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POLITY

Mind Maps



Doctrine of Separation of Powers – Concept Class Polity Series #1

#1 What is the doctrine of separation of powers?

- (1) horizontal distribution of power vs vertical distribution of power.
- (2) distribution of power among 3 organs of the state (E, L, J)
- (3) each organ supreme in its sphere

#2 Why should we have separation of powers?

- (1) Prudent Argument vs Moral Argument
- (2) With power comes responsibility; one Institution not capable of performing all functions
- (3) Prevents concentration of power in single body; power corrupts, and absolute power ...?
- (4) provides system of checks and balances
- (5) provides legitimacy to the State.
- (6) Conflicting Trinity vs Harmonious Government
- (7) Constitutional Vision & Mandate → Article 50

#3 Do we have complete separation of powers?

- (1) Montesquieu's Theory of Separation of Power → one person not in 2 or more organs, non-interference, one organ should not perform function of other,trias politica
- (2) No rigid / watertight separation → neither possible, nor desirable (Appointment of Judges)
- (3) Indian model → principle of flexibility & interdependency
- (4) Not possible in a Parliamentary form of govt → Executive part of Legislature

#4 How does Indian Model compare to American Model? *

- (1) American System – Presidential system – Complete Separation of Power
- (2) Watertight/Complete Separation vs Fused Model (Ordinance Making Power, Parliamentary Majority of the Executive, Appointments of Judiciary, Doctrine of Complete Justice, President Decides Disqualification of Members of Parliament)
- (3) Based on Systems of Checks and Balances

* Covered separately in Concept Class on Prime Ministerial vs Presidential Form of Government

#5 What are some examples of violation of Separation of Powers?

- (1) Article 123, Executive has membership of Legislature
- (2) Judicial Overreach → Vishakha Guidelines, Policy Decisions etc.

#6 What are the challenges with Indian Model of Separation of Power?

- (1) Slows down decision making → checks and balances, too many stakeholders etc.
- (2) Tyranny of the Executive behind Parliamentary Majority
- (3) Judicial Action turns into Judicial Overreach (Ban on Sale of Alcohol, Policy Paralysis etc.)

#7 Conclusion

- (1) Indian Model designed to suit Indian Polity & Indian Concerns post-Independence
- (2) Sacrifices speed and efficiency for checks and balances & prevention of power concentration
- (3) Complete separation neither feasible nor desirable
- (4) Each organ must respect the sphere of others, harmonious balance needed.

Doctrine of Basic Structure – Concept Class Polity Series #2*

#1 What is the doctrine of basic structure?

- (1) Judicial innovation → Keshavananda Bharti Case → All Parts of the Constitution can be amended as long as it does not alter the basic character of the Constitution
- (2) Was the outcome of debate between (a) Supremacy of Legislature vs Judiciary (b) Article 13 over Article 368 (c) Individual Rights vs Community Rights (d) Socialism vs Capitalism & Fundamental Rights over the DPSP

#2 Can Constitution be amended? *

- (1) Four Judgements: Shankari Prasad → (a) Constituent Function vs Legislative Function; Amendment to Constitution not ordinary law; cannot be reviewed by Court (b) Fundamental Rights can be amended by CAA = no protection of Article 13;
- (2) Sajjan Singh vs Rajasthan → (a) Upheld the distinction between Constituent Power & Legislative Power (b) CAA cannot be reviewed
- (3) Golak Nath vs State of Punjab → (a) No difference between ordinary Law and Amendment Law; constituent power and legislative power are not different (b) Fundamental Rights cannot be amended; 'sacrosanct' (c) Doctrine of Prospective Ruling: judgement would apply to future and not to past judgements;
- (4) Keshavananda Bharti → Thirteen judge Bench: Creation of "Basic Structure" Filter parliament can amend any part of the Constitution, as long as it did not alter the basic structure; FR can be taken away; gave power to courts to decide constitutionality of amendments

*Covered Separately in Important Judgements

#3 Which features of Constitution form part of Basic Structure?

- (1) Not enumerated by the Constitution or the Courts at one point of time
- (2) Evolve from time to time on basis of judicial pronouncements
- (3) Supremacy of the Constitution; Secularism; Parliamentary Form; Rule of Law; Judicial Review; Independence of Judiciary;

#4 What good has the doctrine done?

- (1) Protected the Constitution and Indian State from Collapse (how?)
- (2) Protected the Nation from moving into a sharply socialist direction
- (3) Provided the balance between → (a) individual rights and community rights (b) fundamental rights and DPSC (c) capitalism vs socialism.

#5 What are the criticism of Basic Structure Doctrine?

- (1) Basic Structure Doctrine → no mention in the Constitution
- (2) Judicial Invention → circumscribe the Legislature / Executive
- (3) Violative of Constitution as a Living Document → bound Parliament in perpetuity.
- (4) Judges decided the ends → discovered legal means to achieve them.
- (5) Indian Judiciary → most powerful in the World; era of Judicial Supremacy in the name Constitutional Supremacy
- (6) Government Ministers → can do anything they like to do

Basic Structure | Cases & Judgements – Concept Class Polity Series #3

#1 Basic Structure Doctrine's Evolution

- (1) Contest between Article 13 (Laws that violates FR can be declared null and void) and Article 368 (Power of Parliament to amend the Constitution)
- (2) Between Supremacy of Judiciary vs Parliament
- (3) Locus → Judicial interpretation of Land Reform Laws
- (4) Contest between (a) Community Rights: Land Acquisition vs Individual Right to Property (b) Supremacy of Parliament vs Supremacy of the Judiciary (c) Fundamental Rights vs Directive Principles of State Policy (d) Socialistic Policies: Land Reforms vs Capitalistic Policies: Large Estate (e) Liberty vs Equality

#2 What are some important Articles / provisions with respect to the Judgements

- (1) Art. 13(2) → law that violates rights in Part III → null & Void
- (2) Art. 368 → Procedure and Power to Amend Constitution
- (3) Art. 39(b), 39(c) → Equitable distribution of wealth & prevention of wealth in Hands of few
- (4) 9th Schedule → Added by 1st CAA; exempted from Judicial Review

#3 Shankari Prasad vs Union of India

- (1) Can Parliament Amend Constitution?
- (2) Article 13 → Any law that takes away Part 3 shall be void
- (3) Outcome: Amendment NOT ordinary Law; Parliament Can Amend C / Takeaway FR
- (4) Article 368 > Article 13; Parliament > Judiciary

#4 Sajjan Singh vs State of Rajasthan

- (1) Context : 17th CAA → Property can be confiscated even if it violates Article 14, 19, 21
- (2) Article 13 → Any law that takes away Part 3 shall be void
- (3) Upheld the verdict of Shankari Prasad [368>13]

#5 Golaknath vs State of Punjab

- (1) Context: 1st CAA, 4th CAA, 17th CAA
- (2) Outcome #1 → Parliament has no power to abridge or take away FRs ; [Art 368 > Art 13]
- (3) Outcome #2 → Constitutional Amendment = ordinary law ; restricted under Art. 13(2)
- (4) Outcome #3 – Art 368 only provides procedure of amendment; does not confer power to amend
- (5) Govt Reaction → 24th CAA ; Article 13(2) not applicable to CAA [368>13]

#6 Keshavananda Bharti vs State of Kerala

- (1) Context: Land Acquisition under Kerala Land Reforms Act
- (2) Outcome #1 → Recognized Parliament Power to Amend Any Part of Constitution/ Art 368 = procedure + power to amend Constitution.
- (3) Outcome #2 → Constitutional Amendment = ordinary law; restricted under Art. 13(2)
- (4) Govt Reaction → 24th CAA; Article 13(2) not applicable to CAA [368>13]

#7 Raj Narain Case vs Indira Nehru Gandhi

- (1) Context: Raj Narain → Indira Gandhi → Electoral malpractice → Election Void
- (2) Govt Reaction → 39th CAA → No Power to decide on Electoral Disputes
- (3) Judgement #1 → Power to Amend Constitution Accepted, Pass Laws with retrospective effect
- (4) Govt Reaction → Swaran Singh Committee & 42nd CAA

#8 42nd CAA – Mini Constitution

- (1) 31C: Laws to implement 39(b)&(c) DPSP not void if violates FRs → changed “ANY” DPSP
- (2) All past amendment & future amendment → not within scope of judicial review

#9 Minerva Mills vs Union of India

- (1) What happened? Minerva Mill → nationalized (private property → public / national property)
- (2) Case moved from → infringement of fundamental right → wider questions of P's p2amend
- (3) Judgement #1 → 31C Amendment null & void; harmony b/w FR and DPSP → basic feature
- (4) Judgement #2 → p2Amend is a limited power

#10 Waman Rao vs Union of India

- (1) What happened? Private Property & Land Acquisition Case in Maharashtra; placed in 9th Schedule
- (2) Judgement #1 → Acts placed in 9th Schedule after Keshavananda → within Judicial review

#11 Final Position

- (1) P2Amend → Limited Power, subject to basic structure
- (2) 9th Schedule → Subject to Judicial Review
- (3) P2Amend → Take away Fundamental Rights

Constitutionalism & Constitutional Morality – Concept Class Polity Series #4

#1 What is Constitution?

- (1) Supreme Law of the Land; living document that reflects the aspirations of the people.
- (2) performs 4 functions – (a) rules of coordination between diverse groups (b) specifies distribution of power in society (c) limits power of the state (d) enable fulfillment of goals and aspiration of society

#2 What is Constitutionalism?

- (1) Abiding by the Values / Spirit of the Constitution
- (2) Not what the Constitution says, but also what it does not say.
- (3) Can be absent despite having a Constitution (e.g. where Constitutional has not led explicit provisions)

#3 What is Constitutional Morality

- (1) Two things – (a) morality of the Constitution – value explicitly mentioned in Constitution.
- (b) Conventions, protocols that govern decision making (where Constitution is silent)

#4 What is Ambedkar's idea of Constitutional Morality?

- (1) Central Challenge in a Democratic Society – management of difference
- (2) 4 Elements - Freedom & Self Restraint – Self Restraint pre-condition to any freedom
- (3) Respect to Plurality in its widest form – management of differences, addressing plurality of competing claims.
- (4) Rejection of single body's claim of popular sovereignty – elected govt not representative of sole will of the people.
- (5) Open Culture of Criticism - Parliament's job is to question, and not to be sole representative of people's will on the single body like Parliament has sole claim – no space for others to speak!

#5 How has doctrine of Constitutional Morality helped? (positives)

- (1) enables the court to make decisions without worrying about what voters want
- (2) Helps the cause of unpopular, but progressive ideas. (Section 377, Sabrimala Case)

#6 What are the criticism of Constitutional Morality?

- (1) Morality is a subjective concept; depends on value choice of each judge.
- (2) May run counter to public morality (Naz Foundation case)
- (3) Makes the court an anti-majoritarian institution

Indian Constitution – Federal or Unitary? – Concept Class Polity Series #5

#1 What is Federalism/ federation?

- (1) political system where political power is divided between the Center and the constituent units
- (2) each unit is autonomous in its own sphere; purpose of federation – unity of the Nation
- (3) two identities of people – one, national, the other regional
- (4) Usually marked by a (a) Written Constitution, and always by an (b) Independent Judiciary

#2 What is Indian Model of Federalism?

- (1) Article I – “Union” instead of “Federation”
- (2) two implications (a) Union is not result of agreement between the States
- (3) (b) Constituent Provinces do not have the right to secede from the Union.

#3 Why did we go for a federal polity?

- (1) Indian Society – regional & linguistic diversity – better to recognize this diversity
- (2) Conscious choice of non - forced National Identity accommodating the diversity
- (3) Allaying the fears of Princely States + Southern States – linguistic differences;

#4 Why Indian federation has “centralizing tendency”?

- (1) Why Unitary? – At Independence, goal - to unite not only British Provinces, but 500+ princely states.
- (2) Inequality, Illiteracy, Poverty Hunger – required a central planning and coordination
- (3) Features (a) Indestructible “Union” of destructible States
- (4) (b) Strong emergency provisions – highly centralized structure; P makes Law on State Subjects
- (5) (c) Financial Powers – direct taxes and indirect taxes – in favor of Union; discretionary power of grants, loans, (d) Requirement of Union Approval for raising funds; (e) Governor – Agent of the Union – can dissolve legislature, reserve bills for President (f) Article 356 – primary tool for dealing with States (g) All India Services (g) Art 33, 34 – Armed Forces Special Powers Act

#5 Co operative Federalism vs Bargaining Federalism vs

- (1) States & Union Co-operate: early years of Independence – Congress Govts in Union & States; Central domination in federal relations
- (2) Bargaining between the Union & States: Era of Coalition Politics.
- (3) Competitive Federalism: States competition with each other & Center: Labor Laws, Ease of Doing Business.

#6 What are major irritants in working of Indian Federalism today?

- (1) Conventional Issues: Governor's Office, Article 356, Panchayati Raj, Finance Commission, All India Service; MPLAD
- (2) Emerging Issues: GST & GST Compensation Cess, Use of Paramilitary by Central Agencies, Migrant Crisis, Increase in Cess as part of Taxation – not shared with States; DBT; I & K Reorganization –

Govt of India Act, 1935 – Blueprint for India's Constitution

#1 What is the Govt of India Act, 1935

- (1) Act of British Parliament; last set of Constitutional Reforms
- (2) All India Federation; Three Lists → Central, Provincial, Concurrent. Dyarchy the Center (Reserved & Transferred Subjects)
- (3) Abolished dyarchy at Provinces = Autonomy
- (4) Public Service Commissions (Federal, Provincial, Joint) ; Dyarchy at the Center ;

#2 Why did the Govt of India Act, 1935 Fail?

- (1) Imagined a federation of British India+ Princely States → did not join ; Congress dissatisfied with representation of Princely States (nominated through nominated princes) ;
- (2) Dyarchy at Center = Not Responsible govt = all Power at Union with the British = not what the leaders aspired for;
- (3) Provincial autonomy was farce = half budget couldn't be voted upon ; G could run govt in special circumstances ; did not inspire confidence in Indians

#3 How much of the Constitution is derived from Government of India Act, 1935?

- (1) Federation & Provincial Autonomy = Union & Autonomous States
- (2) Federal, Provincial, Concurrent List = 7th Schedule
- (3) Responsible Govt @Provinces + Governor's "Special Powers" = President's Rule + Power to Reserve Bills for President's Assent
- (4) Institutions → Federal, Provincial, Joint Public Service Commission + Federal Court

#4 Is the Constitution based on Govt of India Act, 1935 ?

- (1) Govt of India Act itself summed up previous reforms (Bicameralism, direct elections → GoI, 1919; provincial subjects → reserved and transferred ; Public Service Commission, Provincial Budgets.), Nehru Report, Simon Commission Report etc.
- (2) 10% People got voting rights @Universal Adult Suffrage; Ignored rights that are central to any Constitution
- (3) Remained Colonial Instrument only to extend power = Privy Council, Separate Electorate.
- (1) Constitution much more progressive, forward looking document, aspirations of people, not just political administrative machinery of the State;
- (2) Assimilates the wisdom of all major Freedom Struggles and Revolutions, and Constitution Framing Experience (USA → FR, Judicial Review, Independent Judiciary, France → Liberty, Equality, Fraternity, Russia → Ideal of Justice, Duties, Ireland → DPSP etc.)

Rights vs Duties – Concept Class | Polity Series

#1 What are rights?

- (1) Claims of an Individual that are essential for the full realization of one's potential
- (2) Recognized by the State and Society ; fundamental to civilization.
- (3) Limitations on the actions of the State, Individuals and Society; not absolute
- (4) Natural Rights → granted by Nature itself; Human Rights → inalienable, universal dynamic moral right of highest order; associated with human dignity; Post World War phenomenon ;

#2 What are duties?

- (1) Obligations on the Individual ;
- (2) rights of one are the duty of another.

#3 What are fundamental rights?

- (1) Most important socio-political-cultural rights that are recognized and enshrined in Constitution.
- (2) Fundamental = guaranteed by C + Violation in enforceable + necessary for full development of one's personality.
- (3) Ever evolving as per judicial interpretation → Golden Triangle of Art 14, 19, 21
- (4) Also added by Amendments (2 A – Right to Education added;)

#4 What are fundamental duties?

- (1) Expected obligations of individual towards the Society ; Reminder of collective duties and aspirations;
- (2) Not originally part of the Constitution → expected to be performed on their own ;
- (3) A → "Abide ; B → no "B"le ideas ; C → "Sh"overeignty ; d → "d"efend ; e → broth"E"rhood ; f → fcc composite culture ; g → green | forest, lakes, rivers ; h → humanism; l → violence ; j → excellence ;
- (4) Importance → not following violates social contract ; President Kovind → rights and duties two sides of same coin ; Indira Gandhi → necessary for democratic balance ; Gandhi → Rights are a result of duties;

#5 What are the criticism of Fundamental duties?

- (1) Non-justifiable; ambiguous and vague; skips important duties such as paying taxes, voting.
- (2) Usually found in kingdoms, Authoritarian regimes, theocracy; religion; Citizens have rights; subjects have duties; post-emergency addition - brought by 42nd CAA → Supremacy of Govt over Citizens.
- (3) Final: Was not repealed by 44th CAA ; position strengthened by 86th CAA → added 51A(k)-duty of parents/ guardians → education between 6-14 years;

Preamble to the Indian Constitution

#1 What is a Preamble?

- (1) Introductory statement; Preface; Foreground to the constitution. Integral part of the Constitution (Kesavananda Bharati case; rejection of Berubari judgement)
- (2) Articulates the principles which precondition the possibility of our unity as a nation
- (3) Basic philosophy and the fundamental values on which our constitution is based.

#2 Parts of the Preamble

- (1) **Declaratory part** (who framed the constitution and with what authority. "we the people of India...In our constituent assembly this twenty sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution")
- (2) **Nature of the State** (Why the document was framed – nature of the State envisioned) "solemnly resolved to constitute India into a sovereign socialist secular democratic republic".
- (3) **Descriptive part** (explains how aims and objectives are going to be realized) Aimed at providing a right way of life. Notion of a happy life for everyone. "to secure to all its citizens Justice...Liberty...Equality...and to promote among them all Fraternity... (Sought to be achieved through FRs, DPSPs and FDs)

#3 What does the Preamble tell about the nature of the Indian State?

- (1) **SOVEREIGN** – India has its own independent authority. Not a dominion or dependent authority.
- (2) **SOCIALIST** – Democratic socialism (not State socialism). More emphasis on socialist ideals rather than political and economic model.
- (3) **SECULAR** - All religions get equal respect, protection, and support from the state. Different from western model. No strict separation of religion from State. Positive Secularism.
- (4) **DEMOCRATIC** – Source of authority of the government → Will of the people. India → Representative democracy (other being Direct democracy) of Parliamentary form (other being Presidential form).
- (5) **REPUBLIC** – Elected head of the State (other being hereditary → Monarchy). Sovereignty → vested in people rather than individual.

#4 Is Preamble a part of the Constitution?

- (1) **Berubari Union case, 1960** – SC recognized that the preamble is a 'key to the minds of the makers of the constitution'. However, despite recognizing its importance, court ruled that Preamble is NOT a part of the constitution.
- (2) **Kesavananda Bharati case, 1973** (a) Preamble is part of the constitution. (b) Preamble is not

- (3) **LIC v Union of India Case, 1995** – SC reiterated that Preamble is an integral part of the constitution but it is not directly enforceable in the courts.

#5 Amendment of the Preamble

- (1) Berubari case – Article 368 → can amend any part of the constitution; however, preamble is NOT part of constitution → cannot be amended.
- (2) Kesavananda Bharati case, 1973 - Preamble is a part of the constitution → can be amended (article 368) like any other part subject to basic structure doctrine.
- (3) Amended only once - 42nd Amendment 1976 – 3 words added – Secular, socialist and integrity.

#6 Objectives in the Preamble

- (1) JUSTICE – social economic and political.
- (2) LIBERTY – thought, expression, belief, faith and worship.
- (3) EQUALITY – of status and of opportunity.
- (4) FRATERNITY – assuring the dignity of the individual and the unity and integrity of the nation.

*Above concepts have been covered separately in related concept classes.

THE IDEA OF JUSTICE IN INDIAN CONSTITUTION

#1 What is the position of Justice in the Preamble to the Constitution?

- (1) The pre-eminent place in the Preamble is given to JUSTICE - social, economic and political. (a) Without JUSTICE the other concepts, such as LIBERTY, EQUALITY and FRATERNITY would be illusory. (b) If democratic institutions are informed by JUSTICE → LIBERTY, EQUALITY and FRATERNITY will be automatically fostered. (c) According to Ambedkar, "Justice is simply another name for Equality, Liberty and Fraternity".
- (2) The Preamble → reflects the general spirit of the Constitution → fully corresponds to the Rawlsian schemes. (Rawls Justice → first virtue of social institution, First objective of the preamble)
- (3) Preamble talks about 3 types of JUSTICE –
 - SOCIAL – Equal treatment of all citizens without any discrimination or privileges.
 - ECONOMIC – Remove inequality of wealth. Establish a welfare state.
 - POLITICAL – Equal rights in political participation. Universal Adult suffrage. Access to all political offices.

#2 How does the Indian Constitution conform to the concept of Justice?

- (1) Indian Constitution is first and foremost a 'social document'. Socio-economic and political Justice is the prime concern of the Constitution.
 - Part III → ensures political justice
 - Part IV → ensures socio-economic justice
- (2) Comparison with Rawls theory of Justice –
 - Liberties in Part III of Indian Constitution → includes almost all liberties which Rawls considers important. Also, in Rawls theory → liberty gets the precedence over equality. Constitution → list of liberties is far longer than that of the equalities. (For liberty → Articles 9, 20, 21, 22, 26, 27, 28, 30 and 32; For equality → Articles 14, 15, 16 and 18).
 - Upholds Rawls' second principle of justice - The word "socialist" used in the Preamble read with the context of Articles 14, 15, 16, 17, 21, 23, 38, 39, 46 → seek to reduce inequalities in income and status and to provide equality of opportunity and facilities.
 - Difference principle - special provisions for least advantaged section of Indian society. Eg, Article 15 and 16 → provide for positive discrimination, Article 28 → prohibits exploitation of the least advantaged,
- (3) As a directive to the State under **Article 38** - "to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life"

CONCEPT OF JUSTICE

#1 What is Rawls theory of Justice?

- (1) **Rawls** → 'justice is the first virtue of the social institutions. (a) Justice does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. (b) Injustice is tolerable only when it is necessary to avoid an even greater injustice.
- (2) Methodology used → '**original position**' and '**veil of ignorance**'.
- (3) Describes Justice as 'fairness'. Yardstick of fairness → 'human dignity'. Each person possesses inviolability founded on justice...Loss of freedom for some cannot be made right for the greater good of others' (against Utilitarianism).
- (4) Rawls orders the principles of justice lexically,
 - a) **Greatest equal liberty** - concerned with the distribution of rights and liberties.
 - b) **Equal opportunity principle** - offices and positions open to all → fair equality of opportunity.
 - c) **Difference principle** - benefit of the least advantaged members of society (positive discrimination) (eg. Reservation in India)
- (5) Criticism by **Amartya Sen** – (a) Real behaviours and outcomes are different from rational assumptions. (b) Gives example of justice over distribution of a Flute.

Amartya Sen's Idea of Justice

- (1) The Idea of Justice → book by Amartya Sen in 2009.
- (2) Problem of distribution of a Flute – 3 claimants (i) knows how to play it; (ii) flute is a product of his labour; (iii) could not afford to have his own flute. (utilitarian (fulfillment of happiness, merit) v libertarian (entitled to enjoy the product of his labor) v egalitarianism (economic equity))
- (3) Human beings have an innate desire to eliminate injustice where possible; Ideal institutions are not required to inculcate a sense of fairness or to persuade people to act fairly.
- (4) Social justice should not be evaluated in binary terms, as either achieved or not. Justice should be existing in a matter of degree, and should be evaluated along a continuum.

Ambedkar's idea of Justice

- (1) Stood for the establishment of society based on the socio-economic and political justice.
- (2) The idea of social justice is built upon the foundation of 'liberty, equality and fraternity' where every person residing is capable of getting equal opportunities.
- (3) Social justice implies that all benefits and privileges in the society should be shared by all its members.
- (4) In case of structural inequality → government should take affirmative action.

Equality

#1 What is Equality?

- (1) State of being equal – status, rights and opportunity; Absence of special privileges; provide opportunities for all individuals without discrimination (equality of opportunity)
- (2) Two types – (a) Formal Equality and Substantive equality (b) Legal-political equality and Socio-economic equality. Legal-political equality → only formal equality; socio-economic equality → substantive equality.

