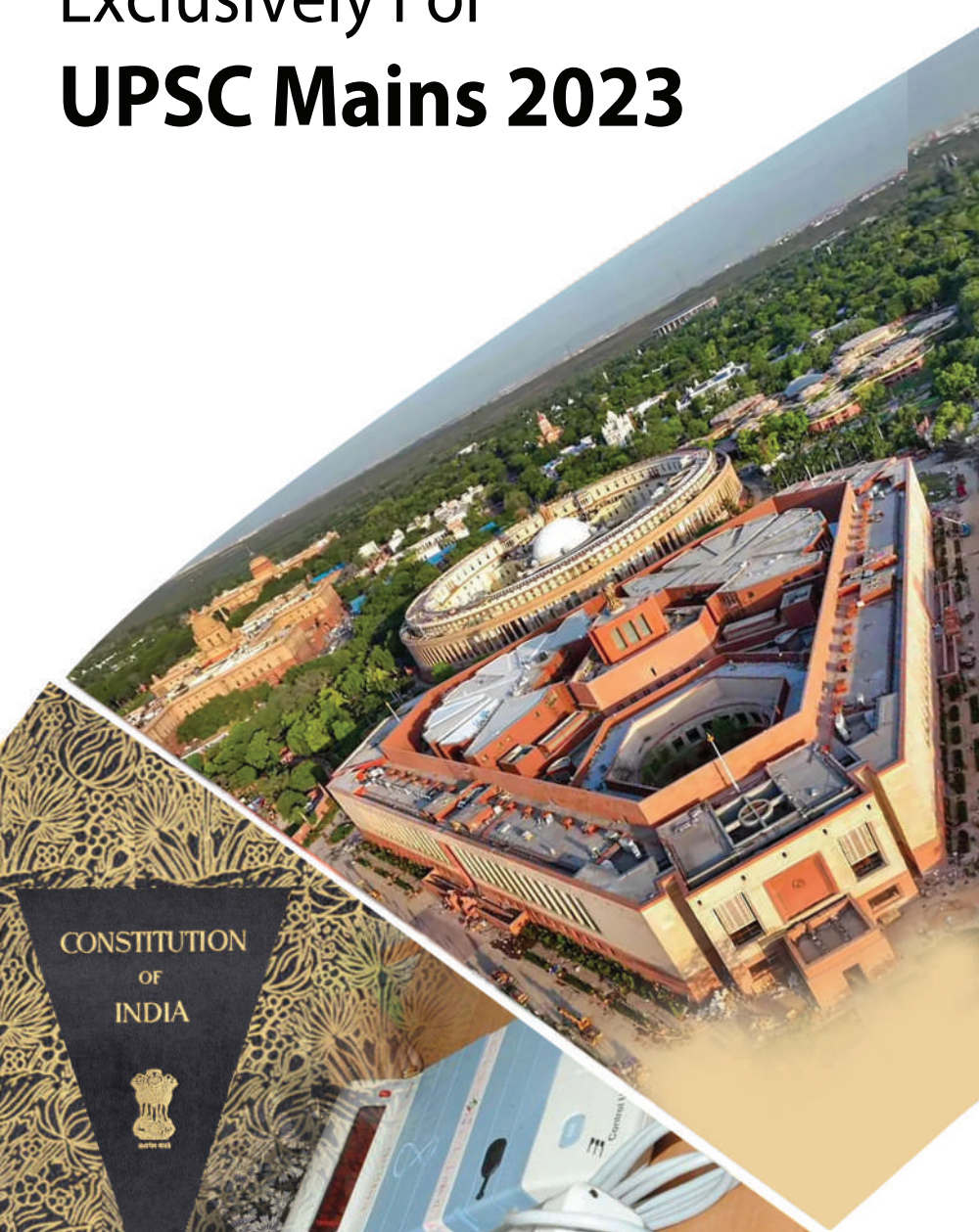




SIVARAJAVEL IAS ACADEMY
AN IDEAL INSTITUTE FOR **CIVIL SERVICE EXAMS**

TOPICS & POINTERS

Exclusively For
UPSC Mains 2023



CONSTITUTION
OF
INDIA



POLITY
GENERAL STUDIES-2
MAINS WORK BOOK

MOETIS 2023

Mentoring and Enabling Through Intelligent Support System

TOPICS AND POINTERS

2023 - MAINS STUDY MODULE

POLITY -THEMES AND PREVIOUS YEAR QUESTIONS

Sub Topic - Indian Constitution—Historical Underpinnings, Evolution, Features, Amendments, Significant Provisions and Basic Structure.

1. The most significant achievement of modern law in India is the constitutionalization of environmental problems by the Supreme Court.” Discuss this statement with the help of relevant case laws. **2022**
2. “Right of movement and residence throughout the territory of India are freely available to the Indian citizens, but these rights are not absolute.” Comment. **2022**
3. ‘Constitutional Morality’ is rooted in the Constitution itself and is founded on its essential facets. Explain the doctrine of ‘Constitutional Morality’ with the help of relevant judicial decisions **2021**
4. “Parliament’s power to amend the Constitution is a limited power and it cannot be enlarged into absolute power.” In the light of this statement explain whether Parliament under Article 368 of the Constitution can destroy the Basic Structure of the Constitution by expanding its amending power? **2019**
5. Under what circumstances can the Financial Emergency be proclaimed by the President of India? What consequences follow when such a declaration remains in force? **2018**
6. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. **2017**
7. Discuss each adjective attached to the word ‘Republic’ in the preamble. Are they defensible in the present circumstances stances? **2016**
8. Discuss the possible factors that inhibit India from enacting for its citizens a uniform civil code as provided for in the Directive Principles of State Policy. **2015**
9. Khap Panchayats have been in the news for functioning as extra-constitutional authorities, often delivering pronouncements amounting to human rights violations. Discuss critically the actions taken by the legislative, executive and the judiciary to set the things right in this regard. **2015**
10. Does the right to clean environment entail legal regulations on burning crackers during Diwali? Discuss in the light of Article 21 of the Indian Constitution and Judgement(s) of the Apex Court in this regard. **2015**
11. What do you understand by the concept “freedom of speech and expression”? Does it cover hate speech also? Why do the films in India stand on a slightly different plane from other forms of expression? Discuss. **2014**
12. Discuss Section 66A of IT Act, with reference to its alleged violation of Article 19 of the Constitution. **2013**

Sub topic: Comparison of the Indian Constitutional Scheme with that of Other Countries.

13. Critically examine the procedures through which the Presidents of India and France are elected. **2022**
14. Analyse the distinguishing features of the notion of Equality in the Constitutions of the USA and India. **2021**

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15. The judicial systems in India and UK seem to be converging as well as diverging in recent times. Highlight the key points of convergence and divergence between the two nations in terms of their judicial practices. **2020**
16. What can France learn from the Indian Constitution's approach to secularism. **2019**
17. India and USA are two large democracies. Examine the basic tenants on which the two political systems are based. **2018**

Sub topic: Functions and Responsibilities of the Union and the States, Issues and Challenges Pertaining to the Federal Structure, Devolution of Powers and Finances up to Local Levels and Challenges Therein.

18. To what extent, in your opinion, as the decentralisation of power in India changed the governance landscape at the grassroots? **2022**
19. While the national political parties in India favour centralisation, the regional parties are in favour of State autonomy." Comment. **2022**
20. How have the recommendations of the 14th Finance Commission of India enabled the states to improve their fiscal position? **2021**
21. How far do you think cooperation, competition and confrontation have shaped the nature of federation in India? Cite some recent examples to validate your answer. **2020**
22. Indian Constitution exhibits centralising tendencies to maintain unity and integrity of the nation. Elucidate in the perspective of the Epidemic Diseases Act, 1897; The Disaster Management Act, 2005 and recently passed Farm Acts. **2020**
23. The strength and sustenance of local institutions in India has shifted from their formative phase of 'Functions, Functionaries and Funds' to the contemporary stage of 'Functionality'. Highlight the critical challenges faced by local institutions in terms of their functionality in recent times. **2020**
24. How is the Finance Commission of India constituted? What do you about the terms of reference of the recently constituted Finance Commission? Discuss. **2018**
25. Assess the importance of Panchayat system in India as a part of local government. Apart from government grants, what sources the Panchayats can look out for financing developmental projects. **2018**
26. "The local self-government system in India has not proved to be effective instrument of governance". Critically examine the statement and give your views to improve the situation. **2017**
27. Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any that have led to recent reported conflicts between the elected representatives and the institution of the Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian federal politics? **2016**
28. To what extent is Article 370 of the Indian Constitution, bearing marginal note "Temporary provision with respect to the State of Jammu and Kashmir", temporary? Discuss the future prospects of this provision in the context of Indian polity. **2016**
29. Did the Government of India Act, 1935 lay down a federal constitution? Discuss. **2016**

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30. The concept of cooperative federalism has been increasingly emphasized in recent years. Highlight the drawbacks in the existing structure and the extent to which cooperative federalism would answer the shortcomings. **2015**
31. In absence of a well-educated and organized local level government system, 'Panchayats' and 'Samitis' have remained mainly political institutions and not effective instruments of governance. Critically discuss. **2015**
32. Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Centre, a feature that militates against the concept of strong federalism. Discuss. **2014**
33. Recent directives from Ministry of Petroleum and Natural Gas are perceived by the 'Nagas' as a threat to override the exceptional status enjoyed by the State. Discuss in light of Article 371A of the Indian Constitution. **2013**
34. Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? Discuss. **2013**
35. Constitutional mechanisms to resolve the inter-state water disputes have failed to address and solve the problems. Is the failure due to structural or process inadequacy or both? Discuss. **2013**

Sub topic: Separation of Powers between various organs Dispute Redressal Mechanisms and Institutions.

36. Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. **2020**
37. Do you think that constitution of India does not accept principle of strict separation of powers rather it is based on the principle of 'checks and balance'? Explain **2019**
38. From the resolution of contentious issues regarding distribution of legislative powers by the courts, 'Principle of Federal Supremacy' and 'Harmonious Construction' have emerged. Explain **2019**
39. Whether the Supreme Court Judgement (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. **2018**
40. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. **2017**
41. What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? **2016**
42. Resorting to ordinances has always raised concern on violation of the spirit of separation of powers doctrine. While noting the rationales justifying the power to promulgate ordinances, analyze whether the decisions of the Supreme Court on the issue have further facilitated resorting to this power. Should the power to promulgate ordinances be repealed? **2015**
43. Starting from inventing the 'basic structure' doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving

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democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. **2014**

44. The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution. Discuss critically. **2013**

Sub topic: Parliament and State Legislatures—Structure, Functioning, Conduct of Business, Powers & Privileges and Issues Arising out of these.

