



'Part I INDIAN POLITY'

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TOPICS COVERED

- Syllabus of UPSC & MPSC Indian polity
- Making of Indian Constitution
- Preamble of Indian Constitution
- Union & its states (Art 1 – Art4)
- Citizenship & related aspects
- Fundamental Rights & related aspects
- DPSP & related aspects
- Fundamental duties
- Financial Administration including budget



Syllabus UPSC Prelims

- Indian Polity and Governance –
- Constitution,
- Political System,
- Panchayati Raj,
- Public Policy,
- Rights Issues, etc.



Syllabus UPSC Mains- Indian Polity

- - Historical underpinnings, evolution, features, amendments, significant provisions & basic structure
- - Functions & responsibilities of the Union & the States, issues & challenges of federal structure, devolution of powers & finances up to local levels & challenges therein
- - Separation of powers btw various organs, dispute redressal mechanisms & institutions
- - Comparison of the Indian constitutional scheme with that of other countries
- - *Parliament & State Legislatures*: structure, functioning, conduct of business, powers & privileges & issues arising out of these
- - Structure, organization & functioning of the Executive & the Judiciary
- - Ministries & Depts of the govt
- - Pressure groups & formal/informal associations & their role in the polity
- - Salient features of the Representation of Peoples Act
- - Appointment to various Constitutional posts, powers, functions & responsibilities of various Constitutional Bodies
- - Statutory, regulatory & various quasi-judicial bodies



Basic Reference Material- Indian Polity

- ✓ 9th, 10th & 11th Political Science NCERT Books
- ✓ Gist of NCERT (Kalinjhar Publications)
- ✓ **M LAXMIKANT- INDIAN POLITY**
- ✓ M LAXMIKANT- GOVERNANCE IN INDIA
- ✓ Indian Constitution- DD Basu
- ✓ Our Constitution- Subhash Kashyap
- ✓ Our Parliament- Subhash Kashyap
- ✓ भारतीय राज्यव्यवस्था- रंजन कोळंबे



Making of Indian Constitution

Constitution: "Constitution is a document consisting of laws & rules which determine & describe the form of the Government and relationship between the citizens and the Government."
(दस्तावेज ज्यामध्ये शासनाचे स्वरूप व नागरिक आणि शासन यांमधील संबंधांच्या वर्णन करणाऱ्या कायद्यांच्या आणि नियमांच्या समावेश असतो.)

⇒ Constitution is the highest legal document
⇒ Constitution is not static, but the live document.
(395 Art, 22 Parris, 8 Schedules → 448 Art, 25 Parris, 12 Schedules)

Constituent Assembly

M.N. Roy for first time introduced 'Const. Assembly' concept (1934)
↓
Dec 1934, Patna Cong session - Official demand for 'Const. Assembly' (Dec 1934)
↓
'August Offer' accepted that constitution be 'mainly' by Indians (1940)
↓
'Cripps proposal' accepted that const be 'completely' by Indians (1942)
↓
Constituent Assembly ~~accepted~~ est by 'Cabinet Mission Plan' (May 1946)
↓
1st meeting of Constituent Assembly under Dr Sachchidanand Sinha (9 Dec 1946)
↓
Dr Rajendra Prasad as permanent Chairperson of Const. Assn (11 Dec 1946)
↓
'Objectives Resolution' by Pt Jawaharlal Nehru (13 Dec 1946)
↓
22 Jan, 1947 accepted 'Objective Resolution' &
26 Nov 1949 adopted the Constitution.



Formation & Structure of Constituent Assembly

- Members of Constituent Assembly elected indirectly by Provincial assemblies in ratio of 1:10 lakh pop^l.
Total (389 members) = 296 (British Provinces) + 93 (Indian Provinces)
- Dr. Sachchidanand Sinha (Interim Presi) 9 Dec, 1946
- Dr. Rajendra Prasad (Presi) 11 Dec, 1946
- H.C. Mukherjee (V.P.) & Dr. B.R. Patel (Constitutional Advisor)
- Pt Jawaharlal Nehru (Objective Resolution) 13 Dec, 1946
- Accepted 'Objective Resolution' 22 Jan, 1947
(उद्देश पत्रिका)
- Adopted Indian constitution 26 Nov, 1949
- India became Republic 26 Jan, 1950
- 13 Important Committees for framing Constitution.
 - Drafting Committee — Dr. B.R. Ambedkar
 - संघराज्य अधिकार समिती — Pt J.M. Nehru
 - संघराज्य घटना समिती — Pt J.M. Nehru
 - प्रांतिक घटना समिती — Vallabh Bhai Patel
 - मूलभूत हक्क समिती — Vallabh Bhai Patel
 - कार्यपद्धती नियम समिती — Dr. Rajendra Prasad
 - राज्यांघी घर्चा समिती — Pt J.M. Nehru
 - सुकाणू समिती — Dr. K.M. Munshi
- Drafting Committee Members — Dr. B.R. Ambedkar + N. Gopalswami Ayyangar + Alladi Krishnaswami Ayyar + Syed Ahmed Sabullah + Dr. K.M. Munshi + N. Madhav Rao + T.T. Krishnamachari
- Dual Role of Constituent Assembly —
 - (i) Provisional legislature (17 Nov 1947 — Mar 1952)
 - (ii) Constitution making (09 Dec 1946 — 26 Nov 1949)



Salient Features of Indian Constitution

- Longest written constitution
- Partly rigid and flexible
- Democratic Republic
- Parliamentary System of Govt.
- A Federation
- Fundamental Rights
- Directive Principles of State Policy
- Fundamental Duties
- Secular State
- An independent Judiciary
- Single Citizenship



Salient Features of Indian Constitution

1. Indian Constitution is a **written Constitution**(सर्वात मोठी लिखित राज्यघटना)
2. It is the **largest Constitution- because**
 - **incorporated all the experiences** gathered from the working of the all the known constitutions in the World (> 60)
 - **To avoid all defects and loopholes** that might be anticipated from the light of other constitutions.
 - **To minimize uncertainty.**
 - Majority of the provisions **were borrowed from Government of India act 1935 because people were familiar with the existing system.**
 - It is explained in detail manner otherwise the new democracy may be jeopardized (make vulnerable, risk).
 - **Vastness of the country.**
 - **Multifarious challenges in the country.**
 - The division of powers between the union and states is so exhaustive.
 - It is a **single Constitution for the entire country except for Jammu and Kashmir.**
 - **It took 2 yrs,11 months & 18 days(11 sessions) and 64 lakh Rs.**



Salient Features of Indian Constitution

3. INDIAN CONSTITUTION IS BOTH RIGID AND FLEXIBLE.

- It is rigid, means there a special procedure for amending the Constitution.
- It is flexible, means that with an ordinary procedure some areas in the constitution can be amended.

4. FEDERAL SYSTEM :

- It means the division of powers between centre and states. (**Remember the word — ‘Federation’ is nowhere mentioned in the Constitution**).
- Though India is a federation it also has unitary features .

5. PARLIAMENTARY FORM OF GOVERNMENT:

- Presence of **nominal (Dejure) and real (defacto) executives**.
- Majority party rule.
- Collective responsibility to the Lok Sabha.
- Leadership of the Prime Minister (Chief Minister at the state level).



Salient Features of Indian Constitution

6. Chapter on Fundamental Rights, DPSP and Fundamental Duties

7. SECULAR STATE:

- Equal respect to all religions.
- The Constitution does not uphold any particular religion as the official religion.

8. UNIVERSAL ADULT FRANCHISE:

- All adults are permitted to vote.
- The original constitution permitted all the people who are not less than 21 years of age to vote, through the 61st amendment voting age has been reduced from 21 to 18 in the year 1989.

9. EMERGENCY PROVISIONS:

- Provided for 3 types of emergencies.
- National Emergency; State Emergency or President's Rule & Financial Emergency
- During National emergency, India from the state of Federation - becomes Unitary.

10. 3-TIER GOVERNMENT:

- Through 73rd and 74th amendments 3 tier structures was created.
- Panchayati Raj and Municipalities are made the Constitutional bodies.



SOURCES OF INDIAN CONSTITUTION

(**Structural component- GOI Act 1935; Philosophical component- USA constitution; Political component- UK constitution**)

- **Government of India Act 1935:**

- Note: This is the **major source** of Indian Constitution.
- ? Federal Scheme.
- ? Office of Governor
- ? Public Service Commissions

- **USA CONSTITUTION: (Judiciary related - न्यायव्यवस्था संबंधित बाबी)**

- ? Judicial Review
- ? Fundamental Rights
- ? Independent Judiciary
- ? Impeachment procedure of the President
- ? The Vice President acting as the Chairman of the Upper House
- ? Removal of the Supreme Court and High Court Judges.

- **BRITISH CONSTITUTION: (Parliamentary system-संसदीय लोकशाही पद्धती)**

- ? Rule of law
- ? Parliamentary form of government
- ? Single Citizenship
- ? Cabinet system
- ? Legislative procedure
- ? Bicameralism.

- **IRISH CONSTITUTION (IRELAND): (DPSP -मार्गदर्शक तत्वे)**

- ? Directive Principles of State Policy
- ? Nomination of members to the Upper House
- ? Election method of the President.

- **CANADIAN CONSTITUTION: (Strong Centre- केंद्रीय पद्धती)**
- ☐ Residuary powers with the centre
- ☐ Federation with a strong centre
- ☐ Appointment of State Governors by the Central Government
- ☐ Advisory jurisdiction of the Supreme Court.

- **SOUTH AFRICAN CONSTITUTION: (Constitutional Amendment-घटनादुरुस्ती)**
- Amendment procedure of the Constitution.
- Method of election of the members to the Upper House.

- **USSR: (Socialist principle, Fundamental Duties- समाजवादी)**
- Fundamental Duties
- Ideals of Justice (Social, Economic and Political).

- **FRANCE: (Liberty,Equality,Fraternity principles- स्वातंत्र्य,समता आणि बंधुभाव)**
- Republic
- Ideals of Liberty, Equality and Fraternity in the Preamble.

- **WEIMAR CONSTITUTION (GERMANY): (आणीबाणी)**
- Suspension of Fundamental Rights during emergency (National Emergency).

- **AUSTRALIAN CONSTITUTION: (समवर्ती सूची)**
- Concurrent list
- Joint sitting of 2 houses of the Parliament.

PREAMBLE OF INDIAN CONSTITUTION

- Source
- Meaning
- Amendments
- Judgements
- Significance

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens :

JUSTICE, social, economic and political ;

LIBERTY of thought, expression, belief, faith and worship ;

EQUALITY of status and of opportunity ;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation ;

IN OUR CONSTITUENT ASSEMBLY this twenty - sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

PREAMBLE (सरनामा)

- **Introduction** to Indian Constitution.
- Modified version of '**Objectives Resolution**' that was moved by Jawaharlal Nehru on **December 13, 1946** and adopted by the Constituent Assembly on **January 22, 1947**.
- We, THE PEOPLE OF INDIA, having solemnly resolved to Constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens: JUSTICE, Social, Economic and Political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all; FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.
- So far Preamble has been **amended only once** in the year 1976 through **42nd amendment**. The 42nd amendment added 3 new words to the Preamble. **SOCIALIST ,SECULAR ,INTEGRITY**.
- **3 Parts-** Authority of Constitution+ Nature of Indian State+ Objectives+Date of adoption of constitution.

- **SOVEREIGN: (SUPREME POWER)**
- Sovereign means SUPREME AUTHORITY of a state.
- This is the **absolute and supreme power**.
- This means that India has the power to legislate on any subject.
- India is **not subject to the control of any external authority**.
- India is neither dependency nor a dominion of any other nation but an independent state.
- **REPUBLIC: (NO HEREDITARY MONARCH)**
- It means the head of the State is elected.
- Political sovereignty in the hand of people & not in a single individual. Secondly, absence of any privileged class & all public offices open to every citizen without any discrimination.
-

- **SOCIALIST: (Democratic socialism)**
- This is added through the 42nd amendment act of 1976.
- The word socialism means placing means of production and distribution in the hands of public control(State).
- Socialism also means elimination of inequalities in income and status and standard of living.
- In India this is the **Democratic Socialism**. It is different from State socialism (communism) where there is nationalisation of all property and abolition of private sector.
- Here there is an existence of both **Public and Private sectors. This is called mixed economy.**
- The socialism strives to end inequality of opportunity.
- **SECULAR:**
- The term secular was added through the 42nd amendment in the year 1976.
- This means the state has **no official religion.**
- All religions in the country have the **same status and support.**
- **DEMOCRATIC:**
- (Demos = People; Kratia = Rule)
- Democracy means rule by the people.Two types- Direct & Indirect democracy. Direct democracy has devices **like Referendum, Initiative, Recall, Plebiscite**. Indirect democracy can be Parliamentary or Presidential.
- The people of the country elect their own representatives.
- In India it is **a representative democracy.**
- One man one vote is the concept in democracy.

- **JUSTICE: (Social,economical,political)-**
- **Social justice-** non discrimination on social grounds(religion,race,sex,caste,etc)
- **Economic justice-** reduction of inequalities
- **Political justice-** equal political rights.
- Social justice implies that all citizens are treated equally irrespective of their status in society as a result of birth, race, caste, religion, sex, title etc.
- **ECONOMIC JUSTICE:** Rich and poor are treated alike.
- **Article 39:** Certain principles of policy to be followed by the state. (equal pay for equal work)
- **POLITICAL JUSTICE:** Every citizen is given equal priority in the political sphere. Because of this irrespective of propriety or educational qualifications, every citizen is allowed to participate in the political system.
- All citizens have the right to participate in the political process.
- **Articles 325 and 326 provide for the equal rights to all adults to participate in elections.**
- **ARTICLE 325:** No person to be ineligible for inclusion in or to claim to be included in a special, electoral rolls on grounds of religion, race, caste or sex.
- **ARTICLE 326:** Elections to the House of People (Lok Sabha) and to the legislative assemblies of states to be on the basis of adult franchise.

- **LIBERTY: (Freedom for development)**
- It is the Liberty of thought, expression, belief, faith and worship.
- Article 19 guarantees the freedom of speech, expression etc.
- Articles 25 to 28 (right to religion) of the constitution the freedom of religion including the belief, faith and worship.
- Note: All Fundamental rights are granted with the reasonable restrictions.
- **EQUALITY:**
- All citizens are equal before the law and enjoy equal protection of the law of the land.
- **NOTE:**
- 1. Equality before law – borrowed from UK
- 2. Equal protection of Laws – borrowed from the USA.
- There can be no discrimination between one person and another on the grounds of religion, race, caste, sex, place of birth in matters related to access to public places and public employment.
- All citizens enjoy equal political rights.
- **Article 14 TO 18 of the Indian Constitution talks about right to equality.**
- **FRATERNITY:**
- This means promoting brotherhood among all the citizens.
- Single citizenship is directed towards promoting the fraternity.
- The fundamental rights that are guaranteed also promote the fraternity.
- The Directive Principles of State Policy talks about the promotion of harmony.
- The objective of the Dignity of the individual was to improve the quality of life for the individuals.
- The unity and integrity of the nation is possible through the dignity of the individual.
- **ARTICLE 51 A (Fundamental Duties) makes it the duty of every citizen to uphold and protect the sovereignty, unity and integrity of India and promote harmony and brotherhood.**

- The **Constitution derives authority from the people (We the people...)**.
- **Is preamble a part of the Constitution? (Read carefully, many times there were questions from this area).**
- **1960 – In the Berubari case the Supreme Court ruled that Preamble is not a part of Constitution.**
- **1973 – In the Kesavananda Bharati v. State of Kerala case the Supreme Court rejected the earlier opinion and held that Preamble is a part of the Constitution. The Court said that the Constitution could not be amended so as to alter the basic elements.**
- **1995 – In LIC of India v. Consumer Education and Research centre case the Supreme Court again held that the Preamble is an integral part of the Indian Constitution.**
- **Note: 1. Preamble is non-justifiable (Its provisions are not enforceable in courts of law).**
 - 2. Preamble is neither a source of power to legislature nor a prohibition to the powers of legislature.**
 - 3. Preamble can be amended but without altering basic structure of the constitution.**

Significance of Preamble

- Soul of Indian constitution(Mohd Hidayatullah); Basic philosophy & fundamental values of Indian constitution; Key to constitution.
- Mirror to Indian constitution.
- Identity card of Indian constitution- Nani Palkhiwala.
- Lighthouse in case of ambiguity to the constitution.

