties (Part IV-A, Art. 51-A)

- Added by 42nd Amendment (1976) on **Swaran Singh Committee**
- 86th Amendment (2002) added one more; total **11**

- Non-justiciable

11. Secular State

- 'Secular' added to Preamble: 42nd Amendment (1976)
- Positive secularism (equal respect to all religions) vs Western separation of church and state
- Secular provisions: Arts. 14, 15, 16, 25 (freedom of religion), 26 (manage religious affairs), 27 (no tax for a religion), 28 (no religious instruction in State institutions), 29, 30, 44 (UCC)
- Communal representation (1909, 1919, 1935 Acts) abolished; only temporary SC/ST reservation

12. Universal Adult Franchise

- Lok Sabha and State Assemblies; voting age 18 (reduced from 21 by **61st Amendment 1988**, effective 1989)

13. Single Citizenship

- Only Indian citizenship (unlike USA with dual citizenship)

14. Independent Bodies

- Election Commission
- CAG
- UPSC
- State PSC
- Independence ensured via security of tenure, fixed service conditions, expenses charged on Consolidated Fund
- All-India Services: IAS, IPS, IFoS (IFoS created 1963, came into existence 1966)

15. Emergency Provisions

Three emergencies

Type	Article	Ground
National	352	War / external aggression / armed rebellion
State (President's Rule)	356, 365	Failure of constitutional machinery / non-compliance with Union directions
Financial	360	Threat to financial stability or credit of India

- 'Armed rebellion' replaced 'internal disturbance' (44th Amendment 1978)
- Federal structure turns unitary during emergency

16. Three-tier Government

- 73rd Amendment (1992): Part IX + 11th Schedule (Panchayats)
- 74th Amendment (1992): Part IX-A + 12th Schedule (Municipalities)
- Municipalities: nagar panchayat (transitional area), municipal council (smaller urban), municipal corporation (larger urban)

17. Co-operative Societies (97th Amendment 2011)

- Right to form co-operative societies made FR (Art. 19)
- New DPSP Art. 43-B
- Part IX-B (Arts. 243-ZH to 243-ZT)
- Parliament legislates for multi-state societies; state legislatures for others

Criticism of the Constitution

- 'Borrowed' / 'bag of borrowings' / 'hotch-potch'; 'Carbon copy of 1935 Act' (Ivor Jennings, N. Srinivasan)
- 'Un-Indian' (K. Hanumanthaiya: 'music of English band')
- 'Un-Gandhian' (no village panchayat base)
- 'Elephantine' (H.V. Kamath, Jennings); 'Lawyers' paradise' (Jennings, H.K. Maheswari)
- Ambedkar's reply: no shame in borrowing, no patent on fundamental ideas

Parts of the Constitution

Parts and Articles

Part	Subject	Articles
I	Union and its territory	1-4
II	Citizenship	5-11
III	Fundamental Rights	12-35
IV	DPSP	36-51
IV-A	Fundamental Duties	51-A
V	Union Government	52-151
VI	State Governments	152-237
VII	Part B States (deleted by 7th Amendment 1956)	238 (deleted)
VIII	Union Territories	239-242
IX	Panchayats	243-243-O
IX-A	Municipalities	243-P to 243-ZG
IX-B	Co-operative Societies	243-ZH to 243-ZT
X	Scheduled and Tribal Areas	244-244-A
XI	Centre-State Relations	245-263
XII	Finance, Property, Contracts, Suits	264-300-A
XIII	Trade, Commerce, Intercourse	301-307
XIV	Services under Union and States	308-323
XIV-A	Tribunals	323-A to 323-B
XV	Elections	324-329 (Art. 329A omitted by 44th Amendment, 1978)
XVI	Special provisions for certain classes	330-342-A
XVII	Official Language	343-351
XVIII	Emergency Provisions	352-360
XIX	Miscellaneous	361-367
XX	Amendment	368
XXI	Temporary, Transitional, Special Provisions	369-392
XXII	Short title, commencement, Hindi text, repeals	393-395

- Parts added: IV-A and XIV-A (42nd Amendment 1976); IX (73rd); IX-A (74th); IX-B (97th)

Important Articles

Important Articles (selected)

Article	Deals with
3	Reorganisation of states
13	Laws inconsistent with FRs
21A	Elementary education
32	Constitutional remedies
40	Village panchayats
44	Uniform Civil Code
45	Early childhood care (below 6)
46	SC/ST/weaker sections
50	Separation of judiciary from executive
72/161	Pardoning power of President/Governor
74/163	Council of Ministers aids President/Governor
110	Money Bill
123/213	Ordinance power of President/Governor
143	President consults Supreme Court
169	Legislative Councils
226	HC writs
239AA	Delhi
249	Parliament legislates on State List
262/263	Water disputes / Inter-State Council
279A/280	GST Council / Finance Commission
300A	Right to property
311/312	Civil servants' protection / All-India Services
323-A	Administrative tribunals
324	Election Commission
352/356/360/365	National Emergency / President's Rule / Financial Emergency / non-compliance with Union directions
368	Amendment

Schedules

Twelve Schedules

Schedule	Subject	Articles
First	Names of states and UTs, territorial extent	1, 4
Second	Emoluments of President, Governors, Speakers/Deputy Speakers, Chairmen/Deputy Chairmen, SC and HC judges, CAG	59, 65, 75, 97, 125, 148, 158, 164, 186, 221
Third	Forms of oaths and affirmations	75, 84, 99, 124, 148, 164, 173, 188, 219
Fourth	Rajya Sabha seat allocation	4, 80

Schedule	Subject	Articles
Fifth	Scheduled Areas and Scheduled Tribes administration	244
Sixth	Tribal areas of Assam, Meghalaya, Tripura, Mizoram	244, 275
Seventh	Union, State, Concurrent Lists	246
Eighth	Languages	344, 351
Ninth	Land reform and other laws placed under Art. 31-B; not absolutely immune (post-24 Apr 1973 laws open to basic-structure review, I.R. Coelho 2007)	31-B
Tenth	Anti-defection (52nd Amendment 1985)	102, 191
Eleventh	Panchayats - 29 matters (73rd Amendment)	243-G
Twelfth	Municipalities - 18 matters (74th Amendment)	243-W

- Seventh Schedule: Union List 98 (originally 97); State List 59 (originally 66); Concurrent List 52 (originally 47)
- Eighth Schedule: originally 14 languages; now **22**
 - Sindhi: 21st Amendment (1967)
 - Konkani, Manipuri, Nepali: 71st Amendment (1992)
 - Bodo, Dogri, Maithili, Santhali: 92nd Amendment (2003)
 - Oriya renamed Odia: 96th Amendment (2011)
- Ninth Schedule: added by 1st Amendment (1951); originally 13 Acts, now 282 entries; no absolute immunity
 - Laws placed after 24 April 1973 (Kesavananda cut-off) can be challenged on basic-structure grounds (I.R. Coelho, 2007)

Sources of the Constitution

Features borrowed	
Source	Features borrowed
GoI Act 1935	Federal scheme, Governor, judiciary, PSCs, emergency provisions, advisory jurisdiction of SC, administrative details
British	Parliamentary government, rule of law, legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges, bicameralism
US	Fundamental rights, independent judiciary, judicial review, impeachment of President, removal of SC/HC judges, post of Vice-President
Irish	DPSP, nomination of Rajya Sabha members, method of electing President
Canadian	Federation with strong Centre, residuary powers with Centre, Governors appointed by Centre
Australian	Concurrent List, freedom of trade and commerce, joint sitting of Parliament

Source	Features borrowed
Weimar (Germany)	Suspension of FRs during emergency
Soviet (USSR)	Fundamental duties; ideal of justice (social, economic, political) in Preamble
French	Republic; liberty, equality, fraternity in Preamble
South African	Amendment procedure; election of Rajya Sabha members
Japanese	Procedure established by law

Commonly Confused

Fundamental Duties: Soviet source, 42nd Amendment, Swaran Singh Committee

DPSP: Irish source; FRs: US source

Procedure established by law: Japan; due process: USA

Concurrent List: Australia; residuary powers: Canada

Emergency suspension of FRs: Weimar Germany

Amendments that changed features

7th: Part VII deleted; 42nd: Mini-Constitution; 44th: Property right removed

73rd/74th: local govt; 97th: co-operatives; 101st: GST

Preamble of the Constitution

- USA first to begin with a Preamble; Palkhivala: 'identity card of the Constitution'
- Based on the **Objectives Resolution** (moved by Nehru 13 Dec 1946; adopted 22 Jan 1947)
- Amended only once: **42nd Amendment (1976)** added Socialist, Secular, Integrity
- Adopted 26 Nov 1949; enacted after rest of Constitution
- Text: 'Sovereign Socialist Secular Democratic Republic'; Justice (social, economic, political); Liberty (thought, expression, belief, faith, worship); Equality (status, opportunity); Fraternity (dignity of individual, unity and integrity of nation)
- Four ingredients: source of authority (people), nature of State, objectives, date of adoption (26 Nov 1949)

Key words

Word	Meaning / point
Sovereign	Neither dependency nor dominion; Commonwealth membership and UN membership do not limit it
Socialist	Democratic socialism (mixed economy), not state socialism; Gandhian leaning; Avadi session (1955) of Congress adopted 'socialistic pattern'
Secular	Positive concept; Arts. 25-28; SC (1974) said Constitution-makers intended a secular state
Democratic	Popular sovereignty; representative parliamentary democracy; covers political, social, economic democracy
Republic	Elected head (President, 5 years, indirect); no privileged class
Justice	Social, economic, political - taken from Russian Revolution (1917)

Word	Meaning / point
Liberty, Equality, Fraternity	Taken from French Revolution (1789-99)

- Direct democracy devices: Referendum, Initiative, Recall, Plebiscite (Switzerland)
- Social + economic justice = distributive justice
- Equality provisions: Arts. 14-18; political equality Arts. 325, 326; Art. 39 equal pay
- Fraternity: single citizenship, Art. 51-A; 'integrity' added in 1976
- India was a British dominion from 15 Aug 1947 to 26 Jan 1950
- Types of states by religion: atheistic, theocratic (Pakistan, Sri Lanka), secular (USA, India)
- Descriptions: Palkhivala - identity card; Munshi - horoscope; Bhargava - soul/key/jewel; Barker - key-note; Hidayatullah - soul

Preamble: Legal Status

Cases on the Preamble

Case	Holding
Berubari Union (1960)	Preamble NOT part of Constitution; key to the makers' minds
Kesavananda Bharati (1973)	Preamble IS part; amendable but not basic features
LIC of India (1995)	Preamble integral part

- Neither a source of power nor a prohibition on legislature
- Non-justiciable

Remember

Preamble: 42nd Amendment added Socialist, Secular, Integrity (only amendment so far)
 Berubari (1960) wrong; Kesavananda (1973) correct
 Preamble borrowed ideas: Justice - Russia; Liberty/Equality/Fraternity - France

Union and Its Territory

- Part I, Arts. 1-4
- Art. 1: 'India, that is, Bharat, shall be a **Union of States**'
- 'Union' because (Ambedkar): not an agreement among states; no right to secede; indestructible
- Territory of India (Art. 1): territories of states + UTs + territories that may be acquired
- 'Territory of India' is wider than 'Union of India' (states only)
- Present: **28 states and 8 UTs**
- Art. 2: Parliament may admit or establish new states (not part of Union)
- Art. 3: reorganisation of existing states (internal readjustment)

Powers under Article 3

Power

Form new state (separation / union of states or parts)
Increase area of a state
Diminish area of a state
Alter boundaries of a state
Alter name of a state

- Conditions: bill only on **President's prior recommendation**; President refers it to the State Legislature (not binding)
- No fresh reference needed for amendments moved in Parliament (Babulal vs. State of Bombay, 1959)
- For a UT, no reference to legislature needed
- 18th Amendment (1966): Art. 3 power includes forming a new state/UT by uniting part of a state/UT
- Art. 4: Art. 2 and 3 laws are not amendments under Art. 368 - simple majority
- India = 'indestructible Union of destructible states'; USA = 'indestructible Union of indestructible states'

Cession of territory

Berubari case (1960, Art. 143 reference): Art. 3 does NOT cover cession to a foreign country; needs Art. 368 amendment (9th Amendment 1960)

Settlement of boundary dispute (1969): executive action; no amendment needed

- **100th Amendment (2015)**: Land Boundary Agreement with Bangladesh
 - India transferred 111 enclaves; got 51 from Bangladesh; 6.1 km undemarcated stretch
 - Affected Assam, West Bengal, Meghalaya, Tripura (First Schedule)

Evolution of States and UTs

- Of 552 princely states, 549 joined India; Hyderabad (police action), Junagarh (referendum), Kashmir (Instrument of Accession)
- 1950: Part A (9), Part B (9), Part C (10), Part D (Andaman and Nicobar) - total 29
- **Dhar Commission** (1948, S.K. Dhar): administrative convenience, not language
- **JVP Committee** (Dec 1948; Nehru, Patel, Pattabhi Sitaramayya): rejected language basis (Apr 1949)
- Andhra State (Oct 1953): first linguistic state, after Potti Sriramulu's 56-day fast
- **Fazl Ali Commission** (SRC, Dec 1953): members Fazl Ali, K.M. Panikkar, H.N. Kunzru; report Sept 1955; accepted language but rejected 'one language-one state'; recommended 16 states + 3 centrally administered territories
- States Reorganisation Act + 7th Amendment (1956): Part A/B/C abolished; 14 states and 6 UTs from 1 Nov 1956

Territory in 1956

States (14)	Union Territories (6)
Andhra Pradesh, Assam, Bihar, Bombay, J&K, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, UP, West Bengal	Andaman and Nicobar, Delhi, Himachal Pradesh, Laccadive-Minicoy-Amindivi, Manipur, Tripura

- Kerala formed by Travancore-Cochin + Malabar + Kasaragod

New States and UTs After 1956

Chronology of states (with ordinal) and UTs

Year	Event	Law
1960	Gujarat (15th) from Bombay	Bombay Reorganisation Act
1961	Dadra and Nagar Haveli UT (Portuguese till 1954)	10th Amendment
1962	Goa, Daman and Diu UT (police action 1961)	12th Amendment
1962	Puducherry UT (French handed over 1954)	14th Amendment
1963	Nagaland (16th) from Assam	State of Nagaland Act 1962

Year	Event	Law
1966	Haryana (17th) and Chandigarh UT from Punjab (Shah Commission)	Punjab Reorganisation Act
1971	Himachal Pradesh (18th)	State of HP Act 1970
1972	Manipur (19th), Tripura (20th), Meghalaya (21st); UTs Mizoram, Arunachal (NEFA)	North-Eastern Areas Act 1971
1975	Sikkim (22nd)	36th Amendment
1987	Mizoram (23rd), Arunachal Pradesh (24th), Goa (25th)	Acts 1986/1987
2000	Chhattisgarh (26th), Uttarakhand (27th), Jharkhand (28th)	Reorganisation Acts 2000
2014	Telangana (29th) from Andhra Pradesh	AP Reorganisation Act 2014
2019	J&K and Ladakh UTs	J&K Reorganisation Act 2019
2020	Dadra & Nagar Haveli merged with Daman & Diu	Merger of UTs Act 2019

- Meghalaya: autonomous (sub-)state in Assam by 22nd Amendment (1969)
- Sikkim: protectorate (1947) - 'associate state' by 35th Amendment (1974; Art. 2A, 10th Schedule) - full state by 36th Amendment (1975); Art. 371-F; Art. 2A repealed
- Art. 370 special status ended 2019 (Constitution (Application to J&K) Order, 2019)
- Present UTs (8): Andaman and Nicobar, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Delhi (NCT), J&K, Ladakh, Lakshadweep, Puducherry

Change of Names

Renamed states and UTs

Old	New	Year
United Provinces	Uttar Pradesh	1950
Madras	Tamil Nadu	1969
Mysore	Karnataka	1973
Laccadive, Minicoy, Amindivi	Lakshadweep	1973
Delhi UT	NCT of Delhi (69th Amendment 1991)	1992
Uttaranchal	Uttarakhand	2006
Pondicherry	Puducherry	2006
Orissa	Odisha	2011

Remember

First linguistic state: Andhra (1953); first state renamed: United Provinces (1950)
 Sikkim: 35th Amendment (associate) then 36th (22nd state)
 Berubari: cession needs Art. 368, boundary settlement does not
 Chandigarh: common capital of Punjab and Haryana

CHAPTER 03

Citizenship, Fundamental Rights, DPSP, Duties, Amendment, Basic Structure

Citizenship

Basics

- Two kinds of people: citizens and aliens (friendly / enemy)
- Enemy aliens: no protection against arrest and detention (Article 22)
- Single citizenship only (as in Canada); USA and Australia have double citizenship
- No separate state citizenship; all citizens owe allegiance to the Union
- Citizens only (denied to aliens): Articles 15, 16, 19, 29, 30; right to vote; right to contest Parliament/State Legislature
- Offices open only to citizens: President, Vice-President, SC/HC judges, Governor, Attorney General, Advocate General
- India: naturalised citizens can be President; USA: only natural-born citizens

Exceptions to uniform citizenship rights

Provision	Detail
Article 16	Parliament may prescribe residence within a state/UT as a condition for certain jobs
Public Employment (Requirement as to Residence) Act, 1957	Non-Gazetted posts in Andhra Pradesh, Himachal Pradesh, Manipur, Tripura; expired 1974
Article 371-D	Residence-based provision now only for Andhra Pradesh and Telangana
Article 15	Bars discrimination on religion, race, caste, sex, place of birth - NOT residence
Article 19	Movement/residence restricted to protect Scheduled Tribes' interests
Article 35-A (J&K)	Permanent-resident privileges; inserted 1954 by Presidential Order under Article 370; special status abolished 2019

Constitutional Provisions (Articles 5-11, Part II)

- Deal only with citizenship at commencement (26 January 1950); Parliament empowered to legislate further
- Parliament enacted the Citizenship Act, 1955

Articles 5-11

Article	Subject
5	Citizenship at commencement of the Constitution
6	Migrants from Pakistan to India
7	Migrants to Pakistan (returned for resettlement)
8	Persons of Indian origin residing outside India
9	Voluntary acquisition of foreign citizenship - not a citizen

Article	Subject
10	Continuance of citizenship rights
11	Parliament to regulate citizenship by law

Who became citizens on 26 January 1950

Category	Condition
Domiciled in India	Born in India, or either parent born in India, or ordinarily resident 5 years
Migrated from Pakistan	Before 19 July 1948: ordinarily resident since migration; on/after 19 July 1948: registered (6 months residence)
Migrated to Pakistan after 1 March 1947 but returned	Registered after 6 months residence
Indian origin residing abroad	Registered by Indian diplomatic/consular officer

Citizenship Act, 1955

- Five ways to acquire: birth, descent, registration, naturalisation, incorporation of territory
- Three ways to lose: renunciation, termination, deprivation
- Commonwealth citizenship provision repealed by Citizenship (Amendment) Act, 2003

Acquisition by birth

Born in India	Citizen if
26 Jan 1950 - 30 Jun 1987	Irrespective of parents' nationality
1 Jul 1987 - 2 Dec 2004	Either parent a citizen at time of birth
On/after 3 Dec 2004	Both parents citizens, or one citizen and other not an illegal migrant

- Children of foreign diplomats and enemy aliens cannot get citizenship by birth

Acquisition by descent (born outside India)

Period	Condition
26 Jan 1950 - 9 Dec 1992	Father a citizen at birth
On/after 10 Dec 1992	Either parent a citizen at birth
From 3 Dec 2004	Birth must be registered at Indian consulate within 1 year

- Minor dual citizen by descent must renounce other citizenship within 6 months of attaining full age

Acquisition by registration

Category	Residence needed
Person of Indian origin, ordinarily resident in India	7 years
Person of Indian origin, resident outside undivided India	None
Married to an Indian citizen	7 years
Minor children of Indian citizens	-
Full-age person whose parents are registered citizens	-

Category	Residence needed
Full-age person who/whose parent was earlier citizen of independent India	12 months
OCI cardholder for 5 years	12 months in India

- Person of Indian origin: self or parent born in undivided India or territory that became part of India after 15 August 1947
- Oath of allegiance compulsory

Acquisition by naturalisation

Condition	Requirement
Residence	12 months immediately before application
Aggregate in previous 14 years	At least 11 years
CAA 2019 relaxation (Hindu, Sikh, Buddhist, Jain, Parsi, Christian from Afghanistan, Bangladesh, Pakistan)	5 years
Other	Good character; knowledge of an Eighth Schedule language; intention to reside in India; renounce other citizenship

- Conditions can be waived for distinguished service to science, philosophy, art, literature, world peace, human progress
- Oath of allegiance to the Constitution required
- Incorporation of territory: Government specifies who become citizens; example Citizenship (Pondicherry) Order, 1962

Special provisions

Law	Provision
Citizenship (Amendment) Act, 1985 (Assam Accord)	Came to Assam before 1 Jan 1966: deemed citizens from that date
Same	Came 1 Jan 1966 - 24 Mar 1971: registered; citizen after 10 years from detection; no vote in between
Citizenship (Amendment) Act, 2019	Hindu, Sikh, Buddhist, Jain, Parsi, Christian migrants from Afghanistan, Bangladesh, Pakistan who entered on/before 31 Dec 2014
CAA 2019 effect	Citizen from date of entry; pending illegal-migration cases abated; came into force 10 January 2020
CAA 2019 exclusion	Sixth Schedule tribal areas of Assam, Meghalaya, Mizoram, Tripura and Inner Line areas

Loss of citizenship

Mode	Detail
Renunciation	Voluntary declaration by full-age citizen; withheld during war; minor children also lose, may resume within 1 year of turning 18
Termination	Automatic on voluntarily acquiring foreign citizenship; not applicable during war

Mode	Detail
Deprivation	Compulsory by Centre: fraud; disloyalty to Constitution; trading with enemy in war; 2 years' imprisonment within 5 years of registration/naturalisation; ordinarily resident abroad 7 years continuously

- Deprivation on 7-year residence abroad does not apply to students, government service, or those who register annually at consulate

Overseas Citizenship of India (OCI)

- L.M. Singhvi High Level Committee on Indian Diaspora (2000; report 2002) recommended dual citizenship for PIOs
- Citizenship (Amendment) Act, 2003: OCI for PIOs of 16 specified countries
- Citizenship (Amendment) Act, 2005: all countries except Pakistan and Bangladesh
- OCI is not dual citizenship (Article 9 forbids it)
- Citizenship (Amendment) Act, 2015: merged PIO and OCI into **OCI Cardholder**
- PIO card scheme introduced 19 August 2002; OCI card scheme 2 December 2005; PIO rescinded 9 January 2015
- Ineligible: person whose parent/grandparent/great-grandparent was a citizen of Pakistan, Bangladesh or country specified by Centre
- Spouse of foreign origin: marriage registered and subsisted at least 2 years

OCI cardholder is NOT entitled to

Right	Article
Equality in public employment	16
Election as President	58
Election as Vice-President	66
Judge of Supreme Court	124
Judge of High Court	217
Registration as voter; membership of Parliament, State Legislature	-
Public services (except as Centre specifies)	-

- Registration cancelled for: fraud; disaffection to Constitution; trading with enemy; 2 years' imprisonment within 5 years; violation of Act (added 2019); national interest; marriage dissolved or second marriage
- Reasonable opportunity of hearing before cancellation (added 2019)

NRI vs PIO vs OCI

Point	NRI	PIO	OCI
Who	Indian citizen residing abroad with Indian passport	Person with Indian ancestor holding foreign passport	Registered cardholder under Citizenship Act
Visa to visit India	No	Yes	No (multiple-entry lifelong visa itself)
Police registration	No	Yes if stay over 180 days	No
Indian citizenship	Already citizen	7 years residence	Registered 5 years + 12 months residence

Point	NRI	PIO	OCI
Fee for OCI	-	-	US \$275 abroad; Rs 15,000 in India

- OCI needs special permit for: research, missionary/Tabligh/mountaineering/journalism, internship in foreign missions, protected/restricted areas
- OCI parity with NRIs: adoption, NEET/JEE NRI seats, property except agricultural/farm house/plantation, professions (doctors, dentists, nurses, pharmacists, advocates, architects, chartered accountants)
- OCI parity with Indians: domestic air fares, entry fees to parks and monuments
- OCI eligible as teaching faculty in IITs, NITs, IIMs, IISERs, IISc, Central Universities, new AIIMS

Remember - Citizenship

Articles 5-11 in Part II; Act of 1955

Constitution cannot make laws on later acquisition/loss - Parliament does (Article 11)

Birth cut-offs: 1 Jul 1987, 3 Dec 2004; Descent cut-off: 10 Dec 1992

OCI is not dual citizenship; Article 9 bars it

Naturalisation 11 of 14 years; CAA 2019 reduced to 5 years

Fundamental Rights

Basics

- Part III, Articles 12-35; inspired by US Bill of Rights; called the Magna Carta of India
- Originally 7 rights; Right to Property (Article 31) deleted by 44th Amendment 1978; now legal right under **Article 300-A** (Part XII)
- Now six Fundamental Rights; justiciable; defended by Supreme Court
- Not absolute: reasonable restrictions, decided by courts
- Amendable by constitutional amendment only, without damaging basic structure
- Available against State action; a few (Articles 15(2), 17, 23, 24) also against private individuals

Six Fundamental Rights

Right	Articles	Contents
Equality	14-18	Equality before law; non-discrimination; public employment; untouchability; titles
Freedom	19-22	Six freedoms; conviction protection; life and liberty; education (21A); arrest/detention
Against Exploitation	23-24	Human trafficking and forced labour; child labour
Freedom of Religion	25-28	Conscience/propagation; manage affairs; no religious tax; no compulsory religious instruction
Cultural and Educational	29-30	Minorities' language/culture; minority educational institutions
Constitutional Remedies	32	Writs from Supreme Court

Who gets which right

Citizens only	Citizens and foreigners (not enemy aliens)
Articles 15, 16, 19, 29, 30	Articles 14, 20, 21, 21A, 22, 23, 24, 25, 26, 27, 28

Limits on Fundamental Rights

Article	Limit
31A, 31B, 31C	Exceptions saving certain laws
33	Parliament can restrict rights of armed forces, police, intelligence agencies
34	Restriction during martial law
35	Only Parliament (not states) makes laws on specified rights
358/359	Emergency: Article 19 auto-suspended only in war/external aggression emergency; Articles 20 and 21 never suspended

Article 12 and 13

- **Article 12** State: Government and Parliament of India; Government and legislature of states; local authorities; all other authorities (LIC, ONGC, SAIL)
- Private body working as instrument of State also covered
- **Article 13**: laws inconsistent with Fundamental Rights are void (judicial review: SC Article 32, HC Article 226)
- Law includes: Acts, ordinances, delegated legislation (order, bye-law, rule, regulation, notification), custom/usage having force of law
- Article 13 says amendment is not a law; Kesavananda Bharati (1973): amendment violating basic structure can be struck down

Right to Equality**Article 14**

- Equality before law (British origin; negative) and equal protection of laws (American origin; positive)
- Applies to all persons including legal persons
- Permits reasonable classification (intelligible differentia); forbids class legislation
- Rule of Law (A.V. Dicey): absence of arbitrary power; equality before law; primacy of individual rights (third element not applicable to India)
- Rule of Law is basic feature

Exceptions to equality before law

Provision	Immunity
Article 361	President/Governor: not answerable to court; no criminal proceedings or arrest during term; civil proceedings only after 2 months' notice
Article 361-A	Substantially true report of legislative proceedings protected
Article 105 / 194	MPs / MLAs: speech and vote in House
Article 31-C	Laws for Article 39(b) or (c) cannot be challenged under Article 14
Foreign sovereigns, ambassadors, UNO	Diplomatic immunity

Article 15

- No discrimination by State on grounds ONLY of religion, race, caste, sex, place of birth (citizens)
- Article 15(2): shops, restaurants, hotels, wells, tanks, ghats, roads - applies to State AND private individuals

Article 15 clauses

Clause	Provision	Amendment
15(3)	Special provision for women and children	Original
15(4)	Advancement of socially and educationally backward classes, SC, ST	1st, 1951
15(5)	Admission to educational institutions, including private aided/unaided (not minority)	93rd, 2005
15(6)	Economically weaker sections; up to 10% reservation in admission	103rd, 2019

- Central Educational Institutions (Reservation in Admission) Act, 2006: 27% OBC quota; upheld 2008 with creamy layer exclusion
- Creamy layer income ceiling: Rs 1 lakh (1993), 2.5 lakh (2004), 4.5 lakh (2008), 6 lakh (2013), 8 lakh (2017)
- EWS: family income below Rs 8 lakh; excluded if 5 acres agricultural land, 1000 sq ft flat, 100 sq yd plot (notified municipality) or 200 sq yd plot (elsewhere)

Article 16

- Equality of opportunity in public employment; no discrimination on religion, race, caste, sex, descent, place of birth, residence

Article 16 clauses

Clause	Provision	Amendment
16(3)	Parliament may prescribe residence requirement	Original
16(4)	Reservation for backward classes not adequately represented	Original
16(4A)	Reservation in promotion for SC/ST (consequential seniority)	77th, 1995; 85th, 2001
16(4B)	Carry-forward of unfilled vacancies; outside 50% ceiling	81st, 2000
16(5)	Religious institution office-holders may be of that religion	Original
16(6)	Up to 10% reservation for EWS	103rd, 2019

Mandal Commission and Indra Sawhney

- Second Backward Classes Commission: appointed 1979 (Morarji Desai) under Article 340; chairman B.P. Mandal; report 1980; 3743 castes; recommended 27% OBC reservation
- V.P. Singh Government implemented 27% in 1990; Narasimha Rao Government (1991) added 10% for economically backward
- **Indra Sawhney case (1992)**: upheld 27% OBC; rejected 10% economic reservation

Indra Sawhney directions and response

SC ruling	Government response
Exclude creamy layer	Ram Nandan Committee (report 1993)
Permanent body for OBC list complaints	National Commission for Backward Classes, 1993; Article 338-B by 102nd Amendment 2018

SC ruling	Government response
No reservation in promotion	77th Amendment 1995 (Article 16(4A)); 85th Amendment 2001
50% ceiling applies yearly; carry-forward valid within 50%	81st Amendment 2000 (Article 16(4B))
No relaxation of marks in promotion (Article 335)	82nd Amendment 2000
Total reservation not above 50%	76th Amendment 1994 put Tamil Nadu Reservation Act (69%) in Ninth Schedule

Articles 17 and 18

- **Article 17:** abolishes untouchability; Protection of Civil Rights Act, 1955 (renamed from Untouchability (Offences) Act in 1976)
- Article 17 available against private individuals (People's Union for Democratic Rights, 1982)
- **Article 18:** no titles except military and academic; citizen cannot accept foreign title; foreigner holding office of profit needs President's consent
- Balaji Raghavan (1995): Bharat Ratna, Padma awards are not titles; must not be used as prefix/suffix
- National awards instituted 1954; discontinued 1977 (Janata); revived 1980
- Padma awards limit 120 per year; Bharat Ratna maximum 3 per year

Right to Freedom

Article 19 (six freedoms, citizens only; against State)

- 19(1)(f) property deleted by 44th Amendment

Article 19 freedoms and restrictions

Freedom	Clause	Grounds of restriction
Speech and expression	19(1)(a), 19(2)	Sovereignty and integrity (16th Am.), security of State, friendly relations (1st Am.), public order (1st Am.), decency/morality, contempt of court, defamation, incitement to offence (1st Am.)
Assembly (peaceable, unarmed)	19(1)(b), 19(3)	Sovereignty and integrity, public order
Association, unions, co-operative societies	19(1)(c), 19(4)	Sovereignty and integrity, public order, morality
Movement	19(1)(d), 19(5)	General public interest; protection of Scheduled Tribes
Residence and settlement	19(1)(e), 19(5)	General public interest; protection of Scheduled Tribes
Profession, occupation, trade, business	19(1)(g), 19(6)	General public interest; professional/technical qualifications; State monopoly (1st Am.)

- Co-operative societies added by 97th Amendment 2011
- Speech includes: freedom of press, commercial advertisement, right to know, silence, telecast, flying national flag, voters' right to know candidates' antecedents, right to reply, internet access, gender identity expression
- Not included: right to strike, bandh, tapping

- Section 144 CrPC: magistrate can restrain assembly; Section 141 IPC: unlawful assembly is 5 or more persons
- Association: right to recognition and right to strike are not fundamental
- Freedom of movement is internal; external movement (travel abroad) falls under Article 21
- Anuradha Bhasin (2020): internet trade protected under 19(1)(g); indefinite internet suspension impermissible; proportionality test

Article 20

- Protection against: **ex-post-facto law** (criminal only), **double jeopardy** (court/tribunal only), **self-incrimination** (criminal proceedings; not for fingerprints, specimen signature, blood samples)
- Available to citizens, foreigners and companies

Article 21

- No deprivation of life or personal liberty except by procedure established by law (citizens and non-citizens)
- **A.K. Gopalan (1950)**: narrow view; procedure established by law; only against executive action
- **Maneka Gandhi (1978)**: overruled Gopalan; procedure must be fair, just and reasonable ("due process" introduced)
- Article 21A: free and compulsory education for ages 6-14 (86th Amendment 2002; RTE Act 2009 in force 1 April 2010)
- 86th Amendment changed Article 45 (early childhood care up to age 6) and added Fundamental Duty 51A(k)
- Unni Krishnan (1993): right to free education up to age 14; overruled Mohini Jain (1992)

Cases expanding Article 21

Case	Right declared
Satwant Singh Sawhney (1967)	Travel abroad
M.H. Hoskot (1978)	Free legal aid
Hussainara Khatoon (1979)	Speedy trial
Francis Coralie Mullin (1981)	Human dignity; prisoner's necessities
Sheela Barse (1983)	Against custodial harassment
Rural Litigation and Entitlement Kendra (1985)	Decent environment
Olga Tellis (1985)	Livelihood
Parmanand Katara (1989)	Emergency medical aid
Shantistar Builders (1990)	Shelter
K.S. Puttaswamy (2017)	Privacy
Common Cause (2018)	Die with dignity (passive euthanasia)

Article 22

Article 22 safeguards

Ordinary law (citizens only; not enemy aliens/preventive detention)	Preventive detention (citizens and aliens)
Informed of grounds of arrest	Detention beyond 3 months only with Advisory Board (HC judges)
Consult and be defended by lawyer	Grounds communicated (public-interest facts withheld)
Produced before magistrate within 24 hours (excluding journey)	Right to make representation
Released after 24 hours unless magistrate authorises	Parliament can fix maximum period and procedure

- 44th Amendment reduces 3 months to 2 months - NOT yet in force

- Parliament exclusive: preventive detention for defence, foreign affairs, security of India; Parliament and states concurrent: state security, public order, essential supplies
- Preventive detention laws: PDA 1950 (expired 1969); MISA 1971 (repealed 1978); COFEPOSA 1974; NSA 1980; PBMSECA 1980; TADA 1985 (repealed 1995); PITNDPSA 1988; POTA 2002 (repealed 2004); UAPA 1967 (amended 2004, 2008, 2012, 2019)

Right against Exploitation

- **Article 23:** bans traffic in human beings, begar, forced labour; citizens and non-citizens; against State and private persons
- Exception: State may impose compulsory service for public purpose (without discrimination on religion, race, caste, class)
- Laws: Immoral Traffic (Prevention) Act 1956; Bonded Labour System (Abolition) Act 1976; Minimum Wages Act 1948; Equal Remuneration Act 1976
- **Article 24:** no child below 14 in factory, mine or hazardous work
- Child Labour (Prohibition and Regulation) Act 1986; amended 2016 and renamed Child and Adolescent Labour (Prohibition and Regulation) Act
- 1996 SC: Child Labour Rehabilitation Welfare Fund; Rs 20,000 fine per child
- Commissions for Protection of Child Rights Act 2005

Right to Freedom of Religion

Articles 25-28

Article	Right	Holder	Subject to
25	Conscience; profess, practise, propagate religion	Individuals (all persons)	Public order, morality, health, other FRs
26	Establish institutions; manage religious affairs; own and administer property	Religious denominations	Public order, morality, health (not other FRs)
27	No compulsion to pay tax for any religion (fee allowed)	Persons	-
28	Religious instruction in educational institutions	Students	-

- Article 25 explanations: kirpan included in Sikh profession; Hindus include Sikhs, Jains, Buddhists
- Propagate does not include forced conversion
- State may regulate secular activities, provide social welfare/reform, open Hindu public temples to all Hindus
- Denomination test: common beliefs, common organisation, distinctive name (Ramakrishna Mission and Ananda Marga yes; Aurobindo Society no)

Article 28 - types of institutions

Institution	Religious instruction
Wholly State-funded	Prohibited
State-administered but under endowment/trust	Permitted
State-recognised	Voluntary
State-aided	Voluntary

Cultural and Educational Rights

Articles 29 and 30

Point	Article 29	Article 30
Holder	Any section of citizens (minority or majority)	Religious and linguistic minorities
Right	Conserve language, script, culture; no denial of admission on religion, race, caste, language	Establish and administer educational institutions
Extra	Individual right in 29(2)	44th Am.: compensation must not restrict right; no discrimination in aid

- Minority is not defined in the Constitution
- Minority institutions: aided/recognised ones are regulated (syllabus, standards); unaided unrecognised ones free except general laws
- Malankara Syrian Catholic College (2006): no reverse discrimination; right not absolute

Right to Constitutional Remedies (Article 32)

- Dr. Ambedkar: "heart and soul" of the Constitution; basic feature
- SC jurisdiction original but not exclusive (HC under Article 226 concurrent)
- Parliament can empower other courts (never done); Article 359: right suspended during emergency

Writs

Writ	Meaning	Issued	Notes
Habeas Corpus	To have the body	Against public authorities and private persons	Not if lawful detention, by competent court, contempt, outside jurisdiction
Mandamus	We command	Public official/body/inferior court	Not against private person, President/Governor, discretionary duty, contract
Prohibition	To forbid	Higher court to lower court/tribunal before final order	Only judicial/quasi-judicial
Certiorari	To be certified	Quash order after final decision	Even administrative authorities (later ruling)
Quo Warranto	By what authority	Against usurper of substantive public office	Any public-minded person can apply; not ministerial/private office

Article 32 vs Article 226

Point	Supreme Court (32)	High Court (226)
Purpose	Fundamental Rights only	Fundamental Rights and any other purpose
Territory	Whole India	Own jurisdiction (and outside if cause of action arises)

Point	Supreme Court (32)	High Court (226)
Nature	Fundamental right; SC cannot refuse	Discretionary

- Writs are prerogative writs borrowed from English law
- Before 1950 only Calcutta, Bombay, Madras HCs could issue writs

Articles 33, 34, 35

- **Article 33:** Parliament alone can restrict FRs of armed forces, para-military, police, intelligence agencies; laws: Army, Navy, Air Force Acts 1950, Police Forces (Restriction of Rights) Act 1966
- **Article 34:** restriction during martial law; Parliament can indemnify officials
- **Article 35:** Parliament alone legislates on Articles 16(3), 32(3), 33, 34 and on punishment for offences under Articles 17 and 23

Martial law vs national emergency

Martial law	National emergency
Affects only Fundamental Rights	Affects FRs, Centre-state relations, finance, Parliament tenure
Suspends government and ordinary courts	Government and courts continue
Imposed for breakdown of law and order, in specific area	War, external aggression, armed rebellion; whole country or part
No express provision (implicit in Article 34)	Express provision (Article 352)

Right to Property and Exceptions

- 44th Amendment 1978: repealed 19(1)(f) and Article 31; inserted Article 300-A (legal right; not basic structure)
- Article 300-A: protects against executive action, not legislative; no guaranteed compensation; remedy via HC (Article 226) not Article 32
- Compensation still guaranteed: minority educational institution property (Article 30) and land under personal cultivation within ceiling (Article 31A, 17th Amendment 1964)
- Amendments on property: 1st, 4th, 7th, 17th, 25th, 39th, 40th, 42nd, 44th

Articles 31A, 31B, 31C

Article	Protects	Against	Key point
31A (1st Am. 1951)	Estates acquisition, management takeover, amalgamation, directors' rights, mining leases	Articles 14 and 19	State law needs President's assent
31B (1st Am. 1951)	Ninth Schedule laws	All Fundamental Rights	Post-24 Apr 1973 laws open to basic structure test (Waman Rao 1980; I.R. Coelho 2007)
31C (25th Am. 1971)	Laws for Article 39(b) or (c)	Articles 14 and 19	Judicial review bar struck in Kesavananda; 42nd Am. extension to all DPSP struck in Minerva Mills (1980)

- Ninth Schedule: originally 13 Acts (1951); now 282; not absolute immunity - post-24 Apr 1973 insertions are reviewable (I.R. Coelho 2007)

Fundamental Rights - Commonly Confused

Article 25 = individual; Article 26 = denomination

Article 29 = any section of citizens; Article 30 = minorities only

Prohibition (before final order) vs Certiorari (after final order)

Mandamus directs action; Prohibition directs inaction

Gopalan = procedure established by law; Maneka = due process

Articles 20 and 21 survive emergency; Article 19 lapses only in external emergency

Rights Outside Part III

Article 265: no tax without law

Article 300-A: property

Article 301: freedom of trade and commerce

Article 326: adult suffrage

Remedy: High Court (Article 226), not Article 32

Directive Principles of State Policy**Features**

- Part IV, Articles 36-51; borrowed from Irish Constitution (1937), which copied Spanish
- Resemble "Instrument of Instructions" of Government of India Act 1935
- Granville Austin: FRs and DPSP are the "Conscience of the Constitution"
- Article 36: "State" same as Part III; Article 37: non-justiciable but fundamental in governance
- Aim: welfare state, social and economic democracy
- Sir B.N. Rau: justiciable (FR) vs non-justiciable (DPSP) split