45. Discuss the role of the Vice –Presidents of India as the chairman of the Rajyasabha. **2022**

46. Discuss the essential conditions for the exercise of the legislative powers by the Governor. Discuss the legality of the re-promulgation of ordinances by the Governor without placing them before the Legislature. **2022**

47. To what extent, in your view, the Parliament is able to ensure accountability of the executive in India? **2021**

48. Explain the constitutional provisions under which Legislative Councils are established. Review the working and current status of Legislative Councils with suitable illustrations. **2021**

49. Do Department -related Parliamentary Standing Committees keep the administration on its toes and inspire reverence for parliamentary control? Evaluate the working of such committees with suitable examples. **2021**

50. 'Once a Speaker, Always a Speaker'! Do you think this 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? **2020**

51. "There is a need for simplification of procedure for disqualification of persons found guilty of corrupt practices under the Representation of Peoples Act". Comment **2020**

52. Rajya Sabha has been transformed from a 'useless stepney tyre' to the most useful supporting organ in past few decades. Highlight the factors as well as the areas in which this transformation could be visible. **2020**

53. Individual Parliamentarian's role as the national lawmaker is on a decline, which in turn, has adversely impacted the quality of debates and their outcome. Discuss. **2019**

54. Why do you think the committees are considered to be useful for parliamentary work? Discuss, in this context, the role of the Estimates Committee. **2018**

55. 'Simultaneous election to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people' Discuss. **2017**

56. To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? **2017**

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57. The Indian Constitution has provisions for holding joint session of the two houses of the Parliament. Enumerate the occasions when this would normally happen and also the occasions when it cannot, with reasons thereof. **2017**
58. The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes.” Discuss. **2016**
59. The ‘Powers, Privileges and Immunities of Parliament and its Members’ as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Assess the reasons for the absence of legal codification of the ‘parliamentary privileges’. How can this problem be addressed? **2014**
60. The role of individual MPs (Members of Parliament) has diminished over the years and as a result healthy constructive debates on policy issues are not usually witnessed. How far can this be attributed to the anti-defection law, which was legislated but with a different intention?

Sub topic: Structure, Organization and Functioning of the Executive and the Judiciary—Ministries and Departments of the Government; Pressure Groups and Formal/Informal Associations and their Role in the Polity.

61. Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness. **2014**
62. Instances of President’s delay in commuting death sentences has come under public debate as denial of justice. Should there be a time limit specified for the President to accept/reject such petitions? Analyse. **2014**
63. The size of the cabinet should be as big as governmental work justifies and as big as the Prime Minister can manage as a team. How far the efficacy of a government then is inversely related to the size of the cabinet? Discuss. **2014**
64. Starting from inventing the ‘basic structure’ doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. **2014**
65. Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. **2020**
66. Critically examine the Supreme Court’s judgement on ‘National Judicial Appointments Commission Act, 2014’ with reference to appointment of judges of higher judiciary in India.
67. The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution. Discuss critically.

Sub Topic: Salient Features of the Representation of People’s Act.

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68. Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under The Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision? Refer to the case laws. **2022**
69. On what grounds a people's representative can be disqualified under the Representation of People Act, 1951? Also mention the remedies available to such person against his disqualification. **2019**

Sub topic: Appointment to various Constitutional Posts, Powers, Functions and Responsibilities of various Constitutional Bodies. Statutory, Regulatory and various Quasi-judicial Bodies

70. Discuss the role of the National Commission for Backward Classes in the wake of its transformation from a statutory body to a constitutional body. **2022**
71. Discuss the role of the Election Commission of India in light of the evolution of the Model Code of Conduct. **2022**
72. Though the Human Rights Commissions have contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty and powerful. Analyzing their structural and practical limitations, suggest remedial measures. **2021**
73. In the light of recent controversy regarding the use of Electronic Voting Machines (EVM), what are the challenges before the Election Commission of India to ensure the trustworthiness of elections in India? **2018**
74. Which steps are required for constitutionalization of a Commission? Do you think imparting constitutionality to the National Commission for Women would ensure greater gender justice and empowerment in India? Give reasons **2020**
75. "The Central Administration Tribunal which was established for redressal of grievances and complaints by or against central government employees, nowadays is exercising its powers as an independent judicial authority." Explain. **2019**
76. "The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss. **2019**
77. "The Comptroller and Auditor General (CAG) has a very vital role to play." Explain how this is reflected in the method and terms of his appointment as well as the range of powers he can exercise. **2018**
78. How far do you agree with the view that tribunals curtail the jurisdiction of ordinary courts? In view of the above, discuss the constitutional validity and competency of the tribunals in India. **2018**
79. Is the National Commission for Women able to strategize and tackle the problems that women face at both public and private spheres? Give reasons in support of your answer. **2017**

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80. Exercise of CAG's powers in relation to the accounts of the Union and the States is derived from Article 149 of the Indian Constitution. Discuss whether audit of the Government's Policy implementation could amount to overstepping its own (CAG) jurisdiction. **2016**
81. What is a quasi-judicial body? Explain with the help of concrete examples. **2016**
82. What are the major changes brought in the Arbitration and Conciliation Act, 1996 through the recent Ordinance promulgated by the President? How far will it improve India's dispute resolution mechanism? Discuss. **2015**
83. "For achieving the desired objectives, it is necessary to ensure that the regulatory institutions remain independent and autonomous." Discuss in the light of the experiences in recent past. **2015**
84. National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of the above observation assess the role of NHRC as an effective complement to the judiciary and other institutions in promoting and protecting human rights standards. **2014**
85. The setting up of a Rail Tariff Authority to regulate fares will subject the cash strapped Indian Railways to demand subsidy for obligation to operate non-profitable routes and services. Taking into account the experience in the power sector, discuss if the proposed reform is expected to benefit the consumers, the Indian Railways or the private container operators. **2014**
86. Discuss the recommendations of the 13th Finance Commission which have been a departure from the previous commissions for strengthening the local government finances. **2013**
87. The product diversification of financial institutions and insurance companies, resulting in overlapping of products and services strengthens the case for the merger of the two regulatory agencies, namely SEBI and IRDA. Justify.

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INDIAN CONSTITUTION—HISTORICAL UNDERPINNINGS, EVOLUTION, FEATURES, AMENDMENTS, SIGNIFICANT PROVISIONS AND BASIC STRUCTURE.

1	Minorities	
	<p>Context:</p> <ul style="list-style-type: none">- The SC had sought the Union government's response in a plea that sought directions for framing of guidelines identifying minorities at the state level.- The expression "minorities" appears in some Articles of the Constitution, but is not defined anywhere. <p>Issue</p> <ul style="list-style-type: none">- The plea contended that Hindus are in a 'minority' in six states and three Union Territories of India but were allegedly not able to avail themselves of the benefits of schemes meant for minorities.- They should be given minority status in these states in accordance with the principle laid down by the SC in its 2002 TMA Pai Foundation and 2005 Bal Patil Case ruling. <p>Minorities and related constitutional provisions</p> <ul style="list-style-type: none">- United Nations Human Rights Commission in 1946 defined the 'minority' as those "non- dominant groups in a population which possess a wish to preserve stable ethnic, religious and linguistic traditions or characteristics markedly different from those of the rest of population."- The Constitution of India uses the word 'minority' or its plural form in some Articles – 29 to 30 and 350A to 350 B – but does not define it anywhere. It conceives 'minority' as an open category to protect the interests of various religious, linguistic and culturally distinctive groups.- Article 29 - any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.- Article 30 - All minorities shall have the right to establish and administer educational institutions of their choice.- Related to linguistic minorities only.:<ul style="list-style-type: none">✓ Article 350A: Facilities for instruction in mother tongue at primary stage.✓ Article 350 B: Special Officer for linguistic minorities.- Other constitutional safeguards that have a bearing on the status and rights of minorities are: Article 25 -28, Article 347(Special provision relating to language spoken by a section of the population of a State, Article 350(Language to be used in representations for redress of grievances)	

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Identification of minorities

- **Linguistic minorities:** Since there is **no majority at the national level** and the minority status is to be essentially **decided at the State/Union Territory level**.
- **Religious minorities:** As **regards religious minorities** at the national level in India, all those who **profess a religion other than Hinduism** are considered minorities.
- **National Commission for Minorities Act (1992)** also does not offer a definition of the term 'religious minority'. Instead, it is the **central government** that is **empowered to notify a few communities** as "minority" for the purpose of this Act.
- Following this mandate, the Central government notified **religious communities are** : Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis), Jains as **national religious minorities**
- A national level minority shall have **the status of a minority in the entire country** irrespective of its local population. This will be so even in a **state, region or district** where such a minority **is factually not a minority in numerical terms**.

SC judgements in this regard

- **THE KERALA EDUCATION BILL (1958):** Court stated that a **minority simply means a community** which is **numerically less than 50% but remained unclear** regarding '50% of what'. Whether such numerical inferiority is limited to the **entire country**, or an **entire state or a part thereof** was not stated.
- **DAV College case of 1971:** It was held that "Religious or linguistic minorities are to be determined **only in relation to the particular legislation** which is sought to be impugned." If a **Central legislation** like the National Commission for Minorities Act, 1992 is challenged, "minority" would have to be **calibrated with reference to the population of the whole of India**, not any one state.
- **TMA Pai case (2002):** The SC had said that for the purposes of Article 30 that deals with the rights of minorities to establish and administer educational institutions, **religious and linguistic minorities have to be considered state-wise**.
- **Bal Patil case (2005):** The legal position clarifies that henceforth the unit for determining status of both linguistic and religious minorities would be 'state'.

Conclusion:

- The identification of religious minorities still remains highly ambiguous, and a clear procedure should be introduced to determine the status of minorities both at state as well as national level to streamline the process.

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2	Uniform Civil Code	
	<p>Intro</p> <ul style="list-style-type: none"> - UCC is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc. - Article 44: the state shall endeavour to secure a UCC for the citizens throughout the territory of India. <p>Status of Uniform Codes in India:</p> <ul style="list-style-type: none"> - Supported by Nehru and Ambedkar in the Constituent Assembly but a strong opposition resulted in UCC getting included only in DPSP - Indian laws do follow a uniform code in most civil matters such as Indian Contract Act 1872, Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, Evidence Act, 1872 etc. - States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws. Ex: Recently, several states refused to be governed by the uniform Motor Vehicles Act, 2019. - SC: Repeatedly rejected petitions seeking direction to the centre to apply UCC stating that it is a matter of policy that the court is not competent to venture in. <p>Benefits of UCC:</p> <ul style="list-style-type: none"> - Protection to vulnerable sections of society including women and minorities: Promotes unity. - Simplification of laws: Complex laws on marriage, inheritance, succession, etc will be simplified. - Secularism: An objective of the preamble. Requires common laws for all citizens. - Gender justice: Personal laws containing gender bias will be done away with. – Modern state. - Informal bodies like Khap panchayat that promotes evils like honour killings and female infanticide exploit the loop holes of various personal laws. - Can help reduce vote bank politics to an extent. - Can help reduce the animosity caused by preferential treatment by the law of certain religious communities: Will help in integration of India. <p>Challenges:</p> <ul style="list-style-type: none"> - Communal politics and misinformation about UCC: Some sections see it as majoritarianism in the guise of a liberal social reform. Might lead to communal unrest. - Constitutional hurdle: Art25 seeks to preserve the freedom to practise and propagate any religion, gets into conflict with the concepts of equality enshrined under Article 14 of Indian Constitution. - Existence of legal pluralism in civil laws: Might be seen as damaging diversity & multiculturalism. 	

