

GA POWER CAPSULE FOR INDIAN POLITY/CIVIS FOR DEFENCE EXAMS 2018-19
Framing of the Constitution:

- The Constitution of India was framed by a Constituent Assembly which was set up under the Cabinet mission plan (1946).
- The Constituent Assembly took almost 3 years (2 years, 11 months, & 18 days) to complete its historic task of drafting the Constitution for an Independent India.
- During this period it held 11 sessions covering a total of 165 days. Of these, 114 days were spent on the consideration of & discussion on the Draft Constitution.
- As for the composition of the Assembly, members were chosen by indirect election by the members of the Provincial Legislative Assemblies, following the scheme recommended by the Cabinet Mission. The total membership of the assembly thus was to be 389.
- However, as a result of the partition, a separate Constituent Assembly was set up for Pakistan & representatives of some provinces ceased to be members of the Assembly. As a result, the membership of the Assembly was reduced to 299.

The Cabinet Mission

World War II in Europe came to an end on May 9, 1945. Three British cabinet ministers were sent to find a solution to the question of India's independence. This team of ministers (Lord Pethick Lawrence, Stafford Cripps, A V Alexander) was called the Cabinet Mission. The Mission was in India from March 1946 to May 1946. The Cabinet Mission discussed the framework of the constitution & laid down in some detail the procedure to be followed by the constitution drafting body. The Assembly began work on 9 December 1946.

First Interim National Govt.

The Govt. was constituted on 2 September, 1946. It was led by Pandit Nehru. All the members of the interim Govt. were members of Viceroy's Executive Council. The Viceroy continued to be the head of the Council. Pandit Jawahar Lal Nehru was designated as the Vice-President of the Council.

The Constituent Assembly

- The people of India elected members of the provincial assemblies, who in turn elected the constituent assembly.
- Frank Anthony represented the Anglo-Indian community.
- Dr. Sachidanand Sinha was the first president of the Constituent Assembly. Later, Dr. Rajendra Prasad was elected president of the Constituent Assembly while B.R. Ambedkar was appointed the Chairman of the Drafting Committee.

Sources of our Constitution

The Indian Constitution is borrowed from almost all the major countries of the world but has its own unique features too. Major sources are:

- Government of India Act of 1935** - Federal Scheme, Office of Governor, Judiciary, Public Service Commission, Emergency provisions & administrative details.
- British Constitution** - Parliamentary System, Rule of law, Legislative Procedure, Single Citizenship, Cabinet System, Prerogative Writs, Parliamentary Privileges & Bicameralism.
- US Constitution** - Fundamental rights, independence of judiciary, judicial review, impeachment of president, removal of Supreme court & high court judges & post of vice president.
- Irish Constitution** - Directive Principles of State Policy, nomination of members of Rajya Sabha & method of election of president
- Canadian Constitution** - Federation with a strong centre, vesting of residuary power in the centre, appointment of state Governor by the centre & advisory jurisdiction of Supreme Court.
- Australian Constitution** - Concurrent list, joint sitting of two houses of Parliament, Freedom of trade & commerce & intercause.
- Constitution of Germany** - Suspension of fundamental rights during emergency.
- French Constitution** - Republic & ideals of liberty, equality & fraternity in the Preamble.
- South African Constitution** - Procedure for amendment of the constitution & election of members of Rajya Sabha.
- Japanese Constitution** - Procedure established by Law.
- Constitution of former USSR** - Procedure of five-year plan, fundamental duties, ideals of justice (social, economic & political) in Preamble.

PARTS DESCRIBED IN THE CONSTITUTION

Part	Subject	Articles
Part I	The Union and its territory	Art. 1 to 4
Part II	Citizenship	Art. 5 to 11
Part III	Fundamental Rights	Art. 12 to 35
Part IV	Directive Principles	Art. 36 to 51
Part IVA	Fundamental Duties	Art. 51A
Part V	The Union	Art. 52 to 151
Part VI	The States	Art. 152 to 237
Part VII	Repealed by Const. (7th Amendment) Act, 1956	
Part VIII	The Union Territories	Art. 239 to 242
Part IX	The Panchayats	Art. 243 to 243O
Part IXA	The Municipalities	Art. 243P to 243ZG
Part IXB	The Co-operative Societies	Art. 243ZH to 243ZT
Part X	The Scheduled and Tribal Areas	Art. 244 to 244A
Part XI	Relations between the Union and the States	Art. 245 to 263
Part XII	Finance, Property, Contracts and Suits	Art. 264 to 300A



Part XIII	Trade, Commerce and Intercourse within the Territory of India	Art. 301 to 307
Part XIV	Services under the Union and the States	Art. 308 to 323
Part XIVA	Tribunals	Art. 323A to 323B
Part XV	Elections	Art. 324 to 329A
Part XVI	Special provisions relating to certain classes	Art. 330 to 342
Part XVII	Official Language	Art. 343 to 351
Part XVIII	Emergency Provisions	Art. 352 to 360
Part XIX	Miscellaneous	Art. 361 to 367
Part XX	Amendment of the Constitution	Art. 368
Part XXI	Temporary, Transitional and Special Provisions	Art. 369 to 392
Part XXII	Short title, commencement, authoritative text in Hindi and repeals	Art. 393 to 395

IMPORTANT SCHEDULES IN THE CONSTITUTION

Schedules 1 to 12

First schedule contains the list of states and union territories and their territories

Second schedule contains provisions as to the President, Governors of States, Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State, the Judges of the Supreme Court and of the High Courts and the Comptroller and Auditor-General of India the list of states and union territories and their territories

Third Schedule contains the Forms of Oaths or Affirmations.

Fourth Schedule contains provisions as to the allocation of seats in the Council of States.

Fifth Schedule contains provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.

Sixth Schedule contains provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.

Seventh Schedule contains the Union list, State list and the concurrent list.

Eighth Schedule contains the list of recognised languages.

Ninth Schedule contains provisions as to validation of certain Acts and Regulations.

Tenth Schedule contains provisions as to disqualification on ground of defection.

Eleventh Schedule (73rd amendment) contains the powers, authority and responsibilities of Panchayats.

Twelfth Schedule (74th amendment) contains the powers, authority and responsibilities of Municipalities.

Fundamental Rights

- They are **justiciable**, allowing persons to move the courts for their enforcement, if & when they are violated.
- They are defended & guaranteed by the Supreme Court. Hence, the aggrieved person can directly go to the Supreme Court. They can be suspended during the operation of a National Emergency except the rights guaranteed by **Articles 20 & 21**. More, the six rights guaranteed by Article 19 can be suspended only when emergency is declared on the grounds of war or external aggression.

Originally the Constitution provided for seven fundamental rights:

1. Right to equality [Art. 14-18]
2. Right to freedom [Art. 19-22]
3. Right against exploitation [Art. 23-24].
4. Right to freedom [Art. 25-28]
5. Cultural & educational rights [Art. 29-30]
6. Right to property [Art. 31]
7. Right to constitutional remedies [Art. 32]

However, the 'right to property' was deleted from the list of fundamental rights by the **44th Constitutional Amendment Act, 1978**. It has been made a legal right under **Article 300-A** in the Constitution. So, at present, there are only six fundamental rights.

Part-IV: Directive Principles of State Policy [Article 36 to 51]

- The phrase 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies & enacting laws.
- It includes the legislative & executive organs of the central & state governments, all local authorities & all other public authorities in the country.
- The Directive Principles are **non-justiciable in nature**, that is, they are not legally enforceable by the courts for their violation. Therefore, the government cannot be compelled to implement them. They aim at providing social & economic justice of the people.

FUNDAMENTAL DUTIES

A list of ten fundamental duties was included in the Indian Constitution by the **42nd Amendment Act, 1976 in the form of Article 51 A**.

- For this a new part was created in the Constitution in the form of Part IV-A. **It is based on the Japanese model.**
- The idea of including a separate chapter on duties was recommended by the **Swaran Singh Committee** in view of the fact that duties & rights are inseparable.
- Moreover, subsequently **11th duty has been added by Constitution (86th Amendment) Act, 2002 in the form of 51 A (k)**. It reads:

"It shall be the duty of every citizen of India "who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six & fourteen years."

CITIZENSHIP



A citizen is a person who enjoys full membership of the community or State in which he lives or ordinarily lives. The State demands extra duty from its citizen which cannot be asked to non-citizens.

- The 42nd Constitution (Amendment) Act, 1976 has inserted 10 Fundamental Duties in Article 51-A.

Ways to acquire Indian Citizenship

Constitution of India under Citizenship (Amendment) Act, 1986 provides five ways to acquire citizenship of India. These five ways are:

- Citizenship by Birth**
- Citizenship by Descent**
- Citizenship by Registration**
- Citizenship by Naturalization**
- Citizenship by incorporation of Territory**

THE UNION EXECUTIVE

The President

Article 52 – There shall be a President of India.

Article 53 – The executive power of the Union shall be vested in the President.