#2 How does the Constitution ensure equality?

- (1) Preamble → equality of status and opportunity; This provision embraces three dimensions of equality – civic, political and economic.
- (2) Civic equality → Fundamental Rights (Right to Equality) → Equality before the law (Article 14); Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15); Equality of opportunity in matters of public employment (Article 16); Abolition of untouchability (Article 17); Abolition of titles (Article 18)
- (3) Political Equality – no person is to be declared ineligible for inclusion in electoral rolls on grounds of religion, race, caste or sex (Article 325) elections to the Lok Sabha and the state assemblies to be on the basis of adult suffrage. (Article 326);
- (4) Economic equality → Directive to the State – Article 39 → secures to men and women equal right to an adequate means of livelihood and equal pay for equal work.

Concepts in the Preamble

#1 Objectives in the Preamble

- (1) JUSTICE – (Rawls Justice → first virtue of social institution, First objective of the preamble)
According to Ambedkar, “Justice is simply another name for Equality, Liberty and Fraternity”.
 - SOCIAL – Equal treatment of all citizens without any discrimination or privileges.
 - ECONOMIC – Remove inequality of wealth. Establish a welfare state.
 - POLITICAL – Equal rights in political participation. Universal Adult suffrage. Access to all political offices.
- (2) LIBERTY – thought, expression, belief, faith and worship. Positive liberty Broad meaning taken - It is the opportunity to develop oneself fully. Articles 19, 20, 21, 22, 26, 27, 28, 30 and 32 are devoted to the liberties of citizens.
- (3) EQUALITY – of status and of opportunity. Civil, political and economic. Absence of special privileges. Articles 14, 16, 18 and 15.
- (4) FRATERNITY – assuring the dignity of the individual and the unity and integrity of the nation. Brotherhood in society. Psychological and territorial dimension (states have no right to secede) of national integration. Overcome hindrances in national integration like – regionalism, communalism, secessionism etc.

President of India - A mere Rubber Stamp?

#1 What is the Constitutional position of the President?

- (1) Article 52; head of the Indian State; first citizen of India;
- (2) Executive power of the Union shall be vested in the President (All executive actions of the government are taken in his name) [Article 53]. All executive functions are executed in the name of President [Article 77]. President → nominal head of the government; Real head → Council of ministers.
- (3) Ambedkar – President is 'head of the State but not of the Executive. He represents the nation, but does not rule the nation. He is the symbol of the nation'.

#2 Why has the president said to be a mere Rubber stamp?

- (1) Exercise his functions at the aid and advice of the CoM with the PM at the head. [Article 74]
 - a. 42nd AA → obligatory for the President to act only on the advice of the CoM. 44th AA → did not completely reverse the provisions made in 42nd AA → allowed President to send back for reconsideration only once.
 - b. If the President tries to act against the wishes of ministers, it is said to be a constitutional crisis; President may get impeached for "violation of the constitution".
- (2) Legislative powers → (a) can summon, prorogue, dissolve, call joint sitting but on aid and advice of CoM. (b) Cannot reject a bill without advice of CoM; can send back for reconsideration only once [suspensive veto] (c) bound to give assent in case of Money bill and constitutional amendment bill. (d) promulgation of ordinance → aid and advice of CoM.
- (3) Judicial powers → (a) Pardoning power → aid and advice of CoM. (b) Appointment of judge → through collegium.

#3 Why the President cannot be considered as merely a 'Rubber stamp'?

- (1) Acts as a symbol of unity, integrity and solidarity of the nation; Often regarded as the conscience-keeper of the nation.
- (2) Constitution does not envisage the office of President to play active role in day to day governance [Parliamentary form]. Would create conflict of power between President and PM.
- (3) Enjoys situational discretionary powers – (a) Appointment of PM when no clear majority in LS. (b) Dismissal of CoM when unable to prove majority (c) Dissolution of LS when CoM lost majority. (d) Can ask for information about anything related to the Union Government. → PM duty-bound to furnish such information [Article 78]. (e) Sending back advice of CoM for reconsideration [Article 74] (f) Passing of bill → using Suspensive veto and Pocket veto.
- (4) Ultimate person responsible for upholding the rule of law, as the head of state, and must ensure that no major violations happen.

Anti-Defection Law

#1 What is the Anti-Defection Law?

- (1) Through 52nd Amendment Act, 1985 → 10th Schedule inserted.
- (2) Lays down the process by which legislators may be disqualified on grounds of defection.
 - a. If a member of a house belonging to a political party – (a) Voluntarily gives up the membership of his political party (b) Votes against/abstains contrary to the directions of his political party (to vote contrary → needs prior permission 15 days in advance) (c) If an independent candidate joins a political party after the election. (d) Nominated member joins a party six months after he becomes a member of the legislature.
 - b. Exception – (a) merger with approval of 2/3rd members (b) elected presiding officer.
- (3) Amended by 91st AA, 2003 [Pranab Mukherjee committee] → omitted the exception provision → disqualification on grounds of split.

#2 What is the need of the Anti-defection Law?

- (1) Prevent political instability ['aya ram gaya ram']; shift of party allegiances and discipline.
- (2) Prevent breach of trust of the mandate of people.
- (3) Reduce corruption → Prevent money laundering (horse trading), office luring of legislators.

#3 What are the various concerns regarding the Anti-defection law?

- (1) Weakens checks and balances → legislators act on directions of executive [parliamentary form]; No distinction between defect and disagreement.
- (2) Weakens deliberative democracy → preventing in-depth, non-partisan analysis of laws and issues.
- (3) Unable to prevent defection → exemption rule of 2/3 members joining another party → mass defections. [Allowed individual defection, legalized mass defection]
- (4) Judicial powers to the Speaker on disqualification of members [initially → no judicial review; Kihoto Holohan case → under judicial review]

#4 How can the issues related to ADL be addressed?

- (1) Law commission → (a) pre-poll electoral fronts → treated as parties under ADL (b) limiting of whips to rare cases.
- (2) Election commission → Disqualification of MPs/MLAs be made by President/Governor on the advice of Election Commission. [Also by Dinesh Goswami committee on electoral reforms]
- (3) Free vote sessions [as in UK] → members are free to vote as they desire

Office of Speaker – Challenges and Suggestions

#1 What is the constitutional position of the office of Speaker?

- (1) Guardian and head of the lower house; maintains decorum, discipline and effective running of parliamentary business, principal spokesperson of the house.
- (2) Final interpreter of (a) Constitution (b) Rules of procedure and conduct of business of LS (c) Parliamentary conventions and precedents.

#2 What are the controversies/challenges associated with the office of the speaker?

- (1) Anti-defection law (52nd AA) → elevates the position of the speaker to that of a judge. [Kihoto Hollohan case] [e.g. Uttarakhand, Arunachal Pradesh]
- (2) Political activism → no compulsion to resign from the party membership. Electoral system → not developed to ensure protection to the office → Speaker to retain party membership.
- (3) Final decision on Money bill [e.g. Aadhar bill]
- (4) Acceptance passing of critical motion like censure motion and no confidence motion.
- (5) Order of the house; Allocation of less time for discussion on important issues to the opposition members.
- (6) Final authority to decide on case of whether a case of privilege has at all arisen. [e.g. Karnataka assembly speaker summoning journalists]

#3 What are the suggestions to remove those challenges?

- (1) Political Activism - Resignation from the party post or refraining from the party meetings and active party politics. [E.g. Position of the speaker in House of Commons, Parliament of England].
 - a. "Once speaker, Always a speaker"! Do you think the practice should be adopted to impart objectivity to the office of the Speaker of Lok Sabha? What could be its implications for the robust functioning of parliamentary business in India. [GS2 Mains 2020]
- (2) Life time pension; can be barred from holding political office after speakership (Except President and VP)
- (3) Anti-Defection Law → power to disqualify → divested with either the Election Commission or any neutral body outside the legislature.
- (4) Money Bill [Article 110] → Consultation with the specific parliamentary committee can be made mandatory.
- (5) Acceptance of motion → In place of individual discretion, leaders of all parties be consulted for crucial motions.
- (6) Privileges → Codification of parliamentary privileges.

Concept of Judicial Activism

#1 What is the meaning of Judicial activism?

- (1) Proactive role of judiciary; protection of rights; promotion of justice; exercise of judicial powers → (a) active interpretation of laws (b) progressive social policies (c) delivery of justice is ensured irrespective of lack of legislative and executive actions.
- (2) Tools of Judicial activism (a) PIL (b) Judicial review (c) Article 21 – Procedure established by Law and Due process of Law (d) 'complete justice' under Article 142 (e) Contempt of Court.

#2 What are the benefits/justifications of Judicial Activism?

- (1) Protecting the core of constitution from executive adventurism; misuse of power; Judiciary → Guardian of the constitution. [e.g. Kesavananda Bharati case]
- (2) Filling the legislative and executive vacuum. [e.g. Vishakha guidelines] [e.g. MC Mehta case (environmental jurisprudence)]
- (3) PIL → Shift from locus standi → judicial process more accessible and democratic.
- (4) Preserve the faith of people in the Constitution and democracy; Last resort for people to seek justice. [e.g. Shatrughan Chauhan case]
- (5) Adapt constitutional and legal interpretation to emerging challenges. [e.g. Justice K.S. Puttaswamy case]
- (6) Taking hard/unpopular decisions → popular government may be fearful of [e.g. Indra Sawhney case]

#3 What are the concerns/issues with Judicial Activism?

- (1) Violation of principle of Separation of Power – in executive and legislative spheres. [e.g. Prakash Singh case on police reforms, Sealing of commercial entities in residential areas of Delhi]
- (2) Unlimited powers in the name of 'complete justice' [Article 142] → against constitutionalism. (worth mentioning → Lack of Judicial accountability [99th AA])
- (3) Unpredictability of laws and judgements; Lack of expertise on many important issues.
- (4) PIL → (1) increasing judicial pendency (2) diminishing faith in political class (democracy)

Judicial Activism v Judicial Overreach

#1 When does Judicial Activism become Judicial Overreach?

- (1) When judicial activism crosses its limits and becomes judicial adventurism; extreme form of judicial activism → arbitrary, unreasonable and frequent interventions are made.
- (2) Compel performance of duty by the designated authority in case of its inaction or failure → Activism; while a takeover by the judiciary of the function allocated to another branch → Overreach.
- (3) Example – [Shyam Narayan Chouksey case – National Anthem in cinema halls] [Allahabad high court order public officials to send children to government schools] [NJAC case]
- (4) Paradox → Judicial overreach violates doctrine of Basic structure [Separation of power]

#2 What are the solutions to avoid Judicial overreach?

- (1) Indian constitution does not envisage a strict separation of power; objective is that respective 3 branches work within the framework of the constitution
 - a. SC in Lakshmi Kutty v State of Kerala case - “Special responsibility devolves upon the judges to avoid an over activist approach and to ensure that they do not trespass within the spheres earmarked for the other two branches of the State.”
- (2) Need → Judicial Restraint (a) recognizes the equality of the other two branches with the judiciary (b) tends to protect the independence of the judiciary [independent judiciary → removal from the political and administrative process]
- (3) Judiciary must exercise self-restraint and eschew the temptation to act as a super legislature or as a super executive.

Office of Profit

#1 What is an 'Office of Profit'?

- (1) Office of Profit → a position that brings to the person holding it some financial gain, or advantage, or benefit.
- (2) Idea imported from Britain; Objectives → (a) Secure independence of the legislature → no conflict between duties and interest of elected members; (b) Preserve separation of power (c) Restrict vulnerability to temptations an executive can offer; (d) Protect the democratic fabric from being corrupted by executive patronage.
- (3) Article 102(1)(a) & Article 191(1)(a) → Disqualification of MPs and MLAs; Parliament (Prevention of Disqualification) Act, 1959 → bars holding any office of profit under the central or state government unless it is exempted.

#2 What constitutes an 'Office of Profit'?

- (1) No clear definition in the constitution/1959 Law RPA; Definition evolved over the years → judicial interpretations; Any place or position that carries or offers some remuneration, financial advantage, benefit etc.
- (2) SC [Swapan Roy v Pradyut Bordoloi case (2001)] → factors determining office of profit –
 - a. Whether the government is the appointing authority,
 - b. Whether the government has the power to terminate the appointment,
 - c. Whether the government determines the remuneration,
 - d. What is the source of remuneration, and
 - e. The power that comes with the position.
- (3) Jaya Bacchan v. Union of India case, 2006 → “*what is relevant is whether the office is capable of yielding a profit or pecuniary gain and not whether the person actually obtained a monetary gain*”.

#3 What are the controversies associated with 'office of profit'?

- (1) 91st AA → limited the size of CoM to 15% (10% for Delhi). Use of Chairmanships of Corporations, Parliamentary Secretaries of various ministries, and other offices of profit → inducements to legislators.
 - a. Satisfy aspirations for rank, status and privilege of elected party members; Way of buying peace for the government.
- (2) Concerns with posts of Parliamentary secretaries → (a) Violates constitutional provisions of limited CoM (b) Violates Separation of Power (c) Parliamentary secretaries → no Oath of Secrecy → threat to national security (d) Misuse of public money.

#4 How can the issues associated with 'Office of Profit' be resolved?

Public Interest Litigation

#1 What is a Public Interest Litigation?

- (1) PIL → a legal instrument → for enforcement or use laws to advance human rights, ensure justice, liberty and equality and address issues of broad public concern.
- (2) Hussainara Khatoon vs. State of Bihar (1979) → Right to speedy justice. [Justice PN Bhagwati]
- (3) Made possible by relaxation of the traditional rule of 'locus standi'.
- (4) Not defined in any law or statute. Can be filed through → Article 32, 226 Sec 33 (CrPC).
 - a. PIL can be filed against the 'State' [Article 12] and NOT any private party.

#2 What are the factors responsible for popularity of PIL in India?

- (1) Corresponding rise in level and extent of Judicial activism [Judicial review, Due process (Article 21); Article 142; Enforcement of DPSPs as FRs].
- (2) Growth in Civil Society Organizations; Educated, informed and empowered citizens;
- (3) Lackadaisical implementation of progressive legislations.
- (4) Approaching court made easy [e.g. approach SC directly; post cards].

#3 What has been the impact of PILs?

- (1) Offers a ladder to justice to disadvantaged sections of society;
- (2) Avenue to enforce diffused or collective right; important instrument of social change.
- (3) Enables civil society to spread awareness about human rights; Protection of HRs [e.g. monitoring prisons, care homes etc.]
- (4) Expanding the scope of fundamental rights;
- (5) Good governance by ensuring accountability and constitutionalism.

#4 What are the various challenges associated with PILs?

- (1) Frivolous, non-genuine use for political/private gains/vested interests;
- (2) Slowing down pace of development projects
- (3) Had led to self-aggrandizement of power by judiciary → Judicial Overreach [India → most powerful judiciary].
- (4) Excessive load → Judicial pendency.
- (5) Adding to the list of FRs (from DPSPs) without considering capacity of the State.

#5 What are the solutions to the above issues?

- (1) Striking a balance between legitimate cases and frivolous cases.

Special Status of Delhi

#1 What is the special status of Delhi?

- (1) Delhi → made UT after State Reorganization Act, 1956. Demand from People of Delhi & political parties.
- (2) Balakrishnan Committee (1987) – (a) Give the national capital a special status (no full statehood) (b) Setting up a legislative system.
- (3) 69th CAA, 1991 → special status given to Delhi. Provisions laid down in GNCT of Delhi Act, 1991. Elected legislative assembly and a responsible government. Administrator by President → Lieutenant Governor (LG).
- (4) Legislative assembly → 70 members; Powers to legislate → State List + Concurrent List, except (a) public order (b) police (c) land. [3 powers held because Delhi is a national capital of a sovereign nation]

#2 What is the controversy regarding powers of LG vis-à-vis CM?

- (1) Lack of clarity in Provisions (a) CoM with CM as head → aid and advise LG... except when LG is required to act in his discretion. (b) In a case of 'difference of opinion' on "any matter" between LG and CoM, matter → referred to the President by the LG.
- (2) Lots of conflict between CM Arvind Kejriwal and LG [e.g. controversy of Chief Secretary, MHA → Anti Corruption Bureau (ACB)].
- (3) HC (2016) → Complete control of matter regarding NCT with LG. No decisions without his concurrence.
- (4) SC (2018) → verdict in favour of Delhi government (a) LG must take aid and advise of the CoM (b) All decisions by Delhi govt. → communicated to LG [communication not equals concurrence] (c) Except public order, police and land, LG → bound by aid and advice of CoM (d) for referring to President, "any matter" cannot be every matter. (e) LG → 'facilitator'; not an 'adversary'.
 - a. Q Whether the Supreme Court Judgement (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. [GS-2 Mains (2018)]

#3 Should Delhi be granted full statehood?

- (1) **Arguments in favour** – (a) very large population → day-to-day governance issues (b) No control over law and order, land and police inhibits → functions of a responsible government (c) inability in implementing welfare schemes (d) Continued conflict with LG – delay and disruption of administration.
- (2) **Arguments against** – (a) Balakrishnan report → "Delhi as the national capital belongs to the nation as a whole" (b) law and order and maintenance for city having → Union government, SC, Parliament, Foreign embassies cannot be given to a State government (c) Control of Union → National Interest

GNCT Delhi (Amendment) Act, 2021

#1 What are the key changes introduced in the GNCT Delhi (Amendment) Act 2021?

- (1) Term "government" → Lieutenant Governor (LG); All executive action by the government → in the name of the LG.
 - a. On certain matters → opinion → compulsory.
- (2) Legislative Assembly → Rules of Procedure and Conduct of Business → LS.
- (3) Prohibits Legislative Assembly to: (a) consider matters of day-to-day administration (ii) conduct inquiry in relation to administrative decisions.
- (4) LG → reserve certain Bills passed by the LA for President + any matter outside purview of LA.

#2 What are the criticisms against the GNCT Delhi (Amendment) Act, 2021?

- (1) Undermines authority of elected government → legitimacy of electoral democracy.
- (2) Position of CM and CoM of Delhi → rendered meaningless. Adversely impacts → federal polity.
- (3) Requirement of LG's opinion + no time frame → delays in pressing matters of governance.
- (4) Bill passed through voice vote. Not much deliberation/debate/scrutiny.

#3 Why has the Union decided to bring the GNCT Delhi (Amendment) Act, 2021?

- (1) Government → (a) clearly define duties of LG (b) to give effect to SC judgment in 2018.
- (2) Law → much-needed clarity on relation between LG and CoM [1991 act lacked clarity] → reduce conflicts in national capital.
- (3) Delhi ≠ any other State or UT. It is the capital of a sovereign nation. Requirement of control of Union government.

Parliamentary v Presidential Form of Govt.

#1 What is the difference between Parliamentary and Presidential form of government?

Parliamentary form	Presidential form
Two executives	One executive
Executive responsible → legislature [individual + collective]	President → people not legislature
Cabinet/CoMs → part of legislature	Not necessary
Strict separation of power → not feasible	Strict separation of power

#2 Why India chose Parliamentary form over Presidential form?

- (1) Prior experience/familiarity; historical legacy → Govt Act, 1919, Govt Act, 1935;
- (2) Nascent democracy; Threat of personality cult, autocracy.
- (3) More representative, democratic, accountable → regions, religions, castes, interests.
- (4) Avoid executive-legislature friction/impedance; Ease → passing/implementing laws

#3 Is there an increasing trend towards Presidentialization of Parliamentary system?

- (1) General Elections → PM candidate centric; [diminishing role → individual candidate/party]
- (2) PM/PMO → centre of all power/decision-making [diminishing role cabinet consensus; individual ministry]
- (3) Diminishing accountability → Parliament – (a) Decline in debate/discussion/scrutiny (b) increase → use of Ordinance (c) Anti-defection law.

#4 Is there a case for switching to presidential system?

- (1) **Arguments in favour** – (a) Ability to appoint experts/qualified cabinet executives [Parliamentary form → Unqualified Legislators; position of legislator → not considered important; criminalization of politics (b) clear Separation of Powers; checks and balances → constitutionalism (c) Stable government; no 'Coalition Dharma' (d) less internal party politics → better decision-making/administration (e) no distortion of Voter Preferences.
- (2) **Arguments against** – (a) legislature → dominated by President's party → bulldozing legislature (b) legislature → dominated by opposition party → deadlock/stalemate (c) dangers of autocratic/totalitarian govt. (d) no consensus-building → overshadow diversity; majoritarianism (e) developing country → accountability by parliament required (f) violates basic structure.

Politicization of Governor

What is the constitutional position of the governor?

- (1) Constitutional head of state; envisioned → constitutional link between Centre and state.
- (2) CoM with CM as head → aid and advice the governor → exercise of his function except → using his discretion. [Article 163]

What factors have led to politicization of the office of governor?

- (1) Appointment → President [advice of Union]; no eligibility criteria; no consultation with states.
- (2) Tenure → Pleasure of President [Union government] → has to follow line of the party in power at Centre.
- (3) Appointment → unsuited partisan persons; active in politics; Office of Governor → retiring office → senior politicians, heads of constitutional bodies etc.
- (4) Large amount of discretionary powers → origin of many conflicts.
- (5) Commenting adversely → specific policies of state government; biased ideology

Why are states unhappy with the office of Governor?

- (1) Discretionary powers -
 - a. Constitutional discretion – (a) Reserve bills → President (b) Recommend → President's rule (c) When given additional charge as administrator of a UT (d) vis-à-vis tribal District Councils (e) seek information from CM → administrative affairs.
 - b. Situational discretion – (a) appoint a CM → no party with clear majority (b) dismiss CoM (c) dissolves SLA.
- (2) Partisan politics → inviting CM → form government [e.g. Karnataka]
- (3) Misuse of Article 356. [e.g. Uttarakhand]
- (4) Withholding State Bills indefinitely or reserving → President [Article 201]
- (5) Misuse power to call assembly → save/bring down a government (defection) [e.g. Rajasthan]
- (6) Interference → day to day governance + Meddling in party politics at state level.

How can the office of Governor be reformed?

- (1) **Sarkaria Commission** – (a) eminent person (b) outside of state (c) detached, not intimately concerned with local politics (d) desirable → not from ruling party at Centre (e) consultation with CM (f) security of tenure.
- (2) **Punchi Commission** – (a) Fixed term (5 years) (b) Removal by SLA (c) Amend 356.
- (3) **S.R. Bommai case** - (a) power of President (356) → not absolute + approved by LS+RS (b) If not approved → dismissed government → revived, suspended LA → reactivated. (c) imposition of 356

Rajya Sabha – Issues and Utility

#1 What is the role of Rajya Sabha in the Indian parliamentary system?

- (1) Permanent house; Revisionary house; Degree of continuity → underlying policies of laws.
- (2) Means to institutionalize federal principle of power-sharing; safety valve within legislature → easing federal tensions.
- (3) Deliberative Body → enables debate → major issues of public & national importance.
- (4) Representing Vulnerable Sections [e.g. Women, religious, ethnic and linguistic minority groups] → not adequately represented in LS (FPTP system).
- (5) Special powers – (a) authorize Parliament → State List [Article 249] (b) creation → All India Service (c) removal → Vice President [Article 90]

#2 What are the various issues related to Rajya Sabha?

- (1) Unequal representation of states – states represented proportionally → relative populations [e.g. comparison → seats of UP | north-eastern states]
- (2) Bypassing the Rajya Sabha – ordinary bill passed as Money Bill → circumventing RS [e.g. Aadhar Act]
- (3) Undermining of Federal character of RS – RPA (Amendment) Act, 2003 → removed the word 'domicile'. → non-residents → contest RS elections from that state
- (4) Low Participation of Nominated Members – sincerity of nominated members → questionable; Nominations made → satisfy sentiments of followers; [e.g. Sachin Tendulkar]

#3 Should Rajya Sabha be scrapped?

- (1) **Arguments in favour** – (a) Parliamentary logjams/deadlock/stalling of legislations between LS and RS (b) Cronyism and patronage in appointments (c) Unqualified members (d) backdoor entry for unelectable/unpopular leaders (e) least connected members elected from a state (f) SC (2006) → RS → turned out to be another chamber of Parliament akin to the LS.
- (2) **Arguments against** – (a) required to maintain the federal equilibrium → protecting interests of states. (b) enables reflective expression of representative opinion (c) Checks majoritarianism and parliamentary tyranny (d) Legislative check by members → experienced, sober, wise, well-informed with domain knowledge + deliberative body → holding high-quality debates (e) retaining talent → essential for democratic system.
- (3) (a) passed scrutiny → Constituent Assembly; vanguard socio-political values; (b) equal seats for all states (c) reform election process (d) members → follow ethical guidelines for RS member [2nd ARC].