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	<p>Recent:</p> <ul style="list-style-type: none"> - SC declared Triple Talaq as unconstitutional in Shayara Bano vs UOI, 2017. - The Law Commission report 2018: UCC is “neither necessary nor desirable at this stage”. Also said “secularism cannot be contradictory to plurality” <p>Way forward:</p> <ul style="list-style-type: none"> - Build trust and make common cause with social reformers rather than religious conservatives. - Can go for a piecemeal reform rather than a holistic reform, starting with what minorities are most comfortable of doing away with: UCC in stages. 	
3	Death penalty	
	<p>Scenario in India</p> <ul style="list-style-type: none"> - While global trend is in favour of abolition of death penalty, it has not been completely abolished in India. - Capital punishment in India has been limited to the “rarest of rare cases”- like Section 121 (taking up arms against the state) and Section 302 (murder) of the Indian Penal Code 1860. - Prior to the Criminal Procedure (Amendment) Act (Cr PC) of 1955, the death penalty was the rule and life imprisonment an exception in India. - Capital punishment once delivered by the court of sessions (“sentencing court”) is required under law (CrPC) to be confirmed by the jurisdictional High Court (“confirming court”). <p>Judgements</p> <ul style="list-style-type: none"> - Bachan Singh vs State of Punjab (1980): SC called for mitigating and aggravating circumstances to be balanced against each other and laid down the principle that the death penalty ought not to be awarded unless the alternative of life imprisonment is “unquestionably foreclosed”. - Mofil Khan vs State of Jharkhand (2021): SC held that the “the State is under a duty to procure evidence to establish that there is no possibility of reformation and rehabilitation of the accused”. <p>Arguments for</p> <ul style="list-style-type: none"> - Retribution: One of the key principles of retribution is that people should get what they deserve in proportion to the severity of their crime. This argument states that real justice requires people to suffer for their wrongdoing and to suffer in a way appropriate for the crime. - Deterrence: Capital punishment is often justified with the argument that by executing convicted murderers, we will deter would-be murderers from killing people. It is often argued that the death penalty provides closure for victims' families. 	

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	<p>Arguments against:</p> <ul style="list-style-type: none"> - No sufficient data to support the deterrent logic. Rather, a study conducted in USA shows that the state abolishing death penalty had witnessed the fall in murders. - The principle of revenge (eye for an eye) cannot be the basis of justice in any civilized - Society. The purpose of punishment should be to reform rather than to punish - Possibility of error in judgment as admitted by the SC in 2009 in Santosh Kumar v/s State of Maharashtra case. It admitted that there are at least 13 cases in which death penalty was awarded, the doctrine of “rarest of the rare” was not applied. - - United Nation’s Declaration on Human Rights also expects the state to abolish torturous punishments and death penalty. 	
7	Euthanasia and Doctrine of waiver	
	<p>Intro:</p> <ul style="list-style-type: none"> - Euthanasia (“good death”) is the practice of intentionally ending a life in order to relieve pain and suffering. It is also known as ‘mercy killing’. - Art21: Right to life - Sec 309 of IPC: Attempt to commit suicide is punishable. - Sec 306 of IPC: Abetment to commit suicide is punishable. <p>Types of Euthanasia:</p> <ul style="list-style-type: none"> - Passive Euthanasia: entails the withholding of common treatments, such as antibiotics, necessary for the continuance of life. - Active Euthanasia: entails the use of lethal substances or forces, such as administering a lethal injection, to kill and is the most controversial means. 3 types of Active Euthanasia: <ul style="list-style-type: none"> o Voluntary: conducted with the consent of the patient o Non-voluntary: conducted where the consent of the patient is unavailable o Involuntary: conducted against the will of the patient <p>Arguments in favour:</p> <ul style="list-style-type: none"> - people have a right to self-determination: choosing one’s own fate. - assisting a subject to die might be a better choice than requiring that they continue to suffer. - permitting euthanasia will not necessarily lead to unacceptable consequences. - Caregivers burden: Right-to-die ‘supporters argue that people who have an incurable, degenerative, disabling or debilitating condition should be allowed to die in dignity - Euthanasia in terminally ill patients provides an opportunity to advocate for organ donation 	

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	<p>Arguments against:</p> <ul style="list-style-type: none"> - Proper palliative care makes euthanasia unnecessary. - There is no way of properly regulating euthanasia. - Will lead to less good care for the terminally ill – Moral wrong - Might undermine the commitment of doctors and nurses to saving lives – Medical ethics. - May become a cost-effective way to treat the terminally ill – Vulnerable sections - Will discourage the search for new cures and treatments for the terminally ill. <p>In India:</p> <ul style="list-style-type: none"> - Passive euthanasia is legal in India. - Supreme Court in 2011 legalised passive euthanasia by means of the withdrawal of life support to patients in a permanent vegetative state and gave guidelines. – Aruna Shanbaug case. - The passive euthanasia law for two irreversible conditions: <ul style="list-style-type: none"> ✓ The brain-dead for whom the ventilator can be switched off. ✓ Those in a Persistent Vegetative State (PVS) for whom the feed can be tapered out and pain-managing palliatives be added, according to laid-down international specifications. - A 2014 SC bench found the Aruna Shanbaug judgment “internally inconsistent” and referred it to a larger bench but the government endorsed SC guidelines on passive euthanasia. - In 2018, Passive Euthanasia was legalised. SC: if strict guidelines are followed, the government would honor "living wills" allowing consenting patients to be passively euthanized if the patient suffers from a terminal illness or is in a vegetative state. 	
8	Sedition and free speech	
	<p>Freedom of speech and expression:</p> <ul style="list-style-type: none"> - Guaranteed under Art 19(1) - every citizen has the right to express his views, opinions, belief and convictions freely by word of mouth, writing, printing, picturing or in any other manner. - The State can impose reasonable restrictions: Art 19(2). Grounds: sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation, and incitement to an offence. - Sec 66A of IT Act: Struck down as unconstitutional and called draconian. Invades the right of free speech and upsets the balance between such a right and reasonable restrictions. 	

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- SC: Liberty of thought and expression is a cardinal value and constitution. And distinguish between discussion, advocacy and incitement.

Hate Speech:

- Sections 153A and 153B of the IPC: Punishes acts that cause enmity and hatred between two groups.
- Section 295A of the IPC: Deals with punishing acts which deliberately or with malicious intention outrage the religious feelings of a class of persons.
- Sections 505(1) and 505(2): Make the publication and circulation of content which may cause ill-will or hatred between different groups an offence.
- Section 8 of RPA 1951: Prevents a person convicted of the illegal use of the freedom of speech from contesting an election.

Sedition:

- Sec 124A of IPC: Sedition is an act that brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government established by law in India by words, either spoken or written, or by signs, or by visible representation, or otherwise.
- Non-bailable offence. Punishment: from imprisonment up to 3 years to a life term
- CJI: Pre-independent colonial law which was used against people like Gandhi and Tilak. The law is prone to misuse.

Arguments for the Sedition law:

- In line with 19(2) of the constitution.
- Maintaining unity and integrity of the country.
- Maintaining stability of the state.

Arguments against the Sedition law:

- Relic of colonial era: mainly framed to cull the Indian national movement.
- Stand of Constituent Assembly: Members did not agree to include it in the constitution.
- Repressing democratic values: India will be termed as autocracy because of callous use of Sedition.

Stance of court:

- Kedar Nath Singh vs State of Bihar, 1962: limited application of sedition to “acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence”
- SC in 2021: “a statute criminalizing expression based on unconstitutionally vague definitions of ‘disaffection towards Government’ etc. is an unreasonable restriction on the fundamental right to free expression guaranteed under Article 19 (1)(a) and causes constitutionally impermissible ‘Chilling Effect’ on speech”.

Way forward:

- Sedition law has its utility in combating anti-national, secessionist and terrorist elements. However, dissent and

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	criticism of the government are essential ingredients of robust public debate in a vibrant democracy. They should not be constructed as sedition.	
10	Rights	
	<p><u>Right to protest</u> <u>SC judgments:</u></p> <ul style="list-style-type: none"> - Shaheen Bagh Judgement, 2019: The court affirmed the right to peaceful protest against legislation, but cleared that public streets and public areas cannot be occupied forever. - Mazdoor Kisan Shakti Sangathan (MKSS) vs. Union of India (2018): In this case, the Supreme Court recognised the basic right to assembly and peaceful protest - Ramlila Maidan Incident vs. Home Secretary, Union of India (2012): The Supreme Court ruled that citizens have a basic right to assemble and demonstrate peacefully. <p><u>Issues:</u></p> <ul style="list-style-type: none"> - Protests may sometimes be a public nuisance for people who do not share the same viewpoint or simply wish to get on with their everyday routine. - Political interference in the protest is usually done by the opposition government to support their own political agenda. - Although citizens are permitted to assemble peacefully, marches and protest, these protests can sometimes turn Violent, and damage lives and public property. <p><u>Right to be forgotten</u> <u>SC judgments:</u></p> <ul style="list-style-type: none"> - In the Indian context, the Supreme Court in Puttaswamy v. Union of India, 2017 noted that the RTBF was a part of the broader right of privacy. - The High Court of Karnataka in January 2017, upheld the RTFB of a woman who went to court to remove her name from internet regarding the criminal cases of past. - The Delhi Court presided over a case in February 2017, where a man requested to have information regarding his wife and mother removed from search engine results. The man was of the opinion that the search engine results that were linked to his name were proving a roadblock to future employment prospects. <p><u>Issues:</u></p> <ul style="list-style-type: none"> - The individual's need for privacy may be overridden by the public's overall interest in viewing and accessing information - It is a broad and underdeveloped concept without any precedent - It places potential restriction on the freedom afforded to media, journalist and other parties - Its impact on freedom of expression 	