Mains Questions

Preamble

1. What are the major commitments of the Constitution of India as incorporated in its preamble ?
(in about 150 words) (88/II/4a/20)
2. Why is India called a Republic ? (88/II/8f(B)/3)
3. The Preamble to the Constitution is aimed to embody the fundamental values and the philosophy on which the Constitution is based. Elucidate. (in about 75 words)
(97/I/3c/10)
4. What is the significance of a preamble to a constitution ? Bring out the philosophy of the Indian polity as enshrined in the Preamble of the Indian Constitution.(in about 250 words) (04/I/6a/30)

UNION & ITS TERRITORY

- **Part I – Art 1 to Art 4**

- Art 1- India, that is Bharat, shall be a Union of states...
- The words 'Union of states' is preferred over the 'Federation of States' in our constitution.
- Other countries possessions can be added to India **through Constitutional amendments.**

10TH Const Amendment- Dadra & Nagar Haveli

12th Constitutional amendment – Goa, Daman, Diu

14th Constitutional amendment- Pondicherry

UNION & ITS STATES

- Art 2- **Admission or establishment of new States**
 - The power to admit the new states into the Union of India **And** The power to establish new states is with Indian Parliament.
 - e.g. Sikkim as per 35th Const amendment
- Art 3- **Formation of new States and alteration of areas, boundaries or names of existing States**
- The Constitution empowered the Parliament **to reorganize the boundaries of the states by a simple majority.**
- Article 3 lays down **two conditions in the formation of new states.**
- 1) The bill can be introduced in the Parliament only with the **prior recommendation of the President.**
- 2) The President shall before giving recommendation refer the bill to the legislature of the state which is going to be affected by the changes proposed in the bill.
- The state legislature must express its view in the time specified by the President.
- The President is **not bound by the view of the state legislature.**
- It is not necessary to make afresh reference to the state legislature every time an amendment to the bill is moved and accepted in the Parliament.
- In case of Union territory, no reference need be made to the concerned legislature to ascertain its views and the Parliament can itself take any action as it deems fit.
- Art 4- **Names of the states can be changed** e.g. Madras- Tamil Nadu, Odisha, etc

CITIZENSHIP

- Part II (Art 5 to 11)
- Significance of Citizenship-
Some Fundamental Rights provided in Indian constitution are available to citizens of India only; some of the fundamental rights which are not enjoyed by a non-citizen of India are:
 - Right to be discriminated on the basis of religion, race, sex, caste or birth of place(Art 15)
 - Equal opportunities in public employment (Art 16)
 - Right of six democratic freedoms (Article 19) + Cultural & educational rights(Art 29,30)
- Only citizens of India have the right:
 - To hold civil office
 - Right to vote
 - Right to be judges of courts

- Constitution simply describes classes of people deemed to be citizens of India as on 26th Jan 1950 & leaves entire law of citizenship to be regulated by parliamentary laws.
- Parliament enacted Indian citizenship act, 1955 for acquisition & loss of Indian citizenship and amended 8 times till date. Recent amendment was in 2016.

- **Acquisition of Indian Citizenship as per Citizenship act, 1955**

- 1.Citizenship by birth(Jus Soli):** Every person born in India on or after January 26, 1950 but before 01 Jul 1987 shall be a citizen of India by birth. Born after 01 Jul 1987- Born + either of parent is Indian citizen; Born after 03 Dec 2004- Born + both parents Indian
 - 2.Citizenship by descent(Jus Sanguine):** A person born outside India on or after January 26, 1950 but before 10 Dec 1992, shall be a citizen of India by descent if his father is Indian citizen. Born after 10 Dec 1992- either of his parents is a citizen of India at the time of the person's birth. Born after 03 Dec 2004- Birth to be registered in Indian consulate within one year of birth.
 - 3.Citizenship by registration:** A person can acquire Indian citizenship by registering themselves before the prescribed authority, e.g. persons of Indian origin who are ordinarily resident in India and have been so **for 7 years** immediately before making the application for registration; persons who are married to citizens of India and ordinarily residing in India for **7 yrs** before application of registration; minor children of citizens of India; **OCI for 5 yrs and ordinarily resident in India for 12 months before application** of registration.
 - 4.Citizenship by naturalization:** A foreigner can acquire Indian citizenship, on application for naturalisation to the Government of India (resided in India for **twelve months immediately preceding dt of application & 11 yrs out of 14 yrs before this 12 months of application** period resided in India + good character +adequate knowledge of language of Eight schedule of const.
 - Govt can waive off above conditions if distinguished service in Science, Philosophy, Science, literature, arts, world peace, human progress.
 - 5.Citizenship by Incorporation of territory:** If any new territory becomes a part of India, the Government of India shall specify the persons of that territory as citizens of India.
- **Termination of Indian Citizenship**
 - Renunciation by Voluntary Act.
 - After acquiring the citizenship of another country.(Termination)
 - Deprivation of citizenship by an order of the Government of India (citizenship by fraud; disloyalty to constitution, 2 yrs in jail out of 5 yrs after registration, continuously 7 yrs outside India resident; spy)

• [The Citizenship \(Amendment\) Bill, 2016](#)

• **Highlights of the Bill**

- The Bill amends the Citizenship Act, 1955 to make **illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship.**
- Under the Act, one of the requirements for citizenship by naturalisation is that the applicant must have resided in India during the last 12 months, and for 11 of the previous 14 years. The Bill relaxes this **11 year requirement to six years** for persons belonging to the same six religions and three countries.
- The Bill provides that the registration of Overseas Citizen of India (OCI) cardholders may be cancelled if they violate any law.

• **Key Issues and Analysis**

- The Bill makes illegal migrants eligible for citizenship on the basis of religion. This may violate Article 14 of the Constitution which guarantees right to equality.
- The Bill allows cancellation of OCI registration for violation of any law. This is a wide ground that may cover a range of violations, including minor offences (eg. parking in a no parking zone).

A PERSON OF INDIAN ORIGIN (PIO)

- Means a **foreign citizen** (except a national of Pakistan, Afghanistan, Bangladesh, China, Iran, Bhutan, Sri Lanka and Nepal)
- A **foreign citizen whose one of the parents/grandparents/ great grandparents was born and a permanent resident** of India
- Who is a **spouse** of a citizen of India or a PIO

BENEFITS

1. PIO card holders **do not require a visa to visit India** for a period of 15 years from the date of issue of the PIO card.
2. They are **exempted from registration at FRRO/FRO** if their **stay does not exceed 180 days**. In case if the stay exceeds 180 days, they shall have to register with FRRO/ FRO within the next 30 days
3. They **enjoy parity with NRIs in economic, financial and educational benefits**
4. All **future benefits** that would be exempted to NRIs would also be available to the **PIO card holders**

PIO VS OCI

OVERSEAS CITIZEN OF INDIA (OCI)

A **foreign national**, who was **eligible to become citizen of India** on **26.01.1950** or was a citizen of India on or at anytime after **26.01.1950** or belonged to a territory that became part of India after **15.08.1947** is **eligible for registration as Overseas Citizen of India (OCI)**. Minor children of such person are also eligible for OCI. However, if the applicant had ever been a citizen of Pakistan or Bangladesh, he/she will not be eligible for OCI.

BENEFITS

- OCIs are **entitled to a multipurpose, multiple entry, lifelong visa** allowing them to visit India at any time, for any length of time and for any purpose
- **Exempted from police reporting** for any length of stay in the country
 - **Have also been granted all rights in the economic, financial and education fields in parity with NRIs** except, the right to acquisition of agricultural or plantation properties

	NRI	PIO	PIO Card holder	OCI
1. Who?	An Indian citizen who is ordinarily residing outside India and holds an Indian passport	A person who or whose any of ancestors was an Indian national and who is presently holding another country's citizenship/ nationality i.e. he/she is holding foreign passport	A person registered as PIO card Holder under MHA's scheme vide Notification No. 26011/4/98-F.I dated 19.08.2002.	A person registered as Overseas Citizen of India (OCI) under section 7A of the citizenship Act,1955
2. Who is eligible?	-	-	Any person who at any time held an Indian passport; or he or either of his parents or grand parents was born in or was permanently resident in India as defined in government of India Act, 1935 and other territories that become part of India thereafter provided neither was at any time a citizen of Afghanistan, Bhutan, China, Nepal, Pakistan and Sri Lanka, Or who is a spouse of a citizen of India or a person of Indian origin as mentioned above.	A foreign national, who was eligible to become citizen of India on 26.01.1950 or was a citizen of India on or at anytime after 26.01.1950 or belonged to a territory that become part of India after 15.08.1947 and his/her children and grand children is eligible for registration as overseas citizen of India (OCI) Minor children of such person are also eligible for OCI. However, if the applicant had ever been a citizen of Pakistan or Bangladesh, he/she will not be eligible for OCI.
3. How can one get?	-	-	Eligible persons to apply in the prescribed form alongwith enclosures. Form available on MHA's website: www.mha.nic.in .	Eligible persons to apply on line / down load application form from MHA's website: www.mha.nic.in .

PRACTICE MCQs on

PREAMBLE+ UNION & STATES + CITIZENSHIP

❖ Correction- Ans for MCQ no 30 is C.

Q.1) Consider the following statements

1. In India, both a citizen by birth as well as a naturalised citizen are eligible for the office of President
2. Parliament has the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship

Select the correct code

- a. 1 Only b. 2 Only c. Both 1 and 2 d. Neither 1 nor 2

2) The federation as prescribed by Government of India Act, 1935 never came into being because

- a. The Muslim League did not support federalism; rather they wanted a strong Centre to safeguard their interest.
- b. It was optional for the Indian States to join the federation
- c. The administration of State subjects like agriculture, law and order was under Governor-General.
- d. None of the above

3) Suppose the Parliament of India wants to admit a new State X', then which of the following Article should be invoked?

- a. Article 1 b. Article 2 c. Article 3 d. Article 4

4) Consider the following statements:

Assertion (A) : The Parliament can redraw the political map of India according to its will

Reason (R) : The territorial integrity of any state is not guaranteed by the Constitution

Select the correct answer using the code given below:

- a. Both A and R are True and R is the correct explanation of A
- b. Both A and R are True but R is not the correct explanation of A
- c. A is True and R is False
- d. A is False and R is True

MCQs

5) **Constitution of India guarantees which of the following to the states of India?**

- [A] Territorial Integrity [B] Sovereignty [C] Right to secede from Union [D] None of them

6) **Consider the following statements**

- 1.The Preamble is a source of power to the legislature
- 2.The Preamble was enacted by the Constituent Assembly after the rest of the Constitution was already enacted.

Select the correct code

- a. 1 Only b. 2 Only c. Both 1 and 2 d. Neither 1 nor 2

7) **Which of the following provisions of the Constitution reveal the Secular character of the Indian State?**

- 1.Article 30
- 2.Article 14
- 3.Article 29
- 4.Article 44

Select the correct code

- a.1 and 2 Only b.1, 2 and 3 c.1, 2, 3 and 4 d.2 Only

8) **Allocation of seats in the Rajya Sabha to the States and the Union territories is mentioned in**

- a. 3rd Schedule b. 4th Schedule c. 2nd Schedule d. 8th Schedule

9) **With regard to the Preamble of the Indian Constitution, consider the following statements**

- 1.In the event of a conflict between the Preamble and a specific provision of the Constitution the former will prevail.
- 2.The Preamble is a part of the Constitution.
- 3.It was held by the Supreme Court as not a part of the Constitution in Berubari Union Case.

Which of the above statements are correct?

- a.1 and 2 only b.2 and 3 only c.1 and 3 only d.All of the above

10. **"We the people of India having solemnly resolved to constitute India into a Sovereign Democratic Republic and to secure to all citizens..." From this statement we can conclude**

- (a) Sovereignty lies with the executive of country
- (b) Sovereignty lies with the President
- (c) Sovereignty lies with the people of India
- (d) Sovereignty lies with the elected representatives of the people of India

11. **The Preamble to the Constitution of India reads:**

- (a) We, the people of India in our Constitution Assembly,... enact and give to ourselves this Constitution
- (b) We, the people of Indiain this Constituent Assembly... decide to enact and give to India this Constitution.
- (c) We, the people of Indiathrough the representatives of this Constituent Assembly. enact and give to ourselves this Constitution.
- (d) We, the members of the Constituent Assembly,... representing the people of India enact this Constitution.

12. **Which of the following items is wrongly matched?**

- (a) December 9, 1947-Constituent Assembly's first meeting
- (b) November 26, 1949-the people of India adopted, enacted and gave to themselves the Constitution
- (c) January 24, ' 1948-the Constitution was finally signed by the members of the Constituent Assembly
- (d) January 26, 1950-the date of commencement of the Constitution

13. **Which of the following provisions of the Constitution came into force from November 26, 1949 ?**

- I. Provisions relating to citizenship.
 - II. Provisions relating to elections.
 - III. Provisions relating to provisional Parliament.
 - IV. Emergency provisions
- (a) I and II
 - (b) I, III and IV
 - (c) I, II and III
 - (d) None

14. The Indian Constitution establishes a secular state, meaning:

1. the State treats all religions equally.
2. freedom of faith and worship is allowed to all the people.
3. educational institutions, without exception, are free to impart religious instruction.
4. the State makes no discrimination on the basis of religion in matters of employment.