Right to Information – Issues and Challenges

#1 What is the significance of the RTI Act?

- (1) Key to strengthening participatory democracy; people-centred governance; Information → 'public good'.
- (2) RTI → implicit in Right to Freedom of Speech and Expression [Article 19]. Act ensures FR.
- (3) Empowers citizen → question secrecy/abuse of power in governance.
- (4) Access to information – (a) empower vulnerable section of society → entitlement to welfare; (b) public scrutiny → accountability of government; (c) ensuring protection of rights.

#2 What are the various issues and challenges facing effective implementation of RTI Act?

- (1) Misuse → harass/blackmail/pressurize → public authorities; publicity, malafide intentions and frivolous use.
- (2) Backlogs; Delays; Poor record keeping; Rejection; Misuse of certain clauses.
- (3) Issues → secrecy [Official Secrets Act, 1923 Evidence Act]
- (4) CIC → minimal powers for enforcement → toothless institution;
- (5) Attacks/harassment/intimidation → RTI activists.

#3 What are the criticisms against RTI (Amendment) Act, 2019?

- (1) Changes – (a) Term in office (b) Salaries and allowances
- (2) Criticisms – (a) reduce independence of Commission → reduced → Department of government; (b) diminishes status of CIC, ICs → ability to issue the directives → government officials (c) Centre → unilaterally decide → terms of service → threatens Federalism.
- (3) Argument by government – (a) EC and CIC/SIC → different mandate → status/ service conditions → rationalized (b) 2005 Act → CIC → status of SC judge → rationalized.

#4 How can the functioning of RTI Act be improved?

- (1) 2nd ARC → training of civil servants to match spirit of RTI; NCRWC → oath of transparency.
- (2) Rationalization of certain laws [e.g. Official Secrets Act, 1923, Evidence Act, 1972]
- (3) Terms of service → independence [2nd ARC].
- (4) Protection of RTI activists [Whistleblower's Protection Act]
- (5) Increase awareness; digitization of records; reduce pendency; filling up vacancy.

Role of NGOs – Issues and criticisms

#1 What is the role played by NGOs in the development process of India?

- (1) Influencing Government policies and bringing reforms [e.g. RTI, ICDS, Juvenile justice]; last-mile delivery in government schemes [e.g. MGNREGS, eradication tuberculosis].
- (2) Grass-roots level Development – (a) stimulating/mobilizing voluntary action (personal to ch), Involve community → developmental activities; (b) mobilize local resources - self-employment activities; (c) mobilizing rural people → social action → create awareness (d) promote rural health, sanitation, population control & family planning
- (3) Help specific target groups / vulnerable sections [women, children SC / STs, landless agricultural labors] [e.g. Safai Karamchari Abhiyan]; (a) Encouraging participation; conscious instilling; dissemination of information; Balwant Rai Mehta committee (1957) → involving the NGOs in tribal development.
- (4) Women empowerment / Poverty alleviation – (a) Training (b) self-employment (c) information, knowledge, technology, managerial techniques (d) awareness → legal rights (e) credit/loan [e.g. SEWA foundation]
- (5) Environment protection & sustainable development + Disaster management – (a) policy formulation (b) information dissemination (c) rescue and relief operation (d) rehabilitation programmes (e) high-acceptance in communities. [e.g. Sulabh International, Help Age India][Role during pandemic]
- (6) Protecting Human Rights and Dignity - Restoring dignity of deprived/discriminated sections; [gender, racial and religious discriminations] [Naz foundation (section 377)]

#2 What are the issues faced by NGOs in India?

- (1) Lack of Fund (a) difficult to garner sufficient/continuous funding; (b) dependence → govt. funding (c) CSR partnerships (d) international donors
- (2) Absence of Strategic Planning and Development Approaches – (a) “hardware” approach to development; (b) lack of cohesive, strategic plan (c) technologically challenged.
- (3) Poor Governance and Networking – (a) duplicated efforts (b) inefficiencies (c) conflicting strategies (d) fear to connect with International NGOs.
- (4) Relationship with Government machinery –common perception → ‘opposition to government’
- (5) Lack of Volunteerism/Social work among Youth

#3 What are the criticisms against working of NGOs in India?

- (1) Propagation → foreign propaganda → stalling developmental projects. [e.g. Kudankulam nuclear plant, GM seeds]
- (2) ED → some NGOs → front → banned naxal organizations
- (3) Proxies for political parties → (a) unaccounted money (b) campaign → agenda. (c) lobbying with

#4 How can the NGOs be made more transparent and accountable?

- (1) S. Vijay Kumar committee - self-regulation + comprehensive law → transparency → receipt and utilization of funds.
- (2) Regulatory mechanisms → track of the money especially public funds; appoint commission → cross check misuse of funds.
- (3) Government → scrutiny procedures through Foreign Contribution (Regulation) Act, 2010. [amendments in 2020]
- (4) Motivate NGOs → adopt the 'National Policy on Voluntary Sector (2007)'
- (5) NGO-DARPAN → NGOs → enroll centrally → creation of repository of information.



FCRA (Amendment) Act, 2020

#1 What are aims and objectives of the FCRA act?

- (1) FCRA, 1976 → regulates foreign donations + ensures such contributions do not adversely affect internal security. Aim → protect 'sovereignty' of India from 'foreign hands' (context → cold war);
- (2) Amended → 2010 → foreign contribution/ hospitality [companies/associations/individuals]
 - a. Renewal of registrations → 5 years + 50% limit → administrative expenses.
 - b. Cancellation of registrations (NGOs) → MHA → organization → political not neutral.
 - c. Separate account → maintained by organisations → deposit Foreign Contributions; no other funds except foreign contributions → account. [Banks → obligated to report].
 - d. Debarred from receiving foreign contribution (a) candidate contesting election (b) Cartoonist, editor, publishers of a registered newspaper (c) Judge (d) Member of any legislature (e) Political parties
- (3) Issues – (a) foreign inflow → doubled (last decade) but entities → not using for declared purpose (b) lobbying (c) fictitious PILs (d) religious conversions (e) peddle narratives → challenging to national interest.

#2 What changes have been introduced through the 2020 amendment?

- (1) Aadhaar → mandatory identification document → 'all' office bearers [foreigner → passport]
- (2) Designated "FCRA account" → branch of SBI, New Delhi.
- (3) Limiting administrative expenses → 20%.
- (4) Prohibits → transfer of foreign contribution to 'any other person'
- (5) Ineligible → donations "public servant" & "corporation owned/controlled by Government"
- (6) Aims – (a) strengthening compliance mechanisms (b) utilization of funds → intended purpose (c) root out NGO → against national interest. [e.g. allegations → Amnesty International]

#3 What are the criticisms of the FCRA (amendment) Act, 2020?

- (1) Provisions → too vague; Not clearly defined; no guidelines; discretionary powers to officials; (a) target NGOs → Humanitarian causes/ critical of government (b) political opponents (c) religious minorities.
- (2) Serious consequences → rights to free speech [19(1)(a)] and freedom of association [19(1)(c)]
- (3) Over-regulation → decrease in foreign donations → closing down of NGOs.
- (4) 20% cap – limits efficient functioning; recruit experts; less manpower.
- (5) Paves way for licence-raj; red-tapism; bureaucratic harassment;
- (6) Impact collaborative work among NGOs → inability → transfer to grassroots NGOs

#4 How can the intended objectives of the FCRA be achieved?

Role of SHGs

What is a Self Help Group?

- (1) Self-governed, peer controlled informal group → similar socio-economic background → desire to collectively perform common purpose.
- (2) Normal strength → 10-20; similar economic outlook & social status; their own → y-law /rules
- (3) Objectives → economic improvement/self-reliance; resource mobilization; gainful employment; collective development; deal with exploitation; basis → action and change + mutual trust.

What has been the impact/benefits of SHGs?

- (1) Financial Inclusion + Financial literacy + propensity to save.
- (2) Social Change – ↓social evils [dowry/alcoholism/early marriage etc.] + Social Upliftment → marginalized sections – voice to underrepresented / voiceless sections.
- (3) Women Empowerment – ↑status of women → participants/decision-makers/ beneficiaries.
- (4) Act as Pressure Groups → (a) influence government policies & schemes (b) implement & improve efficiency (c) reduce corruption → social audits.
- (5) Alternate source of livelihood/employment → vocational training + improve → source of livelihood → offering tools/capital + ↓dependence on agriculture.
- (6) Social Indicators – (a) better family planning (b) ↓child mortality (c) ↑maternal health (d) ↑healthcare facilities and housing (e) Food + nutritional security

What have been the impediments in the growth of SHGs?

- (1) Inadequate finance/profitability – (a) poor value addition (b) scale up (c) lack of avenues → non-traditional activity (c) profitability → traditional activities (d) market linkage (e) 'melas'
- (2) Very few SHGs → transcend → micro finance and entrepreneurship [Inadequate support → government agencies & banks → perception → not commercially viable]
- (3) Lack of qualified resource personnel → skill development + capacity building. [illiteracy + lack information/awareness/practical knowledge]
- (4) Rural areas → caste/ religion → dominant. Group formations → based on caste/ religious lines.
- (5) Women SHGs → (a) patriarchal mindset (b) perception → caretaker /housewife (c) married women → relocate/migrate → instability of SHGs; (d) harassment by bankers.
- (6) SHGs → unable to outgrow their dependence on NGOs for hand-holding.

How can the issues faced by SHGs be addressed?

- (1) Government Initiative – (a) SHG-Bank Linkage Programme (b) Saras Collection (c) Self-Employment

Citizen's Charter

#1 What is a Citizen's Charter?

- (1) Written, voluntary declaration by service providers about their service standards, choice, accessibility, non-discrimination, transparency and accountability.
- (2) Rationale - expression of understanding → citizen & public service provider [partnership between people & government] → quantity/quality of services, rights of the public; obligations of public servants; expectations from citizens'.
- (3) Components – (a) Vision & mission statement; (b) business of organization; (c) clients; (d) services provided; (e) grievance redress mechanism; (f) expectations from clients.

#2 What is the Sevottam model of citizen's charter?

- (1) Sevottam Model → proposed by 2nd ARC → public service delivery ['Seva' (service) + 'Uttam' (excellence)]
- (2) Regarded → standard model → providing citizen centric governance.
 - a. Three components – (a) effective charter implementation; (b) public grievance redressal; (c) excellence in service delivery
- (3) Enables implementing organizations undertake → (a) self-assessment/gap analysis; (b) practical solutions; (c) establishing benchmarks; (d) rating model → recognize/ reward organizations.

#3 Why has Citizen's charter failed in India?

- (1) Issue with charter implementation – (a) perception → command from top, mere formality; (b) no involvement from personnel; (c) unrealistic drafts/expectations; (d) stakeholders not consulted.
- (2) Issues with implementation – (a) diverts attention → routine work; (b) merely drafted → not implemented; (c) infrastructure → doesn't meet charter expectations; (d) not periodically updated;
- (3) Issues with bureaucracy → training/ communication gap/hierarchy gap/ inter-agency coordination/ lack of incentives/motivation.
- (4) Issues with outcomes – (a) expectations not met; (b) not legally enforceable → ineffective; (c) not inclusive; (d) excessively complicated; (e) awareness/empowerment; (f) vague/non-quantifiable standards; (g) one-size-fits-all approach.

#4 What can be done for effective implementation of citizen's charter?

- (1) 2nd ARC – (a) mention → only deliverable promises/expectations (b) defined penalty/compensation → not meeting set standards (c) suit local conditions (d) consultations → stakeholders (e) evaluate/update periodically.

Panchayati Raj Institutions

#1 What is democratic decentralization?

- (1) Devolution of powers, functions & resources → democratic institutions → lower level → facilitate greater + direct participation of people → process of governance.
- (2) Gandhi's vision of 'swaraj'; motto of 'Power to People'; horizontal distribution of power; DPSP → Article 40.
- (3) Benefits – (a) people → sense of ownership → development projects; (b) Elected authorities → decisions → local needs; (c) ↑ acceptability of programs.

#2 How have Panchayati Raj Institutions led to democratic decentralization?

- (1) 73rd Amendment, 1993 → institutionalized democracy at grassroots (constitutional status) [Part IX - "The Panchayats"; 11th Schedule]
- (2) Balwant Rai Mehta Committee [1957] → establishment of democratic, decentralized local government.
- (3) Political decentralization – 3-tier → village level → Gram Sabha – (a) participation and accountability; (b) elections held regularly; (c) high voter participation; Societal → Reservation [1/3rd – women; SC/ST – proportional to population]
- (4) Gram Sabha – (a) review annual statement of accounts + report on preceding financial year; (b) development programmes → Social audit (c) identification of beneficiaries' → schemes.

#3 What are the various issues faced by PRIs?

- (1) Inadequate financial autonomy – (a) levy and collect taxes, fees, duties etc. (b) Recommendation of SFC → partially/not implemented; (c) devolution of funds → tied with schemes [conditional]
- (2) Inadequate devolution of powers / functions – (a) states → not devolved required subjects + power; (b) reluctance → bureaucrats/ministers/ MLAs → share powers/authority; (c) encroachment → agencies/departments of state government; (d) District Magistrate → control/hinder → approvals and sanction.
- (3) Inadequate Functionaries – (a) dependence on state machinery → implementation; (b) deficiency of man-power (c) inadequate training/access to technology/incentive/motivation.
- (4) General trend - (a) decentralization of corruption; (b) sarpanch-bureaucracy nexus; (c) sarpanch-pati phenomenon; (d) variation among states; (e) intensified caste/religion politics

#4 What can be done to resolve these issues?

- (1) Mani Shankar Ayer Committee – (a) Centre-drafted model Gram Sabha law → motivate State legislation; (b) freezing rotation of reserved seats [2-3 terms] → incentivize good work + facilitate capacity building of leadership; (c) incentivize PRIs for transparency & accountability; (d) reorient outlook → lower bureaucracy (e) setup → National Commission for Panchayat Raj

NHRC - Issues and challenges

#1 What are Human Rights?

- (1) Universal rights inherent to human, regardless of nationality/sex/national/ethnic origin/color/ religion/ language/ status.
- (2) Range - from fundamental → right to life to right → make life worth living
- (3) HRs are – (a) Universal and inalienable; (b) indivisible and interdependent; (c) Equal and non-discriminatory; (d) Both rights and obligations.

#2 What is the National Human Right Commission?

- (1) Protection of Human Rights Act of 1993; independent statutory body; Chairman + 4 full-time + 4 ex-officio members; watchdog of human rights.
- (2) Compliance → Paris Principles of Human Rights, 1991.
- (3) Roles – (a) Investigate complaints → violation of Human Rights → suo moto | receiving petition [e.g. Sterlite Protest, HR violation in Kashmir, Best Bakery case]; (b) recommend → compensation / damages [power of civil court → grant interim relief]; (c) interfere → judicial process → allegation of HR violation; (d) visit prison/institute; (e) review Constitution/Laws (f) Research + raise awareness & literacy

#3 What are the various issues/ criticisms facing the working of the NHRC?

- (1) Recommendations → not binding; only investigative & recommendatory powers; no prosecution powers; independent investigative apparatus → not available; [SC (2017) → “reduced a toothless tiger.”
- (2) No jurisdiction → private entities; No power to penalize non-compliance; Limited jurisdiction → armed forces/ para-military forces; One year limit to receive complains
- (3) Perception → post-retirement destinations → judges/ police officers / bureaucrats → political clout.
- (4) Issues of frivolous cases; excessive case-load; lack of trained staff / expertise / funds

#4 What are the criticisms against the Protection of Human Rights (Amendment) ACT, 2019?

- (1) Changes – (a) Judge of SC → eligible → Chairperson; (b) reduced term chairman + members → 3 years [earlier 5] + eligible for reappointment; (c) members → 3 [from 2] [1 woman]; (d) ex-officio members → include chairperson NCBC + NCPCR + (Chief Commissioner) Persons with Disabilities; (e) HR issues of UTs → SHRCs [Delhi → NHRC]
- (2) Justification – (a) benefit → filling vacancy of positions; (b) enable both the NHRC and SHRCs to be more compliant with the Paris Principles;

#5 Should NHRC be given a Constitutional status?

- (1) Arguments in favor – (a) protection against frequent/easy amendments → structure/ independence/ functions; (b) ↑ legitimacy → recommendations considered more seriously; (c) stable/ increased access to funds [CFI]; (d) ↑ recognition → India's Human Rights credentials.
- (2) Arguments against – (a) may be mere cosmetic change; (b) does not address structural / functional challenges; (c) rigidity against evolving nature of human rights; (d) increased powers → increased conflict with executive/ judiciary.



National Education Policy 2020

#1 What is the need for a new education policy?

- (1) Current policy → outdated [last updated → 1986 → 1992]
- (2) Paradigm shift - nature of economy/ industries/ technology/ skills; [capitalize on 4th Industrial revolution]; rise in middle class → growing aspirations.
- (3) Current issues – (a) poor learning outcomes [ASER] (b) focus → rote learning / degree-oriented; (c) inadequate capital / infrastructure / investment (d) neglect → Indian languages; (e) brain-drain; (f) early dropouts (g) lack of focus → skills (h) not suited to global demands.

#2 What are the features of the NEP 2020?

- (1) Drafted by **Dr. K. Kasturirangan**; MHRD → Ministry of Education; increased expenditure → 6% of GDP; integration of technology → all levels of learning.
- (2) **Principles** – (a) Flexibility → subjects/ curricular/ extra-curricular activities; (b) Multi-disciplinary education (c) Conceptual understanding; (d) Critical thinking (e) Ethical Values (f) Teachers → heart of learning process; (g) strong public education system
- (3) **School Education** – (a) Curriculum framework → 5+3+3+4 [replace 10+2 framework]; (b) universalization [100% GER] by 2030; (c) emphasis on mother tongue/ regional languages; (d) vocational education + 21st century skill like coding; (e) Assessment → 360° Holistic Progress Card; (f) National Curriculum Framework for Teacher Education; (g) 3-language formula.
- (4) **Higher Education** – (a) GER → 50% by 2035; (b) flexible/ holistic/ multi-disciplinary; (c) Graduation → 3-4 year, Masters → 1-2 years; (d) multiple exit options; (e) Multidisciplinary Education and Research Universities [MERUs]; (f) transferable Academic Bank of Credit; (g) single umbrella body → HECI; (h) PPP + foreign universities.

#3 What is the significance of the NEP?

- (1) Education → **more inclusive** - inclusion funds; prevent early dropouts; inclusion of vulnerable sections; prevent unrestricted commercialization of education sector
- (2) Transform India from '**degree hungry nation**' → '**employable nation**' - inter-disciplinary; vocational training; shift – rote learning → core competencies;
- (3) **Expands the ambit** of Universal education from 6-14 year to 3-18 years.
- (4) Promote → **healthy competition + best practices**.

#4 What are the various criticisms against the NEP?

- (1) May reduce global comparative strength - Shift from English-orientation; ignores new technologies.

Contempt of Court - Issues and challenges

#1 What is contempt of court?

- (1) Protect judicial institutions from motivated attacks & unwarranted criticism + a legal mechanism → punish those who lower its authority.
- (2) **Objective** - safeguard public interest; prevent denigration → authority of Court; preserve public confidence → administration of justice; preserve rule of law
- (3) Recent controversy – **Prashant Bhushan case**; suo motu cognizance; Observation – guilty of Contempt + tweets → “shaken the very foundation of constitutional democracy”.

#2 What is the law regarding contempt of court?

- (1) **Constitution** – (a) Article 129; (b) Article 142(2); (c) Article 215; Article 19(2).
- (2) **Contempt of Court Act, 1971** - outlines procedure → investigation/ punishment → contempt; Divides → civil + criminal contempt;
 - a. Civil contempt – wilful disobedience → judgment/decree/direction/order/writ/ processes/ undertakings
 - b. Criminal contempt – Scandalising + Interference + Obstruction
 - c. Section 13 – restrict powers of court → **due process of justice**; Amendment [2006] → ‘defence of truth’.

#3 What the various issues/criticisms surrounding contempt of court?

- (1) Liable to misuse - Wide and elastic text of law → any criticism → ambit of contempt.
- (2) Antithetical to the idea of deliberative democracy [Article 19]
- (3) Colonial Hangover; “scandalizing the court” → abolished in England.
- (4) Not aligned with jurisprudence on Seditious law; obstructs judicial reforms.

#4 Do we need a Contempt of Court law?

- (1) **Arguments in Favour** – (a) Contempt – derived from constitution / continue to exist; (b) reduce → reputation + authority of court; (c) high number → instances/cases; (d) has safeguards against misuse [section 13]; (e) impact subordinate courts.
- (2) **Arguments Against** – (a) Against Civil Liberties + democratic principles; (b) easily invoked [suo motu] + wide interpretation; (c) dichotomy and arbitrariness → judicial precedents (d) obsolete in foreign democracies (archaic); (e) era of social media.
- (3) **Need of the hour** – (a) Law Commission - need to retain; restrict → civil contempt; (b) Courts → follow ‘Mulgaonkar principles’; (c) need to revisit tests/ punishments on contempt.

Role of Civil Services – Issues and Challenges

#1 What is the importance of civil services in the governance process?

- (1) All India character; binding; Administrative + managerial capacity
- (2) Recruitment → independent /autonomous [UPSC]; rigorous training & selection process
- (3) Effective policymaking + regulation + effective coordination + leadership role → governance
- (4) Service delivery → Technological adoption & adaptability + high integrity + code of conduct.
- (5) Permanent executives - 'continuity & change' → administration [stability/certainty in policies + repository of new ideas]

#2 How do civil servants act as an agent of socio-economic and political transformation?

- (1) Social – policy formulation/ implementation; protection to vulnerable sections; equality, justice and equal protection of law.
- (2) Economic – Impartial public service delivery Identification of beneficiaries [welfare schemes]; food security; tax collection + wealth redistribution; employment/ livelihood; financial bodies → recommendatory [Finance Commission /regulatory [SEBI, IRDA]/ taxation [IT, GST]
- (3) Political – unity & integrity; participatory democracy; fair and transparent elections; guide to political executives; continuity in governance/policies; Protect national interest in international arena.

#3 What are the various issues plaguing the civil services?

- (1) **Structural impediments** (a) poor capacity building + professionalism; (b) mismatch → skills/tasks [generalists v specialists]; (c) outdated rules/procedures; (d) promotions → years of service/reservation [dis-incentivize merit]; (e) simultaneous instances of vacancy + overstaffing;
- (2) **Operational impediments** – (a) Lack of incentives/motivation [job-security; Article 311 – Dismissal/removal] (b) arbitrary transfers; (c) upright and outstanding civil servants → not rewarded/recognized; (d) Political interference/ pressure/patronage [committed bureaucracy]; (e) ethical code of conduct/ misappropriation of funds.

Civil Services Reforms – Mission Karmayogi

#1 What is the need for reforming civil services?

- (1) Technological advances; globalization; greater decentralization, informed/empowered citizenry and social activism → increasing expectations → better governance.
- (2) Instances of abuse of power [e.g. Surajpur DM case]; corruption; committed bureaucracy
- (3) Expanded role → administrators → agents of development; increased capacity of State.

#2 What are the various reforms undertaken/required in civil services?

- (1) **2nd ARC** – (a) review → 14 years service; (b) mandatory training → induction/ mid-career (b) National Institutes of Public Administration; (c) Civil Service Board → appointments; (d) Performance Management System; (e) Code of Ethics.
- (2) **NITI Aayog's Strategy for New India @75 document** – (a) Recruitment → Rationalize number of officers/services/ cadres; central talent pool Lateral entry; (b) Training → Reorient → shifting economy; urban areas; online avenues for training; Mid-career exams/ assessment; (c) Evaluation → ACRs → MSF; goal setting/ tracking; online SPARROW template; (d) Governance → ICT + RTI; reduce external influence protect honest civil servants; (e) E-initiatives and Probity → review → vigilance operating manuals; strengthen CPGRAMs.
- (3) Effective implementation of reforms proposed in "Mission Karmayogi".

#3 What is "Mission Karmayogi"?

- (1) **National Programme on Civil Service Capacity Building** – human resource development → civil services; reforming → training & capacity → individual/ procedural/ institutional level.
- (2) **Objective** – creation of 'citizen centric civil service'; capable → creating /delivering services → economic growth and public welfare.
- (3) **Framework** – (a) Human Resource Council [HRC] → PM; (b) Capacity Building Commission → aid HRC → formulating training standards + creating shared faculty / resources; (c) Wholly owned SPV → own /operate iGOT (integrated government online training) platform.

#4 How can 'Mission Karmayogi' be a transformative step?