Thus the President is:

- Executive head of the Republic.
- All the executive actions are taken in his name. The executive power vested in the President is to be exercised on the aid & advice of the Council of Ministers [Article 74(1)]. It is obligatory on the part of President to accept the advice of the council of ministers as per the 42nd and 44th Constitutional Amendment Acts.
- He is the first citizen of India & occupies the first position under the warrant of precedence. Warrant of Precedence indicates the hierarchy of positions occupied by various dignitaries attending a state function.
- He is the Supreme Commander of Armed Forces.

Election of the President

The President of India is elected by indirect election. He is elected by an electoral college in accordance with the system of proportional representation by means of the single transferable vote & the vote being secret.

Article 54 –

The Electoral College consists of:

- The elected members of both houses of Parliament (nominated members are not the members of electoral college)
- The elected members of the Legislative Assemblies of the States (including National Capital Territory of Delhi & the Union Territory of Pondicherry)

Manner of Election of the President

The provisions dealing with the manner of election of the President of India are provided in Article 55. He is elected following the system of proportional representation by means of single transferable vote.

- **Article 62** of the Constitution provides that an election to fill a vacancy shall be held as soon as possible after, &

in no case later than six months from, the date of occurrence of the vacancy (if such occurrence of vacancy is caused by resignation or death or impeachment or otherwise).

Qualification for election as President

- He must be a citizen of India.
- He must have completed the age of 35 years.
- He must be qualified for election as a Member of the House of the People.
- He must not hold any office of Profit under the Govt. of India or the Govt. of any State or under any local or other authority subject to the control of any of the said Govt. However, following persons are not deemed to be holding any office of profit & hence they cannot be disqualified for election as the President: **A sitting President or Vice-President of India/Governor of any state/A minister of the Union or of any State.**

Eligibility for re-election

A person, who holds or who has held office as President shall be eligible for re-election to that office.

Impeachment of the President [Article 61]

- The President can be removed from his office before the expiry of his term by the process of impeachment.
- The President can be impeached only for the violation of the Constitution.
- It is a quasi-judicial procedure.
- The impeachment procedure can be initiated in either House of the Parliament. The resolution must be signed by at least 1/4th of the total membership of the House. Before the resolution could be passed, a 14-day notice must be given to the President. Such a Resolution must be passed by a majority of not less than 2/3rd of the total membership of the House.
- Then, the other House of Parliament called the “Investigating House” investigates the charges by itself or cause the charge to be investigated.
- The President has the right to appear & to be represented at such investigation to defend him.
- If, as a result of the investigation the other House also passes a resolution supported by not less than 2/3rd of the total membership of House, the President stands removed from his office from the date on which the investigating House passed the resolution.

Note:

- The elected members of the legislative assemblies of States have no role in the impeachment proceedings, while they elect the President.
- The nominated members of the Parliament have the right to deliberate & vote when the resolution of impeachment is under consideration while they have no vote in the election of the President.

Vacancy filled up with Acting President

- In case the office of the President falls vacant due to death, resignation or impeachment the Vice-President or in his absent. Chief Justice of Supreme Court or on his



absence, senior most Judge of the Supreme Court becomes President till the fresh election for the Post & new incumbent assumes office.

- (2) If the President is not able to discharge his duties due to sickness or absence due to any other reasons, the Vice-President discharges the functions of the President & is entitled to the same salary, allowances & privileges which are available to the President under the constitution.

Legislative powers of President

The legislative Powers of President are as follows:

1. The President summons both the Houses of the Parliament & prorogues them. He or she can dissolve the Lok Sabha according to the advice of the Council of Ministers headed by the PM.
2. President inaugurates the Parliament by addressing it after the general elections & also at the beginning of the first session each year.
3. All bills passed by the Parliament can become laws only after receiving the assent of the President. The President can return a bill to the Parliament, if it is not a money bill or a constitutional amendment bill, for reconsideration. When after reconsideration, the bill is passed & presented to the President, with or without amendments; President is obliged to assent to it.
4. The President can also withhold his assent to the bill thereby exercising pocket veto.
5. When both Houses of the Parliament are not in session & if Govt. feels the need for immediate action, President can promulgate ordinances which have the same force & effect as laws passed by Parliament.

Executive powers of President

The executive powers of President are as follows:

1. The President appoints the PM, the President then appoints the other members of the Council of Ministers, distributing portfolios to them on the advice of the PM.

The President is responsible for making a wide variety of appointments. These include:

Governors of States/The Chief Justice, other judges of the Supreme Court & High Courts of India/The Attorney General/The Comptroller & Auditor General/The Chief Election Commissioner & other Election Commissioners/The Chairman & other Members of the Union Public Service Commission/ Ambassadors & High Commissioners to other countries.

3. The President is the Commander in Chief of the Indian Armed Forces.

Financial powers

1. All money bills originate in Parliament, but only if the President recommends it.
2. He or she causes the Annual Budget & supplementary Budget before Parliament.
3. The President appoints a finance commission every five years.

Judicial powers

1. The president appoints the Chief Justice of the Union Judiciary & other judges on the advice of the Chief Justice.
2. The President dismisses the judges if & only if the two Houses of the Parliament pass resolutions to that effect by two-thirds majority of the members present.
3. He/she has the right to grant pardon. The President can suspend, remit or commute the death sentence of any person.

Pardon - completely absolves the offender

Reprieve - temporary suspension of the sentence

Commutation - substitution of one form a punishment for another form which is of a lighter character

Respite - awarding a lesser sentence on special ground

Remission - reducing the amount of sentence without changing its character

Diplomatic powers

All international treaties & agreements are negotiated & concluded on behalf of the President. However, in practice, such negotiations are usually carried out by the PM along with his Cabinet (especially the Foreign Minister).

Military powers

The President is the supreme commander of the defense forces of India. The President can declare war or conclude peace, subject to the approval of parliament. All important treaties & contracts are made in president's name.

Emergency powers

The President can declare three types of emergencies: national, state & financial. **Under Article 352, 356 & 360.**

Vice President of India

The Vice-President is elected by an electoral college consisting of members of both Houses of Parliament, in accordance with the system of proportional representation by means of the single transferable vote & the voting in such election is by secret ballot. The Electoral College to elect a person to the office of the Vice-President consists of all members of both Houses of Parliament. He is ex-officio chairman of Rajya Sabha.

The Vice-President should not be a member of either House of Parliament or of a House of a Legislature of any state. If a member of either House of Parliament or of a House of a Legislature of any state is elected as Vice-President, he is deemed to have vacated his seat in that House on the date he/she enters his office as Vice-President.

A person cannot be elected as Vice-President unless she/he-

- ✚ is a citizen of India has completed the age of 35 years
- ✚ is qualified for election as a member of the Council of States (Rajya Sabha).
- ✚ Holds any office of profit under the Govt. of India or a State Govt. or any subordinate local authority.

Removal of Vice President



The Constitution states that the Vice President can be removed by a resolution of the Rajya Sabha passed by an absolute majority (more than 50% of total membership) & agreed to by a simple majority (50% of voting members) of the Lok Sabha (Article 67(a)).

Powers & functions of a VP

The functions of Vice-President are twofold:

1. He acts as the ex-officio Chairman of Rajya Sabha. In this capacity, his powers & functions are similar to those of the Speaker of Lok Sabha.
2. He acts as President when a vacancy occurs in the office of the President due to his resignation, removal, death or otherwise. He can act as President only for a maximum period of six months, within which a new President has to be elected. Further, when the sitting President is unable to discharge his functions due to absence, illness or any other cause, the Vice-President discharges his functions until the President resumes his office.

While acting as President or discharging the functions of President, the Vice-President does not perform the duties of the office of the chairman of Rajya Sabha. During this period, those duties are performed by the Deputy Chairman of Rajya Sabha.

- If the offices of both the President & the Vice-President fall vacant by reason of death, resignation, removal etc the Chief Justice of India or in his absence the seniormost judge of the Supreme Court acts as President.
- For the first time, during the 15-day visit of Dr. Rajendra Prasad to the Soviet Union in June 1960, the then Vice-President Dr. Radhakrishnan acted as the President.
- For the first time, in 1969, when the President Dr. Zakir Hussain died & the Vice-President V.V. Giri resigned, the Chief Justice Md. Hidayatullah acted as President.

Prime Minister

In the scheme of parliamentary system of government provided by the Constitution, the President is the nominal executive (de Jure) authority & PM is the real executive (**de facto**) authority. The President is the head of the State while PM is the head of the government.

Appointment of the PM

- Article 75 says that the PM shall be appointed by the President. The President appoints the leader of the majority party in the Lok Sabha as the PM.
- But, when no party has a clear majority in the Lok Sabha, then the President may exercise his personal discretion in the selection & appointment of the PM.

Term

The term of the PM is not fixed & he holds office during the pleasure of the President. So long as the PM enjoys the majority support in the Lok Sabha, he cannot be dismissed by the President. However, if he loses the confidence of the Lok Sabha, he must resign or the President can dismiss him.

Powers & functions of PM

- He recommends persons who can be appointed as ministers by the President.
- He can recommend dissolution of the Lok Sabha to the President at any time.
- He is the chairman of the NITI Aayog, National Development Council, National Integration Council, Inter-State Council & National Water Resources Council.