(a) I and II

(b) I, II and III

(c) II, III and IV

(d) I, II and IV

15. The first session of the Constituent Assembly was held in :

(a) Bombay

(b) Calcutta

(c) Lahore

(d) New Delhi

16. Who among the following was not a member of the Constituent Assembly?

(a) Sardar Vallabhbhai Patel

(b) Acharya J.B. Kriplani

(c) Lok Nayak Jayprakash Narayan

(d) K.M. Munshi

17. The Constitution of India was promulgated on January 26, 1950 because:

(a) this day was being celebrated as the Independence Day since 1929

(b) it was the wish of the framers of the Constitution

(c) the British did not want to leave India earlier than this date

(d) it was an auspicious day

22. Which one of the following statements is correct?

- (a) Preamble of the Constitution is the part of the Constitution and can be amended under Article 368
- (b) Preamble of the Constitution is not a part of the Constitution and cannot be amended
- (c) Preamble is the part of the basic structure of the Constitution and can be amended only if no change in the basic structure is made
- (d) Preamble can be amended by Parliament simply by an objective Resolution

23. The word 'socialist secular' and 'unity and integrity of the Nation' were added to our Constitution by :

- (a) 42nd Amendment of the Constitution
- (b) 44th Amendment of the Constitution
- (c) 46th Amendment of the Constitution
- (d) None of the above

24. The Preamble of the Constitution of India envisages that:

- (a) it shall stand part of the Constitution
- (b) it could be abrogated or wiped out from the Constitution
- (c) it does not acknowledge, recognise or proclaim anything about the Constitution
- (d) it has separate entity in the Constitution

25. India is a democratic republic, because:

- (a) there is independence of judiciary
- (b) the Head of the State is elected by the people
- (c) there is distribution of powers between the Centre and the States
- (d) there is Parliamentary supremacy

26. Which of the following is not a part of the Preamble to the Indian Constitution?

- (a) Secularism
- (b) Socialism
- (c) Democratic Republic
- (d) Federalism

- 27. The source of India's sovereignty lies in the:**
a) President (b) Prime Minister (c) People of India (d) Preamble to the Constitution
- 28. Who among the following moved the Objectives Resolution which formed the basis of the Preamble of the Constitution of India in the Constituent Assembly on Dec 13, 1946?**
(a) Dr. B.R. Ambedkar (b) Dr. Rajendra Prasad (c) Sardar Vallabhbhai Patel (d) Pt. Jawaharlal Nehru
- 29. In India, the concept of single citizenship is adopted from -**
(a) England (b) U.S.A. (c) Canada (d) France
- 30. The word 'Socialist' was added to the Preamble, its main aim is to :**
(a) eliminate inequality in economic and political status
(b) eliminate inequality in political and religious affairs
(c) eliminate inequality in income and status and standards of life
(d) eliminate class based society
- 31. Which of the pairs is correctly matched?**
(a) Republic - Head of the State is hereditary Monarch b) Sovereign - Constitution rests on people's will
(c) Democratic - Constitution does not recognise legal supremacy of another country
(d) Secular - State is without any religion of its own
- 32. The Preamble enshrines certain ideals that were first spelt out in:**
(a) the speech by Jawaharlal Nehru on the banks of Ravi when he called for Purna Swaraj
(b) the Nehru Report
(c) a resolution adopted at Karachi session of the Indian National Congress
(d) the Objectives Resolution adopted by the Constituent Assembly
- 33. The part of the Constitution that reflects the mind and ideals of the framers is :**
(a) directive principles (b) fundamental rights (c) Preamble (d) Citizenship

34. Who is competent to prescribe conditions as for acquiring Indian citizenship?

- (a) Parliament
- (b) State Legislatures
- (c) President
- (d) Attorney General

35. Which of the following statements regarding the acquisition of Indian citizenship is correct ?

- (a) If citizenship is to be acquired by registration, six months residence in India is essential.
- (b) If citizenship is to be acquired by naturalisation the person concerned must have resided in India for 5 years.
- (c) If born in India, only that person can acquire citizenship at least one of whose parents is an Indian.
- (d) Rules regarding the citizenship of India shall not be applicable to Jammu and Kashmir.

36. According to the Citizenship Act, 1955, Indian citizenship cannot be acquired by:

- (a) children of the diplomatic personnel or alien enemies born in India on or after 26th January, 1950
- (b) children born of Indian citizens abroad
- (c) incorporation of territory not forming part of India at the commencement of the Constitution
- (d) naturalization

37. Citizenship provisions are enshrined in the Constitution in :

- (a) Part II
- (b) Part II, Articles 5-11
- (c) Part II, Articles 5-6
- (d) Part I, Articles 5-11

38. Which of the following Articles describes about the person voluntarily acquiring citizenship of a foreign state not to be citizens?

- (a) Article 5 (b) Article 7
- (c) Article 8 (d) Article 9

39. Article 6 enshrines the provision conferring Rights of citizenship of certain persons who have migrated to India from Pakistan. Which one of the following provisions is incorrect?

- (a) He or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935
- (b) Such person has so migrated before 19 July, 1948
- (c) Such person has so migrated on or after the 19 July, 1948, he has been registered as a citizen
- (d) Such person has got married in India

40. Details on how citizenship may be acquired and terminated are enumerated in:

- (a) Part II of the Constitution
- (b) the Citizenship Act, 1955
- (c) Schedule I of the Constitution
- (d) various enactments by Parliament

41.. Indian citizenship of a person can be terminated if:

1. a person voluntarily acquires the citizenship of some other country.
2. a person who has become a citizen through registration is sentenced to imprisonment for not less than 10 years within five years of his registration.
3. the Government of India is satisfied that citizenship was obtained by fraud.
4. a person who is a citizen by birth indulges in trade with an enemy country during war.

- (a) I and III
- (b) I, II and III
- (c) I, III and IV
- (d) I, II, III and IV

42. A person can become a citizen of India even if born outside India if his/her:

- (a) father is a citizen of India
- (b) mother is a citizen of India
- (c) father is a citizen of India at the time of the person's birth
- (d) father or mother is a citizen of India at the time of the person's birth

43. To acquire citizenship by registration a person must have been resident in India for _____ immediately before making an application:

- (a) six months
- (b) one year
- (c) three years
- (d) seven years

STOP AND CHECK ANSWERS

MAINS EXAMINATION

UPSC MAINS QUESTIONS

Preamble

1. What are the major commitments of the Constitution of India as incorporated in its preamble?
(in about 150 words) (88/II/4a/20)
 2. Why is India called a Republic? (88/II/8f(B)/3)
 3. The Preamble to the Constitution is aimed to embody the fundamental values and the philosophy on which the Constitution is based. Elucidate. (in about 75 words)
(97/I/3c/10)
 4. What is the significance of a preamble to a constitution? Bring out the philosophy of the Indian polity as enshrined in the Preamble of the Indian Constitution. (in about 250 words)
(04/I/6a/30)
-

UPSC MAINS QUESTIONS

States Autonomy / Creation / Movement

1. What is the scheme of division of powers between the Centre and the States under the Constitution of India? Discuss whether the grant of greater autonomy to the States would be in the interests of strengthening the integrity and promoting the economic development of the country. (About 500 words) (79/II/1b/75)
2. Keeping in view the political developments in India, explain how the need for national integration and the urge for regional autonomy can be reconciled. (About 250 words) (85/II/1b/40)
3. Why has the Jharkhand Movement acquired prominence? What are its main demands? (in about 50 words) (89/I/6b/10)
4. Examine whether the grant of greater autonomy to the States would be in the interest of strengthening the integrity and promoting the economic development of the country, especially in the light of recent happenings in our Country. (About 250 words) (91/II/1b/40)
5. Discuss the justification for the creation of new states in U.P. and Bihar. (100 words) (98/I/6b/10)
6. How are the new States formed in India? Why have the demands of separate states like those of Vidarbha, Telangana etc. not been considered by the Government recently? (in about 150 words) (98/II/4b/20)
7. Examine the demand for greater State-autonomy and also its impact on the smooth functioning of the Indian polity. (in about 250 words) (00/I/6b/30)
8. Examine the demand for greater state autonomy and its impact on the smooth functioning of Indian polity. (150 words) (08/I/6b/15)
9. Growing feeling of regionalism is an important factor in generation of demand for a separate State. Discuss. (200 words) (13/I/18/10)
10. Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? Discuss. (200 words) (13/II/5/10)

- **Discuss the key issues involved in the Citizenship amendment bill, 2016 and how it will only widen the old fault lines in Assam.(250 words)**
- **Do you think linguistic reorganization of Indian states post-independence was a sound policy? What arguments were put forth to support or oppose this policy? Critically comment. (200 Words)**
- **The language problem was the most divisive issue in the first twenty years of independent India, and it created the apprehension among many that the political and cultural unity of the country was in danger. How was it overcome? Critically examine. (200 Words)**

ESSAY TOPICS

- Creation of smaller states and the consequent administrative, economic and developmental implication.(2012)
- Is Autonomy the best answer to combat balkanization?(2007)
-

Themes for Preparation

(I) Philosophy of Indian Constitution as in Preamble

(Critical analyses of 9 key terms)

(II) Creation of small states

(Procedure; Pros & Cons; Linguistic demand; Need of second SRC)

(III) Citizenship Amendment Bill, 2016

• Significance of the Preamble:

The Preamble declares that it is the people of India who had enacted, adopted and given the Constitution to themselves. Thus, **sovereignty lies ultimately with the people of India.**

• It also declares the **ideals and aspirations of the people** that need to be achieved.

• **Ideals** are different from aspirations. While **ideals have been achieved with the Constitution proclaiming India as Sovereign, Socialist, Secular, Democratic Republic'**, the aspirations include **justice, liberty, equality and fraternity, which are yet to be achieved.** The ideals are the means to achieve aspirations.

• Ideals (mentioned in Preamble):

• The word '**Sovereign**' emphasizes that there is no authority outside India on which the country is in any way dependent.

• By the word '**Socialist**'(added by the 42nd Amendment Act 1976), the Constitution means that the achievement of socialistic pattern of society through democratic means.

• India is a '**Secular** (added by the 42nd Amendment Act 1976) state' does not mean that India is nonreligious or irreligious, or anti-religious, but simply that the State in itself is not religious and follows the age-old Indian principle of "Sarva Dharma Samabhava". State shall not discriminate against the citizens in any way on the basis of religion. The State regards religion to be the private affair of a person including the right to believe or not to believe in a religion.

• The term '**Democratic**' means that the rulers elected by the people only, have the authority to run the government. India follows a system of 'Representative Democracy', where the MPs and MLAs are elected directly by the people. Efforts are being made to take democracy to the grassroots through Panchayats and Municipalities (73rd and 74th Constitutional Amendment Acts, 1992). Preamble envisages not only political democracy but also social and economic democracies.

• The word '**Republic**' means, the head of the state is an elected representative (directly or indirectly) and not the hereditary monarch.

- **Aspirations to be achieved (mentioned in Preamble):**

- (I) **Justice-** The Indian Constitution **considers political justice to be the means to achieve social and economic justice by making the state more and more welfare oriented in nature.**
- **Political Justice** in India is guaranteed by **universal adult suffrage** without any sort of qualification, e.g. education, property, social status and tax return.
 - While **social justice** is ensured by abolishing any title of honour (Art. 18) and untouchability (Art.17),
 - **Economic justice** is guaranteed primarily through the **Directive Principles.**
- (II) **Liberty-** The Indian Constitution guarantees **six democratic freedoms** to the individuals under Art-19 and **Right to Freedom of Religion** under Arts-25-28. Thus providing essential liberty to the society for their fullest development of intellectual, mental and spiritual thoughts.
- (III) **Equality-** Our Constitution ensures **equality** in the matters of status and of opportunity by declaring any discrimination illegal by the state only on the basis of religion, caste, sex or place of birth (Art-15) by throwing open public places to all by abolishing untouchability (Art-17) and by abolishing titles of honour Art-18). However, various laws and regulations have been passed for the upliftment of SCs, STs, OBCs, Children and also for women (Protective Discrimination/ Positive affirmation).
- (IV) **Fraternity-** as enshrined in the Constitution means a sense of brotherhood prevailing amongst all the sections of the people. This is sought to be achieved by making the State secular, guaranteeing fundamental and other rights equally to people of all sections, and protecting their interests. However, fraternity is an evolving process and by the 42nd amendment, the word `integrity' was added, thus giving it a broader meaning.

Critical Analyses of terms

1. Is India really a sovereign nation?
(Meaning of sovereignty; Supporting claims; challenges)
2. Is India really a secular nation?
3. Is India really a socialist nation?
4. Is India really a democratic nation?
5. Is India really a Republic nation?
6. Has India really achieved Justice?
7. Has India really achieved Liberty?
8. Has India really achieved Equality?
9. Has India really achieved Fraternity?

Q. Do you think linguistic reorganization of Indian states post-independence was a sound policy? What arguments were put forth to support or oppose this policy? Critically comment.

Q. The language problem was the most divisive issue in the first twenty years of independent India, and it created the apprehension among many that the political and cultural unity of the country was in danger. How was it overcome? Critically examine.

- **Do you think linguistic reorganization of Indian states post-independence was a sound policy? What arguments were put forth to support or oppose this policy? Critically comment. (200 Words)**

The issue of demand for reorganisation of states on linguistic basis was largely debated in the first decade post-independence of India.

- **Arguments for linguistic organisation:**

- It is promised by INC prior to independence and also suggested by SRC-1.

- Administration becomes easier (rulers and the ruled will have same lingua franca). States can have their own official languages and official works could be carried on more efficiently to the lowest level.

- Helps for strengthening cultural identity

- Education can be given in preferred language or mother tongue and this will boost thinking ability and analysis, as is also scientifically proven. Mass Literacy is possible through mother tongue

- Nothing bars language as a criterion for reorganisation of states as per Indian constitution.

- POPULAR DEMAND FROM THE MASSES

- **Arguments against linguistic organisation (Dhar and JVP committees)**

- The situation was fragile after the independence with so many demands for secession for centre to consider this.

- Regionalism sometimes compromises national interest for narrow interest.

- Due consideration must also be given to other factors like administrative and economic weightage.

- Minority languages becomes more vulnerable.

States' reorganization did not, resolve all the problems relating to linguistic conflicts. Disputes over boundaries between different states, linguistic minorities and economic issues such as sharing of waters, and power and surplus food still persist. Linguistic chauvinism also finds occasional expression. But the reorganization has removed a major factor affecting cohesion of the country. It has not in any way affected the federal character and working of the Union. Centre wields its full authority and states cooperate in the same. With the help of popular language as tool, it has ensured outreach and participation of the masses in politics and administration thereby strengthening the state. India succeeded by accommodating diversities(here lingual) as a strength within its national policy framework (USSR failed to integrate Yugoslavia because linguistic and ethnic diversities were suppressed)

Q. The language problem was the most divisive issue in the first twenty years of independent India, and it created the apprehension among many that the political and cultural unity of the country was in danger. How was it overcome? Critically examine.

Linguistic identity has been a strong force in the multilinguistic Indian society. The language issue in India manifested itself in two forms:

- **Dispute over Official Language**

- Upon independence, it was decided that Hindi be adopted as the Central Government's official language (OL). This move was opposed by speakers of other languages, who feared that adoption of Hindi as the OL would place them at a disadvantage in the educational and economic spheres besides being a threat to their culture. This group advocated the retention of English as the OL.

- However, this suggestion was unacceptable to the proponents of Hindi, who saw English as a symbol of imperialism. While the constitutional makers recognised the fact that Hindi was spoken by the majority and played an instrumental role during the national struggle, they could not ignore the interests of other linguistic groups.

- Therefore, a compromise was arrived at – both Hindi and English would be used as official languages till 1965, after which Hindi would become the sole OL. The idea was to ease the transition of the use of Hindi by promotion of Hindi education. But the spread of education was too slow to make an impact and ultimately the Official Language Act was amended in 1965 to adopt bilingualism indefinitely.

- **Linguistic reorganisation of States**

- The demand for reorganisation of States on linguistic lines arose immediately after independence. The national leadership was opposed to such reorganisation as it was thought that the same would undermine national unity and integrity.

- As a consequence, the Dhar Commission and the JVP committee, both rejected language as the basis for reorganisation. The demand only intensified especially in the Telugu speaking regions of Madras State, where agitation was led by one Potti Sriramulu. His death after a 56 day hunger strike forced the government to create the first linguistic state – Andhra.

- This was followed by the appointment of the State Reorganisation Commission to examine the question holistically. The commission broadly accepted language as the basis of reorganisation and this was followed by a massive reorganisation exercise.