- (1) 'Rules based' → 'Roles based' human resource management; aligns work → competencies; framework of roles, activities and competencies approach (FRAC)
- (2) Undertake courses + learn international best practices [iGoT]; 'off-site' + 'on-site' learning; emphasis → lifelong learning; fight complacency; update → changing needs.
- (3) Performance-based evaluation → identify areas of expertise; HRC/PM → monitor capacity + building

Lateral Entry in Civil Services

What is lateral entry into civil services?

- (1) Initiative to attract capable/talented/motivated people → not selected through UPSC/not part of bureaucratic setup → administrative posts of the government.
- (2) Opened 10 positions → Joint Secretary level; period of contract → 3 years [extendable → 5 years]; minimum 15 years work experience.

What is the need of introducing lateral entry into civil services?

- (1) Changing nature of governance – more complex; ↑ role in development process; rapid growth in emerging sectors – climate change, cyber-security/digital infrastructure, renewable energy etc.
- (2) Lack of specialization → top tier → bureaucracy; training different vis-a-vis tasks/postings; not updated → specialized knowledge.
- (3) Officers recruited → very early age → difficult to gauge administrative capabilities/ judgments; lateral entry → seasoned professionals/experts.

What are the benefits from lateral entry into civil services?

- (1) Bring fresh ideas/ new approach → governance; understanding of impact of policy → private/voluntary sector.
- (2) Outcome/target oriented new leadership talent + corporate work culture + efficiency + enthusiasm.
- (3) Introduce merit + competitive environment; compel civil servants to increase efficiency/ competency.
- (4) Baswan Committee → lateral entry → fill vacancies in All India Services [21%]; lesser burden on exchequer → limited salaries/pensions/training/induction.

What are the various issues/apprehensions related to lateral entry?

- (1) Against constitutional ethos – (a) reduces role of UPSC → central recruitment agency; (b) apprehensions → political influence /partiality/ favoritism in hiring; (c) Ad-hoc solution to a structural problem; (d) reservation → not applicable.
- (2) Lateral entrant → no long-term interest in government [opposed to career bureaucrats]; work on resume development; short tenure → difficult to establish accountability/ responsibility [revolving door problem].
- (3) Apprehension - (a) lateral entrant → face resistance/ non-cooperation from bureaucrats; (b) offers → not lucrative enough; (c) fitting in government work-culture → difficult (d) may create conflict of interest → private players in decision making role.

Panchayats (Extension to Scheduled Areas) Act

#1 What is PESA Act of 1996?

- (1) Law → ensuring self-governance [Gram Sabhas] → people living in 5th Scheduled Areas
- (2) Part IX → not applicable to the Fifth Schedule areas [10 states]; PESA → extend provisions of Part IX to 5th Schedule [with exceptions & modifications]
- (3) Objectives – (a) enable Gram Sabhas → nucleus; govern natural resources + protect common properties → traditional systems; (b) self-governance → tribal people; (c) administrative provisions → traditional practices; (d) ensure Panchayats [higher level] → not assume powers/authority → GS. [2013 SC case → Niyamgiri hills]

#2 What are the salient features of the act?

- (1) State legislation → (a) consonance → customary law/ socio-religious practices /traditional management practices; (b) administrative pattern → follow pattern of 6th schedule
- (2) Gram Sabha → (a) Approve plans/programmes/ projects → socio-economic development; (b) identification of beneficiaries; (c) acquisition of land/project devt./ relocation /rehabilitation; (e) license/lease → mining minor minerals; (f) ownership → minor forest produce.
- (3) Representation - Reservation → proportion to population [min 50% → ST] + Chairperson [panchayats → all levels] → STs + nomination of STs [if inadequate rep]
- (4) State legislature → ensure GS have power to - (a) regulate/prohibit intoxicants; (b) prevent + restore alienation; (c) manage village markets; (d) exercise control → money lending → STs; (e) control → institutions/functionary → social sectors; (f) control local plans & tribal sub-plans.

#3 What are the problems associated with the act?

- (1) After 25 years → (a) disempowered → 40% states [4/10] → not framed rules for implementation; (b) bureaucratic system of functioning [panchayats secretaries] (c) Powerful people → still control natural resources; (d) poor implementation; (e) ambiguous definitions → interpretation by bureaucracy.
- (2) Lack protective umbrella of a district level body (like District Council of 6th Schedule) → their decisions are routinely ignored/ overruled by state officials;
- (3) Dilution/conflict → role of TACs; 2 ministries → Panchayati raj + Tribal Affairs; lack of coordination; inactive role of Centre.
- (4) State legislations → omitting fundamental principles → losing spirit of PESA;

#4 What is the Pathalgadi movement?

- (1) Practice → Adivasi villages erect huge stone structure at entry point of villages → notifying power & rights of gram sabhas.
- (2) Concentrated → 4 districts [Khunti, Gumla, Simdega, West Singhbhum]; spread Jharkhand/

Scheduled Areas (5th and 6th Schedule)

#1 What are scheduled areas?

- (1) Area approach → for administrative + developmental → tribal people.
- (2) Article 244 [Part X] "Scheduled Areas" → declared by President [consultation → Governors]
 - a. scheduled areas → inhabited by 'aboriginals' → socially/economically backward → special efforts → improve condition.
- (3) Criterion → "scheduled area" – (a) preponderance → tribal population; (b) compactness + reasonable size; (c) under-developed nature; (d) marked disparity in economic standard.

#2 What is the difference between fifth schedule and sixth schedule areas?

- (1) Fifth Schedule – Establish Tribes Advisory Council [20 → $\frac{3}{4}$ → ST representatives in SLA]; Governor → decide if central/state laws apply (consultation with TAC) + repeal/amend state regulation (assent of President); tribal population → minority vis-à-vis outsider
- (2) Sixth Schedule – Assam, Tripura, Meghalaya, Mizoram; [not assimilated, "anthropological specimen"]; Autonomous districts [30 → 26+4] → make laws [assent of governor], constitute courts for trial; assess/collect land revenue + tax work like "mini Parliaments." establish/ manage public infrastructure; Central/state laws → not applicable/ applicable with exceptions.

#3 What are the problems faced by tribal communities in scheduled areas?

- (1) Post-independence policy → "development through integration" → paternalistic/ patronizing → fails to capture aspirations → 'develop according to their own genius.'
- (2) Land-based identity; law recognizes → individual ownership [documented]; reality → community ownership [no documentation].
- (3) No prohibition on state acquiring land [for development purposes]; dams/ mines/ industries/ wildlife sanctuaries/ national parks → biggest displacer + No restrictions → movement/ settling of non-tribal communities → displace STs.
- (4) Governments → selling/encroachment of lands → loss of livelihood + displacement from ancestral lands + disruption of community-based cooperative living, forced → undignified labor; migration.
- (5) Forest department officials → twin roles of police + landlords; considered STs → "encroachers".

#4 What are the issues facing working of TACs & ADCs?

- (1) State governments [not Governor] → framed rules regarding TAC functioning → usurpation of these bodies by political parties in power.
- (2) ADC – male dominated [tribal traditions don't normally recognize role of women in social politics;

Election commission of India

#1 What is Election Commission of India?

- 1) Constitutional body → [Art 324]; Established → January 26, 1950;
- 2) Appointment → President; one Chief Election Commissioner + 2 Election Commissioners [At present]
Mandate → Conduct free and fair elections;
- 3) Constitution of India → do not prescribe qualification of members → Do not bar retiring member for other government posts → Not specified term of members (govt decided tenure; 6 years/65 years of age whichever is earlier) → Expenditure of ECI not charged on consolidated fund of India
- 4) Removal; [a] Chief Election Commissioner → President → on proved misbehavior/ Incapacity → Resolution passed by both houses [Special majority]; [b] Election Commissioner → President → on recommendation of Chief election commissioner

#2 What is the role of Election Commission?

- 1) To notify and administer elections to → Lok Sabha + Rajya Sabha + State Legislative Assemblies + President + Vice President
- 2) To prepare & periodically revise electoral rolls + register all eligible voters [Art 325] + Determine territorial constituencies [based on delimitation act]
- 3) To Regulate → Political parties & their registrations & recognition + prescribe limits on campaign expenditure of parties & candidates,
- 4) To decide → Symbol allotment in case of party split/merger + disqualification of member under RPA act + Cancel/reconduct election in case of booth capture/rigging/malpractice.
- 5) To enforce → Model code of conduct

#3 What are the Challenge Election Commission of India is facing?

- 1) Political parties; [a] Funding of political parties; [b] Media advertisements; [c] Criminal-politician nexus; [d] No power to regulate in party democracy
- 2) Operational; [a] Credibility of EVM/VVPAT machines; [b] Violation of MCC [No power for ECI to punish]; less staff to carry huge work load.
- 3) Politicisation of Election Commission; [Chief Election commissioner Gopala swami accused his deputy, Navin Chawla of partisanship in 2009].
- 4) Independence of Election commissioners; Constitution → mentions only CEC; other two members → not on par with CEC;

#4 What reforms does Election Commission need to address the challenges?

- 1) Structural; non-partisan functioning of ECI → Collegium system [Tarkunde Committee, 1975 and the Goswami Committee, 1990]; Increase staff & operational efficiency for ECI.
- 2) MCC → make it legal; Deregister parties for grave violations
- 3) Legislative changes; → Section 126 of RPA act [prohibits election campaign through public meetings, processions, etc., by television and similar apparatus] this section do not apply to print media, it should be included.

Electoral Reforms

#1 What are the issues with Electoral Process in India?

- (1) [a] Rise in use of money and muscle power; [b] Intimidation of voters; [c] Abuse of religion and caste; [d] exceeding legal limit of expenditure for elections; [e] Poll violence; [f] Suppressing information about assets, and criminal antecedents in nomination papers; [g] Horse trading; [h] Paid news/false propaganda.

#2 What are the reforms proposed?

- (1) Dinesh Goswami committee: [a] Proportional representation system instead of FPTP; not to contest from more than 2 constituencies; [b] Speedy trial of election disputes by ad-hoc judges; Proxy voting [for army, paramilitary, diplomats]
- (2) FPTP [first past the post] system; Person who gets maximum vote wins elections [Instead of majority 51%]; Why India adopted it → familiarity with the system + less complicated + less expensive + Illiterate voters [at the time of independence]
- (3) Proportional representation system: vote share → proportional to seat share [BSP party in 2014]
- (4) Jeevan Reddy Committee: [a] Ban on split and mergers of parties during term of Lok Sabha; [b] hike in security deposits for independent + non-cognate party candidates; [c] disqualify member if court orders to frame charges according to RPA 1951.
- (5) Vohra committee: [a] criminal-politician nexus [b] Setup parliamentary committee on Ethics; [c] code of conduct for political parties; [d] Parties → publish audited annual reports publicly.
- (6) Indrajeet Gupta committee: [a] State funding of elections (600 crores from state and centre every year for election corpus fund); [b] compulsory submission of audited reports of parties to income tax dept.
- (7) Law commission: [a] no confidence motion once defeated should be introduced only after 2 years; [b] false affidavit submission → make offence under section [125] of RPA; [c] Election expenses → count from date of notification instead of nomination.

#3 Recommendations implemented by government so far

- (1) Legislative: [a] cannot contest from more than 2 constituencies, [Section 33 (7) of RPA]; [b] Passed Anti-defection law (1985); [c] Electoral Bond scheme
- (2) Supreme Court interventions; [a] make audit report public; [b] declare criminal antecedents, assets, in nomination paper compulsory; [c] NOTA

#4 Important cases related to electoral reforms

- (1) ADR Vs Union of India (2002); Contesting candidate should disclose assets and criminal cases in nomination papers.
- (2) Lilly Thomas Vs Union of India & Ors (2013); member should be disqualified automatically when convicted by court.
- (3) PUCL Vs Union of India (2013); Right to negative vote (NOTA)
- (4) Subramanian Swami Vs ECI [2013] → VVPAT is indispensable for free and fair elections
- (5) Abhiram Singh Vs CD Commachen [2017] → Election will be annulled if votes sought in the name of religion

Finance commission

#1 What is finance commission?

- 1) Constitutional body under Art 280 of constitution;
- 2) Non-permanent body; constituted by President; term; 5 years/earlier, [if president thinks fit].
- 3) Composition: 1 chairman+4 members; Qualification; parliament will decide; chairman- should have expertise in public affairs; other 4 members; [1] should be/qualified to be judge of high court; [2] person with special knowledge in finance; [3] person with experience in financial matters; [4] person with special knowledge in economics.

#2 What is the mandate of finance commission?

- 1) To decide on [a] net distribution of taxes between centre and states ; [b] principle for grant in aid to states; [c] measures to augment consolidated fund of states; [d] supplement resources to Local bodies based on State finance commission recommendations.

#3 What are the recommendations of 15th Finance commission?

- 1) 15th finance commission [present] tenure; [2020-26]; President asked to prepare two reports; [a] FY 2020-21 [b] FY 2021-26; recommendations for FY 2020-21 & 2021-26 [a] vertical devolution of 41%; (b) 1% for erstwhile state of J&K; horizontal devolution [based on 5 indicators] [1] 45% to income distance ;[2] 12.5% for demographic performance ; [3] 15% to population [2011 census] [4] Area 15%; [5] 10% to forest and ecology; [6] 2.5% to tax and fiscal efforts. The only change for 2020-21 and 2021-26 is: Income distance reference period for 2020-21 is 2015-2018 and for 2021-26 is 2016-19.
- 2) Principles for grant in aids/performance incentives to states; based on 4 areas [1] social sector [health, education]; [2] rural economy [agriculture, roads]; [3] governance and administrative reforms; [4] reforms in power sector.
- 3) Local body grants; Total grants Rs 4.36 lakh crore 2.4 lakh Cr for rural+1.2 Lakh for urban
- 4) Disaster Risk management: Centre + state contribution to corpus fund [a] 90:10 percent for NE and Himalayan states [b] 75:25 for other states .
- 5) Modernisation Fund for Defence and Internal Security (MFDIS): total corpus 2.4L cr+ 1.5 L from consolidated fund of India+ Defence PSU divestment+ defence land monetisation.

#4 How 14th FC recommendations changed fiscal allocation structure?

- 1) 14th finance commission- increased divisible pool of taxes from 32% of earlier FC to 42%[drastic change]; asked centre to reduce conditional grant-in-aids to states; States received larger share of finance; States got much autonomy in deciding their expenditure priority; this is in the spirit of "balancing wheel of fiscal federalism"

#5 What are the issues related with finance commission?

- 1) [a] Non-permanent body; [b] mere advisory body [recommendations are not binding on the government]; [c] TOR [terms and reference] for FC are decided only by centre, states have no role. [d] one time recommendation for 5 years becomes difficult, as economic conditions are changing rapidly [particularly after post liberalisation]

#6 What reforms are needed?

- 1) Finance commission should be made as a permanent body [Rajamannar committee] so as to; address implementation issues arising from its recommendations in intervening time.
- 2) Government should mandatorily agree to recommendations of Finance commission in spirit.

Comptroller and Auditor General of India (CAG)

#1 Constitutional Provisions of CAG

- 1) CAG is an independent authority under the Constitution of India [Art 148]; Appointment → president; Oath; → administered by president/ any other member appointed by him; Term → 6 years/65 years of age [whichever is earlier]; Removal → same manner as Judge of supreme court; Post retirement → not eligible for office under the Government of India/state; Independence of CAG; Salary and office expenses charged on consolidated fund of India + service conditions not varied after appointment, to his disadvantage.

#2 What are the constitutional duties and powers of CAG

- 1) As a guardian of public purse, it audits the accounts of [a] expenditure from the Consolidated Fund of India; [b] Consolidated Fund of each state and UT's having a legislative assembly; [c] Contingency Fund of India; [d] Public Account of India; [e] Contingency Fund and Public Account of each state [f] accounts of any central/state departments; [g] accounts of any PSU/authority funded by central/state govt; [h] Audit on appropriation account [i] any other function assigned by president/Governor;
- 2) Type of audits carried out by CAG: Financial [expenditure & revenue] + Propriety [whether expenditure is made in public interest] + Performance [efficiency in spending].
- 3) Limitations; [1] Secret service audit; [2] Some public corporations [for e.g. LIC, RBI, SBI]
- 4) Acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.

#3 What are the challenges & issues before CAG?

- 1) Challenges; [a] No criterion/procedure in the Constitution for appointment of CAG [b] Work load; Audits are getting complex for reasons like corruption/ maladministration/ denial of records + increasing public-private partnerships (PPP) projects. [c] Sensitive Vs Public information [shortage of ammunition in army etc.]
- 2) Issues: [a] Controversy over Propriety audit [2G Scam]; [b] Accounts are audited after actual expenditure is made [post-facto]; [c] CAG do not have power to take action on serious observations.

#4 What reforms are needed?

- 1) [1] CAG should be made to act as comptroller like in UK; [2] CAG should be made a multimember body to decrease work load [3] Government should devise a mechanism to take actions on observations of CAG → corrective measures taken → before parliament; [4] Bring all Panchayat Raj Institutions and societies benefitting from government, within the ambit of the CAG + a collegium type mechanism to appoint CAG + Amend CAG act 1971 to keep pace with changes in governance [recommendation by former CAG Vinod Rai].

#5 Important cases related to CAG

- 1) Arvind Gupta Vs Union of India; Petitioner [2013]: CAG has power to conduct performance audit.
- 2) Arun Kumar Aggarwal Vs Union of India [2013]; CAG's report is always subject to scrutiny/comment by the Parliament. court cannot consider it final.
- 3) National Dairy Development Boards Vs. CAG of India [2010]: CAG can conduct audit to any

Attorney General for India

#1 Constitutional Provisions

- 1) Art 76; Chief law officer of India; Part of Executive branch; Appointment → President; Qualification: → person qualified to be appointed as Judge of supreme court/ eminent jurist; Tenure: no fixed tenure [Pleasure of president]; He is assisted by Solicitor general/ Additional solicitor general in his official duties.

#2 Role, Rights & limitations of Attorney General

- 1) Role; Advice Government of India for such legal matters referred by president; not a whole-time legal counsel/servant of GOI; Represents GOI: [a] in Supreme court/ high court ; [b] before Supreme court when president seeks advice under Art 143. [c] Any other matter referred by president; [d] Ex-officio member of BAR council.
- 2) Rights:[1] Take part in proceedings of parliament/joint sitting/committee; [2] Enjoys all privileges and immunities available for member of House; [3] not barred from private legal practice; [4] Right of audience in all courts [5] sanction initiation of contempt of court motion against any person in supreme court; [6] ensure justice is done to people of India.
- 3) Limitations:[1] Cannot vote in parliament/committee [Art 88] ; [2] cannot advise or hold brief against GOI; Without approval of GOI he should not [a] defend accused person in criminal case; [b] accept role of director in any company/corporation.

#3 Issues with the office of Attorney General

- 1) Independence of AG; Salary of Attorney general is not charged on consolidated fund of India; No fixed tenure.
- 2) Unconstitutionality of laws: Government will not consult Attorney General for constitutional/ legal soundness of every bill which leads to litigations at later stage.
- 3) Role; only occupied with defending government in courts, according to constitution he is Attorney General for India [for people] → ensure justice done to people
- 4) Conduct of AG; In 2013 the then AG, G. Vahanavati was testified before supreme court for corruption charges in 2G scam+ for misrepresenting facts for court in Coalgate scam

#4 Attorney General; India and USA- a comparison

- 1) Attorney general of USA; [a] part of cabinet and holds executive power; [b] Head of Department of Justice; [c] recommends president on all judicial federal appointments; [d] controls and supervises all the attorney generals of states.
- 2) Attorney general of India; [a] Not part of cabinet and holds no executive power; [b] Law Secretary is the head of department of justice; [c] plays no role in judicial appointments; [d] has no control on Advocate generals of state [an independent constitutional body].

National Commission for Backward Classes (NCBC)

#1 what are the Constitutional Provisions?

- 1) Art 338B [added by 102nd Amendment]; Multi member body; Appointment→ President; Composition one chairperson + one vice chairperson + 3 members; Tenure; decided by president.

#2 What are the benefits of getting constitutional status?

- 1) Population of OBC in India is nearly 50% [according to Mandal commission] having a constitutional body for OBC is logical and will serve the justice equitably.
- 2) NCBC will have power to hear complaints/atrocities like NCSC/ST.
- 3) NCBC will have powers of Civil court [It can summon, collect evidences etc]
- 4) It will be difficult to dissolve NCBC through ordinary parliament bill.

#3 what are the duties of NCBC?

- 1) Commission has power to regulate its own procedures;
- 2) Duties: to investigate/monitor all matters of safeguards provided for the socially and educationally backward classes [shall have powers of civil court in this aspect] + enquire in to complaints for deprivation of rights + Participate/advise/evaluate progress and welfare of backward classes for Union/states + present report to president annually + examine inclusion/exclusion of any community from OBC list.

#4 what are the Challenges & Issues with functioning of NCBC?

- 1) Challenges: No proper criteria for backwardness; no updated caste census data; has no penal powers on any serious observations; demands from various social groups for increasing quota in employment. Sub-categorisation of OBC community creates hurdles.
- 2) Issues: Merely advisory body will not solve the problems of backward classes; not implementation of 27% of quota by many states; Separate list of OBC for state and centre.
- 3) Lack of representation in public affairs/organs of government.
- 4) Increasing Privatisation increased the socio-economic gap, just a constitutional body is not enough to work out the challenges.

#5 what reforms are needed?

- 1) Determine logical/sound criteria for Backwardness; Conduct caste census for accurate data on OBC;
- 2) There should be only one central list of OBC to avoid ambiguities; NCBC should be given power to impose penal action on grave violation against OBC.

National Commission for Women (NCW)

#1 Provisions in NCW act

- 1) Set up in 1992; Established under the National Commission for Women Act, 1990; Mandat → to review the constitutional and legal safeguards for women.
- 2) Composition; → one chairmen + 5 members [at least one-member form SC/ST] sh uld possess experience in [legislation, trade unionism, management of industry potential of women, women's voluntary organization etc.] + one member secretary [represents govt].
- 3) Appointment: Central government.

#2 Duties of NCW

- 1) Duties; [a] Investigate in to complaints/Inquiry/examine the ses rela ed to constitutional/legal safeguards of women; [b] take Suo motto notice on non-implem tation of laws/ policies on women; [c] Recommend suitable amendments to laws/policies on w men welfare to concerned authorities. [d] Takes part in planning socio-economic development/measur s to increase women representation in various fields; [e] Undertake research on issues o women; [f] Inspection of women jails/destitute homes. [g] Counselling/ grievance redressal.
- 2) NCW shall have power of a civil court while enquiri ng into cases related to women.

#3 challenges in the functioning of NCW

- 1) It does not have powers to choose s own members [only centre selects]
- 2) No financial independence [dep nds on centre] will compromise working of commission. only centre grants money, states do not de lve much amount to state commissions.
- 3) To remove Patriarchal mind et, i requires so much effort like education and awareness which is the reason for less repre entation of women.
- 4) Domestic violenc and other issues of women after underreported and go unnoticed, NCW do not have powers/resources o address such grievances.
- 5) Most of women ar naware of their legal/constitutional safeguards and about the commission.

#4 Reforms needed

- 1) h Commission should be given powers to choose its own members
- 2) Government should allocate more budget on educating women about their rights and take recommendations of Commission seriously
- 3) NCW should be given constitutional status for greater autonomy.
- 4) NCW should be given penal powers for grave violations.

#5 Should NCW be given Constitutional status?

- 1) Women constitute 50% of population it is logically sound that giving constitutional status will make sense.
- 2) During the Covid there has been 25% rise in complaints from l l women [according to NCW data] it stresses the need for giving more power/resources to this commission.

National Commission for Minorities (NCM)

#1 Statutory provisions

- 1) Established in 1993; under National Commission of Minorities act [Based on UN declaration to protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities]; Mandate → Look into welfare of 6 notified minority communities [Muslims, Christians, Sikhs, Buddhists, Jains, Zoroastrians]
- 2) Composition; one chairperson + one vice-chairperson + 5 members [all of them from minority community]; Appointment → Centre; Tenure; 3 years

#2 Duties of NCM

- 1) Evaluation of progress in development of minorities;
- 2) Monitoring of the working of the safeguards for minorities; make recommendations on laws/policies for welfare of minorities;
- 3) Ensuring PM 15-point programme for welfare of minorities implemented across India;
- 4) Look into complaints regarding deprivation of minorities rights Investigate into matters of communal riots;
- 5) NCM has powers of a Civil court while conducting enquiry.