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	<ul style="list-style-type: none"> - It decreases the quality of internet through censorship and rewriting of history - the blocking or delinking of URLs by search engines does not guarantee that such information has been blocked or deleted from the Internet. There is also no way to ensure that such information is not uploaded again. <p><u>Right to privacy and surveillance:</u></p> <p><u>Surveillance in India:</u></p> <ol style="list-style-type: none"> 1. The Central Monitoring System (“CMS”) was established for Interception of communication and to provide its authorization to Law Enforcement Agencies (“LEAs”). 2. Lawful Intercept and Monitoring (“LIM”) systems, 3. CCTNS Project and NATGRID 4. The Information Technology Act, 2000 (IT Act) and The Indian Telegraph Act, 1885 (Telegraph Act) (for digital and telephonic surveillance in India) 5. Intelligence agencies like RAW, CBI don’t come under the purview of Parliament or Right to Information Act <ul style="list-style-type: none"> - National security and privacy have largely been viewed as competing interests over the years; however, with the advent of technology and means of digital surveillance, protecting citizens’ information is also important. - It is perhaps the best time to begin to view protecting the privacy and information of citizen’s as a facet of preserving national security. - The Supreme Court in the K.S. Puttaswamy v. Union of India upheld a citizen’s right to privacy, specifically including informational privacy - While infringing the right, Trinity of proportionality, legality, and necessity, effectively requiring even state-led surveillance to abide by these caveats. - In Pegasus case, SC set up a committee of experts to recommend amendments to the existing law around surveillance to secure the right to privacy. 	
11.	Article 32 and its significance:	
	<ul style="list-style-type: none"> - It gives rights to an individual to seek justice in a court when they feel that their rights have been infringed or ‘unduly deprived’. - The supreme court has the power to execute the rights that have been bestowed upon an individual by the constitution. - It limits the power of the state in encroaching the lives of the citizens as establishes apex court as the protector and guarantor of fundamental rights - Part of the basic structure of the constitution as declared by apex court - an application cannot be refused on technical grounds if filed under article 32 	

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	<ul style="list-style-type: none"> - It led to evolution of PIL leading to justice for the marginal section of society thus penetrating the spirit of constitutionalism to the lowest section of society. - It Influenced enlightened expansion of article -21- right to life & liberty <p><u>SC judgements on Article 32:</u></p> <ul style="list-style-type: none"> - In different cases the Supreme court has uphold the fundamentals right of citizens. <ol style="list-style-type: none"> 1. Kesavananda Bharati vs State of Kerala, 1973. 2. Minerva mill vs Union of India, 1978. 3. Maneka Gandhi vs Union of India 4. Aadhar case etc. <p><u>Limitations of Article 32:</u></p> <ul style="list-style-type: none"> - Under Article 33, the Parliament is empowered to make changes in the application of Fundamental Rights to armed forces and the police are empowered with the duty to ensure proper discharge of their duties. - During the operation of Martial law in any area, any person may be indemnified by the Parliament, if such person is in service of the state or central government for the acts of maintenance or restoration of law and order under Article 34. - Under Article 352- when an emergency is proclaimed, the guaranteed Fundamental Rights of the citizens remains suspended. Also, Fundamental Rights guaranteed under Article 19 is restricted by the Parliament under Article 358 during the pendency of an emergency. - Article 359 confers the power to the President to suspend Article 32 of the Constitution. The order is to be submitted to the Parliament and the Parliament may disapprove President's order. 	
12.	Revisiting India's Reservation Policy	
	<p><u>Vertical reservation:</u></p> <ul style="list-style-type: none"> - Reservation for Scheduled Castes, Scheduled Tribes, and Other Backward Classes is referred to as vertical reservation. It applies separately for each of the groups specified under the law. <p><u>Horizontal reservation:</u></p> <ul style="list-style-type: none"> - Horizontal reservation refers to the equal opportunity provided to other categories of beneficiaries such as women, veterans, the transgender community, and individuals with disabilities, cutting through the vertical categories. - (The horizontal quota is applied separately to each vertical category, and not across the board. For example, if women have 50% horizontal quota, then half of the selected candidates will have to necessarily be women in each vertical quota category — i.e., half of all selected SC candidates will have to be women, half of the unreserved or general category will have to be women, and so on.) 	

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Time to revisit:

- It has become a tool to meet narrow political ends through invoking class loyalties and primordial identities.
- Reservation only perpetuates the notion of caste in society.
- Irrespective of the economic progress due to reservation, underprivileged **continue to remain socially disadvantaged.**
- The **dominant and elite class** within the backward castes has appropriated the benefits of reservation
- Reservation has become the mechanism of exclusion rather than inclusion.
- Reservation in state services led to divisions and enmity among government employees, vitiating the atmosphere at workplace.

Recent Judgements:

Maratha Judgement:

- A separate reservation for the Maratha community violates Articles 14 (right to equality) 21 (due process of law)
- Taking the quota limit in the State in excess of 50%, as unconstitutional.
- There was no “exceptional circumstances” or “extraordinary situation to increase it beyond 50%
- The Supreme Court declined to re-visit the its 1992 Indira Sawhney judgment , which fixed the reservation limit at 50%.

Vanniyar reservation judgement:

- SC struck down the special reservation act which provided for an internal 10.5% reservation to the Vanniyar caste in educational institutions and government jobs within the existing quota for other backward classes (OBCs).
- The impugned law is *ultra vires* Article 14 and 16 of the constitution.
- SC opines that there is no objective criteria for sub-classifying Vanniyars for purposes of reservations.

Important Judgements:

- The **State of Madras v. Smt.Champakam Dorairajan (1951) case** was the first major verdict of the Supreme Court on the issue of Reservation. The case led to the First amendment in the constitution.
- In **Indra Sawhney v. Union of India (1992) case** the court examined the scope and extent of Article 16(4). **Creamy layer** of OBCs should be excluded from the list of beneficiaries of reservation, and total reserved quota **should not exceed 50%.**
- **M. Nagaraj v. Union Of India 2006** case. Upholding the constitutional validity of Art 16(4A) and held that any such reservation policy in order to be constitutionally valid shall satisfy the three constitutional requirements (Backwardness, representation, efficiency of work)

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	<ul style="list-style-type: none"> - In Jarnail Singh vs Lachhmi Narain Gupta case of 2018, Supreme Court holds that reservation in promotions does not require the state to collect quantifiable data on the backwardness of the Scheduled Castes and the Scheduled Tribes. 	
14	Article 368 and Basic structure	
	<p>Intro:</p> <ul style="list-style-type: none"> - Indian constitution is an evolving and living document. It is not rigid and 368 allows for the Power of Parliament to amend the Constitution. - Basic structure Doctrine: Kesavananda Bharti case <p>Evolution:</p> <ul style="list-style-type: none"> - Shankari Prasad → 368 Amendment is not law. Art 13(2) does not apply. No restriction on parliament to amend - Golaknath → Art 368 only procedure by power derived from Art 245 Hence Amendment is law subject to Art 13. F.Rights cannot be amended. - 24th Amendment to restore Position of parliament- Added 13-(4) - Kesavanada Bharti: Overruled Golaknath → Power to amend but restricted under Basic Structure → Gave birth to Basic Structure Doctrine. Essential Features Doctrine. <p>Basic structure doctrine itself is an evolving list. Got strengthened by:</p> <ul style="list-style-type: none"> - Minerva Mills v/s Union of India Case (1980): Clarification of BSD → Waman Rao case → Maneka Gandhi case: Triangle of Art 14, 19, 21 → S.R Bommai: Secularism → Coelho Case: Judicial Review → NJAC: Independence of Judiciary, etc <p>Conclusion:</p> <ul style="list-style-type: none"> - The soul of the Constitution as envisaged by the founding father of India remains intact → BSD does not undermine the legislative competence of the parliament → rather it helps in maintaining the supremacy of the constitution and upholding the constitutional spirit. 	
15	Rule of law vs Rule by law	
	<p>Intro:</p> <ul style="list-style-type: none"> - Recently CJI Ramana spoke on how We fought for the Rule of Law not Rule by Law. <p>A.V Dicey: Rule of Law</p> <ul style="list-style-type: none"> - No arbitrary Power (Supremacy of Law) → 2. Equality Before Law (Everyone equal) → Predominance of Legal spirit - Art 32 and 226 is the bulwark for Rule of Law. Rule of Law an Essential Feature of Basic Structure Doctrine. <p>Rule by Law:</p> <ul style="list-style-type: none"> - A colonial Legacy → Used for Political Repression → An Instrument of Oppression. Law takes a heavy hand. <p>4 principles of Legal Positivism for Rule of Law: Justice Ramana Speech</p>	

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	<ol style="list-style-type: none"> 1. Clear and Accessible Laws not secretive laws. 2. Equality Before law: But vulnerable enjoy justice due to poverty. Gender Inequality: Visibility of Women in reforms and inclusivity needed 3. Right to participate in creation of Laws 4. Strong and Independent Judiciary <p>What is the Rule of Law Index? (World Justice Project.)</p> <p>India ranks 79th.</p> <p>(1) Constraints on Government Powers, (2) Absence of Corruption, (3) Open Government, (4) Fundamental Rights, (5) Order and Security, (6) Regulatory Enforcement, (7) Civil Justice, and (8) Criminal Justice</p>	
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FUNCTIONS AND RESPONSIBILITIES OF THE UNION AND THE STATES, ISSUES AND CHALLENGES PERTAINING TO THE FEDERAL STRUCTURE, DEVOLUTION OF POWERS AND FINANCES UP TO LOCAL LEVELS AND CHALLENGES THEREIN.

17	Interstate River dispute	
	<p>Constitutional Provisions -> regarding Interstate River Water Dispute</p> <ul style="list-style-type: none"> - Schedule VII (Art. 246) <ol style="list-style-type: none"> i. State list (Entry 17): With respect to water (water supplies, irrigation & canals, drainage & embankments, water storage & water power) ii. Union List (Entry 56): Regulation & development of inter-State rivers & river valleys. - Article 262: Adjudication of disputes of inter-State rivers/river valleys. - Article 263: Establishment of Inter-State Council to effect coordination between states & between Centre & states. - Article 131: Original jurisdiction to Supreme Court -> to resolve dispute between Union & states & inter-State. - Article 136: Empowers the Supreme Court -> to challenge earlier ruling by other courts/any other Tribunal. <p>Present Dispute Resolution Mechanisms</p> <ul style="list-style-type: none"> - Interstate River Water Disputes Act, 1956 -> under Ar: 262 -> to resolve water disputes in use, control & distribution of interstate river/river valley. - River Board Act, 1956 -> to enable the Centre to create Boards -> to deal with interstate river & river valleys in consultation with States -> no river boards created till now. - River water tribunal -> constituted by CJI -> consists of sitting judge of SC & other 2 judges of either the SC or HC. <p>Proposed amendment to Inter-State River Water Disputes Act, 1956 -> to streamline the adjudication & make the present institutional architecture robust.</p> <p>Key provisions</p> <ol style="list-style-type: none"> i. Constitution of single tribunal with different Benches & setting strict timelines for adjudication. ii. Resolution within 18 months -> failing which, matter will go to the tribunal. 	

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iii. Tribunal to decide within 3 years -> with extension of another 1.5 years.

Challenges in Resolving Disputes

- Politicization of Tribunal => tribunal judge selection committee comprises of PM or nominee as Chairperson, Minister of Law & Justice, Minister of Jal Shakti & CJI -> pose the risk of states politicizing disputes & adjudication by the tribunal.
- Dispute Resolution Committee -> might not be adequately empowered -> Ex: Cauvery Supervisory Committee (CSC) -> with similar composition did not have much success.
- Inordinate delays in setting up of tribunals & deciding the award.
- Tribunal can only give an award -> but cannot enforce its implementation (No effective authority) & doesn't have powers of punishment for 'contempt'.
- Awards of tribunals, although supposedly final & binding -> challenged in courts -> under Article 136 (Special Leave Petition) or Article 21 (Right to Life) -> further delays -> Ex: Cauvery water dispute.
- Concerns of environmental impacts, rehabilitation measures -> not been effectively assessed -> may be a threat to nearby wildlife areas.