Discuss the key issues involved in the Citizenship amendment bill, 2016 and how it will only widen the old fault lines in Assam.(250 words)

Discuss the key issues involved in the Citizenship amendment bill, 2016 and how it will only widen the old fault lines in Assam.(250 words)

- **Why this question (GS2)**
- Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.
- Government policies and interventions for development in various sectors and issues arising out of their design and implementation.
- **Key demand of the question**
- The question simply wants us to discuss the key issues involved in CA bill and analyse how it will widen the old fault lines in Assam.
- **Directive word**
- Discuss- we have to write in detail about all the important issues involved in the CA bill and relate them with the old fault lines in Assam.
- **Structure of the answer**
- **Introduction-** Briefly discuss the aim and context (illegal migration, internal security etc) of the CA bill, 2016.
- **Body-**
- discuss the key issues involved. (e.g violation of article 14 i.e right to equality, wide grounds for cancellation of OCI etc.)
- Mention the fault lines (Hindu-Muslim, Barak valley Bengalis vs insiders) in Assam and explain how they will be widened by the CA bill, 2016.
- **Conclusion**– present a fair and balanced opinion on the CA bill, 2016 and suggest a way forward.

राज्यांची निर्मिती – आधार

- ✓ संवैधानिक कलम
- ✓ स्वातंत्र्यपूर्व परिस्थिती
- ✓ धर आयोग, JVP आयोग, राज्य पुनर्रचना आयोग (फझल अली आयोग)
- ✓ भाषावार प्रांत रचना आणि राज्यांची निर्मिती
- ✓ छोट्या राज्याची मागणी आणि फायदे
- ✓ नुकसान
- ✓ उपाय आणि दुसऱ्या राज्य पुनर्रचना आयोगाची गरज

CREATION OF STATE (राज्यांची निर्मिती)

- कलम १ ते ४ (Art 1 to Art 4)
- ‘ Indian union is an indestructible union of destructible states’
- **Art 3** (नवीन राज्याची निर्मिती)
- **Process:** Union Govt draft for state creation > President’s prior recommendation> President sends it to concerned state Govt for opinion> After opinion from state Govt, President gives prior sanction for introduction of bill in Parliament> Introduction of bill by Union Govt in Parliament> Passage by simple majority in both Houses of Parliament> Presiden’t assent> Notification for creation of new state.

HISTORICAL BACKGROUND(ऐतिहासिक पार्श्वभूमी)

- **552 small states** in India prior to Independence; Merged into Union of India by Sardar Vallabhbhai Patel (Iron Man of India);
(549 + Junagarh, Hyderabad, J&K)
- **Post- Independence Consolidation:** Social, Political, Economic background at time of independence + Partition of India; Aspirations of people of Independent India.
- **Linguistic demand for creation of states(भाषावार प्रांतरचना)-**
Dhar Commission (1948) > JVP Cmmittee(1948) > 1st SRC (Fazl Ali)

LINGUISTIC REORGANISATION OF STATE

- Language- an imp aspect of identity of society
- The Congress party had supported the idea of **linguistic reorganisation since the 1920s.**
- **Issues of partition of India, J & K issue, Region-wise Socio-economic development challenge – Delay in linguistic reorganisation of states.**
- The leadership felt that the most important task for the present was to **consolidate national unity ; and any effort undertaken immediately to redraw the internal boundaries might dislocate administration and economic development, intensify regional and linguistic rivalries, unleash destructive forces, and damage the unity of the country .**

(भाषिक/ सांस्कृतिक ओळखीपेक्षा देशाची एकता व सुरक्षा जास्त महत्वाची)

1) S.K.Dhar commission (1948)- After independence, the demand for reorganisation of states on linguistic basis was raised from different regions. The **Constituent Assembly appointed S.K. Dhar Commission** in Nov. 1947 to study the issue of reorganisation of States on linguistic basis. The commission in its report, submitted in 1948, **recommended against the organisation of states purely on linguistic basis.** Instead, the commission suggested the following **criteria alongwith language- Geographical contiguity, Financial self-reliance, Administrative viability and Potential for development.**

(ADMINISTRATIVE CONVENIENCE- प्रशासकीय सुलभता)

2) JVP Cmmittee (1948)-The Congress, in its Jaipur session in 1948, appointed a three member committee to consider the recommendations of Dhar Commission. The Committee is popularly known as JVP Committee after the name of its three members – Jawaharlal Nehru, Vallabh Bhai Patel, and Pattabhi Sitarammaiah.

The committee **rejected language as the basis of reorganisation of states. It suggested that the security, unity and economic prosperity of the nation as the criteria of reorganisation.**

(देशाची सुरक्षितता, एकता आणि आर्थिक समृद्धी)

The CWC accepted its recommendation in 1949, but the **demand for linguistic reorganisation of States persisted in southern states particularly in Telugu speaking areas A.P.**

- On 19 October, 1952, a popular freedom fighter, **Patti Sriramalu, undertook a fast unto death** over the demand for a separate Andhra and expired after fifty eight days. His death was followed by three days of violence all over Andhra. The government immediately gave in and conceded the demand for a separate **State of Andhra, which finally came into existence in October 1953.** Simultaneously, Tamil Nadu was created as a Tamil-speaking state. **This incident led to appointment of the States Reorganisation Commission (SRC).**

3) 1st SRC- Fazl Ali, H Kunzru, K.M. Pannikar (1953-1955-1956 Act)-

❖ **4 Criteria** laid down by SRC for accepting demand for formation of a state-

- (i) Creation of new states should strengthen & preserve **national unity (राष्ट्रीय एकता)**
- (ii) States to be formed on the basis of **linguistic & cultural unity (भाषिक आणि सांस्कृतिक एकता)**
- (iii) **Financial, administrative & economic viability** should govern formation of new states (आर्थिक आणि प्रशासकीय सक्षमता)
- (iv) It should aid the process of **implementation of five year plans (पंचवार्षिक योजनांची योग्य अंमलबजावणी)**

- Attempt to incorporate cultural identities into political & administrative units

3) 1st SRC- Fazl Ali, H Kunzru, K.M. Pannikar (1953-1955-1956 Act)-

SRC submitted its report in October 1955. While laying down that due consideration should be given to administrative and economic factors, **it recognized for the most part the linguistic principle and recommended redrawing of state boundaries on that basis.** The Commission, however, **opposed the splitting of Bombay and Punjab.** Despite strong reaction to the report in many parts of the country, the SRC's recommendations were accepted, though with certain modifications, and were quickly implemented.

- **Important recommendations of Commission were: (राज्य निर्मितीसाठी भाषा हा एक आधार)**
- - The Indian Union was to consist of **16 States & 4 Union Territories** as against the existing 27 states and 3 UTs.
- - **Special safeguards were recommended for linguistic minorities.**
- In the interests of national unity and good administration, the Commission recommended the reconstitution of certain **All India Services.**
- - It further recommended that at least 50 per cent of the new entrants to the All India Services and at least one third of the number of Judges in a High Court should consist of persons recruited from outside that State so that, administration might inspire confidence and help in arresting parochial trends.
- - The Commission put emphasis on the **need for encouraging the study of Indian languages other than Hindi** but, for some time to come, English continue to occupy an important place in the universities and institutions of higher learning.
- The Commission **rejected the demand for the creation of a Punjabi Speaking State (Punjabi Suba)** because “the creation of such a state will solve neither the language nor the communal problem”.
- The SRC Act was passed by Parliament in 1956. It provided for fourteen States and six Union Territory. But two of the most sensitive area, Bombay and Punjab, were not reorganised on linguistic basis. The demands for separate tribal states, including Jharkhand and Nagaland, were also bypassed.

(Separate Maharashtra state 1960 & Punjab 1966 were created)

- Nehru reverted to the formation of **bilingual, greater Bombay**. This move was, however, opposed by the people both of Maharashtra and Gujarat. The broad-based Samyukta Maharashtra Samiti and Maha Gujarat Janata Parishad led the movements in the two parts of the state.
- The demand to transfer the Marathi dominated area of Belgaum to Maharashtra from Karnataka has been a serious political issue between two states. During United Maharashtra Movement, 11 persons were killed in police firing in Belgaum. The border dispute case is pending in the Supreme Court. Belgaum bordering Maharashtra has a sizeable Marathi-speaking population, and had for decades been a bone of contention between the two States.
- Political consolidation- Goa; J&K;Sikkim.

DEMAND FOR CREATION OF SMALL STATES-

PROS & CONS

- **Demand for > 25 new states** (Vidarbha, Saurashtra, Coorg, Bundelkhand, Harit Pradesh, Awadh Pradesh, Brj Pradesh, Purvanchal, Mithilanchal, Gorkhaland, Kamtapur, Bodoland, etc)
- **Advantages-** (Political + Economical + Cultural + Social)
 - (i) **Administrative convenience** (Govt near to people; prompt to act; Better participation of people in democracy)
 - (ii) **Fulfillment of regional aspirations** of local people (local people governing local issues; avoid neglect of certain section of people or society)
 - (iii) **Economic development** (Removes regional economic imbalances)
 - (iv) **Cultural & linguistic identity**
 - (v) Small states **easy to administer**
 - (vi) In consonance with **federal principles of polity**

DEMAND FOR CREATION OF SMALL STATES-

PROS & CONS

- Challenges-

- (i) **Dominance of majority** community over minority
- (ii) Sub national elements or divisive tendencies may cause risk to **national security and integrity**
- (iii) **Intra-regional rivalries**
- (iv) **Political uncertainty** due to lesser number of legislators in assembly (e.g. Goa, Nagaland, Arunachal Pradesh assemblies)
- (v) **Economic viability**(Inadequate resources for economic development & dependence over Central Govt)
- (vi) Risk of increased **inter-state disputes**(water disputes)
- (vii) Small states **not necessarily better administered** as compared to larger states (e.g. Jharkhand)
- (viii) **Higher expenses** & Administrative problems in establishing new High Courts, Secretariat, etc

DEMAND FOR CREATION OF SMALL STATES- WAY FORWARD

- (i) **Development** is the ultimate solution
- (ii) **Finances**- Grant in aid to states from Centre
- (iii) **Autonomous councils** (e.g. Darjeeling Council)
- (iv) Inclusion of **more languages in 8th schedule**
- (v) Establishment of **Development Boards (Art 371)**
and **more autonomy**

DEMAND FOR CREATION OF SMALL STATES- WAY FORWARD

- Though Indian constitution (and democratic polity) welcomes genuine regional aspirations, the plethora of demands for smaller states as a panacea for all developmental issues has created many administrative and political problems in recent times. Hence a rational assessment of the factors behind the demand, the success of earlier such division must become the basis of scientifically arriving at a formula (based on Population size, geographical homogeneity, strategic nature of the location etc), which will decide the future demands for smaller states.
- Apart from this, the fundamental problems of development deficit such as concentration of power, corruption, administrative inefficiency etc must be approached with a new vigor of cooperative federalism based on "principle of subsidiary". Smart transport system, ICT must be heavily relied upon for better public service delivery, where people have a direct say in their development. This will address the problems of displacement and discontent among people and lead to balanced regional development.

- (Examine the demand rationally;

ADMINISTRATIVE CONVENIENCE+ ECONOMIC VIABILITY + GOOD GOVERNANCE
(प्रशासकीय सुलभता+ आर्थिक सक्षमता + सुप्रशासनाला सहाय्यक)

should be the decisive factors)

- 1st SRC- 'States like limbs of Union; Ensure healthy and strong union for healthy limbs'

Need of 2nd SRC

- 1ST SRC- Background & objectives were different
- 2nd SRC- Presently, demand for states are on different basis where lack of development & deficit in governance is the main issue.
So solution is 'GOOD GOVERNANCE' and Not the size of states.

ESSAY TOPICS

- Creation of smaller states and the consequent administrative, economic and developmental implication.(2012)
- Is Autonomy the best answer to combat balkanization?(2007)
-

PART III FUNDAMENTAL RIGHTS (Art 12-35)

- ✓ **For Introductory remarks in Mains Answers-** 'Fundamental Rights are basic rights as they are most essential for the attainment of full intellectual, moral and spiritual stature by an individual. These are known as the **Magna Carta of India**. Part III of the Constitution is called the **Cornerstone of the Constitution (Sajjan Singh V/s State of Rajasthan)** and together with Part IV (Directive Principles of State Policy) it constitutes the '**Conscience of the Constitution**'.
- ✓ **Rights available only to Indian citizens- Art 15,16,19,29,30.**
- ✓ **Art 12- Definition of State;**
- ✓ **Art 13- Doctrine of 'Judicial Review'** (the terms law includes ordinance, order, bye-law, rule, regulation, notification, custom or usage)
- ✓ **Art 14- Equality before law** (It ensures juristic equality under the constitution. Equality is antithetic to arbitrariness.) + **Equal Protection of law** (means like should be treated alike.)
- ❖ **Rule of Law- Concept given by AV Dicey**

It means no man is above law and that every person, whatever be his rank or status is subject to the jurisdiction of ordinary Courts. It also says that no person shall be subject to harsh, uncivilized or discriminatory treatment even for the sake of maintaining law and order.

There are three basic meaning of Rule of Law:

 - Absence of Arbitrary power or supremacy of law.
 - Equality before law – No one is above law
 - The Constitution is the Supreme Law of the land and all laws passed by the legislature must be consistent with the provisions of the Constitution.

FUNDAMENTAL RIGHTS PART III(12-35)

- **Article 12** explains the State. The state includes - The government and the parliament of India ; The government and the state legislature ; All local authorities (municipalities, Panchayat Raj, District boards, etc) ; Other statutory and non statutory authorities (LIC, ONGC etc).
- The actions of the state (all the above said) can be challenged in the courts as the violation of Fundamental Rights.
- **Article 13**: All laws that are inconsistent with or in derogation of any of the Fundamental Rights shall be void.
- This article expressively provides for the doctrine of judicial review. This power is conferred to SC (**Article 32**) and High Courts (**Article 226**) that can declare a law unconstitutional and invalid on the grounds of contravention of any of the fundamental Rights. Note: The words —Judicial Review|| are not mentioned in the Constitution.
- **RIGHT TO EQUALITY (14-18)**
- **Article 14: Equality before law and equal protection of laws.**
- Equality before law: The absence of any special privileges in favour of any person
- Note: Equality before law is taken from the British Constitution.
- Equal Protection of Laws: The equality of treatment under equal circumstances.
- Note: This is taken from the USA Constitution.
- **Article 15: Prohibition of discrimination on the grounds only of religion, race, caste, sex, or place of birth. (Access to various places).**
- **Exceptions:**
- Special provisions for children and Women ; Socially and economically backward sections ; SCs & STs
- **Article 16: Equality of opportunity in matters of Public employment.**
- Article 16(4) empowers the state to make special provisions for the reservation of appointments or posts in favour of any —backward class of citizens|| which in the opinion of state are not adequately represented in the services of the state.
- **Article 17: Abolition of un-touchability and prohibition of its practice.**
- Accordingly the Parliament passed Untouchability (offences) Act, 1955.
- In the year 1976, this act is renamed as Civil Rights Act, 1955.
- **ARTICLE-18: Abolition of titles except military and academic.**

FUNDAMENTAL RIGHTS PART III(12-35)

- **RIGHT TO FREEDOM (19-22):**
- **ARTICLE 19: Protection of 6 rights. Right to freedom of speech and expression 19 (1) (a)**
- (freedom of expression means the right to express one's opinion by words of mouth, writing, printing, picture, or in any other manner)
- o Right to assemble peacefully and without arms
 - o Right to form associations
 - o Right to move freely throughout the territory of India
 - o Right to reside and settle in any part of the territory of India
 - o Right to practice any profession or to carry on any occupation, trade or business
 - o Right to acquire, hold, and dispose of property (deleted through 44th amendment)
- Note: On November 20, 2012 the Maharashtra police arrested 2 women (Shaheen and her friend) for twitting in Facebook for the expression of their opinion after the demise of Shivasena leader Bal Thackery. This was objected many as the violation of article 19 (1) (a) of the Indian Constitution.
- **Article 20: Protection in respect of conviction for offences.**
- No ex-post-facto Legislation
- No Double Jeopardy
- No Self-incrimination
- **Article 21: Protection of life and personal liberty except in accordance with the procedures established in law.**
- Right to live with human dignity, decent environment, privacy, free education up to 14 years etc.
- **Article 21 A: Right to free and compulsory education for all the children.**
- **Note: This was present in Article 45 of the constitution. Through 86th amendment in 2002 it was made a fundamental right. This came into force on April 1, 2010.**
- **Article 22: Protection against arrest and detention in certain cases.**
- Under punitive detention: right to be informed of the grounds of arrest, consult a legal practitioner, and produce before the magistrate within 24 hours.
- Under preventive detention: grounds of detention should be communicated, provide an opportunity to make representation.