#3 Limitations & challenges in the functioning of NCM

Limitations

- 1) Recommendations of NCM are not binding on government;
- 2) No regular appointments [vacancy in the commission];
- 3) Only government decides the criteria for Minority;
- 4) No financial independence depends on grants from centre. No proper data on socio-economic conditions of Minorities.
- 5) Non-constitutional status leading to no full autonomy.
- 6) Recommendations of NCM are often ignored by the government.

Challenges

- (1) Difficult to integrate minorities with majority with divisive mentality and politics with erosion of tolerance.
- (2) More than one third states do not have state minority commissions.
- (3) High cases pendency and no proper grievance mechanism due to lack of resources
- (4) Clash in the roles of Backward class commission and Minority commission as members in both the class are mostly same
- (5) Any special measures to Muslims [Haj pilgrimage] are contended by majority group in the name of secularism

#4 What reforms are needed

- 1) Technological upgradation to increase efficiency
- 2) Members should be evaluated for their performance during regular intervals to avoid executive lethargy
- 3) Expanding the role of state Minority commissions

Financial relations of centre and states

#1 Why need arises for centre and state relations in India?

- 1) Art [1] of the constitution → India shall be union of states; Centre and States → Independent and autonomous elements; Encroaching in others domain → detrimental to constitution; hence → Independent judiciary, & clear cut provisions in constitution are required.

#2 What are the Constitutional provisions on financial relations?

- 1) Part XII of constitution [Art 268 to Art 289],
- 2) Duties levied by the Union but collected and appropriated by the States [Art 268].
- 3) Taxes levied and collected by the Union but assigned to the States [Art 269]. Levy and collection of goods and services tax in course of inter-State trade or commerce [Art 269(A)].
- 4) Taxes levied and distributed between the Union and States [Art 270]
- 5) Surcharge on certain duties and taxes for purposes of the Union [Art 271]
- 6) GST council [Art 279A]
- 7) National emergency [Art 352] → President can modify the distribution of revenues between centre and state; → financial emergency [Art 360] → centre can give directions to state.

#3 What are the issue surrounding financial relations?

- 1) Vertical Imbalance → centre has more space to levy & collect taxes [of the total revenue centre alone collects 60%, while, states and local bodies together collect only 40%] → leads to excessive dependence of states on centre
- 2) Horizontal Imbalance: each state differs from other state in terms of Area, population, resources, social indicator's etc → difficult for finance commission to arrive suitable formula for performance-based incentives and grants
- 3) Surcharge & cess → arbitrary imposition of centre → not shared with states
- 4) GST → States lose individual taxation power.
- 5) Taxes on Income & residuary subjects → States cannot collect [exclusive for centre]
- 6) Borrowings → states can borrow only up to the limits imposed by centre [WMA]
- 7) GST compensation issue in 2020
- 8) 15th Finance commission used 2011 census on population component for horizontal devolution [southern Indian states have seen reduced allocation]

#4 What kind of reform's proposed?

- 1) Rajamannar Commission [1969]; make Finance commission permanent body; do away with planning commission [implemented in 2014]
- 2) Sarkaria Commission [1983]; Corporate tax should be permissibly shared with states
- 3) Punchi commission [2007]; States to involve in deciding Terms of Reference for finance commission;

Administrative relations between centre and states

#1 What are the provisions in the constitution?

- 1) Mentioned in Part XI (chapter II) → Art 256 to Art 263;
- 2) Centre can issue Executive direction to states in case of
 - (a) Compliance of Parliament law.
 - (b) Construction, maintenance of means of communication (National or Military importance)
 - (c) Protection of the railways within the State.
 - (d) Provisions to facilitate mother-tongue → for linguistic minority students → at primary stage.
 - (e) Specified schemes in case of Scheduled tribes.
- 3) Mutual delegation of powers;
 - (f) President → consent of the Government of a State → entrust executive power of the Union → to the Government/officers of state (conditionally or unconditionally)
 - (g) Governor of a State → consent of Union Government → entrust executive power of the state → to Union Government (conditionally or unconditionally).
- 4) Union government → exclusive administrative authority → territories outside union of India (union territories).
- 5) Parliament by law → mechanism for adjudication of interstate river water/valley disputes.
- 6) Inter-State Council → president (Art 263) → established in 1990.
- 7) Coercive power of centre: if state fails to comply executive direction of Union (based on parliament law) → State emergency (Art 356) → States completely under control of Union.
- 8) All India services → Appointed by centre → immediate control state government → final control → union government.

#2 What are the issues in administrative relations?

- 1) All India services; States feel → AIS officers impose will of centre on states; All India judicial service → another issue of contention.
- 2) State emergency → arbitrary imposition → by citing reason of mal-administration
- 3) Interstate councils & Zonal council; largely unfunctional and became mere talk shop.
- 4) Overlap in legislative domain → results in overlap of Administrative domain.
- 5) For example, the 3 agricultural laws are passed by centre → Agriculture is “state subject” → it made obligation on state follow administrative direction of centre on APMC functioning [which is under state].

#3 What reforms are proposed?

- 1) Rajamannar commission (1969); (a) All India services should be abolished; (b) Inter-state council to be setup immediately.
- 2) Sarkaria commission (1983); establish zonal councils.
- 3) Punchi Commission (2007); State emergency → only in case of “constitutional machinery failure” its use should be exceptional and limited.

Legislative relations between centre and states

#1 What are the provisions in the constitution?

- 1) Part-XI; Art 245-255.
- 2) Division of subject matters; Schedule-7
 - a. List-I [Union list] 100 Subjects; List-II [State list] 61 Subjects; List-III [Concurrent list] 52 Subjects.
 - b. Union has exclusive powers [Art 246]; To make laws for the whole /part of the territory of India + make laws on matters in List I + make laws on residuary subjects + make laws on extra territorial matters.
 - c. State has exclusive power; To make laws on whole /part of state + make laws on List-II; law of state is applicable outside state only if sufficient nexus exists.
 - d. Union and State both have power to: make law on matters listed in List-III; In case of clash between both laws, law of centre prevails over state.
- 3) Union can make law on state subject when [; Implementing international treaty + Rajya Sabha passes resolution + two or more states request centre + National emergency is in operation + State is under president rule [Art 356].
- 4) Other provisions: Governor can reserve certain bills for presidential approval [e.g. case of interstate trade]; President can ask to reserve money bill of states during financial emergency [Art 360].

#2 What are the issues in legislative relations?

- 1) [1] Union's domination [many loopholes to make law on state subject]; [2] No power for states to make law on residuary subject; [3] Encroachment of Union over state subjects [through 42nd amendment 5 state subjects were transferred to concurrent list]; [4] Inefficiency of centre; too much power → too much responsibility → inefficiency. [5] States are not consulted by union before making law on concurrent subjects; [6] Important matters like Disaster management is not included in any list [created issue during pandemic].

#3 Cases related to Legislative relations

- 1) Gajapati Narayan Deo Vs state of Orissa [1953]; Doctrine of colourable legislation → should not colour the legislation to achieve hidden motive.
- 2) Union of India Vs Rajendra Nath Shah [2021]; SC partially struck down 97th constitutional amendment on Co-operative societies.
- 3) *Dr. P. V. Kamath Vs State of UP* [2005]; Doctrine of harmonious legislation; Subject matter clearly mentioned takes precedence over general matter in the list.

#4 What reforms are proposed?

- 1) Rajamannar committee; [a] Certain subjects to be transferred from union list to state list. [b] Residuary powers to be given to state.
- 2) Sarkaria commission; [a] Centre should consult states before making law on concurrent list; [b] existing biasness towards centre is valid.
- 3) Punchi commission; Union should make laws on only such concurrent subjects which are necessary to achieve uniformity.
- 4) Some states recommended abolishing concurrent list altogether to avoid clashes.

Legislative power of the Parliament

#1 Types of bills

- 1) Two types of bills
- 2) Public bills [bills introduced by minister]; Private members bill [bills introduced by any other member]
- 3) Classification of bills; [1] Financial bills; sub classified in to three types of bills [a] Money bills [Ar 110]; [b] Financial bill type I [Art 117(1)]; [c] Financial bill type II [Art 117(3)]; [2] Ordinary bills; [3] Constitutional Amendment bill [Art 368]

#2 Procedure to pass bills

- 1) 5 stages; Introduction of bill + committee/ discussion stage + acceptance/rejection stage + bill sent to next house + President approval.

#3 Issues in passing legislations in parliament

- 1) Role of speaker; In Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016 role of speaker is criticised for certifying it as a money bill which deprived the amending power of Rajya Sabha.
- 2) No proper scrutiny; Most of bills are passed in hurry without committee stage which later leads implementation issues [e.g. Abolition Art 370 of J&K state]
- 3) Decline in quality of debates; Issues of politics taking precedence over the subject matter of bills.
- 4) Repeated adjournments; which leads to wastage of valuable time and resources [members often boycott house and rush in to well of speaker]
- 5) Suspension of members; Sometimes members of opposition are arbitrarily suspended from proceedings of house [discretion of speaker]
- 6) No criteria to fix number of working days for parliament [Cabinet decides as per its convenience], ["parliament is not only a legislative but also a deliberative body"-S. Radhakrishnan]
- 7) Recent issues like suspending of question hour to escape accountability.
- 8) Conduct of member ; In 2005 in a sting operation it was found that some members took bribe to ask question in house [Operation Duryodhana].

#4 Reforms needed

- 1) Rules of both houses should be relooked in the light of changing circumstances by consulting all stakeholders
- 2) Minimum number of working days for Lok Sabha and Rajya Sabha should be fixed at 120 and 100 respectively [National Commission to Review the Working of the Constitution]
- 3) Mechanism of action should put in place such that members follow code of Ethics.
- 4) Whip issued by party erodes freedom of speech of members, it should be used only in case of no-confidence motion.
- 5) Private members bills should be given due priority if possesses sound wisdom [since independence only 14 such bills passed, last one in 1970]

Pressure groups

#1 What are Pressure groups?

- 1) Group of people organised actively to promote and defend their common interests; also called as interest groups; they act as the liaison between government and its members.
- 2) Objective: To influence policy making.
- 3) Methods; legal and legitimate like lobbying + publicity + public debating + petitioning in court + criticising etc.

#2 What are the types of pressure groups?

- 1) Business groups; [e.g. FICCI, CII, ASSOCHAM]
- 2) Trade Unions; [e.g. AITUC, CITU, INTUC]
- 3) Agrarian groups; [BKU, All India Kisaan Sabha]
- 4) Professional Associations; [IMA BCI]
- 5) Student organisations [ABVP, SFI]
- 6) Religion and caste groups [RSS, VHP, Harijan Sewak Sangh]

#3 What are the benefits of pressure groups?

- 1) Pressure groups [a] promote opportunities for political participation without political party; [b] provide expertise and information to government [c] help in expressing views and needs of minority groups which remain unheard [d] divert the attention of government on important issues [e] act as safety valve in the democracy to vent out the pressure of people.
- 2) Benefits of an individual joining pressure group; It promotes authentic freedom of expression + helps in exploring new perspectives + gives platform to facilitate change + Increases participation in governance + meet likeminded people helps in building community leadership.

#4 What are the effect of pressure groups on public administration?

- 1) Finance minister consult Industry body, farmer and trade unions before commencing budgets to take inputs.
- 2) Maharashtra government given separate quota for Marathas in public employment
- 3) Union government took back 3 farm laws recently due to pressure from Farmer organisations.
- 4) Union government brought POCSO Act in response to Nirbhaya gang rape in Delhi due to pressure from women groups.
- 5) RTI act was brought as result of sustained work of RTI activists.
- 6) Association for Democratic Reforms [NGO by IIM alumni] conducts election watch, compiles and brings data on criminal antecedent and assets of politicians to create awareness among people.

#5 What are the issues associated pressure groups?

- 1) [a] Narrow and selfish interests; [b] Misuse of Power; [c] Instability; [d] Propagating extremism; [e] Subjugation to political interests.

#6 What reforms are needed?

Parliamentary privileges

#1 What are Parliamentary privileges?

- 1) **Meaning of privileges;** Special rights, Immunities and exemptions enjoyed by 2 houses of parliament collectively + Individually by members of house Including Attorney General [when participating in proceedings of house]
- 2) President do not enjoy any kind of Parliamentary Privileges.
- 3) **Source of Parliamentary Privileges** [a] Constitution of India [Art 105]; [b] Rule & Regulations of house [c] Convention/ Practices; [d] Judicial pronouncements.

#2 Types of Parliamentary Privileges

- 1) **Collective Privileges;** Right to publish reports/ debates, + prohibiting others for same [44th amendment restored true reporting] + exclude strangers from house + hold secret meetings + punish members for contempt/breach of privilege of house + right to have information regarding arrests of members + cannot make arrests in the premise of house without permission of speaker.
- 2) **Individual Privileges;** Cannot be arrested during the session of parliament 40 days before/after the session [only in case of civil cases] + freedom of speech in the house for which member is not liable to court proceeding + member can refuse to testify before court as a witness on any case pending on him during session of parliament.

#3 What constitutes Contempt of parliament?

- 1) No specific codification, generally based on [a] creating obstruction of house [b] creating disturbance to members; [c] giving misleading statements to house; [d] Any kind of assault on members; [e] writing /giving speech on character of members; [f] wilfully lowering the dignity of house.

#4 What is the utility of Parliamentary privileges?

- 1) It helps in fearless and independent working of members + protects freedom of speech in house + helps in harmonious functioning of executive and legislature + It gives confidence to take individual initiatives which promotes good governance.

#5 What are the issues with Parliamentary privileges?

- 1) No proper codification of privileges + privileges make members arrogant and irresponsible + members often make use of privileges to skip trials in court against them + its misuse may lead to corruption and maladministration.

Political Parties in India

#1 What is the meaning of a Political Party?

- 1) A political party is a group of people that is organized for the purpose of winning government power, by electoral or other means.
- 2) Characteristic of a Political Party; they are well organised + focus on broad issues + united by shared preferences.

#2 What is the legal/Constitutional status of Political Parties?

- 1) Under RPA act 1951 [section 29A]; Election commission registers and recognises political parties under Art 324; there is no criteria for de registration of party.
- 2) Recognition of political parties; Two types of recognition [a] National party [b] State party
- 3) **National party**; which fulfils any one of the three conditions [a] wins at least 2% seats in Lok Sabha from at least 3 different states [b] Polls 6% votes in four or more states at a general election to Lok Sabha/ state assemblies + 4 seats in Lok Sabha; [c] State party recognition in 4 or more states
- 4) **State party**; Which fulfils any one of following conditions [a] 6% valid votes + 2 seats in state assembly; [b] 6% votes in Lok Sabha election + one seat in Lok Sabha; [c] minimum 3% of total seats or 3 seats of state assembly [d] should win at least one seat in every 25 seats/any fraction of Lok Sabha seats allotted to that state. [e] it should secure at least 8% votes in assembly election.

#3 What are the types of Political parties in India?

- 1) Ideological parties; Adheres to some principles which reflects in their working [E.g. Congress → Secularism; BJP → Hinduism; CPM → Marxism]; Non-Ideological Parties/ Catch all parties; do not have any principle + Speak on broad term of development + they bank on with mood of the people to retain power [AAP, RJD, SP, TMC]; Revolutionary parties; do not believe in constitution + their goal is to overthrow the existing government through violent methods [CPI (Maoist party)].

#4 Role of political parties in democracy

- 1) Serve as platform for mobilisation of people + serve as mechanism of representation + formulation of social goals + articulate and aggregates interests of people + educate and create political awareness among masses + brings notice on important issues + gives voice to minority/ vulnerable section of people.

#5 What are the issues related to political parties?

- 1) Lack of clear ideology + Splits and factionist tendencies + Defection + Personality cult + No intra party democracy + Party whip which takes away freedom of speech + Nepotism/dynastism.

State legislative councils

#1 What are State legislative councils?

- 1) It is the second chamber of legislation in state; created by resolution passed by state and accepted by centre [Art 169]; not necessary for every state to have legislative council [presently 6 states have it];
- 2) Composition of council [Art 171]; 1/3rd of strength of legislative assembly or 40 members [whichever is higher]; elected through proportional representation system except nominated members; 1/3rd are elected by members of Assembly; 1/3rd members are elected by Local bodies; 1/12th members are elected by graduates; 1/12th members are elected by teachers; remaining are nominated by governor who have special knowledge in Literature, science, art etc..
- 3) Tenure; No fixed tenure, 1/3rd members retire every 2 years; Qualifications; citizen of India, above 30 years of age, [for teachers and graduate members they should belong to same state only].

#2 What is the utility of State legislative councils?

- 1) Increases representation.
- 2) Bringing diverse opinion on policy making.
- 3) Functional representation of various groups for e.g. teachers, graduates, Local body organisations.
- 4) Nominated members who are apolitical background bring extra wisdom.
- 5) Brings pressure on Legislative assembly for policy making

#3 Relevance of State legislature councils compared to Legislative Assembly

- 1) Prevents Legislative Assembly from exercising too much legislation or executive authority.
- 2) Provides opportunity for deliberation on bills which require careful drafting and time.
- 3) It provides forum for intellectuals and academicians who are not suited for electoral politics.

#4 what are the issues related with State Legislative councils?

- 1) They can be created and abolished by centre on recommendation of state + their recommendations are not binding on assembly + became back door for failed politicians + burden on public exchequer [KT Shah in Constituent Assembly] + representing graduates in the house has outlived its utility + politicisation in selecting nominated members + can create delay in policy making.

#5 What reforms needed?

- 1) Should be given limited powers in legislation + qualification for members representing teachers and graduates should be relooked in present situations+ functional representation should be given to Trade unions, employee and women organisations + reservation policy for SC/ST should be made applicable + Politicians who lost in elections should not be allowed to become members + persons not belonging to any political party should be selected as nominated members.

Tribunals

#1 What are tribunals?

- 1) Tribunals are the judicial or quasi-judicial institutions established by law to adjudicate on specific issue; e.g. Administrative tribunals, National Green Tribunal, company law tribunals, tax tribunals etc.
- 2) Composition; Chairmen [eligible as judge of high court] + Vice chairmen + other members [Technical + Judicial]

#2 What are constitutional provisions of tribunals?

- 1) Part XIV-A; Art 323A, Art 323B [42nd Amendment] → [first ARC recommendation]
- 2) Art 323A; empowers Parliament to constitute Administrative Tribunals (central + state level) for adjudication of matters related to recruitment /conditions of service of public servants.;
- 3) Art 323B; specified certain subjects [taxation, land reforms etc.] for which Parliament + State legislatures may constitute tribunals by enacting a law.

#3 What are the advantages of tribunals?

- 1) Flexibility + speedy justice + less expensive + relief on courts + quality of justice + they are bound by natural law + brings technical expertise.

#4 What are the issues with tribunals?

- 1) Tribunalisation of justice + large number of vacancies + pending cases + no proper standards on mode of selection of members + interference from executive + qualifications of members are decided by executive+ large number of tribunals [30+] which create uncertainty and increase compliance cost + recommendations of supreme court on tribunal reforms are ignored by government.

#5 What reforms are needed?

- 1) National Tribunal commission to be setup for appointment of members of tribunals to avoid executive interference [proposed by supreme court] + rationalisation on number of tribunals + uniform standards on qualification and appointment of members + doing away from re-appointment of members.

#6 High courts Vs Tribunals

- 1) Some tribunals substitute high courts while some are subordinates of high court as defined in law.
- 2) Tribunals which substitute high courts should have more weightage of judicial members compared to technical members and they have power of judicial review same as High courts [L. Chandra Kumar versus Union of India and Ors, 1997]

#7 Salient features of Tribunal reforms Act 2021

- 1) Dissolved certain number of tribunals/ appellate bodies [brought down from 26 to 19] and transferred the same powers to judiciary.
- 2) Power to appoint members is done by central government based on recommendations of search cum selection committee with CJI as the chairperson
- 3) Eligibility and term of office: 4-year term + minimum age for appointment of any member is 50 years +

Amendment of constitution

#1 What are the Constitutional Provisions regarding Amendment?

- 1) Part XX; **Art 368** lays down the procedure of amendment + empowers, only parliament to amend constitution. [“constitution is a document that should only be amended with great caution”—Ca Levin]
- 2) Procedure; can be introduced by both minister and private member + both houses have same power + no provision of joint sitting + President cannot reject the bill.
- 3) Observations made in Keshavananda Bharti case; [a] Art 368 comes under Judicial review; [b] Preamble can be amended.

#2 What are the types of Amendments?

- 1) Three types; [1] Simple majority [outside the scope of Art 368]; [2] Special majority of house; [3] special majority + ratification by at least half of states by simple majority.
- 2) [a] Subjects under Simple majority; Admission/establishment of new states + second schedule + citizenship + delimitation+ Fifth and sixth schedules etc.
- 3) [b] Special majority; Fundamental rights + DPSP etc.
- 4) [c] Special majority + ratification by half of states: Election of President + Supreme court and high courts + Schedule 7 + representation in parliament etc

#3 What are the Issues related to Amendment procedure?

- 1) No provision of special body for amendment + limited role of states + some important subjects like citizenship, 5th/ 6th schedule can be amended by simple majority + no provisions on a referendum/ plebiscite for taking opinion of people + same body for ordinary law making, and constitutional amendment + misuse of powers [Emergency in 1975].

#4 Amending procedure in other countries vis-à-vis India

- 1) **USA**: Two possible methods [a] 2/3rd of both the houses of congress pass amendment + 3/4th of states ratify the amendment; [b] 2/3rd of state legislations request the congress for amendment if it is passed it should be ratified by 3/4th of states.
- 2) **UK**; Amended just like an ordinary law or on a referendum by majority of people [e.g. BREXIT].
- 3) **Australia**; constitution can be altered only by referendum, amended only when majority of votes + approval by 2/3rd of states.

#5 Important cases related to amendment

- 1) Shankari Prasad Vs Union of India and State of Bihar [1951]; Fundamental rights can be amended under Art 368.
- 2) I.L.C. Golak Nath And Or's. Vs State of Punjab [1967]; Fundamental rights are sacrosanct and cannot be amended under Art 368.
- 3) Keshavananda Bharti Vs State of Kerala [1973]; No limitation on amendment of constitution subject to basic structure of constitution.
- 4) Waman Rao And Or's Vs Union of India [1980]; Basic structure is applicable only after 24th April 1973 [after Kesavananda Bharti case].

President's Rule

#1 What is President's rule?

- 1) It is the suspension of state government and imposition of direct rule of centre
- 2) Grounds of imposition; [a] in case of failure of constitutional machinery [Art 356]; [b] when the state fails to comply with or give effect to any directions from centre [Art 365].
- 3) Recommendation for president rule; [a] Governor of state [enjoys discretionary power]; [b] president if he thinks fit [on recommendation of cabinet].

#2 Why president rule is imposed on states?

- 1) Every state government should function in accordance with provisions of constitution → centre has obligation to ensure it [Art 355].
- 2) If a state government fails in its duty according to Art 355 then the centre is bound to take control of state under president's rule.

#3 What is the effect of President rule on states?

- 1) [a] State legislature is suspended; [b] State legislature is dissolved [if Lok Sabha passes resolution]; [c] Parliament can make law on state subjects; [d] President appoints Governor/any other member on his behalf to look after executive functions of state

#4 What are the issues with President's rule?

- 1) Misuse of powers by arbitrary imposition [most misused provision in the constitution].
- 2) Role of Governor
- 3) Against Principle of Federalism
- 4) No proper criteria for imposition of president rule [element of discretion].
- 5) No prior warning to state to rectify the mistake.
- 6) Became platform for political revenge when two different parties rule centre and state.

#5 Important cases on president rule

- 1) **SR Bommai Vs Union of India [1994]**; Court can question the mala fide intention of imposing president rule; President rule should be imposed in case of [a] Hung Assembly; [b] majority party refuses to form govt + governor cannot find any alternate mechanism; [c] wilful disobedience by state on centre directives; [d] state government deliberately acting against constitution; [e] situation which endangers security of state
- 2) **Rameshwar Prasad & Ors vs Union of India [2005]**; Court can question the President's decision of imposing President rule.

#6 What reforms are proposed?

- 1) **Sarkaria Commission**: Art 356 should be used as a last resort.
- 2) **Punchi Commission**; Art 356 should be limited to rectifying failure of constitutional machinery only + guidelines in SR Bommai case should be followed
- 3) **First ARC**; Report of the Governor regarding President's Rule has to be objective and the Governor should exercise his own judgement in this regard.
- 4) **NCRWC**: Article 356 should be amended to ensure that the State Legislative Assembly should not be

National Emergency

#1 What is National Emergency?