Reasons for Rising River Disputes

- Climate & geographical factors => study in 2011 -> Climate change might cause a reduction of up to 50% in waters of Cauvery sub-basins by 2080.
- Demographic factor => Increasing population in the river basin.
- Uneven distribution of water resources -> with increasing Rainfall variability & frequent droughts.
- Change in agriculture pattern --> farmers now shifting towards water-intensive crops -> paddy & sugarcane.
- Regional politics -> transformed the disputes into turfs of vote bank politics.

Way forward

- Declaration of Rivers as National Property -> as done by SC in Cauvery Verdict -> may reduce the tendency of states.
- Water disputes need to be depoliticised & Inter-State Council (ISC) -> facilitate dialogue & discussion towards resolving conflicts.
- Bringing water into concurrent list & Central water authority to manage rivers (As recommended by Mihir shah report) -> also supported by a Parliamentary Standing Committee on Water Resources.
- Following 4Rs (Reduce, Reuse, Recycle, Recover) for water management -> to achieve SDG-6 (Ensure access to water & sanitation for all).
- Interlinking of rivers -> can help in adequate distribution of river water in basin areas.

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	<ul style="list-style-type: none"> - Complying with National Water Policy -> for rational use of water & conservation of water sources. - Single, permanent tribunal -> to adjudicate inter-state river water disputes -> major step towards streamlining the dispute redressal mechanism. <p>Conclusion</p> <ul style="list-style-type: none"> - Problems of water scarcity -> may worsen the differences between States -> with regards to river sharing. - Robust dispute redressal mechanism -> to address this issue is vital & Inter-State River Water Disputes (Amendment) Bill, 2019 -> major step towards resolving problems of water disputes within the country. 	
19	CBI vs States	
	<ul style="list-style-type: none"> - CBI -> premier investigating police agency in India -> non-statutory body -> deriving its powers from Delhi Special Police Establishment Act, 1946. <p>Functions/Role of CBI</p> <p>It takes up,</p> <ol style="list-style-type: none"> i. Economic Crimes => investigate major financial scams & serious economic frauds -> Ex: Fake Indian Currency Notes, Bank Frauds etc. ii. Anti-Corruption Crimes => investigate cases under Prevention of Corruption Act against Public officials, PSUs, Corporations/Bodies owned/controlled by GoI. iii. Suo Moto Cases => investigation of offences only in the UTs. <ul style="list-style-type: none"> - Central Government can authorize CBI to investigate a crime in a State -> but only with the consent of the concerned State Government. - Supreme Court & High Courts -> can order CBI to investigate a crime anywhere in the country -> without the consent of the State. - CBI -> nodal agency to coordinate investigation w.r.t Interpol (National Central Bureau of Interpol in India). - It maintains crime statistics & disseminates criminal information. <p>Issues/Challenges related to CBI</p> <ul style="list-style-type: none"> - SC criticized CBI => calling it a "caged parrot speaking in its master's voice" -> due to excessive political interference in its functioning. - Often misused by government of the day -> to cover up wrongdoing, keep coalition allies in line & political opponents at bay. - Lack of financial autonomy -> depends on government for its financial needs. - Direct involvement of government in deputing staff. - Limited autonomy -> dependent on general consent given by states. - CBI -> exempted from RTI Act -> lacks public accountability. 	

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- Prior approval of Central Government -> to conduct inquiry/investigation -> at the level of Joint Secretary & above in Central Government -> big obstacle in combating corruption.
- Overlapping jurisdiction => CVC, DoPT, Lokpal -> have control over CBI.
- Lack of own cadre -> dependent on IPS deputation by home ministry.
- Insufficient manpower -> Government's austerity measures, lengthy recruitment procedures -> acute manpower shortage in CBI.
- In corruption cases -> conviction rate is < 3%.
- Huge mismanagement in important cases -> Ex: Bofors, Hawala scandal, Sant Singh Chatwal case, Bhopal gas tragedy, Aarushi Talwar etc. -> affects credibility.
- Delay in investigation -> Ex: Jain Hawala diaries case, 1990.

Issue of State's Consent to CBI

- Police is a State subject -> CBI acts as per CrPC -> which makes it a police agency -> hence, needs consent of State before investigation.
- As per Section 6 of Delhi Special Police Establishment Act, 1946 -> State governments can withdraw the general consent => Recently, states like Andhra Pradesh & West Bengal -> withdrew consent.
- 2 kinds of consent:
- Case-specific Consent => CBI's jurisdiction only over central government employees. To investigate state government employees -> needs state's consent.
- General Consent => aids CBI to investigate cases of corruption against central government employees in concerned state -> if withdrawn, CBI needs consent in all cases individually.
- Withdrawal of consent -> only bars the CBI from registering a case within the jurisdiction of states.
- However, after removal of consent -> CBI still have the authority
 - i. To probe old cases registered when general consent existed, &
 - ii. Cases registered elsewhere in India, but involving people in states which have withdrawn consent.
- Recently, Supreme Court => "Once a court takes cognisance of a corruption case investigated by CBI -> it cannot be set aside for lack of State's prior consent."

Way Forward

- 2nd ARC, L P Singh committee & various parliamentary committees -> called to replace DSPE Act -> with comprehensive & exclusive law to empower CBI (Statutory status).

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	<ul style="list-style-type: none"> - Delink CBI from the administrative control of the government (transfers). - CBI Director Appointment -> should be done through a collegium -> as recommended by Lokpal Act. - Ensure financial autonomy. - CBI needs its own dedicated cadre of officers -> who are not bothered about deputation & abrupt transfers. - Direct recruitment through UPSC can be resumed. - Empower CBI to fix its accountability only to Parliament like CAG. - Bring the Anti corrupt wing of both CVC & CBI under Lokpal. - SC guidelines in Vineet Narain case: <ol style="list-style-type: none"> i. Nodal agency to be established -> for dealing with political-criminal-bureaucratic Nexus. ii. CBI should submit its work report every 3 months. <p>Establishment of directorate of prosecution.</p>	
20	Inter-State Border Disputes	
	<ul style="list-style-type: none"> - Union Home Ministry (MHA) -> informed that 11 States & 1 UT -> have boundary disputes between them. <p>Constitutional provisions regarding Interstate dispute</p> <ul style="list-style-type: none"> - Article 131: Supreme Court has original jurisdiction over any dispute arising between States or between Center & States. <p>Current Ongoing Disputes</p> <ul style="list-style-type: none"> - Karnataka-Maharashtra => Belgaum district has large Marathi & Kannada-speaking populations -> part of Bombay presidency during British & included in Karnataka after 1956 -> centre of dispute. - Assam-Mizoram => Mizoram was a district of Assam -> different perceptions about demarcation -> to protect tribals from outside influence. - Haryana-Himachal Pradesh => Parwanoo region, next to Panchkula district of Haryana. - Himachal Pradesh-Ladakh => claim to Sarchu, area between Leh & Manali. - Arunachal Pradesh-Assam => Arunachal's grievance -> re-organisation of NE states unilaterally transferred several forested tracts -> to Assam. - Meghalaya-Assam => Meghalaya challenged the Assam Reorganisation Act of 1971 -> which gave present-day Karbi Anglong district -> to Assam. - Gujarat - Rajasthan => Mangadh Hill, on the border of 2 states. - Haryana- Punjab => transfer of Chandigarh to Punjab. <p>Reasons of Dispute</p> <p>Historical</p> <ul style="list-style-type: none"> - Several dynasties established & tried to capture areas -> never have clear demarcation of boundaries. 	

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- British created boundaries as per their commercial interests -> emotions of local communities regarding land, ignored/suppressed -> fault lines created by Britishers in boundary demarcation, still unaddressed.

Political

- Constitution has no provision for a swift & binding decision of Interstate border disputes. Ex: Article 262 -> on disputes relating to inter-state rivers -> no comparable provision on disputes on land.
- Most long standing & contentious inter-state issue -> is sharing of river waters.
- Vote bank politics -> to not to follow recommendation of commissions which left the matter unaddressed.
- When new states were formed -> borders/boundaries -> not the primary concern -> over the years, with new settlements & resources -> border disputes emerge.
- Neglect of committee's recommendations => Meghalaya rejected -> Y.V. Chandrachud Committee report on disputes with Assam; Nagaland rejected -> Sundaram Commission recommendation on disputes with Assam.

Economic

- Increasing pressure on land -> for more intensive agriculture & industrialisation -> more dispute on land.
- Violent agitations over migrants & job seekers from other states -> because of existing resources & employments -> not enough to meet the needs of growing population.
- Areas which are important tourist spots & natural resources -> became an area of dispute.
- People with similar ethnic & cultural identity -> wanted to stay together -> clashes arise.

Implications of Disputes

Economic

- Lack of investment & factories in disputed areas -> Lack of development.

Political

- Increase in clashes & violence due to different claims. Ex: Recent violence due to Mizoram-Assam border dispute.
- Due to unclear boundaries -> no state able to take administrative responsibilities -> inaccessible to welfare schemes -> results crimes & under development.
- If prudent action is not taken & violators are not duly punished -> such clashes will spread to other disputed borders -> 'Domino effect.'
- Fueling regionalism & secessionist tendencies -> due to unmatched demands of different groups.

Social

- Clashes between different ethnic groups -> increase animosity/hatred.

Security

- Lack & additional cost of security.

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	<ul style="list-style-type: none"> - Areas of civil disputes -> became easy targets & breeding ground of unsocial element due to external supports -> major threat to internal security. - State which feels more betrayed -> can be manipulated by China for its vested interests. <p>Way Forward</p> <ul style="list-style-type: none"> - Inter-state border disputes -> resolved by states themselves or by Centre -> through dialogue & political settlements -> maintaining cooperative federalism. - States while exercising internal sovereignty -> conflicts of interest surely arise -> Hence, provision for judicial determination of disputes, settlement of disputes by extrajudicial bodies & prevention by consultation/joint action -> are essential. - Boundary disputes -> can be settled by using satellite mapping. - Revive the Inter-state council -> according to Article 263 -> to inquire & advise on disputes, discuss subjects & make recommendations -> for better policy coordination. - Time-bound resolution of border dispute. Ex: Tribunals to hear inter-state border disputes & interpret old legal documents -> to reach a solution. - Internal disputes -> solved keeping in mind the Indian values & ethos of unity -> to maintain the social fabric of peace & harmony. <p>Conclusion</p> <p>Inter-state disputes -> need to be settled quickly & impartially -> otherwise they create friction, under development, misguide the energies of people & governments.</p>	
21	Reforming 7th Schedule	
	<ul style="list-style-type: none"> - 7th schedule of Indian Constitution -> deals with division of powers & regulates relationship between Union & State Governments. - 15th Finance Commission chairman NK Singh -> called for a thorough review of 7th Schedule -> in the wake of current challenges of climate change & pandemic. <p>Constitutional Provisions</p> <ul style="list-style-type: none"> - 7th Schedule -> divides the subjects on which Centre & States can make laws. - Article 246 -> provides 3-fold distribution of legislative subjects between Union & States -> through 3 lists (Union, State & Concurrent Lists) -> which specify the divisions of power between Union & States. i. Union List => 100 subjects (originally 97) -> contains matters of national importance & matters which require uniformity of legislation nationwide. ii. State List => 61 subjects (originally 66) -> matters of regional & local importance which require state-specific solution & matters which permit diversity of interest. 	