FUNDAMENTAL RIGHTS PART III(12-35)

- **RIGHT AGAINST EXPLOITATION (23-24):**
- **Article 23:** Prohibition of traffic in human beings and forced labour.
- **Article 24:** Prohibition of employment of children in factories.
- **RIGHT TO FREEDOM OF RELIGION (25-28):**
- **Article 25:** All persons are equally entitled to (individual freedom of religion)
 - ☐ freedom of conscience,
 - ☐ the right to freely
 - ☐ profess
 - ☐ practice
 - ☐ And propagate religion.
 - ☐ Note: Propagation does not include ‘_forced conversions’.
- **Article 26:** Freedom to Manage Religious Affairs: (collective freedom of religion)
 - To establish and maintain institutions for religious and charitable purposes
 - Own and acquire movable and immovable property
 - Right to administer the property
- **Article 27:** Freedom for Taxation for promotion of a religion.
 - No person shall be compelled to pay taxes for the promotion and maintenance of any religion. (But fees can be charges for maintenance of religious institutions)
- **Article 28:** Freedom from attending religious instruction.
 - No religious instruction shall be provided in any educational institute wholly maintained out of state funds.
 - Religious instructions permitted if it is established by endowments or trust.
 - Article 28(3): No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.
- **CULTURAL AND EDUCATIONAL RIGHTS (29-30):**
- **Article 29:** Right to conserve language, script or culture.
 - The Article 29 grants protection to both religious and linguistic minorities.
- **Article 30:** Right of Minorities to Establish and administer Educational Institutions:
 - All Minorities have the right to establish and administer educational institutions of their choice.

- **RIGHT TO CONSTITUTIONAL REMEDIES (32):**

- The Supreme Court and High Courts can issue writs.
- Right to move Supreme Court for the enforcement of Fundamental Rights including the writs of Habeas corpus, Mandamus, Prohibition, Certiorari and Quo warrato.
- Under Article 359 of the constitution provides the right to move to Supreme Court can be suspended during national emergency. According B R Ambedkar Article 32 is the ‘**heart and soul of the Indian Constitution**’.

- **HABEAS CORPUS: (TO PRODUCE THE BODY).**

- ü It is an order issued by the court to a person who has detained another person, to produce the body of the latter before it. Hence this is against arbitrary detention. This can be issued to a private person or public authorities.
- ü **Mandamus: (To Command):** Issued to a public official asking him to perform his official duties that he has failed or refused to perform. (this cannot be issued against President or Governor or CJ of a HC or against any private person).
- ü **Prohibition: (to forbid/ to prevent):** Issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess.
- ü **Certiorari (To be certified or to be informed):** Issued by a higher court to a lower court or tribunal either to transfer case pending with the latter to it or to squash the order of the latter in a case.
- ü **Quo-warranto (By what Authority?):** It is issued by a court to enquire into the legality of claim of a person to a public office holder.

ü **Article 33:** The Parliament is empowered to abrogate the fundamental rights of the members of armed forces, Paramilitary forces, police forces, intelligence agencies and other related agencies.

- ü Note: The law made by the Parliament under Article 33 cannot be challenged in the court of law

ü **Article 34:** This provides for the restriction of the fundamental rights while martial law is in force in any area within the territory of the country.

ü **Article 35:** The Parliament makes laws to give effect to certain specified fundamental rights shall vest only in Parliament and not in the state legislature.

- ü As per the provisions of the Article 35 the Parliament prescribes residence as a condition for certain employments or appointments in a state or union territory or local authority. (Article 16).
- ü The Parliament can empower the lower courts (Other than Supreme Court and High Courts) to issue directions, orders, and writs of all kinds for the enforcement of the fundamental rights.

Art 32 - Right to Constitutional Remedies

(Election to Constitutional Remedies)

- ⇒ "Heart & Soul of Indian Constitution" - Dr. B.R. Ambedkar
- ⇒ Part of Basic Structure of constitution (SC judgement in 1981)
- ⇒ Writ jurisdiction of Supreme Court is narrower than High Courts.

Sr. No.	Writ	Meaning	Applicable against	Locus Standi	Other
1.	<u>Habeas Corpus</u> (देहोपनिर्मुक्ति / बंदी प्रत्यक्षीकरण)	'To have body of'	<u>Public authorities</u> + <u>Private individuals</u>	Not necessary	Against arbitrary detention / arrest
2.	<u>Mandamus</u> (परमादेश)	'We Command'	<u>Public authorities</u> (Corporation, Govt, Inferior Court, Tribunal, Govt officials) Except → President / Governor / Chief Justice of HC	Mandatory (aggrieved party)	Perform official duty which he failed
3.	<u>Prohibition</u> (अज्ञेयता) (प्रतिषेध)	'To forbid / prevent'	<u>Lower Court / Tribunal</u>	Mandatory (aggrieved party)	Preventing lower court from exceeding jurisdiction
4.	<u>Certiorari</u> (उत्प्रेक्षण)	'To be certified'	<u>Judicial / Quasi-Judicial / Administrative authorities</u>	Mandatory (aggrieved party)	Orders to transfer a case or quash the order
5.	<u>Quo Warranto</u> (अधिकारपृच्छा)	'By what authority'	<u>Public authorities</u> (created by constitution or a statute; permanent nature)	Not necessary (any person or aggrieved party)	Prevents illegal usurpation of a public office by a person

मूलभूत हक्क आणि मार्गदर्शक तत्वे यांच्यातील फरक

मूलभूत हक्क

- १.ते नकारात्मक आहेत, कारण ते राज्यास काही गोष्टीस करण्यास प्रतिबंध करतात.
- २.ते न्यायप्रविष्ट आहेत, म्हणजे त्यांचे उल्लंघन झाल्यास न्यायालयातून ते पुन्हा प्राप्त करता येतात.
- ३.देशात राजकीय लोकशाही प्रस्थापित करणे हे त्यांचे उद्दिष्ट आहे.
- ४.त्यांना कायद्याची अनुज्ञा (sanction) आहे.
- ५.ते व्यक्ती कल्याण संवर्धित करतात, त्यामुळे ते वैयक्तिक आहेत.
- ६.त्यांच्या अंमलबजावणीसाठी कायद्यांची गरज नसते, ते आपोआप प्राप्त होतात.
- ७.न्यायालय मूलभूत हक्कांचे उल्लंघन करणाऱ्या कायद्याला घटनाविरोधी असल्याचे घोषित करू शकते.

मार्गदर्शक तत्वे

- १.ते सकारात्मक आहेत, कारण ते राज्यास काही गोष्टी करण्याचे मार्गदर्शन करतात.
- २.ते न्यायप्रविष्ट नाहीत, म्हणजेच त्यांचे उल्लंघन झाल्यास ते न्यायालयातून साध्य करून घेता येत नाहीत.
- ३.ते देशात सामाजिक व आर्थिक लोकशाही प्रस्थापित करण्याचा प्रयत्न करतात.
- ४.त्यांना नैतिक व राजकीय अनुज्ञा आहे.
- ५.ते समाज कल्याण संवर्धित करण्याचा प्रयत्न करतात.
- ६.त्यांच्या अंमलबजावणीसाठी कायद्यांची गरज असते, ते आपोआप अंमलात येत नाहीत.
- ७.न्यायालय मार्गदर्शक तत्वांचे उल्लंघन करणाऱ्या कायद्याला घटनाविरोधी घोषित करू शकत नाही.

DPSP(मार्गदर्शक तत्वे)

- ✓ Source of DPSP (स्त्रोत)
- ✓ Difference between Fundamental Rights & DPSP
(मुलभूत अधिकार व मार्गदर्शक तत्वे फरक)
- ✓ Significance of DPSP (महत्व)
- ✓ Gandhian, Socialistic & Liberal principles in DPSP
(प्रकार)
- ✓ Articles of DPSP (कलमे)
- ✓ Amendments of DPSP (सुधारणा)
- ✓ Conflict between Fundamental Rights & DPSP(वाद)
- ✓ DPSP in present context
- ✓ Issues related

Directive Principles of Our State Policy: Part IV (Art 36-51)

- **Borrowed from- Irish constitution;** (Instruments of Accession during British time; Sapru Report in 1945 finds reference)
- ✓ **Non justiciable(न्यायप्रविष्ट नाही)** in nature (can't be challenged in court of law)
- **Significance(महत्त्व)- Fundamental in the governance of the country** and it shall be the duty of the State to apply these principles in making laws.
- Positive obligations on State- While most of the Fundamental Rights are negative obligations on the state, DPSPs are positive obligations on the state, though not enforceable in a court of law. Required for 'Welfare State' कल्याणकारी राज्य
- ✓ To ensure Social & Economic justice (सामाजिक व आर्थिक न्याय)
- ✓ **'Conscience of constitution' संविधानाचा आत्मा** -DPSP + FR >> Conscience of Indian Constitution(Granville Austin)
- ✓ DPSP & FRs are supplementary & complementary to each other.(पूरक व संपूरक)
- ✓ **Objectives-** Welfare State + Social & Economic Democracy + Improving living standard)
(उद्दिष्टे – कल्याणकारी राज्य निर्माण करणे + आर्थिक व सामाजिक लोकशाही + नागरिकांच्या राहणीमानाचा दर्जा सुधारणे)

- **Art 38 (Social, Political and Economic Justice) लोककल्याणासाठी समाजव्यवस्था प्रस्थापित करणे**

Article 38 directs the state to secure a social order with economic, political and social justice for the promotion and welfare of the people. Article 38(2) says that state shall strive **to minimize the inequalities of income, status, facilities, opportunities** etc.

- **Art 39 (Principles of Policy) सरकारी धोरणे (उपजीविकेची साधने ; सामुहिक हित;विकेंद्रीकरण)**

Article 39 says that while framing policies, state would strive to **provide adequate means of livelihood**, equal pay for equal work, **resource distribution**, safety of citizens and healthy development of Children.

- **Art 39-A (Free Legal aid) समान न्याय व मोफत कायदेविषयक सल्ला**

Article 39-A says that then state will try to make legal system fair and would provide **free legal aid** by means of some scheme or law etc.

- **Article 40: Organisation of village panchayats (स्थानिक स्वराज्य संस्था)**

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function **as units of self-government**.

- **Article 41: Right to work, to education and to public assistance in certain cases (कामाचा हक्क)**

The State shall, within the limits of its economic capacity and development, make effective provision **for securing the right to work, to education and to public assistance in cases of unemployment**, old age, sickness and disablement, and in other cases of undeserved want.

- **Article 42: Provision for just and humane conditions of work and maternity relief (कामाच्या ठिकाणी न्याय्य व मानवी परिस्थिती)**

The State shall make provision for securing just and humane conditions of work and for maternity relief.

- **Article 43: Living wage, etc., for workers कामगारांना निर्वाह वेतन**

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, **a living wage, conditions of work ensuring a decent standard of life** and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to **promote cottage industries** on an individual or co-operative basis in rural areas.

- **Article 43A: Participation of workers in management of industries (कामगारांचा व्यवस्थापनात सहभाग)**

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

- **Article 43-B: Cooperative societies सहकारी सोसायट्यांना प्रोत्साहन (९७ वी घटनादुरुस्ती)**

- **Article 44: Uniform civil code for the citizen (समान नागरी कायदा)**

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

- **Article 45: Provision for free and compulsory education for children (मोफत व सक्तीचे शिक्षण)**

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.(After 86th constitutional amendment, **ECCE- सहा वर्षाखालील बालकांचे संगोपन व शिक्षणाची तरतूद**)

- **Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections अनुसूचित जाती, जमाती शैक्षणिक व आर्थिक संवर्धन**

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

- **Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health (पोषण व सार्वजनिक आरोग्य सुधारणे)**

The State shall regard the **raising of the level of nutrition** and the standard of living of its people and the **improvement of public health** as among its primary duties and, in particular, the State shall endeavour to bring about **prohibition of the consumption except for medicinal purpose of intoxicating drinks** and of drugs which are injurious to health.

- **Article 48: Organization of agriculture and animal husbandry (कृषी व पशुसंवर्धन संघटन)**

The State shall endeavour to organize **agriculture and animal husbandry on modern and scientific lines** and shall, in particular, take steps for preserving and **improving the breeds, and prohibiting the slaughter**, of cows and calves and other milch and draught cattle.

- **Article 48A: Protection and improvement of environment and safeguarding of forests and wildlife (पर्यावरण संरक्षण व विकास)**

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

- **Article 49: Protection of monuments and places and objects of national importance (राष्ट्रीय स्मारक व वास्तूचे जतन)**

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

- **Article 50: Separation of judiciary from the executive (न्यायमंडळाची कार्यकारी मंडळापासून फारकत)**

The State shall take steps to separate the judiciary from the executive in the public services of the State.

- **Article 51: Promotion of international peace and security (आंतरराष्ट्रीय शांतता व सुरक्षितता)**

The State shall endeavour to –

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised people with one another; and
- (d) encourage settlement of international disputes by arbitration

(A) The Gandhian Principles (गांधीवादी तत्वे)

- Organization of Village Panchayats & to promote cottage industry. 40
- Promotion of educational and economic interests of the SCs, the STs and the other weaker sections of the society. 46
- To bring about the prohibition of intoxicating drinks and drugs that are injurious to health. 47
- Organization of agriculture and animal husbandry on modern and scientific lines to prohibit the slaughter of cows, calves and other milch and draught animals. 48

(B) Socialist Principles (समाजवादी तत्वे)

- To secure a social order for the promotion of welfare of the people. 38
- To strive to minimise inequalities of income i.e. operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; 39
- ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- Equal justice and free legal aid. 39 A
- Ownership and control of material resources of the community shall be so distributed so as to subserve the common good. 39
- Equal pay for equal work. 39
- Health & strength of workers, and the tender age of children must not be abused. 39
- Right to work, to education and to public assistance in certain cases. 41
- Provision of just and humane conditions for work and maternity relief. 42
- Participation of workers in the management of the industries. 43 A
- Duty of the State to raise the level of nutrition and the standard of living and to improve public health. **47**
- Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. 39

(C) The Western Liberal Principles (पाश्चात्य तत्वे)

- Uniform Civil Code for the citizens. 44
- Provide free and compulsory education for children below 14 years. 45
- Separation of Judiciary from Executive. 50
- To promote international peace and amity. 51
- Protection of monuments and places and objects of national importance 49
- Protection and improvement of environment and safeguarding of forests and wild life. 48 A

DPSPs added by Amendments of Constitution (via Art 368 only)

३. 42nd Amendment 1976

- **Four Directive Principles were added** by 42nd amendment as follows:
- To secure opportunities for healthy development of children (Article 39)
- To promote equal justice and to provide free legal aid to the poor (Article 39 A)
- To take steps to secure the participation of workers in the management of industries (Article 43 A)
- To protect and improve the environment and to safeguard forests and wild life (Article 48 A).