Classification of DPSP

Group	Article	Directive
Socialistic	38	Social order of justice; minimise inequalities (income inequality clause: 44th Am.)
Socialistic	39	Livelihood, distribution of resources, no concentration of wealth, equal pay, health of workers, childhood
Socialistic	39A	Equal justice and free legal aid (42nd Am.)
Socialistic	41	Right to work, education, public assistance
Socialistic	42	Just and humane work conditions; maternity relief
Socialistic	43	Living wage
Socialistic	43A	Workers' participation in management (42nd Am.)
Socialistic	47	Nutrition, standard of living, public health
Gandhian	40	Village panchayats
Gandhian	43	Cottage industries

Group	Article	Directive
Gandhian	43B	Co-operative societies (97th Am. 2011)
Gandhian	46	SC, ST and weaker sections' interests
Gandhian	47	Prohibition of intoxicating drinks and drugs
Gandhian	48	Ban cow slaughter; improve cattle breeds
Liberal-Intellectual	44	Uniform Civil Code
Liberal-Intellectual	45	Early childhood care and education until age 6 (86th Am.)
Liberal-Intellectual	48	Modern agriculture and animal husbandry
Liberal-Intellectual	48A	Environment, forests, wildlife (42nd Am.)
Liberal-Intellectual	49	Protect monuments of national importance
Liberal-Intellectual	50	Separate judiciary from executive
Liberal-Intellectual	51	International peace and security

Amendments adding DPSP

Amendment	Change
42nd, 1976	Added 39(f) child development, 39A, 43A, 48A
44th, 1978	Added Article 38(2): minimise inequalities in income, status, facilities, opportunities
86th, 2002	Article 45 changed (earlier: free compulsory education up to 14)
97th, 2011	Added Article 43B

- Article 39(b): ownership and control of material resources distributed for common good
- Article 39(c): economic system must not concentrate wealth
- Living wage > fair wage > minimum wage

Fundamental Rights vs DPSP

Fundamental Rights	DPSP
Negative (restrict State)	Positive (require State action)
Justiciable	Non-justiciable
Political democracy	Social and economic democracy
Legal sanction	Moral and political sanction
Individual welfare	Community welfare
Automatically enforced	Need legislation
Law violating FR is void	Court cannot void law for violating DPSP

FR vs DPSP Conflict

Judicial journey

Case / Amendment	Holding
Champakam Dorairajan (1951)	FRs prevail over DPSP; FRs amendable
1st (1951), 4th (1955), 17th (1964) Amendments	Implemented DPSP
Golak Nath (1967)	FRs cannot be amended
24th Amendment (1971)	Parliament can amend any FR
25th Amendment (1971)	Article 31C inserted
Kesavananda Bharati (1973)	Overruled Golak Nath; 31C first part valid, judicial-review bar invalid
42nd Amendment (1976)	Extended 31C to all DPSP
Minerva Mills (1980)	Extension struck; FR-DPSP balance is basic structure ("two wheels of a chariot")

- Present position: FRs supreme, but Parliament may amend FRs to implement DPSP without damaging basic structure

Implementation

- Legal Services Authorities Act 1987: Lok Adalat (civil court status; award final, no appeal)
- Minimum Wages Act 1948; Maternity Benefit Act 1961; Equal Remuneration Act 1976; Bonded Labour Act 1976
- Nationalisation: life insurance 1956; 14 banks 1969; general insurance 1971; Privy Purses abolished 1971
- Wildlife Protection Act 1972; Forest Conservation Act 1980; National Forest Policy 1988
- 73rd Amendment 1992: panchayati raj
- 65th Amendment 1990: NCSC/ST; 89th Amendment 2003: split into NCSC and NCST
- NCBC 1993 (constitutional by 102nd Am. 2018); NCW 1992; National Commission for Minorities 1993; NCPCR 2007
- CrPC 1973 separated judiciary from executive
- 103rd Amendment 2019: 10% EWS reservation

Directives outside Part IV

Article	Directive
335	Claims of SC/ST to services consistent with efficiency
350-A	Mother-tongue instruction at primary stage for linguistic minorities
351	Promotion and development of Hindi

DPSP Remember

Article 40 panchayats; 44 UCC; 45 early childhood; 48A environment; 50 separation of powers; 51 peace
 Gandhian: 40, 43, 43B, 46, 47, 48
 FR cannot be enforced through DPSP; DPSP can amplify FR
 Minerva Mills: harmony of FR and DPSP is basic structure

Fundamental Duties

Origin

- Not in original Constitution; added by 42nd Amendment 1976 on Swaran Singh Committee recommendation (Congress committee, 1976; emergency period)
- Part IVA, Article 51A; inspired by USSR Constitution
- Committee suggested 8 duties; 42nd Amendment added 10; 86th Amendment 2002 added 11th
- Not accepted from committee: penalty for non-compliance; protection of such laws from court challenge; duty to pay taxes
- Only for citizens (not foreigners); non-justiciable; Parliament may enforce by law

Fundamental Duties (Article 51A)

Clause	Duty
(a)	Abide by Constitution; respect ideals, institutions, National Flag, National Anthem
(b)	Cherish ideals of freedom struggle
(c)	Uphold sovereignty, unity, integrity
(d)	Defend country; render national service
(e)	Promote harmony and brotherhood; renounce practices derogatory to women
(f)	Preserve rich heritage of composite culture
(g)	Protect natural environment; compassion for living creatures
(h)	Scientific temper, humanism, spirit of inquiry and reform
(i)	Safeguard public property; abjure violence
(j)	Strive for excellence
(k)	Provide education to child aged 6-14 (86th Am. 2002)

- Mohan Kumar Singhania (1991): Article 51A can help interpret ambiguous laws
- Ramlila Maidan (2012): read Parts III, IV, IVA together
- Verma Committee (1999) listed existing laws backing duties:
 - Prevention of Insults to National Honour Act 1971
 - Protection of Civil Rights Act 1955
 - Unlawful Activities (Prevention) Act 1967
 - Representation of the People Act 1951
 - Wildlife (Protection) Act 1972
 - Forest (Conservation) Act 1980

Fundamental Duties - Remember

Part IVA, Article 51A only

42nd Am. 1976: 10 duties; 86th Am. 2002: 11th (clause k)

Taxes and voting are not duties

Citizens only; non-justiciable

Amendment of the Constitution

Article 368

- Part XX, Article 368: Parliament's constituent power; subject to basic structure (Kesavananda Bharati 1973)
- Neither flexible (Britain) nor rigid (USA) - synthesis
- Bill introduced only in Parliament (either House), by minister or private member; no prior President permission
- Special majority in each House separately; no joint sitting
- Federal provisions need ratification by half of state legislatures (simple majority); no time limit
- President must give assent (24th Amendment 1971)
- State legislatures cannot initiate (only resolution for creating/abolishing Legislative Council)

Three types of amendment

Type	Majority	Examples
Simple majority (outside Article 368)	Majority present and voting	New states, boundaries, names (Articles 2-4); Legislative Councils (169); Second Schedule; quorum; MPs' salaries; rules of procedure; privileges; English in Parliament; number of SC judges; official language; citizenship; elections; delimitation; Union Territories; Fifth and Sixth Schedules
Special majority	Majority of total membership AND two-thirds present and voting	Fundamental Rights; DPSP; all other provisions
Special majority + half of states	As above plus half of state legislatures (simple majority)	President's election; executive power of Union/States; SC and HCs; legislative distribution; GST Council (101st Am.); Seventh Schedule lists; representation of states in Parliament; Article 368 itself

- "Total membership" includes vacancies and absentees

Basic Structure of the Constitution

Evolution

Judicial journey

Case	Year	Holding
Shankari Prasad	1951	Parliament can amend FRs; amendment is not "law" under Article 13
Sajjan Singh	1964	Reaffirmed Shankari Prasad
Golak Nath	1967	FRs cannot be amended; amendment is a "law"; 17th Am. challenged
24th Amendment	1971	Parliament can amend FRs; amended Articles 13 and 368

Case	Year	Holding
Kesavananda Bharati	1973	Overruled Golak Nath; upheld 24th Am.; basic structure doctrine (7:6 bench)
Indira Nehru Gandhi v Raj Narain	1975	Struck 39th Am. clause (PM/Speaker election disputes outside courts)
42nd Amendment	1976	Declared no limit on amending power; no judicial challenge
Minerva Mills	1980	Struck 42nd Am. clause; limited amending power is basic structure
Waman Rao	1980	Basic structure applies to amendments after 24 April 1973

Elements of Basic Structure (commonly listed)

- Supremacy of Constitution
- Sovereign, democratic, republican nature
- Secular character
- Separation of powers
- Federal character
- Unity and integrity of nation
- Welfare state
- Judicial review
- Freedom and dignity of individual
- Parliamentary system
- Rule of law
- Harmony between FRs and DPSP
- Principle of equality
- Free and fair elections
- Independence of judiciary
- Limited amending power of Parliament
- Effective access to justice
- Essence of fundamental rights
- Powers of SC under Articles 32, 136, 141, 142
- Powers of HC under Articles 226, 227

Cases and basic features declared

Case (Year)	Feature
Kesavananda Bharati (1973)	Supremacy, separation of powers, republic and democracy, secularism, federalism, sovereignty and unity, dignity of individual, welfare state, parliamentary system
Indira Gandhi / Election Case (1975)	Rule of law, judicial review, free and fair elections, equality, secularism
Minerva Mills (1980)	Limited amending power, judicial review, FR-DPSP balance
Central Coal Fields (1980)	Effective access to justice
Bhim Singhji (1980)	Welfare state (socio-economic justice)

Case (Year)	Feature
S.P. Sampath Kumar (1986), P. Sambamurthy (1986)	Rule of law, judicial review
Delhi Judicial Service Association (1991)	SC powers under Articles 32, 136, 141, 142
Indra Sawhney (1992)	Rule of law
Kumar Padma Prasad (1992)	Independence of judiciary
Kihoto Hollohan (1992) (Defection Case)	Free and fair elections; democracy
Raghunath Rao (1993)	Equality; unity and integrity
S.R. Bommai (1994)	Federalism, secularism, democracy, unity, social justice, judicial review
L. Chandra Kumar (1997)	HC powers under Articles 226, 227
Indra Sawhney II (1999), M. Nagaraj (2006)	Principle of equality
All India Judges' Association (2001)	Independent judicial system
Kuldip Nayar (2006)	Democracy; free and fair elections
I.R. Coelho (2007) (IX Schedule Case)	Rule of law, separation of powers, essence of FRs, judicial review, equality
Ram Jethmalani (2011)	SC powers under Article 32
Namit Sharma (2012)	Freedom and dignity of individual
Madras Bar Association (2014)	Judicial review; HC powers under 226, 227

Basic Structure - Remember

Doctrine born in Kesavananda Bharati (1973); not exhaustively defined

Golak Nath (FRs immutable) overruled; Shankari Prasad and Sajjan Singh (amend FRs) revived in effect

Minerva Mills: limited amending power cannot become unlimited

Waman Rao: cutoff 24 April 1973 for Ninth Schedule laws

I.R. Coelho (2007): post-1973 Ninth Schedule laws open to review

CHAPTER 04

Parliamentary & Federal System, Centre-State Relations, Emergency

Parliamentary System

- Parliamentary form at Centre: Articles 74-75; in states: Articles 163-164
- Prevalent in: Britain, Japan, Canada, India
- Prime Minister = 'primus inter pares' (first among equals); later 'prime ministerial government' (Crossman, Mackintosh)

Features of Parliamentary Government

Features of parliamentary government in India

Feature	Key point
Nominal and real executives	President = nominal (de jure); PM = real (de facto)
Advice binding on President	Art. 74; made binding by 42nd and 44th Amendments
Majority party rule	Party with majority in Lok Sabha forms government
Collective responsibility	Art. 75; to Lok Sabha in particular; bedrock principle; 'swim and sink together'
Political homogeneity	Ministers usually of same party; coalition bound by consensus
Double membership	Minister is member of legislature and executive; non-member can be minister for max 6 months
Leadership of PM	Leader of council of ministers, Parliament and party
Dissolution of Lower House	President dissolves Lok Sabha on PM's recommendation
Secrecy	Oath of secrecy administered by President

Parliamentary vs Presidential system

Parliamentary	Presidential
Dual executive	Single executive
Collective responsibility	Non-responsibility
Double membership	Single membership
Lower House can be dissolved	Lower House cannot be dissolved
Fusion of powers	Separation of powers
Political homogeneity	Homogeneity may not exist
Merits: harmony, responsible govt, prevents despotism, wide representation	Merits: stable government, definiteness in policies, govt by experts
Demerits: unstable govt, no continuity of policies, govt by amateurs	Demerits: legislature-executive conflict, may lead to autocracy, narrow representation

- Reasons for parliamentary system: familiarity (K.M. Munshi), Ambedkar preferred responsibility over stability, avoid legislature-executive conflict, plural society

- Swaran Singh Committee (1975): no need to replace parliamentary system

Indian vs British Model

Indian and British parliamentary systems

Point	India	Britain
Head of State	Elected President (republic)	Hereditary monarch
Sovereignty	Parliament not supreme (written Constitution, federalism, judicial review, FRs)	Sovereignty of Parliament
PM's House	Either House	Must be member of House of Commons
Minister not an MP	Allowed up to 6 months	Usually MPs only
Legal responsibility of ministers	None; no countersigning of Head's acts	Exists
Shadow cabinet	None	Exists (opposition party)

Remember

PMs from Rajya Sabha: Indira Gandhi (1966), Deve Gowda (1996), Manmohan Singh (2004)
 Collective responsibility = Art. 75; Individual responsibility = minister holds office during pleasure of President
 42nd (1976) and 44th (1978) Amendments made ministerial advice binding on President

Federal System

- Federation derives from Latin 'foedus' = treaty/agreement
- Formation: by integration (USA, 1787, first federation) or disintegration (Canada, 1867)
- Art. 1: India is 'Union of States' (not 'Federation'); Ambedkar: not result of agreement among states, and states have no right to secede - 'indestructible'
- Indian federal system based on Canadian model (strong Centre)

Federal vs unitary government

Federal	Unitary
Dual government	Single government
Written Constitution	May be written (France) or unwritten (Britain)
Division of powers	No division of powers
Supremacy of Constitution	May or may not be supreme (Japan / Britain)
Rigid Constitution	May be rigid (France) or flexible (Britain)
Independent judiciary	May or may not be independent
Bicameral legislature	Bicameral (Britain) or unicameral (China)

Unitary (Non-Federal) Features

Unitary features of Indian Constitution

Feature	Detail
Strong Centre	Union List larger; residuary powers with Centre; Centre overrides Concurrent List

Feature	Detail
States not indestructible	Parliament can change area, boundaries, name of state by simple majority
Single Constitution	No separate state constitutions (exception: erstwhile J&K till 2019)
Flexible Constitution	Bulk amendable by Parliament; only Centre can initiate amendment
Unequal state representation	Rajya Sabha seats by population (1 to 31); USA Senate has 2 per state
Emergency provisions	Federal structure becomes unitary without amendment
Single citizenship	Unlike USA and Australia (dual)
Integrated judiciary	Single system of courts
All-India Services	IAS, IPS, IFoS recruited by Centre
Integrated audit	CAG audits both Centre and states
Parliament's authority over State List	Art. 249 (Rajya Sabha resolution)
Appointment of Governor	By President; holds office during his pleasure
Integrated election machinery	Election Commission conducts Union and state elections
Veto over state bills	President has absolute veto over reserved state bills

- "Indestructible Union of destructible states" (India) vs "indestructible Union of indestructible states" (USA)

Critical Evaluation

Scholars on Indian federalism

Scholar	Description
K.C. Wheare	'Quasi-federal'; unitary state with subsidiary federal features
K. Santhanam	Unitary bias due to financial dominance of Centre and Planning Commission
Paul Appleby	'Extremely federal'
Morris Jones	'Bargaining federalism'
Ivor Jennings	'Federation with a strong centralising tendency'
Alexandrowicz	'Sui generis' (unique)
Granville Austin	'Cooperative federalism'

- Ambedkar: Constitution can be both unitary and federal according to time and circumstances
- Bommai case (1994): federalism is a 'basic feature' of the Constitution; states are not mere appendages of Centre

Centre-State Relations

- Three heads: legislative, administrative, financial relations
- No division of judicial power (integrated judiciary)

Legislative Relations (Articles 245 to 255)

- Four aspects: territorial extent; distribution of subjects; Parliamentary legislation in State field; Centre's control over state legislation

Territorial Extent

- Parliament: whole or any part of India; only Parliament can make extra-territorial legislation
- State legislature: whole or part of state (unless sufficient nexus)
- Parliamentary laws not applicable (or modified) in:
 - Union territories of A&N Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh: President makes regulations
 - Puducherry: President's regulations only when Assembly suspended or dissolved
 - Scheduled areas: Governor may direct non-application / modification
 - Tribal areas of Assam: Governor; tribal areas of Meghalaya, Tripura, Mizoram: President

Distribution of Subjects (Seventh Schedule)

Three Lists

List	Subjects now (originally)	Examples
Union (List I)	98 (97)	Defence, banking, foreign affairs, currency, atomic energy, insurance, inter-state trade, census, audit
State (List II)	59 (66)	Public order, police, public health, agriculture, prisons, local government, fisheries, markets, gambling
Concurrent (List III)	52 (47)	Criminal law and procedure, civil procedure, marriage and divorce, family planning, electricity, labour welfare, economic planning, drugs, newspapers

- 42nd Amendment (1976) moved 5 subjects from State to Concurrent List: education, forests, weights and measures, protection of wild animals and birds, administration of justice (constitution and organisation of all courts except SC and HCs)
- Parliament can legislate on State List matters for territory not included in a state (UTs)
- 101st Amendment (2016): Art. 246A - Parliament and states both can make laws on GST; Parliament has exclusive power over GST on inter-state supply
- Residuary powers (including residuary taxes) with Parliament (Canadian precedent; under GoI Act 1935 with Governor-General)
- Union List prevails over State and Concurrent Lists; Concurrent over State List
- Concurrent List conflict (Art. 254): Central law prevails, except where state law reserved for President and assented - state law prevails in that state; Parliament can still override later
- Entries added/omitted: Union List entries 2A, 92A, 92B added; 33, 92, 92C omitted

Parliamentary Legislation in State Field (five situations)

When Parliament can legislate on State List

Situation	Article	Key points
Rajya Sabha resolution (national interest)	249	Two-thirds present and voting; valid 1 year, renewable; law lapses 6 months after resolution ceases

Situation	Article	Key points
National Emergency	250	Law inoperative 6 months after Emergency ends
States' request	252	Two or more states resolve; applies only to them; others may adopt; only Parliament can amend/repeal
International agreements	253	Treaties, conventions
President's Rule	357	Law continues after Rule; state legislature may repeal/alter

- Art. 251: in inconsistency, Parliament's law under Arts. 249 and 250 prevails over state law
- Laws under Art. 252: Prize Competition Act 1955, Wild Life (Protection) Act 1972, Water (Prevention and Control of Pollution) Act 1974, Urban Land (Ceiling and Regulation) Act 1976, Transplantation of Human Organs Act 1994
- Laws under Art. 253: UN (Privileges and Immunities) Act 1947, Geneva Convention Act 1960, Anti-Hijacking Act 1982, environment laws, TRIPS

Centre's Control over State Legislation

- Governor reserves bills for President: absolute veto (Arts. 200, 201)
- State bill restricting trade, commerce, intercourse: needs President's previous sanction (Art. 304)
- Financial Emergency: state money / financial bills reserved for President (Art. 360)

Administrative Relations (Articles 256 to 263)

- Concurrent List: executive power with states unless Constitution / Parliament confers on Centre (e.g. Essential Commodities Act)
- Art. 256: states must comply with Parliament's laws; Art. 257: not impede Centre's executive power
- Art. 365: failure to comply with Centre's directions - President may hold constitutional machinery has failed (Art. 356)

Centre's directions to states

Matter	Direction
Communications	Construction and maintenance of means of communication of national / military importance
Railways	Protection of railways within state
Education	Mother-tongue instruction at primary stage for linguistic minority children
Scheduled Tribes	Drawing up and execution of specified welfare schemes

Mutual Delegation of Functions

- President may, with state's consent, entrust Centre's executive functions to state (Art. 258)
- Governor may, with Centre's consent, entrust state's functions to Centre (Art. 258A; added by 7th Amendment 1956)
- Parliament by law may confer powers on states without their consent (Union List subjects); state legislature cannot do this

All-India Services

- IAS, IPS, IFoS; IFoS created 1966 as third service
- Art. 312: Parliament creates new All-India Service on Rajya Sabha resolution (two-thirds present and voting)
- Recruited and trained by Centre; ultimate control Centre, immediate control states

Public Service Commissions and Judiciary

- State PSC chairman and members appointed by Governor, removed only by President
- Joint SPSC (two or more states): established by Parliament on states' request; members appointed by President
- UPSC can serve a state on Governor's request with President's approval
- High Court judges: appointed, transferred, removed by President
- State Election Commissioner: appointed by Governor, removed only by President

Financial Relations (Articles 268 to 293)

Taxing Powers

- Residuary taxation with Parliament (gift tax, wealth tax, expenditure tax)
- Profession tax cap: Rs 2,500 per annum (originally Rs 250; raised by 60th Amendment 1988)
- States cannot tax supply of goods / services outside the state or in course of import / export (Art. 286)

Distribution of Tax Revenues

- 80th Amendment (2000): based on 10th Finance Commission; 'Alternative Scheme of Devolution' - 29% of Central taxes to states; effective from 1 April 1996; deleted Art. 272

Category	Article	Examples / rule
Levied by Centre, collected and appropriated by states	268	Stamp duties on bills of exchange, cheques, promissory notes, insurance policies, share transfers; not part of CFI
Levied and collected by Centre, assigned to states	269	Tax on inter-state sale / purchase and consignment of goods (not newspapers); not part of CFI
GST on inter-state supply	269A	Levied and collected by Centre; divided as per GST Council recommendation
Levied and collected by Centre, distributed between both	270	All Union taxes except Arts. 268, 269, 269A, surcharges (Art. 271) and cesses; distribution by President on Finance Commission advice
Surcharge for Centre	271	Proceeds go only to Centre; GST exempt from surcharge
Levied, collected, retained by states	State List	18 taxes

- State List taxes (18): land revenue, agricultural income tax, succession / estate duty on agricultural land, lands and buildings, mineral rights, alcohol excise, petrol / diesel / natural gas / ATF sales tax, road goods and passengers, vehicles, animals and boats, tolls, electricity, professions, capitation, entertainments (local bodies), stamp duty, fees (not court fees)

Grants-in-Aid

Type	Article	Features
Statutory	275	For needy states only; charged on CFI; on Finance Commission advice; includes grants for ST welfare and scheduled areas (incl. Assam)

Type	Article	Features
Discretionary	282	By Centre or states for any public purpose; Centre under no obligation; used for plan targets and Centre's leverage
Other (temporary)	273	In lieu of jute export duty to Assam, Bihar, Orissa, West Bengal for 10 years from commencement

GST Council (Art. 279A)

- Recommends: taxes merged in GST; goods/services subjected or exempted; model GST laws; place of supply principles; threshold turnover limit; rates incl. floor rates and bands; special rates during calamity
- Subsumed Central taxes: Central Excise, Additional Excise, Service Tax, Additional Customs Duty (CVD), Special Additional Duty, Central surcharges and cesses

Finance Commission (Art. 280)

- Quasi-judicial; constituted by President every fifth year or earlier
- Recommends: distribution of net proceeds of shared taxes and allocation among states
- Measures to augment state's Consolidated Fund to supplement resources of panchayats and municipalities (based on State Finance Commission; added by 73rd and 74th Amendments)
- 'Balancing wheel of fiscal federalism'

Protection of States' Interest, Borrowing and Immunities

- Bills needing President's recommendation (Art. 274): imposing / varying tax in which states are interested; varying meaning of 'agricultural income'; affecting principles of distribution to states; imposing surcharge for Centre
- 'Net proceeds' = proceeds minus cost of collection; certified by CAG (final)
- Centre can borrow within or outside India (limits by Parliament; no law yet); states only within India (Art. 293); state needs Centre consent if Centre loan outstanding

Inter-governmental tax immunities

Immunity	Provision
Centre's property (Art. 285)	Exempt from state taxes; Parliament may remove; Central corporations / companies not immune
State property and income (Art. 289)	Exempt from Central taxation; Centre may tax commercial operations if Parliament provides; local authorities and state corporations not immune
SC advisory opinion (1963, Sea Customs Act)	Customs and excise duties can be imposed on states

Trends and Commissions on Centre-State Relations

- After 1967 elections (Congress lost nine states) demands for state autonomy rose

Committees, commissions and demands on Centre-State relations

Body	Year	Chair / source	Key recommendations
First ARC	1966 (report 1969)	Morarji Desai, later K. Hanumanthayya; study team M.C. Setalvad	22 recommendations; Inter-State Council (Art. 263); non-partisan Governors; maximum delegation; more resources to states

Body	Year	Chair / source	Key recommendations
Rajamannar Committee	1969 (report 1971)	Tamil Nadu (DMK) govt; Dr. P.V. Rajamannar	Inter-State Council; permanent Finance Commission; scrap Arts. 356, 357, 365; residuary powers to states; abolish All-India Services; disband Planning Commission
Anandpur Sahib Resolution	1973	Akali Dal	Centre limited to defence, foreign affairs, communications, currency; residuary powers to states
West Bengal Memorandum	1977	WB (Communist) govt	Replace 'Union' by 'federal'; 75% revenue to states; repeal Arts. 356, 357, 360; abolish All-India Services
Sarkaria Commission	1983 (report 1988)	R.S. Sarkaria (retired SC judge); members B. Sivaraman, S.R. Sen	247 recommendations; no structural change; 180 implemented
Punchhi Commission	2007 (report 2010)	Madan Mohan Punchhi (former CJI)	Over 310 recommendations; 'cooperative federalism'; 7 volumes, 1,456 pages

Sarkaria and Punchhi Commissions - Key Recommendations

- Sarkaria: permanent Inter-State Council (Art. 263), set up 1990
- Sarkaria: Art. 356 only as last resort; strengthen All-India Services; residuary taxation with Parliament, other residuary powers to Concurrent List
- Sarkaria: consult states before Concurrent List legislation; consult CM in Governor appointment; Governor not to dismiss ministry with majority; five-year Governor tenure
- Sarkaria: NDC to be renamed National Economic and Development Council; reactivate Zonal Councils; corporation tax shareable
- Punchhi: Governor eminent, from outside state, detached from local politics; fixed five-year tenure; impeachment like President; not to be Chancellor
- Punchhi: hung assembly order - pre-poll alliance, largest single party, post-poll coalition, post-poll alliance with outside support
- Punchhi: CM removal only after floor test; Bommai guidelines to be codified; "localised emergency" framework
- Punchhi: strengthen Inter-State Council (Art. 263); Zonal Councils to meet twice a year; equal Rajya Sabha seats; remove profession tax ceiling
- Punchhi: new All-India Services (health, education, engineering, judiciary); Inter-State Trade and Commerce Commission (Art. 307)

Remember

Art. 268 (states collect) vs 269 (Centre collects, assigns to states) vs 270 (shared) vs 271 (surcharge only Centre)

Art. 275 = statutory grants (Finance Commission); Art. 282 = discretionary grants

Art. 280 FC every 5 years; Art. 279A GST Council; Art. 263 Inter-State Council

Only Parliament can make extra-territorial laws; only Centre can initiate Constitution amendment

Inter-State Relations

Inter-State Water Disputes (Art. 262)

- Parliament may provide for adjudication of disputes on inter-state rivers and valleys
- Laws: River Boards Act 1956 (river boards on states' request, to advise) and Inter-State River Water Disputes Act 1956 (ad hoc tribunal; decision final and binding)

Inter-state water dispute tribunals

Tribunal	Year	States
Krishna-I	1969	Maharashtra, Karnataka, Andhra Pradesh
Godavari	1969	Maharashtra, Karnataka, AP, Madhya Pradesh, Odisha
Narmada	1969	Rajasthan, Gujarat, MP, Maharashtra
Ravi and Beas	1986	Punjab, Haryana, Rajasthan
Cauvery	1990	Karnataka, Kerala, Tamil Nadu, Puducherry
Krishna-II	2004	Maharashtra, Karnataka, Andhra Pradesh
Vansadhara	2010	Odisha, Andhra Pradesh
Mahadayi	2010	Goa, Karnataka, Maharashtra
Mahanadi	2018	Odisha, Chhattisgarh

Inter-State Councils (Art. 263)

- President may establish if public interest requires; defines duties and organisation
- Duties: enquire and advise on inter-state disputes; investigate subjects of common interest; recommend for better coordination
- Councils set up under Art. 263: Central Council of Health and Family Welfare; Central Council of Local Government (originally Local Self-Government, 1954); four Regional Councils for Sales Tax

Inter-State Council (1990)

Point	Detail
Set up	28 May 1990 by V.P. Singh (Janata Dal) government, on Sarkaria recommendation
Chairman	Prime Minister
Members	CMs of all states; CMs of UTs with legislatures; Administrators of other UTs; Governors of states under President's Rule; six Union Cabinet ministers (incl. Home Minister) nominated by PM
Role	Recommendatory; no binding decisions
Meetings	At least thrice a year; in camera; decisions by consensus
Secretariat	Inter-State Council Secretariat (1991), headed by Secretary to GoI; also Zonal Councils' secretariat since 2011

Public Acts, Records and Judicial Proceedings (Art. 261)

- 'Full Faith and Credit' clause: given throughout India to public acts, records, judicial proceedings of Centre and every state
- Public acts = legislative and executive acts; public record = official book / register by public servant
- Mode of proof and effect determined by Parliament's law
- Final civil judgements and orders executable anywhere in India; not criminal judgements (penal laws of another state not enforced)

Inter-State Trade and Commerce (Arts. 301-307, Part XIII)**Freedom of trade, commerce and intercourse**

Article	Provision
301	Trade, commerce, intercourse free throughout India (inter-state and intra-state)
302	Parliament may restrict in public interest; cannot discriminate between states except for scarcity of goods
304	State may impose non-discriminatory tax on imported goods equal to local goods; reasonable restrictions in public interest with President's previous sanction for bill
305	Saving of existing laws and nationalisation laws (state monopolies)
307	Parliament may appoint authority to carry out Arts. 301-304 - none appointed so far

Zonal Councils

- Statutory (not constitutional); created by States Reorganisation Act 1956; five zones
- Members: Union Home Minister; CMs of all states in zone; two other ministers per state; Administrator of each UT
- Advisers (no vote): person nominated by NITI Aayog; chief secretary and development commissioner of each state
- Union Home Minister = common chairman of all five; CMs act as vice-chairman by rotation for one year

Council	Members	Headquarters
Northern	Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, Chandigarh, J&K, Ladakh	New Delhi
Central	Uttar Pradesh, Uttarakhand, Chhattisgarh, Madhya Pradesh	Prayagraj
Eastern	Bihar, Jharkhand, West Bengal, Odisha	Kolkata
Western	Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu	Mumbai
Southern	Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala, Puducherry	Chennai

- North-Eastern Council: North-Eastern Council Act 1971 (came into existence 1972); members Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura, Sikkim (added 2002); also makes unified regional plan and reviews security / public order

Commonly Confused

Zonal Councils (statutory, 1956 Act) vs North-Eastern Council (separate Act, 1971) vs Inter-State Council (Art. 263, 1990, PM chairs)

Zonal Council chairman = Union Home Minister; Inter-State Council chairman = PM

Water tribunal decisions: final; courts barred (Art. 262)

Emergency Provisions

- Federal structure becomes unitary without formal amendment (unique feature)

Three types of emergency

Type	Article	Ground	Popular name
National	352	War, external aggression, armed rebellion	National Emergency ('proclamation of emergency')
State	356	Failure of constitutional machinery in state	President's Rule / State / Constitutional Emergency
Financial	360	Threat to financial stability or credit of India	Financial Emergency

National Emergency (Art. 352)

Grounds and Declaration

- Grounds: war, external aggression, armed rebellion (44th Amendment 1978 replaced 'internal disturbance')
- 38th Amendment (1975): different proclamations on different grounds can be issued even if one exists
- 42nd Amendment (1976): can be limited to a part of India
- President needs written recommendation of Cabinet (44th Amendment; Cabinet = PM and Cabinet-rank ministers)
- Judicial review: 38th Amendment barred it; 44th Amendment deleted bar; Minerva Mills (1980) - challengeable on grounds of malafide, extraneous / irrelevant facts, absurd or perverse

Approval, Duration and Revocation

National Emergency - approval and duration

Point	Rule
Approval by Parliament	Both Houses within 1 month (originally 2 months)
Lok Sabha dissolved	Survives till 30 days after first sitting of new Lok Sabha, if Rajya Sabha approved
Duration	6 months; extendable indefinitely by approval every 6 months
Majority	Special majority: majority of total membership and two-thirds of members present and voting
Revocation by President	Any time by subsequent proclamation; no Parliament approval needed
Revocation by Lok Sabha	Resolution of disapproval by simple majority (Lok Sabha only)

Point	Rule
Special sitting	1/10 of Lok Sabha members' written notice to Speaker (or President); sitting within 14 days

Effects of National Emergency

Effects

Area	Effect
Executive	Centre directs states on any matter; states not suspended
Legislative	Parliament legislates on State List (Art. 250); President can issue ordinances on State subjects; laws lapse 6 months after Emergency
Financial (Art. 354)	President can modify revenue distribution till end of financial year; orders laid before Parliament
Life of Lok Sabha	Extended by law, one year at a time; max 6 months after Emergency ends
Fundamental Rights	Arts. 358 and 359

- Fifth Lok Sabha (1971-77) term extended twice by one year each; dissolved 18 January 1977

Article 358 vs Article 359

Point	Art. 358	Art. 359
Rights affected	Only Art. 19 (six freedoms)	Any FR specified in Presidential Order (enforcement suspended)
Operation	Automatic on proclamation	Needs Presidential Order
Type of Emergency	Only external (war / external aggression)	Both external and internal
Arts. 20 and 21	Not applicable (Art. 19 only)	Enforcement cannot be suspended (44th Amendment)
What is suspended	The rights themselves	Only right to move courts to enforce them
Order to Parliament	Not required	Laid before each House

- After Emergency ends, laws inconsistent lapse, but no remedy for things done during it

Declarations Made So Far

National Emergencies in India

Year	Ground	Context
October 1962	External aggression	Chinese aggression in NEFA; in force till January 1968 (so no fresh proclamation in 1965 war)
December 1971	External aggression	Pakistan attack; revoked March 1977
June 1975	'Internal disturbance'	Indira Gandhi government; revoked March 1977

- 1975 Emergency most controversial; Janata Party won 1977; Shah Commission investigated; 44th Amendment (1978) added safeguards

President's Rule (Art. 356)

- Grounds: Art. 356 (President's satisfaction, on Governor's report or otherwise); Art. 365 (state fails to comply with Centre's directions)

President's Rule - approval and duration

Point	Rule
Approval	Both Houses within 2 months
Lok Sabha dissolved	Survives till 30 days after new Lok Sabha's first sitting, if Rajya Sabha approved
Initial duration	6 months (42nd Amendment made it 1 year; 44th reversed)
Extension	6 months at a time; maximum 3 years
Majority	Simple majority
Beyond 1 year	Only if (a) National Emergency operates in whole India or whole / part of state, and (b) Election Commission certifies elections cannot be held
Revocation	By President any time; no Parliament approval

- Punjab (1987): President's Rule extended to 5 years by 68th Amendment (1991)

Consequences of President's Rule

Area	Effect
Executive	President assumes state government functions and Governor's powers; Council of Ministers dismissed; Governor administers with chief secretary / advisers
Legislature	Powers exercised by Parliament; Assembly suspended or dissolved
Delegation	Parliament may delegate law-making to President (President's Acts)
Finance	President may authorise expenditure from state Consolidated Fund when Lok Sabha not in session
High Court	Powers unaffected; President cannot assume HC powers

- Laws made continue after Rule; state legislature may repeal / alter / re-enact
- First President's Rule: Punjab, 1951
- 1992: Rule imposed in MP, Himachal Pradesh, Rajasthan; upheld in Bommai (secularism basic feature); Nagaland 1988, Karnataka 1989, Meghalaya 1991 not upheld

National Emergency vs President's Rule

Point	National Emergency (352)	President's Rule (356)
Ground	War, external aggression, armed rebellion	Failure of constitutional machinery in state
State executive and legislature	Continue to function	Executive dismissed; legislature suspended / dissolved
Legislation	Parliament only; cannot delegate	Parliament can delegate to President
Maximum period	None	3 years
Majority for approval	Special majority	Simple majority

Point	National Emergency (352)	President's Rule (356)
Fundamental Rights	Affected	Not affected
Lok Sabha revocation	Possible by resolution	Not possible
Affects	Relations with all states	Only the state concerned

Bommai Case (S.R. Bommai vs Union of India, 1994)

- Proclamation subject to judicial review
- Satisfaction must rest on relevant material; struck down if malafide, perverse or extraneous
- Burden on Centre to prove relevant material; court cannot examine its adequacy
- Court may restore dismissed government and revive Assembly
- Assembly to be dissolved only after Parliament approves; until then only suspended; if not approved, Assembly revives
- Secularism is a basic feature; anti-secular state government liable under Art. 356
- Loss of majority to be tested on floor of the House
- New party at Centre cannot dismiss other parties' state ministries
- Federalism is a basic feature

Proper vs improper use of Art. 356 (Sarkaria / Bommai)

Proper	Improper
Hung assembly	Ministry defeated / dismissed but alternative not explored
Majority party declines to form ministry and no coalition possible	Governor assesses majority himself without floor test
Ministry resigns after defeat and no alternative	Ruling party suffered massive Lok Sabha defeat (1977, 1980)
Constitutional direction of Centre disregarded	Internal disturbance short of subversion / breakdown
Internal subversion	Maladministration, corruption, financial exigencies
Physical breakdown	No prior warning to state (except extreme urgency)
-	Intra-party problems or extraneous purposes

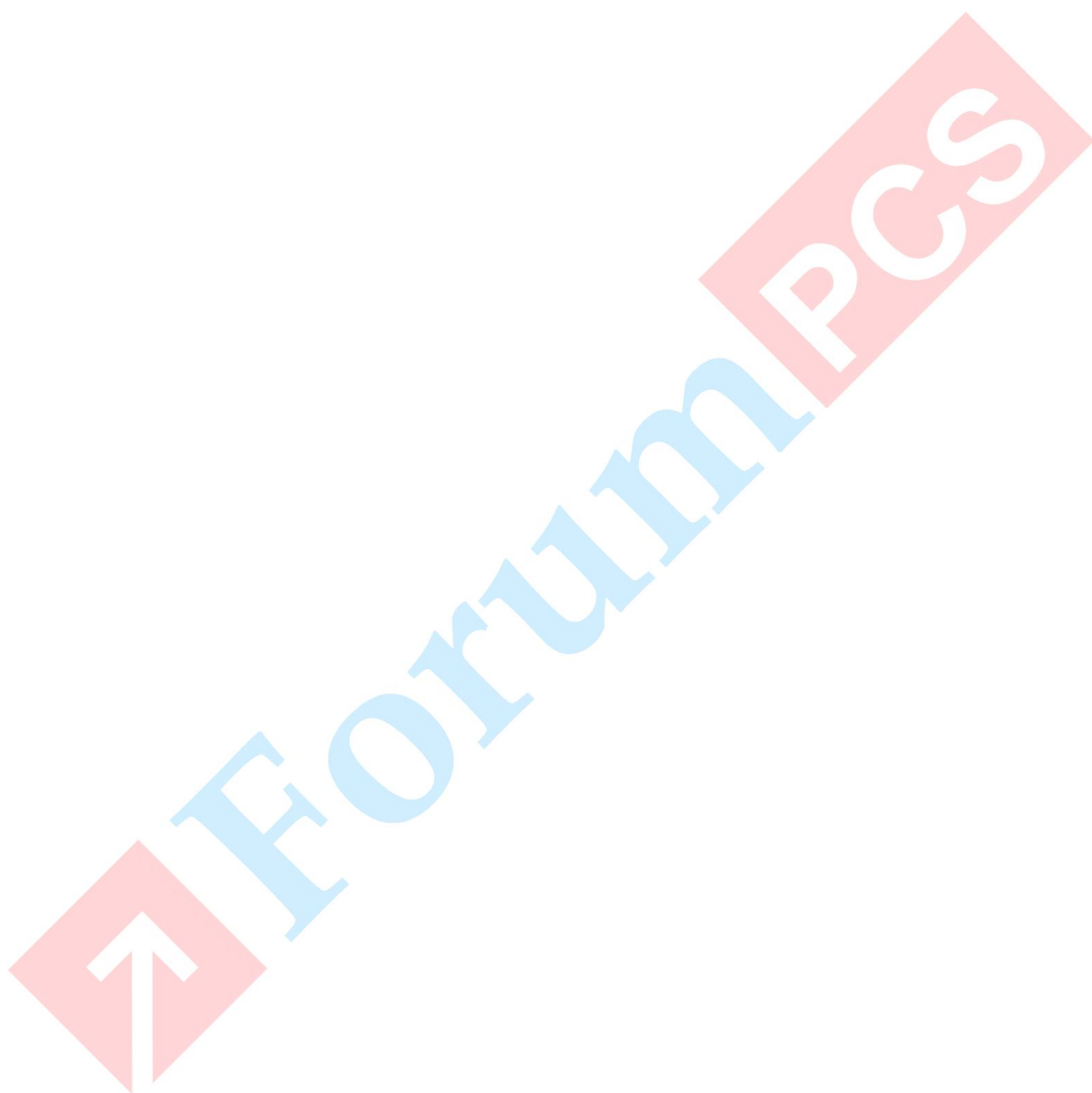
Financial Emergency (Art. 360)