- 1) It is the provision in the constitution for Union government to take control of entire/part of territory to meet any abnormal situations effectively to safeguard sovereignty, unity, Integrity, and security of our country.
- 2) **Constitutional Provisions:** Part XVIII; Art 352 to Art 360; National Emergency [Art 352]; State Emergency [Art 356]; Financial Emergency [Art 360]; Automatic suspension of Art 19 [Art 358]; Suspension of enforcement of fundamental rights other than Art 19 [Art 359].

#2 What is the utility of Emergency provisions?

- 1) All the resources can be put together to meet the abnormal situation + centralised power leads to quick decision making + creates awareness among citizens about the seriousness of situation + Future generations of bureaucrats and politicians can learn from past experience to deal with situations.

#3 What are the effects of National Emergency?

- 1) [a] Effects the fundamental rights except [Art 19 is automatically suspended + other FR except Art 20 and 21]; [b] Enforcement is suspended on the order of president; [c] It effects the centre and state relations [becomes unitary from federal], [d] Effects on life of Lok Sabha and State assemblies [can be extended by one year e.g., term of 5th Lok Sabha 1971-77 extended by one year]; [e] Effects the financial allocation to states [centre may not implement Finance commission recommendations]

#4 What are the issues with Emergency provisions?

- 1) [a] Vague terms which gives scope for interpretation; [b] Supremacy of cabinet; [c] misuse of emergency provisions for political gains [Indira Gandhi]; [d] only centre can revoke emergency provisions at its will [e]; Suspension of enforcement of fundamental rights which are notified by president [Art 359]; [f] power of judicial review suspended for emergency [38th Amendment].

#5 What reforms are proposed?

- 1) Reforms proposed by Shanti Bhushan [Law minister in Janata government]; Judicial review for emergency needs to be restored + the word "Internal disturbance" needs to be changed + President must revoke emergency if Lok Sabha passes resolution [earlier only president can revoke after PM's recommendation] + special majority for approval/ continuance should be approved by special majority [earlier it was simple majority]

#6 What reforms are implemented?

- 1) Almost all recommendations of Shanti Bhushan are accepted [44th Amendment]; Judicial review restored [43rd Amendment]; + The word internal disturbance is replaced by "External aggression/ armed rebellion" + Lok Sabha can pass resolution to revoke emergency + Art 19 is suspended only in case of National emergency by war or external aggression not for armed rebellion + only the laws related to emergency will get immunity from judicial review + President can proclaim emergency only on written recommendation of PM and his cabinet.

Representation of Peoples Act 1951 [Part 1/2]

#1 What is RPA act 1951 about?

- 1) RPA 1951 enacted to provide for manner of conduct of elections of parliament/state legislature + qualification/disqualification of members + offences and election disputes.
- 2) Enacted under the Art 327 [Power of parliament to make provision with respect to elections to Legislatures]
- 3) Election commission of India [Art 324] given mandate under this act to conduct free and fair elections

#2 What are the corrupt practices/electoral offences mentioned in the act?

- 1) Mentioned under part VII of chapter III of the act [from Section 125-136].
- 2) Bribery [gift/offer by contesting candidate [his agent with consent] to any person] + Undue Influence by candidate with the free exercise of any electoral right.
- 3) Promoting enmity between two classes in connection with election
- 4) Filing false affidavits; [imprisonment up to six months/with fine/with both].
- 5) Prohibition of Public meetings before 48 hours ending with time concluding of polls [punishment for violation 2 years of imprisonment].
- 6) Restriction on publication of result of exit polls for such a time ECI notifies [punishment for violation 2 years of imprisonment].
- 7) Liquor not to be sold/ distributed on polling day [6 months imprisonment].
- 8) Offence of booth capturing [5 years imprisonment] + Penalty for Government servants for acting as election agent, polling agent, or counting agent [3 months imprisonment].
 - **Students need not remember the exact penalty/ imprisonment time, it is for general understanding.**

#3 What are the challenges faced by ECI on electoral offences?

- 1) [a] Punishment for most offences is simple and unable to deter the corrupt practices; [b] Hate speech [not covered under promoting enmity]; [c] Paid news is not included under corrupt practices; [d] Money and liquor distributed during elections; [e] Instances of polling officers favouring parties; [f] Intimidating voters; [g] no proper guidelines on opinion polls.

#4 What reforms are proposed?

- 1) Punishment levels for severe offences should be increased + member should be disqualified if he wilfully conceals any criminal offence information in nomination papers + fast track courts for electoral offences
- 2) **Reforms proposed by Association for Democratic reforms:** [a] provisions for verifying the details of affidavit of candidates; [b] Appointment of the CEO from cadre of another state; [c] Law against the use of excessive money in elections by candidates.

#5 Salient features of The Election laws [Amendment] bill 2021

This bill amends the Representation of the People Act, 1950 and the Representation of the People Act, 1951 to implement certain electoral reforms

- 1) **Linking electoral roll data with Aadhaar;** Voter cards shall link to Aadhar on voluntary basis
- 2) **Qualifying date for enrolment in electoral roll:** Provides four qualifying dates in a calendar year

Representation of Peoples Act 1951 [Part 2/2]

#1 What are the provisions for qualification of members?

- 1) For member of parliament; [a] must be citizen of India; [b] must be above 25 years of age → Lok Sabha and 30 years above → Rajya Sabha; [c] must be registered as an elector from any parliamentary constituency; [d] should be member of SC/ST community in any state to contest reserved seat.

#2 What are the provisions for disqualification?

Any member → convicted under any of following offences shall be disqualified for 6 years after releasing from jail.

- 1) Promoting enmity between different groups on ground of religion/race/place of birth/ residence/ language, etc. [b] dismissed from government service for corruption/disloyalty to the State. [c] cruelty → towards a woman [IPC 498A]; [d] Preaching/practice of "untouchability" [e] Fails to lodge election expenses on time; [f] Convicted → offence with minimum 2 years of imprisonment.
- 2) ECI → has right to remove/ reduce the period of disqualification

#3 What are the issues associated with disqualification?

- 1) [a] Long pending cases → delay in conviction; [b] gaps provisions in the law [subject to interpretation]; [c] immediate family member contesting polls after members disqualification [eg. Bihar elections]; [d] offences like → paid news/submitted false affidavits etc do not amount to disqualification.

#4 What reforms are Proposed?

- 1) **Law commission:** [a] Submitting false affidavits should be ground for disqualification; [b] Members should be disqualified when charges are framed against him instead of conviction
- 2) **2nd ARC:** Members should be disqualified if he faces the charges on heinous crimes.
- 3) SC → asked parliament to make a law on disqualification of members who face charges on heinous crimes.

#5 Important cases related to disqualification

- 1) **Lily Thomas vs Union of India & Ors [2013];** Member is automatically disqualified after conviction by any court → irrespective of appeal in the higher court
- 2) **Public Interest Foundation v Union of India [2018];** Court cannot disqualify candidates, against whom criminal charges have been framed, from contesting elections.
- 3) **K Prabhakaran vs P. Jayaraman [2005];** Main purpose for introduction of disqualifications in RPA 1951 is to avoid criminalisation of politics.

Competition Commission of India [CCI]

#1 What is CCI?

- 1) Statutory body → under Competition act 2002[replaced MRTP act 1969], under ministry of Corporate Affairs.
- 2) **Structure;** One chairmen + 6 members; All are appointed by central government.
- 3) **Objective:** To eliminate practices having adverse effect on competition + promote/sustain competition + protect interests of consumers + ensure freedom of trade in the markets of India.

#2 What is the necessity of CCI?

- 1) To shed the mentality from Licence Raj [MRTP act] → conducive regulatory ambience for enhancing consumer welfare + sustain/ encourage competition in the market.
- 2) Regulatory oversight is needed as private participation + ownership increasingly become the driver of economic activities.
- 3) Ensure that key players do not abuse their dominant position to involve in anti-competitive activities by using collusion + cartelisation to gain control/market spaces + ensure a fair chance for every aspiring entrepreneur.

#3 What are the functions of CCI?

- 1) Ensure fair + healthy competition in economic activities.
- 2) Ensure competition policies are in place = efficient utilization of economic resources.
- 3) Consumer welfare → make markets work for the benefit of consumers.
- 4) Work as Antitrust watchdog → smaller organizations that are unable to defend themselves against large corporations.
- 5) Inquiry into certain agreements and dominant position of enterprise [acquisition & mergers].

#4 Notable actions of CCI

- 1) 2010, CCI instituted probe to examine if there was any cartelization among traders when onion prices touched 80 rupees.
- 2) In 2014, Imposed a penalty of Rs 1 crore on Google for failing to comply with the directions [Google favoured its own products in search results].
- 3) In 2017, a probe into the functioning of the Cellular Operators Association of India following a complaint filed by Reliance Jio against the cartelization by its rivals.
- 4) In 2021, it cancelled the deal of Amazon's investment in Future Group company [Amazon has been blamed for concealing complete information of its investment].

#5 CCI – a critical Analysis

- 1) Very tough for CCI to adopt [a] evolving highly competitive + complex business practices; [b] International tax jurisdictions/transactions/operations; [c] new age areas like digital economy + e-commerce + artificial intelligence.
- 2) Independence of CCI is at stake with Politician/Executive interference [most politicians control business].
- 3) Co-ordination with other agencies like SEBI, RBI, IRDAI etc. [sector specific regulators] becomes challenge.

Consumer Protection Act

#1 What is the purpose of Consumer Protection act?

- 1) To provide for protection of the interests of consumers + establish authorities for timely + effective administration/settlement of consumers' disputes.
- 2) **Originally passed in 1986; latest amendment in 2019.**

#2 What are the 6 consumer rights defined under the act?

- 1) Right to be protected against marketing of goods which are hazardous to life + property.
- 2) Right to be informed about the quality/quantity/potency/purity/ standard and price of goods.
- 3) Right to be assured + access to an authority of goods at competitive prices.
- 4) Right to be heard + to be assured due consideration at appropriate forums.
- 5) Right to seek redressal against unfair trade practices/unscrupulous exploitation.
- 6) Right to consumer education.

#3 What are the Important provisions in Consumer Protection act 2019?

- 1) **Central Consumer Protection Authority [CCPA];** Central govt will appoint CCP to promote + protect + enforce rights of consumers.
- 2) **Functions of CCPA;** [a] regulate matter related to violation of consumer rights/misleading advertisements through its inquiry wing; [b] Passing orders to recall goods; [c] Imposing penalties [up to 10-50 lakh/ 2-5 years of imprisonment]; [d] Issuing safety notices to consumers; [e] Promoting consumer education.
- 3) **Consumer Disputes Redressal Commission [CDRC];** Set up at National [more than 10 Cr value], State [1-5 Cr], District [less than 1 Cr] levels, for consumer to file a complaint regarding [a] unfair trade practice; [b] defective goods/services; [c] over/deceptive charging of money; [e] offering goods/services hazardous to life/health. **Appeals;** District commission → State commission → National commission → High court/Supreme court.

#4 Should Celebrities be made liable for false advertisements?

- 1) **Liability for false advertisements;** 2019 amendment made Celebrities/Influencers liable [fine up to 50 lacs + ban from endorsing up to 3 years] to fix issue of Consumers falling prey for false advertisements.
- 2) **Arguments for:** [a] celebrity has social/moral responsibility to check veracity of product; [b] Countries like UK, Belgium have such law; [c] celebrities make huge money by endorsing; hence it is logical to make them liable.
- 3) **Arguments against;** [a] they are not subject experts; [b] cannot say that consumer bought product only on influence of celebrity; [c] potential tool to defame celebrities

#5 What are the benefits of consumer protection act?

- 1) This act covers all modes of payment including offline/online/multilevel marketing/ teleshopping etc; [b] Consumer can file complaint electronically [jurisdiction in consumer residence, instead of sellers registered office earlier] + appear hearing through Video conferencing. [c] Can seek compensation under product liability.

#6 What are the criticisms against act?

- 1) According to this act consumer do not include a person who obtains goods/services for resale/second-hand for commercial purpose.
- 2) Provisions of this act do not apply to free services provided by government to public.
- 3) No provision of **Suo-moto action** for consumer dispute redressal commission.



Social Audit

#1 What is Social Audit?

- 1) Process in which details of resources [financial/non-financial] used by public agency for development initiatives → shared with people through public platforms → to allow end users to scrutinize impact of developmental programs.
- 2) **Need for Social Audit:** To strengthen Participative Democracy + tool to increase accountability and trust in Governance.
- 3) **Objectives:** [a] Increasing efficacy + effectiveness of local development programmes; [b] Creating awareness among beneficiaries + providers of local social and productive services; [c] Assessing the physical + financial gaps between needs and available resources for local development; [d] Scrutiny of various policy decisions → in view stakeholder interests/priorities [particularly of rural poor]; [e] estimation of opportunity cost for stakeholders of not getting timely access to public services.

#2 What are the Provisions/scope for Social Audit in India ?

- 1) **National Rural Employment Guarantee Act, 2005** → provides for regular "Social Audits" to ensure transparency and accountability in the scheme. [through State Audit Units] → CAG developed social audit rules for the MGNREGA in 2011.
- 2) **9th FYP (2002-07);** emphasised upon social audit for effective functioning of Panchayat Raj institutions (PRIs) + empowered Gram Sabha to conduct Social Audit in addition to its other functions.
- 3) **73rd amendment [Panchayats];** increased scope for Social Audit.

#3 How Social Audit helps in Governance?

- 1) [a] make government responsible to its citizen → leads to good governance; [b] allows the voice of stakeholders [including marginalised/poor groups] being heard by the authorities; [c] focuses on the neglected issues of society [environment, economic, social issues etc] + efficiency of a project or programme; [d] promote collective decision making + sharing of responsibilities; [e] save government resources by rationalising expenditures.

#4 What are the issues with Social Audit?

- 1) [a] No Institutional mechanism for social audit [will of executive]; [b] Records/data etc are not available in local languages → creates hurdles in understanding for participants; [c] no proper awareness/training for Gram Sabha's about social audit; [d] Social Audit Units [SAU] are not free from executive interference → leads to intimidation of stakeholders; [e] Several SAU's lack staff and resources to conduct social audit.

#5 Case studies on Social Audit

- 1) **Janasunwai Model [Rajasthan];** → Village-based public hearings on development expenditure → conceptualised by the Mazdoor Kisan Shakti Sangathan [1990] → facilitated the reading of information and recorded the people's response → Local residents became aware → reacted to it sharply → led to accountability.

Committees of parliament [Part 1/2]

#1 What are Parliamentary committees?

- 1) A committee which is appointed/elected by the House/nominated by speaker + works under the direction of the Speaker + presents its report to the House /Speaker.
- 2) **Constitutional Provisions:** It draws powers → Article 105 [privileges of Parliament members] → Article 118 [on Parliament's authority to make rules for regulating its procedure and conduct of business].

#2 What are the types of parliamentary committees?

Two types; [1] Standing committee [2] Ad-hoc committee.

- 1) **Standing committee:** Permanent + regular committees +constituted from time to time in pursuance of Rules of Procedure + Conduct of Business in Lok Sabha. [e.g. financial committee, DRSC etc.]
- 2) **Ad-hoc committee:** Temporary + appointed for particular purpose +cease to exist when task is completed.

#3 Role of Parliamentary committees in democracy?

- 1) [a] Brings expertise in law making; [b] Ensures accountability on executive; [c] Increases deliberation across party/ Ideology lines; [d] opportunity for members for meaningful participation; [e] Scrutiny of Public funds; [f] forum for building consensus across political parties; [g] examine policy issues in their respective ministries and make suggestions; [h] functions during recess of sessions.

#4 What are the issues with Parliamentary committees?

- 1) [a] Rules do not require that all Bills be examined by a committee; [b] declining trend in the percentage of Bills being referred to a committee [15th LS 71% of bills referred to committees while 16th LS its only 27%]; [c] Attendance of members in the committee is declining; [d] division into party lines for crucial matters; [e] Norms not followed by parties while nominating members to committee; [f] one year time for DSC committees gives little scope for expertise. [g] Recommendations are not binding.

#5 Comparison with other countries

- 1) **USA:** [a] Committees play very crucial role in drafting a bill; [b] every bill is referred to subcommittee for detailed scrutiny → referred to full committee [if cleared] → introduced in the house.
- 2) **UK:** [a] Committees can report to house whenever need arises; [b] can travel abroad to investigate specific issues + take oral evidence; [c] can appoint specialist advisors; [d] can setup sub-committees within them.

Committees of Parliament [Part 2/2]

#1 What are the Important committees of Parliament?

- 1) **Financial Committees;** [a] Public Accounts Committee [PAC]; [b] Estimates Committee; [c] Committee on Public Undertakings
- 2) **Departmentally Related Standing Committees;** 24 committees [at present], for each ministry
- 3) **Other Important Committees;** [a] Business committees; [b] House-keeping committees; [c] Joint Parliamentary committee; [d] Select Committees.

#2 Importance & functions of financial committees

- 1) **Mandate**→ To enforce financial accountability on Parliament + All members are elected by proportional representation.
- 2) **Public Accounts Committee:** [a] 22 members [15 LS + 7 RS], Minister is not eligible [b] to check whether money granted by parliament has spent by government is within scope of demand; [c] Examination of reports of CAG [assisted by CAG]; [d] Inquire into cases involving loss, financial irregularities etc; [e] **Limitation;** No executive powers
- 3) **Estimates Committee:** [a] 30 members [all from LS]; [b] Suggest on efficiency + reforms + alternative policies to optimise resource spending; [c] examine matters of special interest during work/ referred by speaker. [d] **Limitation;** reports are post-mortem+ No assistance from CAG.
- 4) **Committee on PSU's:** [a] 22 members [15 LS + 7 RS], Minister is not eligible; [b] examine reports of PSU's; [c] Look into the autonomy + efficiency of spending in PSU's; [d] **Limitation;** only limited role, do not look into Government policy matter of PSU

#3 Importance & functions of Departmentally Related Standing Committees

- 1) **Mandate:** → Close observation of ministries functioning + enquire + Investigate into matters related to the committee
- 2) **DSRC;** [a] Not more than 31 members [21 LS + 10 RS]; Minister is not eligible; [b] Considers demand for grants; [c] examination of bills referred by speaker/ House; [d] Consideration of Annual reports by ministries; [e] consideration of long-term policies/philosophies guiding the executive [f] **Limitation;** do not consider matters of day-to-day administration + Advice is not binding

#4 Other Important committees

- 1) **Business Committees;** Look after day-to-day business of house e.g., Business advisory committee, committee on private member's bill.
- 2) **House-keeping committee;** looks after facilities and other general matters for members e.g., Library committee, residence, canteen management committee etc.
- 3) **Joint Parliamentary Committee:** Ad-hoc committee + Appointed by house to investigate into important matters with members from both houses [e.g., Bofors Scam].
- 4) **Select Committee;** Small group formed to study specific bill + members are limited to one house only and are selected by house [e.g., Surrogacy Regulation bill 2019- Rajya Sabha].

#5 Some notable works of Parliamentary committees

- 1) **2G Spectrum Scam;** in 2010 PAC conducted enquiry in to 2G spectrum allocations based on CAG report; then PM Manmohan Singh accepted to appear before committee
- 2) **Commonwealth game Case:** in 2010 PAC faulted then congress government for number of errors and termed the event as “biggest management failure”



e-Governance [Part 1/2]

#1 What is e-Governance?

- 1) Process of utilization of Information Technology (IT)/ IT-enabled services (ITES) for better delivery of services to citizens + improved interaction with businesses and among government agencies resulting in more efficient government management.
- 2) **Aim;** To create **Simple, Moral, Accountable, Responsive, and Transparent [SMART]** governance.
- 3) **Need for e-Governance;** [a] Governance has become very complex; [b] need to meet ever increasing demands + expectations of citizens.
- 4) **Pillars of e-Governance;** [1] People; [2] Process; [3] Technology; [4] Resources.

#2 What are the provisions/scope for e-Governance in India?

- 1) **Legal; Information Technology act [2000];** [a] granted legal recognition of electronic records and digital signatures; [b] use of electronic records and signatures for government purpose; [c] retention of electronic records; [d] right to insist that document should be accepted in electronic form, [d] Validity to e-contracts/e-Audits.
- 2) **Institutional;** [a] Department of Electronics in 1970 [first step in e-Governance] → Ministry of Electronics and Information technology [1991]; [b] National Informatics Centre [NIC] established in 1977 [to computerize all district offices in the country]; [c] e-Governance division [under Ministry of personnel & public grievances].

#3 What are the different connotations of e-Governance?

- 1) **e-Administration;** modernising the infrastructure using [a] Information & Communication tools; [b] Computerisation of records; [c] Management and information [MIS] Systems; [d] Digital file movement/tracking.
- 2) **e-Services;** Bringing citizens closer to government; [a] Provision of online services like passports, driving licences, door delivery of ration etc.
- 3) **e-Governance :** Increase the ability of government to address needs of society for e.g., RTI act, publishing of online Gazette, asking feedback on legislative bills etc.
- 4) **e-Democracy;** Participation of all the people in governance through the medium of IT. e.g., grievance redressal, e-referendums, public disclosure of policy/data etc.

#4 How e-Governance empowered citizens?

- 1) [a] RTI act is a game changer → Information dissemination helped in public participation; [b] Digital India programme → increased digital literacy; [c] e-services reduced face to face contact which led to decrease in corruption; [d] Direct benefit Transfer programme helped to reduce duplicity in work and rationalised expenditures; [e] fintech technologies increased credit access to people; [f] e-governance acted as a blessing during times of pandemic by creating alternate path to reach citizens.

e-Governance [Part 2/2]

#1 What are the types of interactions in e-Governance?

- 1) **G2G [Government to Government]:** Interaction is maintained among different government entities for e.g., functional departments of government, National, state, Local body level etc. [e.g., smartgov programme in AP, Khajane project Karnataka]
- 2) **G2C [Government to Citizens]:** Citizens become free to choose when and where to interact with government → citizen friendly government. [e.g., Digi locker, e-passport, UMANG app, Mee-seva in Telangana]
- 3) **G2B [Government to Business]:** Businesses also provides goods/services to citizens + have stake in governance; G2B cuts the red tape → favourable environment for businesses to thrive. [e.g., MCA 21, e-biz portal, India Mart portal, GeM portal]
- 4) **G2E [Government to Employees]:** Government is also an employer → use of ICT will help in making interactions easy for managing Leave/Provident fund /p roformance/ salary management etc. [e.g., Jeevan Pramaan for pensioners, e-Payroll, e-training]

#2 What are the benefits of e-Governance?

- 1) **Speed:** Communication is swifter + large amounts of data can be processed easily.
- 2) **Cost & Time saving;** reduces large sums of money & manpower +increases reliability.
- 3) **Transparency:** information is updated on the internet and citizens can access data easily.
- 4) **Accountability:** Accountability is the outcome of transparency; accessibility of information leads people to hold government accountable

#3 What are the drawbacks with e-Governance?

- 1) **Cybercrime/Leakage of Personal Information:** risk of private data of citizens being stolen → makes public lose confidence in the ability of government.
- 2) **Loss of Interpersonal Communication:** [a] Interpersonal communication is an aspect of communication that many people consider vital → can make people feel detached with the system. [b] limited to "computerization" of processes, ignoring ease of access improvement in services.
- 3) **High Set up Cost and Technical Difficulties:** Initial cost of setting up of system+ frequent updating of systems etc may increase cost + breakdown of computers/ Internet can put dent in governance + not intuitive in nature.
- 4) **Illiteracy:** difficult to understand and access the system + language barrier to digitally illiterate/semi-illiterate people → become vulnerable → erodes trust in governance.
- 5) Digitization is considered as the go-to solution for every problem in governance, thus overshadowing structural issues

#4 Initiatives taken promote e-Governance in India?

- 1) **National e-Governance Plan [NeGP] 2006;** comprising of 27 Mission Mode Projects and 8 components; major components [a] State Data Centres; [b] State-wide area Networks, [c] Common Service Centres etc.
- 2) **e-Kranti [2015];** transforming e-Governance → promote mobile Governance + Good Governance in the country with the vision "**Transforming e-Governance for Transforming**

Alternate Dispute Redressal Mechanism [Part 1/2]

#1 What is Alternate Dispute Redressal Mechanism?

- 1) It is a mechanism of dispute resolution → do not involve litigation + non adversarial [working together co-operatively to reach the best resolution for everyone].
- 2) Ancient India → Panchayats → Awards of panchayats are binding on parties.
- 3) **Need for ADR;** Provide diverse choices to resolve disputes through creative, collaborative bargaining, and fulfil the interests.

#2 What are the types of Alternate Dispute Redressal Mechanism?

Mainly 4 types.