The Union Council of Ministers

As the Constitution of India provides for a parliamentary system of government modelled on the British pattern, the council of ministers headed by the PM is the real executive authority.

- Article 74 deals with the status of the council of ministers while Article 75 deals with the appointment, tenure, responsibility, qualification, oath & salaries & allowances of the ministers.
- The total number of ministers, including the PM, in the Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha. [91st Constitutional Amendment Act, 2003]
- The council of ministers shall be collectively responsible to the Lok Sabha.
- A person who is not a member of either House can also become a minister but he cannot continue as minister for more than six months unless he secures a seat in either House of Parliament (by election/ nomination). [Art. 75(5)]

The council of ministers consists of three categories: Cabinet ministers, ministers of state, & deputy ministers.

Cabinet Ministers: The cabinet ministers head the important ministries of the Central government like home, defence, finance & external affairs.

Ministers of State: The ministers of state can either be given independent charge of ministries/departments or can be attached to cabinet ministers.

Deputy Ministers: The deputy ministers are not given independent charge of ministries/departments & always assist the Cabinet or State Minister or both. They are not members of the cabinet & do not attend cabinet meetings. Minister may be taken from members of either House & minister who is member of one House has the right to speak & take part in the proceedings of the other House but cannot vote in the House of which he is not member. [Art. 88]

PARLIAMENT OF INDIA

The House of the People (Lok Sabha)

- The Lok Sabha is the popular house of the parliament because its members are directly elected by the common electorates of India.
- All the members of this House are popularly elected, except not more than two from the Anglo-Indian community, who can be nominated by the President.
- In the Constitution, the strength of the Lok Sabha is provisioned under Art. 81 to be not more than 552 (530



from the States, 20 from the Union Territories & 2 may be nominated from the Anglo-Indian community).

- The Govt. has extended this freeze in the Lok Sabha seats till the year 2026 by Constitution (84th Amendment Act, 2001).

Special Powers of the Lok Sabha

1. Money & Financial Bills can only originate in the Lok Sabha.
2. In case of a Money Bill, the Rajya Sabha has only the right to make recommendation & the Lok Sabha may or may not accept the recommendation. Lok Sabha enjoys exclusive legislative jurisdiction over the passage of the Money Bills.
3. The Council of Ministers are responsible only to the Lok Sabha & hence the Confidence & No-confidence motions can be introduced in this House only.
4. Under Art. 352, the Lok Sabha in a special sitting can disapprove the continuance of a national emergency proclaimed by the President, even if the Rajya Sabha rejects such a resolution.

Tenure of the Lok Sabha

The normal tenure of the Lok Sabha is five years. But the House can be dissolved by the President even before the end of the normal tenure. Also, the life of the Lok Sabha can be extended by the Parliament beyond the five-year term during the period of national emergency proclaimed under Art. 352.

Qualifications for the membership of Lok Sabha

1. Be a citizen of India.
2. Be not less than 25 years of age.
3. Should be a registered voter in any of the Parliamentary constituencies in India.
4. Should not hold any office of profit
5. Should not be insolvent
6. Should not be mentally unsound.

Speaker & Deputy Speaker of Lok Sabha

- 1) Chief presiding officer of the Lok Sabha.
- 2) The Speaker presides over the meetings of the House & his rulings on the proceedings of the House are final.
- 3) The Speaker & Deputy Speaker may be removed from their offices by a resolution passed by the House by an effective majority of the House after a prior notice of 14 days to them.
- 4) The Speaker, to maintain impartiality of his office, votes only in case of a tie i.e to remove a deadlock & this is known as the Casting Vote.

Special powers of the Speaker

1. Whether a Bill is Money Bill or not is certified only by the Speaker & his decision in this regard is final & binding.
2. The Speaker, or in his absence, the Deputy Speaker, presides over the joint-sittings of the parliament.
3. The committees of parliament function essentially under the Speaker & their chairpersons are also appointed or

nominated by him. Members of the Rajya Sabha are also present in some of these committees.

4. If the Speaker is a member of any committee, he is the ex-officio chairman of such a committee.

Special position of the Speaker

1. Though he is an elected member of the Lok Sabha, he continues to hold his office even after the dissolution of the House till a new Lok Sabha is constituted. This is because he not only presides & conducts the parliamentary proceedings but also acts as the Head of the Lok Sabha Secretariat which continues to function even after the House is dissolved.
2. The Speaker presides over the joint sitting of the two Houses of the Parliament
3. Speaker certifies a Bill as Money Bill & his decision is final in this regard.
4. The Speaker is ex-officio President of Indian Parliamentary Group which in India functions as the national group of Inter parliament Union.

Pro tem Speaker

As provided by the Constitution, the Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly elected Lok Sabha. Therefore, the President appoints a member of the Lok Sabha as the *Pro tem* Speaker. The President himself administers oath to the *Pro tem* Speaker.

The *Pro tem* Speaker has all the powers of the Speaker. He presides over the first sitting of the newly elected Lok Sabha. His main duty is to administer oath to the new members.

RAJYA SABHA

The Rajya Sabha (RS) or Council of States is the upper house of the Parliament of India. Membership is limited to 250 members, 12 of whom are nominated by the President of India for their contributions to art, literature, science, & social services.

- The remainder of the body is elected by the state & territorial legislatures. Members sit for six-year terms, with one third of the members retiring every two years.
- The Rajya Sabha meets in continuous sessions and, unlike the Lok Sabha, the lower house of Parliament, is not subject to dissolution.
- The Vice President of India (currently, Vankaiyan Naidu) is the ex-officio Chairman of the Rajya Sabha, who presides over its sessions.
- The Deputy Chairman who is elected from amongst the RS's members, takes care of the day-to-day matters of the house in the absence of the Chairman.
- The Rajya Sabha held its first sitting on 13 May 1952.

Leader of the House

Besides the Chairman (Vice-President of India) & the Deputy Chairman, there is also a function called Leader of the House. This is a cabinet minister - the PM if he is a member of the House, or another nominated minister. The Leader has a seat next to the Chairman, in the front row.

Qualifications for the membership of Rajya Sabha

- (a) be a citizen of India,
- (b) be 30 years of age or more,
- (c) not be holding any office of profit under the central or state Govt. or local body &
- (d) possess all other qualification prescribed by the act of parliament from time to time.

Powers of Rajya Sabha

It enjoys co-equal power with the Lok Sabha in respect of all bills other than money bill. In case of Money Bills, Rajya Sabha has no powers.

Exclusive Functions of Rajya Sabha

The Rajya Sabha, under Article 249, may by a special majority of two-thirds votes adopt a resolution asking the Parliament to make laws on subjects of the State list, in the national interest.

This resolution gets due attention from the Parliament. The resolution remains valid for one year only which however can be extended further in terms of another one year.

Secondly, Rajya Sabha can take steps to create All India Services by adopting resolutions supported by special majority in the national interest.

Thirdly, Rajya Sabha has the exclusive right to initiate a resolution for the removal of the Vice-President. This becomes the exclusive right of the Rajya Sabha because the Vice-President happens to be its Chairman & draws his salary as such.

DIFFERENT TERMS RELATED TO PARLIAMENT**a) Summoning**

The President from time to time summons each House of Parliament to meet. But, the maximum gap between two sessions of Parliament cannot be more than six months. In other words, the Parliament should meet at least twice a year. There are usually three sessions in a year:

- the Budget Session (February to May);
- the Monsoon Session (July to September); and
- the Winter Session (November to December).

The period between the prorogation of a House & its reassembly in a new session is called 'recess'.

b) Joint Sitting

Under Article 108, there is a Provision of Joint sitting of both the Houses of the Parliament.

The Lok Sabha speaker presides over the joint sitting [Art. 118(4)].

There are only three occasions in the history of Indian Parliament that the joint sessions of the Parliament took place. They are as follows:

- (i) In May 1961, for Dowry Prohibition Bill, 1959.
- (ii) In May 1978 for Banking Services Commission.
- (iii) In 2002 for POTA (Prevention of Terrorism Act).

Joint sitting of both Houses can be convened on two occasions:

- (i) For resolving any deadlock over the passage of a Bill.
- (ii) Special address by the President at the commencement of the first session after each general election of the Lok Sabha; First Session of each year (the Budget Session).

Note: Joint sitting cannot be called for resolving deadlock regarding "Money Bill" & "Constitution Amendment Bill".

c) Prorogation

The presiding officer (Speaker or Chairman) declares the House adjourned *sine die*, when the business of a session is completed. Within the next few days, the President issues a notification for prorogation of the session. However, the President can also prorogue the House while in session.

d) Adjournment

This is a short recess within a session of the Parliament, called by the presiding officer of the House. Its duration may be from a few minutes to days together.

e) Adjournment *sine die*

When the House is adjourned without naming a day for reassembly, it is called adjournment *sine die*.

Grounds for disqualification of members of Parliament

There are five grounds for disqualification of Member of Parliament.