- Ground: threat to financial stability or credit of India or any part of it
- 38th Amendment barred judicial review; 44th Amendment deleted it
- Approval: both Houses within 2 months (Lok Sabha dissolution rule as above); simple majority
- Continues indefinitely until revoked; no repeated approval needed; no maximum period
- Revocation: by President by subsequent proclamation
- Effects: Centre directs states on financial propriety; salary / allowance cuts; money and financial bills reserved for President
- Never declared so far (crisis of 1991 did not lead to one)

Remember

44th Amendment (1978): 'internal disturbance' to 'armed rebellion'; Cabinet's written advice; 1 month approval; special majority; Lok Sabha disapproval; Arts. 20 and 21 non-suspendable
Article 358 = automatic, Art. 19 only, external emergency only; Art. 359 = enforcement of FRs by order, never Arts. 20 and 21
President's Rule: 2 months, 6 months extensions, max 3 years; beyond 1 year needs EC certificate plus National Emergency

Only Lok Sabha can pass disapproval resolution for National Emergency (simple majority)



CHAPTER 05

President, Vice-President, PM, Council of Ministers

President

- Arts. 52-78 (Part V) deal with Union executive: President, VP, PM, Council of Ministers, Attorney General
- President = nominal (de jure) head of State; first citizen

Election (Art. 54, 55)

Electoral college

Included	Excluded
Elected MPs (both Houses)	Nominated MPs
Elected MLAs of States	Nominated MLAs; all MLCs
Elected members of Delhi and Puducherry Assemblies (70th Amdt, 1992)	Nominated member of Puducherry

- Dissolved Assembly members cannot vote even if fresh election is pending
- Anglo-Indian nomination ended by 104th Amdt (effective 25 Jan 2020)
- Population for vote value = 1971 Census (84th Amdt) until first Census after 2026

Value of votes

Vote of	Formula
MLA	State population / elected MLAs / 1000
MP	Total votes of all MLAs / elected MPs of both Houses

- 2022: value of each MP vote = 700; MLA total 5,43,231; grand total 10,86,431; electors 4,809
- Highest MLA vote value: Uttar Pradesh (208); lowest: Sikkim (7)
- System: proportional representation by Single Transferable Vote; secret ballot
- Quota = (valid votes / 2) + 1**; lowest candidate eliminated and 2nd preferences transferred
- Disputes decided by Supreme Court (Art. 71); election not invalid because of vacancies in electoral college
- If election declared void, earlier acts of President remain valid

Remember - Election

President electors: elected MPs + elected MLAs (incl. Delhi, Puducherry)
 VP electors: all MPs (elected + nominated), no MLAs
 Disputes of both: Supreme Court

Presidents of India (elections)

Year	Winner	Main rival
1952, 1957	Rajendra Prasad	K.T. Shah; N.N. Das
1977	N. Sanjeeva Reddy	Unopposed
1982	Giani Zail Singh	H.R. Khanna
1987	R. Venkataraman	V.R. Krishna Iyer
1992	Shankar Dayal Sharma	George Gilbert Swell

Year	Winner	Main rival
1997	K.R. Narayanan	T.N. Seshan
2002	A.P.J. Abdul Kalam	Laxmi Sehgal
2007	Pratibha Patil	B.S. Shekhawat
2012	Pranab Mukherjee	P.A. Sangma
2017	Ram Nath Kovind	Meira Kumar
2022	Droupadi Murmu	Yashwant Sinha

- Only Rajendra Prasad served two terms; only unopposed President: Sanjeeva Reddy
- 1969 (Giri) was the closest contest (50.22%), won on second preferences
- Died in office: Zakir Husain (1969), Fakhruddin Ali Ahmed (1977)
- First woman: Pratibha Patil; first tribal: Droupadi Murmu

Qualifications, Oath, Conditions (Arts. 58-60)

Qualifications

Item	Provision
Citizen / age	Indian citizen; 35 years
Eligibility	Qualified for Lok Sabha
Office of profit	None; President, VP, Governor, Union / State ministers exempt
Nomination	50 proposers + 50 seconders (earlier 10 + 10; 1997)
Deposit	Rs 15,000 (earlier Rs 2,500); forfeited if < 1/6 of votes polled

- Oath: execute office faithfully; preserve, protect, defend Constitution and law; devote to service of people
- Oath administered by Chief Justice of India (or seniormost SC judge)
- Not a member of Parliament / State Legislature; seat vacated on joining
- Free residence (Rashtrapati Bhavan); emoluments fixed by Parliament, not diminishable in term
- Salary Rs 5 lakh/month (2018; earlier Rs 1.5 lakh); pension = 50% of salary (2008)
- Immunity (Art. 361): no criminal proceedings in term; civil proceedings for personal acts only after 2 months' notice

Term, Impeachment, Vacancy

- Term 5 years (Art. 56); continues till successor takes charge; re-election any number of times (Art. 57)
- Resigns to the Vice-President

Impeachment (Art. 61)

Point	Provision
Ground	'Violation of the Constitution' (undefined)
Initiation	Either House; signed by 1/4 of members; 14 days' notice
Passing	2/3 of total membership in both Houses
Nature	Quasi-judicial
Participation	Nominated MPs vote; State and Delhi / Puducherry MLAs do not

- No President has been impeached

- Vacancy causes: expiry, resignation, removal, death, disqualification / void election
- Term expiry: election before expiry; outgoing President continues; VP does not act
- Other vacancy: election within **6 months** (Art. 62); new President gets full 5 years
- VP acts; if VP vacant, CJI (else seniormost SC judge) acts; M. Hidayatullah officiated in 1969

Powers

Powers of President

Type	Key powers
Executive	Actions in his name; appoints PM, ministers, AG, CAG, CEC / ECs, UPSC, Governors, Finance Commission; administers UTs; Scheduled Areas; Inter-State Council
Legislative	Summons / prorogues; dissolves LS; joint sitting (Art. 108); nominates 12 RS members; ordinances; assent; address at first session of year / after election
Financial	Money Bill on recommendation; Budget laid; Contingency Fund; Finance Commission every 5 years
Judicial	Appoints SC / HC judges; advisory opinion (Art. 143, not binding); pardon (Art. 72)
Diplomatic	Treaties in his name, subject to Parliament
Military	Supreme Commander; appoints service chiefs; war / peace subject to Parliament
Emergency	Arts. 352, 356/365, 360

- Decides disqualification of MPs in consultation with Election Commission
- Regulations for A&N Islands, Lakshadweep, Dadra-Nagar Haveli and Daman-Diu, Ladakh; Puducherry (only when Assembly suspended / dissolved)

Bills needing prior recommendation / sanction

Bill	Requirement
Money Bill	Recommendation
Expenditure from Consolidated Fund	Recommendation
New state / boundary alteration	Recommendation
Tax in which States interested; 'agricultural income'; distribution to States; Union surcharge	Recommendation
State bill restricting trade (Art. 304)	Previous sanction

Emergencies

Type	Article	Ground	Effect
National	352	War, external aggression, armed rebellion	Financial distribution modified; FRs suspended except Arts. 20, 21
President's Rule	356 / 365	Failure of constitutional machinery / non-compliance with Union directions	Takes over State functions; Parliament legislates; expenditure authorised

Type	Article	Ground	Effect
Financial	360	Threat to financial stability / credit	Salaries cut incl. SC / HC judges

Veto Power

- Assent: Art. 111; Governor: Art. 200; reserved State bill: Art. 201

Veto

Veto	Meaning	India
Absolute	Withhold assent	Yes
Qualified	Overridden by higher majority	No (USA)
Suspensive	Return bill; ordinary majority overrides	Yes
Pocket	No action, indefinite	Yes

- Absolute: private members' bills; govt bill after cabinet resigns; 1954 PEPSU Appropriation Bill (Rajendra Prasad); 1991 MPs' Salary Bill (Venkataraman)
- Suspensive: not for Money Bills (assent or withhold only)
- Pocket: no time limit; 1986 Zail Singh, Indian Post Office (Amendment) Bill
- No veto on Constitutional Amendment Bills (24th Amdt, 1971)

Veto at a glance

Bill	Central	State (reserved)
Ordinary	Ratify / reject / return	Ratify / reject / return
Money	Ratify / reject	Ratify / reject
Const. Amendment	Only ratify	Cannot be introduced

Commonly Confused - Re-passage

Central bill re-passed after return: President **MUST** assent
 Reserved State bill re-passed: President **NEED NOT** assent

Ordinance (Art. 123)

- Only when a House (either / both) is not in session; ordinance during session of both Houses is void
- On advice of Council of Ministers; satisfaction justiciable for malafide (Cooper, 1970; 38th Amdt barred, 44th Amdt deleted)
- Same force as Act; coextensive with Parliament's powers; cannot amend Constitution or take away FRs
- Ceases 6 weeks after reassembly (from later date) or earlier on disapproval by both Houses
- Maximum life 6 months + 6 weeks
- Acts done under lapsed ordinance remain valid; can be retrospective; can amend tax law
- D.C. Wadhwa v. Bihar (1986): repromulgation without legislative approval is invalid

Pardoning Power (Art. 72)

- Cases: Union law offence; court martial; death sentence

Clemency

Form	Meaning
Pardon	Removes sentence and conviction

Form	Meaning
Commutation	Lighter form of punishment (death to RI)
Remission	Shorter period, same character
Respite	Lesser sentence for special fact (pregnancy, disability)
Reprieve	Temporary stay of execution

President vs Governor (Arts. 72, 161)

Power	President	Governor
Court martial	Yes	No
Pardon death sentence	Yes	No
Suspend / remit / commute death	Yes	Yes
Law	Union	State

- Kehar Singh (1988): no oral hearing right; can re-examine evidence; Cabinet advice binding; review only if irrational, mala fide, discriminatory
- Maru Ram (1980): advice binding, judicial review limited

Constitutional Position

- Art. 53: executive power vested in President; Art. 74: Council aids and advises; Art. 75: collective responsibility to Lok Sabha
- 42nd Amdt (1976): advice binding; 44th Amdt (1978): can send back once; reconsidered advice binding
- 1997 (UP) and 1998 (Bihar): K.R. Narayanan returned President's Rule recommendations
- Situational discretion: appointing PM (no majority / sudden death); dismissing Council that lost confidence; dissolving LS

Vice-President

- Second highest office; modelled on American VP
- Electoral college: all MPs (elected + nominated); no MLAs (11th Amdt, 1961 replaced joint meeting)
- STV, secret ballot; disputes decided by Supreme Court

President vs Vice-President

Point	President	Vice-President
Electors	Elected MPs + MLAs	All MPs
Qualified for	Lok Sabha	Rajya Sabha
Proposers + seconders	50 + 50	20 + 20
Deposit	Rs 15,000	Rs 15,000
Oath by	CJI	President or nominee
Resigns to	VP	President
Removal	Impeachment, 2/3 both Houses	RS resolution (effective majority) + LS (simple)
Vacancy election	Within 6 months	As soon as possible

Selected VP elections

Year	Winner	Runner-up
1992	K.R. Narayanan	Kaka Joginder Singh
1997	Krishan Kant	Surjit Singh Barnala
2002	B.S. Shekhawat	Sushil Kumar Shinde
2007, 2012	Hamid Ansari	Najma Heptullah; Jaswant Singh
2017	M. Venkaiah Naidu	Gopalkrishna Gandhi
2022	Jagdeep Dhankhar	Margaret Alva
2025	C.P. Radhakrishnan	B. Sudershan Reddy

- Unopposed: Radhakrishnan (1952, 1957), Hidayatullah (1979), Shankar Dayal Sharma (1987)
- Radhakrishnan (first VP) and Hamid Ansari served two terms
- Krishan Kant: first VP to die in office
- Dhankhar resigned mid-term (July 2025)
- Qualifications: citizen, 35 years, qualified for RS, no office of profit; sitting President / VP / Governor / ministers exempt
- Oath: true faith and allegiance to Constitution; faithfully discharge duties
- Term 5 years (Art. 67); continues till successor; re-election allowed
- Removal: resolution introduced only in Rajya Sabha, 14 days' notice; no ground specified
- Functions: ex-officio RS Chairman (Art. 64); acts as President up to 6 months (Art. 65)
- While acting as President, RS duties are performed by Deputy Chairman and he draws President's salary
- Salary as RS Chairman Rs 4 lakh/month (2018); pension 50% of salary (2008)
- Acting Presidents: V.V. Giri (1969), B.D. Jatti (1977)

Commonly Confused - Indian vs American VP

USA: VP succeeds as President for unexpired term
 India: VP only acts till new President is elected
 VP called 'His Superfluous Highness'

Prime Minister

- President = de jure head of State; PM = de facto head of government
- Art. 75(1): PM appointed by President (no procedure specified)

Appointment

- Convention: leader of majority in Lok Sabha
- No majority: President's discretion; usually largest party / coalition leader, confidence vote within a month
- First such discretion: 1979, Sanjiva Reddy appointed Charan Singh
- 1984: Zail Singh appointed Rajiv Gandhi without caretaker
- Gulzarilal Nanda acted as PM after Nehru and Shastri
- Delhi HC (1980): majority need not be proved before appointment
- Supreme Court (1996): non-member can be PM for 6 months
- RS members who became PM: Indira Gandhi (1966), Deve Gowda (1996), Manmohan Singh (2004)

PMs who were Chief Ministers

PM	State
Morarji Desai	Bombay (first non-Congress PM, 1977)
Charan Singh	Uttar Pradesh

PM	State
V.P. Singh	Uttar Pradesh
P.V. Narasimha Rao	Andhra Pradesh (first from South India)
H.D. Deve Gowda	Karnataka
Narendra Modi	Gujarat

Oath, Term, Salary

- President administers oaths of office and secrecy
- Oath: true faith and allegiance; uphold sovereignty and integrity; faithful discharge; do right to all without fear or favour
- Holds office during pleasure of President; cannot be dismissed while having LS majority
- Salary of an MP + sumptuary allowance Rs 3,000/month (2001), as per Salaries and Allowances of Ministers Act, 1952

Powers

Powers of PM

Relation	Powers
Council	Recommends ministers; allocates portfolios; asks minister to resign; presides; resignation / death dissolves Council
President	Channel of communication (Art. 78); advises on AG, CAG, UPSC, ECs, Finance Commission appointments
Parliament	Leader of Lower House; advises summoning / proroguing; recommends LS dissolution
Other	Chairman of NITI Aayog, National Integration Council, Inter-State Council, National Water Resources Council

- Ambedkar: PM, not President, compares with US President
- Descriptions: 'primus inter pares' (Morley); 'moon among lesser stars' (Harcourt); 'sun around which planets revolve' (Jennings); 'captain of the ship of state' (Munro)

Caretaker Government

- Not in the Constitution; situational arrangement; routine business only
- Tarkunde Committee (1974-75, JP Committee): no new policies, projects, loans, allowances
- 1979: Sanjiva Reddy's communique on dissolution; Calcutta HC (1979): only day-to-day administration

Central Council of Ministers

Constitutional Provisions

Articles

Article	Provision
74	Advice binding; President may ask one reconsideration; advice not inquirable in court
75(1)	PM appointed by President; others on PM's advice
75(1A)	Council max 15% of LS (91st Amdt, 2003)

Article	Provision
75(1B)	Defection-disqualified member cannot be minister (91st Amdt)
75(2)	Pleasure of President
75(3)	Collective responsibility to LS
75(4)	Oaths by President
75(5)	Non-member minister ceases after 6 months
75(6)	Salary by Parliament
77	Executive action in President's name; rules of business
88	Minister speaks in either House, votes only in own

- Art. 352 defines 'Cabinet' (44th Amdt, 1978)
- U.N.R. Rao (1971): Council continues after LS dissolution; Art. 74 mandatory
- Shamsher Singh (1974): President's satisfaction = Council's satisfaction
- Devi Lal (1990): Deputy PM oath valid; title is descriptive

Responsibility

Types		
Type	Basis	Feature
Collective	Art. 75(3)	Answerable to LS; swim or sink together; decisions bind all
Individual	Art. 75(2)	Removal by President on PM's advice
Legal	None	No countersignature; courts barred

- Resigned over collective responsibility: Ambedkar (Hindu Code Bill, September 1951), C.D. Deshmukh (state reorganisation), Arif Mohammed Khan (Muslim Women Act, 1986)
- PM's resignation = whole Council resigns

Composition

- Cabinet ministers, Ministers of State (independent charge or attached), Deputy ministers; Deputy PM optional
- Parliamentary secretaries: not Council members; appointed by PM

Council vs Cabinet

Point	Council of Ministers	Cabinet
Size	Wider	Smaller
Members	All three categories	Cabinet ministers only
Meetings	Does not meet as body	Meets weekly
Role	Implements	Directs; policy decisions binding
Status	Arts. 74, 75	Art. 352 definition only
Responsibility	Collective to LS	Enforces it

- Cabinet: highest decision-making body, chief policy maker, crisis manager, controls higher appointments
- Kitchen (Inner) Cabinet: informal, may include outsiders; extra-constitutional; powerful under Indira Gandhi

Remember

Council max 15% of LS (91st Amdt, 2003)
 Non-member minister: 6 months
 Cabinet defined in Art. 352 by 44th Amdt
 Collectively responsible to Lok Sabha only

Cabinet Committees

- Extra-constitutional; provided in Rules of Business
- Standing or ad hoc (e.g., Emergency Committee 1962)
- Set up by PM; membership varies; mostly headed by PM
- Take decisions; Cabinet can review

Committee	Function
Political Affairs	All domestic and foreign policy; most powerful ('Super-Cabinet')
Economic Affairs	Coordinates economic activity
Appointments (ACC)	Higher posts in Secretariat, PSUs, banks
Parliamentary Affairs	Government business in Parliament
Security	Defence, law and order, internal security, atomic energy
Accommodation	Government accommodation
Investment and Growth	Capital inflows, exports, ease of business
Employment and Skill Development	Skills, employability, women workforce

- Groups of Ministers (GoMs): ad hoc, disbanded after advice; some decide, some recommend
- 2nd ARC (Veerappa Moily): too many GoMs delay; use selectively with time limits

Remember

Political Affairs Committee = 'Super-Cabinet'
 PM presides over any committee he belongs to

CHAPTER 06

Parliament & Parliamentary Committees

Parliament

Organisation of Parliament

- Articles 79–122 (Part V) deal with Parliament
- Parliament = President + Council of States (Rajya Sabha) + House of the People (Lok Sabha)
- President is not a member of either House, but is an integral part of Parliament
- Bill passed by both Houses cannot become law without President's assent

Rajya Sabha vs Lok Sabha

Point	Rajya Sabha	Lok Sabha
Article of composition	Art. 80	Art. 81
Maximum strength	250 (238 reps of states/UTs + 12 nominated)	550 (530 states + 20 UTs)
Present strength	245 (225 states + 8 UTs + 12 nominated)	543 (524 states + 19 UTs)
Election	Indirect: elected members of state assemblies; STV proportional representation	Direct; territorial constituencies; FPTP
UT representation	Electoral college; only Delhi, Puducherry, J&K	Direct election (UT Direct Election Act, 1965)
Minimum age	30 years	25 years
Duration	Permanent; 1/3 retire every 2nd year	5 years; subject to dissolution
Term of member	6 years (RP Act 1951)	5 years
Seat allocation	Fourth Schedule; by population (UP 31, Tripura 1)	Population-based; ratio same for all states (except states below 6 million)

Delimitation and Reservation

- After every census: readjustment of (a) LS seats to states, (b) division into territorial constituencies
- Delimitation Commission Acts: 1952, 1962, 1972, 2002
- 42nd Amendment (1976): froze seat allocation and constituencies till 2000 at 1971 census level
- 84th Amendment (2001): freeze extended to 2026 (25 years); also allowed rationalisation on 1991 census
- 87th Amendment (2003): delimitation on 2001 census (not 1991), without altering seats per state
- SC/ST seat reservation in LS: on population ratio; originally 10 years (till 1960), extended every 10 years
- 104th Amendment (2019): SC/ST reservation extended till 2030
- Reserved seats are elected by all voters (no separate electorate); SC/ST can also contest general seats
- Present reserved LS seats: SC 84, ST 47

Seat Allocation in Parliament (Rajya Sabha, Lok Sabha, SC and ST seats in LS)

State/UT	RS	LS	SC	ST
Andhra Pradesh	11	25	4	1

State/UT	RS	LS	SC	ST
Bihar	16	40	6	-
Gujarat	11	26	2	4
Karnataka	12	28	5	2
Kerala	9	20	2	-
Madhya Pradesh	11	29	4	6
Maharashtra	19	48	5	4
Odisha	10	21	3	5
Rajasthan	10	25	4	3
Tamil Nadu	18	39	7	-
Telangana	7	17	3	2
Uttar Pradesh	31	80	17	-
West Bengal	16	42	10	2
Delhi	3	7	1	-
Jammu and Kashmir	4	5	-	-
Total	245	543	84	47

System of Elections to Lok Sabha

- Two uniformity principles: (a) between states, (b) between constituencies of a state
- LS uses territorial representation (FPTP; single-member constituency; simple majority)
- Proportional representation (STV) used for: Rajya Sabha, state legislative council, President, Vice-President

Duration of Houses

- Rajya Sabha: continuing chamber, not subject to dissolution
- Term of RS member (6 years) fixed by Representation of the People Act, 1951 (Constitution left it to Parliament)
- Lok Sabha: normal term 5 years from first meeting; automatic dissolution thereafter
- President can dissolve LS earlier (on PM's advice); no categorical bar on judicial review - courts may examine on narrow grounds such as illegality or mala fides, though deference is high
- National Emergency: LS term extended by law, one year at a time; cannot exceed 6 months after emergency ends
- 5th Lok Sabha: extended twice (1976, 1977); dissolved after 5 years, 10 months, 6 days
- 18th Lok Sabha: 2024 onwards (17th: 2019-24)

Membership of Parliament

Qualifications for Membership

Source	Qualification
Constitution (Art. 84)	Citizen of India
Constitution	Oath/affirmation before person authorised by Election Commission
Constitution	Age: 30 (RS), 25 (LS)
Constitution	Other qualifications prescribed by Parliament

Source	Qualification
RP Act 1951	Registered elector in any parliamentary constituency (RS 'same state' requirement dropped in 2003; upheld by SC 2006)
RP Act 1951	Must be SC/ST to contest a reserved seat (SC/ST may also contest general seats)

Disqualifications (Art. 102)

Source	Ground
Constitution	Holding office of profit under Union/state govt (except minister or exempted office)
Constitution	Unsound mind declared by court
Constitution	Undischarged insolvent
Constitution	Not a citizen / voluntarily acquired foreign citizenship / allegiance to foreign state
Constitution	Disqualified by any law of Parliament
RP Act 1951	Guilty of electoral offences or corrupt practices
RP Act 1951	Convicted with imprisonment of 2 or more years (preventive detention is not a ground)
RP Act 1951	Failure to lodge election expense account in time
RP Act 1951	Interest in government contracts, works or services
RP Act 1951	Director/managing agent/office of profit in corporation with at least 25% government share
RP Act 1951	Dismissed from government service for corruption or disloyalty
RP Act 1951	Convicted for promoting enmity between groups or bribery
RP Act 1951	Punished for social crimes: untouchability, dowry, sati

- Question of disqualification (Art. 103): decided by the President, after obtaining opinion of the Election Commission (opinion binding)
- Defection (Tenth Schedule) disqualification decided by Chairman (RS) / Speaker (LS), not the President
- Kihoto Hollohan case (1992): Chairman/Speaker's decision is subject to judicial review

Grounds of Defection Disqualification (Tenth Schedule)

Member	Ground
Elected member	Voluntarily gives up party membership
Elected member	Votes/abstains contrary to party whip
Independent member	Joins a political party
Nominated member	Joins a party after 6 months

Vacating of Seats (Art. 101)

Ways a Seat Becomes Vacant

Ground	Rule
Double membership of Parliament	Must intimate within 10 days; else RS seat vacant
Sitting member of one House elected to other	Seat in first House vacant
Parliament and state legislature	Seat in Parliament vacant unless state seat resigned within 14 days
Disqualification	Including Tenth Schedule defection
Resignation	In writing to Chairman/Speaker; may refuse if not voluntary or genuine
Absence	Absent from all meetings 60 days without permission (prorogued/adjourned period over 4 consecutive days excluded)
Election declared void by court	High court; appeal to Supreme Court
Other	Expelled; elected President/VP; appointed Governor

- Oath of members (Art. 99): before President or person appointed by him
- Oath content: true faith and allegiance to Constitution; uphold sovereignty and integrity; faithfully discharge duty
- Without oath: cannot vote, participate, or enjoy privileges
- Penalty (Art. 104): Rs 500 per day for sitting/voting before oath, or when disqualified/prohibited
- Salaries and allowances fixed by Parliament (Art. 106); pension introduced in 1976
- Finance Act 2018 revised: salary Rs 1 lakh/month; constituency allowance Rs 70,000; office allowance Rs 60,000; pension Rs 25,000
- Salaries of presiding officers charged on Consolidated Fund of India (non-votable)
- Sumptuary allowance: Speaker = Cabinet Minister rate (Rs 2,000); Deputy Speaker/Deputy Chairman = MoS rate (Rs 1,000)

Presiding Officers of Parliament

Presiding Officers Compared

Point	Speaker	Deputy Speaker	Chairman (RS)	Deputy Chairman (RS)
Article	93	93	89	89
Election	By LS from its members; date fixed by President	By LS; date fixed by Speaker	Vice-President ex officio	By RS from its members
Member of House	Yes	Yes	No	Yes
Tenure	Life of LS; continues after dissolution till new LS meets	Life of LS	Same as VP	Till ceasing to be member
Resignation to	Deputy Speaker	Speaker	Resigns as VP	Chairman
Removal	Effective majority of LS; 14 days' notice	Same	Only by removal as VP	Effective majority of RS; 14 days' notice
Removal articles	94	94	67	90
Presides during own removal motion	No (can speak, vote first instance)	No	No (can speak; no vote)	No

- Removal motion needs support of at least 50 members to be considered
- Speaker's conduct can be discussed only on a substantive motion
- Speaker does not resign party membership (unlike Britain)
- Speaker pro tem: appointed by President (usually seniormost member); administers oath to new members; office ends on election of Speaker
- Deputy Speaker is not subordinate to Speaker; responsible to the House
- Deputy Speaker becomes chairman of any committee he is appointed to
- Speaker: final interpreter of Constitution/Rules within House; maintains order; casting vote only
- Speaker: presides joint sitting; allows secret sitting; certifies money bill; decides Tenth Schedule disqualification
- Speaker: ex officio chairman of IPG; chairs Business Advisory, Rules and General Purposes Committees; appoints LS committee chairmen

Speaker vs Chairman

Only the Speaker decides money bills and presides over joint sitting

Chairman is not a member of RS; Speaker is a member of LS

Chairman is removed only by removal as Vice-President

Speaker can vote (first instance) while his own removal is under consideration; Chairman cannot

Leaders in Parliament

- Leader of Opposition: statutory recognition by Salary and Allowances of Leaders of Opposition in Parliament Act, 1977
- Needs party with at least one-tenth of House strength (as per Speaker/Chairman's directions)
- Chief whip of government: Minister of Parliamentary Affairs (LS); MoS Parliamentary Affairs (RS)
- Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998
- Recognised party: at least 55 (LS), 25 (RS); recognised group: at least 30 (LS), 15 (RS)

Sessions of Parliament

- Art. 85: President summons; gap between two sessions not more than 6 months (at least two sessions a year)
- Three sessions: Budget (Feb-May), Monsoon (Jul-Sep), Winter (Nov-Dec)
- Adjournment sine die: no date fixed for reassembly; done by presiding officer

Adjournment vs Prorogation

Point	Adjournment	Prorogation
Ends	Only a sitting	Sitting and session
By	Presiding officer	President
Pending bills	Not affected	Not affected (Art. 107(3)); pending notices lapse

Lapse of Bills on Dissolution of Lok Sabha

Bill position	Lapses?
Pending in LS (own or from RS)	Lapses
Passed by LS, pending in RS	Lapses
Pending in RS, not passed by LS	Does not lapse
Disagreement; President notified joint sitting before dissolution	Does not lapse
Passed by both Houses, awaiting President's assent	Does not lapse

Bill position	Lapses?
Returned by President for reconsideration	Does not lapse

- Voting (Art. 100): simple majority of members present and voting; presiding officer has casting vote only
- Methods of voting in LS: voice vote; division (automatic vote recorder / slips / lobbies); secret ballot; casting vote
- Ministers and Attorney General (Art. 88): right to speak in either House, joint sitting and committees where member; no vote
- Quorum: one-tenth of membership (55 in LS, 25 in RS)
- Lame-duck session: last session of old LS after new LS elected
- A minister can remain 6 months without being member of either House

Types of Majority

Type	Meaning	Used for
Simple (Art. 100)	Majority of members present and voting	Ordinary, money and financial bills; adjournment, no-confidence, confidence, censure, thanks motions; removal of VP in LS; approval of President's Rule (Art. 356) and financial emergency (Art. 360); election of Speaker, Deputy Speaker (Art. 93), Deputy Chairman (Art. 89); LS resolution disapproving national emergency (Art. 352)
Effective	Majority of total membership excluding vacancies ('all the then members')	Removal of VP in RS (Art. 67); Deputy Chairman (Art. 90); Speaker and Deputy Speaker (Art. 94)
Absolute	Majority of total membership including vacancies (LS 272, RS 123)	Not standalone; part of Special Majority-I
Special Majority-I	Majority of total membership + 2/3 of present and voting, in each House	Amendment (Art. 368); removal of SC judges (124), HC judges (217), CAG (148), CEC (324), State Election Commissioner (243K); approval of national emergency (352)
Special Majority-II	2/3 of total membership of each House	Impeachment of President (Art. 61)
Special Majority-III	2/3 of present and voting in Rajya Sabha only	Law on State List (Art. 249); new All-India Services (Art. 312)

Remember

Effective majority example: RS 245 with 25 vacancies = 111; LS 543 with 15 vacancies = 265

Absolute majority: RS 123; LS 272

VP removal: resolution only in RS (effective majority); LS agrees by simple majority

Devices of Parliamentary Proceedings

Question Hour and Zero Hour

- Question Hour: first hour of every sitting

- Zero Hour: informal, not in Rules, since 1962
- Leaders: Leader of House (PM or nominated minister); Leader of Opposition (1977 Act; cabinet-rank; needs one-tenth strength)
- Starred: oral answer; supplementary questions allowed (printed green)
- Unstarred: written, no supplementaries; short notice: under 10 days' notice, oral

Motions

Types of Motions and Discussion Devices

Device	Key facts
Closure motion	Cuts short debate; four kinds: simple, compartments, kangaroo, guillotine
Calling attention	Matter of urgent public importance; in Rules; Indian innovation since 1954
Adjournment motion	Needs 50 members' support; discussion at least 2 hours 30 minutes; involves censure; not allowed in RS
No-confidence motion	Art. 75; needs 50 members' support; against entire council of ministers; LS only
Motion of Thanks	On President's address (first session after general election and first of each year); must be passed
Point of order	Procedural breach; no debate allowed
Half-an-hour discussion	Matter already debated needing clarification; up to 3 days a week; no formal motion or vote
Short duration discussion	Two-hour discussion; since 1953; up to 2 days a week; no vote
Special mention (RS)	Equivalent in LS: Rule 377

- Closure kinds: simple; by compartments (parts voted whole); kangaroo (only important clauses debated); guillotine (undiscussed clauses voted when time ends)
- Privilege motion: breach of privilege by a minister; confidence motion: to prove majority; defeat topples government

Censure Motion vs No-Confidence Motion

Censure	No-Confidence
Must state reasons	Need not state reasons
Against individual minister, group or whole council	Against entire council only
For specific policies/actions	To test LS confidence
If passed, council need not resign	If passed, council must resign

Resolutions

- Resolution is a self-contained proposal for House's decision; all resolutions are substantive motions

Legislative Procedure

Public Bill vs Private Bill

Point	Public (Government) Bill	Private Bill
Introduced by	Minister	Any member other than minister
Rejection	Shows want of confidence; may lead to resignation	No such implication

Point	Public (Government) Bill	Private Bill
Notice for introduction	7 days	1 month

Stages of an Ordinary Bill

Stage	Key points
First reading	Introduction (leave of House) and Gazette publication; no discussion; leave not needed if already published in Gazette
Second reading	General discussion (consider / refer to select committee / refer to joint committee / circulate for opinion), committee stage, consideration stage (clause by clause)
Third reading	Only acceptance or rejection as whole; no amendments
Second House	Same three stages; options: pass, amend, reject, or keep pending
Assent	President: assent, withhold, or return (once); must assent if re-passed

- Deadlock: second House rejects, finally disagrees on amendments, or does not act for 6 months
- President enjoys 'suspensive veto' for non-money bills

Money Bills and Financial Bills

- Money Bill defined in Art. 110; special procedure in Art. 109
- Must contain only matters of Art. 110: tax; borrowing; Consolidated/Contingency Fund custody; appropriation; charged expenditure; receipts and audit; incidental matters
- Not a money bill merely for: fines/penalties; licence or service fees; local taxes by local authority
- Speaker's decision on money bill is final (not questioned in any court, House or by President)
- Speaker endorses certificate when transmitted to RS and when sent for assent

Ordinary Bill vs Money Bill

Point	Ordinary Bill	Money Bill
Introduced in	Either House	Only Lok Sabha
By	Minister or private member	Only minister
President's recommendation	Not needed	Required for introduction
Rajya Sabha	Can amend or reject	Cannot amend/reject; returns within 14 days with/without recommendations
RS detention	Up to 6 months	14 days
Speaker's certificate	Not required	Required
Joint sitting	Provision exists	No provision
Defeat in LS	May lead to resignation (if government bill)	Leads to resignation
President	Assent / withhold / return	Assent / withhold; cannot return

- If RS does not return in 14 days: deemed passed in form passed by LS
- LS may accept or reject any RS recommendation; either way deemed passed by both Houses

Types of Financial Bills

Type	Article	Feature
Money Bill	110	Only Art. 110 matters; LS only; RS cannot amend/reject
Financial Bill (I)	117(1)	Art. 110 matters plus other matters (e.g., borrowing clause); introduced only in LS on President's recommendation; otherwise like ordinary bill; joint sitting possible; President can return
Financial Bill (II)	117(3)	Involves expenditure from CFI only; introduced in either House without recommendation; President's recommendation needed at consideration stage

- All money bills are financial bills; not vice versa
- Amendment for reduction/abolition of tax needs no President recommendation

Joint Sitting (Art. 108)

- Called by President to resolve deadlock on ordinary or financial bill
- Not applicable to money bills or constitution amendment bills
- Deadlock: rejection; final disagreement on amendments; delay beyond 6 months (adjournment over 4 days excluded)
- If bill lapsed by LS dissolution: no joint sitting; if President notified intention before dissolution: allowed
- After notification, neither House can proceed with the bill
- Presided by Speaker; absent: Deputy Speaker; then Deputy Chairman (RS); then person chosen by members
- Passed by majority of members present and voting of both Houses
- New amendments only if caused final disagreement or necessitated by delay

Bills Passed at Joint Sitzings

Bill	Year	Joint sitting date
Dowry Prohibition Bill	1960	6 May 1961
Banking Service Commission (Repeal) Bill	1977	16 May 1978
Prevention of Terrorism Bill (POTA)	2002	26 March 2002 (425 for, 296 against)

Budget in Parliament

- Constitution term: 'Annual Financial Statement' (Art. 112); word 'budget' not used
- Financial year: 1 April to 31 March
- Budget presented on 1 February since 2017 (earlier last working day of February)
- Art. 112: annual financial statement; charged and votable expenditure shown separately
- Art. 113: demands for grants only on President's recommendation; LS can reduce or refuse, never increase; charged items only discussed
- Art. 114: no withdrawal from CFI without appropriation law; Art. 265: no tax without law
- RS cannot vote on demands for grants (exclusive to LS)
- Charged on CFI (non-votable): President's emoluments; salaries of Speaker, Deputy Speaker, Chairman, Deputy Chairman; SC judges' salaries and pensions; HC judges' pensions; CAG; UPSC; debt charges; court decrees and awards; others declared by Parliament

Six Stages of Budget in Parliament

Stage	Key facts
1. Presentation	By Finance Minister in LS; budget speech; no discussion that day; laid before RS after speech
2. General discussion	3-4 days; both Houses; no cut motion or vote; FM replies
3. Scrutiny by DRSCs	3-4 weeks recess; 24 committees examine demands for grants
4. Voting on demands	LS only; ministry-wise; votable part only; cut motions; guillotine on last day
5. Appropriation Bill	Authorises withdrawal from CFI; no amendment altering amount or destination of grant
6. Finance Bill	Gives effect to tax proposals; amendments to reject/reduce tax allowed; must be enacted within 75 days (Provisional Collection of Taxes Act 1931)

Cut Motions

Type	Effect
Policy cut	Disapproves policy; demand reduced to Rs 1
Economy cut	Reduces demand by specified amount
Token cut	Ventilates grievance; reduced by Rs 100

- Cut motion passed by LS = want of confidence; may lead to resignation
- Vote on Account (Art. 116): advance grant for part of year; generally 2 months, one-sixth of estimate; longer in election year
- Appropriation Act legalises payments from CFI; Finance Act legalises income side

Other Grants

Grant	When
Supplementary	Amount authorised is insufficient
Additional	New service not contemplated in budget
Excess	Money spent beyond grant; voted after year; PAC approval first
Vote of credit	Unexpected demand, indefinite service; 'blank cheque'

Funds of the Centre

Fund	Article	Features
Consolidated Fund of India	266	All revenues, loans and repayments; appropriation only by parliamentary law
Public Account of India	266	Provident fund, judicial, savings bank deposits, etc.; operated by executive action
Contingency Fund of India	267	Contingency Fund Act 1950; at President's disposal; held by finance secretary; executive action

Multifunctional Role of Parliament

Powers and Functions of Parliament

Category	Key points
Legislative	Union List (98 subjects), Concurrent List (52), State List (59); residuary power; ordinances to be approved within 6 weeks of reassembly; delegated legislation
Executive	Control through question hour, motions etc.; council collectively responsible to LS
Financial	Budget approval; control via PAC, Estimates, COPU; principle of annuity
Constituent	Amendment: simple majority, special majority, special majority + half states; basic structure (Kesavananda Bharati, 1973)
Judicial	Impeach President; remove VP; recommend removal of judges, CEC, CAG, State EC; punish for breach of privilege
Electoral	Elects VP; takes part in President's election; LS elects Speaker/Deputy, RS elects Deputy Chairman
Other	Approves emergencies; create/abolish legislative councils; alter state areas, boundaries, names; regulate courts

Parliament's Power over State List (Five Circumstances)

Circumstance	Article
RS resolution (2/3 present and voting)	249
National Emergency	250
Two or more states request	252
International agreements/treaties	253
President's Rule	356

- State legislature can initiate only one amendment: creation/abolition of legislative council

Position of Rajya Sabha

Rajya Sabha vs Lok Sabha Powers

Category	Matters
Equal	Ordinary bills; constitution amendment bills; financial bills involving CFI expenditure; election and impeachment of President; election of VP; recommendation for removal of judges, CEC, CAG; approval of ordinances; approval of all three emergencies; selection of ministers (but responsibility only to LS); reports of constitutional bodies; enlarging SC and UPSC jurisdiction

Category	Matters
Unequal (LS stronger)	Money bill; financial bill (I) introduction; Speaker certifies money bills; joint sitting presided by Speaker and LS numbers prevail; budget demands voting; resolution discontinuing national emergency; no-confidence motion
Special (RS only)	Art. 249 (State List law); Art. 312 (new All-India Services); initiate VP removal (Art. 67); emergency proclamation effective with RS approval alone when LS dissolved (Arts. 352, 356, 360)

Parliamentary Privileges

- Art. 105: freedom of speech in Parliament and right to publish proceedings
- 44th Amendment (1978): press may publish true reports without permission (not for secret sittings)

Privileges

Type	Privilege
Collective	Publish reports and debates; exclude strangers; secret sittings
Collective	Punish members/outside for breach or contempt (reprimand, admonition, imprisonment; suspension/expulsion for members)
Collective	Immediate information on arrest, detention or release of member
Collective	No arrest or legal process within precincts without presiding officer's permission
Individual	Freedom from arrest in civil cases during session and 40 days before and after (not criminal or preventive detention)
Individual	Freedom of speech in Parliament and committees (Art. 105(2))
Individual	Exemption from jury service; may refuse to testify when in session

- Breach of privilege is always contempt; contempt is not always breach of privilege

Sovereignty of Parliament

- British Parliament: sovereign (Dicey) - can make/amend any law; constitutional and ordinary laws by same procedure; no judicial review
- Indian Parliament: not sovereign

Limits on Indian Parliament's Sovereignty

Limit	Reason
Written Constitution	Distinguishes legislative and constituent authority
Federal system	Cannot generally legislate on State List
Judicial review	SC and HCs can declare laws void
Fundamental rights	Art. 13 bars laws abridging FRs