३. 44th Amendment 1978

- The 44th Amendment Act of 1978 **added article 38(2)** which said that - state shall, in particular, strive to **minimize the inequalities in income**, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

3. 86th amendment 2009- RTE

- Further, the 86th amendment changed the subject of article 45 and brought it among fundamental rights as article 21-A for children of 6-14 age. The same article was now a directive principle to state to take care of the children below 6 years.

४. 97th amendment 2011 सहकारी संस्था

- Article 43-B inserted by 97th amendment act in 2011 says that state shall endeavor to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies.

• Directives in other parts of the Constitution (Except part IV)

- **Article 350 A:** It enjoins every State and every local authority within the State to provide adequate facilities for **the instructions in the mother tongue at the primary stage to children of linguistic minority areas**. प्राथमिक स्तरावर मातृभाषेतून शिक्षणाच्या सुविधा
- **Article 351:** It enjoins the Union to promote the **spread of Hindi language** so that it may serve as a medium of expression of all the elements of the composite culture of India. हिंदी भाषेच्या विकासासाठी
- **Article 335:** It says that **the claims of SC/ST shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services** and posts in connection with affairs of the Union or of a State. सेवा व पदे यावर अनुसूचित जाती व जमाती यांचा हक्क
- Under the implementation of DPSP, Zamindari, Jagirdari & inamdari systems were abolished & actual tillers of the soil were made owner of the land.

Conflict between Fundamental Rights and Directive Principles (संघर्ष - अधिकार वि. मार्गदर्शक तत्वे)

- The conflict between fundamental rights and DPSPs has been subject to numerous litigations in the Supreme Court. After the **Minerva Mills Case**, Supreme Court gave the view that there is no conflict between the Fundamental Rights and the DPSP and they were complimentary of each other. There was no need to sacrifice one for the sake of the other. If there is a conflict it should be avoided if possible
- **What if laws made by state giving effect to DPSP's violates FR, can they be valid? This question was raised before SC in 1951 in Champakam Dorairajan case .**
- SC held that they are supplementary to each other & no as such inherent conflict is between them, thus, as far as possible, **should be interpreted harmoniously**. However, **if it is not possible, FRs will prevail over DPSPs means DPSPs can not override FRs, hence such a law is void**. On this ground, SC held Bank nationalisation act & Privy purse (abolition) act unconstitutional.
- In 1971, **25th amendment** introduced a new article 31-c, which states that “if state enacts any law giving effect to two directive principles viz. Equitable distribution of wealth (article 39-b) & Prevention of concentration of wealth in fewer hands (article 39-c), & in that process if the law violates FRs (article 14, 19 & 31), it can not be held void merely on this ground.
- Article 31-c further states that such a law giving effect to 39 – b & 39 – c, can ‘t be questioned in court of law.
- 25th amendment was challenged in **Kesavananda Bharati case** (1973), in which SC held that only first part of the article 31-c (overriding article 14, 19 & 31) is valid, but second part which bars judicial review held unconstitutional.
- **42nd amendment, 1976** further amended article 31-c & widened its scope & gave precedence for all DPSPs over article 14, 19 & 31 & hence made them immune to judicial review.
- **Minerva Mills case, 1980**: SC struck down the changes introduced by 42nd amendment in article 31-c & held them unconstitutional on grounds that total exclusion of judicial review would offend the basic structure of the constitution.
- **Presently, only article 39-b & 39-c can be given precedence over articles 14 & 19**

Issues related to DPSP

- ✓ UCC
- ✓ Cow slaughter ban
- ✓ RTE
- ✓ Maternity Benefits Act

FUNDAMENTAL DUTIES (Part IV A, Article 51 A) -

- 1. These were added on the recommendation of **Swaran Singh Committee (1976)**.
- 2. This committee recommended for the inclusion of 8 fundamental duties, the amendment **included 10 fundamental duties**.
- 3. The Fundamental Duties are borrowed from erstwhile USSR.
- 4. The 10 Fundamental Duties were added to the Constitution in the year 1976 **through 42nd amendment**.
- 5. The 11th Fundamental Duty was added in the year 2002 through **the 86th amendment of the Indian Constitution**.
- **THE 11 FUNDAMENTAL DUTIES:**
- These duties are laid down in the Article 51A.
- a) To abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem
- b) To cherish and follow the noble ideals which inspired our national struggle for freedom.
- c) To uphold and protect the sovereignty, unity and integrity of India.
- d) To defend the country and render national service when called upon so
- e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities to renounce practices derogatory to the dignity of women.
- f) To value and preserve the rich heritage of our composite culture.
- g) To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures
- h) To develop scientific temper, humanism and the spirit of inquiry and reform
- i) To safeguard public property and abjure violence.
- j) To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavor and achievement.
- k) Every parent or guardian is to provide opportunities for education to his/her child or ward between the age of
06 to 14 yrs

FINANCIAL ADMINISTRATION

- Types of public funds- Consolidated Fund of India, Contingency Fund of India, Public Accounts of India
- Concept of actuals, BE,RE.
- Budget & its process
- Money Bill, Financial Bill Type A & Type B
- Parliamentary Financial committees- PAC,Estimates Committee, CoPU
- CAG and related aspects

TYPES OF PUBLIC FUNDS

I) CONSOLIDATED FUND OF INDIA - Art 266(1) संचित निधी

- **All revenues and loans** raised by the issue of treasury bills, internal as well as external loans and all credits received by the Union Government in repayment of loans shall form 'Consolidated Fund of India' for the Union Government.
- All legitimately sanctioned payments on the behalf of GOI are made from this fund.
- No money can be spent from this fund except by way of grants that **the Parliament** makes.

II) PUBLIC ACCOUNT OF INDIA- Art 266(2) सार्वजनिक लेखे

- **Postal insurance, National small savings fund, provident fund form part of Public Accounts, etc.**
- The receipts under Public Account do not constitute ordinary receipts of Government. So Parliamentary approval for expenses from the Public Account is in this way **not required**.

III) CONTINGENCY FUND OF INDIA- Art 267(1) आकस्मिकता निधी

- It is placed at the **President's disposal** to enable him to make advances to meet emergency unexpected expenditure, pending approval by the Parliament.
- It is functioned by **Finance secretary**.
- However, authorization of parliament is needed to recharge this fund from the consolidated fund
- Each state in India have their own consolidated and contingency funds.

• **CHARGED EXPENDITURES प्रभारित खर्च**

- Expenditures which **do not need the parliament's approval** to be spent from the consolidated fund of India are called charged expenditures.
- Emoluments, allowances and expenditure of the President and his office, Salary and allowances of chairman, Deputy chairman of Rajya Sabha Speaker, Supreme Court judges, CAG and Deputy Speaker of Lok Sabha

Interim Budget vs Vote on Account

✓ अंतरिम अर्थसंकल्प

Interim Budget(budget for short period) during Election year; Presented 13 times till date.

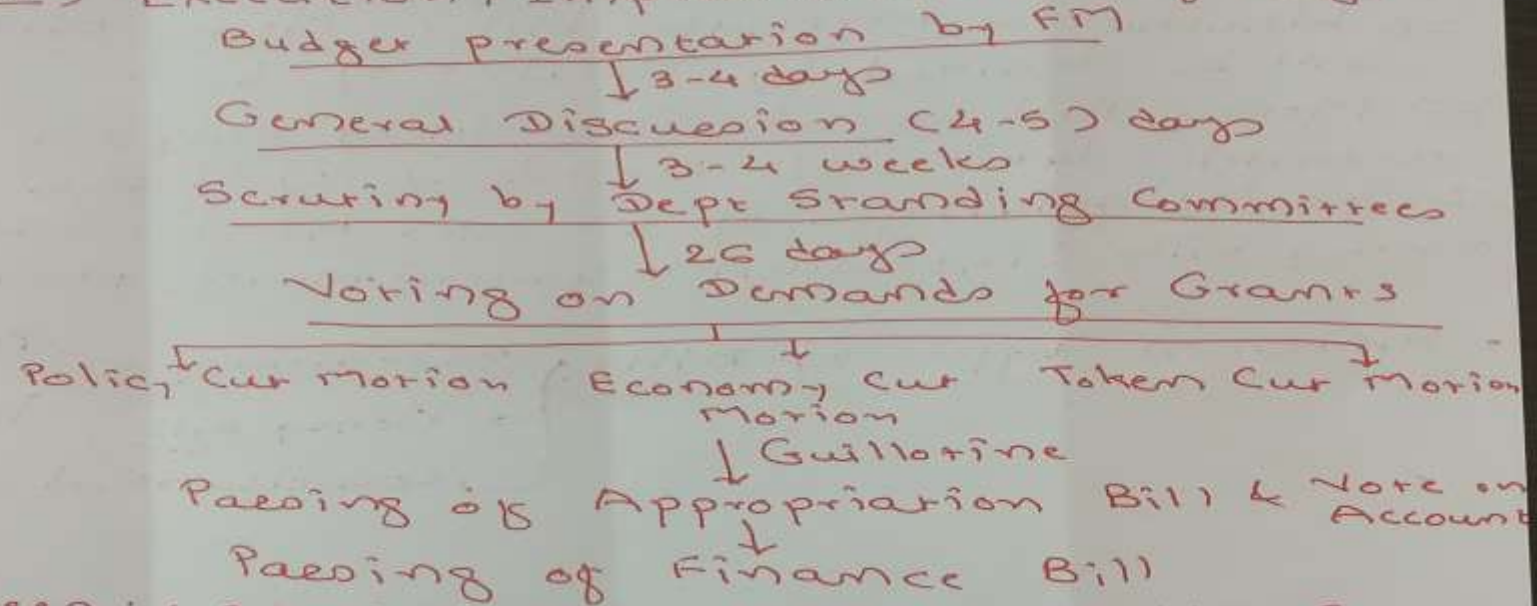
✓ लेखानुदान

Vote on Account (Mainly related with expenditure part)- Art 116 (1) (a); Usually presented every year.

FINANCIAL ADMINISTRATION

- Budget (Annual Financial Statement - वार्षिक आर्थिक विवरणपत्र)
- Art 112 & Annual Financial Statement

- Stages :
- (I) Preparation of Budget
 - (II) Presentation of Budget
 - (III) Execution / Implementation of Budget



Committees : (a) Ad-hoc committees (b) Standing Committee

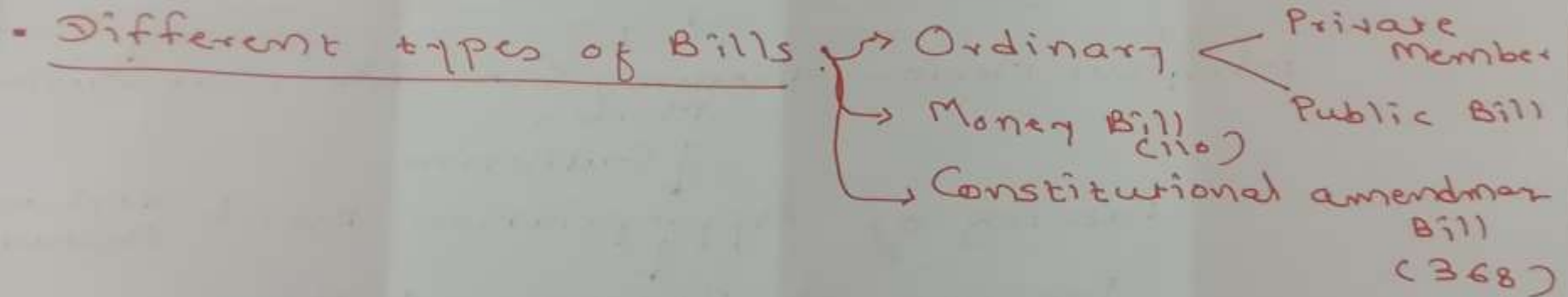
PAC	Estimates Committee (अनुदान समिति)	COPU
<ul style="list-style-type: none"> - 1921 - 15 + 7 = 22 - Member: 17 - Chairman: Opposition party from LS - Studies 'Audit Reports' - CAG as a friend, philosopher & Guide of PAC. 	<ul style="list-style-type: none"> - 1921 - 20 members - All from LS - Chairman: Ruling party - 'Continuous Economy Committee' 	<ul style="list-style-type: none"> - 1964 - 15 + 7 = 22 - Member: 17 - Chairman: from LS - Studies reports of PSU's.

- Funds : I) CFI (Art 266(1))
 II) PAI (Art 266(2))
 III) Contingency Fund of India (Art 267)

• Money Bill : \Rightarrow Art 110 of Indian Constitution
 \Rightarrow Whether a particular bill is Money Bill or not will be decided by Speaker of LS.

\Rightarrow Money Bill can be introduced only on recommendation of President of India.

\Rightarrow Special privileges of LS over RS in case of money bills (introduction, amendments, passing).



CAG- Comptroller & Auditor General(महालेखापाल)

- Head of IAAS; Guardian of Public purse; ‘ Most important officer under const of India’- Dr BR Ambedkar; one of the bulwarks of democratic system of Govt in India.
- **Appt-** by President of India
- **Tenure-** 65/6 yrs
- **Removal-** By President on same grounds & manner as that of SC judge on grounds of proved misbehaviour or incapacity.
- **Independence-** Appt & removal by Presi; Service conditions as that of SC judge; Salary charged upon Consolidated Fund of India; service conditions can't be made disadvantageous after appt; no reappointment in Govt service ; consultation by Presi with CAG on prescribing service conditions for IAAS personnel.

CAG- Comptroller & Auditor General

▪ **Duties & Functions-**

- ✓ Audits of Central & StaTE Govt Dept/Min /auth financed by Govt; CFI,Contingency Fund & Public Accounts
- ✓ Prescription of form for accounting by Dept
- ✓ Ascertains & certifies the net proceeds of taxes
- ✓ Compiles & maintains accounts & audits of stae Govt 9 Departmentalisation accounts since 1976)
- ✓ 'Friend, Philosopher & Guide of PAC'
- ✓ Submits 3 reports- audit report on appropriation accounts, audit report on finance accounts & audit report on PSUs
- 'Watchdog of Public purse'
- Legal, Regulatory and Propriety Audit
- CAG , not Comptroller (executive can draw money from public exchequer without the approval of CAG)

CAG- Comptroller & Auditor General

- Art 148- CAG for India
 - Art 149- Duties & powers of CAG
 - Art 150- Form of accounts of Union & states
 - Art 151- Annual Report to Presi/Governor
- CAG's (Duties, Powers and Conditions of Service), 1971 which was amended in 1976(Departmentalisation of accounts)

Money Bill

- Under Article 110 (1) of the Constitution, a Bill is deemed to be a [Money Bill](#) if it contains only provisions on all or any of the following:
 - (a) imposition, abolition, remission, alteration or regulation of any tax;
 - (b) regulation of borrowing by the government;
 - (c) custody of the Consolidated Fund or Contingency Fund of India, and payments into or withdrawals from these Funds;
 - (d) appropriation of moneys out of the Consolidated Fund of India;
 - (e) declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
 - (f) receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
 - (g) any matter incidental to any of the matters specified in (a) to (f).
- In a general sense, any Bill that relates to revenue or expenditure is a [Financial Bill](#). A [Money Bill](#) is a specific kind of [Financial Bill](#), defined very precisely: it must deal only with matters specified in Article 110 (1) (a) to (g).

Difference between Money Bill & Financial Bill

Money Bill

1. Deals solely with matters listed in Article 110 (1)(a) to (g) of constitution.
 - ★ Imposition/ Abolition/ Remission/ Alteration or Regulation of Central/ States taxes(not local taxes).
 - ★ Borrowing by central Government.
 - ★ Withdrawal/ receipt of money from consolidated/ Contingency fund/ Public Account.
2. Can be introduced only in Lok Sabha.
3. President/ Government's prior recommendation is required introducing in Lok Sabha/ LA.
4. It can be only Government bill.
5. Rajya Sabha has limited power only for 14 days.
6. President can withhold assent but cannot return it.
7. No provision of joint sitting in case of money bills.
8. A money bill cannot be returned to the House by the President.