- ✚ **Article 102(1) (a):** A Member of Parliament shall be disqualified from being a member of House, if he holds any office of profit under state other than an office declared by Parliament by law not to disqualify its holder.
- ✚ Article 102(1) (b): If the Member of Parliament is of unsound mind & stands so declared by the court of law
- ✚ Article 102(1) (c): If he is a discharged insolvent declared by court of law.
- ✚ Article 102(1) (d): If he is not a citizen of India or has acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state.
- ✚ Article 102(2): If a person is disqualified being a Member of Parliament under anti-Defection Law (Tenth Schedule).

Legislative procedures in Parliament

The legislative procedure is identical in both the Houses of Parliament.

- Every bill has to pass through the same stages in each House. **A bill is a proposal for legislation & it becomes an act or law when duly enacted.**
- Bills introduced in the Parliament are of two kinds: **public bills & private bills** (also known as government bills & private members' bills respectively).
- Though both are governed by the same general procedure & pass through the same stages in the House, they differ in various respects.

BILLS IN PARLIAMENT

The four kinds of bills mentioned in the Constitution are:

- ✚ Ordinary Bill



- ✦ Money Bill
- ✦ Financial Bill
- ✦ Constitutional Amendment Bill

Ordinary Bill

Any bill other than Money, Financial or Constitution Amendment bill is called an Ordinary bill.

- It can be introduced in either Houses of the Parliament.
- It does not need the recommendation of the President for its introduction in Parliament (except a bill under article 3).
- It is passed by a simple majority by both the Houses.
- They enjoy equal legislative powers over the passage of an ordinary bill.
- If there is a deadlock over the bill it can be resolved in a joint sitting of both the Houses of Parliament.

Money Bill

A bill that deals exclusively with money matters that are mentioned in Article 110 in Constitution is called a Money Bill. These Money matters are:

- (1) Imposition, abolition or alternation of any tax.
- (2) The borrowing of any money or giving any guarantee by the Govt. of India.
- (3) The custody of the Consolidated Fund of India or Contingency fund of India or deposition or withdrawal of any money from any such funds.
- (4) The appropriation of the money out of the Consolidated Fund of India.
- (5) Declaring any expenditure as charged on the Consolidated Fund of India.
- (6) The receipt of money on the account of consolidated Fund of India or Public Account of India.
- (7) Any matter that is incidental to the above matters.

A money bill can be introduced only in Lok Sabha on the recommendation of the President. It is passed by a simple majority by both the Houses of Parliament. The Lok Sabha enjoys overriding legislative power in the passage of a money bill & Rajya Sabha cannot reject or approve a money bill by virtue of its own legislative power. Any money bill shall bear the certificate of speaker that it is a money bill. The Speaker's decision in this regard is final & binding & cannot be questioned in any court of law.

A money bill is transmitted to Rajya Sabha after it has been passed by Lok Sabha. The Rajya Sabha can exercise any of the following four options:

- (i) It also passes the bill.
- (ii) It rejects the bill outright – upon being rejected the bill is deemed to have been passed by both the Houses.
- (iii) The Rajya Sabha does not pass the bill for 14 days, then on the expiry of 14th day after having received the bill it is deemed to have been passed by both the Houses.
- (iv) The Rajya Sabha suggests amendments to the bill, the bill then goes back to the Lower House. If the Lok Sabha accepts one or more of the amendment then the bill is deemed to have been passed in that form on the other hand if Lok Sabha rejects the amendment then the bill is deemed to have been passed in its original form.

There is no deadlock between the Houses over the passage of a money bill. When a money bill is presents to the President, under the Constitution he shall declare that he give assent or withhold assent.

Financial Bill

A Bill apart from dealing with one or more money matters if also deals with one or more non-money matters then it is called a financial Bill. It is introduced in the same manner as that of money Bill. Since it contains non-money matters after its introduction, it is passed in same manner an ordinary bill is passed.

Constitutional Amendment Bill

A bill introduced under article 368 to amend one or more provisions of the Constitution is called a Constitutional Amendment Bill.

- It can be introduced in either House of the Parliament.
- It does not require the recommendation of President for its introduction. It shall be passed by both the House of the Parliament sitting separately by majority of not less than 2/3rd of members present & voting & a majority of total strength of the House.
- The Constitution does not provide for a joint sitting of both the Houses of the Parliament if a deadlock develop between the two Houses over the passage of a Constitutional Amendment Bill.
- **The 101 Amendment:** Amendment of article 248, 249, 250, 268, 269, 270, 271, 286, 366, 368, sixth schedule, seventh schedule. Deletion of Article 268A. It was enforced since 8 September 2016. It is related to the Goods and Services Tax Bill.

Veto power of the President:

A bill passed by the Parliament can become an act only if it receives the assent of the President. However, the President has the veto power over the bills passed by the Parliament, i.e. he can withhold his assent to the bills.

• Absolute Veto

It refers to the power of the President to withhold his assent to a bill passed by the Parliament. The bill then ends & does not become an act. Usually, this veto is exercised in the following two cases:

- a) With respect to private members' bills; &
- b) With respect to the government bills when the cabinet resigns (after the passage of the bills but before the assent by the President) & the new cabinet advises the President not to give his assent to such bills.

• Suspensive Veto

The President exercises this veto when he returns a bill for reconsideration of the Parliament. However, if the bill is passed again by the Parliament with or without amendments & again presented to the President, it is obligatory for the President to give his assent to the bill. The President does not possess this veto in the case of money bills.



- **Pocket Veto**

In this case, the President neither ratifies nor rejects nor returns the bill, but simply keeps the bill pending for an indefinite period. This power of the President not to take any action (either positive or negative) on the bill is known as pocket veto. There is no time limit for the President to give comment on bills under this veto.

Emergency provisions in India

Emergency provisions are adopted in India from Weimar Constitution of Germany.

In Indian constitution there are three kind of emergency provisions:

(1) Article 352 – National Emergency

(2) Article 356 – President's Rule

(3) Article 360 – Financial Emergency

National Emergency (Article 352)

a) If the President is satisfied that there exist a grave emergency whether due to war or external aggression or armed rebellion, then President can proclaim emergency to that effect. Such a proclamation can be made for the whole of India or any part thereof. The President can proclaim National Emergency only on the written advice of the Cabinet.

b) The President has power to revoke or modify the National Emergency. All such proclamations of Emergency shall have to be sent to Parliament for approval & it ceases to be operational if not approved within 1 month of the proclamation of Emergency. Such approval by Parliament is to be on the basis of Special Majority of not less than 2/3rd of members present & voting & the majority of the House. Emergency shall be imposed for not more than 6 months from the date of approval.

c) At the expiry of 6 months it ceases unless approved by Parliament again. If Lok Sabha is dissolved then proclamation of Emergency, it must be approved by the Rajya Sabha within 1 month & reconstituted Lok Sabha must approve within 1 month of its reconstitution.

d) Lok Sabha enjoys powers to disapprove continuation of Emergency at any stage. In such case if not less than 1/10th of members (55) of Lok Sabha give in writing to the Speaker if Lok Sabha is in session or to the President if Lok Sabha is not in the session, expressing intention to more resolution for the disapproval of National Emergency. Then special session of Lok Sabha shall be convened within 14 days. If Lok Sabha disapproves continuance of National Emergency then President shall have to revoke National Emergency.

Emergency in States on President's Rule (Article 356)

Under Article 356 if the President is satisfied on the report of Governor or otherwise that there exists a grave situation in a State where the administration of the State cannot be carried out in accordance with provisions of Constitution, than he can:

(a) Takeover the administration of the State himself and

(b) Notify that the Parliament shall exercise jurisdiction over State subject for the State concerned, the President cannot take over the powers conferred on the High Courts of State concerned.

- Every proclamation made under Article 356 ceases to be in operation unless approved by both Houses of the Parliament within 2 months after its proclamation.
- Once, approved by Parliament, Emergency shall be enforced for not more than 6 months from the date of proclamation by the President.
- Such an approval by the Parliament needs only simple Majority.
- If Lok Sabha stands dissolved then Rajya Sabha shall have to approve it within 2 months & Lok Sabha shall approve it within 1 month of its reconstitution.
- However, Parliament can extend it for a further period of 6 months only.

If it has to approve beyond 1 year then two conditions shall have to be satisfied.

- ✚ There shall be National Emergency in force either in whole of the State concerned or in part thereof.
- ✚ Election Commission is satisfied that under prevailing conditions general election to State Legislative Assembly of the State concerned cannot be held.

But under no circumstances, State Emergency cannot be extended beyond 3 years. To extend it further, constitutional amendment is required.

Financial Emergency

Under Article 360 the President enjoys the power to proclaim the financial Emergency. If he is satisfied that a situation has arisen that financial stability & credit of India or any part thereof is threatened he may proclaim emergency to that effect.

All such proclamations:

- (a) Can be varied or revoked by the President.
- (b) Financial Emergency must be approved by the Parliament within 2 months after its proclamation. Once it is approved, it will remain till the President revokes it.

Effects of Financial Emergency

- (1) President is empowered to suspend the distribution of financial resources with States.
- (2) President can issue directions to States to follow canons of financial propriety.
- (3) He can direct State Govt. to decrease salaries allowances of Civil Servants & other Constitutional dignitaries.
- (4) President can direct the Govt. to resume all the financial & Money Bills passed by legislature for his consideration. The President can issue directions for the reduction of salaries & allowances of Judges of the Supreme Court & the High Courts.