- 1) **Arbitration:** Arbitral tribunal which decides (an "award") on the dispute that is mostly binding on the parties.
- 2) **Conciliation:** An impartial third party, [conciliator → Active role], assists the parties to reach a mutually satisfactory agreed settlement which is non-binding on parties.
- 3) **Mediation:** mediator → Passive role [acts as communicator to bridge] helps the parties try to reach a mutually acceptable resolution of the dispute.
- 4) **Negotiation:** discussions between both the parties with an open mind are initiated without the intervention of any third party to arrive at a negotiated settlement.

#3 What are the Provisions for ADR in India?

- 1) **Constitutional;** [a] Art 39A Access to equal justice and free legal aid → obligation on government to make various provisions available, to access justice; [b] Art 21 Right to life → Includes right to access for justice.
- 2) **Legal;** [a] The Legal Services Authority Act, 1987; [b] Arbitration and Conciliation Act, 1996, [c] Gram Nyayalaya Act 2009; [d] Plea-bargaining [Section 265-265 of CrPC → pre-trial negotiation between the accused + prosecution; accused → agrees to plead guilty in exchange for certain concessions by the prosecution.]
- 3) **Institutional;** Lok Adalat, Nyaya Panchayats, Conciliation and Arbitration centres.

#4 What are the advantages of ADR?

- 1) [a] Less time consuming, [b] Cost effective method; [c] free from technicalities of courts, [informal ways are applied in resolving dispute]; [d] People are free to express themselves without any fear of court / law; [e] preserves the best interest of parties [privacy]; [f] prevents conflict + maintains good relationship between parties; [g] Efficient way [chances of restoring relationship back as parties discuss their issues together].

#5 What are the disadvantages of ADR?

- 1) [a] All cases may not fit for ADR mechanism; [b] It can be used as a tactic to stall case; [c] Little or no check on power imbalances between parties; [d] rights of parties may not be legally protected; [e] there may not be guaranteed solution; [f] non-binding agreements may cause weakness in the system.

Alternate Dispute Redressal Mechanism [Part-2/2]

#1 How Arbitration works?

- 1) [a] Arbitrator → person conducting the Arbitration → appointed by → parties to the dispute/ Court [in case of any dispute]; [b] number of arbitrators can only be in odd number [majority decision] [c] all the disputes can be resolved by Arbitration unless prohibited by law [e.g., trade, rent of properties, matrimony, consumer disputes etc].
- 2) **Advantages:** [a] Arbitrator/Arbitral Tribunal → expert in the field of the dispute proceedings → conducted without lawyers; [b] 'Award' → binding on the parties + may be enforced by the Courts + no appeal against the Award.

#2 How Conciliation works?

- 1) [a] Conciliator → person assisting the parties → appointed by the consent of both the parties to the dispute/civil court may also refer; [b] Conciliator expresses his opinion about the merits of the dispute → help the parties to reach settlement; [c] proceedings before the Conciliator are confidential.
- 2) **Advantages:** [a] parties control the process + outcome of the dispute; [b] Conciliator solemnly urges the parties for an amicable reconciliation; [c] Any party may terminate the conciliation proceedings at any time without assigning any reason

#3 How Mediation works?

- 1) [a] Mediator → independent third person who assists parties to reach a negotiated resolution; [b] It is voluntary like Conciliation; [c] He/ She does not express his/ her opinion on merits of the dispute → only encourages the parties to reach an amicable settlement.
- 2) **Advantages;** Same advantages as Conciliation.

#4 How Negotiation works?

- 1) [a] Negotiation → It is bargaining is a process in which both the parties cooperate and seek a solution which is beneficial to both sides; [b] It do not involve third party → completely within scope of two parties.
- 2) **Advantages:** [a] under CrPC some criminal cases can be solved through negotiation [pre-trial negotiation/Plea-bargaining]; [b] it gives scope for creative solutions.

#5 Salient features of Arbitration and conciliation [amendment] Act 2021

- 1) It seeks to amend the Arbitration and Conciliation Act, 1996; this act deals with domestic + international arbitration + defines the law for conducting conciliation proceedings.
- 2) **Automatic stay on awards:** Arbitral award cannot be set aside merely because of an application made by party. 2021 amendment → stay can be given by court in case of [a] the making of the award, was induced, or effected by fraud or corruption; [b] relevant arbitration agreement or contract,
- 3) **Qualifications of arbitrators:** [a] an advocate under the Advocates Act, 1961 +10 years of experience; [b] an officer of the Indian Legal Service.

***Note: Lok Adalat's and Nyaya Panchayats will be covered in separate handouts.**

Interstate water disputes [ISWD]

#1 When an interstate water dispute bound to arise?

- 1) According to ISWD Act 1956 → Interstate water dispute has arisen /likely to arise when the interests of the State/ inhabitants in the state, of an inter-State River/ valley has been affected /likely be affected by → executive/legislation action taken/passed or proposed by other state.
- 2) Failure of the other State /authority to exercise any of their powers with respect to the use/distribution/control of such water.
- 3) Failure of the other State to implement the terms of any agreement relating to the use/distribution/control of such water.

#2 What are the constitutional & Statutory provisions for ISWD?

- 1) **Constitutional**; [a] **Art 262**→ [Adjudication of disputes relating to waters of inter-State rivers/valleys]; [b] **Art 253**→ [Legislation giving effect to international agreements] which includes sharing of river water with other countries without taking state approval [e.g., Indus water treaty, Ganga water treaty]; [c] **Schedule 7** → [entry 17 in state list, entry 56 in union list].
- 2) **Statutory**; →Interstate water disputes Act 1956 [Amended in 2002, 2019]; River Boards Act 1956.
- 3) **Salient features of ISWD Act [amendment] 2019**; [a] **Dispute Resolution Committee** will be constituted by centre for amicably solving issues between states before referring to tribunal; [b] **Tribunal**; Centre will appoint a Tribunal + orders of tribunal are binding on parties [no appeal to Supreme court]; [c] **Data bank**; All states should share the river water data to centre to maintain data bank.

#3 What are the issues associated with ISWD?

- 1) Tribunals: extreme delays in dispute resolution→ [Godavari tribunal constituted in 1968 award is given in 1979] + vacancies in the tribunal benches further delays process.
- 2) Imprecise power distribution→ between centre and states creating jurisdictional ambiguity.
- 3) States repeatedly approach Supreme court by→ **Special Leave Petition [Art 136]** to bypass the award by tribunals.
- 4) Water-Politics → became tool for extreme politicisation of vote bank [Punjab- Haryana, Tamil Nādu- Karnataka].

#4 What reforms are Proposed?

- 1) [a] Single and permanent tribunal for ISWD; [b] Proper mechanism for reaching political consensus; [c] reliable mechanisms for implementing tribunal awards; [d] River Boards must be constituted for integrated water management practices; [e] act should be suitably amended to tackle the issues of flood management, ecological flow of water etc; [f] 'Water' should be added to concurrent list to avoid legal complexities.

#5 Some burning issues on ISWD

- 1) **Cauvery water dispute**: States concerned; **Karnataka-Tamil Nādu-Kerala-Puducherry [UT]**; In 2013 Karnataka defied the tribunal order and refused to release water from Cauvery River, → Tamil Nādu approached Supreme court

Prevention of Corruption Act, 1988 [PCA]

#1 What is Prevention of corruption Act?

- 1) **Corruption:** "Misuse and abuse of power, particularly by those in government, for personal benefit, whether monetary or in the form of a favour."
- 2) **Aim of the act** → fight corruption + other malpractices in government and public sector business in India; Introduced in 1988; latest amendment in 2018.
- 3) This act empowers central government to appoint special judges for [a] to try offences punishable under this Act; [b] any conspiracy/ attempt to commit any offences in the act.
- 4) **Other provisions to deal with corruption:** Indian Penal Code, The Benami Transactions [Prohibition] Act, 1988, The Prevention of Money Laundering Act, 2002.

#2 What are the offences & penal provisions mentioned in PCA?

- 1) [a] taking gratification other than legal remuneration [imprisonment of 6 months-5 years]; [b] taking gratification with the purpose of influencing a public servant through illegal and corrupt means [3-7 years of imprisonment]; [c] taking gratification with the purpose of wielding personal influence with public servant [Imprisonment 6 months-5 years]; [d] Act of criminal misconduct by the public servant [Imprisonment 1-7years].
- 2) **Investigation:** [a] In the case of Delhi → Inspector of Police; [b] metropolitan areas → Assistant Commissioner of Police; [c] other areas → Deputy Superintendent of Police.

#3 What are the challenges associated with PCA?

- 1) Prior permission is needed from ministry [if minister is involved in the corruption, he will deny prosecution]; [b] The conviction rate under the PCA is very low → proving evidence in the court of law is a very difficult task; [c] too often harass public servants, excessive limitations kill individual initiatives; [d] benefits after retirement, such as lucrative jobs, have not been addressed.

#4 What reforms are proposed?

- 1) **Reforms proposed; 2nd ARC:** following should be classified as offences under PCA [a] Gross perversion of the Constitution/democratic institutions + wilful violation of oath of office; [b] Abuse of authority unduly favouring/harming someone; [c] obstruction of justice [d] Squandering public money; [e] At central level → the sanction for prosecution should be processed by an Empowered Committee consisting of the Central Vigilance Commissioner + Departmental Secretary to Government.

#4 Salient features of Prevention of corruption [amendment] act 2018

- 1) **Collusive bribe-givers criminalised:** giving a bribe as a direct offence [person who is compelled to give a bribe will not be charged if he reports the matter to law enforcement authorities within seven days].
- 2) **Criminal misconduct;** only covers 2 types of offences [a] fraudulent misappropriation of property; [b] amassing of assets disproportionate to one's known sources of income.
- 3) **Prior approval for investigation;** approval not necessary if the person is arrested on the spot on the charge of taking a bribe [permission from relevant authority is needed in other cases to conduct investigation].

RTI - Part 2 [Official Secrets Act]

#1 What is the Official secrets Act about?

- 1) It is a colonial-era law [enacted in 1923 & retained after Independence] → meant for ensuring secrecy + confidentiality in governance + national security.
- 2) to deal with espionage, sedition, and potential threats to the integrity of the nation → applicable to government servants and citizens,
- 3) **Offences**; [a] Spying; [b] Communications with foreign agents [sharing 'secret' information].
- 4) [c] wrongful communication; [c] unauthorised use of uniforms; [d] falsification of reports, forgery, impersonation, and false documents; [e] interference with the armed forces in prohibited/restricted area.
- 5) **Penalty**: If found guilty, a person may get up to 14 years' imprisonment + fine/ both.

#2 Should OSA be repealed?

- 1) **Arguments for**; [a] Colonial background → created a culture of secrecy "**confidentiality became the norm and disclosure the exception,**" [b] criticism for misusing the law against journalists + whistle-blowers; [c] OSA does not define "secret" or "official secrets" → issue with interpretation; [d] Public servants could deny any information terming it a "secret" under the RTI Act; [e] against constitutional values → state should be democratic and transparent.
- 2) **Arguments against**; [a] National credibility → there should be strict laws in the country to deal with the crime against the state + government of India; [b] National Security → necessary to maintain secrecy and confidentiality in matters crucial for the security + safety of the nation; [c] absence of such laws + stringent punishment will give free hand for divisive forces in the country.

#3 Right to Information Vs Official secrets act.

- 1) [a] provisions of the RTI Act override those of the OSA in case of conflict [Section 22 of the RTI Act]; [b] if the public interest → outweighs the harm → public authority may allow access to information covered under the OSA, [Section 8(2) of the RTI Act + reiterated by SC in Rafale deal case].

#4 What reforms are proposed?

- 1) **2nd ARC**: → [a] Act should be substituted by a chapter in the National Security Act; [b] departmental security + confidentiality policy must be clearly defined → only such information should be exempt from RTI.
- 2) **Shourie committee** → penal provisions of the section should be applicable only to violations affecting the national interest.

#5 Important cases related to OSA

- 1) **Rafale case [2019]**; [a] Government cannot refuse information if disclosure in public interest overshadows certain 'protected interests.' [b] RTI is 'priceless right' to demand information even in matters affecting national security and relations with a foreign state.
- 2) **State v. Madhuri Gupta (2018)**; "Govt officials should act more responsibly and respect their high position of trust" [Madhuri Gupta charged for sharing secret information to Pakistani intelligence]

Aspirational District Programme [ADP]

#1 What is Aspirational District Programme?

- 1) **Aspirational District** → which are affected by poor socio-economic indicators.
- 2) **Aim of ADP:** To remove gap between inter-state + Inter-district variations in social indicators + bring those districts in par with other districts [launched in 2018].
- 3) **Need for ADP:** UNDP report 2020 India ranked 131 out of 189 countries, India's lacked performance in Gender equality, Health, Nutrition etc. → urgent need to address the issues.
- 4) **Methodology:** Selected 115 districts [which has poor social indicators] → identified from 28 states, [at least one from each state] → Individual Ministries will monitor real time progress of social indicators [outcome focused governance] → rank districts → take feedback & work on the gaps identified.

#2 How Aspirational District Programme Implemented?

- 1) **Core strategy:** [a] Convergence → Central & State Schemes; [b] Collaboration → Central, State level 'Prabhari' Officers & District Collectors; [c] Competition → among districts driven by a spirit of mass movement
- 2) **Institutional Framework:** [a] NITI Aayog anchors the programme → support from Central Ministries and the State Governments. [b] Officers at the level of Joint Secretary / Additional Secretary → nominated to become the 'Central Prabhari Officers' of each district; [c] States have appointed state-nodal and Prabhari officers. [d] Empowered Committee under CEO, NITI Aayog will help in the convergence of various government schemes and streamlining of efforts.
- 3) **Delta Ranking:** based on 49 indicators from the 5 identified thematic areas; [1] Health & Nutrition → 30%; [2] Education → 30% [3] Agriculture & Water Resources → 20% [4] Financial Inclusion & Skill Development → 10% [5] Basic Infrastructure → 10%.

#3 What are the benefits of ADP?

- 1) **Localizing the global goals:** Achieving UNDP goals through integrated programmes + services can improve people's lives → particularly for those at risk of falling behind.
- 2) **Inclusiveness:** focussing on the lower strata helps in the inclusiveness such that no one is left behind the development.
- 3) **Imbibes the spirit of competitive federalism:** decentralisation with relative autonomy will boost the healthy competition among districts.

#4 What are the challenges associated with ADP?

- 1) **Priority of quantity over quality:** delta ranking methodology gives priority to the quantity, but these districts mostly lag the quality aspect.
- 2) **Lack of Co-ordination:** involvement of multiple ministries creates lack of co-ordination + duplicity in work and resources.
- 3) **Data collection:** collecting data every month is a hectic process and needs resources and efficient workforce.

National Medical Commission [NMC]

#1 What is National Medical Commission?

- 1) National Medical Commission → country's top regulator of medical education [replaced erstwhile MCI- Medical Council of India on the recommendations of NITI Aayog].
- 2) **Mission & vision:** [a] improve access to quality + affordable medical education; [b] ensure availability of adequate /high quality medical professionals in all parts of the country, [c] promote equitable + universal healthcare; [c] enforce high ethical standards in all aspects of medical services.

#3 What are the issues with MCI which is replaced by NMC?

- 1) [a] MCI has been criticised for its slow + concentration + centralisation of all regulatory functions in one single body; [b] MCI regulates medical education + medical profession [conflict of interest]; [c] 70% of members of MCI are elected [non transparency]; [d] There is no emphasis given to the enforcement of medical ethics; [e] many instances of corruption are exposed in MCI; [f] criticism from states for infringing federal autonomy.

#2 What are the important provisions of NMC act?

- 1) [a] National Medical Commission will consist of 25 members → appointed by the central government on the recommendation of a committee; [b] 4 autonomous boards are set up under the supervision of the NMC; [1] Undergraduate medical education; [2] Postgraduate medical education; [3] Medical assessment and rating; [4] Ethics and medical registration.
- 2) **National Exit Test (NEXT)** → one single test for final year MBBS students that will act as licentiate examination to practice medicine + admission to postgraduate medical courses + screening test for foreign medical graduates.

#4 Why Doctors are opposing the NMC act?

- 1) **Community Health Provider [CHP]** → act grants limited licence to practise medicine at mid-level as CHP which has been vaguely defined → will allow people without sufficient medical background to practise medicine.
- 2) **National Exit Test (NEXT)**; single exam is being accorded too much weightage, and it can have an adverse impact on the career of medical aspirants.
- 3) **Medical Education fee:** NMC can frame guidelines for determination for 50% of seats in private medical institutions/deemed to be universities, at present State government will decide fee for 85% of seats.
- 4) **NEET:** Act proposes single exam NEET [scrapped state level exams] for entry in to UG courses [Tamil Nadu- NEET issue].

#5 What is the say of government about NMC act?

- 1) **NMC act will help in fighting corruption;** [a] unlike MCI, the members of NMC will have to declare their assets at the time of assuming office and when they leave + submit a conflict-of-interest declaration [b] members will have to serve a two-year cooling-off period after their tenure.
- 2) **Address the short fall of doctors;** Allowing 'Community Health Providers' to practise medicine is likely to plug this shortfall to some extent.

Sedition Law [Section 124 IPC]

#1 What is Sedition Law?

- 1) **Sedition:** Whoever, by words [either spoken or written], or by signs/ by visible representation/ otherwise, → brings/ attempts to bring hatred to excite disaffection [disloyalty + feelings of enmity] towards elected government is punishable by law.
- 2) **Punishment:** 3 years to life imprisonment + cognizable offence [arrest without a warrant].
- 3) **Origin:** to suppress Wahabi activists who are spreading dissatisfaction against British → Inserted in 1870 in IPC through amendment [original IPC do not have this provision].

#2 What are the problems with Sedition Law?

- 1) **“As a matter of fact, the essence of democracy is criticism of Government”**- KM Munshi in constitutional Assembly.
- 2) weaponised as a handy tool against political rivals, → to suppress dissent and free speech.
- 3) cases of sedition jumped 163% [between 2014-2019] but, conviction rate stands at mere 3% [NCRB] → instrument to regulate public opinion.
- 4) Vague terminology like dissatisfaction, bring hatred/contempt are subjective + prone to interpretation → makes citizens fearful to express free speech
- 5) Extremely difficult to get bails + trial process can be stretched for long.

#3 Should sedition law be continued or repealed?

- 1) **Arguments for:** [a] India is not free from secessionist tendencies → absence of such law is giving free hand to harmful elements; [b] elected government ensures the stability → hence state need power to punish its contempt; [c] to deal with Maoist insurgency [who run parallel government].
- 2) **Arguments against:** [a] **“this law has no space in any modern liberal democracy”** – Editor guild of India; [b] Colonial legacy, → Mahatma Gandhi, Bal Gangadhar Tilak etc are punished under this act; [c] other acts like UAPA, NSA are sufficient to deal with the cases of sedition; [d] UK has abolished sedition act in 2010.

#4 What reforms are Reforms proposed?

- 1) **Law commission:** [a] should only invoked when the act is done “Intentionally or knowing it to be likely [b] law should be made non-cognisable.
- 2) In tea of repealing sedition law, steps need to be taken to stop misusing the law.
- 3) Police personnel and other investigating agencies must be properly educated about what constitutes sedition and what not.

#5 Important Judgements related to sedition law

- 1) **Tara Singh Gopi Chand Vs the State [1950];** Punjab-Haryana High court struck down sedition law → held that Section 124A was indisputably a restriction on the freedom of speech and expression and contravenes Art 19.
- 2) **KedarNath Singh vs State of Bihar [1962];** SC validated Sedition Law by stating → “the continued existence of the Government established by law is an essential condition of the stability of the State.”
- 3) **Behar Singh vs State of Punjab [1967];** SC held that blasphemous which do not amount to

National Legal Services Authority Act [NALSA]

#1 What is NALSA act about?

- 1) **Aim:** to provide free legal services to weaker sections of society + secure opportunities for justice + ensure that social and economic disabilities do not hamper justice delivery; [enacted in 1987].
- 2) **Objective;** Organizing Lok Adalat's; Spreading Legal Awareness; Promoting dispute settlements
Providing the victims of crime with compensation
- 3) **Institutional Setup;** At national level→ CJI Chief patron; Executive chairmen→ second senior judge to CJI→ State legal service authority→ District legal service authority→ Taluk/Manual Legal Services Committees.
- 4) **Constitutional Scope:** [a] **Article 39A** → State shall secure + promote justice → provide free legal aid, by suitable legislation/schemes; [b] **Article 14**→ equality before law + equal opportunity to all.
- 5) **Official Newsletter**→ Nyaya Deep

#2 What are the important functions of NALSA?

- 1) Provide free legal aid in civil and criminal matters→ poor + marginalised
- 2) Formulates various schemes for the implementation of preventive + strategic legal service programmes for marginalised and excluded groups
- 3) Organise **Lok Adalat's** for amicable settlement of disputes.
- 4) Persons eligible for free legal aid→ [a] Widened children; [b] Members of SC/ST; [c] Industrial workmen; [d] Victims of mass disaster/violence; [e] Disabled persons; [f] Persons in custody; [g] Victims of trafficking in human beings/ begar; [h] Persons whose annual income does not exceed Rs. 1 lakh.

#3 What is Lok Adalat?

Lok Adalat is type of Alternative Dispute Resolution mechanism.

- 1) [a] Lok Adalat [Peoples court] →Presided over by a sitting/retired judicial officer/social activists/ members of Legal profession as the chairman; [b] Any case/dispute pending in regular court + which has not brought before any court can referred to Lok Adalat; [c] Legal Service Authorities/ institutions [National, State, District] conduct Lok Adalat's; [d] Parties will be in direct interaction with judge without lawyer; [e] have no authority on non-compoundable offences;
- 2) **Advantages:** [a] No court fee is required [refund issued if already paid]; [b] gives huge relief to judiciary by solving petty cases; [c] it is completely voluntary.

#4 Impact of NALSA on Justice delivery- Critical Analysis

- 1) Implementation of NALSA act have some concerns like [a] lack of optimal financial management; [b] poor training of legal aid lawyers; [d] inadequate performance monitoring; [e] absence of mechanisms to gauge customer satisfaction.
- 2) huge Inter-state disparity in functioning of Lok Adalat's [Maharashtra, Tamil Nādu doing exceptionally well, UP and West Bengal showing dismal performance].

Gram Nyayalaya Act, [2008]

#1 What is Gram Nyayalaya act?

- 1) Established at grassroots [**Law from below**] → providing access to justice to the citizens at their doorsteps + ensure that opportunities for securing justice to people who face social/economic disabilities.
- 2) **Need:** existing mechanisms for justice access are still costly and complex + establishing courts at the doorstep [Panchayats] → helps marginalised and poor.
- 3) **Constitutional scope: Article 39-A** → mandates for free legal aid to the poor and weaker sections of society.
- 4) **Institutional mechanism:** Gram Nyayalaya → established at intermediate/block level panchayats; Presided by → Nyaya Adhikari [Judicial Magistrate-first class] → appointed by state government in consultation with High courts → Nyaya Adhikari will hold mobile courts in every village.

#2 What are the important features of Gram Nyayalaya act?

- 1) **Jurisdiction:** Civil + Criminal offences mentioned in the act + an acceptance evidence not included in the evidence act.
- 2) Gram Nyayalayas can allow for conciliation + plea bargaining for settlement of disputes + local police → bound to assist + shall provide enforcement.
- 3) **Inspection:** High Court can authorise any judicial officer superior to Nyaya Adhikari to inspect the Gram Nyayalaya once in 6 months.
- 4) **Appeal:** shall lie in the district court/sessions court + appeals shall be disposed within six months.

#3 What are the issues with functioning of Gram Nyayalaya?

- 1) Disputes settled by Gram Nyayalaya → mostly referred to district courts → failed to reduce burden on judiciary.
- 2) Ambiguities regarding jurisdiction due to the parallel existence of alternate dispute mechanisms, tribunals, Adalat's etc.
- 3) Huge number of vacancies in Gram Nyaya Adhikari posts. [Only 208 'Gram Nyayalaya' are functioning → against 2,500 required as per 12th five-year plan].
- 4) reluctance of state functionaries to invoke the jurisdiction of Gram Nyayalaya [as of 2020 only 11 states have taken steps to notify Gram Nyayalaya].
- 5) Lack of awareness among lawyers + police officials + stake holders.

#4 What can be done to improve Gram Nyayalaya system?

- 1) Clearly specifying the jurisdiction of Gram Nyayalaya and re-defining it to remove any ambiguities.
- 2) Conducting procedures in local language + making the process simple.
- 3) Providing adequate budget + staff and spreading awareness among people.
- 4) Making Provision for Contempt of Nyaya Panchayat.