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iii. Concurrent List => 52 subjects (originally 47) -> matters on which uniformity of legislation throughout the country is desirable -> but is not essential.

Rational Behind list system

- Clear demarcation of duties & area of power -> for each unit of government.
- Union list -> brings uniformity in administration on important subjects.
- States can involve in development needs as per their local requirements -> gives freedom to focus on deprived areas -> Balanced regional growth.
- Will reduce disputes over the scope of Centre-State jurisdiction -> however, the distribution reflects the dominance of Parliament.
- Concurrent list -> provides sufficient ground for cooperative federalism.

Need for Reforms

- Principles of 7th schedule taken from GoI Act, 1935 & not in sync with contemporary issues.
- Unbalanced devolution of power -> results, rising demands for more power devolution in favour of states.
- Indian governance -> though federal in nature -> has strong central tendencies -> due to guidelines set by GoI Act, 1935, fear of cessation etc.
- Since 1950, through amendments -> Union & Concurrent List, grown -> State List, reduced.
- Ex: 42 AA implemented in 1976 -> State List subjects like education, forest, protection of wild animals & birds, administration of justice, weights & measurements -> transferred to Concurrent List.
- Limited financial capacity of states -> for implementation of laws.
- Little flexibility for states according to their needs -> balance between flexibility & uniformity needed.
- Central laws on state legislatures' domain -> directly infringe the rights of states -> Ex: Anti-terrorist laws, Lokpal bill, issues with GST & Aadhar etc.
- Commissions that delved into Union-state relations -> not given adequate focus -> 7th Schedule deserves independent scrutiny.
- Citizens increasingly demand efficient delivery of public goods/services -> but without delegation of funds/resources -> functions of state & local governments -> stalled.
- COVID-19 pandemic exposed the issues with distribution of subjects -> fragmented law enforcement. Ex: COVID-19 pandemic is primarily a health & public order issue (State subjects) -> States imposed lockdown by invoking Epidemic Disease Act, 1897 -> However, central government invoked DM Act, 2005 & blanket lockdown across the country.

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	<ul style="list-style-type: none"> - Centrally sponsored schemes -> necessitated central outlays in subjects falling within the State List (Ex: Agriculture). <p>Recommendations to reform the 7th schedule</p> <ul style="list-style-type: none"> - Rajamannar Committee (Centre-State Relations Inquiry Committee) => suggested constitution of High-Power Commission -> to examine the entries of Lists I & III in 7th Schedule & suggest a redistribution of the entries. - B Das (former CM of Odisha) => Stated the need for general principles in selecting the Items under 3 lists. - Venkatachaliah & Puncchi Commission => reiterated the need for consultation & restraint by Central Government with respect to Concurrent List. - Sarkaria Commission => Residuary powers of taxation should remain with Parliament & Other residuary powers in Concurrent List -> Centre should consult the states before making a law on subject of Concurrent List. - NK Singh (Chairman of 15th Finance Commission) -> spoke about reforming 7th Schedule. <p>Way Forward</p> <ul style="list-style-type: none"> - Relooking & reforming 7th schedule -> cleaning of constitutional cobwebs -> necessary to ensure the healthy functioning of Constitution. - Committees such as Rajamannar, Sarkaria & Punci -> recommended strengthening of Interstate Council -> where the concurrent list subjects can be debated/discussed. - Least interference in state subjects (Autonomy) & enough budgetary support to states. - Conduct periodic review -> to ensure continuing exhaustiveness by removing outdated entries, adding new/emerging entries after consulting relevant stakeholders. - Residuary powers -> used only as a last resort & not as the primary means. 	
22	Demand for 6th Schedule status (Arunachal, Ladakh) and its Implications	
	<p>Intro</p> <ul style="list-style-type: none"> - Article 244 of the Constitution - the Sixth Schedule - enacted in 1949 -to protect indigenous groups - establishment of autonomous administrative divisions known as Autonomous District Councils (ADCs). - Provisions - grant indigenous tribes significant autonomy - currently applies to the Northeastern states of Assam, Meghalaya, Mizoram (three Councils each), and Tripura (one Council) - This special provision - under Article 244(2) and Article 275(1) of the Constitution. - Bordoloi Committee formed by the Constituent Assembly - The report - protection of these tribal areas - from exploitation by the people in the plains - preserving their distinct social customs. 	

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	<ul style="list-style-type: none"> - The 5th Schedule areas are declared in the States of Andhra Pradesh, Telangana, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan. Article 371 A - applied in Nagaland - special status to Nagaland <p>Recent demands</p> <ul style="list-style-type: none"> - Few Autonomous Councils in Arunachal Pradesh - led to the call for bringing the entire Arunachal Pradesh under the ambit of the 6th Schedule or Article 371 (A) of the Constitution - a demand - raised in Parliament to include the Union Territory (UT) of Ladakh in the Sixth Schedule of the Constitution - to safeguard land, employment, and cultural identity of the local population. - Currently Arunachal Pradesh - neither under 5th Schedule nor under 6th Schedule - It is under Inner Line Permit (ILP) system - The 6th Schedule - applied in Assam, Meghalaya, Mizoram and Tripura. <p>Need of Inclusion in Sixth Schedule:</p> <ul style="list-style-type: none"> - Administration of the UT of Ladakh - now completely in the hands of bureaucrats - The changed domicile policy in Jammu and Kashmir - The UT has two Hill councils in Leh and Kargil, but neither is under the Sixth Schedule - Their powers are limited to collection of some local taxes - parking fees and allotment and use of land vested by the Centre - National Commission for Scheduled Tribes (NCST) Recommendation - more than 90% of Ladakh's population is tribal - Primary Scheduled Tribes (STs) in Ladakh are Balti Beda, Bot (or Boto), Brokpa (or Drokpa, Dard, Shin), Changpa, Garra, Mon and Purigpa. <p>Conclusion</p> <ul style="list-style-type: none"> - Ladakh's inclusion in the Sixth Schedule - difficult - The Constitution is very clear, the Sixth Schedule is for the Northeast 	
24	15th Finance Commission Recommendation With Respect To Local Bodies	
	<ul style="list-style-type: none"> - Finance commission - constitutional body - distributing tax proceeds between centre and states and among the states - Art 280 - 15th Finance commission under NK Singh (2021-2026) - 41% to states - Grants to local bodies based on population 90% and area 10% weightage - conditions for availing grants - publishing audit accounts in public domain - fixation of minimum floor rates for property tax and improvement in collection - health grants for conversion of rural subcentres and PHC to Health and wellness centres (HWCs) - diagnostic infrastructure for PHC - grants to all three tiers of PRI - special grants for incubation of new cities and facilitating shared municipal services. 	

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	<ul style="list-style-type: none"> - Significance – steep hike in grants to local bodies – nearly 50% hike – inclusion of all tiers of PRI – Mandate for regular functioning of State finance commissions – ensuring financial accountability through criterias for grants - Criticism – Reduction in performance based grants – Failed to include PRIs in equalization principle of centre state 	
25	A Case for more federal judiciary	
	<ul style="list-style-type: none"> - The essential characteristic of federalism is the distribution of limited executive, legislative and judicial authority among bodies which are coordinate with and independent of each other. This pointer is about federal nature of judiciary <p><u>Nature of Indian Judiciary</u></p> <ul style="list-style-type: none"> - The Indian Constitution envisaged the equality of power of High Court judges and Supreme Court judges, with a High Court judge not being a subordinate of a Supreme Court judge. - The Supreme Court has on many occasions reiterated the position that the Supreme Court is superior to the High Court only in the appellate sense. - The need for the balance between the courts was highlighted during the Emergency, when a significant number of High Courts stood out as guides of freedom, even as the Supreme Court failed in this duty. - In recent years, three specific trends have greatly eroded the standing of the High Court, leading to an imbalance in the federal structure of the judiciary. - Collegium- The Collegium also has the power to transfer judges and chief justices from one High Court to another. The practical impact of this is the power dynamic between a High Court judge and a Supreme Court judge. - Parallel judicial systems- Successive governments have passed laws that create parallel judicial systems of courts and tribunals which provide for direct appeals to the Supreme Court, bypassing the High Courts. The effect of this will be weakening of the authority of the High Courts. - E.g. In cases of the Competition Commission, the company law tribunals, or the consumer courts, the High Courts are bypassed. - Petty cases- The Supreme Court has been liberal in entertaining cases pertaining to trifling matters which are of local nature. The Supreme Court interfering in matters which are clearly of local importance, having no constitutional ramifications - E.g. In 2018, the Supreme Court entertained a writ petition and issued directions that Deepavali could be celebrated for only one or two hours in the evening This led to an uproar because people in South India celebrate Deepavali in the morning. 	

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	<p>Conclusion:</p> <ul style="list-style-type: none"> - The Supreme Court itself should recognise the importance of self-abnegation and restores the federal balance by re-empowering the High Courts. This will be in the best interest of the nation. 	
27	Sustained attack on Federalism:	
	<p>Recent issues with fiscal federalism:</p> <ul style="list-style-type: none"> - Increasing monetary share of the States in Centrally Sponsored Schemes - Terms of reference of the 15th Finance Commission - Imposition of demonetisation without adequate consultation with the States - Institutionalisation of the Goods and Services Tax (GST) - outsourcing of the statutory functions under the Smart Cities Mission - a delay in transfer of GST compensation - Enlarging the non-divisible pool of taxes in the form of cess in petrol tax & instituting the Agriculture Infrastructure and Development Cess - share of non-divisible pool cess and surcharge in total taxes collected by the Union government jumped from 12.67% in 2019-20 to 23.46% in 2020-21 - Petroleum sector to the exchequer for 2020-21 was 68%, which left only 32% to the States. In 2013-14, the Union: State share was almost 50:50. <p>Laws and policies questioning the federal spirit:</p> <ul style="list-style-type: none"> - Farm laws; - National Capital Territory Amendment Act, 2021; - the Indian Marine Fisheries Bill, 2021; - the Draft Electricity (Amendment) Bill, 2020; - the Dam Safety Bill, 2019; - National Education Policy of 2020; and the - Draft Blue Economy policy. - creation of the Ministry of Co-operation and the - Reserve Bank of India directives on cooperatives - the Banking Regulation (Amendment) Act of 2020; <p>Other notable issues:</p> <ul style="list-style-type: none"> - One Nation One Ration card. - States were curtailed in aspects relating to COVID-19 management such as procurement of testing kits, vaccination, the use of the Disaster Management Act, and - The unplanned national lockdown - Union government issued a clarification that funding to the Chief Minister's Disaster Relief Funds will not be considered as CSR expenditure, unlike the case with PM-CARES - Suspension and transfer of the Member of Parliament Local Area Development (MPLAD) to consolidated fund of India. 	