STATE LEGISLATURE

The State Legislature Legislative Assembly (Vidhan Sabha)



The Vidhan Sabha or the Legislative Assembly is the lower house of the state legislature in the different states & for the two of the union territories, Delhi & Pondicherry.

- Members of a Vidhan Sabha are direct representatives of the people of the particular state as they are directly elected by the adult suffrage.
- Each Vidhan Sabha is formed for a five year term after which all seats are up for election.
- The maximum size of Vidhan Sabha is not more than 500 members & not less than 60. However, the size of the Vidhan Sabha can be less than 60 members through an Act of Parliament, such is the case in the states of Goa, Sikkim & Mizoram.
- The Governor can appoint one member to represent the Anglo-Indian community if he or she finds that community to not be adequately represented in the House.

Qualification to be a member of Vidhan Sabha

1. To become a member of a Vidhan Sabha:
2. A person must be a citizen of India
3. She/he must have attained 25 years of age.
4. She/he should be mentally sound & should not be bankrupt.
5. She/he should also state an affidavit that there are no criminal procedures against him.

Vidhan Sabha via-a-vis Lok Sabha

The position of Vidhan Sabha is relatively stronger than Lok Sabha when it comes to the relation with the respective upper houses. The following are differences in the legislative procedures:

1. In case of Bills other than money Bills the position of Vidhan Sabha is stronger as compared to Lok Sabha. While disagreement between the two Houses of the Union Parliament is resolved by "Joint Sitting", there is no such provision of solving the deadlock at the state level. The upper house at the state level can just delay the bill for the maximum period of 4 months i.e. 3 months in first journey & 1 month in second journey.
2. While the period for passing a Bill (other than money Bill) from Rajya Sabha is six months is the case of Legislative Councils it is just three months.

Legislative Council (Vidhan Parishad)

- The Legislative Council is a permanent body that cannot be dissolved; each Member of the Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one-third of a Council's members expire every two years.
- This arrangement parallels that for the Rajya Sabha, the upper house of the Parliament of India.
- Six states in India have a Legislative Council: Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Maharashtra, & Uttar Pradesh.

Qualification to be a member of Vidhan Parishad

- ✚ She/he must be citizen of India
- ✚ She/he must have attained at least 30 years of age

- ✚ She/he must be mentally sound,
- ✚ She/he must not be a bankrupt
- ✚ She/he must be listed the voters' list of the state for which he or she is contesting an election.

Election of members of Legislative Council

- ✚ One-third of the members are elected by members of local bodies such as corporations, municipalities, & Zilla Parishads.
- ✚ One-third of the members are elected by members of Legislative Assembly from among the persons who are not members of the Assembly.
- ✚ One-twelfth of the members are elected by the persons who are graduates of three years' standing residing in that state.
- ✚ One-twelfth are elected by persons engaged for at least three years in teaching in educational institutions within the state not lower than secondary schools, including colleges & universities.
- ✚ One-sixth are nominated by the governor from persons having knowledge or practical experience in fields such as literature, science, arts, the co-operative movement & social service.

Governor

The Governor is merely appointed by the President which really means, by the Union Council of Ministers. The Governor holds office during the pleasure of the President, there is no security of his tenure. He can be removed by the President at any time. There is no impeachment process for removal of Governors as prescribed in constitution in the case of President.

The powers of Governors

Executive Powers

- ✚ The Governor appoints the Chief Minister who enjoys the support of the majority in the Vidhan Sabha.
- ✚ The Governor also appoints the other members of the Council of Ministers & distributes portfolios to them on the advice of the Chief Minister.
- ✚ He/she also appoints the Advocate General & the chairman & members of the State Public Service Commission.
- ✚ The Governor appoints the judges of the District Courts.

Legislative Powers

- ✚ Summons the sessions of both houses of the state legislature & prorogues them.
- ✚ Inaugurates the state legislature by addressing it after the assembly elections & also at the beginning of the first session every year.
- ✚ Can even dissolve the Vidhan Sabha. These powers are formal & the Governor while using these powers must act according to the advice of the Council of Ministers headed by the Chief Minister.
- ✚ The Governor's address on these occasions generally outlines new policies of the state Govt.
- ✚ A bill that the state legislature has passed can become a law only after the Governor gives assent.



- ✚ Can return a bill to the state legislature, if it is not a money bill, for reconsideration
- ✚ Has the power to reserve certain bills for the President.
- ✚ When the state legislature is not in session & the Governor considers it necessary to have a law, then the Governor can promulgate ordinances.

Financial Powers

- ✚ Money bills can be introduced in the State Legislative Assembly only on the prior recommendation of the Governor.
- ✚ Governor also causes to be laid before the State Legislature the annual financial statement which is the State Budget.
- ✚ Further no demand for grant shall be made except on his/her recommendation.
- ✚ He can also make advances out of the Contingency Fund of the State to meet any unforeseen expenditure.
- ✚ Governor constitutes the State Finance Commission

Discretionary Powers

There are situations when the Governor has to act as per his/her own judgment & take decisions on his own. Such powers are called discretionary Powers:

- ✚ When no party gets a majority in the Vidhan Sabha, the Governor can either ask the leader of the single largest party or the consensus leader of two or more to form the Govt.. The Governor then appoints the leader of the largest party to Chief Minister.
- ✚ The Governor can send a report to the President informing him or her that the State's constitutional functioning has been compromised & recommending the President impose "President's rule" upon the state.
- ✚ Governor can reserve any Bill for the President.

Governor's power of Veto

When a Bill is presented before the Governor after its passage by the house(s) of the state legislature, the Governor may take any of the following steps:

1. He may declare his assent to the Bill
2. He may declare that he withholds his assent to the Bill
3. He may (in case of a Bill other than money Bill), return the Bill with a message
4. The Governor may also reserve a Bill for the consideration of President

The President enjoys absolute veto in the case of Bills reserved for him by the Governors. The president may act in the following manner:

1. In case of money Bill President may either declare his assent or withhold his assent.
2. In the case of Bills other than money Bill the President apart from declaring his assent or refusing it, direct the Governor to return the Bill to the Legislature for recommendations in such cases.

Local Self-Governance

Panchayati Raj

- ✚ The Panchayati Raj System is the **first tier** or level of democratic government.

- ✚ The term Panchayati Raj in India signifies the system of rural local self-government. It was constitutionalized through the **73rd Constitutional Amendment Act** of 1992.
- ✚ The development of the village was the immediate problem faced by our country after independence. Hence the **Community Development Programme** was launched in 1952 with a view to carrying out the integral rural development work.
- ✚ **Rajasthan** was the first state to set up Panchayati Raj System in 1959 followed by Andhra Pradesh.

Main Provisions of 73rd Amendment Act

- This act has added a new **Part-IX** to the Constitution of India.
- It is entitled as 'The Panchayats' & consists of provisions from **Articles 243(A) to 243 (O)**. In addition, the act has also added a new **Eleventh Schedule** to the Constitution. It contains 29 functional items of the panchayats.
- Fixing tenure of five years for Panchayats at all levels & holding fresh elections within six months in the event of supersession of any Panchayat.
- Reservation of 1/3 seats (both members & chairpersons) for women in Panchayats at all the levels.
- The Act provides for a three-tier system of the Panchayati Raj in the states namely:
 - (i) **Gram Panchayat** at the Village level.
 - (ii) **Panchayat Samiti** at the Block level.
 - (iii) **Zila Parishad** at the District level.

Compulsory Provisions for Panchayati Raj Institutions

1. Organisation of Gram Sabha in a village or group of villages.
2. Establishment of Panchayats at the village, intermediate & district levels.
3. **21 years** to be the minimum age for contesting elections to Panchayats.
4. Reservation of seats (both members & chairpersons) for SCs & STs in Panchayats at all the three levels.
5. Reservation of **one-third seats** (both members & chairpersons) for women in Panchayats at all the three levels.
6. Fixing tenure of **five years** for Panchayats at all levels & holding fresh elections within six months in the event of supersession of any Panchayat.
7. Establishment of a **State Election Commission** for conducting elections to the Panchayats.
8. Constitution of a **State Finance Commission** after every five years to review the financial position of the panchayats.

Organisational Structure

(i) Gram Panchayat at the Village level

The members of the Gram Panchayat are elected by the Gram Sabha. The **Pradhans** (Presidents) of the Gram Sabha are the ex-officio members of the Gram Panchayat. **Note: Gram Sabha** means a body consisting of persons registered in the



electoral roles relating to a village comprised within the area of Panchayat at the village level.

(ii) Panchayat Samiti at the Block level

The Panchayat Samiti has many Gram Panchayats under it. All the Presidents of the Panchayats within the Block are the *ex officio* members of the 'Panchayat Samitis'.

(iii) Zila Parishad at the District level

- Zila Parishad is an apex body under the Panchayati Raj. It co-ordinates the activities of the various Panchayat Samitis.
- Zila Parishad actually makes developmental plans at the district level.
- With the help of Panchayat Samitis, it also regulates the money distribution among all the Gram Panchayats.