Financial Bill

Financial Bill Category-A

1. Listed under Article 117(1) of the constitution.
2. A bill that contains some provisions related to Taxation of expenditure and additionally contains provisions related to any other matter is called Financial Bill.
3. Only it is introduced after recommendation of President in Lok Sabha.
4. Once passed in the Lok Sabha, becomes like an ordinary bill.
5. Rajya Sabha has all power to reject/ amend.
6. There can be joint sitting of Lok Sabha & Rajya Sabha.

Financial Bill Category-B

1. Categorised as Financial Bill under Article 117(1).
2. It is ordinary bill in all respects.
3. Both Lok Sabha & Rajya Sabha has equal powers.
4. Recommendation of President is needed.
5. It involves expenditure from CFI (Consolidated Fund of India).
6. It can be introduced in either house.

Correction- Financial Bill Category 'B' -Art 117 (3)

PARLIAMENT & STATE LEGISLATURE

- Structure & Composition of Parliament
- Speaker, Dy Speaker; Chairman, Dy Chairman; Protem speaker, Panel of Dy Speakers
- Parliamentary committees
- Parliamentary Procedures
- Legislative procedure
- Amendment procedure
- Special Powers of LS & RS
- Parliamentary privilages

PARLIAMENT & STATE LEGISLATURE

- ✓ Parliamentary democracy/ Representative democracy/Westminster model of democracy
- ✓ House of Commons & House of Lords(UK); House of Representatives & senate (USA); Lower House & Upper House
- ✓ Direct devices of democracy- (**Referendum** - procedure in which a proposed legislation is referred to the electorate for acceptance through direct voting.

Initiative - method by means of which the people can propose a bill to the legislature for enactment.

Recall - way for voters to remove a representative or an officer before the expiry of his/her term, when he fails to discharge his duties properly.

Plebiscite - method of obtaining the opinion of people on any issue of public importance. It is generally used to solve territorial disputes.)

- ✓ Indirect(elections) devices of democracy
- ✓ Art 79- Presi + LS + RS; Presi as an integral part of Parliament
- ✓ Art 80- RS

Part V- Art 79 to 122

Art 79- Constitution of Parliament

- **80-Composition of the Council of States**
- **81-Composition of the House of the People**
- **82-Readjustment after each census**
- **83-Duration of Houses of Parliament**
- **84-Qualification for membership of Parliament**
- **85-Sessions of Parliament, prorogation and dissolution**
- **86-Right of President to address and send messages to Houses**
- **87-Special address by the President**
- **88-Rights of Ministers and Attorney-General in respective Houses**

Part V- Art 79 to 122

- **Art 89-** The Chairman and Deputy Chairman of the Council of States
- **90-** Vacation and resignation of, and removal from, the office of Deputy Chairman
- **91-** Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman
- **92-** The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration
- **93-** The Speaker and Deputy Speaker of the House of the People
- **94-** Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker
- **95-** Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker
- **96-** The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration
- **97-**Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker
- **98-**Secretariat of Parliament

Conduct of Business

- **99-**Oath or affirmation by members
- **100-**Voting in Houses, power of Houses to act notwithstanding vacancies and quorum

Disqualifications of Members

- **101-**Vacation of seats
- **102-**Disqualifications for membership
- **103-**Decision on questions as to disqualifications of members
- **104-**Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified

Powers, Privileges and Immunities of Parliament and its Members

- **105-**Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof
- **106-**Salaries and allowances of members

Legislative Procedure

- **107-**Provisions as to introduction and passing of Bills
- **108-**Joint sitting of both Houses in certain cases

Art 109- Special procedure in respect of Money Bills

- **110-** Definition of "Money Bills"
- **111-** Assent to Bills

Procedures in Financial Matters

- **112-** [Annual financial statement](#)
- **113-** Procedure in Parliament with respect to estimates
- **114-** Appropriation Bills
- **115-** Supplementary, additional or excess grants
- **116-** Votes on account, votes of credit and exceptional grants
- **117-** Special provisions as to financial Bills
- **118-** Rules of procedure
- **119-** Regulation by law of procedure in Parliament in relation to financial business
- **120-** Language to be used in Parliament
- **121-** Restriction on discussion in Parliament
- **122-** Courts not to inquire into proceedings of Parliament
- **123-** Power of President to promulgate Ordinances during recess of Parliament

RS

- ✓ **Composition**- 250= 238 +12; 245= 229 + 4 + 12; Allocation of seats as per Schedule IV of const.;
- 12 Nominated members** from Arts, Science, Literature, Social service; Nominated members can't vote for Presidential elections.
- ✓ **Tenure**- Permanent House; 6 yrs (if mid term vacancy, serves only for remaining period)
- ✓ **Method of election**- Indirect election; PRS STV
- ✓ **Eligibility** – Indian citizen; 30 yrs; conditions as prescribed by law;
 - Amendment from 2003: No condition of 'ordinarily resident' in state for representing that state in RS; No secret ballot method.
- ✓ **Disqualification(Art 102)**- office of profit, unsound mind, insolvent; decision on disqualification by Presi after consultation with Election Commission.

LS

- ✓ **Composition-** 552 (530 + 20 + 02); 545(530 +13 + 02)
 - 02 Nominated members** from Anglo- Indian community if not adequately represented (by Presi of India)
- Reservation: 84 SC + 47 ST
- ✓ **Tenure-** 5 yrs (extended by parliament for a period not exceeding one year at a time during a proclamation of emergency & not beyond 6 months after proclamation has ceased to operate.)
- ✓ **Method of election-** Direct election
- ✓ **Eligibility** – Indian citizen; 25 yrs; conditions as prescribed by law; elector from any parliamentary constituency of India
- ✓ **Disqualification(Art 102)-** office of profit, unsound mind, insolvent; decision on disqualification by Presi after consultation with Election Commission.
- ✓ Dual membership- within 10 days to intimate if LS/RS; within 14 days to intimate if LS/State legislature
- ✓ Absent- not more than 60 days

Parliament (Pres + LS + RS)

⇒ Part V (Art 79 to Art 122)

⇒ Though not member of Parliament, President is an integral part of parliament

Lok Sabha (Lower House)

⇒ Number: Max 552
(530 States + 20 UTs + 2 Nominated)

Presently, 545
(530 States + 13 UTs + 2 Anglo-Indians)

⇒ Election: Directly elected

⇒ Tenure: RS - Permanent House
(6 yrs; $\frac{1}{3}$ rd retire every 2 yrs)

⇒ Eligibility: (i) Citizen of India
(ii) ≥ 25 yrs
(iii) Add qualificⁿ as prescribed by Parl
(a) Elector of a parliamentary const.
(b) SC/ST if contesting for SC/ST
constituents

Disqualifications

- Speaker
- Chairman Rajya Sabha

Rajya Sabha (Upper House)

⇒ Number: Max 250
(238 States + 12 Nominated)

Presently, 245
(228 States + 4 UTs + 12 Nominated)
- Nominated members from
Arts, Literature, Science & Social Service

⇒ Election: Indirect election system
(PRS STV)
Proportional Representation System
with Single Transferable Vote

⇒ Tenure: 6 yrs

⇒ Eligibility: (i) Citizen of India
(ii) Age: ≥ 30 yrs
(iii) Add qualification
(a) Elector - (dispensed off)

(State Legislature)राज्य विधिमंडळ

संविधानिक तरतूद

- कलम १६८ ते कलम २१२ (Art 168-Art 212)
- संघराज्य व्यवस्थेत राज्य विधिमंडळ राज्यांच्या स्तरावरील कायदे मंडळ म्हणून काम करते.

राज्य विधिमंडळाची रचना

- काही राज्यात एकगृही तर काही राज्यात द्विगृही सभागृह आहे
- देशातील २२ राज्यात एकगृही तर ७ राज्यात द्विगृही सभागृह आहे.
(Bicameral legislature in 7 states- J & K, Bihar, UP, Mah,Karnataka, A.P., Telangana)
- विधानसभा हे कनिष्ठ सभागृह तर विधानपरिषद हे वरिष्ठ सभागृह आहे.
- द्विगृही सभागृह असलेल्या राज्यात राज्यपाल, विधानसभा आणि विधानपरिषद मिळून राज्य विधिमंडळ तयार होते.

विधानसभा

विधानसभेची संरचना

सदस्य संख्या

- विधान सभेत कमाल ५०० ते किमान ६० सदस्य असतील
(60-500 members)
- विधानसभेची सदस्यसंख्या राज्याच्या लोकसंख्येवर अवलंबून असेल
- अरुणाचल प्रदेश, सिक्कीम आणि गोवा राज्याची सदस्य संख्या मात्र ३० ठरविण्यात आली आहे. तर मिझोरम आणि Nagaland येथील संख्या ४० व ४६ ठरविण्यात आली आहे.

निवडणूक

- विधानसभेच्या निवडणुका सार्वत्रिक प्रौढ मतदान पद्धतीवर आधारित होतात.(universal adult franchise)
- प्रत्यक्ष निवडणूक (सिक्कीम आणि Nagaland मध्ये काही जागा अप्रत्यक्ष पद्धतीनुसार होतात.)

विधानसभा

मतदारसंघ

- प्रत्येक राज्य सदस्य संख्येनुसार मतदार संघात विभागले जाते
- प्रत्येक मतदारसंघाची लोकसंख्या जवळपास समान असेल.
- विधानसभेची सदस्यसंख्या हि १९७१ च्या जनगणनेनुसार आणि मतदार संघाची लोकसंख्या २००१ च्या जनगणनेनुसार निश्चित करण्यात आली व हि मर्यादा २०२६ पर्यंत असेल.

राजकीय आरक्षण व प्रतिनिधित्व

- कलम ३३२ नुसार विधानसभेत लोकसंख्येच्या प्रमाणात अनुसूचित जाती आणि जमाती यांना आरक्षण असेल तर कलम ३३३ नुसार एका अंग्लो इंडियनला प्रतिनिधित्व असेल
- २००९ च्या ९५ व्या घटनादुरुस्ती अंतर्गत राजकीय आरक्षण व प्रतिनिधित्व २०२० पर्यंत राहिल

विधानसभा

विधानसभेचा कार्यकाल (Tenure 5 yrs)

- विधानसभा मुदतपूर्व विसर्जित न झाल्यास सामान्यतः तिचा कार्यकाल पहिल्या बैठकीपासून ५ वर्षांचा असेल
- राष्ट्रीय आणिबाणीत हा कार्यकाल एका वेळेस एक वर्षांनी वाढविता येतो. परंतु आणिबाणी संपुष्टात आल्यावर ६ महिन्यांच्या आत निवडणुका घेणे बंधनकारक आहे.

विधानसभेच्या सदस्यांची पात्रता

- तो भारताचा नागरिक असावा
- त्याने निवडणूक आयोगाला शपथपत्र सदर केलेलं असावे.
- त्याचे वय २५ पेक्षा कमी नसावे.
- त्याचे राज्यातील कोणत्याही मतदारसंघात मतदार म्हणून नाव नोंदविलेले असावे
- आरक्षित जागा लढविण्यासाठी जातीचे प्रमाणपत्र आवश्यक असेल

शपथ (Oath by Governor)

- सदस्यांना राज्यपाल किंवा त्यांनी नियुक्त केलेली व्यक्ती शपथ देते

विधानसभा

विधान सभेच्या सदस्यांची अपात्रता

१. जर त्या व्यक्तीने लाभाचे पद धारण केलेले असेल
२. जर सक्षम न्यायालयाने त्याला मनोविकल म्हणून घोषित केलेले असेल.
३. जर सक्षम न्यायालयाने त्याला दिवाळखोर म्हणून घोषित केलेले असेल.
४. जर त्याने भारताचे नागरिकत्व गमावले असेल
५. जर ती व्यक्ती कोणत्याही निवडणूक गुन्ह्यात किंवा भ्रष्ट व्यवहारात दोषी आढळली असेल.
६. जर त्या व्यक्तीस सक्षम न्यायालयाने २ वर्ष किंवा त्या पेक्षा अधिक वर्षांच्या शिक्षेचा आदेश दिला असेल.
७. जर त्या व्यक्तीने वेळेच्या आत निवडणूक आयोगाला खर्चाचे विवरण दिले नसेल
८. जर ती व्यक्ती प्रत्यक्ष किंवा प्रत्यक्षपणे कोणत्याही सरकारी काम, कंत्राट किंवा सेवा यात सहभागी असल्याचे आढळून आले.
९. जर ती व्यक्ती भ्रष्टाचार, राष्ट्रदोह, अस्पृश्यता, हुंडाबळी, सती किंवा या सारख्या सामाजिक गुन्ह्यात दोषी आढळली
१०. जर ती व्यक्ती पक्षांतर कायद्या अंतर्गत दोषी आढळली

विधान परिषद

विधानपरिषदेचे गठन (Art 169)

- **कलम १६९** अंतर्गत संसद कायद्याद्वारे एखाद्या राज्यात नवीन विधान परिषद गठीत करता येते किंवा असलेली बरखास्त करता येते
- यासाठी संबंधित राज्याच्या विधानसभेने विशेष बहुमताने ठराव मंजूर करणे आवश्यक आहे.
- संसदेने या संदर्भात केलेला कायदा कलम ३६८ अंतर्गत घटना दुरुस्ती समजल्या जाणार नाही.
- विधानसभेच्या अशा शिफारसीने संसद कायदा करून साध्या बहु मताने विधानपरिषद स्थापन करते.

विधान परिषदेची सदस्य संख्या

- विधान परिषदेची कमाल सदस्य संख्या विधान सभेच्या एकूण सदस्य संख्येच्या $\frac{1}{3}$ असते व किमान सदस्य संख्या ४० असते

विधान परिषद

निवडणूक पद्धत

- अप्रत्यक्ष निवडणूक पद्धत (Indirect election system)
- एकल संक्रमण पद्धत (Proportional representation system)
- ५/६ निवडणुकीद्वारे तर १/६ नामनिर्देशन पद्धतीने निवडले जातात.
- ५/६ सदस्यांपैकी
 - १/३ सदस्य नगरपरिषद, महानगरपालिका, नगर पंचायत, जिल्हा परिषद, कटक मंडळे इत्यादी स्थानिक स्वराज्य संस्थांच्या सदस्यांकडून निवडले जातात.
 - १/३ सदस्य राज्यातील विधानसभेच्या सदस्यांमार्फत निवडले जातात.
 - १/१२ सदस्य पदवीधर मतदार संघातून निवडले जातील
 - १/१२ सदस्य शिक्षक मतदार संघातून निवडले जातील

विधान परिषद

- शिक्षक व पदवीधर मतदार संघासाठी महाराष्ट्रात एकूण ७ विभाग तयार करण्यात आले आहेत. १. मुंबई २. कोकण ३. नाशिक ४. अमरावती ५. पुणे ६. नागपूर ७. औरंगाबाद
- प्रत्येक विभागातून एक सदस्य निवडला जातो.
- शिक्षक मतदारसंघात मतदारांसाठी खालील पात्रता असणे आवश्यक असेल
 १. माध्यमिक आणि त्यापेक्षा वरील शिक्षक
 २. शिक्षक म्हणून किमान ३ वर्षांचा अनुभव
 ३. खाजगी तसेच सरकारी शाळांमधील कायमस्वरूपी शिक्षक
- पदवीधर मतदार संघात मतदारासाठी किमान ३ वर्ष अगोदर पदवी पूर्ण झालेली असावी
- स्थानिक स्वराज्य संस्थांसाठी एकूण २२ विभाग करण्यात आले आहेत

विधान परिषद

- १/६ सदस्यांचे नामनिर्देशन राज्यपाल करतात
- साहित्य, विज्ञान, कला, समाजसेवा आणि सहकार क्षेत्रातून हे सदस्य निवडले जातात.