Articles Related to Parliament

Articles at a Glance

Article	Subject
79-81	Constitution of Parliament; Council of States; House of the People
82-83	Readjustment after census; duration of Houses
84-85	Qualification; sessions, prorogation, dissolution
86-88	President's address and messages; ministers' and Attorney General's rights
89-92	Chairman and Deputy Chairman of RS (election, removal, duties)
93-96	Speaker and Deputy Speaker (election, removal, duties)
97-98	Salaries of presiding officers; secretariat
99-100	Oath; voting, quorum
101-104	Vacation of seats; disqualification; decision; penalty
105-106	Privileges; salaries of members
107-111	Bills; joint sitting (108); money bill procedure (109); definition (110); assent (111)
112-117	Budget (112); estimates (113); appropriation (114); supplementary (115); vote on account (116); financial bills (117)
118-122	Rules of procedure; financial business by law; language (120); judges' conduct (121); courts (122)
123	Ordinance power of President

- First Speaker: G.V. Mavalankar; first Deputy Speaker: M. Ananthasayanam Ayyangar
- Meira Kumar (15th LS): first woman Speaker; Sumitra Mahajan (16th); Om Birla (17th and 18th)
- Others: Hukum Singh (3rd), Balram Jakhar (7th-8th), P.A. Sangma (11th), G.M.C. Balayogi (12th-13th, died 2002), Somnath Chatterjee (14th)

Commonly Confused

Anglo-Indian nomination ended 2020 (104th Amendment); SC/ST reservation extended to 2030

Impeachment of President: 2/3 of total membership; removal of judges: absolute majority + 2/3 present and voting

Joint sitting: not for money bills and constitution amendment bills

Zero Hour (1962, not in Rules) vs Calling Attention (1954, in Rules)

Adjournment motion: LS only; needs 50 members

Parliamentary Committees

Meaning and Classification

- Constitution mentions committees but leaves composition, tenure, functions to Rules of Houses
- Parliamentary committee: appointed/elected by House or nominated by Speaker/Chairman; works under their direction; reports to House or presiding officer; secretariat provided by LS/RS
- Two kinds: Standing (permanent, continuous) and Ad Hoc (temporary)

Standing Committees by Category

Category	Committees
Financial	Public Accounts; Estimates; Public Undertakings
Department-Related	24 DRSCs
To Inquire	Petitions; Privileges; Ethics
To Scrutinise and Control	Government Assurances; Subordinate Legislation; Papers Laid on Table; Welfare of SCs and STs; Empowerment of Women; Joint Committee on Offices of Profit
Day-to-Day Business	Business Advisory; Private Members' Bills and Resolutions; Rules; Absence of Members
House-Keeping	General Purposes; House; Library; Joint Committee on Salaries and Allowances of MPs

- Select committee: one House; joint committee: both Houses; minutes of dissent may be appended

Financial Committees**Financial Committees Compared**

Point	Public Accounts Committee	Estimates Committee	Committee on Public Undertakings
Origin	1921 (GoI Act 1919)	Standing financial committee 1921; post-independence 1950 (John Mathai)	1964 (Krishna Menon Committee)
Members	22 (15 LS + 7 RS)	30, all from LS	22 (15 LS + 7 RS); originally 15 (10+5)
Election	Parliament, annually, STV	LS, annually, STV	Parliament, annually, STV
Term	1 year	1 year	1 year
Minister member	Not allowed	Not allowed	Not allowed
Chairman	Appointed by Speaker; from Opposition since 1967	Appointed by Speaker; ruling party	Appointed by Speaker
Function	Examines CAG audit reports (appropriation accounts, finance accounts, public undertakings)	Examines estimates; suggests economies ('continuous economy committee')	Examines reports and accounts of PSUs and CAG reports on them
Nature	Post-mortem; assisted by CAG ('guide, friend, philosopher')	Examines estimates after voting; no CAG help	Cannot examine policy, day-to-day administration; 10-12 PSUs a year

- Recommendations of all three are advisory

Department-Related Standing Committees (DRSCs)

- Set up 1993 on Rules Committee recommendation; expanded 17 to 24 in 2004
- 8 under Rajya Sabha; 16 under Lok Sabha
- Each: 31 members (21 LS + 10 RS); LS members nominated by Speaker, RS by Chairman

- Functions: demands for grants (no cut-motion type suggestions); bills referred; annual reports; long-term policy documents
- Not to consider day-to-day administration
- Recommendations advisory, not binding
- Minister cannot be member; term 1 year

DRSCs (24)

House	Committees
Rajya Sabha (8)	Commerce; Home Affairs; Education-Women-Children-Youth-Sports; Industry; Science-Technology-Environment-Forests-Climate Change; Transport-Tourism-Culture; Health and Family Welfare; Personnel-Public Grievances-Law and Justice
Lok Sabha (16)	Agriculture; Communications and IT; Defence; Energy; External Affairs; Finance; Consumer Affairs-Food-PD; Labour-Textiles-Skill; Petroleum; Railways; Housing and Urban Affairs; Water Resources; Chemicals and Fertilizers; Rural Development-Panchayati Raj; Coal-Mines-Steel; Social Justice and Empowerment

Other Standing Committees**Committees to Inquire and to Scrutinise**

Committee	Members	Key fact
Petitions	15 LS, 10 RS	Examines petitions on bills and public importance
Privileges	15 LS, 10 RS	Semi-judicial; breach of privilege
Ethics	15 LS, 10 RS	Code of conduct; RS 1997, LS 2000
Government Assurances	15 LS, 10 RS	Ministers' promises; constituted 1953
Welfare of SCs and STs	30 (20 LS + 10 RS)	Reports of National Commissions for SC/ST
Empowerment of Women	30 (20 LS + 10 RS)	Constituted 1997; NCW reports
Offices of Profit (joint)	15 (10 LS + 5 RS)	Recommends disqualification of office holders

Day-to-Day Business and House-Keeping Committees

Committee	Members	Key fact
Business Advisory	LS 15; RS 11	Speaker/Chairman chairs; time-table
Private Members' Bills and Resolutions	15, LS only	Deputy Speaker chairs; RS BAC does the work
Rules	LS 15; RS 16	Speaker/Chairman chairs; procedure
General Purposes	-	Presiding officer chairs; matters not under other committees
House	LS 12; RS 10	Accommodation, food, medical aid

Committee	Members	Key fact
Joint Committee on Salaries and Allowances	15 (10 LS + 5 RS)	Under 1954 Act; frames rules

- Others: Subordinate Legislation (15 each House, 1953); Papers Laid (1975); Absence of Members (LS only, 60 days); Library (9: 6+3)

Committees Quick Facts

Estimates Committee: only LS members (30)
PAC and COPU: 22 members (15+7)
PAC chairman from Opposition (since 1967)
Business Advisory, Rules, General Purposes: Speaker chairs
Private Members' Bills Committee: Deputy Speaker chairs
DRSC: 31 members (21+10); 24 committees (16 LS + 8 RS)

Indian Parliamentary Group

IPG at a Glance

- Acts as National Group of Inter-Parliamentary Union (IPU) and India Branch of Commonwealth Parliamentary Association (CPA)

IPG Office-Bearers and Facts

Item	Fact
President	Speaker of Lok Sabha (ex officio)
Vice-presidents	Deputy Speaker (LS) and Deputy Chairman (RS) ex officio
Secretary-General	Secretary-General of Lok Sabha (ex officio)
Delegations abroad	Only members of at least 6 months' standing
Award	Outstanding Parliamentarian since 1995; committee of five by Speaker
Parliamentary Friendship Groups	Formed by IPG; President appointed by Speaker; sitting MPs of both Houses

- IPU: international organisation of parliaments of sovereign states (179 parliaments); IPG is its National Group
- CPA: parliamentarians of 53 Commonwealth countries (about 17,000 members); IPG is its main branch in India
- IPG formed 1949; open to all MPs; ex-MPs associate members
- CPA publications: 'The Parliamentarian' (quarterly), 'First Reading'

CHAPTER 07

Supreme Court, Judicial Review, Activism, PIL

Supreme Court

Basics

- Integrated judicial system (from GoI Act 1935): SC at top, High Courts, then subordinate courts
- Single system enforces both Central and state laws (USA has double system)
- SC inaugurated on 28 January 1950; succeeded the Federal Court of India (GoI Act 1935)
- SC replaced the Privy Council as highest court of appeal
- **Articles 124-147** in Part V deal with SC
- Key Articles: 124 constitution; 124A-C NJAC (struck down); 125 salaries; 126 acting CJI; 127 ad hoc; 128 retired judges; 129 court of record; 130 seat
- 131 original; 132 constitutional appeals; 133 civil; 134 criminal; 134A certificate; 136 special leave; 137 review; 139 writs; 139A transfer of cases
- 141 law binding on all courts; 142 complete justice; 143 advisory; 144 aid of SC; 145 rules; 146 staff; 131A, 144A repealed

Composition

- Present strength: **34** (CJI + 33 other judges)
- Original strength 1950: 8 (CJI + 7); Article 124(1) fixes 7 until Parliament increases
- Increases: 10 (1956); 13 (1960); 17 (1977); 25 (1986); 30 (2008); 33 (2019) other judges (plus CJI)

Appointment of Judges

- Appointed by the **President**
- CJI: appointed after consultation with SC and HC judges as President deems necessary
- Other judges: consultation with CJI is obligatory

Judges Cases (Consultation / Collegium)

Case	Year	Holding
First Judges (S.P. Gupta)	1981	Consultation is not concurrence; only exchange of views
Second Judges (SC Advocates-on-Record Assn)	1993	Consultation = concurrence; CJI advice binding; CJI consults 2 seniormost colleagues; collegium born
Third Judges (Presidential Reference, Art 143)	1998	Collegium of CJI + 4 seniormost judges; two adverse opinions bar recommendation
Fourth Judges (SC Advocates-on-Record Assn)	2015	99th Amendment 2014 and NJAC Act 2014 struck down; collegium restored

- NJAC was to replace the collegium for SC and HC appointments

Judges Cases

- 1981 First: Consultation is not concurrence
- 1993 Second: Consultation is concurrence; collegium begins

1998 Third: Collegium expanded to CJI + 4 seniormost judges
2015 Fourth: NJAC and 99th Amendment void

Appointment of CJI

- 1950-73: seniormost judge appointed CJI by convention
- Convention violated in 1973: A.N. Ray appointed superseding Shelat, Hegde and Grover (after Kesavananda Bharati verdict); all three resigned
- Violated again in 1977: M.U. Beg appointed superseding H.R. Khanna (dissent in ADM Jabalpur case); Khanna resigned
- Second Judges case (1993): seniormost judge alone to be appointed CJI

Qualifications, Oath, Salary

Qualifications of SC Judge

Requirement	Detail
Citizenship	Citizen of India
Judge route	Judge of a High Court (or HCs) for 5 years
Advocate route	Advocate of a High Court (or HCs) for 10 years
Jurist route	Distinguished jurist in the opinion of the President
Minimum age	Not prescribed

- Oath/affirmation before the President or person appointed by him
- Salary, allowances, pension fixed by Parliament; cannot be varied to disadvantage except in financial emergency
- Salary (2018): CJI Rs 2.80 lakh per month; judge Rs 2.50 lakh per month
- Retired judges get 50 per cent of last drawn salary as pension

Tenure and Removal

- Tenure not fixed; holds office till **65 years**
- Resigns by writing to the President
- Removal by President on address by each House of Parliament, same session
- Special majority: majority of total membership and two-thirds of members present and voting
- Grounds: **proved misbehaviour or incapacity**
- Procedure regulated by **Judges (Inquiry) Act, 1968**
- Motion signed by 100 LS members or 50 RS members, to Speaker/Chairman, who may admit or refuse
- Three-member committee: CJI/SC judge, HC Chief Justice, distinguished jurist
- Guilty finding, special majority in each House, then President's order

Acting, Ad hoc and Retired Judges

Temporary Judges

Type	Article	Appointed by	Condition
Acting CJI	126	President	CJI office vacant / absent / unable to perform
Ad hoc judge	127	CJI (consult HC Chief Justice, prior consent of President)	Lack of quorum; must be qualified for SC

Type	Article	Appointed by	Condition
Retired judge	128	CJI (prior consent of President and the judge)	Retired SC/HC judge qualified for SC; temporary

Seat and Procedure

- Seat: **Delhi**; CJI may appoint other place(s) with President's approval (optional, no court can direct)
- SC makes rules of procedure with President's approval
- Constitutional cases and Article 143 references: bench of at least **5 judges**
- Judgments delivered in open court; by majority; dissent allowed

Independence of Supreme Court

Safeguards for Independence	
Safeguard	Provision
Mode of appointment	President in consultation with judiciary
Security of tenure	Removal only by constitutional procedure
Fixed service conditions	Cannot be changed to disadvantage (except financial emergency)
Charged expenditure	Salaries and expenses charged on Consolidated Fund; non-votable but discussable
Conduct not discussable	No discussion in Parliament/legislature except during impeachment motion
Ban on post-retirement practice	Cannot plead or act before any court/authority in India
Contempt power	SC can punish for its contempt
Own staff	CJI appoints officers and servants
Jurisdiction	Parliament cannot curtail; can only extend

Jurisdiction and Powers

- Eight heads: original, writ, appellate, advisory, court of record, judicial review, review, constitutional interpretation, other powers

Original Jurisdiction (Article 131)

- Exclusive and original over disputes: Centre vs one or more states; Centre + states vs other states; between two or more states
- Dispute must involve a question of law or fact on which a legal right depends; political questions excluded
- Suit by a private citizen against Centre/state not entertained
- **Excluded:** pre-Constitution treaties/sanads continuing in force; inter-state river water disputes (Inter-State River Water Disputes Act 1956); matters referred to Finance Commission; adjustment of certain expenses/pensions between Centre and states
- First suit: West Bengal v. Centre (1961), Coal Bearing Areas Act 1957 upheld

Writ Jurisdiction (Article 32)

- SC issues habeas corpus, mandamus, prohibition, certiorari and quo warranto only for **Fundamental Rights**
- High Court (Art 226) can issue writs for Fundamental Rights **and other purposes**; HC writ jurisdiction wider
- Parliament can confer on SC power to issue writs for other purposes (Art 139)

Two Original Jurisdictions of SC

Basis	Federal disputes	Fundamental Rights
Nature	Exclusive	Concurrent with HCs
Parties	Centre and states	Citizen vs Government
Article	131	32

Appellate Jurisdiction

Type	Article	Condition
Constitutional	132	HC certifies substantial question of law on interpreting Constitution
Civil	133	HC certifies substantial question of general importance needing SC decision
Criminal	134	See below
Special leave	136	Discretionary; any court/tribunal except military

- Monetary limit (Rs 20,000) for civil appeals removed by **30th Amendment Act 1972**
- Criminal appeal as of right (no certificate) when HC: reversed acquittal and awarded death sentence; or withdrew a case to itself, convicted and awarded death
- 1970 Act extended to life imprisonment or ten years in the same two situations
- HC reversing conviction and acquitting: no right to appeal
- Special leave: discretionary, any judgment (final or interlocutory), any matter, any court or tribunal except military

Advisory Jurisdiction (Article 143)

- Two matters: (a) question of law or fact of public importance; (b) dispute from pre-Constitution treaties/sanads
- In (a) SC may refuse to give opinion; in (b) SC **must** give opinion
- Opinion is advisory; not binding on President
- Art. 143 references are made from time to time; the Nov 2025 advisory opinion (timelines for assent to bills) answered the 16th Presidential Reference
- Chronological: Delhi Laws Act 1951; Kerala Education Bill 1958; Berubari 1960; Sea Customs Act 1963; Keshav Singh 1964; Presidential Election 1974; Special Courts Bill 1978; J&K Resettlement Act 1982; Cauvery Tribunal 1992; Rama Janma Bhumi 1993; CJI consultation 1998; Natural gas 2001; Gujarat elections deferral 2002; Punjab Termination of Agreements Act 2004; 2G spectrum 2012; assent to bills by Governor/President 2025

Court of Record (Article 129)

- Judgments and proceedings recorded for perpetual memory; evidentiary value; legal precedents
- Power to punish for contempt of itself; 1991 ruling: also contempt of HCs, subordinate courts, tribunals

Contempt of Courts Act 1971

Aspect	Detail
Committee	H.N. Sanyal Committee (1961, report 1963)
Civil contempt	Wilful disobedience of judgment, order, writ; breach of undertaking
Criminal contempt	Scandalising/lowering court's authority; prejudicing judicial proceedings; obstructing administration of justice

Aspect	Detail
Not contempt	Innocent publication, fair report of proceedings, fair criticism of judicial acts
Punishment	Simple imprisonment up to 6 months or fine up to Rs 2,000 or both
Limitation	No proceedings after 1 year from alleged contempt
Exclusion	Does not apply to Nyaya Panchayats / village courts

Review and Curative Jurisdiction (Article 137)

- Review petition within **30 days**, before the same bench
- Grounds: new and important evidence; error apparent on face of record; any other sufficient reason
- Curative petition after dismissal of review: violation of natural justice; gross miscarriage of justice; abuse of process; bias of judge

Constitutional Interpretation

- SC is the final interpreter of the Constitution
- Doctrines: Severability; Waiver; Eclipse; Territorial Nexus; Pith and Substance; Colourable Legislation; Implied Powers; Incidental and Ancillary Powers; Precedent; Occupied Field; Prospective Overruling; Harmonious Construction; Liberal Interpretation

Other Powers

- Original, exclusive and final authority in disputes on election of President and Vice-President
- Inquires into misbehaviour of Chairman/members of UPSC/SPSC/JSPSC on President's reference; advice binding on President
- Can withdraw cases from HCs; transfer cases between HCs (Art 139A)
- Its law binding on all courts (Art 141)
- Judicial superintendence and control over all courts and tribunals
- Union List jurisdiction can be enlarged by Parliament; other matters by special agreement of Centre and states

Remember

Art 131: exclusive original (federal disputes)

Art 32: concurrent original (Fundamental Rights); Art 143: advisory; Art 136: special leave

Art 142: complete justice; Art 141: law binding on all courts

SC judges retire at 65

Indian vs American Supreme Court

Feature	India	USA
Original jurisdiction	Federal cases only	Federal plus naval, maritime, ambassadors
Appellate	Constitutional, civil, criminal	Constitutional only
Special leave	Very wide	No such power
Advisory jurisdiction	Yes	No
Judicial review	Limited	Very wide
Rights protection	Procedure established by law	Due process of law
Jurisdiction	Can be enlarged by Parliament	Limited to Constitution
Superintendence over HCs	Yes (integrated judiciary)	No (double judiciary)

Judicial Review

Meaning

- Origin: USA; Marbury v. Madison (1803), Chief Justice John Marshall
- India: Constitution itself confers power on SC and HCs
- Judicial review is a **basic feature**; cannot be curtailed even by constitutional amendment
- Phrase 'judicial review' not used in Constitution
- Power to examine constitutionality of legislative enactments and executive orders of Centre and states; ultra vires ones declared null and void
- Justice S.S.M. Quadri's three categories: review of constitutional amendments; review of legislation and subordinate legislation; review of administrative action
- Cases: Golaknath (1967); Bank Nationalisation/R.C. Cooper (1970); Privy Purses/Madhav Rao Scindia (1970); Kesavananda Bharati (1973); Minerva Mills (1980)
- 2015: 99th Amendment and NJAC Act struck down
- Importance: supremacy of Constitution; federal equilibrium; protection of Fundamental Rights

Constitutional Provisions

- Art 13: laws violating Fundamental Rights void; Art 32: SC writs
- Arts 131-136, 143: SC jurisdiction (134A certificate added by 44th Amendment 1978)
- Art 226: HC writs (Fundamental Rights and other purposes); Art 227: HC superintendence except military
- Arts 245-246: territorial extent and subject matter of laws; Arts 251, 254: Central law prevails; Art 372: pre-Constitution laws

Scope

- Grounds of challenge: infringes Fundamental Rights; outside competence of authority; repugnant to constitutional provisions
- Scope narrower than USA because India has 'procedure established by law'
- SC ordinarily defers on policy merits but can examine arbitrariness, proportionality and procedural fairness under Arts 14, 19 and 21, not only the bare question of power
- India is a synthesis of American judicial supremacy and British parliamentary supremacy

Commonly Confused

Procedure established by law (India, Art 21) vs Due process of law (USA)

USA: judicial supremacy; UK: parliamentary supremacy; India: synthesis of both

Judicial Review of Ninth Schedule

- **Article 31B** and Ninth Schedule added by **1st Amendment 1951**
- Originally 13 acts; now **282** acts and regulations (last entry numbered 284; entries 87, 92, 130 deleted; 257A added)
- State acts deal with land reforms and zamindari abolition; Parliament acts deal with other matters

Judicial Review of Ninth Schedule Cases

Case	Year	Holding
Kesavananda Bharati	1973	Ninth Schedule laws open to challenge on basic structure
Waman Rao	1980	Laws added after 24 April 1973 valid only if they do not damage basic structure

Case	Year	Holding
I.R. Coelho	2007	No blanket immunity; judicial review is basic feature; post-24 April 1973 laws tested against Arts 14, 15, 19, 21 and basic structure

- Coelho: 'rights test' / 'impact and effect test'; form of amendment irrelevant, consequence decisive
- Laws already upheld by SC cannot be reopened; concluded transactions not open to challenge
- Additions after 24 April 1973: 34th (1974) 20; 39th (1975) 38; 40th (1976) 64; 47th (1984) 14; 66th (1990) 55; 76th (1994) 1; 78th (1995) 27
- Before: 1st (1951) 13; 4th (1955) 7; 7th (1964) 44; 29th (1972) 2
- Entries 87, 92, 130 omitted by 44th Amendment (1978)

Judicial Activism

Meaning

- Term coined in 1947 by Arthur Schlesinger Jr. (USA); article 'The Supreme Court: 1947' in Fortune
- Introduced in India in mid-1970s
- Pioneers: Justices V.R. Krishna Iyer, P.N. Bhagwati, O. Chinnappa Reddy, D.A. Desai
- Proactive role of judiciary to protect citizens' rights and promote justice
- Also called 'judicial dynamism'; antithesis of **judicial restraint**
- Two aspects: directions to government authorities (PIL falls here); expanded interpretation of Articles 14, 19, 21

Judicial Review vs Judicial Activism

Judicial Review	Judicial Activism
Interpreting law in light of constitutional parameters	Moulding law to suit changing social and economic scenario
Upholds or invalidates laws	Judges also exercise policy preferences / judicial legislation
Constitutional power	Not a legal term; no standard definition

Justification

- B.L. Wadehra: collapse of responsible government; pressure from citizens; judicial enthusiasm; legislative vacuum; constitutional scope
- Subhash Kashyap: needed when legislature fails, hung legislature, basic rights unprotected, misuse during Emergency
- Baxi's six fears: ideological, epistemic, management, legitimation, democratic, biographic
- Judicial restraint: judges only declare law, law-making left to legislature/executive; based on original intent
- SC (December 2007) urged restraint: activism must not become judicial adventurism; judges must not behave like emperors

Public Interest Litigation

Meaning

- Originated in USA in 1960s (legal representation for unrepresented groups)
- Introduced in India in early **1980s**; pioneers Justices V.R. Krishna Iyer and P.N. Bhagwati
- Most popular form of judicial activism
- Also called Social Action Litigation (SAL), Social Interest Litigation (SIL), Class Action Litigation (CAL)
- Made possible by relaxation of **locus standi**

- Any public-spirited citizen or organisation can move court for persons unable to approach it
- Filed under Articles 32 (SC) and 226 (HC)
- Purposes: vindicate rule of law; access to justice for weaker sections; realise Fundamental Rights

Features

- Strategic arm of legal aid movement
- Not adversarial; aims at vindicating public interest, not individual rights
- Cooperative effort of petitioner, State and Court
- Court plays creative and assertive role; procedure flexible but judicial
- No adjudication of individual rights

Scope (Guidelines of 1988, modified 1993 and 2003)

- Entertained: bonded labour; neglected children; minimum wages; jail petitions; police inaction/custodial death; atrocities on women; SC/ST harassment; environment, drugs, food adulteration, heritage, wildlife; riot victims; family pension
- Not entertained: landlord-tenant; service/pension/gratuity; complaints against government departments (except above); admission to educational institutions; early hearing of pending cases

Principles and Guidelines

- Court can treat a letter or telegram as PIL; procedural and pleading laws relaxed
- Locus standi relaxed for poor, illiterate, disabled
- Res judicata may or may not apply depending on facts
- Private-law disputes between warring groups not allowed as PIL
- Court can appoint commissions to investigate facts
- Court will not ordinarily transgress into policy
- HC does not have power akin to Article 142
- HC should not ordinarily entertain PIL questioning validity of a statute
- Misuse labels: Publicity, Politics, Private, Paisa, Middle-class Interest Litigation
- Guidelines against misuse: encourage bona fide PIL; HCs to frame own rules; verify petitioner's credentials and contents; ensure substantial public interest and no private motive; prioritise urgent matters; impose exemplary costs on frivolous petitions

Remember

PIL = exception to traditional locus standi rule

PIL pioneers: Krishna Iyer and P.N. Bhagwati

Judicial activism: mid-1970s; PIL: early 1980s

Letter can be treated as PIL (epistolary jurisdiction)

CHAPTER 08

State Government: Governor, CM, Legislature, High Court, Tribunals

Governor

Basics

- State executive (Arts. 153-167): Governor, CM, Council of Ministers, Advocate General; no Vice-Governor
- Governor = nominal head + agent of Centre (dual role)
- 7th Amendment (1956): same person can be Governor of two or more states
- Appointed by President by warrant under hand and seal (Art. 155); not an employment under Centre (Hargovind Pant, 1979)
- Constituent Assembly rejected direct election (American model); adopted Canadian model of appointment

Qualifications, Oath, Conditions

Aspect	Provision
Qualifications (Art. 157)	Citizen of India; age 35 years
Oath (Art. 159)	Administered by Chief Justice of state HC (or senior-most judge)
Membership	Not MP/MLA; seat vacated on entering office; no office of profit
Residence	Raj Bhavan, rent-free
Emoluments	Fixed by Parliament; not diminished in term; Rs 3.50 lakh/month (2018)
Two states	Emoluments shared as President decides
Immunity	No criminal proceedings in term; no arrest; civil suit only after 2 months' notice

- Sarkaria Commission on selection: eminent person, from outside the state, detached from local politics, not active in recent politics
- Sarkaria: Centre's ruling-party politician not to be Governor of state ruled by another party; CM consultation to be written into Art. 155; VP and Speaker may be informally consulted by PM

Term and Removal

- Term 5 years (Art. 156), but during pleasure of President; pleasure not justiciable (Surya Narain, 1981)
- No grounds for removal in Constitution; resigns by letter to President
- Can be transferred to another state or reappointed; continues until successor takes charge
- Art. 160: President provides for contingencies (e.g., HC Chief Justice may act on Governor's death)
- 1989: V.P. Singh govt asked all Governors to resign; 1991: Narasimha Rao govt changed 14 Governors

Powers

- Executive, legislative, financial, judicial powers; no diplomatic, military or emergency powers

Executive and Legislative Powers

Power	Detail
Executive action	In his name (Art. 166); makes rules for authentication and allocation of business
Appoints	CM (and ministers on CM's advice), Advocate General (pleasure of Governor), State Election Commissioner, SPSC chairman/members
Removal	SPSC members removed only by President; SEC removed like HC judge
Tribal Welfare Minister	Chhattisgarh, Jharkhand, MP, Odisha (Bihar excluded by 94th Amendment, 2006)
Information	Can seek information from CM; can ask CM to place a minister's decision before council (Art. 167)
Emergency	Recommends President's Rule (Art. 356); acts as President's agent during it
Universities	Chancellor; appoints vice-chancellors
Sessions	Summons, prorogues, dissolves Assembly (Art. 174)
Address	First session after general election and first session each year (Art. 176)
Council nominees	1/6 of Legislative Council members
Anglo-Indian nominee	Ended by 104th Amendment (2019), from 25 Jan 2020
Disqualification	Decides (non-defection) after Election Commission's opinion
Presiding officer	Appoints member when both Speaker and Deputy (or Chairman and Deputy) posts vacant
Reports	Lays SFC, SPSC, CAG reports
Ordinance	Art. 213; most important legislative power

Financial and Judicial Powers

Power	Detail
Budget	Causes Annual Financial Statement to be laid
Money Bill / grants	Only on his recommendation
Contingency Fund	Makes advances
Finance Commission	Constitutes State FC every 5 years (panchayats, municipalities)
Pardon (Art. 161)	Pardon, reprieve, respite, remission; suspend, remit, commute
Judges	Consulted for HC judges (Art. 217); appoints district judges with HC (Art. 233); other judicial service with HC and SPSC (Art. 234)

Governor and Bills (Art. 200-201)

Four options: assent, withhold, return (not Money Bill), reserve for President
 Returned bill re-passed: Governor must assent (suspensive veto)
 Reservation compulsory: bill endangering HC's position

Soli Sorabji grounds: ultra vires, against DPSP, against national interest, grave national importance, compulsory acquisition (Art. 31A)

Once reserved, Governor has no further role in enactment

- D.C. Wadhwa case (1986): Bihar Governor re-promulgated 256 ordinances (1967-81); repeated re-promulgation without bills is a constitutional fraud and liable to be struck down

Veto Powers - President vs Governor

Point	President	Governor
Ordinary bill	3 options: assent, withhold, return	4 options: assent, withhold, return, reserve
Veto	Suspensive	Suspensive
Reserved state bill	President may assent, withhold, return (6 months to reconsider)	Governor out of picture; re-passed bill goes to President only
Re-passed returned state bill	President not bound to assent	-
Money Bill	Assent or withhold only	Assent, withhold, reserve
Return Money Bill	Cannot	Cannot

Ordinance Power - President (Art. 123) vs Governor (Art. 213)

Point	President	Governor
When	Parliament (or either House) not in session	Assembly not in session; bicameral: both or either House not in session
Scope	Subjects Parliament can legislate	Subjects state legislature can legislate
Lapse	6 weeks from reassembly	6 weeks from reassembly
Early lapse	Both Houses disapprove	Assembly disapproves, Council agrees
Discretion	Not discretionary; on advice of council	Not discretionary; on advice of council
Prior instruction	Not needed	Needed from President in 3 cases

- Governor needs President's instruction if: bill would need President's previous sanction; he would reserve such bill; Act would be invalid without President's assent

Pardoning Power

Point	President	Governor
Offence	Central law	State law
Death sentence	Can pardon (only authority)	Cannot pardon; can suspend, remit, commute
Court-martial	Can pardon	No power

Constitutional Position

- Art. 154: executive power vested in Governor; Art. 163: council with CM to aid and advise except in discretion; Art. 164: council collectively responsible to Assembly
- Governor's decision on whether a matter is discretionary is final
- Unlike President (42nd Amendment), ministerial advice is not binding on Governor

Governor's Discretion

Type	Cases
Constitutional	Reserving bill for President; recommending President's Rule; additional charge as Administrator of adjoining UT; royalty share to District Councils in Assam, Meghalaya, Tripura, Mizoram (Sixth Schedule)
Situational	Appointing CM when no majority or CM dies suddenly; dismissing ministry that cannot prove confidence; dissolving Assembly when ministry lost majority

Special Responsibilities of Governor

State	Responsibility
Maharashtra	Development boards for Vidarbha and Marathwada
Gujarat	Development boards for Saurashtra and Kutch
Nagaland	Law and order (Naga Hills-Tuensang)
Assam	Tribal areas administration
Manipur	Hill areas administration
Sikkim	Peace and social-economic advancement of all sections
Arunachal Pradesh	Law and order
Karnataka	Hyderabad-Karnataka development board (98th Amendment, 2012)

- Sarkaria issues: choosing CM, testing majority, dismissing CM, dissolving Assembly, recommending President's Rule, reserving bills, Council nominations, Chancellor's discretion
- Articles: 153 Governors; 154 executive power; 155 appointment; 156 term; 157 qualifications; 158 conditions; 159 oath; 160 contingencies; 161 pardon; 162 extent of executive power; 163 council; 164 ministers; 165 Advocate General; 166 business; 167 CM's duties; 174-176 sessions/address; 200-201 bills; 213 ordinance; 217 HC judges; 233-234 judicial service

Chief Minister

- Governor = de jure executive; CM = de facto executive (head of government); analogous to PM

Appointment, Oath, Term

- No procedure in Constitution; Art. 164: CM appointed by Governor
- Convention: leader of majority party; if none, Governor's discretion (usually largest party/coalition; confidence vote within a month)
- Majority need not be proved before appointment
- Non-member CM: 6 months to get elected, else ceases
- CM may belong to Assembly or Council
- Governor administers oaths of office and secrecy
- Term not fixed; Governor's pleasure, but cannot dismiss CM enjoying Assembly majority (S.R. Bommai, 1994)
- Salary and allowances fixed by state legislature
- Sarkaria order of preference when no absolute majority: (1) pre-poll alliance; (2) largest single party with others' support; (3) post-poll coalition, all joining; (4) post-poll alliance, some supporting from outside
- Sarkaria: confidence vote within 30 days; test rival claims on floor of House, not by Governor

Powers of CM

Sphere	Powers
Council	Ministers appointed on his recommendation; allocates/reshuffles portfolios; asks minister to resign or advises dismissal; presides; his resignation or death dissolves council
Governor	Principal channel of communication (Art. 167); advises on Advocate General, SPSC, State Election Commissioner
Legislature	Advises summoning/proroguing; recommends dissolution any time; announces policy
Other	Chairman of State Planning Board; vice-chairman of zonal council by rotation (1 year; Union Home Minister is chairman); member of Inter-State Council and NITI Aayog Governing Council

Articles on CM

- 163: Council with CM to aid and advise Governor
- 164: CM appointed by Governor; other ministers on CM's advice
- 166: Conduct of business
- 167: CM's duty to furnish information to Governor
- 177: Rights of ministers in the Houses

State Council of Ministers**Constitutional Provisions**

Article	Provision
163	Council with CM to aid and advise Governor; advice not enquirable in courts
164(1)	CM appointed by Governor; ministers on CM's advice
164(1A)	Council max 15% of Assembly strength, min 12 (91st Amendment, 2003)
164(1B)	Defection-disqualified member barred from ministership (91st Amendment)
164	Pleasure of Governor; collective responsibility to Assembly; oaths by Governor; salary by legislature
164(4)	Non-member minister ceases after 6 consecutive months
166	Executive action in Governor's name
167	CM's duties
177	Minister speaks in either House, votes only in own

- Shamsher Singh (1974): Governor acts on aid and advice except in discretion; his satisfaction = council's satisfaction
- Collective responsibility: no-confidence vote means all resign (including Council members); CM's resignation = council's resignation
- Individual responsibility: ministers removed only on CM's advice

- No legal responsibility: no countersignature; courts cannot enquire into advice
- Three categories: cabinet ministers, ministers of state, deputy ministers; Deputy CM not in Constitution
- Cabinet = cabinet ministers only; ministers of state/deputy ministers not cabinet members
- Cabinet committees: standing and ad hoc; set up by CM; reviewable by cabinet
- States have departments, not ministries

State Legislature

- Arts. 168-212; unicameral = Governor + Assembly; bicameral = Governor + Council + Assembly
- Six bicameral states: Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, Karnataka
- J&K Council abolished by J&K Reorganisation Act 2019; MP Council provided by 7th Amendment but never notified
- Art. 169: Parliament creates/abolishes Council on Assembly resolution (majority of membership + 2/3 present and voting); passed by simple majority, not an Art. 368 amendment

Acts under Art. 169

Act	Effect
West Bengal and Punjab Acts, 1969	Abolition
Andhra Pradesh Act, 1985	Abolition
Tamil Nadu Act, 1986	Abolition
Andhra Pradesh Act, 2005	Creation (revived 2007)
Tamil Nadu Act, 2010	Creation (never enforced; 2011 resolution against)

Assembly vs Council

Point	Assembly (Art. 170)	Council (Art. 171)
Election	Direct, adult franchise	Indirect
Strength	Max 500, min 60 (Arunachal, Sikkim, Goa 30; Mizoram 40; Nagaland 46)	Max 1/3 of Assembly, min 40
Duration	5 years; not continuing	Permanent; 1/3 retire every 2nd year; term 6 years
Emergency	Extended by Parliament 1 year at a time; ends within 6 months of emergency	-
Minimum age	25	30
Election system	Territorial constituencies	STV proportional representation

- Council composition: 1/3 local bodies; 1/12 graduates (3 years); 1/12 teachers (3 years, secondary or above); 1/3 MLAs (non-members); 1/6 nominated by Governor (literature, science, art, cooperative movement, social service)
- Council seats: UP 100; Maharashtra 78; Bihar 75; Karnataka 75; Andhra Pradesh 58; Telangana 40
- Assembly: UP largest (403); Sikkim smallest state (32); J&K UT 107 (24 PoK seats vacant)
- Delimitation Commission Acts: 1952, 1962, 1972, 2002
- 42nd Amendment froze seats at 1971 census till 2000; 84th Amendment extended to 2026; 87th Amendment: delimitation on 2001 census without changing seat numbers
- SC/ST reservation in Assembly extended till 2030 (104th Amendment, 2019)

Membership

Qualifications, Disqualifications

Aspect	Provision
Qualifications	Citizen; oath before person authorised by EC; age 25/30; elector in state (RP Act 1951); SC/ST for reserved seat
Constitutional disqualifications	Office of profit; unsound mind; undischarged insolvent; non-citizen/foreign allegiance; law of Parliament
RP Act 1951	Corrupt practices; conviction with 2+ years' imprisonment; failure to lodge election accounts; govt contract interest; director/office of profit in firm with 25% govt share; dismissal for corruption/disloyalty; promoting enmity, bribery; untouchability, dowry, sati
Decider	Governor after EC's opinion
Defection (Tenth Schedule)	Speaker/Chairman decides; judicially reviewable (Kihoto Hollohan, 1992)

- Members' oath before Governor or his nominee; penalty Rs 500 per day for sitting/voting without oath or when disqualified (Art. 193)
- Seat vacated: double membership; disqualification; resignation (to Speaker/Chairman); absence 60 days without permission; election void; expulsion; elected President/Vice-President; appointed Governor

Presiding Officers

Speaker/Deputy vs Chairman/Deputy

Point	Assembly	Council
Articles	178-181	182-185
Elected by	Assembly from members	Council from members
Resignation	Speaker to Deputy; Deputy to Speaker	Chairman to Deputy; Deputy to Chairman
Removal	Effective majority (all then members); 14 days' notice	Same
Salary	Fixed by legislature; charged on Consolidated Fund of State (Art. 186)	Same
Panel	Panel of chairmen by Speaker	Panel of vice-chairmen by Chairman

- Vacate if cease to be member
- Casting vote only in tie
- Speaker alone decides Money Bill status; chairs Business Advisory, Rules, General Purpose Committees
- Defection decided by Speaker (Assembly) or Chairman (Council)

Sessions and Procedure

- Governor summons; max gap 6 months
- Adjournment and sine die by presiding officer; prorogation by Governor; Council cannot be dissolved
- Quorum: 10 or 1/10 of members, whichever greater

- Decisions by majority of present and voting; presiding officer votes only on tie
- Language: official language(s) of state, Hindi or English; mother tongue with permission
- Ministers and Advocate General speak in either House, no vote (Art. 177)

Lapse of Bills on Assembly Dissolution

Bill	Lapses?
Pending in Assembly	Yes
Passed by Assembly, pending in Council	Yes
Pending in Council, not passed by Assembly	No
Passed, awaiting assent of Governor/President	No
Returned by President for reconsideration	No

Parliament vs State Legislature - Ordinary Bill

Point	Parliament	State Legislature
Deadlock	Second House rejects/amends/delays 6 months	Council rejects/amends/delays 3 months
Resolution	Joint sitting	No joint sitting; Assembly passes bill again
Second passage	Lok Sabha cannot override	If Council again rejects, amends, or delays 1 month, deemed passed in Assembly's form
Council delay	-	4 months (3 + 1)
Bill from upper House	Joint sitting possible	Dies if Assembly rejects

Money Bill

Point	Parliament	State Legislature
Introduced in	Lok Sabha only	Assembly only
Recommendation	President	Governor
By	Minister only	Minister only
Upper House	Cannot amend/reject; return within 14 days	Same
Lower House	Accepts or rejects recommendations	Same
Not returned in 14 days	Deemed passed	Deemed passed
Who certifies	LS Speaker	Assembly Speaker

- Bills reserved for President (Sarkaria): must reserve - bill endangering HC (Art. 200), water/electricity taxes (Art. 288), financial emergency bills (Art. 360)
- May reserve: Art. 31A, Art. 31C, Concurrent List repugnancy (Art. 254), trade restrictions (Art. 304), others at Governor's judgement

Council vs Assembly

Position of Council

Equal	Unequal
Ordinary bills (Assembly prevails)	Money Bill only in Assembly; Council merely recommends within 14 days

Equal	Unequal
Approval of ordinances	Speaker decides Money Bill
Ministers can be from either House	Delay of ordinary bill max 4 months
Reports of SFC, SPSC, CAG	Discusses budget, cannot vote on grants
Enlarging SPSC jurisdiction	No no-confidence motion; ministry responsible only to Assembly
	No role in electing President or Rajya Sabha members
	No effective say in ratifying constitutional amendments
	Existence depends on Assembly

- Council = dilatory/advisory chamber; weaker than Rajya Sabha
- House of Lords delays ordinary bill 1 year, money bill 1 month

Privileges (Art. 194)

Privileges	
Collective	Individual
Publish proceedings (44th Amendment protects press reports, not secret sittings)	No arrest in civil cases during session, 40 days before and after
Exclude strangers; secret sittings	Freedom of speech in House
Own rules	Exempt from jury service
Punish members/outside for contempt	May refuse to appear as witness during session
Immediate information of member's arrest	
Inquiries; summon witnesses	
Courts cannot enquire (Art. 212)	
No arrest/legal process in precincts without presiding officer's permission	