JUDICIARY

Supreme Court of India

Supreme Court of India is the highest judicial forum & final court of appeal. According to the Constitution of India, the role of the Supreme Court is that of a federal court & guardian of the Constitution.

Composition of Supreme Court

Under Article 124(1) the constitution originally provided for 1 Chief Justice of India & not more than 6 other judges. The constitution authorizes the Parliament to provide by law in fixing the Strength of the judges of the Supreme Court. The Parliament passed the Supreme Court (Number of Judges), a Constitutional Amendment Act in 2008, it has increased the strength of Supreme Court to 31 (1 Chief Justice + 30 other judges).

Qualification to be a judge of Supreme Court

1. A person must be a citizen of India
2. He/she must have been, for at least five years, a Judge of a High Court or of two or more such Courts in succession
3. Or an Advocate of a High Court or of two or more such Courts in succession for at least ten years
4. Or the person must be, in the opinion of the President, a distinguished jurist.

Removal of judges of Supreme Court

- Article 124(4) provides for the removal of a judge of the Supreme Court.
- He is removed by the President upon an address by both the Houses of the Parliament supported by a majority of not less than 2/3rd of members present & voting & a majority of total strength of the House on the ground of misbehavior or incapacity.
- **The President shall pass the order of removal in the same session in which the Parliament passed the resolution.**
- Article 124(5) confers the power on the Parliament to provide by law for the procedure for the Presentation of an address & for the investigation for proof of misbehavior or incapacity of a judge.

- Accordingly the Parliament passed Judges (Inquiry) Act 1968 which states that a resolution seeking the removal of a judge of Supreme Court can be introduced in either House of Parliament.
- ✚ It should be supported by not less than 100 member of Lok Sabha.
- ✚ If it is to be introduced in Rajya Sabha it should be supported by no less than 50 members of Rajya Sabha.
- ✚ Once the resolution is initiated in either house of the parliament, the presiding officer of that House shall appoint a three member Judicial Committee to investigate into charges & provide proof of misbehavior or incapacity.
- ✚ The judicial committee shall be headed by a serving judge of the Supreme Court. Second member can be a serving judge of the High Court & the third member can be an eminent jurist.

SUPREME COURT IN INDIA (JURISDICTION)

- It is the highest judicial forum & final court of appeal as established by Part V, Chapter IV of the Constitution of India.
- Articles 124 to 147 of the Constitution of India lay down the composition & jurisdiction of the Supreme Court of India.
- The Supreme Court has Original jurisdiction, Appellate jurisdiction & Advisory jurisdiction.
- The Supreme Court is the highest appellate court which takes up appeals against the verdicts of the High Courts & other courts of the states & territories.
- The Supreme Court has the power to transfer the cases from one High Court to another & even from one District Court of a particular state to another District Court of the other state.
- The Supreme Court has the power of Constitutional review.
- The Supreme Court of India held its inaugural sitting on 28 January 1950.

Salary-Article 125 of the Indian Constitution leaves it to the Indian Parliament to determine the salary, other allowances, leave of absence, pension, etc. of the Supreme Court judges. However, the Parliament cannot alter any of these privileges & rights to the judge's disadvantage after his appointment. A judge gets ₹90,000 & the Chief Justice gets a sum of ₹1,00,000.

Some Important Points on SC

1. The first woman judge of the Supreme Court was Justice Fatima Beevi in 1987. However, there has been no female Chief Justice
2. Ad hoc Judges:
 - a) Ad hoc Judges are non-Supreme Court judges who sit in the Supreme Court when there is insufficient quorum to perform the judicial duties.
 - b) Ad hoc Judges are appointed by the Chief Justice after obtaining consent from the President.



- c) Serving (HC) & retired (SC & HC) judges of the Supreme Court (and High Courts) can sit & act as ad hoc Judges of the Supreme Court.
- d) Only such persons can be appointed as ad hoc Judges who are qualified to be appointed as a regular Judge of the Supreme Court
- 3. The Chief Justice administers the oath in front of the President.
- 4. The first Chief Justice of India was H J Kania (1950 – 1951).
- 5. The shortest tenure was for K N Singh (Nov 1991 – Dec 1991, UP)
- 6. The longest tenure was for Y V Chandrachud (1978 – 1985, Bombay)

JURISDICTION OF THE SUPREME COURT:

a) Original Jurisdiction:

1. Original Jurisdiction means that certain types of cases can originate with the Supreme Court only
2. The Supreme Court has original jurisdiction in
 - a) Disputes between the Centre & one or more states.
 - b) Disputes between the Centre & any state(s) on one side & one or more states on the other side.
 - c) Disputes between two or more states.
 - d) Disputes regarding the enforcement of Fundamental Rights.

b) Appellate Jurisdiction:

Appellate Jurisdiction means that appeals against judgements of lower courts can be referred to SC as the Supreme Court is the highest court of appeal in the country.

c) Advisory Jurisdiction:

1. Advisory Jurisdiction refers to the process where the President seeks the Court's advice on legal matters.
2. If the President asks for advice from the Supreme Court, the Court is duty-bound to give it. However, it is not binding on the President to accept the advice.

HIGH COURT

- 1) The High Court is at the apex of the judicial administration of the state.
- 2) Art 214 of the Constitution provides that there shall be a High Court for each state of the Indian union. But the Indian Parliament is empowered to establish a common High Court for two or more states & to extend the jurisdiction of a High Court to a union territory. Similarly, Parliament can also reduce the area of jurisdiction of a High Court.
- 3) The High Court consists of a Chief Justice & some other Judges. The number of judges is to be determined by the President of India from time to time.
- 4) The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of the Supreme Court & the Governor of the state concerned. The procedure for appointing other judges is the same except that the Chief Justice of the High Court concerned is also consulted. HC JUDGE hold office until they attain

the age of 62 years & are removed from office in the same manner as a judge of the Supreme Court.

Qualification

A person shall be qualified for appointment as a judge of the High Court if

- (a) he is a citizen of India,
- (b) has for at least ten years held a judicial office in the territory of India, or
- (c) has for at least ten years been an advocate of a High Court, or of two or more such courts in succession.

Every judge of the High Court before entering upon his office shall make & subscribe before the Governor of the state, an oath of affirmation in the form prescribed by the Constitution.

Removal of judges

A judge of the High Court shall hold office until he attains the age of 62 years. A judge may resign from his office by writing under his hand to the president of India. He can also be removed by the President of India on the ground of proved misbehavior or inefficiency if a resolution to that effect is passed by both the Houses of Parliament by a two-thirds majority of the total members present & voting, supported by a majority of the total membership of each house.

Jurisdiction of a HC

The High Court has Original jurisdiction in such matters as writs & Appellate jurisdiction over all subordinate courts in their jurisdiction. Every High court has the power to issue to any person or authority including any Govt. within its jurisdiction, direction, or orders including writs which are in the nature of habeas corpus, mandamus prohibition, qu-warranto & certiorari or any of them for enforcement of fundamental rights conferred by part III of the constitution & for any other purpose.

- 1) Election petitions challenging the elections of Members of Parliament or member of State Legislative Assembly or other local bodies can be filed in the concerned High Court.
- 2) The High Courts have Appellate jurisdiction in both civil & criminal cases against the decisions of lower courts.

Under Revisory jurisdiction, the High Court is empowered to call for the records of any court to satisfy itself about the correctness of the legality of the orders passed. This power may be exercised on the petition of the interested party or it can suo moto call for the records & pass necessary orders.

All Courts excepting tribunals dealing with the Armed forces, are under the supervision of the High Court. Tribunals dealing with the Armed forces are not under the supervision of HC.

This power is enjoyed under Article 227 of the Constitution. Thus administration of the state's judiciary is the essential function of the High Court.



Writs in Indian Constitution

As per the Right to Constitutional Remedies-Articles 32-35, A citizen has right to move to the courts for securing the fundamental rights. Citizens can go to the Supreme Court or the high Courts for getting their fundamental rights enforced. It empowers the Courts to issue directions or orders or writs for this purpose. Writs are issued for enforcement of FUNDAMENTAL RIGHTS BY EITHER SC or HC.

Types of Writs:

1. Habeas Corpus:

- Habeas Corpus means 'you may have the body'.
- This ensures that a prisoner can be released from unlawful detention—that is, detention lacking sufficient cause or evidence.

2. Quo Warranto:

- The meaning of the term Quo Warranto is 'by what authority'.
- The writ shall be issued only when the public office is held by a particular person in an illegal manner.
- If a person has usurped a public office, the Court may direct him not to carry out any activities in the office or may announce the office to be vacant.

3. Mandamus:

- A writ of mandamus is an order issued by a superior court to a lower court or other entity commanding the lower court, corporation or public authority to perform or not perform specific acts.
- It cannot be issued to compel an authority to do something against statutory provision.

4. Certiorari:

- It is a writ (order) of a higher court to a lower court to send all the documents in a case to it so the higher court can review the lower court's decision.
- It is a writ seeking judicial review.
- Granting a writ of certiorari means merely that at least four of the justices have determined that the circumstances described in the petition are sufficient to warrant review by the Court.