विधान परिषदेचा कार्यकाल

- विधानसभा हे कायमस्वरूपी सभागृह आहे
- विधान परिषद कधीही विसर्जित केली जात नाही.
- प्रत्येक दोन वर्षांला १/३ सदस्य निवृत्त होतात.
- सदस्यांचा कार्यकाल ६ वर्षांचा असतो.

पात्रता

१. तो भारताचा नागरीक असावा
२. त्याचे वय ३० वर्षांपेक्षा कमी नसावे
३. त्याने निवडणूक आयोगाला शपथपत्र सदर केलेले असावे

LS

- ✓ **Speaker (Art 93)**
- ✓ **Dy speaker (Art 93)**
- ✓ **Pro Tem Speaker- Art 94 (Virendra Kumar)**
- ✓ **Panel of Dy speakers- max 10 MPs**
- ✓ **Powers & Functions of Speaker-** Regulation (presiding officer, final interpreter of rules, quorum, casting vote, presides joint sitting, anti-defection, decides about money bill);
Committees (appoints Chairman of Parliamentary committees from LS, Chairperson of Business Advisory Committee, General Purpose Committee & Rules Committee)
Chairman of Indian Parliamentary Group and represents Inter - Parliamentary Union.
- ✓ **Removal of Speaker-** 14 days prior notice + 50 MPs signature + approval by effective majority i.e. 50% of effective strength

Parliamentary Procedures

- Adjournment- तहकुबी
- 'Adjourn sine die'- अनिश्चित काळासाठी तहकुबी
- Prorogation of session by President सत्रसमाप्ती
- Question Hour प्रश्नकाळ
- Starred Question तारांकित प्रश्न
- Unstarred Questions अतारांकित प्रश्न
- Short notice Question (less than 10 days notice) अल्पकालीन प्रश्न
- Zero Hour since 1962 (in between Question Hour and regular business) शून्यकाळ

Parliamentary Procedures

- **Adjournment motion** स्थगन प्रस्ताव (discussion on imp public matters by setting aside regular business of House); only in LS; Need sign of min 50 MPs
- **Privilege motion** विशेषाधिकार प्रस्ताव - against minister for hiding info or wrong info
- **Calling Attention Motion** लक्ष्यवेधी प्रस्ताव - attention of minister towards imp public matter by minister
- **No Confidence Motion** अविश्वास ठराव- only in LS; Need sign of min 50 MPs; no need to give any reason; collective responsibility principle
- **Censure Motion** निंदा प्रस्ताव- no need to give reason for introducing; can be against an individual minister; only minister has to resign
- **Motion of Thanks** धन्यवाद प्रस्ताव- on Presidential address
- Half an Hour discussion (if not satisfied by answer and further information is needed)
- Short Duration Discussion/ Two Hours Discussion- need of 2 more MPs sign for introducing
- No Day Yet Named Motion
- Point of Order
- Notice under Rule 377- Special mention for imp public matter not possible under any other available modes
- **Rule 184 (allows voting)**
- **Rule 193 (no voting allowed)**
- Quorum गणपूर्ती
- Whip
- House of Leader
- Leader of Opposition

Legislative Process in Parliament

- Public bill vs Private Member's Bill
- Ordinary Bills, Money Bills, Financial Bills Type 'A' & Type 'B'
- Process- First, Second & Third Reading
- Joint Sitting of both Houses (Art 108)

Public Bill vs Private Bill

Public Bill

1. It is introduced in the parliament by a minister.
2. It reflects of the policies of the government (ruling party).
3. It has greater chance to be approved by the parliament.
4. Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation.
5. Its introduction in the House requires seven days' notice.
6. It is drafted by the concerned department in consultation with the law department.

Private Bill

1. It is introduced by any member of Parliament other than a minister.
2. It reflects the stand of opposition party on public matter.
3. It has lesser chance to be approved by the parliament.
4. Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
5. Its introduction in the House requires one month's notice.
6. Its drafting is the responsibility of the member concerned.

Legislative Process in Parliament

- (i) A Bill undergoes three readings in each House of Parliament. **The First Reading** consists of the Introduction of a Bill. The Bill is introduced after adoption of a motion for leave to introduce a Bill in either of the House. With the setting up of the Department-related Parliamentary Standing Committees, invariably all Bills, barring Ordinance replacing Bills; Bills of innocuous nature and Money Bills, are referred to these Committees for examination and report within three months. The next stage on a Bill *i.e.*, **second reading** start only after the Committee submits its report on the Bill to the Houses. The Second Reading consists of two stages: the 'first stage' consists of discussion on the principles of the Bill and its provisions generally on any of the following motions: that the Bill be taken into consideration; that the Bill be referred to a Select Committee of the Rajya Sabha ; that the Bill be referred to a Joint Committee of the Houses with the concurrence of the Lok Sabha; that it be circulated for the purpose of eliciting opinion thereon; and the 'second stage' signifies the clause-by clause consideration of the Bill as introduced or as reported by the Select/Joint Committee. Amendments given by members to various clauses are moved at this stage. **The Third Reading** refers to the discussion on the motion that the Bill (or the Bill as amended) be passed or returned (to the Lok Sabha, in the case of a Money Bill) wherein the arguments are based against or in favour of the Bill. After a Bill has been passed by one House, it is sent to the other House where it goes through the same procedure. However the Bill is not again introduced in the other House, it is laid on the Table of the other House which constitutes its first reading there.
- (ii) After a Bill has been passed by both Houses, it is presented to the President for his assent. The President can assent or withhold his assent to a Bill or he can return a Bill, other than a Money Bill, for reconsideration. If the Bill is again passed by the Houses, with or without amendment made by the President, he shall not withhold assent there from. But, when a Bill amending the Constitution passed by each House with the requisite majority is presented to the President, he shall give his assent thereto.
- A Bill becomes an Act of Parliament after being passed by both the Houses of Parliament and assented to by the President.

Joint Sitting – Art 108

- Constitution of India provides for Joint sittings of both the Houses to break this **deadlock**.
- The joint sitting of the Parliament **is called by the President** and is **presided over by the Speaker** or, in his absence, by the Deputy Speaker of the Lok Sabha or in his absence, the Deputy-Chairman of the Rajya Sabha.
- If any of the above officers are not present then any other member of the Parliament can preside by consensus of both the House.
- **Provisions of Constitution:**
- As per Article 108 of Constitution, a Joint session of Parliament can be summoned in the following situations.^[1]
- If after a Bill has been passed by one House and transmitted to the other House—
- (a) the Bill is rejected by the other House; or (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has elapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill
- However, in calculating period of six months, those days are not considered when house is prorogued or adjourned for more than 4 consecutive days.
- If the above conditions are satisfied, the President of India may summon joint sitting of both the houses of parliament.
- **Exception to joint sittings: Money Bill/ Constitutional Amendment Bill**
- However, in case of joint sitting of house, new amendments cannot be proposed in the bill except those which has been agreed by one house and refused by another. Only those amendments can be proposed to house which are relevant to the matter of disagreement. The decision of presiding officer shall be final in respect of admissibility of amendments.
- The bills are passed by simple majority of total members present and voting. In such case bill shall be considered as deemed to have been passed by both the houses of parliament.

Difference between Money Bill & Financial Bill

Money Bill

1. Deals solely with matters listed in Article 110 (1)(a) to (g) of constitution.
 - ★ Imposition/ Abolition/ Remission/ Alteration or Regulation of Central/ States taxes(not local taxes).
 - ★ Borrowing by central Government.
 - ★ Withdrawal/ receipt of money from consolidated/ Contingency fund/ Public Account.
2. Can be introduced only in Lok Sabha.
3. President/ Government's prior recommendation is required introducing in Lok Sabha/ LA.
4. It can be only Government bill.
5. Rajya Sabha has limited power only for 14 days.
6. President can withhold assent but cannot return it.
7. No provision of joint sitting in case of money bills.
8. A money bill cannot be returned to the House by the President.

Financial Bill

Financial Bill Category-A

1. Listed under Article 117(1) of the constitution.
2. A bill that contains some provisions related to Taxation of expenditure and additionally contains provisions related to any other matter is called Financial Bill.
3. Only it is introduced after recommendation of President in Lok Sabha.
4. Once passed in the Lok Sabha, becomes like an ordinary bill.
5. Rajya Sabha has all power to reject/ amend.
6. There can be joint sitting of Lok Sabha & Rajya Sabha.

Financial Bill Category-B

1. Categorized as Financial Bill under Article 117(1).
2. It is ordinary bill in all respects.
3. Both Lok Sabha & Rajya Sabha has equal powers.
4. Recommendation of President is needed.
5. It involves expenditure from CFI (Consolidated Fund of India).
6. It can be introduced in either house.

Parliamentary Privileges

the attorney general of India and other ministers.
It must be clarified here that the parliamentary privileges do not extend to the president who is also an integral part of the Parliament.

Classification

Parliamentary privileges can be classified into two broad categories:

1. those that are enjoyed by each House of Parliament collectively, and
2. those that are enjoyed by the members individually.

Collective Privileges The privileges belonging to each House of Parliament collectively are:

1. It has the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same. The 44th Amendment Act of 1978 restored the freedom of the press to publish true reports of parliamentary proceedings without prior permission of the House. But this is not applicable in the case of a secret sitting of the House.
2. It can exclude strangers from its proceedings and hold secret sittings to discuss some important matters.
3. It can make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters.

Individual Privileges The privileges belonging to the members individually are:

1. They cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases.
2. They have freedom of speech in Parliament. No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees. This freedom is subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament.²⁶
3. They are exempted from jury service. They can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.

Breach of Privilege and Contempt of the House

“When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offence is termed as breach of privilege and is punishable by the House.”²⁷

Position of RS vis-à-vis LS

22.50

6. Making recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, chief election commissioner and comptroller and auditor general.
7. Approval of ordinances issued by the President.
8. Approval of proclamation of all three types of emergencies by the President.
9. Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the Lok Sabha.
10. Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
11. Enlargement of the jurisdiction of the Supreme Court and the Union Public Service Commission.

Unequal Status with Lok Sabha

In the following matters, the powers and status of the Rajya Sabha are unequal to that of the Lok Sabha:

1. A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2. Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations.
3. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
4. A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
5. The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
6. The Speaker of Lok Sabha presides over the joint sitting of both the Houses.
7. The Lok Sabha with greater number wins the battle in a joint sitting except when the

combined strength of the Government in both the Houses is less than that of the opposition parties.

8. Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
9. A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
10. The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticise the policies and activities of the government.

Special Powers of Rajya Sabha

Due to its federal character, the Rajya Sabha has been given two exclusive or special powers that are not enjoyed by the Lok Sabha:

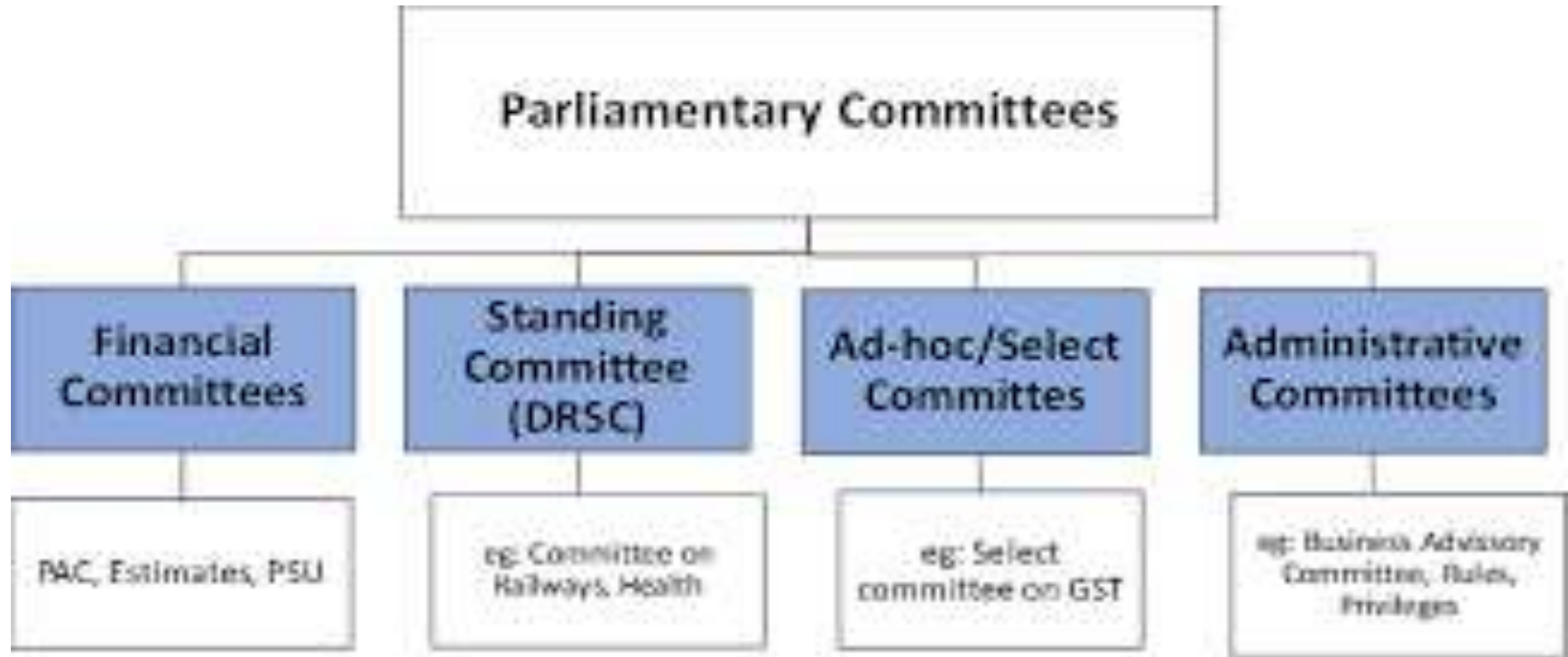
1. It can authorise the Parliament to make a law on a subject enumerated in the State List (Article 249).
2. It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

An analysis of the above points makes it clear that the position of the Rajya Sabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional system nor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the Rajya Sabha in all other spheres are broadly equal and coordinate with that of the Lok Sabha.

Even though the Rajya Sabha has been given less powers as compared with the Lok Sabha, its utility is supported on the following grounds:

1. It checks hasty, defective, careless and ill-considered legislation made by the Lok Sabha by making provision of revision and thought.
2. It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the Rajya Sabha.
3. It maintains the federal equilibrium by protecting the interests of the states against the undue

Parliamentary Committees



Types of Parliamentary Committees

Source: Lok Sabha website

Parliamentary Committees

- 1. Business Advisory Committee-** 15 LS & RS 11; Chairperson is LS Speaker & Chairman of RS respectively; Tenure-1yr; House business.
- 2. Committee on Private Members bills & resolution-** Only in LS; Chairperson Dy Speaker; Tenure-1yr; Private Members bills scrutiny.
- 3. Committee on Govt assurances-** 15 LS & 11 RS; ensures implementation of Govt assurances
- 4. Committee on Sub-ordinate legislation-** 15 LS & 15 RS; Tenure-1 yr
- 5. Committee on Privileges-** 15 LS & 15 RS; Related to breach of privileges ; Primary investigation of anti defection