- Privileges extend to Advocate General and ministers, not Governor
- Art. 211: no discussion on conduct of SC/HC judges
- Articles: 168 constitution; 169 Councils; 170-171 composition; 172 duration; 173 qualifications; 174-176 sessions/address; 177 ministers' rights; 178-181 Speaker; 182-185 Chairman; 186 salaries; 188 oath; 189 voting/quorum; 190 vacation; 191 disqualification; 192 decision; 193 penalty; 194 privileges; 196-198 bills; 199 Money Bill; 200-201 assent/reservation; 202-207 financial procedure; 210 language; 212 courts; 213 ordinance

High Court

- First HCs: Calcutta, Bombay, Madras (1862); Allahabad (1866)
- Arts. 214-231; 7th Amendment: common HC for states/UTs (Art. 231)
- 25 HCs; 3 cover more than one state; Delhi only UT with own HC (1966); J&K and Ladakh share HC
- Parliament can extend/exclude HC jurisdiction over UT (Art. 230)

Composition and Appointment

- Chief Justice + other judges as President decides
- CJ: appointed after consulting CJI and Governor; other judges: also HC CJ; common HC: all governors
- Second Judges case (1993): CJI's opinion binding; Third Judges case (1998): CJI plus collegium of two senior-most SC judges

- 99th Amendment/NJAC Act 2014 struck down in Fourth Judges case (2015); collegium restored

Judges

Aspect	Provision
Qualification	Citizen; 10 years judicial office OR 10 years HC advocate
Age/jurist	No minimum age; no jurist provision
Oath	Before Governor or his nominee (Art. 219)
Salary (2018)	CJ Rs 2.50 lakh; Judge Rs 2.25 lakh per month
Pension	50% of last salary; charged on Consolidated Fund of India
Service conditions	Not varied to disadvantage except financial emergency
Retirement	62 years (15th Amendment, 1963); age disputes by President after CJI
Resignation	To President
Vacates	On appointment to SC or transfer
Expenses	Salaries/admin expenses on state Consolidated Fund (non-votable)

- Removal: same as SC judge; proved misbehaviour or incapacity; special majority in both Houses, same session; President's order
- Judges Enquiry Act 1968: motion by 100 LS / 50 RS members; 3-member committee (SC judge, HC Chief Justice, jurist)
- No HC judge impeached so far
- Transfer by President after CJI (Art. 222); compensatory allowance; 1977 and 1994 rulings: public interest only, judicially reviewable; Third Judges case: CJI plus 4 senior-most SC judges plus both HC CJs
- Acting CJ (Art. 223); additional judges up to 2 years (Art. 224); acting judge until permanent judge returns; none after 62
- Retired judges (Art. 224A): with consent of President and the judge

Independence of High Court

Appointment in consultation with judiciary; security of tenure; fixed service conditions
 Expenses charged on state Consolidated Fund (pension from Consolidated Fund of India)
 No discussion of judges' conduct in legislature (except impeachment)
 Retired permanent judges barred from practice (except SC and other HCs) (Art. 220)
 Contempt power; CJ appoints staff (Art. 229); jurisdiction cannot be curtailed

Jurisdiction

Jurisdiction and Powers

Type	Details
Original	Election disputes; revenue matters; fundamental rights; cases withdrawn for constitutional questions (Art. 228)
Original civil	Higher value cases in Calcutta, Bombay, Madras, Delhi; original criminal abolished by CrPC 1973

Type	Details
Writ (Art. 226)	Habeas corpus, mandamus, certiorari, prohibition, quo warranto; fundamental rights AND any other purpose; concurrent with SC (Art. 32), wider than it
Appellate civil	First appeals (law and fact); second appeals (law only); intra-court appeal to division bench; tribunal appeals to division bench
Appellate criminal	Sessions sentence above 7 years; death sentence needs HC confirmation
Supervisory (Art. 227)	All courts and tribunals except military; suo motu
Subordinate courts	Posting, promotion, leave of judges below district judge; withdraws constitutional cases
Court of record (Art. 215)	Perpetual record; contempt (also of subordinate courts, Contempt of Courts Act 1971); power of review
Judicial review	Arts. 13, 226; 42nd Amendment curtailed (Art. 226A), 43rd restored

- Chandra Kumar (1997): writ jurisdiction of HC and SC is basic structure; tribunals under HC writ jurisdiction

High Courts of India

Year	High Courts (jurisdiction/seat notes)
1862	Calcutta (WB, Andaman; Kolkata); Bombay (Maharashtra, Goa, DNH and DD; Mumbai); Madras (TN, Puducherry; Chennai, bench Madurai)
1866	Allahabad (UP; Prayagraj, bench Lucknow)
1884-1928	Karnataka 1884 (ex-Mysore); Patna 1916; J&K and Ladakh 1928 (Srinagar/Jammu)
1947-1949	Punjab and Haryana 1947 (with Chandigarh); Orissa 1948 (Cuttack); Gauhati 1948 (Assam, Nagaland, Mizoram, Arunachal); Rajasthan 1949 (Jodhpur)
1954-1975	Telangana 1954 (Hyderabad); Kerala 1956 (with Lakshadweep; Ernakulam); Madhya Pradesh 1956 (Jabalpur); Gujarat 1960; Delhi 1966; Himachal 1971 (Shimla); Sikkim 1975 (Gangtok)
2000	Chhattisgarh (Bilaspur); Jharkhand (Ranchi); Uttarakhand (Nainital)
2013	Manipur (Imphal); Meghalaya (Shillong); Tripura (Agartala)
2019	Andhra Pradesh (Amaravati)

- Names unchanged despite city/state renaming: Bombay, Calcutta, Madras, Orissa HCs
- Articles: 214 HCs; 215 court of record; 216 constitution; 217 appointment; 218 SC provisions apply; 219 oath; 220 practice ban; 221 salaries; 222 transfer; 223 acting CJ; 224 additional/acting; 224A retired; 225 existing jurisdiction; 226 writs; 227 superintendence; 228 transfer of cases; 229 staff; 230 UT; 231 common HC

Subordinate Courts

- Arts. 233-237
- District judges: appointed by Governor with HC; qualifications - not in govt service, 7 years advocate/pleader, HC recommendation

- Other judicial service: Governor with SPSC and HC (Art. 234); control vested in HC (Art. 235); 233A validated certain appointments (20th Amendment, 1966); 237 magistrates

Hierarchy

Level	Civil	Criminal
District	District Judge	Sessions Judge (same person; death sentence needs HC confirmation)
Middle	Subordinate Judge (unlimited pecuniary)	Chief Judicial Magistrate (up to 7 years)
Lowest	Munsiff (petty)	Judicial Magistrate (up to 3 years)
Metropolitan	City civil court	Metropolitan Magistrate

- Small Causes Courts: summary, final, HC can revise
- Panchayat courts: Nyaya Panchayat, Gram Kutchery, Adalati Panchayat, Panchayat Adalat

Tribunals

- Part XIV-A (Arts. 323A, 323B) inserted by 42nd Amendment (1976)

Art. 323A vs 323B

Point	323A	323B
Subject	Administrative (public service)	Taxation; foreign exchange/import-export; industrial/labour; land reforms; urban property ceiling; elections; food stuffs; rent/tenancy (75th Amendment, 1993)
Created by	Parliament only	Parliament and state legislatures
Hierarchy	None	Possible

- Chandra Kumar (1997): clauses excluding HC/SC jurisdiction unconstitutional; appeals go to HC division bench

Central Administrative Tribunal

Point	Detail
Act	Administrative Tribunals Act 1985; principal bench New Delhi
Benches	19 (17 at HC seats; Jaipur and Lucknow)
Jurisdiction	All-India and Central civil services, civilian defence staff; not defence forces, SC staff, Parliament secretariat
Members	Chairman + Members (Vice-Chairman abolished 2006); 1 Chairman, 69 Members sanctioned
Eligibility/term	Age 50+; 4 years or age 70 (Chairman) / 67 (Members) (Tribunals Reforms Act 2021)
Selection	Search-cum-selection committee headed by CJI or SC judge nominee
Procedure	Not bound by CPC; natural justice; Rs 50 fee

- State Administrative Tribunals set up by Centre on state's request; Joint Administrative Tribunal for 2+ states

Consumer Commissions

- Consumer Protection Act 2019 replaced 1986 Act; three-tier quasi-judicial
- 678 District, 35 State Commissions, National Commission (1988)

Point	District	State	National
Set up by	State govt	State govt	Centre
Composition	President + min 2 members	President + min 4	President + 4 to 11 (1 woman)
Pecuniary (2021 Rules)	Up to Rs 50 lakh	Rs 50 lakh to 2 crore	Above Rs 2 crore
2019 Act	Up to Rs 1 crore	1 to 10 crore	Above 10 crore
1986 Act	Up to Rs 20 lakh	20 lakh to 1 crore	Above 1 crore
Appeal to	State (45 days)	National (30 days)	Supreme Court (30 days)
Control	-	Over District	Over State

- National Commission: appointees by Centre on CJI/SC judge-led committee; age 50+; 4 years or 70 (President) / 67 (Members); hears appeals from CCPA (30 days)
- National and State Commissions can strike unfair contract terms; review own orders in 30 days

Lok Adalats and Other Courts

Legal Aid

- Art. 39A free legal aid; Legal Services Authorities Act 1987 (in force 9 Nov 1995) creates NALSA, SLISA, High Court Legal Services Committee, DLSA, Taluk Committee, SC Legal Services Committee
- Eligible: women and children; SC/ST; industrial workmen; disaster/violence victims; disabled; persons in custody; income up to Rs 1 lakh (Rs 5 lakh at SC); trafficking victims/beggars

Lok Adalat

- "People's Court"; Gandhian; ADR; first camp Gujarat 1982; statutory under 1987 Act
- Bench: judicial officer + lawyer + social worker
- Pending and pre-litigation cases; not non-compoundable offences
- Civil court powers (CPC 1908); award = civil decree; final, no appeal; no court fee, refund if settled

Types

Type	Features
National	Single day across country; monthly on specific subject since 2015
State	Continuous, daily, mobile (van), mega (single day in state)
Permanent (2002 amendment)	Public utility services; chairman present/former District Judge + 2 members; limit Rs 1 crore (2015); no court after application; award by majority, final

- Permanent Lok Adalat services: transport, postal/telegraph/telephone, power/water, sanitation, hospitals, insurance

Other Courts

Special Courts

Court	Key Facts
Family Courts (Act 1984)	State sets up with HC; mandatory in towns above 10 lakh; matrimonial, property, legitimacy, custody, maintenance; conciliation first; no lawyer as of right; one appeal to HC
Gram Nyayalayas (Act 2008)	JMFC court; Nyayadhikari appointed by state with HC; for intermediate panchayat; mobile; summary criminal procedure; not bound by Evidence Act; appeals to Sessions (criminal), District Court (civil) within 6 months; plea bargaining; setting up not mandatory
Commercial Courts (Act 2015)	District Commercial Courts and Appellate Courts; HC Commercial Division and Appellate Division; specified value Rs 3 lakh (2018, from Rs 1 crore); compulsory pre-institution mediation

- Gram Nyayalayas based on Law Commission 114th Report; Family Courts on 59th; Commercial Courts on 253rd

Commonly Confused

Governor cannot pardon death sentence; President can
 Council delays ordinary bill 4 months, Money Bill 14 days
 HC judge retires at 62; no jurist route; 10 years experience
 CAT and National Commission: 4 years or age 70/67

CHAPTER 09

Local Government, Union Territories, Scheduled Areas

Panchayati Raj

- Panchayati Raj = rural local self-government; 'Local Government' is Entry 5 of the State List
- Constitutionalised by the **73rd Amendment Act, 1992**

Evolution

Committees before constitutionalisation

Committee	Year	Key recommendation
Balwantrai Mehta	1957	Three-tier system (gram panchayat, panchayat samiti, zila parishad); "democratic decentralisation"
Ashok Mehta	1977-78	Two-tier (zila parishad + mandal panchayat of 15,000-20,000); 132 recommendations
Dantwala	1978	Block-level planning
Hanumantha Rao	1984	District planning
G.V.K. Rao	1985	Zila parishad pivotal; post of District Development Commissioner; "grass without roots"
L.M. Singhvi	1986	Constitutional recognition; new chapter; Nyaya Panchayats; judicial tribunals
P.K. Thungon	1988	Constitutional recognition; three tiers; 5-year tenure; State Finance Commission
V.N. Gadgil	1988	Constitutional status; 3 tiers; 5-year term; basis of 73rd Amendment Bill

- Balwantrai Mehta: village panchayat directly elected; samiti and parishad indirectly elected
- Balwantrai Mehta: panchayat samiti = executive body; zila parishad = advisory, coordinating, supervisory body
- Balwantrai Mehta: District Collector to be chairman of zila parishad
- Accepted by National Development Council in January 1958
- **Rajasthan** was the first state to adopt Panchayati Raj
- Inaugurated by PM Nehru on 2 October 1959 at Nagaur (Rajasthan)
- Andhra Pradesh adopted it next, in 1959
- Rajasthan: three-tier; Tamil Nadu: two-tier; West Bengal: four-tier
- Rajasthan-Andhra Pradesh pattern: panchayat samiti powerful (block = unit)
- Maharashtra-Gujarat pattern: zila parishad powerful (district = unit)

- Ashok Mehta Committee appointed Dec 1977 by Janata Government; report Aug 1978
- Ashok Mehta: district = first point of decentralisation; zila parishad = executive body
- Ashok Mehta: supersession only with elections within 6 months
- Ashok Mehta: Karnataka, West Bengal and Andhra Pradesh acted on it
- G.V.K. Rao Committee was appointed by the Planning Commission in 1985
- Thungon: Collector to be CEO of Zila Parishad; maximum supersession 6 months
- Constitutionalisation: Rajiv Gandhi's 64th Amendment Bill (July 1989) passed Lok Sabha, defeated in Rajya Sabha; V.P. Singh's Bill (Sept 1990) lapsed; Narasimha Rao's Bill (Sept 1991) became 73rd Amendment Act
- 73rd Amendment: passed by Lok Sabha 22 Dec 1992, Rajya Sabha 23 Dec 1992
- President's assent: 20 April 1993; in force from **24 April 1993**
- Study teams: V.R. Rao (1960, statistics), S.D. Mishra (1961), V. Iswaran (1961, administration), G.R. Rajgopal (1962, Nyaya Panchayats), R.R. Diwakar (1963, Gram Sabha), K. Santhanam (1963 finances; 1965 elections), R.K. Khanna (1965, audit), Daya Choubey (1976)
- Post-1992: Lalit Mathur Task Force (2001, devolution); V. Ramachandran Expert Group (2005, grassroots planning; also DRDA restructuring 2010); Rajwant Sandhu (2008, district planning manual); Mani Shankar Aiyar (2012, leveraging panchayats)

Remember - Panchayati Raj chairmen

Balwantrao Mehta = 3 tiers (1957); Ashok Mehta = 2 tiers (1978)
 L.M. Singhvi = constitutional recognition + Nyaya Panchayats (1986)
 G.V.K. Rao = "grass without roots"; Hanumantha Rao = district planning
 Gadgil = basis of 73rd Amendment Bill

73rd Constitutional Amendment Act, 1992

- Added **Part IX** 'The Panchayats' (Articles **243 to 243-O**)
- Added **Eleventh Schedule**: 29 functional items (Article 243-G)
- Gives practical shape to **Article 40** (DPSP: village panchayats)
- Brings PRIs under justiciable part of Constitution
- Provisions are of two types: compulsory (mandatory) and voluntary (discretionary)

Salient features

- **Gram Sabha**: all registered voters of a village within a panchayat area; powers as state legislature decides
- Three-tier system: village, intermediate, district
- State with population up to **20 lakh** need not constitute intermediate tier
- All members at all levels directly elected
- Chairpersons at intermediate and district levels: indirectly elected, from among elected members
- Village panchayat chairperson: elected as state legislature decides
- Chairperson and all members have the right to vote in meetings
- Seats reserved for SC/ST in proportion to population (all three levels); offices of chairperson also reserved for SC/ST
- Not less than **one-third** of seats reserved for women (including SC/ST women)
- Not less than one-third of chairperson offices reserved for women at each level
- State legislature may reserve seats/offices for backward classes
- SC/ST reservation ceases after period in Article 334 (till 2030)
- SC reservation not applicable to Arunachal Pradesh (83rd Amendment, 2000)
- Tenure: **5 years** from first meeting
- After dissolution, fresh elections within **6 months**
- If remainder of term is under 6 months, no election needed
- Reconstituted body serves only the remainder of the term
- Minimum age to contest: **21 years**

- Disqualification as per state legislature election law or any state law; questions referred to authority decided by state legislature
- **State Election Commission** (Art. 243K): superintends, directs, controls electoral rolls and elections
- State Election Commissioner appointed by Governor; removal like a High Court judge; service conditions not varied to his disadvantage
- State legislature may authorise taxes, assign state taxes, give grants-in-aid, constitute funds
- **State Finance Commission** (Art. 243-I): constituted by Governor after every **5 years**
- Governor places SFC recommendations with action taken report before state legislature
- Central Finance Commission suggests measures to augment state Consolidated Fund for panchayats
- Applies to Union Territories (President may modify)
- Bar on court interference in electoral matters (Art. 243-O): delimitation/seat allotment laws cannot be questioned in court
- Election disputes only through election petition before authority decided by state legislature
- Existing state laws continued for 1 year from 24 April 1993; existing panchayats continued till term ends

Commonly Confused - Panchayat definitions (Art. 243)

Village = specified by Governor by public notification

Intermediate level = between village and district, specified by Governor

Panchayat = institution of self-government for rural areas

- Part IX Articles: 243 definitions; 243A Gram Sabha; 243B constitution; 243C composition; 243D reservation; 243E duration; 243F disqualifications; 243G powers; 243H taxes and funds; 243-I Finance Commission; 243J audit; 243K elections; 243L UTs; 243M exempted areas; 243N continuance of laws; 243-O bar to courts

Exempted states and areas (Art. 243M)

- Nagaland, Meghalaya, Mizoram
- Scheduled Areas and Tribal Areas in states
- Hill areas of Manipur having district councils
- Darjeeling district of West Bengal (Darjeeling Gorkha Hill Council)
- Parliament may extend Part IX to these areas: done by **PESA Act, 1996**

Compulsory vs voluntary provisions

- Compulsory: Gram Sabha; three tiers; direct elections; indirect election of intermediate/district chairpersons; voting rights of chairperson and members; minimum age 21; SC/ST reservation; one-third women reservation; 5-year tenure and election within 6 months of supersession; State Election Commission; State Finance Commission every 5 years
- Voluntary: Gram Sabha powers; manner of village chairperson election; representation of lower-tier chairpersons and of MPs/MLAs in panchayats; backward class reservation; autonomy; devolution of Eleventh Schedule functions and plans; financial powers (taxes, grants-in-aid, funds)

Eleventh Schedule (29 subjects)

- Eleventh Schedule (29): 1 agriculture; 2 land improvement/reforms, soil conservation; 3 minor irrigation, watershed; 4 animal husbandry, dairying, poultry; 5 fisheries; 6 social and farm forestry; 7 minor forest produce; 8 small-scale industries, food processing; 9 khadi, village and cottage industries; 10 rural housing; 11 drinking water; 12 fuel and fodder; 13 roads, culverts, bridges, ferries, waterways; 14 rural electrification; 15 non-conventional energy; 16 poverty alleviation; 17 education; 18 technical and vocational education; 19 adult and non-formal education; 20 libraries; 21 cultural activities; 22 markets and fairs; 23 health and sanitation, hospitals, PHCs; 24 family welfare; 25 women and child development; 26 social welfare incl. handicapped and mentally retarded; 27 weaker sections, SC/ST welfare; 28 public distribution system; 29 maintenance of community assets

PESA Act, 1996 (Extension Act)

- Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996
- Extends Part IX to **Fifth Schedule areas** with modifications

- Ten states with Fifth Schedule areas: Andhra Pradesh, Telangana, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan
- Objective: self-rule for tribal population; Gram Sabha as nucleus of village governance
- Objective: preserve tribal traditions and customs
- Objective: higher-level panchayats must not assume powers of Gram Sabha or lower panchayats

Features of PESA

- State law must be consistent with customary law, social and religious practices
- Village = habitation or group of habitations/hamlets managing affairs by traditions
- Gram Sabha = persons in electoral rolls of village panchayat
- Gram Sabha safeguards traditions, cultural identity, community resources, customary dispute resolution
- Gram Sabha approves plans, programmes, projects before implementation
- Gram Sabha identifies beneficiaries under poverty alleviation programmes
- Village panchayat must obtain from Gram Sabha certificate of utilisation of funds
- ST reservation not less than **one-half** of seats; all chairperson posts at all levels reserved for STs
- State may nominate STs lacking representation at intermediate/district level: up to **one-tenth** of members
- Gram Sabha/panchayat consulted before land acquisition and resettlement
- Planning and management of minor water bodies: panchayats
- Gram Sabha recommendation mandatory for prospecting licence/mining lease for minor minerals and auction of minor mineral concessions
- Inconsistent laws cease after one year from assent
- PESA specific powers: regulate intoxicants; own minor forest produce; prevent land alienation; manage village markets; control money lending to STs; control social-sector institutions; control local plans incl. tribal sub-plans
- State legislature to follow pattern of Sixth Schedule in district-level administration of Scheduled Areas

Finances of Panchayati Raj

- Sources: Central Finance Commission grants (Art. 280); State Finance Commission devolution (Art. 243-I); state loans/grants; centrally sponsored schemes; internal resources (tax and non-tax)
- Gram Panchayats have own tax domain; intermediate and district tiers rely on tolls, fees and non-tax revenue
- PRI weaknesses: inadequate devolution of 3Fs (functions, funds, functionaries); bureaucratic control; tied funds; dependence on grants; reluctance to tax; weak Gram Sabha; parallel bodies; poor infrastructure

Municipalities

- Urban local government = governance of an urban area by elected representatives
- Constitutionalised by the **74th Amendment Act, 1992**
- Central ministries: Housing and Urban Affairs; Defence (cantonment boards); Home Affairs (UTs)

Evolution of urban bodies

- 1687-88: first municipal corporation at Madras; 1726: Bombay and Calcutta
- Lord Mayo's Resolution (1870): financial decentralisation
- Lord Ripon's Resolution (1882): 'Magna Carta' of local self-government; Ripon = father of local self-government
- Hobbhouse Royal Commission on Decentralisation (1907-09)
- 1919 Act: transferred subject; 1924 Cantonments Act; 1935 Act: provincial subject
- Urban committees: P.K. Wattal (1949-51, local finance); John Matthai (1953-54, taxation); Nur-ud-din Ahmed (1963-65, training); A.P. Jain (1963-66, rural-urban relationship; merge town area committees with PRIs); Rafiq Zakaria (1963, resources); B.S. Murthy (1965-68, service conditions); Girijapati Mukharji (1974, budget reform); K.N. Sahaya (1982); C.M. Correa (1985-88, National Commission on Urbanisation)
- A.P. Jain Committee: merge small town area committees with PRIs

- Constitutionalisation: Rajiv Gandhi's 65th Amendment (Nagarpalika) Bill (Aug 1989) defeated in Rajya Sabha; V.P. Singh's Bill (Sept 1990) lapsed; Narasimha Rao's Bill (Sept 1991) became 74th Amendment Act
- 74th Amendment in force from **1 June 1993**; President's assent April 1993

74th Constitutional Amendment Act, 1992

- Added **Part IX-A** 'The Municipalities' (Articles **243-P to 243-ZG**)
- Added **Twelfth Schedule**: 18 functional items (Article 243-W)
- Brings municipalities under justiciable part of Constitution

Salient features

- Three types of municipalities in every state:
 - **Nagar panchayat** for a transitional area (rural to urban)
 - **Municipal council** for a smaller urban area
 - **Municipal corporation** for a larger urban area
- Industrial township: Governor may specify; no municipality constituted
- Governor's factors: population, density, revenue, non-agricultural employment share, economic importance
- All members directly elected from wards (territorial constituencies)
- Chairperson election: as state legislature provides
- State legislature may give representation (without voting rights for first group): persons with municipal expertise
- Also: MPs and MLAs of the area; Rajya Sabha and Council members registered as electors in the area; chairpersons of committees (other than wards committees)
- **Wards Committees**: municipality with population of **3 lakh or more**
- Reservation: SC/ST in proportion to population; at least one-third seats for women (incl. SC/ST women)
- State legislature decides reservation of chairperson offices for SC/ST/women; may reserve for backward classes
- SC/ST reservation ceases per Article 334 (till 2030)
- Duration: **5 years**; fresh election within 6 months of dissolution
- Municipality must get reasonable opportunity of being heard before dissolution
- Disqualification: as for state legislature elections; minimum age 21
- **State Election Commission** conducts all municipal elections (Art. 243ZA)
- **State Finance Commission** (same as for panchayats) reviews municipal finance every 5 years
- Applies to UTs; in 2001 President directed Art. 243ZD and 243ZE not to apply to NCT of Delhi
- Does not apply to Scheduled Areas and Tribal Areas; does not affect Darjeeling Gorkha Hill Council
- Existing laws continued for 1 year from 1 June 1993
- Bar to court interference in electoral matters (Art. 243ZG)

Planning committees

District vs Metropolitan Planning Committee

Feature	District Planning Committee (Art. 243ZD)	Metropolitan Planning Committee (Art. 243ZE)
Purpose	Consolidate panchayat and municipal plans; draft district development plan	Draft development plan for metropolitan area
Elected members	Four-fifths	Two-thirds
Elected by	Elected members of district panchayat and municipalities	Elected members of municipalities and chairpersons of panchayats in the area
Representation ratio	Rural : urban population	Municipal : panchayat population
Plan forwarded by	Chairperson to state government	Chairperson to state government

- Metropolitan area = population of 10 lakh or more, in one or more districts, two or more municipalities/panchayats
- Part IX-A Articles: 243P definitions; 243Q constitution; 243R composition; 243S wards committees; 243T reservation; 243U duration; 243V disqualifications; 243W powers; 243X taxes and funds; 243Y Finance Commission; 243Z audit; 243ZA elections; 243ZB UTs; 243ZC exempted areas; 243ZD District Planning Committee; 243ZE Metropolitan Planning Committee; 243ZF continuance of laws; 243ZG bar to courts

Twelfth Schedule (18 subjects)

- Twelfth Schedule (18): 1 urban planning; 2 land use and building regulation; 3 economic and social development planning; 4 roads and bridges; 5 water supply; 6 public health, sanitation, solid waste; 7 fire services; 8 urban forestry, environment; 9 weaker sections incl. handicapped; 10 slum improvement; 11 urban poverty alleviation; 12 parks, gardens, playgrounds; 13 cultural, educational, aesthetic aspects; 14 burial/cremation grounds, electric crematoriums; 15 cattle ponds, prevention of cruelty to animals; 16 births and deaths registration; 17 street lighting, parking lots, bus stops, public conveniences; 18 slaughter houses and tanneries

Types of urban governments (eight)

Eight types of urban local bodies

Body	Created by	Nature / head	Key point
Municipal Corporation	State Act (UT: Parliament Act)	Council headed by Mayor	3 authorities: Council, Standing Committees, Commissioner
Municipality	State Act (UT: Parliament Act)	Council headed by President/Chairman	3 authorities: Council, Standing Committees, CEO
Notified Area Committee	Government gazette notification	Entirely nominated	Neither elected nor statutory
Town Area Committee	Separate state Act	Elected / nominated / mixed	Semi-municipal; small town
Cantonment Board	Cantonments Act, 2006 (Centre)	Partly elected, partly nominated	Under Defence Ministry
Township	Public enterprise	Town administrator	No elected members
Port Trust	Act of Parliament	Official chairman	Elected and nominated members
Special Purpose Agency	State Act or executive resolution	Function-based	Not subordinate to municipalities

Municipal Corporation

- For big cities (Delhi, Mumbai, Kolkata, Hyderabad, Bangalore)
- Council = deliberative and legislative wing; elected councillors plus a few nominated experts
- **Mayor**: elected for one-year renewable term in most states; ornamental, formal head; presides over council
- Standing committees deal with public works, education, health, taxation, finance
- **Municipal Commissioner**: chief executive authority; appointed by state government; generally IAS

Municipality

- For towns and smaller cities; also called municipal council, committee, board, borough municipality
- President/Chairman is the pivot of administration and has executive powers (unlike Mayor)
- Chief Executive Officer / Chief Municipal Officer appointed by state government

Notified Area Committee

- For fast-developing industrial town or town not yet fit for municipality

- All members including chairman nominated by state government

Cantonment Board

- Created and administered by the **Centre**; the other four of the first five types are state bodies
- Cantonments Act, 2006 repealed the Cantonments Act, 1924
- 62 cantonment boards
- Executive officer appointed by the **President**; belongs to central cadre
- Military officer commanding the station = ex-officio president
- Vice-president elected by elected members for 5 years
- Elected members' term: 5 years
- Cantonment categories by civil population: I above 50,000; II 10,000–50,000; III 2,500–10,000; IV below 2,500
- Category I board: 8 elected members, plus station commander, executive engineer, health officer, first class magistrate, 3 military officers, CEO

Special purpose agencies

- Town improvement trusts, urban development authorities, water supply and sewerage boards, housing boards, pollution control boards, electricity supply boards, city transport boards
- Function-based, not area-based

Municipal personnel

Municipal personnel systems

System	Features	Prevalent in
Separate	Each local body appoints and controls its own staff; not transferable; most widespread	Most states
Unified	State appoints; state-wide cadre transferable among local bodies	Andhra Pradesh, Tamil Nadu, UP, Rajasthan, MP
Integrated	Local and state staff in same service; transferable to state departments	Odisha, Bihar, Karnataka, Punjab, Haryana

- Training: All-India Institute of Local Self-Government, Mumbai (1927); Centre for Urban and Environmental Studies, New Delhi (1967) and regional centres (1968); National Institute of Urban Affairs (1976); Human Settlement Management Institute (1985)

Municipal revenue

- Five sources: tax revenue, non-tax revenue, grants, devolution, loans
- **Property tax** = most important tax revenue
- Other taxes: entertainment, advertisements, professional, water, animals, lighting, pilgrim, market tax, tolls on new bridges
- Cesses: library, education, beggary
- Non-tax: rent, fees and fines, royalty, profits, interest, user charges
- Devolution based on State Finance Commission
- Loans from financial institutions only with state government approval

Central Council of Local Government

- Set up **1954** under **Article 263**, by Presidential order
- Earlier 'Central Council of Local Self-Government'; renamed in 1980s
- Dealt with urban and rural till 1958; urban only thereafter
- Advisory body

- Chairman: Union Minister for Housing and Urban Affairs; members: state ministers for local self-government
- Functions: policy recommendation, legislative proposals, Centre-state cooperation, common programme of action, central financial assistance, review of central-aided work

Commonly Confused - Urban bodies

Mayor (corporation) = ornamental; Chairman (municipality) = pivot with executive powers
 Notified Area Committee = fully nominated; Cantonment Board = Centre-created, Defence Ministry
 Township and Port Trust: Township has no elected members; Port Trust created by Parliament
 Municipality types under 74th Amendment: Nagar Panchayat, Municipal Council, Municipal Corporation

Union Territories

- Article 1: territory of India = states, union territories, acquired territories
- Presently 28 states and **8 union territories**
- UTs are under direct control of Centre ('centrally administered territories'); departure from federalism
- Articles 239 to 241 in Part VIII deal with UTs
- Originated as 'scheduled districts' (1874) -> chief commissioner's provinces -> Part C States / Part D Territories
- Constituted as UTs in 1956 by 7th Amendment and States Reorganisation Act
- Former UTs now states: Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh, Goa
- Acquired from Portuguese: Goa, Daman and Diu, Dadra and Nagar Haveli; from French: Puducherry

UT	Year	Executive head	High Court	Legislature
Andaman and Nicobar Islands	1956	Lt. Governor	Calcutta	No
Delhi	1956	Lt. Governor	Own (since 1966)	Yes (70)
Lakshadweep	1956	Administrator	Kerala	No
Puducherry	1962	Lt. Governor	Madras	Yes (30)
Chandigarh	1966	Administrator	Punjab and Haryana	No
Jammu and Kashmir	2019	Lt. Governor	J&K and Ladakh	Yes (83)
Ladakh	2019	Lt. Governor	J&K and Ladakh	No
Dadra and Nagar Haveli and Daman and Diu	2020	Administrator	Bombay	No

- Lakshadweep: earlier 'Laccadive, Minicoy and Amindivi Islands' (till 1973)
- Delhi redesignated National Capital Territory in 1992; Pondicherry renamed Puducherry in 2006
- Dadra and Nagar Haveli (1961) and Daman and Diu (1962) merged in 2020 ("Minimum Government, Maximum Governance")
- 2019: J&K bifurcated into UT of J&K (with legislature) and UT of Ladakh (without legislature)
- Reasons: political/administrative (Delhi, Chandigarh); cultural (Puducherry, DNH and DD); strategic (Andaman and Nicobar, Lakshadweep); backward/tribal people (Mizoram, Manipur, Tripura, Arunachal)

Administration of UTs

- Administered by the **President** through an **administrator** appointed by him
- Administrator = agent of the President, not head of state like a Governor
- Designation (Lt. Governor / Chief Commissioner / Administrator) specified by President

- President may appoint a state Governor as administrator of adjoining UT; Governor acts independently of council of ministers
- Legislative assembly + council of ministers with CM: Puducherry (1963), Delhi (1992), J&K (2019)
- Parliament can legislate on all three lists for UTs, including those with legislatures
- Puducherry assembly: State and Concurrent Lists
- Delhi assembly: State and Concurrent Lists except public order, police, land
- J&K assembly: State and Concurrent Lists except public order and police
- **Article 240:** President may make regulations for Andaman and Nicobar, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh
- Puducherry: President regulations only when assembly suspended or dissolved
- Regulation has force of an Act of Parliament; can repeal or amend Parliament's Acts
- **Article 241:** Parliament may create High Court for UT or place under adjacent state High Court
- Delhi = only UT with its own High Court (1966)
- Ministry of Home Affairs = nodal ministry for UTs
- Five UTs without legislature have Home Minister's Advisory Committee / Administrator's Advisory Committee

Special provisions for Delhi

- **69th Amendment Act, 1991** (effective 1 Feb 1992): NCT of Delhi; Lt. Governor; legislative assembly and council of ministers
- **Article 239AA; 239AB:** failure of constitutional machinery
- Assembly: 70 members, directly elected; elections by Election Commission of India
- Laws on State and Concurrent Lists except public order, police, land; Parliament's law prevails
- Council of ministers: 10% of assembly strength = 7 (CM + 6)
- CM appointed by the **President**; other ministers by the President on CM's advice
- Ministers hold office during pleasure of President
- Council aids and advises Lt. Governor, except where he acts in discretion
- Difference of opinion between Lt. Governor and ministers; referred to President
- President can suspend the provisions (like Art. 356) on report of Lt. Governor or otherwise
- Lt. Governor can promulgate ordinances during recess; must be approved within **6 weeks** of reassembly
- Lt. Governor needs President's prior permission for ordinance; cannot issue when assembly dissolved or suspended

States vs Union Territories

Feature	States	Union Territories
Relation with Centre	Federal	Unitary
Power	Distributed with Centre	Under direct control of Centre
Autonomy	Yes	No
Administrative set-up	Uniform	Not uniform
Executive head	Governor	Administrator / Lt. Governor / Chief Commissioner
Head's status	Constitutional head	Agent of President
Parliament's legislation on State List	Not, except extraordinary circumstances	Any subject of the three lists

- UT Articles: 239 administration; 239A local legislatures; 239AA Delhi; 239AB failure of machinery; 239B ordinances; 240 regulations; 241 High Courts; 242 Coorg (repealed)

Remember - Union Territories

Lt. Governor: Delhi, Puducherry, Andaman and Nicobar, J&K, Ladakh

Administrator: Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Lakshadweep

Legislature: Delhi (70), Puducherry (30), J&K (83)

Only Delhi has its own High Court

Article 240 regulations: Andaman and Nicobar, Lakshadweep, DNH and DD, Ladakh (and Puducherry when assembly suspended/dissolved)

Scheduled and Tribal Areas

- **Article 244**, Part X: special administration for Scheduled and Tribal Areas
- **Fifth Schedule**: Scheduled Areas and Scheduled Tribes in any state except Assam, Meghalaya, Tripura, Mizoram; called "a constitution within a constitution"
- **Sixth Schedule**: tribal areas in Assam, Meghalaya, Tripura, Mizoram

Fifth Schedule - Scheduled Areas

- **President** declares, alters, rescinds Scheduled Areas in consultation with the Governor
- Criteria (not in the Constitution): preponderance of tribal population; compactness and reasonable size; viable administrative entity (district, block, taluk); economic backwardness
- Executive power of state extends to Scheduled Areas; Governor has special responsibility and reports annually to the President
- Centre can give directions to states on administration of Scheduled Areas
- **Tribes Advisory Council**: 20 members, three-fourths from ST representatives in Legislative Assembly
- Similar council may be set up in a state having STs but no Scheduled Areas, if President directs
- Governor may direct that Acts of Parliament or state legislature do not apply, or apply with modifications
- Governor may make regulations (after consulting TAC) on land transfer by STs, land allotment, money-lending; may repeal or amend Acts; require President's assent
- President appoints commission on Scheduled Areas and STs at any time, compulsorily after 10 years
- Commissions: U.N. Dhebar (appointed 1960, reported 1961); Dilip Singh Bhuria (2002, reported 2004)
- Ten states with Scheduled Areas: Andhra Pradesh, Telangana, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha, Rajasthan

Sixth Schedule - Tribal Areas

- Emphasis on **self-rule** (unlike the Fifth Schedule)
- Tribal areas constituted as **autonomous districts**; remain under state executive authority
- **Governor** organises and reorganises autonomous districts (areas, names, boundaries)
- Governor may divide a district into autonomous regions where different tribes live
- **District Council**: 30 members (4 nominated by Governor, 26 elected); 5-year term for elected members; nominated hold office at Governor's pleasure
- Each autonomous region has a separate regional council
- Councils make laws on land, forests, canal water, shifting cultivation, village administration, inheritance, marriage and divorce, social customs; Governor's assent required
- Can set up village councils/courts for tribal suits; High Court jurisdiction specified by Governor
- District council can manage primary schools, dispensaries, markets, ferries, fisheries, roads
- Regulate money lending and trading by non-tribals (Governor's assent needed)
- Councils assess and collect land revenue and levy specified taxes
- Acts of Parliament or state legislature do not apply, or apply with modifications
 - Assam: Governor directs for both Parliament's and state Acts
 - Meghalaya, Tripura, Mizoram: President directs for Parliament's Acts; Governor for state Acts
- Governor may appoint commission to report on administration; may dissolve council on its recommendation

Tribal Areas (ten autonomous districts)

State	Tribal areas
Assam (3)	North Cachar Hills, Karbi Anglong, Bodoland Territorial Areas District
Meghalaya (3)	Khasi Hills, Jaintia Hills, Garo Hills
Tripura (1)	Tripura Tribal Areas District
Mizoram (3)	Chakma, Mara, Lai

- Articles: 244 Scheduled and Tribal Areas; 244A autonomous state in Assam; 339 Union control over Scheduled Areas and ST welfare

Commonly Confused - Schedules

Fifth Schedule = Scheduled Areas (10 states); Sixth Schedule = Tribal Areas (4 NE states)

TAC: 20 members, 3/4 ST MLAs; District Council: 30 members (26 elected + 4 nominated)

Dhebar (1960-61) first Scheduled Areas commission; Bhuria (2002-04) second

CHAPTER 10

Constitutional Bodies

Election Commission

Basics

- Art. 324: superintendence, direction and control of elections to Parliament, State Legislatures, offices of President and Vice-President
- Permanent, independent, All-India body (common to Centre and states)
- Not concerned with Panchayat and Municipal elections: State Election Commission (Art. 243K, 243ZA)
- Single-member (CEC only) from 1950 till 15 Oct 1989
- 16 Oct 1989: two more ECs appointed (voting age lowered 21 to 18 by **61st Amendment, 1988**)
- Two posts abolished in Jan 1990; reverted to single member
- Oct 1993: two ECs appointed again; multi-member (3) ever since

Composition and Service Conditions

- CEC + such number of other ECs as the President fixes
- CEC acts as chairman when other ECs are appointed
- President may appoint regional commissioners after consulting the Commission
- Conditions of service and tenure: determined by the President (subject to law of Parliament)
- Act of **1991**: CEC and 2 ECs have equal powers, salary and perquisites (equal to a Supreme Court judge)
- Tenure: **6 years or 65 years**, whichever is earlier

Election Commission - Independence and Flaws

Aspect	Provision
CEC removal	Same manner and grounds as a Supreme Court judge (special majority of both Houses; proved misbehaviour or incapacity)
CEC service conditions	Cannot be varied to disadvantage after appointment
Other ECs / Regional Commissioners	Removed only on recommendation of CEC
Flaw 1	Constitution prescribes no qualifications of members
Flaw 2	Constitution does not specify term of members
Flaw 3	Retiring ECs not debarred from further government appointment

Appointment of CEC and ECs

- **Anoop Baranwal case (2023)**: SC directed appointment on recommendation of a 3-member committee until Parliament makes law
 - Prime Minister
 - Leader of Opposition in Lok Sabha (or leader of largest opposition party)
 - Chief Justice of India
- SC also desired same removal grounds for other ECs (on CEC recommendation) and no disadvantageous variation of their service conditions
- Parliament later enacted the CEC and Other ECs (Appointment, Conditions of Service and Term of Office) Act, **2023**: selection committee = PM, a Union Cabinet Minister nominated by PM, Leader of Opposition (CJI replaced)