5. Prohibition:

- A writ of prohibition is issued primarily to prevent an inferior court from exceeding its jurisdiction.
- These Writs are issued as "alternative" or "peremptory." An alternative Writ directs the recipient to immediately act, or desist, & "Show Cause" why the directive should not be made permanent. A peremptory Writ directs the recipient to immediately act, or desist, & "return" the Writ, with certification of its compliance, within a certain time.
- The writ can be issued only when the proceedings are pending in a court if the proceeding has matured into decision, writ will not lie.

Union Territories

- Articles 239 to 241** in Part VIII of the Constitution deal with the union territories. Even though all the union territories belong to one category, there is no uniformity in their administrative system.

- Every union territory is administered by the president acting through an administrator appointed by him. An administrator of a union territory is an agent of the president & not head of state like a governor.
- The president can specify the designation of an administrator; it is Lieutenant Governor in the case of Delhi, Puducherry & Andaman & Nicobar Islands & Administrator in the case of Chandigarh, Dadra & Nagar Haveli, Daman & Diu & Lakshadweep.
- The Parliament can make laws on any subject of the three lists (including the State List) for the union territories. This power of Parliament also extends to Puducherry & Delhi, which have their own local legislatures but the legislative assembly of both (Delhi & Puducherry) can also make laws on any subject of the State List & Concurrent List. This means that the legislative power of Parliament for the union territories on subjects of the State List remain unaffected even after establishing a local legislature for them.

Special Status of Jammu & Kashmir

Article 370 in Part XXI of the Constitution grants a special status to it. Accordingly, all the provisions of the Constitution of India do not apply to it. It is also the only state in the Indian Union which has its own separate Constitution.

The important features of the special state are as follows:

- Contrary to the case with the other states, the residuary power lies with the legislature of the Jammu & Kashmir (and not the Parliament).
- The state has its own Constitution. This also implies that 'dual citizenship' principle is followed in this state.
- Part-IV (Directive Principles of State Policy) & Part-IV(A) (Fundamental Duties) are not applicable to the state.
- The National Emergency proclaimed only on the ground of war or external aggression shall have automatic extension to the state of J&K. This means that the National Emergency proclaimed on the ground of armed rebellion shall not have automatic extension to J&K.
- Financial Emergency (Art 360) cannot be imposed on the state.
- Art. 19(1) & 31(2) have not been abolished for this state & hence "right to property" still stands guaranteed to the people of J&K.
- The Parliament is not empowered to make laws on the subjects of state list (7th schedule) for the state of J&K under any circumstance.
- The Governor of the state is to be appointed only after consultation with the Chief Minister of that state.

GOVERNMENT BODIES

1) Election Commission

- The Election Commission is a permanent, independent body established by the Constitution of India directly to ensure free & fair elections in the country. Article 324 of the Constitution provides that the power of superintendence, direction & control of elections to

parliament, state legislatures, the office of president of India & the office of vice-president of India shall be vested in the election commission.

- Elections are conducted according to the constitutional provisions supplemented by laws made by Parliament.
- The major laws are Representation of the People Act, 1950, which mainly deals with the preparation & revision of electoral rolls, & the Representation of the People Act, 1951, which deals in detail with all aspects of conduct of elections & past election disputes.
- The electoral system in India is borrowed from the one operating in Great Britain. Presently, the Election Commission consists of one Chief Election Commissioner (CEC) & two Election Commissioners.
- The Commission works under the overall supervision of the Chief Election Commissioner.
- The tenure of the CEC & the Election Commissioners has been fixed as six years, subject to the maximum age limit of 65 years (whichever is earlier).
- The Chief Election Commissioner & the Election Commissioners are placed at par in matters of salary & allowances & they are the same as those of a judge of Supreme Court.
- The Chief Election Commissioner is not eligible for reappointment.
- The Election Commission is not concerned with the elections to Panchayats & municipalities in the states.
- The elections to the Panchayats & the municipalities in the states are conducted by 'State Election Commissions'.

Independence of CEC

Article 324 of the Constitution has made the following provisions to safeguard & ensure the independent & impartial functioning of the Election Commission:

1. The Chief Election Commissioner is provided with the security of tenure. He cannot be removed from his office except in same manner & on the same grounds as a judge of the Supreme Court.
2. The Election Commissioner cannot be removed from office except on the recommendation of the Chief Election Commissioner.

Powers & functions

1. To determine the territorial areas of the electoral constituencies throughout the country on the basis of the Delimitation Commission Act of Parliament.
2. To prepare & periodically revise electoral rolls & to register all eligible voters.
3. To notify the dates & schedules of elections & to scrutinise nomination papers.
4. To grant recognition to political parties & allot election symbols to them.
5. To act as a court for settling disputes related to granting of recognition to political parties & allotment of election symbols to them.
6. To determine the code of conduct to be observed by the parties & the candidates at the time of elections.
7. To advise the President on matters relating to the disqualification of the members of Parliament.

8. To advise the governor on matters relating to the disqualification of the members of state legislature.
9. To cancel polls in the event of rigging, booth capturing, violence & other irregularities.
10. To register political parties for the purpose of elections & grant them the status of national or state parties on the basis of their poll performance

Union Public Service Commission

- With the promulgation of the new Constitution for independent India on 26th January, 1950, the Federal Public Service Commission was accorded a constitutional status as an autonomous entity & given the title – Union Public Service Commission.
- The UPSC has been established under Article 315 of the Constitution of India. The Commission consists of a Chairman & ten Members.
- The chairman & members of the commission hold office for a term of six years or until they attain the age of 65 years, whichever is earlier.
- It is an independent constitutional body.
- The main function of UPSC is Recruitment to services & posts under the Union through conduct of competitive examinations.

State Public Service Commission

- A state public service commission consists of a chairman & other members appointed by the governor of the state. But they can be removed only by the President.
- It is an independent constitutional body.
- The chairman & members of the commission hold office for a term of six years or until they attain the age of 62 years, whichever is earlier.
- The main function of SPSC is to conduct examinations for appointments to the services of the state.

Joint State Public Service Commission

- The Constitution makes a provision for the establishment of a Joint State Public Service Commission (JSPSC) for two or more states.
- A JSPSC can be created by an act of Parliament on the request of the state legislatures concerned. Thus, a JSPSC is a statutory & not a constitutional body.
- The chairman of JSPSC is appointed by the President.

Comptroller & Auditor General

- The Constitution of India (Article 148) provides for an independent office of the Comptroller & Auditor General of India (CAG).
- It is the supreme audit institution of India.
- He is the head of the Indian Audit & Accounts Department & the guardian of the public purse & controls the entire financial system of the country at both the levels—the Centre & the state.

Appointment & term

- The CAG is appointed by the President of India. He holds office for a period of six years or up to the age of 65 years, whichever is earlier.



- He can resign any time from his office by addressing the resignation letter to the president. He can also be removed by the President on same grounds & in the same manner as a judge of the Supreme Court.

Main function of the CAG

1. He audits the accounts related to all expenditure from the Consolidated Fund of India & consolidated fund of each state.
2. He audits all expenditure from the Contingency Fund of India & the Public Account of India as well as the contingency fund of each state & the public account of each state.
3. He audits the accounts of any other authority when requested by the President or Governor.

Note: He submits his audit reports relating to the accounts of the Centre to President & relating to the accounts of a state to governor.

Attorney General of India

- Art. 76 states that the President shall appoint a person who is qualified to be appointed as a judge of the Supreme Court to be the Attorney General of India.
- He is the first legal officer of the Government of India.
- The term of office of the AGI is not fixed by the Constitution of India.
- He holds office during the pleasure of the President & receives remuneration as the President may determine. Although, he is not a member of either House of Parliament, he enjoys the right to attend & speak in the Parliamentary deliberations & meeting (of both the Lok Sabha & the Rajya Sabha), without a right to vote.
- He advises the Government of India on any legal matter.
- He performs any legal duties assigned by the President of India.
- He discharges any functions conferred on him by the Constitution or the President.
- In the performance of his official duties, the Attorney General has the right of audience in all courts in the territory of India.
- He is entitled to all the privileges & immunities as a Member of Parliament.

Note: The Constitution (Article 165) has provided for the office of the advocate general for the states. He is the highest law officer in the state. Thus, he corresponds to the Attorney General of India. He is appointed by the Governor of the state.

Parliamentary Funds

Consolidated Fund of India

1. Article 266 has established Consolidated Fund of India.
2. It is a constitutional fund.
3. All the receipts received, loans raised & the income of the Govt. of India are deposited into a Fund called the Consolidated Fund of India.
4. It is the largest fund of the Govt. of India & any amount of money can be deposited into this account.
5. It is a regular fund of Govt. of India.

6. All expenditures of the Govt. of India are spent out of the Consolidated Fund of India.
7. It has been placed at the disposal of the Parliament. No money can be deposited into withdrawn or appropriated out of the Consolidated Fund of India without the prior sanction of the Parliament. Article 266 has also created a separate Consolidated Fund for each State.

Public Account of India

- Under Article 266 any money other than the receipts, loans & the income received by the Govt. of India is deposited into an account called the Public Account of India.
- The Public Account of India is placed at the disposal of the President article 266 has also created public account for each states.