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28	Role of governor in federalism	
	<p><u>Purpose of governor from federalism angle:</u></p> <ul style="list-style-type: none"> - Acts as a vital link between centre and states - Ensuring the National unity and integrity across states - Maintaining the political continuity and peaceful transfer of power. - Make sure that states are governing as per constitution. - Establish good governance during emergency time (Art 352 and 356) - Reserve bills to the president when it deals with national issue. <p><u>Issues:</u></p> <ul style="list-style-type: none"> - Centre using the constitutional post of governor as its agent to the state. - Misuse of Article 356 to enforce president's rule. - Reserving the bills to the president with political motive - Using the pocket veto over the bills and pardon decisions. - Not summoning the legislature as per the advice of council of ministers - Not acting as per the advice of the council of ministers due to ambiguity over the discretionary power. - Lack of security of tenure and arbitrary removal of governor. 	
29	Important recommendation of Punchi and sarkaria commission on center state relations:	
	<p><u>Punchi commission:</u></p> <ul style="list-style-type: none"> - The Commission sought to localize the emergency provisions under Articles 355 and 356 - In matters concerning internal security the Punchi Commission recommended the creation of National Integration Council. - There should be a provision by which the President's decision to use his Pocket veto power is communicated to the State within six months. - Regarding the appointment of Governors, the Doctrine of Pleasure should be deleted from the Constitution. - The Commission recommended that the Centre should consult states before introducing bills on items in the concurrent list through the inter-state council. <p><u>Sarkaria commission:</u></p> <ul style="list-style-type: none"> - Article 356 should be used sparingly - Institution of all-India service should be strengthened - Residuary power should remain with the parliament - Reasons should be communicated to the state when state bills are vetoed by the President - Governors should be allowed to complete their term of five years - Commissioner for linguistic minorities should be activated 	

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30	Panchayati Raj Institutions	
	<ul style="list-style-type: none">- Significance of Panchayati Raj Institution- <i>Promote Democratic Representation</i> - The PRI system generally consists of three level: Gram Panchayat at the village level, Block Panchayat or Panchayat Samiti at the intermediate level and Zilla Panchayat at the district level - increases cooperation among people, democratic participation and decentralization.- <i>Effective and Efficient Planning</i> - The 2.5 lakh Gram Panchayats (GPs) in the country - entrusted to provide basic services in the villages and plan for local economic development.- The Gram Sabha (GS) discusses the development work plans of the GP called Gram Panchayat Development Plan (GPDP) - the elected representatives execute the plans - Formulation of GPDP improves efficiency of public services.- <i>Ensures Good Governance</i> - 'Consensus oriented' and 'Participation' - two important pillars of Good Governance and the PRI helps in ensuring both these pillars - This bottom-up approach - meant to reflect the needs of various stakeholders <p>Reasons for their ineffective performance</p> <p><i>Lack of Effective Devolution</i></p> <ul style="list-style-type: none">- Local government - state subject in the Constitution - the devolution of power and authority to panchayats has been left to the discretion of states.- Some of the important subjects like fuel and fodder, non-conventional energy sources, rural electrification including distribution of electricity, non-formal education, small scale industries including food processing industries, technical training, and vocational education have not been devolved in certain states. <p><i>Insufficient Grants/Funds</i></p> <ul style="list-style-type: none">- Despite the constitutional empowerment - the local bodies face problems of inadequate finance to carry out various activities assigned to them.- Transfers made through the State Finance Commissions - meagre in most States.- In most of the states - most of the GPs are found reluctant to raise their own source of revenue (OSR) - Only a few GPs are able to generate OSR in the form of tax or non-tax revenue by renting shops, house tax and clean water fee. <p><i>Issue of Sarpanch Pati</i></p> <ul style="list-style-type: none">- Despite the Prime Minister called for an end to 'Sarpanch Pati culture' on the Panchayati Raj Day in 2015 - it is still very much prevalent in the society - mainly due to gender biases, women illiteracy and patriarchal society. <p>Infrastructural Challenges</p> <ul style="list-style-type: none">- Some of the GPs do not have their own building and they share space with schools - anganwadi centre and other places - Some have their own building but without basic facilities like toilets, drinking water, and electricity	

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	<p>connection - Lack of internet connection in Gram Panchayats</p> <p><i>Lack of Support Staff</i></p> <ul style="list-style-type: none"> - The Standing Committee on Rural Development in July 2018 observed - there is severe lack of support staff and personnel in panchayats, such as secretary, junior engineers, computer operators - data entry operators - This affects their functioning and delivery of services by them. <p><i>Lack of Convergence of Various Government Programmes</i></p> <ul style="list-style-type: none"> - There is a clear lack of convergence of various development programmes of the Centre and state governments <p>Ways to improve their effectiveness/functionality</p> <ul style="list-style-type: none"> - Genuine fiscal federalism - fiscal autonomy accompanied by fiscal accountability can provide a long term solution. - The 2nd ARC had recommended - there should be a clear-cut demarcation of functions of each tier of the government - state Governments should encourage local bodies to outsource specific functions to public or private agencies, as may be appropriate, through enabling guidelines and support - The Comprehensive and holistic training - best achieved by 'networking' of institutions concerned with various subjects such as financial management, rural development, disaster management and general management. - Audit committees - constituted by the State Governments at the district level - to exercise oversight of the integrity of financial information, adequacy of internal controls, compliance with the applicable laws - ethical conduct of all persons involved in local bodies. 	
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SEPARATION OF POWERS BETWEEN VARIOUS ORGANS DISPUTE REDRESSAL MECHANISMS AND INSTITUTIONS

32	Administration of UTs - Delhi 239A	
	<ul style="list-style-type: none"> - 69th Amendment Act, 1992 - Added two new Articles 239AA and 239AB under which the Union Territory of Delhi has been given a special status. - Government of National Capital Territory (GNCT) of Delhi (Amendment) Act, 2021 - amended the Sections 21, 24, 33 and 44 of the 1991 Act. - States that the "government" in the National Capital Territory of Delhi meant the Lieutenant-Governor of Delhi - Gives discretionary powers to the L-G - Bars the Assembly or its committees from making rules to take up matters concerning day-to-day administration, or to conduct inquiries in relation to administrative decisions. - Act requires the LG to reserve certain Bills passed by the Legislative Assembly for the consideration of the President which includes those the President may direct to be reserved. - 2018 Judgement - the Bench upheld the respective powers of the state Assembly and Parliament. It said that while 	

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	<p>the Council of Ministers must communicate all decisions to the L-G, this does not mean that the L-G's concurrence is required. In case of a difference of opinion, the L-G can refer it to the President of India for a decision. The L-G has no independent decision-making power, but has to either act on the 'aid and advice' of the Council of Ministers or is bound to implement the decision of the President on a reference that is made.</p>	
33	Judicial activism and Separation of powers	
	<ul style="list-style-type: none"> - Judicial activism - Proactive role of Judiciary in protecting the rights – originated in USA - Pros – Checks and balances to government – upholds constitution – speedy resolution - Cons – overriding existing law – friction between legislature and judiciary - Judicial Overreach – When Judicial Activism goes overboard, and becomes Judicial Adventurism, it is referred to as Judicial Overreach – interfering with the proper functioning of the legislative or executive organs of the government – undesirable in a democracy as it breaches the principle of separation of powers. - Separation of powers – the executive, legislature and judicial powers are divided into different branches – Art 50, 122 - Kesavananda Bharati case (1973): The apex court of India declared that the executive had no right to intercede and tamper with the basic structure of the constitution. - Union of India Vs Rajendra N.Shah case – SC repealed most of the parts of the 97th CAA - SC Advocates on record association Vs Union of India – SC states 99th CAA and NJAC unconstitutional - Minerva mills case – SC declared judicial review is outside the purview of Parliament. 	
34	Tribunalisation of courts and Separation of powers	
	<ul style="list-style-type: none"> - Tribunals are institutions established for discharging judicial or quasi-judicial duties – same level of independence from the executive as the judiciary. - Objective – To reduce case load of the judiciary or to bring in subject expertise for technical matters. - 42nd CAA – Art 323A and 323B regarding tribunals 	

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	<pre> graph TD SC[Supreme Court] --- HC[High Court] SC --- T1[Tribunals] HC --- SC1[Subordinate Courts] HC --- T2[Tribunals] </pre>	
36.	ROLE OF JUDICIARY IN IMPROVED LAW MAKING	
	<p>Intro</p> <ul style="list-style-type: none"> - The judiciary can and should employ the tools available to it to nudge legislative bodies to improve their law-making processes -without affecting separation of powers. <p>BODY:</p> <p>Role of Judiciary</p> <ul style="list-style-type: none"> - The judiciary - enforcing the text and spirit of the constitutional provisions governing legislative procedures- in improving the law-making process and securing democratic ideals. - Judiciary - deliberation a factor in evaluating the constitutional validity of laws. <p>If - judiciary confines the doctrine of Presumption of Constitutionality -only to laws & consequences defibrated by state .</p> <ul style="list-style-type: none"> - Through -Judicial review- the court- is to call on the State to provide justifications explaining why the law is reasonable & valid. <p>Impacts :</p> <ul style="list-style-type: none"> o examine whether -legislature deliberated the reasonableness of a measure. o evaluating the factual basis justifying the law- The Supreme Court-adopted this approach in the Indian Hotel and Restaurants Association (2013) case. <ul style="list-style-type: none"> - Judiciary addresses the violations of the constitution in a timely manner and corrects them.- (Adhaar case -money bill <p>CONCLUSION:</p> <ul style="list-style-type: none"> - The CJI's suggestion - legislature be reformed from within - ideal solution to remedying legislative dysfunction without raising concerns of separation of powers. 	
37.	Checks and balances in Indian constitution	
	<p>INTRO:</p> <ul style="list-style-type: none"> - The doctrine of separation powers aims to prevent a concentration of power or misuse or abuse of power -means of which is -checks and balances. 	