Powers and Functions

Election Commission - Powers

Category	Function
Administrative	Determine territorial areas of constituencies (on basis of Delimitation Commission Act)
Administrative	Prepare and revise electoral rolls; register voters
Administrative	Notify election dates and schedules; scrutinise nominations
Administrative	Recognise political parties; allot election symbols; grant national/state party status
Administrative	Prepare roster for party publicity on radio and TV
Administrative	Cancel polls in case of rigging, booth capturing, violence
Administrative	Request President/Governor to requisition staff for elections
Quasi-judicial	Act as a court in disputes on recognition of parties and allotment of symbols
Quasi-judicial	Appoint officers to enquire into electoral arrangement disputes
Advisory	Advise President on disqualification of MPs
Advisory	Advise Governor on disqualification of state legislators
Advisory	Advise President whether elections can be held in a state under President's Rule (to extend emergency beyond one year)
Code	Lays down Model Code of Conduct for parties and candidates

- Assisted by Deputy Election Commissioners (civil servants, appointed by the Commission with tenure system)
- State level: **Chief Electoral Officer** (appointed by CEC in consultation with state government)
- District level: Collector is District Returning Officer
 - Appoints a Returning Officer for each constituency
 - Appoints a Presiding Officer for each polling booth

Remember - Election Commission

Art. 324; tenure 6 years / 65 years; salary equal to SC judge

Only CEC has SC-judge-type removal protection; other ECs removed on CEC recommendation

Not for Panchayat/Municipal polls (State Election Commission, Art. 243K / 243ZA)

Three ECs since Oct 1993

Union Public Service Commission

Composition and Tenure

- Articles **315 to 323** (Part XIV)
- Central recruiting agency; "watch-dog of merit system"
- Chairman + members appointed by the **President**; strength decided by President

- No qualifications prescribed, except **one-half** of members must have held office for **10 years** under Government of India or a state
- Tenure: **6 years or 65 years**, whichever is earlier
- Resigns to the President
- Acting chairman (a member) appointed by President when chairman's office is vacant or he is unable to function (**15th Amendment, 1963**)

Removal

- By President on grounds of:
 - Insolvency
 - Paid employment outside duties of office
 - Unfit by reason of infirmity of mind or body (in opinion of President)
- For **misbehaviour**: President refers to the Supreme Court; SC advice is **binding**
- President can suspend the chairman/member during SC enquiry
- Misbehaviour (defined): interested in a government contract or sharing its profit (other than as a company member in common with others)

Independence

- Removal only on constitutional grounds and manner (security of tenure)
- Service conditions cannot be varied to disadvantage after appointment
- Expenses charged on **Consolidated Fund of India** (non-votable)
- Chairman: not eligible for any further government employment after office
- Member: eligible to be UPSC chairman or SPSC chairman, but no other employment

Functions

- Conducts examinations for All-India Services, Central Services and Services of centrally administered territories
- Assists states (on request of two or more states) in joint recruitment schemes for special-qualification posts
- Serves a state's needs on request of Governor with President's approval
- Consulted on:
 - Methods of recruitment to civil services and posts
 - Principles of appointments, promotions and transfers
 - Disciplinary matters (including memorials/petitions)
 - Claims for reimbursement of legal expenses of civil servants
 - Claims for pension for injuries sustained in service
 - Any matter referred by President
- Consultation is **directory, not mandatory**; selection by UPSC gives no right to the post
- Additional functions can be conferred by **Parliament**
- Annual report to President, laid before Parliament with memorandum on non-accepted advice

Limitations (UPSC not consulted on)

- Reservations of posts for backward classes
- Claims of SCs and STs in appointments
- Temporary/officiating appointment not exceeding one year (when urgent)
- Bulk of Group C and Group D services
- Chairman/members of boards, commissions, tribunals
- Heads of diplomatic and consular missions (Ambassadors, High Commissioners)
- President can exempt matters by regulations (**UPSC Exemption from Consultation Regulations, 1958**), laid before Parliament for **14 days**

Role

- UPSC = central **recruiting** agency; DoPT = central **personnel** agency
- Not concerned with classification of services, pay, service conditions, cadre management, training
- DoPT is under Ministry of Personnel, Public Grievances and Pensions (created 1985; 3 departments: DoPT, Administrative Reforms and Public Grievances, Pensions and Pensioners' Welfare)
- Advice is only **advisory**, not binding
- CVC (executive resolution 1964; statutory status 2003) also consulted in disciplinary cases; UPSC has edge (constitutional body)

State Public Service Commission

- Same Articles 315-323 as UPSC
- Chairman + members appointed by the **Governor**; **removed only by the President**
- Strength and service conditions decided by Governor
- **One-half** of members must have held office for 10 years under Government of India or a state
- Tenure: **6 years or 62 years** (originally 60; raised by **41st Amendment, 1976**)
- **Suspension**: by Governor during SC enquiry (UPSC: President suspends)
- Removal grounds same as UPSC; misbehaviour referred to SC, advice binding
- Expenses charged on **Consolidated Fund of the State**
- Chairman of SPSC: eligible as chairman/member of UPSC or chairman of any other SPSC
- Member of SPSC: eligible as chairman/member of UPSC or chairman of that/any SPSC
- Functions mirror UPSC for state services; consultation directory
- Additional functions conferred by **state legislature**
- Annual report to Governor, laid before state legislature
- Not consulted on reservations for backward classes and SC/ST claims
- Governor makes exemption regulations (laid before state legislature for 14 days)

Joint State Public Service Commission (JSPSC)

- For two or more states; created by **Act of Parliament** on request of state legislatures (statutory, not constitutional)
- Chairman/members appointed by **President**; tenure 6 years / 62 years
- Suspended/removed by President; resigns to President

UPSC vs SPSC vs JSPSC

Point	UPSC	SPSC	JSPSC
Nature	Constitutional	Constitutional	Statutory
Appointed by	President	Governor	President
Age limit	65	62	62
Term	6 years	6 years	6 years
Removed by	President	President	President
Suspended by	President	Governor	President
Resignation to	President	Governor	President
Report to	President	Governor	Governors of states concerned
Expenses	Consolidated Fund of India	Consolidated Fund of State	Respective states

Articles 315-323 (Public Service Commissions)

Article	Subject
315	Public Service Commissions for Union and states
316	Appointment and term of members
317	Removal and suspension of members
318	Regulations on service conditions of members and staff
319	Prohibition on holding office after ceasing to be member
320	Functions
321	Power to extend functions
322	Expenses
323	Reports

Commonly Confused - PSCs

Governor appoints SPSC members but only President removes them
 UPSC age 65; SPSC and JSPSC age 62
 UPSC conditions fixed by President; SPSC by Governor
 JSPSC is statutory

Finance Commission

- Art. **280** (quasi-judicial body); Art. **281**: recommendations laid before Parliament
- Constituted by President every **fifth year** or earlier
- Composition: Chairman + **4** members; hold office as President specifies; eligible for reappointment
- Qualifications fixed by Parliament (**Finance Commission (Miscellaneous Provisions) Act, 1951**)
 - Chairman: experience in public affairs
 - Members: High Court judge (or qualified), specialised knowledge of government finance and accounts, wide experience in finance and administration, or special knowledge of economics

Functions (recommends to the President on)

- Distribution of net proceeds of taxes between Centre and states, and allocation among states
- Principles governing grants-in-aid to states from Consolidated Fund of India
- Measures to augment a state's Consolidated Fund to supplement resources of panchayats and municipalities (on basis of **State Finance Commission** recommendations; added by 73rd and 74th Amendments)
- Any other matter referred by President in interest of sound finance
- Recommendations are **advisory**, not binding; report laid before Parliament with action-taken memorandum
- "Balancing wheel of fiscal federalism"

Finance Commissions

Commission	Chairman	Appointed	Report	Period
First	K. C. Neogy	1951	1952	1952-57
Second	K. Santhanam	1956	1957	1957-62
Third	A. K. Chanda	1960	1961	1962-66
Fourth	P. V. Rajamannar	1964	1965	1966-69
Fifth	Mahavir Tyagi	1968	1969	1969-74

Commission	Chairman	Appointed	Report	Period
Sixth	Brahmananda Reddy	1972	1973	1974-79
Seventh	J. M. Shelat	1977	1978	1979-84
Eighth	Y. B. Chavan	1982	1984	1984-89
Ninth	N. K. P. Salve	1987	1989	1989-95
Tenth	K. C. Pant	1992	1994	1995-2000
Eleventh	A. M. Khusro	1998	2000	2000-05
Twelfth	C. Rangarajan	2002	2004	2005-10
Thirteenth	Vijay Kelkar	2007	2009	2010-15
Fourteenth	Y. V. Reddy	2013	2014	2015-20
Fifteenth	N. K. Singh	2017	2019 and 2020	2020-26
Sixteenth	Arvind Panagariya	2023	2025	2026-31

Remember - Finance Commission

Art. 280 (FC), Art. 281 (recommendations), Art. 243-I (State FC)

Chairman + 4 members; every 5th year

Advisory, not binding

First: K. C. Neogy; Fifteenth: N. K. Singh; Sixteenth: Arvind Panagariya

Goods and Services Tax Council

- **101st Amendment Act, 2016** introduced GST; inserted Art. **279-A**
- President constituted the Council by order on **15 Sept 2016**
- Secretariat at New Delhi; Union Revenue Secretary is ex-officio Secretary
- First constitutional **federal** body vested with powers for major GST decisions (cooperative federalism)
- Guided by need for harmonised GST structure and national market

Composition

- Union Finance Minister: **Chairperson**
- Union Minister of State in charge of Revenue or Finance
- Minister in charge of Finance/Taxation (or other Minister) nominated by each state
- State members choose a **Vice-Chairperson** among themselves (and decide his term)
- CBIC Chairperson: permanent invitee (non-voting)

Working

- Quorum: **one-half** of total members
- Decisions by majority of **not less than three-fourths** of weighted votes of members present and voting
 - Centre: **one-third** weightage
 - All states combined: **two-thirds** weightage

Functions (recommends on)

- Taxes, cesses, surcharges to be merged in GST
- Goods and services subject to or exempt from GST
- Model GST laws; principles of levy, apportionment of inter-state supplies, place of supply
- Threshold turnover limit for exemption
- GST rates including floor rates and bands
- Special rates for a specified period during natural calamity

- Special provisions for Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, Uttarakhand, and Jammu and Kashmir
- Date on which GST is levied on petroleum crude, high speed diesel, petrol, natural gas, aviation turbine fuel
- Mechanism to adjudicate disputes (Centre vs states; states vs states)
- Compensation to states for revenue loss for **five years** (Goods and Services Tax (Compensation to States) Act, 2017)

National Commission for SCs

- Constitutional body, **Art. 338**
- Other national commissions are statutory: NCW (1992), National Commission for Minorities (1993), NHRC (1993), NCPCR (2007)

Evolution

- Originally Art. 338: Special Officer (Commissioner) for SCs and STs
- 1978: non-statutory multi-member Commission for SCs and STs by Resolution
- 1987: renamed National Commission for SCs and STs (advisory)
- **65th Amendment, 1990**: multi-member National Commission for SCs and STs under Art. 338 (in force 12 March 1992)
- **89th Amendment, 2003**: bifurcated into NCSC (Art. 338) and NCST (Art. 338-A); separate bodies from **2004** (in force 19 Feb 2004)

Structure

- Chairperson, Vice-Chairperson and 3 other members
- Appointed by President by warrant under hand and seal
- Tenure: **3 years** under Rules; not eligible for more than **two terms**
- Service conditions determined by President

Functions

- Investigate and monitor safeguards for SCs; evaluate working
- Inquire into specific complaints of deprivation of rights
- Participate and advise in planning of socio-economic development; evaluate progress
- Present annual report (and special reports) to President
- Recommend measures for effective implementation of safeguards
- Other functions as President specifies
- Also performs same functions for the **Anglo-Indian Community** (Art. 338 clause 10)

Report and Powers

- Powers of a **civil court** in: summoning and examining on oath, discovery and production of documents, evidence on affidavits, requisitioning public records, summons for witnesses and documents

National Commission for STs

- Constitutional body, **Art. 338-A** (inserted by **89th Amendment, 2003**)
- Separate from 2004
- Composition, tenure (3 years, max two terms), appointment, functions, report and civil court powers identical to NCSC (with reference to STs)

Other Functions (specified by President, 2005)

- Ownership rights over minor forest produce for forest-dwelling STs
- Safeguard tribal rights over mineral and water resources
- Livelihood strategies and development of tribals
- Relief and rehabilitation of tribals displaced by development projects

- Prevent land alienation; rehabilitate those already alienated
- Involve tribals in protecting forests and social afforestation
- Full implementation of **PESA, 1996**
- Reduce and eliminate shifting cultivation

National Commission for BCs

- Indra Sawhney (Mandal) case 1992: SC directed a permanent statutory body to examine complaints of under-, over- and non-inclusion in backward class lists
- NCBC set up in **1993** by NCBC Act, 1993 (statutory)
- **102nd Amendment, 2018**: constitutional status; inserted Art. **338-B**; NCBC Act repealed (2018)
- 102nd Amendment also inserted **Art. 342-A** (President specifies socially and educationally backward classes)
- Composition: Chairperson, Vice-Chairperson, 3 members; tenure 3 years; max two terms (Rules 2018)
- Functions same as NCSC/NCST for socially and educationally backward classes
- **105th Amendment, 2021**: states exempted from consulting NCBC on preparing own list of backward classes

NCSC vs NCST vs NCBC

Point	NCSC	NCST	NCBC
Article	338	338-A	338-B
Amendment	65th (1990), 89th (2003)	89th (2003)	102nd (2018)
Members	Chair, Vice-Chair + 3	Chair, Vice-Chair + 3	Chair, Vice-Chair + 3
Tenure	3 years (max 2 terms)	3 years (max 2 terms)	3 years (max 2 terms)
State report goes to	Governor	Governor	State government
Separate body since	2004	2004	2018 (constitutional)

Commonly Confused - National Commissions

NCBC was statutory (1993) before 2018; NCSC/NCST constitutional since 1990/2003

NCBC state reports go to state government; NCSC/NCST reports go via Governor

Art. 338 clause 10: SCs include Anglo-Indian Community

Special Officer for Linguistic Minorities

- Art. **350-B** (Part XVII); inserted by **7th Amendment, 1956** (on States Reorganisation Commission recommendation)
- Special Officer appointed by the **President**
- Duty: investigate safeguards for linguistic minorities; report to President at intervals he directs
- President places reports before each House of Parliament and sends them to states concerned
- Constitution does not specify qualifications, tenure, salary, service conditions or removal
- Office created in **1957**; designated **Commissioner for Linguistic Minorities (CLM)**
- Three regional offices: **Belgaum, Chennai, Kolkata** (each headed by an Assistant Commissioner)
- Falls under **Ministry of Minority Affairs**; reports to President through the Union Minority Affairs Minister

Comptroller and Auditor General of India

Appointment, Term and Removal

- Art. **148**; head of Indian Audit and Accounts Department; "guardian of the public purse"
- Appointed by President by warrant under hand and seal
- Tenure: **6 years or 65 years**, whichever is earlier
- Resigns to the President

- Removed by President in same manner and grounds as a Supreme Court judge (special majority; proved misbehaviour or incapacity)

Independence

- Security of tenure
- Not eligible for any further office under Union or state government
- Salary and conditions determined by Parliament (equal to a SC judge)
- Salary, leave, pension and retirement age cannot be altered to disadvantage
- Service conditions of Audit Department staff prescribed by President after consulting CAG
- Administrative expenses charged on **Consolidated Fund of India**

Duties and Powers

- Art. **149**: Parliament prescribes duties; **CAG (Duties, Powers and Conditions of Service) Act, 1971**
- Audits:
 - Consolidated Fund of India, of each state and of each UT with a Legislative Assembly
 - Contingency Funds and Public Accounts of Centre and states
 - Trading, manufacturing, profit and loss accounts of departments
 - Bodies substantially financed from Centre or state revenues
 - Bodies receiving grants and loans for specific purposes
 - Receipts of Centre and states; stores and stock
 - Government Companies (Companies Act); Corporations whose statutes provide for CAG audit
 - Any body on request of President or Governor (e.g. local bodies)
- Art. **150**: advises President on form of accounts of Centre and states
- Art. **151**: audit reports of Union to President (laid before Parliament); of state to Governor (laid before state legislature)
- Art. **279**: ascertains and certifies **net proceeds** of any tax or duty (certificate is final)
- "Guide, friend and philosopher" of Public Accounts Committee
- Compiles and maintains accounts of **states**; relieved of Centre's accounts in **1976** (departmentalisation: separation of accounts from audit)
- Powers: inspect offices, examine transactions, call for records, decide extent and manner of audit

Role

- Three audit reports to President: on **appropriation accounts, finance accounts, public undertakings**
- Reports then examined by **Public Accounts Committee**
- Legal and regulatory audit: **obligatory**
- **Propriety audit** ("wisdom, faithfulness and economy"): discretionary
- **Performance audit** (economy, efficiency, effectiveness): covered by Finance Ministry OM, **2006**
- More freedom in audit of expenditure than of receipts, stores and stock
- Secret service expenditure: CAG accepts a certificate of competent authority
- Acts only as **Auditor-General**, not Comptroller (no control over issue of money from Consolidated Fund); in Britain CAG has both roles

Articles - CAG

Article	Subject
148	Comptroller and Auditor-General
149	Duties and powers
150	Form of accounts of Union and states
151	Audit reports

Remember - CAG

Art. 148; 6 years or 65 years; removed like SC judge
 Auditor-General only, not Comptroller, in practice
 Three reports: appropriation, finance, public undertakings
 Art. 279: certifies net proceeds of taxes

Attorney General of India

- Art. 76; highest law officer of India
- Appointed by **President**
- Qualification: qualified to be a Supreme Court judge
 - Indian citizen, and
 - High Court judge for 5 years, or High Court advocate for 10 years, or eminent jurist (in President's opinion)
- Term not fixed; removal procedure and grounds not in Constitution
- Holds office during **pleasure of the President**
- Remuneration as President determines
- Not a member of the Cabinet (Union Law Minister is)

Duties

- Advise Government of India on legal matters referred by President
- Perform other legal duties assigned by President
- Appear for Government in all Supreme Court cases
- Represent Government in reference by President under Art. 143
- Appear in any High Court when required by Government

Rights and Limitations

- Right of audience in all courts in India
- Right to speak and take part in proceedings of both Houses, joint sitting and any committee he is named a member of, but **no vote** (Art. 88)
- Enjoys privileges and immunities of an MP (Art. 105)
- Limitations:
 - Not to advise or hold a brief against Government of India
 - Not to advise or appear in cases where he advises/appears for Government
 - Not to defend accused in criminal prosecutions without Government permission
 - Not to accept directorship in a company without Government permission
 - Not to advise any ministry, department, statutory body or PSU unless reference comes via Ministry of Law and Justice (Department of Legal Affairs)

Advocate General of the State

- Art. 165; highest law officer in the state; counterpart of Attorney General
- Appointed by **Governor**
- Qualification: qualified as High Court judge
 - Indian citizen, and
 - Judicial office for 10 years, or High Court advocate for 10 years
- No provision for eminent jurist (unlike Supreme Court)
- Term not fixed; holds office during pleasure of Governor
- Remuneration as Governor determines
- Duties: advise state government on legal matters referred by Governor; other legal duties assigned by Governor
- Right to speak in both Houses of state legislature and committees (no vote) (Art. 177)

- Enjoys privileges of a state legislator (Art. 194)

Attorney General vs Advocate General

Point	Attorney General	Advocate General
Article	76	165
Appointed by	President	Governor
Qualification	Qualified as SC judge	Qualified as HC judge
Judicial/advocate experience	HC judge 5 yrs / HC advocate 10 yrs / jurist	Judicial office 10 yrs / HC advocate 10 yrs
Tenure	Pleasure of President	Pleasure of Governor
Remuneration	Fixed by President	Fixed by Governor
Rights in legislature	Art. 88	Art. 177
Privileges	Art. 105	Art. 194

Constitutional Prescriptions

Master Comparison - Appointment, Tenure, Removal

Constitutional Bodies - Appointment, Tenure, Removal

Body (Article)	Appointed by	Tenure	Removal / Resignation
Election Commission (324)	President	6 yrs / 65 yrs	CEC: like SC judge; ECs: on CEC recommendation
UPSC (315-316)	President	6 yrs / 65 yrs	President (SC enquiry for misbehaviour); resigns to President
SPSC (315-316)	Governor	6 yrs / 62 yrs	President; resigns to Governor
JSPSC (315-316)	President	6 yrs / 62 yrs	President; resigns to President
Finance Commission (280)	President	As President specifies	Reappointment allowed
NCSC / NCST / NCBC (338, 338A, 338B)	President	3 yrs (max 2 terms)	Terms by President
CAG (148)	President	6 yrs / 65 yrs	Like SC judge
Attorney General (76)	President	Pleasure of President	President at any time
Advocate General (165)	Governor	Pleasure of Governor	Governor at any time
State Election Commissioner (243K)	Governor	Determined by Governor	Like HC judge
Special Officer, Linguistic Minorities (350B)	President	Not specified	Not specified

Appointed / Elected By

Functionary	By	Article
President	Electoral college (elected MPs and MLAs)	54

Functionary	By	Article
Vice-President	Electoral college (all MPs)	66
PM, Union Ministers, Attorney General, CAG	President	75, 76, 148
Rajya Sabha members	Elected by MLAs / nominated by President	80
Deputy Chairman RS; Speaker and Deputy Speaker LS	Respective House members	89, 93
SC and HC judges	President	124, 217
Governor	President	155
CM, State Ministers, Advocate General	Governor	164, 165
Council members	Local bodies / graduates / teachers / MLAs / Governor	171
District judges	Governor	233
UT Administrator; CM and Ministers of Delhi	President	239, 239AA
State Election Commissioner	Governor	243K
Finance Commission; UPSC; JSPSC; CEC and ECs; NCSC / NCST / NCBC	President	280, 316, 324, 338-338B
SPSC	Governor	316
Special Officer for Linguistic Minorities	President	350B

Age

Age Prescriptions

Matter	Age	Article
President; Vice-President; Governor	35	58, 66, 157
Rajya Sabha; Legislative Council	30	84, 173
Lok Sabha; Legislative Assembly	25	84, 173
Panchayat; Municipality member	21	243F, 243V
Voter registration	18	326
Retirement: SC judge; UPSC member	65	124, 316
Retirement: HC judge; SPSC / JSPSC member	62	217, 316

Oaths

Oath Administered By

Functionary	Oath before	Article
President	CJI (or senior-most SC judge available)	60

Functionary	Oath before	Article
Governor	HC Chief Justice (or senior-most judge available)	159
Vice-President, MPs, SC judges, CAG	President (or person appointed by him)	69, 99, 124, 148
Union Ministers	President	75
State Ministers	Governor	164
State legislators, HC judges	Governor (or person appointed by him)	188, 219
Candidate for Parliament / State Legislature	Person authorised by Election Commission	84, 173

Term, Salary, Resignation

Term, Salary and Resignation

Functionary	Term	Salary fixed by	Resigns to
President	5 years (Art. 56)	Parliament (59)	Vice-President
Vice-President	5 years (67)	No salary; gets RS Chairman's (64)	President
PM, Union Ministers	Pleasure of President (75)	Parliament	PM: President
Attorney General	Pleasure of President (76)	President	President
CAG	6 yrs / 65 (by Act) (148)	Parliament	President
SC judges	Till 65	Parliament (125)	President
HC judges	Till 62	Parliament (221)	President
Governor	5 years / pleasure (156)	Parliament (158)	President
CM, State Ministers	Pleasure of Governor (164)	State Legislature	Governor
Advocate General	Pleasure of Governor (165)	Governor	Governor
Speaker (LS) / Deputy Speaker (LS)	Till LS term	Parliament (97)	Deputy Speaker / Speaker (94)
Deputy Chairman RS	Till member	Parliament (97)	Chairman (90)
Speaker / Deputy Speaker (Assembly)	Till Assembly term	State Legislature (186)	Deputy Speaker / Speaker (179)
MPs / state legislators	Till House term	Parliament (106) / State Legislature (195)	Chairman or Speaker (101, 190)
UPSC / JSPSC	6 years	President (318)	President
SPSC	6 years	Governor (318)	Governor
CEC and ECs; NCSC / NCST / NCBC	By President (subject to Parliament's law)	President (subject to law)	President
Panchayats / Municipalities	5 years (243E, 243U)	-	-
Co-operative Society Board	5 years (243ZJ)	-	-

Removals and Dissolutions

Removed / Dissolved By

Functionary / Body	By	Article
President, Vice-President	Parliament	61, 67
Rajya Sabha, Legislative Council	Not subject to dissolution	83, 172
Lok Sabha	President	85
Legislative Assembly	Governor	174
SC judges, HC judges, CAG, CEC, State Election Commissioner	President (on Parliament's recommendation)	124, 217, 148, 324, 243K
UPSC, SPSC, JSPSC members	President	317
Election / Regional Commissioners	President (on CEC recommendation)	324
District / Regional Council (Sixth Schedule)	Governor	Sixth Schedule

Submission of Reports

Report Submitted To

Body	Submitted to	Article
CAG	President (Union); Governor (state)	151
State Finance Commission; SPSC; JSPSC	Governor	243-I, 323
District / Metropolitan Planning Committee Chairperson	State Government	243ZD, 243ZE
Finance Commission; UPSC; NCSC / NCST / NCBC	President	280, 323, 338-338B
Commissions under 339, 340, 344; Special Officer (Linguistic Minorities)	President	339, 340, 344, 350B
Governor (President's Rule report; Scheduled Areas administration)	President	356, Fifth Schedule

CHAPTER 11

Non-Constitutional Bodies

Non-Constitutional Bodies

Comparison of Bodies

Year, basis and nodal ministry

Body	Year	Nature / Basis	Nodal Ministry
NITI Aayog	1 Jan 2015	Non-statutory; Cabinet resolution	Planning (as listed)
NHRC	1993	Statutory; Protection of Human Rights Act, 1993	Home Affairs
SHRC	Under 1993 Act	Statutory; set up by state	State govt
NCW	1992	Statutory; NCW Act, 1990	Women and Child Development
NCPCR	2007	Statutory; CPC Act, 2005	Women and Child Development
NCM	1993 (1978 non-statutory)	Statutory; NCM Act, 1992	Minority Affairs
CIC / SIC	2005	Statutory; RTI Act, 2005	Personnel / State
CVC	1964 (statutory 2003)	Resolution, then CVC Act, 2003	Personnel
CBI	1963	Non-statutory; MHA resolution; DSPE Act, 1946	Personnel (DoPT)
Lokpal	2013 Act	Statutory; Lokpal and Lokayuktas Act, 2013	Personnel
NIA	2009	Statutory; NIA Act, 2008	Home Affairs
NDMA	2005 (notified 2006)	Statutory; Disaster Management Act, 2005	Home Affairs
BCI	1961	Statutory; Advocates Act, 1961	Law and Justice
Law Commission	1955 (first, independent India)	Non-statutory; executive order	Law and Justice
Delimitation Commission	1952 (first)	Statutory; Delimitation Act	Law and Justice
North Eastern Council	1972	Statutory; NEC Act, 1971	DONER

Composition, appointment, tenure and removal

Body	Composition	Appointed by	Tenure	Removed by
NHRC	Chair + 5 members (+7 ex-officio)	President; committee of PM, Speaker, RS Dy Chairman, LoPs of both Houses, Home Minister	3 yrs or 70 yrs; re-appointable	President; SC inquiry for misbehaviour
SHRC	Chair + 2 members	Governor; committee of CM, Speaker, Home Minister, LoP	3 yrs or 70 yrs; re-appointable	President (not Governor); SC inquiry
NCW	Chair + 5 members + member-secretary	Central Govt	3 yrs	Central Govt
NCPCR	Chair + 6 members (2 women)	Central Govt; 3-member committee for Chair	3 yrs; max 2 terms; age 65 / 60	Central Govt
NCM	Chair + Vice-Chair + 5 members	Central Govt	3 yrs	Central Govt
CIC	CIC + up to 10 ICs	President; PM, LoP (LS), Union Cabinet Minister	As Centre prescribes or 65; no reappointment	President; SC inquiry
SIC	SCIC + up to 10 SICs	Governor; CM, LoP (Assembly), Cabinet Minister	As Centre prescribes or 65; no reappointment	Governor; SC inquiry
CVC	Commissioner + up to 2 Vigilance Commissioners	President; PM, Home Minister, LoP (LS)	4 yrs or 65 yrs	President; SC inquiry
Lokpal	Chair + max 8 members	President; PM, Speaker, LoP (LS), CJI or nominee, eminent jurist	Not in book	Not in book
NDMA	PM + up to 9 members	PM nominates	Not fixed	Not applicable
BCI	1 per State Bar Council + AG + SG	Elected	Chair and Vice-Chair 2 yrs	Not applicable
NEC	8 Governors + 8 CMs + 3 nominees	President	Not fixed	Not applicable

Remember

NHRC, CIC, CVC: appointed by President on committee recommendation
 NCW, NCM, NCPCR: appointed and removed by Central Govt
 SHRC: appointed by Governor but removed only by President
 SIC: appointed and removed by Governor

NITI Aayog

- Established 1 January 2015; successor to Planning Commission (scrapped 13 August 2014)
- Neither constitutional nor statutory; created by Cabinet resolution

- Premier policy 'Think Tank'; 'bottom-up' approach; cooperative federalism; 'Team India'

NITI Aayog structure

Organ	Details
Chairperson	Prime Minister
Governing Council	CMs of all states, CMs of UTs with legislatures (Delhi, Puducherry, J&K), Lt. Governors of other UTs
Regional Councils	For issues affecting more than one state; specified tenure; chaired by NITI Chairperson or nominee
Vice-Chairperson	Appointed by PM; Cabinet Minister rank
Full-time Members	Minister of State rank
Part-time Members	Maximum 2; rotation
Ex-officio Members	Maximum 4 Union Ministers nominated by PM
CEO	Appointed by PM; Secretary rank; fixed tenure

- Four function heads: policy and programme framework; cooperative and competitive federalism; monitoring and evaluation; think-tank/knowledge and innovation hub
- Two hubs: Team India Hub; Knowledge and Innovation Hub
- Seven guiding principles: Antyodaya, Inclusion, Village, Demographic dividend, People's participation, Governance, Sustainability
- Governance shift: Outlay to Output to Outcome
- Indices: School Education Quality, State Health, Composite Water Management, SDG, India Innovation, Export Competitiveness
- Aspirational Districts Programme: monthly delta rankings
- Initiatives: DSSS and SATH
- NILERD (formerly IAMR, est. 1962; renamed 2014): autonomous body; campus at Narela
- DMEO (2015): attached office; merged Programme Evaluation Organisation (1952) and Independent Evaluation Office (2010)

Planning Commission vs NITI Aayog vs NDC

Feature	Planning Commission	NITI Aayog	NDC
Established	March 1950	2015	August 1952
Basis	Executive resolution	Executive resolution	Executive resolution
Status	Non-constitutional, non-statutory	Non-constitutional, non-statutory	Non-constitutional, non-statutory
Head	PM	PM	PM
Executive head	Deputy Chairman	Vice-Chairperson / CEO	None
State representation	None	CMs in Governing Council	All CMs

- Planning Commission followed Advisory Planning Board (1946, K.C. Neogi); advisory staff agency
- Critics: 'Super Cabinet', 'Parallel Cabinet', 'Fifth Wheel of the Coach'
- NDC: Union Cabinet Ministers members since 1967; last (57th) meeting 27 December 2012 (12th Plan)
- NDC not formally abolished

National Human Rights Commission

- Statutory; Protection of Human Rights Act, 1993; headquarters Delhi

- Watchdog of rights to life, liberty, equality, dignity (Constitution or international covenants ICCPR and ICESCR; India acceded 10 April 1979)
- Chairperson: any former Chief Justice of India or SC Judge (2019 Amendment)
- Members: serving or retired SC Judge; serving or retired HC Chief Justice; 3 persons with human-rights knowledge (at least 1 woman)
- Seven ex-officio members: chairpersons of NCM, NCSC, NCST, NCW, NCBC, NCPCR and Chief Commissioner for Persons with Disabilities
- Sitting judge appointed only after consulting CJI
- Tenure: 3 years or age 70; re-appointable; barred from further government employment
- President removes on: insolvency; paid outside employment; infirmity of mind or body; unsound mind; conviction with imprisonment
- Proved misbehaviour or incapacity: President refers to Supreme Court; removal if SC upholds
- Service conditions fixed by Centre; cannot be varied to disadvantage

Functions and Powers

- Inquire into violation or negligence by public servant (suo motu, petition or court order)
- Intervene in court proceedings; visit jails; review safeguards and terrorism factors
- Study treaties; promote research, literacy; encourage NGOs
- Powers of civil court; own investigating staff
- Cannot inquire into matter after 1 year of act
- Recommends compensation, prosecution, interim relief; may approach SC or HC
- Recommendations not binding; action taken reported within 1 month
- Armed forces: limited role; action taken within 3 months
- Reports laid before legislatures with memorandum of action taken

Protection of Human Rights (Amendment) Act, 2019

Provision	Change
NHRC Chairperson	Any SC Judge eligible (earlier only former CJI)
Human-rights members	2 to 3, at least 1 woman
Ex-officio members	Added NCBC, NCPCR chairpersons and Chief Commissioner for Disabilities
Term (NHRC, SHRC)	5 years reduced to 3; re-appointment allowed
SHRC Chairperson	Any HC Judge eligible (earlier only former Chief Justice)
UTs	SHRC may handle UTs except Delhi (NHRC handles Delhi)
Administration	Secretary-General (NHRC) / Secretary (SHRC) exercise administrative and financial powers

State Human Rights Commission

- Statutory; constituted by state government under 1993 Act
- Inquires only into State List and Concurrent List subjects
- Does not inquire if NHRC or another statutory commission is inquiring
- Composition: Chair (retired HC Chief Justice or Judge) + 2 members (serving/retired HC Judge or District Judge with 7 years' experience; one human-rights expert)
- Governor appoints on committee of CM, Speaker, Home Minister, LoP (+ Council Chairman and LoP if Council exists)
- Sitting HC Judge or District Judge appointed after consulting HC Chief Justice
- Tenure 3 years or age 70; removable only by President on same grounds as NHRC

- 1-year limit; action taken in 1 month; report to state government
- Human Rights Courts: one per district; state sets up with HC Chief Justice's concurrence; Special Public Prosecutor (advocate of 7 years' practice)

National Commission for Women

- Statutory, autonomous; NCW Act, 1990 (in force 31 January 1992)
- Origin: Committee on Status of Women in India (1974); National Perspective Plan (1988)
- Nodal ministry: Women and Child Development (separate Ministry since 2006)
- Chair committed to women's cause + 5 members + member-secretary; at least one SC and one ST member
- Member-secretary: management/sociology expert or Union civil service officer
- All nominated by Central Govt; tenure 3 years
- Removal by Centre: undischarged insolvent; moral turpitude conviction; unsound mind; refuses to act; absent 3 consecutive meetings; abuse of position
- Fourteen-point mandate: investigate safeguards; suo motu notice; inspect jails and remand homes; fund litigation; evaluate progress
- Powers of civil court; can co-opt non-members without vote
- Complaints registered under 23 heads
- Parivarik Mahila Lok Adalat: family and marriage disputes
- Vishaka vs State of Rajasthan (1997): workplace sexual harassment complaints mechanism

National Commission for Protection of Child Rights

- Statutory; set up 2007 under Commissions for Protection of Child Rights Act, 2005
- Child: below 18 years (UN Convention on Rights of the Child, 1989; India ratified 1992)
- Autonomous; Ministry of Women and Child Development
- Chair (eminent in child welfare) + 6 members, at least 2 women
- Chair appointed on recommendation of 3-member selection committee under the Minister
- Tenure 3 years; max 2 terms; age cap Chair 65, members 60
- Centre removes: proven misbehaviour or incapacity (Chair); insolvency; paid job; refuses to act; unsound mind; abuse of office; moral turpitude; absent 3 meetings
- Powers of civil court; cannot inquire into matter pending before a State Commission or other Statutory Commission
- Additional roles: RTE Act, 2009 (review, inquire); POCSO Act, 2012 (monitor); Juvenile Justice Act, 2015 (monitor)
- State Commission: same structure; appointed and removed by state government
- Children's Courts: Court of Session specified by state with HC Chief Justice's concurrence

National Commission for Minorities

- 1978: Minorities Commission by MHA resolution (12 January 1978)
- NCM Act, 1992 (in force 17 May 1993): statutory; first statutory commission 1993
- Autonomous; Ministry of Minority Affairs (carved out 2006)
- 'Minority' not defined; Centre notifies
- 1993 notified: Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis)
- Jains added 27 January 2014
- Chair + Vice-Chair (added 1995 Amendment) + 5 members, nominated by Centre; five including Chair from minority communities
- Tenure 3 years; removal grounds same as NCW
- Nine-point mandate: evaluate development; monitor safeguards; look into complaints
- Powers of civil court; annual report laid before Parliament

Commonly Confused

NCW: Act 1990, commission 1992; NCPCR: Act 2005, commission 2007; NCM: Act 1992, commission 1993
 NCW 5 members; NCPCR 6 members; NCM Vice-Chair + 5 members
 NCPCR alone has max 2 terms and age caps
 All three: appointed and removed by Central Govt

Central Information Commission

- Established 2005 under RTI Act, 2005; statutory
- Decides complaints and appeals about Central offices, PSUs, UTs
- CIC + up to 10 ICs; President appoints on PM (Chair), LoP in Lok Sabha, Union Cabinet Minister
- No recognised LoP: leader of single largest opposition group
- Not MP/MLA, no office of profit, no party link, no business
- Tenure as prescribed by Centre (2019 Amendment) or age 65; no reappointment
- IC may become CIC; total tenure cap 5 years
- Removal by President: insolvency; moral turpitude conviction; paid employment; infirmity; prejudicial financial interest
- Proved misbehaviour or incapacity: SC inquiry
- Complaints: no PIO; refusal; no reply in time; unreasonable fees; incomplete or false information
- Suo motu inquiry; civil court powers; may examine any record
- Can order information in a form, appoint PIO, compensation, penalties
- Penalty on PIO: Rs 250 per day, maximum Rs 25,000
- Annual report to Centre laid before Parliament

RTI (Amendment) Act, 2019

Aspect	Before	After
Term (CIC, IC, SCIC, SIC)	5 years	As prescribed by Centre
CIC salary	Like CEC	Prescribed by Centre
IC / SCIC salary	Like Election Commissioner	Prescribed by Centre
SIC salary	Like state Chief Secretary	Prescribed by Centre
Pension deduction	Provided	Removed

State Information Commission

- Under RTI Act, 2005; SCIC + up to 10 SICs (number varies)
- Governor appoints on CM (Chair), LoP in Assembly, Cabinet Minister nominated by CM
- Tenure and service conditions prescribed by Centre; age 65; no reappointment
- Governor removes on same grounds as CIC (SC inquiry for misbehaviour)
- Same powers and penalties as CIC; report to state legislature

Commonly Confused

CIC removed by President; SIC by Governor
 Both: service conditions fixed by Central Government
 Both: penalty Rs 250/day up to Rs 25,000

Central Vigilance Commission

- Main anti-corruption agency of Centre; apex vigilance institution
- Established 1964 by resolution on Santhanam Committee (1962-64); statutory via CVC Act, 2003
- Designated agency for whistle-blower complaints (PIDPI Resolution, 2004)

- Central Vigilance Commissioner + up to 2 Vigilance Commissioners
- President appoints (warrant under hand and seal) on PM, Home Minister, LoP (Lok Sabha)
- Tenure 4 years or age 65; barred from further government employment
- Removal by President on same grounds as CIC; SC inquiry for misbehaviour
- Salary: Commissioner like UPSC Chairman; Vigilance Commissioner like UPSC member
- Organisation: Secretariat; Chief Technical Examiners' Wing (technical audit of works); Commissioners for Departmental Inquiries
- Superintendence over CBI only for Prevention of Corruption Act, 1988 offences
- Inquires into AIS and Group A officers; reviews CBI investigations and pending sanctions
- Centre must consult CVC on vigilance and disciplinary rules
- Disagreement with advice: reasons in writing
- Jurisdiction: AIS, Group A, Scale V+ in PSBs, Grade D+ in RBI, NABARD, SIDBI, Managers+ in general insurance, Senior Divisional Managers+ in LIC
- Annual report to President laid before Parliament
- Chief Vigilance Officer: head of vigilance division in ministries

Whistle Blowers Protection Act, 2014

- Protects identity of whistle blowers
- Competent authority at present: CVC
- False or frivolous complaint: up to 2 years' prison and fine up to Rs 30,000
- Anonymous disclosures not acted on
- Not applicable to Special Protection Group

Central Bureau of Investigation

- Origin: Special Police Establishment (1941, War and Supply Department)
- DSPE Act, 1946 moved it to Home Department
- CBI established 1963 by MHA resolution; DSPE merged as division
- Non-statutory; powers from DSPE Act, 1946; under DoPT
- Motto: Industry, Impartiality and Integrity
- National Central Bureau of Interpol in India
- State consent required to operate in a state (except railway areas)
- CBI: corruption, economic offences, organised crime; NIA: terrorism