Contingency Fund of India

- Article 267 empowers the Parliament to provide by law for the establishment of a public fund called the Contingency Fund of India.
- Accordingly, the Parliament enacted the Contingency Fund of India (Misc. Provisions Act) 1950, which has created the contingency Fund of India with an upper limit of Rs. 50 Cr. It is not a regular fund of Govt. of India & it is used to meet on unforeseen expenditures of the Govt. of India.
- It is placed at the disposal of President who can provide the sanction for meeting an emergency expenditure out of contingency Fund of India.
- The Fund is used when the Parliament is not in a position to sanction money out of Consolidated Fund of India to meet an unforeseen expenditure.
- The money so sanctioned out of contingency fund of India by the President is placed before the Parliament for its approval subsequently.
- If the Parliament approves the expenditure then the equal amount of money is transferred from Consolidated Fund of India to Contingency Fund of India. Thus the Contingency Fund is replenished by the Contingency Fund.
- The Parliament by law may increase the upper limit of Contingency Fund either permanently or temporarily.

Political Parties

A recognised political party has been classified either as a "national party" or a "state party". Recognition to a party is granted by the "Election Commission of India".

Conditions for Recognition as a National Party

A party is recognized as a national party if any of the following conditions is fulfilled:

1. If it wins 2% of seats in Lok Sabha at a general election; and these candidates are elected from three states; or
2. If it secures 6% of valid votes polled in any four or more states at a general election to the Lok Sabha or to the legislative assembly; & in addition, it wins four seats in the Lok Sabha from any state or states; or
3. If it is recognized as state party in your states.



Important Points to look at

1. The estimate of expenditure in respect of a Ministry/Department not charged upon the Consolidated Fund of India, placed for approval before the House on the recommendations of the President - **Demand for Grant**.
2. A Bill passed annually (or at various times of the year) providing for the withdrawal or appropriation from & out of the Consolidated Fund of India of moneys by Lok Sabha & moneys charged on the Consolidated Fund for the services of a financial year or a part thereof - **Appropriation Bill**.
3. A motion for reduction of a demand for grant by or to a specified amount - **Cut motion**.
4. Cut motion can be of three types - **Disapproval of policy cut, Economy cut & Token cut**.
5. A grant made by Lok Sabha in advance in respect of the estimated expenditure of the Government of India for a part of a financial year pending the voting of Demands for Grants for the financial year. A Motion for Vote on Account is dealt with in the same way as if it were a demand for grant. - **Vote on Account**.
6. The first hour of a sitting of the House normally allotted for asking & answering of questions - **Question Hour**.

Motions in Parliament

(1) Private Member's business

Every member who is not a Minister is called a Private Member. The Private Member's business includes Private Member's Bills & Private Member's Resolutions. The period of notice for introduction of Bill is one month unless the Presiding officer allows introduction at a shorter notice.

(2) Question Hour

Normally, the first hour of the business of a House everyday is devoted to questions & is called Question Hour (11:00 AM to 12:00 Noon).

(3) Starred & Unstarred Questions

A starred question is one to which a member desires an oral answer in the House. Answer to such a question may be followed by five supplementary questions by other members. An unstarred question is one to which written answer is desired by the Member. No supplementary questions can be asked thereon.

(4) Short Notice Questions

These are related to matter of urgent public importance & can be asked by members with notice shorter than the 10 days prescribed for an ordinary question. It is for the Speaker to determine whether the matter is of real urgent nature or not.

(5) Adjournment Motions

An adjournment motion is an extra-ordinary procedure which if admitted leads to setting aside the normal business of the House for discussing a definite matter of Urgent Public importance.

(6) Calling Attention

It is a notice by which a member with the prior permission of the Speaker, Calls the attention of a Minister of any matter of urgent public importance & the Minister may make a brief statement or ask for time to make a statement at a later hour or date it is an Indian Innovation.

There is no calling attention Notice in the Rajya Sabha. Instead there exists a motion called 'Motion for Papers.'

(7) Privilege Motion

This motion is moved by a member if in his opinion any minister or any of the members commits a breach of privilege of the House by withholding any fact.

A Brief on GST

GST is one indirect tax for the whole nation, which will make India one unified common market. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

It will be a national sales tax that will be levied on either consumption of goods or use of services. It will replace 16 current levies - seven central taxes like excise duty and service tax and nine state taxes like VAT and entertainment tax, this will lead to one market with one tax rate. France was the first country to implement the GST in 1954.

GST Council finalises the tax rates on Goods & Services under the 4-slab structure

GST Council finalised tax rates on goods and services under the four-slab structure with essential items of daily use being kept in the lowest bracket of 5 percent.

Key Points On Union Budget

In a parliamentary democracy like India, where the Constitution is the supreme document with defined roles for the government to function effectively, it is imperative for the government to work for the welfare of the state and its citizens. To discharge these functions effectively and upgrade the country's economic and social structure, the government requires adequate resources.

Article 112: A statement of estimated receipts and expenditure of Govt. of India has to be laid before the parliament.

Article 77 (3): The union Finance Minister of India has been made responsible by the President of India to prepare the annual financial statement and present it in Parliament.

Article 114: The government can withdraw money from the Consolidated Fund of India only on approval from Parliament.



- There are three major categories of government accounts:

1. **Consolidated Fund**
2. **Contingency Fund**
3. **Public Account**

Nodal agency responsible for producing the Union Budget: The department of economic affair under the Ministry of Finance.

The Annual Financial Statement or The Budget contains:

- Estimates of expenditure.
- Ways and means to raise the revenue.
- Actual figures for preceding year.
- Budget and revised figures for the current year.
- Budget estimates for the following year.

In parliament, the budget goes through 5 stages:

1. Presentation of budget with Finance Minister's speech.
2. General discussion of the budget.
3. Voting on demand for grants in Lok Sabha
4. Passing of appropriation bills.
5. Passing of Finance bills.

The Parts of Budget:

- 1) **Revenue Budget:** All 'current' 'receipts' such as taxation, surplus of public enterprises, and 'expenditures' of the Government.
- 2) **Capital Budget:** All 'Capital' 'receipts' and 'expenditure' such as domestic and foreign loans, loan repayments, foreign aid etc.

The inspection of budget proposals:

- **Committee on Estimates**
- Constituted for the first time in 1950, is a Parliamentary Committee consisting of 30 Members
- Term of office of the Committee is one year.
- **The functions of the Estimates Committee are:**
 - (a) to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates may be effected;
 - (b) to suggest alternative policies in order to bring about efficiency and economy in administration;
 - (c) to examine whether the money is well laid out within the limits of the policy implied in the estimates;
 - (d) to suggest the form in which the estimates shall be presented to Parliament.

Cut Motion:

- A veto power given to the members of the Lok Sabha to oppose a demand in the financial bill discussed by the government.
- There are Three types of Cut Motions:
 - 1) **Disapproval or Policy Cut:** The amount of the demand be reduced by Re. 1.
 - 2) **Economy Cut:** the amount of the demand be reduced by a specified amount to affect economy in the expenditure.

- 3) **Token Cut:** The amount of the demand be reduced by Re. 100.

The bills are forwarded to the Rajya Sabha for comment. Rajya Sabha is bounded to return the bill within 14 days. The Lok Sabha, however, is not obligated to accept the comments and the Rajya Sabha cannot delay passage of these bills.

Important Facts related to Budget:

- *The first Union Budget of Independent India* was presented by the first Finance Minister of Independent India, **Sir R.K. Shanmugham Chetty**, on November 26, 1947.
- **Indira Gandhi**, the then prime minister who also held the finance portfolio, she became the first woman finance minister of India to present a Budget in Parliament.
- In 2001, **Yashwant Sinha**, broke the colonial practice of announcing the Union Budget at 5 in the evening. Instead, he delivered his Budget speech at 11 am on the last working day of February.
- Former prime minister of India **Morarji Desai**, who presented 10 Union Budgets in his role as finance minister, is crediting with presenting the highest number of Union Budgets in the history of Independent India.
- The Budget presented by Finance Minister **Arun Jaitley** for the financial year 2017-18 was unprecedented in that, for the first time ever, a Railway Budget was not presented separately. This practice was discontinued and both Union Budget and Railway Budget were merged and presented together.

ARTICLES RELATED TO BILLS

- Article 107 : Provisions as to introduction & passing of Bills
- Article 108 : Joint sitting of both Houses in certain cases
- Article 109 : Special procedure in respect of Money Bills
- Article 110 : Definition of "Money Bills"
- Article 111 : Assent to Bills
- Article 112 : Annual financial statement
- Article 113 : Procedure in Parliament with respect to estimates
- Article 114 : Appropriation Bills
- Article 115 : Supplementary, additional or excess grants
- Article 116 : Votes on account, votes of credit & exceptional grants
- Article 117 : Special provisions as to financial Bills
- Article 118 : Rules of procedure
- Article 119 : Regulation by law of procedure in Parliament in relation to financial business
- Article 120 : Language to be used in Parliament
- Article 121 : Restriction on discussion in Parliament
- Article 122 : Courts not inquire into proceedings of Parliament