Capital punishment

#1 What is Capital punishment?

- 1) It is the execution of an offender sentenced to death, after conviction by a court of law for a criminal offense.
- 2) **Offences for capital punishment;** criminal offences like murder, rape [child below 12 years], treason, criminal conspiracy.
- 3) **Exemptions;** [1] Juvenile [child under 16 years]; [2] People suffering from mental illness
- 4) **Legal provisions;** [1] IPC [1860]; [2] Acts related to Armed forces

#2 Should Capital punishment be continued?

- 1) **Arguments against;** [a] Irrevocable punishment → risk of executing an innocent person can never be eliminated; [b] It does not deter crime → there is no evidence that the death penalty is any more effective in reducing crime; [c] It is discriminatory → most victims are less advantaged socio-economic backgrounds or belonging to a racial, ethnic, or religious minority.
 - **“The death penalty is a symptom of a culture of violence, not a solution to it” – Amnesty International.**
- 2) **Arguments in favour;** [a] balance of justice; → when one commits murder he should be equally punished; [b] closure for victims' families → victim family will get closure psychologically; [c] Deterrence → death penalty reinforces the belief that bad things happen to those who deserve it.

#3 What reforms are proposed?

- 1) **Law Commission** → recommended that the death penalty be abolished for all crimes other than terrorism related offences and waging war.
- 2) **UN General Assembly** → progressively restrict the use of the death penalty, reduce the number of offences for which it may be imposed and ultimately abolish it.
- 3) **UN Human Rights Council** → Children have negative impact on parent's death sentence → State should provide these children with protection + assistance.

#4 Important cases on Capital punishment

- 1) **Jagmohan Singh v. State of UP [1973];** deprivation of life is constitutionally permissible procedure established by law is followed.
- 2) **Bachan Singh v. the State of Punjab [1983];** death penalty is not to be awarded except in the 'rarest of rare cases' when there are no other alternatives.
- 3) **Machhi Singh v. State of Punjab [1983];** SC laid guidelines on rarest of rare cases for death penalty [a] murder is committed in an extremely brutal which awakens intense and extreme indignation of the community; [b] depravity and cruelty are the motives behind a murder.
- 4) **Shatrughan Chauhan v. Union of India [2014];** undue delay by the President in rejecting mercy to a death row convict amounts to torture.

Feminization of Indian Politics

#1 Women participation in politics- an Analysis

- 1) Feminisation of Indian politics → increase of women's participation in the politics of the country [Involvement in decision making, power sharing, policy making, holding political offices etc.].
- 2) 1952 elections → 24 women members, 1962 → 37; 1989 → 28; since 1991 the number of women has been increasing at slow pace [15th LS → 52; 16th LS → [64] 12%; 17th LS [present] → [74] 14.3%].
- 3) in 75 years of independence → women's representation in LS has been mostly under 10%
- 4) **Constitutional provisions:** [a] **Art 325 & 326** → guarantee political equality, equal right to participate in political activity + right to vote; [b] **Art 243 (D)** → recognised political reservation to women in panchayat elections.

#2 Do Women outperform men in politics?

- 1) **UN Women:** [a] in India drinking water projects in areas with women led councils → 62 % higher than men-led councils [b] in Norway direct causal relationship between the presence of women in municipal councils + childcare coverage.
- 2) Women are risk-averse and less likely to engage in criminal + other risky behaviour than men.
- 3) Women constituencies have shown more economic growth compared to male counterparts [women are more likely to oversee completion of projects]

#3 Why women participation in politics is essential for India?

- 1) **Women's share in India's population 48.5%**, → crucial in the policy formulation as they represent nearly half population.
- 2) **Behavioural Change;** → can act as role models for other women + gender sensitisation.
- 3) **Focused policies on women:** women focus more on issues like women safety, education, childcare, MMR, child marriage, Domestic violence etc which are persisting problems in India.
- 4) **To achieve SDG goal no 5:** Gender equality → women's equal participation and leadership in political and public life [India ranked 144/193 in women member participation in parliament according to Inter Parliamentary Union report 2022].

#4 What are the barriers for women to participate in politics?

- 1) [a] **Patriarchal Society;** → traditionally women are seen as home makers, care givers; [b] **Lack of education** → barrier for political awareness; [c] **Proxy politics;** → decision making → male members of family [d] **Societal and cultural norms;** → Women who participate in politics are looked down [especially in rural areas]; [e] **Lack of resources** → women depend on men for financial + non-financial resources required to fight elections.

#5 Initiatives to increase women participation in politics.

- 1) **73rd & 74th amendment;** → given 33% quota to women in all PRL's.
- 2) **Women reservation bill 2013:** → fixed 33% quota for women in parliament [pending in LS] → Pakistan has 20% quota fixed for women in their constitution.

Right to Privacy

#1 What is Privacy?

- 1) Privacy → it is the ability of an individual or group to seclude themselves or information about themselves, and thereby express themselves selectively.
- 2) **Reasons for right to privacy;** [a] keep groups from using personal data for their own goal ; [b] protect freedom of speech & thought; [c] help maintain social boundaries & protect reputation; [d] protect from vulnerabilities in the interconnected world of data.
- 3) **GDPR**→ [General Data Protection Regulation] rules framed by the European Union (EU) has become a model for the world; our neighbour Pakistan has explicitly mentioned Right to Privacy in their Constitution.

#2 Right to Privacy in India

- 1) Right to privacy evolved through following process; [a] in 1954, → 8 judge bench of SC held that there is no right to privacy enshrined within the Constitution; [b] in 1963→ SC reiterated again that Right to privacy is not a fundamental right; [c] SC in 1997→ right to privacy in the context of telephonic surveillance [phone tapping]; [d] in 2017→ Puttaswamy case SC upheld the Right to privacy as a fundamental part of Art 21.
- 2) **IT Act 2000**→ Protects against illegal telephonic tapping and theft of data from computers.
- 3) **Data protection Bill 2018;** → based on recommendations of B.N Sri Krishna committee→ recognised Right to privacy as a fundamental right + lays down broad framework for data protection→ currently bill is under scrutiny by joint committee.
 - **“In a Republic founded on a written Constitution, it is difficult to accept there is no fundamental right to privacy”** →Justice J. Chelameswar

#3 What are Implications of Right to Privacy?

- 1) Recognising privacy as a fundamental right→ changes the relationship between the State and the citizen.
- 2) Right to die→ will revive the debate of right to death as a personal choice [Euthanasia].
- 3) LGBTQ Rights →boosted the demand to recognise transgender rights and consensual/same sex marriage
- 4) Data Protection → demands for robust data protection as people share most of their personal data online [Data Localisation].
- 5) Tech companies→ recognised the threat with big data companies [Facebook, Amazon]
- 6) upcoming DNA Profiling Bill may create issues by infringing on right to privacy.

#4 Important cases related to Privacy

- 1) **M.P Sharma v. Union of India [1954]** → Supreme Court held that there is no right to privacy enshrined within the Constitution of India.
- 2) **Civil Liberties (PUCL) v. Union of India [1997]** → Right against phone tapping [section 5(2) was unconstitutional].
- 3) **S Puttaswamy v. Union of India [2017]** → privacy is a natural & inherent right available to all humans; Privacy is not absolute right [subject to reasonable restrictions].

Euthanasia

#1 What is Euthanasia?

- 1) Euthanasia→ practice of intentionally ending a life of a person to relieve pain + suffering [also called mercy killing].
- 2) **Classification of Euthanasia:** [a] Voluntary→ performed with the patients consent; [b] Involuntary→ conducted against the will of the patient; [c] non-voluntary→ Patient is unavailable to give consent [e.g., brain dead].
- 3) **Types of Euthanasia:** [a] **Active**→ Intentional intervention by third party to cause death [e.g., Asphyxiation, lethal injection]; [b] **Passive** → Intentionally withholding life supporting treatment to avoid pain.
- 4) **Assisted dying Vs Euthanasia [both are not same];** Assisted dying→ Doctor prescribes life ending medicine to patient+ patient himself administers dose [no third party]; Euthanasia→ medication/treatment is withdrawn by doctor [third party] at the voluntary non-voluntary/involuntary will of patient.

#2 What is Legal status of Euthanasia in India?

- 1) **Sec 309 of IPC**→ committing suicide is a crime → central govt decriminalised the suicide [intention to commit suicide is manifestation of a diseased condition of mind, requiring care and treatment, not punishment]
- 2) **Active Euthanasia is prohibited in India while Passive Euthanasia is regulated through Supreme Court guidelines.**
- 3) **The Medical Treatment of Terminally ill Patients [Protection of Patients and Medical Practitioners] Bill 2016;** [a] Living will→ person can write will about his course of action when he is terminally ill → binding on the doctor [b] A panel of medical experts will decide on case-by-case basis; [c] High court permission is required to seek euthanasia; → **The bill is pending in the parliament** [due to criticism from many sections].
- 4) **Supreme Court guidelines:** [a] decision should be taken by parents/close family members/ doctors [in the interest of patients]; [b] High court will approve the decision by appointing special committee; [c] HC decision should be communicated to close relatives before implementation [Presently Euthanasia is guided by SC directives only there is no Law]

#3 Euthanasia should be made legal in India?

- 1) **Arguments for.** [a] Dignified Death→ can restore dignity of person while death; [b] Ends the pain→ relieve the intolerably extreme pain/suffering of an individual; [c] Care-givers Burden→ ends burden for care givers; [d] Encouraging Organ Transplantation→ may save life of another person.
- 2) **Arguments against.** [a] Constitution of India→ Right to life under Article 21 does not include the right to die [Gian Kaur Case 1996]; [b] Malafide Intention→ possibility of misusing by family members for inheriting the property; [c] weakens society's respect for the sanctity of life; [d] discovery of the possible cure for the disease in near future.

#4 Important cases on Euthanasia

- 1) **Aruna Shanbaug vs. Union of India [2011];** laid down guidelines to process pleas for passive

Hate Speech

#1 What is hate Speech

- 1) It is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief with an intent to cause fear or incite violence.
- 2) **Reasons for hate Speech;** [a] Superiority feeling of one's identity like religion, caste etc. [b] Political tactics for electoral gains
- 3) **Effects of hate speech;** [a] violence; [b] weakens the multicultural fabric of our nation; [c] divisive forces may sense opportunity to divide India; [d] India will become vulnerable from external attacks.

#2 How hate speech is dealt in India?

- 1) **Legal** [a] **Sec 153A, 153B IPC:** Punishes acts that cause enmity + hatred between two groups. [b] **Sec 295A IPC:** Punishing acts which deliberate /malicious intention to outrage religious feelings of a class of persons. [c] **Sec 505(1) and 505(2) IPC:** Make the publication + circulation of content which may cause ill-will /hatred between different groups is punishable offence.
- 2) **Statutory** [a] Representation of the People Act, 1951; [b] Protection of Civil Rights Act, 1955; [c] Religious Institutions [Prevention of Misuse] Act, 1988; [d] Cinematograph Act, 1952

#3 What reforms are proposed?

- 1) **UN Strategy & Plan of Action on Hate Speech;** [a] responsibility of all governments + societies + private sector, all are responsible + all must act; [b] new generation of digital citizens empowered to recognize + reject + stand up to hate speech; [c] know more to act effectively by data collection + research, on the root causes conducive to hate speech
- 2) **T.K Viswanathan committee :** [a] make incitement to commit offence on the religion race, caste, etc as punishable offence; [b] Each state should have a State/District Cyber Crime Coordinator to deal with hate speech; [c] Enhance the punishment for hate speech

#4 Important cases on hate speech

- 1) **Ramji Lal Modi vs The State Of U.P [1957]** → restriction to protect the public order from speech intended to arouse and provoke was constitutionally acceptable.
- 2) **Arup Bhuyan vs State of Assam [2011];** → An act can only be punished when it amounts to violence or incites violence.
- 3) **Shrey Singhal v. Union of India [2015];** → [a] speech can only be limited on grounds of exceptions mentioned in article 19(2); [b] Incitement is the key to determining the constitutionality of restriction on free speech.

Police Reforms

#1 Police in India

- 1) **Constitutional provision;** Police → State subject [Schedule-7]; Centre has its own police force [paramilitary forces] to assist states in law and order.
- 2) **Functions of Police;** [a] uphold + enforce laws; [b] investigate crimes; [c] ensure security
- 3) **Organisational Structure;** [a] **Civil police**→ responsible for day-to-day law and order and crime control; [b] **Armed police**→ kept in reserve for emergencies like riots, etc
- 4) **Executive control:** [a] **Dual system**→ control lies in both District magistrate [to issue warrants] + SP [investigation, Law & order]; [b] **Commissionerate system**→ unified command to commissioner→ directly responsible to State govt/State police head.

#2 What are the challenges of police system in India?

- 1) [a] **Vacancies & overburdened force;** → leads to enormous workload long working hours→ low efficiency + performance; [b] **Police infrastructure**→ require modern communication & weaponry; CAG & BPRD have found many shortcomings; [c] **Public perception**→ people view the police as corrupt, inefficient, partisan & unresponsive; [d] **Internal disparity** 86% of police force consist of constables, this needs to be reduced; [e] **Custodial deaths & torture;** → many cases on police excess reported→ evades trust on the system.

#3 What reforms are proposed?

- 1) **Padmanabhaiah Committee;** [a] The Police Act of 1861 should be replaced by a new Act; [b] Investigation should be separated from law & order work; [c] establish a permanent National Commission for Policing Standards; [d] need for comprehensive reforms in criminal justice administration.
- 2) **2nd ARC:** [a] Relative autonomy to police [reduce political control]; [b] independent complaints authority to inquire into police misconduct; [c] outsource some non-core police function [like traffic management] to private agencies; [d] promotion + working conditions of constables need to be improved; [e] Constables should be recruited young [10th passed boys & girls through common exam and trained for 2 years].
- 3) **SC directions in Prakash Singh vs Union of India:** [a] Provide a minimum tenure of at least two year for the DGP; [b] State DGP should be from 3 senior most officers selected by UPSC; [c] constitute a State Security Commission in every state.

#4 What reforms are Implemented?

- 1) Model Police Act, 2006; Drafted by centre, 17 states accepted/modified their state police laws which mainly addresses the issue of functional autonomy, professionalism, improved service conditions
- 2) Technological reforms: Crime and Criminal Tracking Network and System (CCTNS), National Intelligence Grid (NATGRID), modernising control rooms.
- 3) Appointed Malimath committee to reform criminal law system in India.

Judicial Reforms

#1 Judiciary system in India

- 1) **Judiciary** → One of the 3 pillars of constitution [Executive+ Legislature+ Judiciary]; It is an independent body + Judiciary is the watchdog of Indian constitution; Justice system in India → integrated system; Supreme court → High court → District courts → block /metropolitan courts.
- 2) **Functions of Judiciary**; [a] Dispute resolution [b] Judicial review [c] Law preservation+ human rights protection.
- 3) **Imp Constitutional provisions**: **Art 124** → Establishment of SC; **Art 138** → enlargement of the jurisdiction of the SC; **Art 142** → Power of SC to pass decree/ order necessary for doing complete justice; **Art 143** → Power of President to consult Supreme Court; **Art 226** → power of HC to issue writs.

#2 What are the challenges associated with Indian Judiciary?

- 1) [a] **Under-trial prisoners** → India has highest number of under trial prisoners in the world; [b] **Delay in justice** → avg time taken to dispose a case 3 years for HC, 6 years for lower courts; [c] **Case load** → 3.9 crore cases pending in the district + subordinate courts; 58.5L cases in HC; 69,000 cases in SC; [d] **Infrastructure** → poor infrastructure leads to corruption+ increased case load; [e] **Ease of Doing Business** → India ranks 168 out of 190 countries on 'contract compliance'.

#3 What Reforms are proposed?

- 1) [a] **Court management** → need separate court/administrative personnel to better streamline the legal process; [b] **Case management** → Modifying the court procedures and evidence management + Investigative procedures; [c] **Infrastructure** → upgrading to modern infra like IT/ITES, Virtual hearing etc → recent pandemic stressed the need; [d] **Improve District Courts** → timely filling vacancies, enhancing budget, strengthening Gram Nyayalayas, Lok Adalat's; [e] **Increase judicial capacity** → timely appointing judges; → vacancies in High Courts stood at 37% in 2021.

#4 Steps taken to reform Judiciary

- 1) [a] Enactment of commercial courts to decrease case load [b] Amending Arbitration and conciliation Act 1996 [c] e-court system; National Judicial Data Grid → for case management; Legal Information and Management Based System (LIMBS) → monitoring of Court Cases; [d] Centrally Sponsored Scheme for Development of Infrastructure facilities for judiciary; [e] Promotion of Alternative Dispute resolution mechanism; [f] Number of Judges in supreme court increased to 33 from 30. [g] steps taken to repeal obsolete laws from IPC.

#5 Indian Judiciary- Critical Analysis

- 1) **Collegium system**: criticised → being opaque + lack of representation from SC/ST in the bench; supporters argue; → collegium system is needed to protect judiciary from executive [NJAC is struck down].
- 2) **Post retirement of judges**; no constitutional bar for judges to take post retirement offers [case of

Health Care in India [Part 1/2]

#1 Health

- 1) **Health**→ absence/freedom from illness defining a person's sense of wellbeing; Health care; → covers [1] Medical care [after illness]; [b] Preventive care [to prevent illness].
- 2) **Constitutional Provisions:** Health→ State subject [Schedule-7]; Art 21 Right to life→ connotes right to good health; Articles 39, 41, 42 and 47 of DPSP cast obligation on state to provide affordable health care to all.
- 3) **Institutional mechanism;** Ministry of Health at state level; Ministry of Health & Family welfare at union level, to assist/ support states; NITI Aayog [provides policy inputs].
- 4) **System of Health care;** [1] Public→ run by government for free/nominal cost [2] Private→ run by private /corporate entities for profit; [c] Non-profit→ run by charitable/religious trusts NGO's etc.

#2 Why Health care is important?

- 1) Improving the health of a nation's citizen's →more workforce→ more productivity→ result in economic growth.
- 2) Health→ determines human capital→ in its absence physical capital + natural resources cannot be properly utilized.
- 3) Good health→ highest standard to measure quality of life [social, physical, mental] → brings confidence in the person.

#3 Status of Health care in India

- 1) [a] 4 levels of Health care [level of medical intervention] → [1] Primary; [2] secondary; [3] Tertiary; [4] Quaternary care; [b] private out-of-pocket expenditure dominates cost health care→ pushing people in to poverty; [c] wide disparity between urban and rural health care; [c] Non-communicable disease burden is more in India [65% of total deaths]; [d] India has the highest TB burden in the world [24% of global burden]; [e] India has third highest malaria burden in the world; [f] Covid Pandemic exposed vulnerability of India to deal with Epidemics; [g] Pollution is emerging as biggest challenge for health→ 1.7 million Indians died due to air pollution in 2019 [Lancet].

#4 Issues with Health care in India

- 1) [a] **Inadequate reach:** mainly in rural areas →dependency on private→ increase out of pocket expenditure →poverty; [b] **Lack of quality infrastructure;** no proper equipment + non availability of doctors, medicines; [c] **Less number of health care workers;** Doctor to patient ratio in India 1:1511 [WHO norms 1:1000]; Nurse to patient ratio 1:670 [WHO norms 1:300]; [d] **Lack of budgetary support;** total budget spending for health is less than 2% of GDP; [e] **less focus on preventive care:** [f] **Medical research is still in nascent stage.**

Health care in India [Part 2/2]

#5 What reforms are required in the sector?

- 1) [a] Public funding on health should be increased to at least 2.5 per cent of GDP [NHP 2017] [b] Integrative medicine → modern medicine + alternative systems like Ayurveda and yoga should be promoted; [c] private sector → should be brought in to contribute for universal health care; [d] Constitute a public health and management cadre in states [NITI Aayog]; [e] Leveraging the benefits of ICT / e-health/ m-health initiatives to improve quality of healthcare service delivery; [f] Increase Community Participation and Citizen Engagement; [g] Reforms in health care profession.

#6 What are the Government Initiatives for Health care?

- 1) **National Health Mission [2012]** → two components [1] National Urban Mission; [2] National Rural Mission; Core principles of NHM → Universal health coverage + Quality standards + Decentralised planning.
- 2) **Promoting AYUSH**; [non-allopathic medical systems] → addresses gaps in health services+ provides low-cost services in far-flung areas
- 3) **Ayushman Bharat Programme [2018]**; two components [1] Pradhan Mantri Jan Arogya Yojana [PM-JAY]; [2] Health and Wellness Centres [HWCs]
- 4) **Janaushadi Yojana**; To provide quality generic drugs at a low cost.

#7 Healthcare- going Digital

- 1) Harnessing the power of digital technologies is essential for achieving universal health coverage. Emerging technologies in health care → wearable tech, telemedicine, genomics, virtual reality (VR), robotics and artificial intelligence (AI)
- 2) **e-health in India**; e-Health division [MOHFW]; **National Digital Health Mission [2021]**; **Initiatives**→ [a] **Electronic Health Records (EHRs)**; [b] **National Identification Number (NIN)** → to all Health facilities; [c] **My Health Record** → personal medical record storage platform to citizens of India [d] **National Digital Health Blueprint (NDHB)** → implementation framework for the National Health Stack (NHS) proposed by NITI Aayog.
- 3) **e-Sanjeevani**→ a doctor to patient telemedicine system.

#8 What is Future Potential in Health care?

- 1) [a] Huge potential to extend health care facilities in Tier-2 + Tier-3 cities; [b] Public-private participation increases choice + quality + affordability in health care; [c] Insurance penetration [for life & health care segment] in India is very low→ It should be leveraged to full extent; [d] India is becoming pharma Hub→ suitable incentives to this industry can make life saving drugs affordable to all; [e] awareness about Alternate medicine system AYUSH should be created in people to reduce burden; [f] focus on sanitation + Drinking water + Nutrition can improve outcomes in health.

Reservation in Promotions

#1 Reservations in India

- 1) **1902**; Shahu → [Maharaja of Kolhapur], introduced reservation for non-Brahmin + backward classes in education; **1950**: → Constitution provides scope for reservations for SC&ST; **1951**: → Caste-based reservation [First amendment]; **1990**: → 27% reservation to OBCs [Mandal Commission]; **2005** → 93rd amendment → reservations for SC/ST in educational institutions [including private]; **2019** → 10% reservation for EWS category.
- 2) **Constitutional Provisions on reservations. Art 15(4)**, → State can make special provision for socially /educationally backward classes; **Art 16(4)**, → reservations in public employment; **Art 16[4A]**; → reservation in promotions [with consequential seniority], **Article 330 & 332**; → reservations for SC/ST in Parliament & Assembly.

#2 Why reservation in promotions introduced?

- 1) Reservations at entry level did not reflect at the higher-level posts → systematic discrimination in the process of promotions was found.
- 2) Parliament → 77th amendment added Art 16[4A] → enabling promotions in reservation; 85th amendment → given consequential seniority [to remove anomaly of seniority]
- 3) SC in Nagraj case upheld the validity of 77th and 85th amendment.

#3 Reservation in promotion is Jus cogens?

- 1) **Arguments against.** [a] Constitution do not mention about reservations in promotions; [b] reservation at all levels compromises merit & efficiency; [c] reservation in promotion → may lead to enmity and division among employees; [d] reservation → bring low self-respect for meritorious & hardworking people.
- 2) **Arguments for.** [a] SC/STs → side-lined from the mainstream for years, reservation in promotion will act as equaliser; [b] substantive equality is fulfilled only when diverse groups are represented at all levels of employment; [c] Systemic discrimination → India, caste dominated society discriminations stems even after initial employment; [d] False notion of efficiency; → no evidence to prove SC/ST people underperform compared to others.

“Merit cannot be reduced to narrow definitions of performance in an open competitive examination which only provides formal equality of opportunity” -- D.Y. Chandrachud & A.S. Bopanna

#4 Important cases related to reservations

- 1) **Indira Sawhney vs Union of India, [1993]**; reservation should not breach 50% ceiling.
- 2) **M. Nagaraj vs Union of India [2006]**; Art 16(4A) is valid only on meeting 3 conditions [1] backwardness; [2] adequate representation [3] effect on merit.
- 3) **Ashok Kumar Thakur vs Union of India [2008]**; SC upheld reservations in educational Institutions [93rd amendment].
- 4) **Jarnail Singh vs Lachhmi Narain Gupta case of [2018]**; state need not collect quantifiable data on the backwardness of SC/ST for promotions [only to non-creamy layer]
- 5) **BK Pavitra vs Union of India – II [2019]**; SC upheld the validity of Karnataka govt's act on



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