CBI Director

Aspect	Provision
Appointment	Centre on committee of PM, LoP (LS), CJI or SC Judge nominated by CJI (Lokpal Act, 2013)
No recognised LoP	Leader of single largest opposition party (2014 Amendment)
Tenure	Fixed 2 years (CVC Act, 2003)
Extension	Up to 5 years total, 1 year at a time (DSPE Amendment 2021)
Director of Prosecution	Appointed on CVC recommendation
SP rank and above	Committee: CVC, Vigilance Commissioners, Home Secretary, DoPT Secretary

- Functions: Central employee corruption; fiscal and economic laws; organised crime; coordinate anti-corruption agencies; state cases on request
- Conventional crimes only on state request or court direction

- Section 6A (prior Centre approval for Joint Secretary and above) struck down by Supreme Court (2014) as violating Article 14

Commonly Confused

CVC: advisory vigilance body; 1964 resolution; statutory 2003
CBI: investigating agency; 1963 resolution; non-statutory

Lokpal and Lokayuktas

- Ombudsman first in Sweden (1809); Finland 1919; Denmark 1955; Norway 1962; New Zealand 1962 (first Commonwealth); UK 1967
- Ombudsman cannot reverse decisions; only reports
- France: Administrative Courts; USSR/China: Procurator System
- First ARC (1966-70, Morarji Desai) recommended Lokpal and Lokayukta
- Ten bills: 1968, 1971, 1977, 1985, 1989, 1996, 1998, 2001, Aug 2011, Dec 2011
- 1989 bill withdrawn; Aug 2011 bill withdrawn; Dec 2011 bill enacted as 2013 Act

Lokpal and Lokayuktas Act, 2013

- Lokpal at Centre; Lokayukta in states
- Chairperson + max 8 members; 50% judicial members; 50% from SC, ST, OBC, minorities, women
- Selection Committee: PM, Speaker, LoP (LS), CJI or SC Judge nominee, eminent jurist nominated by President
- Search Committee assists; also 50% reservation
- Jurisdiction: PM (with exclusions), Ministers, MPs, Groups A to D
- Superintendence over CBI for referred cases
- Attachment of property of public servants even during prosecution
- Lokpal grants prosecution sanction
- Foreign donations above Rs 10 lakh per year (FCRA) covered; government-aided institutions excluded
- Lokayukta must be set up by states within 365 days
- Maximum PC Act punishment raised from 7 to 10 years; minimum 3 years (Sections 7, 8, 9, 12), 2 years (Section 15)

Timelines under Lokpal Act

Stage	Time
Preliminary enquiry	3 months + 3 months
Investigation	6 months + 6 months at a time
Trial	1 year + 1 year
Limitation for complaints	7 years

- Drawbacks: no suo motu power; no anonymous complaints; opaque process for PM complaints

Lokayuktas

- Maharashtra first (1971); Odisha passed Act earlier (1970)
- Structure varies (Lokayukta and Upalokayukta)
- Appointed by Governor; typical tenure 5 years or 65
- Recommendations only advisory
- Annual report to Governor, laid before state legislature

National Investigation Agency

- Constituted 2009 under NIA Act, 2008 (after 26/11 Mumbai attacks)

- Central counter-terrorism agency; headquarters New Delhi; under MHA
- Headed by Director-General appointed by Centre
- TFFC Cell: fake currency and terror funding
- Investigates and prosecutes offences in Schedule of the NIA Act
- Concurrent jurisdiction over sovereignty, terror attacks, hijacking, nuclear installations, WMD
- Second ARC (Moily) recommended such an agency

NIA (Amendment) Act, 2019

Provision	Details
Extra-territorial reach	Scheduled offences abroad against Indians or Indian interests
Powers	NIA officers have police powers in India and outside
Special Courts	Sessions Courts designated by Centre or states
New offences	Human trafficking, counterfeit currency, prohibited arms, cyber-terrorism, explosives

National Disaster Management Authority

- Disaster Management Act, 2005 (after 2004 tsunami); constituted 2005 by executive order, notified 2006
- Earlier: High Powered Committee (1999), National Committee (2001, after Gujarat earthquake)
- Apex body; under Ministry of Home Affairs
- PM ex-officio Chairperson + up to 9 members; Vice-Chairperson has Cabinet rank, others MoS rank
- Functions: policies; approve National Plan; guidelines for SDMA; coordinate enforcement; recommend mitigation funds
- General superintendence of NDRF
- Emergency procurement without tenders
- NIDM (New Delhi) guided by NDMA

NDMA vs SDMA vs DDMA

Authority	Chairperson	Members	Others
NDMA	Prime Minister	Up to 9	Vice-Chairperson designated
SDMA	Chief Minister	Up to 9	State Executive Committee Chair as CEO
DDMA	Collector / DM / DC	Up to 7	Co-chair: Zilla Parishad chair (Sixth Schedule: chief executive member); CEO appointed by state

Bar Council of India

- Statutory; Advocates Act, 1961; autonomous; Department of Legal Affairs
- Origin: All India Bar Committee (1951, Justice S.R. Das; report 1953); Law Commission (1958)
- Members: one elected by each State Bar Council; Attorney General and Solicitor General ex-officio
- Chairman and Vice-Chairman: 2 years
- Functions: professional conduct; legal education standards; recognise law universities; supervise SBCs; recognise foreign law degrees
- 24 State Bar Councils; SBC strength 15 / 20 / 25 by electorate (below 5,000 / 5,000-10,000 / above 10,000)
- SBC: STV election; term 5 years (BCI may extend 6 months); Advocate-General ex-officio (Delhi: Additional Solicitor General)

- SBC functions: maintain roll; decide misconduct
- Shared SBCs: Kerala and Lakshadweep; Madras (TN and Puducherry); Punjab, Haryana, Chandigarh; West Bengal and A&N; J&K and Ladakh

Advocates in Supreme Court

Type	Key point
Senior Advocate	Designated with consent by SC or HC; cannot appear without Advocate-on-Record
Advocate-on-Record	Only one who can file appearance or act for party; exam since 1959; replaced 'Agents' in 1954
Other Advocates	On state roll; appear only if instructed by AoR or permitted

- Senior advocate designation committee: CJI, two senior-most judges, Attorney General, one nominated Bar member

Law Commission of India

- Non-statutory advisory body; executive order for fixed tenure; recommendations not binding
- Pre-independence: First 1834 (Macaulay); Second 1853 and Third 1861 (Romilly); Fourth 1879 (Whitney Stokes)
- First of independent India: 1955-58, M.C. Setalvad (Attorney-General); term 3 years each
- Chairs: Second T.V. Venkatarama Aiyar; Third and Fourth J.L. Kapur; Sixth and Seventh Gajendragadkar; Eighth H.R. Khanna; Fifteenth B.P. Jeevan Reddy; 18th A.R. Lakshmanan; 21st (2015-18) B.S. Chauhan
- 22nd: constituted 21 February 2020; chair Ritu Raj Awasthi (appointed Nov 2022); extended to 31 August 2024
- 23rd Law Commission constituted September 2024 for three years
- Composition not fixed: Chair, full-time members, member-secretary (Indian Legal Service), part-time members
- Functions: repeal obsolete laws; review laws in light of DPSP; research for foreign countries; law for the poor
- 277 reports till 21st Commission (e.g., Hate Speech 267; Bail 268; DNA Profiling 271; Contempt of Courts 274)

Delimitation Commission of India

- Statutory (not constitutional); orders have force of law, cannot be challenged in court
- Laid before Lok Sabha and Assembly; no modification allowed
- Effective from date specified by President

Delimitation Commissions

Commission	Year	Act
First	1952	Delimitation Commission Act, 1952
Second	1963	Delimitation Commission Act, 1962
Third	1973	Delimitation Act, 1972
Fourth	2002	Delimitation Act, 2002

- Articles: 81, 82, 170, 330, 332; amended by 84th (2001) and 87th (2003) Amendments

Effect of 84th and 87th Amendments

Item	Provision
Lok Sabha and Assembly seats	Frozen on 1971 census till first census after 2026
SC/ST seats	Reworked on 2001 census
Redelimitation basis	2001 census

Item	Provision
Constituency boundaries	Frozen till first census after 2026

- 106th Amendment (2023): one-third women's reservation effective after delimitation following first census after commencement
- Fourth Commission: 3 members (SC judge chair, CEC or nominated Election Commissioner, State Election Commissioner); chair Justice Kuldeep Singh
- 10 associate members per state (5 MPs, 5 MLAs); no vote, no signature
- Report 2007; notified 2008; excluded Assam, Arunachal Pradesh, Manipur, Nagaland, Jharkhand
- 2009 Lok Sabha: 499 of 543 seats on new delimitation
- 2020 Commission: chair Justice Ranjana Prakash Desai; ex-officio Sushil Chandra; four NE states removed March 2021; J&K report May 2022

J&K delimitation order (May 2022)

Item	Details
Assembly seats	90 (Jammu 43, Kashmir 47); 24 for PoK kept vacant
New seats	6 Jammu, 1 Kashmir
ST / SC reserved	9 / 7
Lok Sabha seats	5, each with 18 Assembly seats
Census basis	2011
Recommendations	2 Kashmiri migrant members (1 woman); representation for PoJ&K displaced

- Reorganisation Act, 2019: 114 seats (earlier 111 seats incl. 4 Ladakh, 24 PoK); 2 women nominated by Lt. Governor

North Eastern Council

- Statutory advisory body; NEC Act, 1971; in force 1 August 1972
- Members: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim (2002)
- Secretariat: Shillong; under Ministry of DONER
- Regional Planning Body (2002 Amendment)

NEC composition

Member	Number
Governors	8
Chief Ministers	8
Presidential nominees	3
Union Minister	Optional
Chairman	Since July 2018 Union Home Minister (ex-officio)
Vice-Chairman	DONER Minister (ex-officio)

- Functions: regional plans prioritising multi-state projects; review security and public order; review implementation
- Revitalisation Committee (2003; P.P. Shrivastav; report 2004)

CHAPTER 12

Co-operatives, Official Language, Public Services, Special Provisions

Co-operative Societies

97th Amendment Act, 2011

Changes made

Change	Provision	Article
Fundamental Right	Right to form co-operative societies	Art 19(1)(c)
DPSP	Promote voluntary formation, autonomous functioning, democratic control, professional management	Art 43-B
New Part	Part IX-B "The Co-operative Societies"	Arts 243-ZH to 243-ZT

- Subject: Entry 32, State List; commenced 15 February 2012

Part IX-B provisions

Subject	Provision
Max directors	21
Reservation on board	1 seat SC/ST + 2 seats women
Term of board / office bearers	5 years
Co-opted members	Max 2 experts; no vote; cannot be office bearers
Functional directors	Board members; not counted in the 21
Supersession / suspension	Max 6 months (co-operative banks other than multi-state: 1 year)
Audit	At least once a year; within 6 months of year-end; auditor from panel approved by State Govt
Multi-state societies	State Legislature/Act/Govt read as Parliament/Central Act/Central Govt

- General body meeting and returns within 6 months of year-end; apex society audit report laid before legislature; UTs covered (President may exempt)
- Grounds for supersession: persistent default; negligence; act prejudicial to society; stalemate; election body's failure to hold elections
- No supersession where no Government shareholding, loan, assistance or guarantee
- Administrator must hold elections within 6 months

Judicial scrutiny

Case	Court / Year	Held
Rajendra N. Shah v. Union of India	Gujarat HC, 2013	Part IX-B ultra vires for want of ratification by states (Art 368); Art 19(1)(c) and Art 43-B unaffected
Union of India v. Rajendra N. Shah	SC, 2021	Upheld HC, but Part IX-B not struck down entirely; operative only for multi-state co-operative societies (states and UTs)

Remember

21 directors + 2 co-opted (non-voting); 1 SC/ST + 2 women seats
 Term 5 years; supersession max 6 months
 FR 19(1)(c); DPSP 43-B; Part IX-B
 SC 2021: Part IX-B valid only for multi-state societies

Official Language**Part XVII (Arts 343-351)**

- Four heads: Union language; regional languages; language of judiciary and laws; special directives

Language of the Union

- Hindi in Devanagari script (Art 343); numerals in international form
- English continued for 15 years (1950-1965); Parliament may extend
- President to appoint Official Language Commission after 5 and 10 years (Art 344)
- 1955: Commission under B.G. Kher (report 1956); 1957: Parliamentary committee under G.B. Pant
- Second Commission (due 1960) never appointed
- Official Languages Act, 1963: English continues indefinitely with Hindi; amended 1967 to make English compulsory with Hindi in certain cases

Regional Languages

- State may adopt any language in use or Hindi (Art 345); not limited to Eighth Schedule; until then English
- Link language: English between Union and states / between states (Art 346); states may agree to use Hindi
- Art 347: President may direct recognition of language spoken by substantial population section

Language of Judiciary and Laws (Art 348)**Language rules**

Matter	Position
Supreme Court proceedings	English only (no Hindi provision)
High Court proceedings	English; Governor with President's consent may allow Hindi/state language
HC judgements, decrees, orders	English; regional language allowed under Official Languages Act, 1963 with English translation
Authoritative texts of Bills, Acts, rules	English; Hindi translation authoritative under 1963 Act
State laws in other languages	English translation to be published

- Authorised Translations (Central Laws) Act, 1973: Eighth Schedule language translations (other than Hindi) authoritative

- Art 349: special procedure for language laws

Special Directives

Article	Provision
350	Representation for grievances in any language used in Union/state
350A	Mother-tongue instruction at primary stage for linguistic minorities (7th Amendment, 1956)
350B	Special Officer for Linguistic Minorities, appointed by President (7th Amendment, 1956)
351	Development of Hindi; vocabulary primarily from Sanskrit

Eighth Schedule

- 22 languages (originally 14); purposes: representation in Official Language Commission; enrichment of Hindi

Committee of Parliament on Official Language

- Under Official Languages Act, 1963; constituted 1976
- 30 members: 20 Lok Sabha + 10 Rajya Sabha
- Chairman elected by members; by convention the Union Home Minister

Classical Languages

- Category created 2004; benefits: 2 international awards, Centre of Excellence, UGC Chairs
- Classical languages: Tamil 2004; Sanskrit 2005; Telugu, Kannada 2008; Malayalam 2013; Odia 2014; Marathi, Pali, Prakrit, Assamese, Bengali 2024 (total 11)

Public Services

Classification

- All-India Services common to Centre and states; Central Services under Centre only; State Services under state only
- IAS: Personnel Ministry; IPS: Home Affairs; IFoS: Environment, Forest and Climate Change
- Art 312: new All-India Service by Parliament law after Rajya Sabha resolution by 2/3 present and voting
- Sardar Patel: Father of All-India Services; All-India Services Act, 1951
- Control: ultimate with Centre, immediate with states; salaries and pensions by states; discipline only by Centre
- All Group A; scales: junior, senior, super time scale
- 26 state cadres incl. joint cadres: Assam-Meghalaya; AGMUT (Arunachal Pradesh, Goa, Mizoram, UTs)
- Up to 33 1/3% senior posts filled by promotion from state services
- All-India Judicial Service: 42nd Amendment (1976); not yet created; not below district judge
- Central Services: 66 Group A services; IFS top-ranking (Ministry of External Affairs)
- Group A, B gazetted; Group C, D non-gazetted
- State civil service most prestigious

Constitutional Provisions (Part XIV, Arts 308-314)

Articles

Article	Subject
308	Interpretation
309	Recruitment and service conditions

Article	Subject
310	Tenure of office (Doctrine of Pleasure)
311	Dismissal, removal, reduction in rank
312	All-India Services
312A	Power to vary/revoke service conditions of Crown-appointed officers (28th Amendment, 1972)
313	Transitional provisions
314	Protection of existing officers (repealed, 28th Amendment)

- Art 309: Parliament/state legislature regulate; till then President/Governor make rules; allows reasonable restrictions on public servants' Fundamental Rights
- Art 310: Defence, Central civil, all-India services serve at pleasure of President; state civil services at pleasure of Governor
- Exception: compensation contract for special-qualification new entrant if post abolished or vacated without misconduct

Art 311 safeguards

Safeguard	Detail
1	No dismissal/removal by authority subordinate to appointing authority
2	No dismissal/removal/reduction in rank without inquiry, notice of charges, reasonable hearing

- Not available to defence/military personnel
- Inquiry not needed: (1) criminal conviction; (2) inquiry impracticable (reasons in writing); (3) President/Governor satisfied of state security
- 42nd Amendment (1976) abolished second opportunity (representation on proposed penalty)
- Dismissal disqualifies future government employment; removal does not
- Reasonable opportunity: told of charges; cross-examine witnesses; copy of inquiry report

Remember

Art 312 resolution: Rajya Sabha 2/3 present and voting
 Art 310 pleasure; Art 311 two safeguards, three exceptions
 Three All-India Services: IAS, IPS, IFoS

Rights and Liabilities of the Government

Property (Arts 294-300)

Provisions

Article	Subject	Key point
294-295	Succession	Property/liabilities of Dominion, provinces, princely states pass to Union/states
296	Escheat, lapse, bona vacantia	Vests in state if situated there, else Union

Article	Subject	Key point
297	Sea-wealth	Territorial waters (12 nm), continental shelf, EEZ (200 nm) vest in Union
298	Trade/business	Union/state executive power extends to it
299	Contracts	Three conditions
300	Suits	Union of India / State may sue or be sued
361	Immunity of President, Governors	Protection

- Escheat: death without heir; lapse: termination of rights; bona vacantia: ownerless property
- 44th Amendment (1978): compensation for acquisition only for minority institutions and personally cultivated land within ceiling (17th Amendment, 1964)

Contracts (Art 299)

- Expressed to be made by President/Governor
- Executed on behalf of President/Governor
- Executed by person authorised by them
- Mandatory; failure makes contract void
- President, Governor, executing officer not personally liable

Torts

- Government suable in contract; in tort only for non-sovereign functions (traditional rule, 'King can do no wrong')
- Crown Proceedings Act, 1947 ended immunity in Britain

Landmark cases

Case	Year	Held
P and O Steam Navigation Co.	1861	Sovereign/non-sovereign distinction
Kasturilal v. State of UP	1964	Reaffirmed sovereign immunity
N. Nagendra Rao v. State of AP	1994	Criticised immunity; State liable for negligence
Common Cause v. Union of India	1999	Rejected sovereign immunity
State of AP v. Challa Ramkrishna Reddy	2000	Kasturilal no longer binding

Suits Against Officials

Immunities

Official	Official acts	Personal acts
President/Governor	No suit during or after term	No criminal proceedings/arrest in term; civil suit after 2 months' notice
Ministers	No liability (no countersignature)	Liable for crimes and torts
Judicial officers	Immune (Judicial Officers Protection Act, 1850)	No immunity

Official	Official acts	Personal acts
Civil servants	Not liable on official contracts; immune for sovereign torts; civil suit after 2 months' notice	No notice for acts outside duty

- Criminal proceedings against civil servants for official acts need prior sanction

Commonly Confused

Contract: Government liable, officers not

Suit name: 'Union of India', 'State of ...'

Civil suit against President/Governor/civil servant: 2 months' notice

Special Provisions Relating to Certain Classes

- Part XVI, Arts 330–342A: SCs, STs, backward classes, Anglo-Indians

Specification of classes

Class	Article	Specified by	Alteration
SC	341	President (Governor consulted)	Parliament only
ST	342	President (Governor consulted)	Parliament only
Backward classes (Central List)	342A	President (102nd Amendment 2018; 105th Amendment 2021)	Parliament only

- 105th Amendment (2021): states/UTs may prepare own OBC lists by law

Provisions for SC/ST

Provision	Article	Detail
Lok Sabha seats	330	Population ratio
Assembly seats	332	Population ratio
Duration	334	Till 2030 (104th Amendment, 2019)
Services and posts	335	Efficiency maintained; 82nd Amendment (2000): relaxation in promotion
National Commission for SCs	338	Constitutional
National Commission for STs	338A	Separated by 89th Amendment (2003)
Scheduled Areas / ST welfare	339	Commission: Dhebar (1960), Bhuria (2002)

Backward Classes

Item	Detail
National Commission for BCs	Statutory 1993; constitutional (Art 338B) by 102nd Amendment 2018
Art 340 commission	Investigates conditions of backward classes
First (Kaka Kalelkar)	1953; report 1955; no action

Item	Detail
Second (B.P. Mandal)	1979; report 1980; 27% OBC jobs by V.P. Singh Govt 1990

- Anglo-Indians: nominated 2 in Lok Sabha (Art 331), 1 in Assembly (Art 333); ceased 25 January 2020 (104th Amendment)
- Service reservations (Art 336) and educational grants (Art 337) ended 1960
- National Commission for SCs also covers Anglo-Indians (Art 338 clause 10)

Remember

Reservation in legislatures till 2030
 Anglo-Indian nomination ended 2020
 Arts 338, 338A, 338B: SC, ST, BC commissions
 Lists changed only by Parliament

Special Provisions for Some States

- Part XXI (Temporary, Transitional and Special Provisions); Arts 371 to 371-J cover twelve states
- Aim: backward regions, tribal interests, disturbed areas, local people's interests

Art 371 series

Article	State	Added by	Key provision
371	Maharashtra, Gujarat	7th Amendment 1956	Governor's responsibility: separate development boards (Vidarbha, Marathwada; Saurashtra, Kutch), equitable funds, technical education, jobs
371A	Nagaland	13th, 1962	Parliament Acts on Naga customary law, religion, justice, land need Assembly assent; Governor's special responsibility for law and order; Tuensang regional council
371B	Assam	22nd, 1969	Assembly committee of Tribal Area members
371C	Manipur	27th, 1971	Assembly committee of Hill Area members; Governor's annual report
371D	Andhra Pradesh, Telangana	32nd, 1973 (Telangana 2014)	Equitable public employment/education; local cadres; Administrative Tribunal
371E	Andhra Pradesh	32nd, 1973	Central University
371F	Sikkim	36th, 1975	Assembly min 30; 1 Lok Sabha seat; Governor's special responsibility for peace

Article	State	Added by	Key provision
371G	Mizoram	53rd, 1986	Mizo customary law, religion, justice, land need Assembly assent; Assembly min 40
371H	Arunachal Pradesh	55th, 1986	Governor's responsibility for law and order; Assembly min 30
371I	Goa	56th, 1987	Assembly min 30
371J	Karnataka	98th, 2012	Hyderabad-Karnataka development board; reservation in education and jobs for the region

Remember

Customary law protection: Nagaland, Mizoram

Law and order: Nagaland, Arunachal Pradesh

Assembly minimum: Sikkim 30, Mizoram 40, Arunachal 30, Goa 30

Karnataka 371J: 98th Amendment

CHAPTER 13

Political Dynamics: Parties, Elections, Reforms, Anti-Defection

Political Parties

Types and Party Systems

- Ideology types: reactionary and conservative (right); liberal (centre); radical (left)
- India: CPI, CPM = left; Congress = centre; BJP = right
- One-party: former USSR; two-party: USA, Britain; multi-party: France, Switzerland, Italy, India

Features of Indian Party System

- Multi-party; largest number of parties in the world
- One-dominant party: Rajni Kothari's 'Congress system'; dominance declined after 1967
- Parties differ in ideology as declared in their own manifestos; typology: national vs state, ideological, regional, caste/community-based, personality-led (no ranking of parties)
- Personality cult; parties based on religion, caste, language
- Defections common after 1967 elections; no effective national Opposition

Formation of Major Parties

Party	Founder	Year
Indian National Congress	A.O. Hume	1885
Shiromani Akali Dal	–	1920
CPI	M.N. Roy	1925
J&K National Conference	Sheikh Abdullah	1939
DMK	C.N. Annadurai	1949
CPM	–	1964
Shiv Sena	Bal Thackeray	1966
AIADMK	M.G. Ramachandran	1972
BJP	A.B. Vajpayee and L.K. Advani	1980
TDP	N.T. Rama Rao	1982
BSP	Kanshi Ram	1984
AGP	P.K. Mahanta	1985
Samajwadi Party	Mulayam Singh Yadav	1992
RJD / BJD	Lalu Prasad Yadav / Naveen Patnaik	1997
AITC	Mamata Banerjee	1998
NCP	Sharad Pawar, P.A. Sangma, Tariq Anwar	1999
JD(U) / JD(S) / PDP	Sharad Yadav / Deve Gowda / Mufti Mohd. Sayeed	1999
LJP	Ram Vilas Paswan	2000
TRS (now BRS)	K. Chandra Shekar Rao	2001

Party	Founder	Year
YSRCP	Y.S. Jagan Mohan Reddy	2011
AAP	Arvind Kejriwal	2012
NPP	P.A. Sangma	2013

Recognition of Parties

- Election Commission registers parties; recognises national/state parties on poll performance; others are registered-unrecognised
- Governing order: Election Symbols (Reservation and Allotment) Order, 1968
- Recognition gives reserved symbol, free broadcast time on state media, free electoral rolls
- Registered-unrecognised party chooses from 'free symbols'

Conditions for Recognition (any one)

Status	Condition
National	6% valid votes in 4+ states (LS or Assembly) AND 4 LS seats
National	2% of LS seats, from at least 3 states
National	Recognised as state party in 4 states
State	6% votes in Assembly election AND 2 Assembly seats
State	6% votes in LS election from state AND 1 LS seat
State	3% of Assembly seats or 3 seats, whichever more
State	1 LS seat for every 25 seats allotted to the state
State	8% of total valid votes in state (LS or Assembly)

- 1952: 14 national and 39 state parties; 2019: 7 national parties
- 2023 review: AAP became national party; AITC, NCP, CPI lost status
- National parties now: BJP, INC, BSP, CPI(M), AAP, NPP

Remember

Kothari's term: 'Congress system' (one-party dominance)
 BJP 1980; BSP 1984; SP 1992; AAP 2012
 Founders: Hume (INC), M.N. Roy (CPI), Kanshi Ram (BSP)

Role of Regional Parties

- Features: operate within one state/region; articulate regional cultural/linguistic/ethnic interests; seek greater autonomy

Classification of Regional Parties

Basis	Examples
Regional culture or ethnicity	Akali Dal, National Conference, DMK, TDP, Shiv Sena, AGP
All-India outlook, no national base	Samajwadi Party, NCP
Split from national parties	BJD, RJD, Trinamool, YSR Congress
Charismatic individual leader (personalised; short-lived)	Leader-based parties

- Causes: cultural pluralism, regional imbalance, linguistic reorganisation, failure and centralisation of Congress, weak national opposition, charismatic leaders

Role vs Dysfunctions

Role	Dysfunction
Challenged one-party dominance	Regional over national interest
Greater state autonomy in Centre-State relations	Encourage regionalism, casteism, linguism
Grass-roots participation	Unresolved water and border disputes
Check on Centre	Populist schemes
Exposed Governors' partisan role	Pressure coalition Centre; corruption
Share power in coalitions	–

Elections

Constitutional Provisions (Articles 324–329, Part XV)

Articles on Elections

Article	Subject
324	Superintendence, direction, control of elections vested in Election Commission
325	No exclusion from electoral roll on grounds of religion, race, caste, sex
326	Adult suffrage for Lok Sabha and Assembly elections
327	Parliament's power to make election laws
328	State legislature's power (only supplements Parliament's law)
329	Bar on court interference (delimitation, seat allotment)
329A	Elections of PM and Speaker (repealed)

- ECI supervises elections to Parliament, state legislatures, President, Vice-President
- Panchayat and municipal elections: separate State Election Commission
- One general electoral roll per constituency; communal electorates abolished
- Voting age 21 to 18: 61st Amendment (1988); in force 28 March 1989
- Election petition: High Court (since 1966); appeal to Supreme Court only
- Article 323B: election tribunals (none set up); clause 3(d) struck down in L. Chandra Kumar (1997)
- ECI: three members (CEC plus two ECs); appointed under 2023 Act on recommendation of PM, Leader of Opposition (LS) and a Union Cabinet Minister

Election Machinery

Election Officers

Officer	Function
Chief Electoral Officer	Supervises election in State/UT
District Election Officer	Supervises election in district; appoints Presiding and Polling Officers
Returning Officer	Conducts election in a constituency
Electoral Registration Officer	Prepares electoral roll

Officer	Function
Presiding Officer	Conducts poll at polling station

- Observers: General, Expenditure, Police (IPS) Observers

Election Process

- Term 5 years; gap between two sessions of Lok Sabha not over 6 months
- Model Code of Conduct operative from announcement of schedule (agreed 1968; first effectively used 1991)
- Nomination: one week; withdrawal within 2 days of scrutiny; campaign ends 48 hours before poll closes
- EVMs: experiment in 1998 (Rajasthan, MP, Delhi); full state Goa 1999; all by-elections 2003; Lok Sabha 2004
- Polling station within 2 km; max 1200 voters; open 8 hours; ink on left forefinger
- Exit poll results barred until half an hour after end of last poll; opinion polls barred 2 days before polling
- First-past-the-post, single-member constituencies; secret ballot

Commonly Confused

Voting age cut: 61st Amendment (1988)

Election petition: High Court; appeal only to Supreme Court

Delimitation orders: not challengeable in court (Art 329)

Lok Sabha Elections

Election	Seats	Key result
1st (1952)	489	Congress 364
4th (1967)	520	Congress 283
5th (1971)	518	Congress 352
6th (1977)	542	Janata 298, Congress 154
11th (1996)	543	BJP 161, Congress 140
12th/13th (1998/99)	543	BJP 182 each
14th (2004)	543	Congress 145, BJP 138
15th (2009)	543	Congress 206
16th (2014)	543	BJP 282, Congress 44
17th (2019)	543	BJP 303, Congress 52
18th (2024)	543	BJP 240, Congress 99

Election Laws

Representation of the People Acts

Act	Provisions
RPA 1950	Seat allocation; delimitation by President with ECI; electoral rolls; election officers; bars civil courts
RPA 1951	Conduct of elections; qualifications and disqualifications of members; registration of parties
RPA 1951	Corrupt practices and offences; election petitions (High Court, appeal to SC); by-elections; election expenses

- Delimitation Acts: 1952, 1962, 1972, 2002 (2002 Act based on 2001 census)

Other Election Laws

Name	Provision
Parliament (Prevention of Disqualification) Act, 1959	Exempts certain offices of profit
Presidential and Vice-Presidential Elections Act, 1952	Elections of President and VP
Registration of Electors Rules, 1960	Electoral rolls
Conduct of Elections Rules, 1961	Conduct of elections
Election Symbols Order, 1968	Symbols and party recognition
Registration of Political Parties Order, 1992	Additional particulars for registration
Declaration of Assets and Liabilities Rules, 2004	LS and RS members
Presidential and VP Elections Rules, 1974	Replaced 1952 Rules

Electoral Reforms**Committees on Electoral Reforms**

Committee / Commission	Year
Tarkunde Committee (unofficial, by J.P. Narayan)	1974
Dinesh Goswami Committee	1990
Vohra Committee (crime-politics nexus)	1993
Indrajit Gupta Committee (state funding; 8 members)	1998
Law Commission 170th Report	1999
NCRWC (Venkatachaliah)	2000-02
Second ARC Ethics in Governance (Veerappa Moily)	2007
Tankha Committee	2010
J.S. Verma Committee (criminal law)	2013
Law Commission 244th (disqualifications) and 255th (electoral reforms)	2014, 2015

Before 1996

- Voting age 21 to 18 (61st Amendment, 1988)
- 1989: election staff on deputation to ECI; legal provision for EVMs; poll adjourned for booth capturing
- 1989: Rajya Sabha/Council proposers: 10% of electors or 10 electors, whichever less
- 1993: ECI decision to issue EPIC photo identity cards

Reforms of 1996 (Goswami Committee)

- Candidates listed: recognised parties, registered-unrecognised, independents
- Conviction for insulting National Flag, Constitution or preventing National Anthem: disqualified 6 years
- No liquor sale in polling area 48 hours before close of poll
- Proposers: 10 electors for independents; 1 for recognised-party candidates
- Death of candidate: no countermanding; recognised party may nominate another in 7 days
- By-election within 6 months (exceptions: remainder of term under 1 year; ECI certifies difficulty)
- Paid holiday on polling day; max two constituencies per candidate
- Arms near polling station: cognizable offence
- Gap between withdrawal and polling cut from 20 to 14 days

After 1996**Reforms After 1996**

Year	Reform
1997	President: 50 proposers and 50 seconders (from 10); VP: 20 (from 5); deposit Rs 2,500 to Rs 15,000
1998	Staff of local bodies, banks, LIC, universities requisitioned for election duty
1999	Postal ballot for notified classes
2003	Proxy voting for armed forces service voters
2003	Rajya Sabha: domicile requirement removed; open ballot (show ballot to party agent)
2003	Free electoral rolls to recognised parties; equitable media time
2003	Contributions from anyone except government company; report above Rs 20,000
2003	ECI order: candidates disclose criminal cases, assets, liabilities, education
2004/2009	Braille on EVMs: tried Asifnagar bye-election 2004; Lok Sabha 2009

- Disclosure: pending case punishable with 2+ years with charges framed; false affidavit is electoral offence

Since 2010**Reforms Since 2010**

Reform	Detail
Exit polls restricted	RPA amendment 2009, effective 1 Feb 2010
Security deposit (LS)	General Rs 25,000; SC/ST Rs 12,500
Security deposit (Assembly)	General Rs 10,000; SC/ST Rs 5,000
Appeals against ERO	To District Magistrate; further to CEO
NRI voting	2010 amendment
Online enrolment	2013
NOTA	SC direction; 2013 state elections; LS 2014
VVPAT	First at Noksen (Nagaland) bye-election 2013; slip visible 7 seconds
Candidate photos on EVMs	From 1 May 2015
Cash donations	Anonymous limit Rs 20,000 to Rs 2,000 (2017)
Corporate donations	7.5% net profit cap removed (2017)
Foreign funding	Allowed; FCRA 2010 amended (2018)

- NOTA: highest-polling candidate still declared elected even if NOTA is higher
- Disqualification for corrupt practice: case to President within 3 months

Landmark Cases on Disqualification (2013)

Case	Holding
CEC vs Jan Chaukidar	Persons in jail not electors; cannot contest (nullified by 2013 RPA amendment)
Lily Thomas vs Union of India	Section 8(4) RPA struck down; convicted MP/MLA disqualified immediately

Electoral Bonds

- Notified 2018; bearer instrument without buyer's name
- Buyers: Indian citizens or entities; eligible parties: at least 1% votes in last election
- Denominations: Rs 1,000; 10,000; 1 lakh; 10 lakh; 1 crore
- Struck down as unconstitutional by Supreme Court (February 2024)

Election Laws (Amendment) Act, 2021

- Electoral roll linked to Aadhaar
- Four qualifying dates: 1 Jan, 1 April, 1 July, 1 October
- 'Wife' replaced by 'spouse' for service voters
- Wider requisition of premises for counting and storing EVMs

Remember

Open ballot RS: 2003; postal ballot: 1999; proxy (service voters): 2003
 Max two constituencies: 1996; NOTA 2013; VVPAT first Noksen 2013
 Goswami Committee (1990) led to 1996 reforms

Voting Behaviour

- Psephology: scientific study of voting behaviour
- Determinants: caste (most important locally), religion, language, region, personality, money, ruling party performance (anti-incumbency), party identification, ideology
- Wave election (Paul Brass): single-direction tendency to a national party or leader; money ineffective
- Kothari: 'Indian politics is casteist, and caste is politicised'

Coalition Government

- Coalition: alliance of distinct parties on common programme; features: minimum programme, pragmatism, compromise, power
- Congress won first four Lok Sabha elections (1952–67) with majority; 1969 split: minority government with outside support

Coalition Governments at the Centre

Period	Coalition	Prime Minister
1977–79	Janata Party	Morarji Desai
1979–80	Janata Party (Secular)	Charan Singh
1989–90	National Front	V.P. Singh
1990–91	Janata Dal (Socialist)	Chandra Shekhar
1996–97	United Front	H.D. Deve Gowda
1997–98	United Front	I.K. Gujral
1998–99	BJP-led	A.B. Vajpayee
1999–2004	NDA	A.B. Vajpayee

Period	Coalition	Prime Minister
2004-14	UPA, UPA-II	Manmohan Singh
2014-	NDA (coalition again after 2024)	Narendra Modi

- Outside support: Congress to Charan Singh, Chandra Shekhar, Gujral; BJP and Left to V.P. Singh; CPI and CPM to UPA-I

Merits vs Demerits

Merits	Demerits
Accommodates diverse interests	Instability
Consensus-based decisions	Curtails PM's leadership ('Super PM')
Strengthens federalism	Co-ordination Committee as 'Super-Cabinet'
Reduces tyranny	Small partners as 'King-maker'
-	'Jumbo Ministry' (Vajpayee 1999: 70+)

Anti-Defection Law

- 52nd Amendment (1985): Tenth Schedule; changed Articles 101, 102, 190, 191
- 91st Amendment (2003): deleted exemption for split (one-third)

Disqualification Under Tenth Schedule

Member	Disqualified if
Party member	Voluntarily gives up membership
Party member	Votes/abstains against whip without permission, not condoned in 15 days
Independent	Joins a party after election
Nominated	Joins a party after 6 months of taking seat

- Exceptions: merger (two-thirds of legislature party agree); Presiding Officer giving up/rejoining party
- Decided by Presiding Officer; no time limit
- Kihoto Hollohan vs Zachillhu (1992): finality clause invalid; Presiding Officer acts as tribunal; judicial review allowed
- Rules framed by Presiding Officer; laid before House for 30 days

91st Amendment: Ministers

Level	Limit
Union	Max 15% of Lok Sabha (incl. PM)
State	Max 15% of Assembly (incl. CM); minimum 12

- Defector disqualified from ministership and any remunerative political post

Remember

Tenth Schedule: 52nd (1985); split deleted: 91st (2003)
 Merger needs two-thirds; nominated member has 6 months
 Minister cap 15%, state minimum 12

Pressure Groups

- Term from USA; also interest groups; do not contest elections
- Odegard's techniques: electioneering, lobbying, propagandising

Pressure Groups in India

Category	Examples
Business	FICCI, ASSOCHAM, FAIFDA, AIMO
Trade Unions	AITUC (CPI), INTUC (Congress), HMS (Socialists), CITU (CPM), BMS (BJP)
Agrarian	Bhartiya Kisan Union, All India Kisan Sabha (oldest, largest), Shetkhari Sanghatana
Professional	IMA, Bar Council of India, IFWJ, AIFUCT
Student	ABVP (BJP), AISF (CPI), NSUI (Congress), SFI (CPM)
Religious	VHP, Jamaat-e-Islami, Akali Dal
Caste	Nadar Association, Harijan Sevak Sangh, Kshatriya Maha Sabha
Tribal	NSCN, Tribal National Volunteers, United Mizo Freedom Organisation
Ideology-based	Narmada Bachao Andolan, Chipko, Gandhi Peace Foundation
Anomic	Naxalites, JKLF, ULFA, Dal Khalsa

- Business groups: most powerful
- AITUC: 1920; first President Lala Lajpat Rai

National Integration

Obstacles

Obstacle	Manifestations
Regionalism	Secession (Khalistan, Dravid Nad); statehood (Bodoland, Vidarbha, Gorkhaland); border disputes (Chandigarh, Belgaum); river disputes (Cauvery, Krishna, Ravi-Beas); 'sons of the soil'
Communalism	Roots in 1909, 1919, 1935 Acts; religion-based parties; Ayodhya structure demolished 6 Dec 1992
Casteism	Caste parties (Justice Party, Republican Party, BSP); caste-based tickets; reservation agitations
Linguism	Linguistic states; official language dispute

- First linguistic state: Andhra (1953)
- States Reorganisation Commission (1953-55): Fazl Ali, K.M. Panikkar, H.N. Kunzru
- Official Languages Act 1963: Hindi official; English as associate language
- Tamil Nadu: two-language policy, rejects three-language formula
- Caste rivalries: Kamma-Reddy (Andhra), Lingayat-Vokkaliga (Karnataka), Nair-Ezhava (Kerala), Bania-Patidar (Gujarat), Jat-Ahir (Haryana)

Integration Bodies

Body	Year	Detail
National Integration Council	1961 (first meeting 1962)	PM as Chairman; CMs, Opposition leaders; 16 meetings (16th in 2013)
National Foundation for Communal Harmony	1992	Autonomous, under Home Ministry; aid to child victims of violence

Foreign Policy**Principles of Indian Foreign Policy**

Principle	Key facts
World peace	Article 51 (DPSP)
Anti-colonialism	Support to Indonesia, Algeria, Ghana, Namibia
Anti-racialism	Cut ties with South Africa 1954; restored 1994
Non-alignment	No military alliances; independent approach
Panchsheel	1954 Indo-China Treaty on Tibet (Nehru, Chou En-lai)
Afro-Asian bias	Asian Relations Conference 1947; Bandung 1955
Commonwealth	Continued since 1949; CHOGM New Delhi 1983
UNO	Member since 1945; Vijay Lakshmi Pandit UNGA President 1953
Disarmament	Six-nation summit 1985; not signed NPT (1968), CTBT (1996)

- Panchsheel: territorial integrity and sovereignty; non-aggression; non-interference; equality and mutual benefit; peaceful co-existence
- Group of 77 (1964); Group of 15 (1990); SAARC (1985); BIMSTEC and IORA (1997)

Gujral Doctrine (1996)

- Propounded by I.K. Gujral, Foreign Minister under Deve Gowda
- Five principles: no reciprocity to smaller neighbours (Bangladesh, Bhutan, Maldives, Nepal, Sri Lanka); no territory used against another; non-interference; respect territorial integrity; peaceful bilateral settlement

Nuclear Doctrine

- Credible minimum deterrent; No First Use; massive retaliation
- Authorised only by civilian leadership via Nuclear Command Authority
- No nuclear use against non-nuclear states; option vs biological/chemical attack

Nuclear Command Authority

Council	Chair	Function
Political	Prime Minister	Sole authority to authorise use
Executive	National Security Advisor	Advises and executes directives

Regional Policies

Connect Central Asia and Act East

Policy	Year	Key facts
Connect Central Asia	2012	Five republics: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan; SCO, INSTC; university at Bishkek
Look East	1992	P.V. Narasimha Rao
Act East	2014	Modi Government; Asia-Pacific, ASEAN; North East as interface

Remember

Gujral Doctrine 1996: non-reciprocity; Look East 1992 renamed Act East 2014
Panchsheel 1954; Political Council of NCA chaired by PM

National Commission to Review the Working of the Constitution

- Set up 2000; 11 members; chair M.N. Venkatachaliah; report 2002
- Members: B.P. Jeevan Reddy, R.S. Sarkaria, K. Punnayya, Soli Sorabjee, K. Parasaran, Subhash Kashyap, C.R. Irani, Abid Hussain, Sumitra Kulkarni, P.A. Sangma (resigned)
- Only recommendatory; within basic structure and parliamentary democracy
- 249 recommendations: 58 constitutional amendments, 86 legislative, 105 executive

Recommendations: Rights and DPSP

Area	Recommendation
Arts 15, 16	Add ethnic/social origin, political opinion, property, birth
Art 19	Include freedom of press
New rights	Against torture; compensation for illegal deprivation; leave and return; privacy; rural wage employment 80 days; speedy justice; free legal aid; safe drinking water
Art 21A	Free education till 14; girls and SC/ST till 18
Art 22	Preventive detention max 6 months; Board of chairman + 2 serving HC judges
Art 25	Sikhism, Jainism, Buddhism separate religions
Art 31B	Ninth Schedule only for agrarian reform, reservation, Art 39(b)/(c)
Emergency	Arts 17, 23, 24, 25, 32 not suspendable
Part IV	Rename 'DPSP and Action'; population control; Education Commission every 5 years; Inter-Faith Commission
Art 51A	Duties: vote and pay taxes; responsible parenthood; industries educate employees' children

Recommendations: Parliament and Executive

Area	Recommendation
Privileges	Arts 105/194 immunity not for corrupt acts
Rajya Sabha	Keep domicile requirement
MPLADS	Discontinue
Committees	Standing Constitution Committee; Legislation Committee
Sittings	LS 120 days; RS 100 days
Hung Parliament	Lok Sabha elects leader; President appoints PM
No-confidence	Constructive vote; notice by 20% members
Council of Ministers	Max 10% of lower house
Lokpal	Outside PM; Lokayuktas
Civil services	Lateral entry above joint secretary; Civil Service Boards

Recommendations: Federal, Judiciary, Local Bodies

Area	Recommendation
Concurrent List	Add disaster management
New body	Inter-State Trade and Commerce Commission
Governor	Appointed after consulting CM
Art 356	Retain; last resort; floor test only
State bills	President decides in 3 months
River disputes	Bench of 3-5 SC judges
NJC	CJI, 2 senior-most SC judges, Law Minister, 1 President nominee
Retirement age	HC 65; SC 68
Judgments	Within 90 days; two-tier subordinate courts; plea-bargaining
Tribal areas	Fifth Schedule to Sixth Schedule
Bonded labour	National Authority
Panchayats	State Panchayat Council under CM; CAG audit; Delimitation Commission for delimitation
North East	ADCs get Eleventh Schedule subjects; National Immigration Council

Recommendations: Electoral Processes and Parties

Area	Recommendation
Criminals	Charged with 5+ year offence disqualified; heinous crime convicts permanently debarred
State funding	Defer till regulation in place
Contest	Not from more than one constituency
Run-off	Examine 50% plus one vote
Independents	Debarred after 3 consecutive losses

Area	Recommendation
Security deposit	Forfeiture threshold 16.67% to 25%
High offices	Eligibility of non-Indian-born to be examined
CEC / ECs	Panel: PM, LoP (LS), LoP (RS), Speaker, RS Deputy Chairman
Parties	Law on registration and functioning; raise recognition threshold; transparent funding
Anti-defection	Defector resigns and recontests; barred from ministership; vote to topple invalid; ECI decides disqualification

Remember

NCRWC: 2000-02; Venkatachaliah; 249 recommendations (58/86/105)

Minister cap: 10% (NCRWC) vs 15% (91st Amendment)

Defection authority: ECI (NCRWC) vs Presiding Officer (Tenth Schedule)

Retirement age: HC 65, SC 68

CHAPTER 14

Landmark Judgements & Doctrines

Landmark Judgements and Their Impact

Judgements on Fundamental Rights and Amending Power

Early Cases (1950-1967)

Case (Year)	Popular name / Article	Ruling	Impact
Romesh Thappar vs. State of Madras (1950)	Cross Roads case; Art 19	Freedom of speech includes freedom of circulation; Madras ban on Cross Roads void	1st Amendment (1951) added "public order" to Art 19(2)
A.K. Gopalan vs. State of Madras (1950)	Preventive Detention case; Art 21, 22	Struck Sec 14 of Preventive Detention Act 1950; "personal liberty" = freedom from physical restraint; Art 21 protects only against executive, not legislature	Textualist; "procedure established by law" not = "due process"; overruled in Maneka Gandhi (1978)
State of Madras vs. Champakam Dorairajan (1951)	Communal GO; Art 15, 29, 46	Communal reservation in medical/engineering colleges void (Art 15(1), 29(2)); DPSPs subsidiary to FRs	1st Amendment inserted Art 15(4)
Shankari Prasad vs. Union of India (1951)	Art 13, 368	Art 368 power includes amending FRs; "law" in Art 13(2) = ordinary law, not constituent law	Upheld 1st Amendment (Art 31A, 31B); reaffirmed in Sajjan Singh (1964)
Berubari Union (1960)	Art 143 reference; Art 3, 368	Art 3 does not cover cession of territory to foreign state; needs Art 368 amendment; Preamble not part of Constitution	9th Amendment (1960); Preamble view overturned in Kesavananda
K.M. Nanavati vs. State of Maharashtra (1961)	Jury trial	Conviction under Sec 302 IPC upheld	Led to abolition of jury system; CrPC 1973 removed it
I.C. Golak Nath vs. State of Punjab (1967)	Art 13, 368	Overruled Shankari Prasad and Sajjan Singh; Parliament cannot amend FRs; amendment is "law" under Art 13(2); applied prospective overruling	24th Amendment (1971) overrode it

Basic Structure and Amending Power Cases

Case (Year)	Popular name / Article	Ruling	Impact
Kesavananda Bharati vs. State of Kerala (1973)	Fundamental Rights case; Art 13, 368	Overruled Golak Nath; Parliament can amend any provision incl. FRs but not the basic structure; upheld 24th Amendment and 29th Amendment	Doctrine of basic structure born
Indira Nehru Gandhi vs. Raj Narain (1975)	Election case; Art 329A	Struck down Art 329A(4) (39th Amendment) as violating basic structure	42nd Amendment inserted Art 368(4) and (5)
Minerva Mills vs. Union of India (1980)	Art 31C, 368	Struck Art 368(4), (5) and 42nd-Amendment change to Art 31C; limited amending power, judicial review, FR-DPSP balance are basic features	Nullified 42nd Amendment's attempt
Waman Rao vs. Union of India (1980)	Ninth Schedule	Ninth Schedule laws added before 24 April 1973 valid; later additions open to challenge if they damage basic structure	Cut-off date = Kesavananda verdict
I.R. Coelho vs. State of T.N. (2007)	Ninth Schedule case; Art 31B	Reaffirmed Waman Rao; Ninth Schedule laws after 24 April 1973 are subject to basic structure test	Judicial review of Ninth Schedule
Kihoto Hollohan vs. Zachillhu (1992)	Defection case; Tenth Schedule	Para 7 of Tenth Schedule void (needed ratification under Art 368(2)); rest valid	Para 7 had barred court jurisdiction

Judgements on Article 21, Liberty and Emergency**Article 21 and Emergency Cases**

Case (Year)	Popular name / Article	Ruling	Impact
A.D.M. Jabalpur vs. Shivakant Shukla (1976)	Habeas Corpus case; Art 21, 359	Art 21 suspended by Presidential Order under Art 359; no habeas corpus during Emergency; upheld Sec 16A(9) MISA	44th Amendment: Art 21 cannot be suspended; no longer good law
Maneka Gandhi vs. Union of India (1978)	Personal Liberty case; Art 21	Overruled Gopalan; Arts 14, 19, 21 interrelated; procedure must be just, fair, reasonable; personal liberty of widest amplitude	"Due process" introduced; golden triangle (14-19-21)
Bachan Singh vs. State of Punjab (1980)	Death penalty; Art 19, 21	Death penalty (Sec 302 IPC) valid but only in rarest of rare cases	Doctrine of rarest of rare

Case (Year)	Popular name / Article	Ruling	Impact
M.C. Mehta vs. Union of India (1986)	Oleum Gas Leak case; Art 21, 32	Art 32 power is remedial; can award compensation	Absolute liability (no-fault) replaced strict liability
Mohini Jain vs. State of Karnataka (1992)	Capitation Fee case; Art 21, 41	Right to education at all levels is part of Art 21; capitation fee violates Art 14	Base for Unni Krishnan
Unni Krishnan vs. State of A.P. (1993)	Art 21, 45	Right to education is FR but free education only up to age 14	86th Amendment (2002): Art 21A; RTE Act 2009
Vishaka vs. State of Rajasthan (1997)	Art 15, 21	Sexual harassment at workplace violates Arts 15, 21; laid down Vishaka Guidelines	Sexual Harassment of Women at Workplace Act, 2013
Aruna Shanbaug vs. Union of India (2011)	Euthanasia; Art 21	Active euthanasia illegal; passive euthanasia allowed with High Court approval	Further expanded in Common Cause (2018)
K.S. Puttaswamy vs. Union of India (2017)	Right to privacy case; Art 21	Privacy is a FR under Art 21 and Part III; not absolute; test = legality, need, proportionality	Overruled M.P. Sharma (1954) and Kharak Singh (1962)
Puttaswamy-II (2018)	Aadhaar judgement	Aadhaar Act 2016 valid; some provisions struck	Aadhaar and Other Laws (Amendment) Act, 2019

Judgements on Equality, Reservation and Education

Reservation and Education Cases

Case (Year)	Popular name / Article	Ruling	Impact
Indra Sawhney vs. Union of India (1992)	Mandal case; Art 16	Upheld 27% OBC reservation; creamy layer excluded; no reservation in promotions; 50% ceiling; struck 10% EWS order	Ram Nandan Committee; National Commission for BCs; 76th, 77th, 81st, 82nd, 85th Amendments
M. Nagaraj vs. Union of India (2006)	Promotions for SC/ST; Art 16, 335	Upheld 77th, 81st, 82nd, 85th Amendments (Art 16(4A), 16(4B)); 50% ceiling, creamy layer, post-based roster stay	Reservation in promotion upheld
T.M.A. Pai Foundation vs. State of Karnataka (2002)	Minority institutions; Art 29, 30	Minority determined state-wise; unaided minority institutions free in admission; aid attracts Art 29(2)	93rd Amendment (2005): Art 15(5)

Judgements on Institutions, Governance and Politics

Institutional and Federal Cases

Case (Year)	Popular name / Article	Ruling	Impact
D.C. Wadhwa vs. State of Bihar (1986)	Ordinance case; Art 213	Repeated re-promulgation of ordinances (256 in Bihar) is "fraud on the Constitution"	Ordinance power cannot substitute legislature
S.R. Bommai vs. Union of India (1994)	President's Rule; Art 356	Proclamation subject to judicial review; burden on Union; court can restore Assembly; secularism is basic structure	Check on arbitrary Art 356 use
Supreme Court Advocates-on-Record Assn. (1993)	Second Judges case; Art 124, 217	Overruled S.P. Gupta (1981, First Judges case); "consultation" = "concurrence" of CJI; CJI consults two seniormost judges; seniormost judge to be CJI	Collegium system; Third Judges case (1998)
Supreme Court Advocates-on-Record Assn. (2015)	Fourth Judges / NJAC case	99th Amendment and NJAC Act 2014 void (judicial independence)	Collegium restored
Vineet Narain vs. Union of India (1997)	Jain Hawala case	CVC to get statutory status; CBI autonomy; Single Directive struck	CVC Act, 2003; Single Directive again struck in 2014 (Art 14)
Prakash Singh vs. Union of India (2006)	Police reforms	Seven directives (State Security Commission, DGP from three senior-most with 2-year tenure, separate investigation from law and order, Police Establishment Board, Police Complaints Authority, National Security Commission)	Partial implementation
T.S.R. Subramanian vs. Union of India (2013)	Civil service reforms	Civil Service Boards; fixed minimum tenure; instructions to be in writing	IAS/IPS/IFoS Cadre Rules (Rule 7) amended 2014

Election and Criminalisation of Politics Cases

Case (Year)	Popular name / Article	Ruling	Impact
Union of India vs. Association for Democratic Reforms (2002)	Poll Reforms case; Art 19	Voter's right to know candidate's antecedents under Art 19(1)(a); affidavit on criminal cases, assets, liabilities, education	EC order 2003; false affidavit = electoral offence

Case (Year)	Popular name / Article	Ruling	Impact
People's Union for Civil Liberties (2013)	NOTA case; Art 14, 19, 21	Right not to vote; NOTA button in EVMs	NOTA first used in Chhattisgarh, MP, Mizoram, Delhi, Rajasthan (2013)
Lily Thomas vs. Union of India (2013)	Art 102, 191	Struck Sec 8(4) RPA 1951; convicted legislator disqualified immediately on conviction	Withdrawal of RP (Second Amendment and Validation) Bill, 2013
Rambabu Singh Thakur vs. Sunil Arora (2020)	Criminalisation of politics	Parties must publish candidates' criminal records with reasons for selection (merit, not winnability)	EC Form C-7

Judgements on Rights, Dignity and Social Issues

Social and Personal Law Cases

Case (Year)	Popular name / Article	Ruling	Impact
Shah Bano (Mohd. Ahmed Khan vs. Shah Bano) (1985)	Maintenance; Sec 125 CrPC	Muslim husband liable for maintenance beyond iddat; Sec 125 is secular; UCC helps integration	Muslim Women (Protection of Rights on Divorce) Act, 1986; Danial Latifi (2001) upheld it
Shayara Bano vs. Union of India (2017)	Triple Talaq case; Art 14	Talaq-e-biddat unconstitutional (manifestly arbitrary)	Muslim Women (Protection of Rights on Marriage) Act, 2019
NALSA vs. Union of India (2014)	Transgender rights; Art 14, 21	Recognised "third gender"; right to self-identified gender; reservation as backward class	Transgender Persons (Protection of Rights) Act, 2019
Navtej Singh Johar vs. Union of India (2018)	Art 14, 15, 19, 21	Sec 377 IPC struck in so far as it criminalises consensual same-sex acts	Overruled Suresh Kumar Koushal (2013)
Joseph Shine vs. Union of India (2018)	Adultery; Art 14, 15, 21	Sec 497 IPC and Sec 198(2) CrPC struck down	Adultery now only a civil wrong / ground for divorce
Indian Young Lawyers Assn. vs. State of Kerala (2018)	Sabarimala case; Art 14, 21, 25	Ban on women aged 10-50 unconstitutional; Rule 3(b) struck	Review referred to larger bench (2019)
M. Siddiq vs. Mahant Suresh Das (2019)	Ayodhya case	2.77 acres to Ram Lalla Virajman; trust to be formed; 5 acres alternative land to UP Sunni Central Waqf Board	Shri Ram Janmabhoomi Teerth Kshetra trust; land at Dhannipur

Speech, Technology and Other Cases

Case (Year)	Popular name / Article	Ruling	Impact
Union of India vs. Naveen Jindal (2004)	National flag; Art 19	Right to fly national flag is FR under Art 19(1)(a)	Not for commercial use

Case (Year)	Popular name / Article	Ruling	Impact
Shreya Singhal vs. Union of India (2015)	Online speech; Art 19	Sec 66A IT Act 2000 struck (vague, over-broad)	Not saved by Art 19(2)
Anuradha Bhasin vs. Union of India (2020)	Internet suspension; Art 19	Internet access protected under Art 19(1)(a) and (g); indefinite suspension impermissible; proportionality required	Right to access internet
Internet and Mobile Assn. of India vs. RBI (2020)	Cryptocurrency; Art 19(1)(g)	RBI circular banning VC dealings struck (disproportionate)	Crypto trading ban removed

Commonly Confused - Judges Cases

First Judges case = S.P. Gupta (1981): consultation not concurrence

Second Judges case = Advocates-on-Record (1993): concurrence of CJI; collegium born

Third Judges case = Advisory opinion (1998): Memorandum of Procedure

Fourth Judges case = NJAC (2015): 99th Amendment struck down

Remember - Case Nicknames

Cross Roads = Romesh Thappar; Preventive Detention = Gopalan

Fundamental Rights case = Kesavananda; Election case = Indira Gandhi vs. Raj Narain

Habeas Corpus case = ADM Jabalpur; Personal Liberty case = Maneka Gandhi

Mandal case = Indra Sawhney; Defection case = Kihoto Hollohan

Pavement Dwellers = Olga Tellis; Oleum Gas Leak = M.C. Mehta

Capitation Fee = Mohini Jain; NOTA = PUCL; Triple Talaq = Shayara Bano

Overruled Pairs

Gopalan (1950) overruled by Maneka Gandhi (1978)

Shankari Prasad and Sajjan Singh overruled by Golak Nath (1967)

Golak Nath overruled by Kesavananda (1973)

M.P. Sharma and Kharak Singh overruled by Puttaswamy (2017)

Suresh Koushal (2013) overruled by Navtej Johar (2018)

Judgements Expanding the Scope of Article 21

Rights Declared Part of Article 21

Sl.	Case	Year	Right declared
1	Satwant Singh Sawhney vs. D. Ramarathnam	1967	Right to travel abroad
2	Sunil Batra vs. Delhi Administration	1978	Right against solitary confinement
3	Charles Sobhraj vs. Superintendent, Central Jail	1978	Right against bar fetters
4	M.H. Hoskot vs. State of Maharashtra	1978	Right to free legal aid

Sl.	Case	Year	Right declared
5	Hussainara Khatoon vs. Home Secretary, Bihar	1979	Right to speedy trial
6	Prem Shankar Shukla vs. Delhi Administration	1980	Right against handcuffing
7	Kishore Singh Ravinder Dev vs. State of Rajasthan	1980	Right against inhuman treatment by police (third degree)
8	Francis Coralie Mullin vs. Administrator, UT of Delhi	1981	Right to live with human dignity; prisoner's necessities of life
9	Board of Trustees of Port of Bombay vs. Dilip Kumar Nadkarni	1982	Right to reputation
10	T.V. Vatheeswaran vs. State of Tamil Nadu	1983	Right against delayed execution
11	Sheela Barse vs. State of Maharashtra	1983	Right against custodial violence
12	Bandhua Mukti Morcha vs. Union of India	1983	Right against bonded labour
13	Rural Litigation and Entitlement Kendra vs. State of U.P. (Dehradun Quarrying case)	1985	Right to decent / clean and healthy environment
14	Attorney General of India vs. Lachma Devi	1985	Right against public hanging
15	Olga Tellis vs. Bombay Municipal Corporation (Pavement Dwellers case)	1985	Right to livelihood
16	State of H.P. vs. Umed Ram Sharma	1986	Right to road in hilly areas
17	Parmanand Katara vs. Union of India	1989	Right to emergency medical aid
18	Shantistar Builders vs. N.K. Totame	1990	Right to shelter
19	Unni Krishnan vs. State of A.P.	1993	Right to free education up to 14 years
20	Consumer Education and Research Centre vs. Union of India	1995	Right to health
21	L.I.C. of India vs. Consumer Education and Research Centre	1995	Right to appropriate life insurance policy
22	NHRC vs. State of Arunachal Pradesh (Chakmas Migrants case)	1996	Right not to be driven out of a state
23	Paschim Banga Khet Mazdoor Samity vs. State of West Bengal	1996	Right to timely medical treatment in government hospital

Sl.	Case	Year	Right declared
24	Police Commissioner, Delhi vs. Registrar, Delhi High Court	1996	Right to fair trial
25	Vellore Citizens Welfare Forum vs. Union of India	1996	Protection against hazardous industries
26	Dr. B.L. Wadhwa vs. Union of India	1996	Pollution-free water and air
27	Ashok Kumar Gupta vs. State of U.P.	1997	Right to social and economic justice and empowerment
28	S.K. Mastan Bee vs. G.M., South Central Railway	2002	Right to family pension
29	N.D. Jayal vs. Union of India	2003	Right to sustainable development
30	Noise Pollution, In Re	2005	Right to freedom from noise pollution
31	Reliance Energy vs. M.S.R.D.C.	2007	Right to opportunity
32	Dilip S. Dahanukar vs. Kotak Mahindra	2007	Right of appeal from judgement of conviction
33	Ramlila Maidan Incident, In Re	2012	Right to sleep
34	K.S. Puttaswamy vs. Union of India	2017	Right to privacy
35	Common Cause vs. Union of India	2018	Right to die with dignity (passive euthanasia)
36	M.K. Ranjitsinh vs. Union of India	2024	Right against adverse effects of climate change

Judgements Relating to the Amendments

Judgements Declaring Amendments Unconstitutional

Sl.	Case (Year)	Amendment challenged	Provision declared unconstitutional
1	I.C. Golak Nath vs. State of Punjab (1967)	17th Amendment 1964	17th Amendment (in part)
2	Kesavananda Bharati vs. State of Kerala (1973)	25th Amendment 1971	Art 31C (in part)
3	Indira Nehru Gandhi vs. Raj Narain (1975)	39th Amendment 1975	Art 329A (clause 4)
4	Minerva Mills vs. Union of India (1980)	42nd Amendment 1976	Art 368 (clauses 4, 5) and Art 31C (in part)
5	P. Sambamurthy vs. State of A.P. (1986)	32nd Amendment 1973	Art 371D (clause 5 and proviso)
6	Kihoto Hollohan vs. Zachillhu (1992)	52nd Amendment 1985	Tenth Schedule (Para 7)

Sl.	Case (Year)	Amendment challenged	Provision declared unconstitutional
7	L. Chandra Kumar vs. Union of India (1997)	42nd Amendment 1976	Art 323A(2)(d) and Art 323B(3)(d)
8	Supreme Court Advocates-on-Record Assn. (2015)	99th Amendment 2014	99th Amendment (total)
9	Union of India vs. Rajendra N. Shah (2021)	97th Amendment 2011	97th Amendment (in part)

Judgements Leading to Constitutional Amendments

Amendment Act	Cases that led to it
1st (1951)	Romesh Thappar 1950; Brij Bhushan 1950; Champakam Dorairajan 1951
4th (1955)	Bella Banerjee 1953; Saghir Ahmed 1954
6th (1956)	United Motors 1953; Bengal Immunity 1955
9th (1960)	Berubari Union 1960
11th (1961)	N.B. Khare 1957
15th (1963)	Election Commission vs. Venkata Rao 1953
20th (1966)	Chandra Mohan 1966
24th (1971)	Golak Nath 1967
25th (1971)	R.C. Cooper 1970 (Bank Nationalisation case)
26th (1971)	Madhav Rao Scindia 1970 (Privy Purse case)
43rd (1977)	Misrilal Jain 1977
46th (1982)	Gannon Dunkerley 1958; New India Sugar Mills 1962; Associated Hotels 1972; ONGC 1976; Vishu Agencies 1977; Northern India Caterers 1978
75th (1993)	Prabhakaran Nair 1987
76th, 77th, 81st, 82nd, 85th	Indra Sawhney 1992 (Mandal case)
82nd (2000)	S. Vinod Kumar 1996
85th (2001)	Virpal Singh Chauhan 1995; Ajit Singh Januja 1996
86th (2002)	Unni Krishnan 1993
93rd (2005)	T.M.A. Pai 2002; P.A. Inamdar 2005

Important Doctrines of Constitutional Interpretation

Doctrines at a Glance

Doctrine	Core idea	Article / origin	Key cases
Severability (Separability)	Only the unconstitutional part of a law is void if separable	Art 13	Gopalan 1950, F.N. Balsara 1951, Chamarbaugwalla 1957, Minerva Mills 1980, Kihoto Hollohan 1992

Doctrine	Core idea	Article / origin	Key cases
Waiver	FRs cannot be waived in India (can be in USA)	Part III	Behram Khurshid Pesikaka 1954, Basheshar Nath 1958, Olga Tellis 1985, Nar Singh Pal 2000
Eclipse	Pre-constitution law inconsistent with FR is dormant, not dead; revives when FR shadow removed	Art 13(1)	Bhikaji Narain Dhakras 1955, Deep Chand 1959, Mahendra Lal Jain 1962, Ambica Mills 1974, Dulare Lodh 1984
Territorial Nexus	State law with extra-territorial effect valid if sufficient, real nexus	Art 245	Wallace 1948, Chamarbaugwalla 1957, TISCO 1958, Charusila Dasi 1959, Khazan Singh 1973, Shrikant 1994, NTPC 2002
Pith and Substance	Law valid if its true nature falls in the legislature's list, despite incidental encroachment	Art 246	Prafulla Kumar Mukherjee 1947, F.N. Balsara 1951, D.N. Banerji 1952, G. Chawla 1958, Ismail Faruqi 1994
Colourable Legislation	Cannot do indirectly what cannot be done directly; form does not save a law	Art 246	Kameshwar Singh 1952, Gajapati Narayan Deo 1953, Moopil Nair 1960, M.R. Balaji 1962
Implied Powers	Grant of power carries by implication what is essential to exercise it	Maxim	Gopal Chandra Misra 1978, Rupa Ashok Hurra 2002, Raja Ram Pal 2007, Salil Sabhlok 2013
Incidental and Ancillary Powers	Entry in list includes matters reasonably incidental to it	Seventh Schedule	Chaturbhuj 1959, Rai Ramkrishna 1963, Pathumma 1978, Godfrey Phillips 2005
Precedent (Stare Decisis)	Lower courts bound by higher courts' decisions	Art 141	Waman Rao 1980
Occupied Field (Covered Field)	Parliamentary law on Concurrent List subject excludes inconsistent state law	Art 254	Deep Chand 1959, M. Karunanidhi 1979, Hoechst 1983
Prospective Overruling	New ruling applies only to future	Art 32, 141, 142	Golak Nath 1967, Mandal 1992, Karunakar 1993
Harmonious Construction	Conflicting provisions read together to give effect to both	Whole Constitution	Devaru 1957, M.S.M. Sharma 1958, O.N. Mohindroo 1968, D.A.V. College 1971, Kesavananda 1973
Liberal Interpretation	Broad, not pedantic, reading; Constitution as living organism	Interpretation	Higgins (Australia); Entries read in widest amplitude

Doctrine	Core idea	Article / origin	Key cases
Literal Interpretation	Plain, natural, grammatical meaning; strict / positivist construction	Interpretation	Gopalan 1950
Purposive Interpretation	Look at purpose / intent of framers; Preamble as key	Interpretation	Berubari 1960
Creative Interpretation	Courts evolve new concepts to meet changing needs	Interpretation	Golak Nath 1967; Kesavananda 1973

Doctrine of Severability

- Also called doctrine of separability
- Basis: Art 13(1) pre-constitution laws void to extent of inconsistency with FRs
- Basis: Art 13(2) post-constitution laws void to extent of contravention
- Test: would the legislature have enacted the valid part had it known the rest was invalid
- If valid and invalid parts are inextricably mixed, the whole Act falls
- If valid part forms a single scheme meant to operate as a whole, the whole Act falls
- If what remains is too thin and truncated, the whole Act falls
- If remainder cannot be enforced without modification, it is judicial legislation, so whole struck
- Separability depends on substance, not on whether provisions are in the same section

Doctrine of Waiver

- Voluntary renunciation of a known right
- Not applicable to FRs in India (doctrine of non-waiver); applicable in USA
- FRs are mandatory on the State and placed as public policy
- Example: citizen cannot waive Arts 15(1), 20, 21 protection

Doctrine of Eclipse

- Rooted in prospective nature of Art 13(1)
- Pre-constitution law inconsistent with FR becomes inoperative, not void ab initio
- Remains valid for past transactions, rights acquired before 1950, and for non-citizens
- If the FR is later amended, the law revives
- Formulated: **Bhikaji Narain Dhakras vs. State of M.P. (1955)** - Sec 43 Motor Vehicles Act 1939 eclipsed by Art 19(1)(g); revived by 1st Amendment's change to Art 19(6)
- Deep Chand (1959) and Mahendra Lal Jain (1962): not applicable to post-constitution laws (stillborn, Art 13(2))
- Ambica Mills (1974): applied to post-constitution law as regards non-citizens
- Dulare Lodh (1984): applied to post-constitution law even against citizens

Doctrine of Territorial Nexus

- Parliament can make extra-territorial laws (Art 245); State Legislature cannot
- Exception: State law valid if sufficient nexus between State and the object
- Nexus must be real, not illusory; liability must be relevant to nexus
- Pre-1950: Raleigh (1944), Wadia (1949) by Federal Court; Wallace (1948) by Privy Council - all income-tax laws
- Chamarbaugwalla (1957): tax on gambling
- TISCO (1958): sales-tax law
- Charusila Dasi (1959): Bihar law on trust property situated in West Bengal upheld
- Shrikant (1994): Gujarat land ceiling counting land held outside the State upheld

- Not applicable: inter-state routes scheme under Motor Vehicles Act, and State trade under Art 298 (Khazan Singh 1973)

Doctrine of Pith and Substance

- Applied when a law of one legislature encroaches on another's list (Art 246)
- Law viewed as an organic whole: enactment, main object, scope and effect
- Valid if true nature lies within the enacting legislature's competence, even with incidental encroachment
- Originated with Privy Council (Canada, Australia disputes)
- Prafulla Kumar Mukherjee vs. Bank of Commerce (1947): Bengal Money Lenders Act valid - "money lending" (State) incidentally affecting "promissory notes" (Centre)
- Where lists conflict: List I over III over II

Doctrine of Colourable Legislation

- Legislature does indirectly what it cannot do directly (fraud on the Constitution)
- Substance, not form, matters; motive/bona fides irrelevant - only competence
- Fraud on the Constitution: legislature lacks power but pretends to have it
- Fraud on legislative power: legislature has power but pretends to exercise it

Doctrine of Implied Powers

- Also called doctrine of implication
- Maxim: whoever grants a thing grants that without which it would be ineffective
- Gopal Chandra Misra (1978): High Court judge can withdraw resignation (Art 217)
- Rupa Ashok Hurra (2002): Supreme Court's inherent power to hear **curative petition** after review dismissed (Art 137)
- Raja Ram Pal (2007): Parliament can expel members for contempt (Art 105)
- Salil Sabhlok (2013): Governor's Art 316 power to appoint SPSC members implies power to lay down procedure
- **Implied prohibition** (opposite): express mention of one thing excludes another; applies in USA and Australia; not applicable in India

Doctrine of Incidental and Ancillary Powers

- US equivalent: "necessary and proper" powers
- Power to tax includes power to check tax evasion; power to legislate on rent collection includes remission
- Power to tax does not include power to confiscate goods
- "Betting and gambling" (Entry 34, State List) does not include taxing it (Entry 62)
- Cannot be used for colourable exercise

Doctrine of Precedent (Stare Decisis)

- English doctrine; maxim "stare decisis et non quieta movere"
- Art 141: law declared by Supreme Court binding on all courts in India
- Supreme Court is not strictly bound by its own decisions, but departs only for compelling reasons
- High Court cannot overrule or ignore a Supreme Court decision

Doctrine of Occupied Field and Repugnancy

- Also called doctrine of covered field; originates from Art 254
- Applies only to Concurrent List entries
- Union List subject: State barred; State List subject: Parliament barred
- Art 254(1): in conflict, parliamentary law prevails; state law void to extent of repugnancy
- Art 254(2) exception: State law reserved for President and assented prevails in that State; Parliament may later override it
- Tests of repugnancy: direct conflict; intended occupation (exhaustive code); occupied field

- Overlap between List II and Lists I/III: Art 246(1) non-obstante clause applies, not Art 254

Doctrine of Prospective Overruling

- American doctrine; first applied in India in **Golak Nath (1967)**
- New ruling applies to future transactions only; past transactions saved
- Basis: Art 32, 141, 142
- Three propositions: only in matters under the Constitution; only by Supreme Court; extent of retroactivity at court's discretion
- Survived the overruling of Golak Nath
- Mandal case (1992): operation postponed by five years
- Karunakar (1993): benefit only to pending cases, not concluded actions
- Extended to ordinary statutes as well

Doctrine of Harmonious Construction

- Also called rule of avoidance of conflict
- Read the Constitution as a whole; no conflict intended by framers
- Applied to: FR vs DPSP; different FRs; FR vs legislative privileges; FR vs amendment procedure; entries of Seventh Schedule

Harmonious Construction Cases

Case (Year)	Ruling
Sri Venkataramana Devaru vs. State of Mysore (1957)	Art 26(b) subject to Art 25(2)(b)
M.S.M. Sharma vs. Krishna Sinha (1958)	Art 19(1)(a) subject to legislative privileges under Art 194(3)
O.N. Mohindroo vs. Bar Council of Delhi (1968)	Parliament exclusive for advocates before SC/HC; rest Concurrent List
D.A.V. College vs. State of Punjab (1971)	State cannot prescribe medium of instruction in higher education if it interferes with Union List
Kesavananda Bharati (1973)	"Law" in Art 13(2) means ordinary law, not Art 368 amendments

Modes of Interpretation

- **Liberal:** constitution a living, organic instrument; read broadly (Justice Higgins); legislative entries read in widest amplitude
- **Literal** (strict / positivist construction): plain grammatical meaning; nothing read from "spirit" (Gopalan)
- **Purposive:** ascertain framers' intent; Preamble is "key to the minds of the makers" (Berubari)
- **Creative:** courts evolve new doctrines; examples - prospective overruling (Golak Nath), basic structure (Kesavananda, "water-mark of judicial creativity")

Commonly Confused

Eclipse: pre-constitution laws (Art 13(1)); post-constitution laws are stillborn (Deep Chand) except Ambica Mills / Dulare Lodh

Waiver: allowed in USA, not in India

Implied powers: India applies; implied prohibition: USA/Australia only

Fraud on Constitution = no power at all; fraud on legislative power = power exists but not really exercised

Territorial nexus: Parliament need not; only State Legislature needs nexus

CHAPTER 15

World Constitutions

World Constitutions

Features Borrowed by Indian Constitution

Source of Indian Constitutional Features

Source	Features borrowed
Government of India Act, 1935	Federal scheme, Governor's office, judiciary, Public Service Commissions, emergency provisions
British	Parliamentary government, rule of law, single citizenship, cabinet system, prerogative writs, bicameralism
American	Fundamental Rights, judicial review, independent judiciary, impeachment of President, removal of SC/HC judges, Vice-President as Rajya Sabha Chairman, Preamble
Irish	DPSP, nomination of Rajya Sabha members, method of Presidential election
Canadian	Federation with strong Centre, residuary powers with Centre, Centre appoints Governors, advisory jurisdiction of SC
Australian	Concurrent List, freedom of trade and commerce, joint sitting of Parliament
Weimar (German)	Suspension of Fundamental Rights during Emergency
Soviet	Fundamental Duties, ideal of justice (social, economic, political) in Preamble
French	Republic, ideals of liberty, equality, fraternity
South African	Procedure for amendment, election of Rajya Sabha members
Japanese	Procedure established by law

Remember

Fundamental Rights, judicial review, impeachment: USA
 DPSP and Rajya Sabha nominations: Ireland
 Concurrent List and joint sitting: Australia
 Residuary powers with Centre: Canada
 Fundamental Duties: USSR
 Emergency suspension of FRs: Weimar Germany

American Constitution

- Formed 1787 (Philadelphia Convention); in force 1789
- Oldest written Constitution: Preamble + 7 Articles + 27 Amendments
- First modern federal state: 50 states + District of Columbia; residuary powers with States

- Bill of Rights (first ten amendments, 1791): first Constitution to carry one
- Amendment: two-thirds of Congress + three-fourths (38 of 50) states, or convention on petition of two-thirds (34) states
- Senate 100 members, 6 years; House of Representatives 435, 2 years

US President

Item	Provision
Election	Indirect, electoral college of 538; 270 needed (DC has 3)
If no majority	House of Representatives chooses from top three
Tenure	4 years, begins 20 January; max two terms (22nd Amendment, 1951)
Qualifications	Natural-born citizen, 35 years, 14 years' residence
Impeachment	House initiates by majority; Senate tries by two-thirds, Chief Justice presides
Veto	Qualified (re-passed by two-thirds) and Pocket (Congress adjourns within 10 days)

British Constitution

- Unwritten, flexible, unitary; 'mother of Constitutions'; UK formed 1921
- Sources: conventions, great charters, statutes, common law, legal commentaries
- Charters: Magna Carta 1215, Petition of Rights 1628, Bill of Rights 1689; Habeas Corpus Act 1679
- Parliamentary sovereignty; no judicial review
- King reigns but does not rule; Crown is immortal, King is mortal
- PM is 'Primus inter pares'; Shadow Cabinet by opposition; leader of opposition is 'alternative PM' (Ivor Jennings)

French Constitution

- Fifth Republic, 1958, under de Gaulle; written, rigid, unitary
- Originally Preamble + 92 Articles in 15 chapters; motto Liberty, Equality, Fraternity
- First republican Constitution to recognise political parties
- Constitutional Council: 9 members, 9 years, advisory

French President

Element	Original	Amended
Election	Indirect	Direct (1962)
Tenure	7 years	5 years (2000)
Terms	No limit	Two consecutive (2008)

- Impeachment for high treason; tried by High Court of Justice
- Dissolves National Assembly (577, 5 years) once in 12 months, not in emergency; Senate 348, 6 years

Japanese Constitution

- MacArthur / Showa Constitution; adopted 1946, in force 1947; Meiji Constitution 1889 to 1947
- Article 9: renunciation of war; Articles 10 to 40: rights and duties
- Judicial review derived directly from Constitution (unlike USA)
- Diet: House of Councillors 248, 6 years (upper); House of Representatives 465, 4 years (lower) (official Diet data, 2026)

Japan vs Britain

Point	Britain	Japan
PM chosen by	Monarch	Diet (appointed by Emperor)
Ministers appointed by	Monarch	PM
PM removes ministers	No	Yes
Ministers in Parliament	All	Majority

Soviet Constitution

- Constitutions: 1918, 1924, 1936 (Stalin), 1977 (Brezhnev); first socialist Constitution
- Presidium: 39 members; plural executive; '20th Century Innovation'
- One-party (CPSU) dictatorship; democratic centralism; rights and duties both provided

Russian Constitution

- Adopted 20 December 1993; federal: 21 Republics, 6 Krai, 49 Oblast, 10 Okrug
- Federation Council (upper): two members per federal subject plus presidential appointees, so size varies; State Duma 450, 5 years (lower)

Chinese Constitution

- NPC unicameral (about 3,000 deputies); amendment by two-thirds of NPC
- People's Republic 1949; Constitutions 1954, 1975, 1978, 1982 (present)
- Amendment: two-thirds of NPC; proposed by Standing Committee or one-fifth deputies
- President: elected by NPC, 5 years, min age 45, ceremonial; State Council headed by Premier

Swiss Constitution

- Constitutions: 1848, 1874, 1999 (in force 1 January 2000); originally 196 Articles in 6 titles
- 26 cantons (20 full, 6 half); residuary powers with cantons
- Federal Council (Bundesrat): plural executive of 7 members, 4 years
- Direct democracy: referendum and initiative; Upper house Council of States 46, lower National Council 200, equal powers
- President of Federal Council: 1 year, primus inter pares
- Triple citizenship: commune, canton, federation

Constitutions Compared

Country	Written	Rigid	Form	Executive
USA	Yes	Yes	Federal	Presidential
UK	No	Flexible	Unitary	Parliamentary
France	Yes	Yes	Unitary	Semi-presidential
Japan	Yes	Yes	Unitary	Parliamentary
USSR	Yes	Yes	Federal	One-party
China	Yes	Yes	Unitary	One-party
Switzerland	Yes	Yes	Federal	Plural

Commonly Confused

Plural executive: Switzerland (Federal Council), USSR (Presidium)
 Shadow Cabinet: Britain only
 Only country to constitutionally renounce war: Japan
 Rationalised Parliament, Constitutional Council: France

UP-PSC 2026

PRELIMS

SIMULATOR TESTS

Write Your
Prelims before the
Actual Prelims



SCAN TO
REGISTER

ENGLISH &
हिंदी माध्यम

SIMULATOR - 0
25 OCT
2026

SIMULATOR - 1
01 NOV
2026

SIMULATOR - 2
11 NOV
2026

SIMULATOR - 3
22 NOV
2026

SIMULATOR - 4
29 NOV
2026

Know your real All-India
rank and percentile—no
illusions, no comfort zones.

Validate **elimination**
techniques, risk-taking
and accuracy at scale.

**WHY
SIMULATOR
TESTS**

Experience exam - day
pressure before the actual
D-Day.

Identify **blind spots** and
course-correct in time.

ONLINE & OFFLINE TEST AT



DELHI



LUCKNOW



PRAYAGRAJ



VARANASI



KANPUR

UPPSC PRELIMS

QRS QUICK
REVISION
SERIES

OPEN FOR ALL ON



YouTube

SCAN TO
WATCH



30+ Classes

✉ admissions@forumias.academy

🌐 academy.forumias.com



9311740400



9311740404