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	<p>BODY:</p> <p>Provisions for checks and balances in Indian constitution :</p> <ul style="list-style-type: none"> - Article 50 - the State - separate the judiciary from the executive. - Articles 74 and 163 -restrict- the courts -inquiring into the advice tendered by the Council of Ministers to the President and the Governor. - Articles 122 and 212 -restrict -the courts from questioning the validity of proceedings in the Parliament and the Legislatures. - Articles 121 and 211- restrict -the Parliament and the State Legislature from discussing the Judicial conduct of a judge of the Supreme Court and the High Courts . - Article 361 -immunity to the President or the Governor from being answerable to any court for the exercise and performance of the powers and duties of his office. <p>Checks and balances between the three organs are ensured through:</p> <ul style="list-style-type: none"> - Judiciary - Judicial review- over legislative and executive actions. - 1973 Kesavananda case that the court began to enforce the doctrine of basic structure, limiting the powers of government. - The Judiciary - procedure established by law - in adjudication on question of law. - Appointment of Judges by the Executive head (through a process of collegium) and removal of judges on the basis of a resolution passed by the Parliament. - Parliamentary form of Government where in the executive is responsible to the legislature. “The daily assessment - members of Parliament- through questions, resolutions, no-confidence motions, adjournment motions and debates. - Periodic assessment is done by the electorate at the time of the election.” <p>CONCLUSION:</p> <p>Thus the Constitution of India+judiciary through its judicial review prevents the possibility of arbitrariness and tyranny by providing for functional separation of powers - effective checks and balances between the three organs .</p>	
38.	Judicial independence	
	<p>Intro:</p> <ul style="list-style-type: none"> - Indian Constitution does not define the term independence. Article 13 and article 50 -for taking decision without any interference of the executive or legislative branch of government. 	

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<p>Constitutional provisions:</p> <ul style="list-style-type: none"> - Security of tenure - Articles 124 and 217 -judges -removed -order of President of India -on grounds -proved misbehaviour and incapacity. - The salaries and allowances of the judges are fixed and are charged (The Supreme Court Judges Salaries and Conditions of Service Act, 1958) - Parliament cannot curtail -powers +jurisdictions of supreme court . - No discussion in the legislature of the state with respect to the conduct of any judge of Supreme Court or of a High Court in the discharge of his duties.(article 121) - Supreme Court and the High Court -the power to punish any person for their contempt.(article 129 -sc ;article 215 - Hc) <p>Challenges to Judicial Independence :</p> <ul style="list-style-type: none"> - Judge’s appointment and the lack of transparency - collegium system - Roaster System-The Chief Justice of India, as the senior-most judge of the Court, decides the allocation of certain cases to judges and benches of judges. - Nepotism, Favouritism and Politically Biased. - Judicial overreach -transgressing the separation of powers <p>Conclusion :</p> <ul style="list-style-type: none"> - Public confidence as an institute of the last resort can be established through Judicial independence . 	
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COMPARISON OF THE INDIAN CONSTITUTIONAL SCHEME WITH THAT OF OTHER COUNTRIES

39.	US president vs Indian president							
	<p>Intro:</p> <ul style="list-style-type: none"> - Though the Presidents of India and USA share the title of the head of the country, their real positions are quite different. <p>Body:</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 25%;">Parameters</th> <th style="width: 25%;">American President</th> <th style="width: 50%;">Indian President</th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">Presidential election</td> <td style="text-align: left;">Elected directly by the citizens</td> <td style="text-align: left;">Elected indirectly. i.e., through representatives of people.</td> </tr> </tbody> </table>		Parameters	American President	Indian President	Presidential election	Elected directly by the citizens	Elected indirectly. i.e., through representatives of people.
Parameters	American President	Indian President						
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	Powers	<ul style="list-style-type: none"> • Head of the state as well as Executive head of the state. • Chooses his own Ministers. They are his nominees and are responsible to him alone. • the US President does not have the power to dissolve the Congress. 	<ul style="list-style-type: none"> • Only Head of the state or titular head. • Appoints his ministers on the advice of his Prime Minister and they are responsible not to him but to Parliament. • The Indian President can dissolve the Lok sabha. 	
	Tenure	Holds office for 4 yrs. Can be re-elected only once.	Holds office for 5 yrs. Can be re-elected for any number of times.	
	Functionality	Not a part of the Legislature.	Integral part of Legislature.	
	Impeachment procedure	Only the Senate (Upper house) has the power to impeach.	Any of the two houses can initiate the proceedings.	
	Emergency powers	special powers during a crisis but imposes certain procedural formalities	Can order for proclamation of both internal and external emergency	
	Veto powers	can veto a bill passed by congress.	Can send for reconsideration only once. If it was passed, it has to be given assent.	
	<p>Conclusion:</p> <ul style="list-style-type: none"> - Nevertheless, as heads of their respective states, the US president and President of India, both enjoy a sovereign status in their states. 			
40.	US Federalism vs Indian Federalism			
	<p>Intro:</p> <ul style="list-style-type: none"> - Federalism, as a political concept deals with the constitutional allocation of power in such a way that the constituent units of a federal system are part of the collective policy-making and administration process. - In India → asymmetrical federalism. US → true federalism. 			

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Body:		
	US Federalism	Indian Federalism
Rigidity of Constitution	<ul style="list-style-type: none"> • very concise and compact. • very strict, the laws intended to amend the constitution are also very rigid and more formal. • all federal government states have their Constitutions to rule themselves by their loyalty to federal constitution. 	<ul style="list-style-type: none"> • Constitution of India is very dense. • Flexible. so far been amended 94+ times. • States have no constitution of their own, but each state has the right to pass the laws of its own that are included in both the state and the concurrent lists.
Legislature working	<ul style="list-style-type: none"> • The House of Representatives is elected based on the population of a state but each state in the USA has only two senate members, irrespective of the size of the state or population. • a Senate member is elected directly. • Senate House or the upper house is stronger in the United States. 	<ul style="list-style-type: none"> • The members of Lok Sabha and Rajya sabha serve their electorate on a population basis. • Lok Sabha in India is stronger and its representatives are elected directly. • A Rajya Sabha member in India is indirectly elected by a system of proportional and transferable voting.
Judicial working	<ul style="list-style-type: none"> • established Federal judicial system. • States have their own rules and their own Supreme Court. 	<ul style="list-style-type: none"> • Integrated judicial system. • Though there can be a separate state law, its jurisdiction is not restricted to state High court.
Central Government	<ul style="list-style-type: none"> • The ultimate power of defence and diplomacy is enforced by the central government. 	<ul style="list-style-type: none"> • In its Seventh Schedule → powers bestowed on the Federal Government concerning

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		<ul style="list-style-type: none"> Flexibility in interpretation of powers. 	<ul style="list-style-type: none"> diplomacy and security, war and peace. The nature of these powers under the Indian Constitution is more nuanced 							
	Union and secession	<ul style="list-style-type: none"> without agreement between the legislatures of the States concerned and the Congress, no new State shall be created or established 	<ul style="list-style-type: none"> empowers Parliament to admit or form new States within the Union on such terms and conditions as it considers necessary 							
	Amendments	<ul style="list-style-type: none"> It can be achieved by Congress. At least 3/4 of certain states must be accepted to be ratified. 	<ul style="list-style-type: none"> In all instances, the right to enact amendments is bestowed on the Union. For all amendments, there is no need for ratification by the States. 							
	Citizenship	<ul style="list-style-type: none"> allows for double citizenship that can be a US resident of two countries 	<ul style="list-style-type: none"> recognizes single citizenship. 							
	<p>Conclusion:</p> <ul style="list-style-type: none"> Federalism is like a rainbow, each colour is distinct, but they make a cohesive pattern together. The federalism structure of the United States and India is somewhat different, but both structures have performed effectively and preserved national independence with a different history and challenges. 									
41.	Parliamentary system - India vs UK - convergence and divergence									
	<p>Intro:</p> <ul style="list-style-type: none"> The parliamentary system of government in India is largely based on the British parliamentary system. However, it never became a replica of the British system. <p>Body:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 25%;">FEATURE</th> <th style="width: 25%;">BRITISH</th> <th style="width: 25%;">INDIAN</th> </tr> </thead> <tbody> <tr> <td>Nature</td> <td>Unwritten</td> <td>Written Constitution and lengthiest</td> </tr> </tbody> </table>				FEATURE	BRITISH	INDIAN	Nature	Unwritten	Written Constitution and lengthiest
FEATURE	BRITISH	INDIAN								
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Amendability	Flexible and can be amended by 50% of the members present and voting	Hybrid of Rigid and flexible
DPSP and Duties	Absent	Present
Origin	Seen evolutionary, development and not formed by a constituent assembly.	Was formed by constituent assembly.
Federalism	Unitary in character – All powers of the government are vested in the British Parliament, which is a sovereign body	Quasi federal and works on competitive federalism. Distribution of powers between centre and states
Nature of state	Constitutional monarchy with the king as the nominal head. king has no discretionary powers. He is known as 'Golden Zero'	Republic with president as the nominal head. President enjoys discretionary powers.
Parliament	British Parliament is the only legislative body in the country with unfettered power of legislation Has two houses namely House of lords and House of commons.	Judicial review is the basic structure of constitution and parliament is not sovereign, instead people of India are Sovereign Has Lok sabha and Rajya sabha
Executive	It consists of King, Prime Minister, Council of Ministers (CoM), Permanent Executive, the Civil Servants, Privy Council.	Ministers and Bureaucrats form the Executive.
Office of Prime Minister	PM will always be a member of the Lower House	PM can be a member of either House of Parliament
Judiciary	judiciary lacks the intrinsic power to strike down an Act of Parliament as Parliament is	Judicial review is the basic structure of Indian constitution. Laws

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	<p>Sovereign. British legal system is completely based on 'Common Law System'</p>	<p>in India has codified in the form of IPC and CrPC</p>	
<p>Conclusion: Despite differences there are present similarities:</p> <ul style="list-style-type: none"> - Independence of Judiciary → Judges can only be removed from office for serious misbehaviour and according to a procedure requiring the consent of both the Houses of Parliament. - Prime Minister and the Council of Ministers → The principle is, "all Ministers sink and swim together". Collective responsibility towards the Lower House. - Indian bureaucracy is modelled on the British bureaucracy. 			
42.	Indian constitution – synthesis of many.		
<p>Intro:</p> <ul style="list-style-type: none"> - Dr BR Ambedkar rightly said that the Indian Constitution was created after ransacking the known Constitutions across the world. - Despite the borrowed features in the Indian Constitution, it is a unique set of laws that explain the structure and working of the Government of India. <p>Body:</p> <ul style="list-style-type: none"> - Reasons to not call the Indian Constitution a bag of borrowing: <ul style="list-style-type: none"> - absorbed those best features that suited Indian problems and aspirations. - Indian constitution - most detailed in the world. - unique in its content and spirit. - drafted considering the <ul style="list-style-type: none"> o historical perspective of Indian Nationalist struggles, o the geographical diversity of India, and o its traditional characteristics. <p>Blend of Rigidity and Flexibility India chose a middle path between the rigidity of the US Constitution and the flexibility of the unwritten conventions of the UK.</p> <ul style="list-style-type: none"> - The Basic Structure doctrine advanced in the Kesavananda Bharati case has undoubtedly increased the constitution's rigidity. - certain provisions of the Constitution can be amended by a simple majority of Parliament → ordinary legislative process. - Some provisions can be amended by a special majority of the Parliament. - Other provisions may be amended with a special majority of the Parliament and ratification by half of the total number of states. 			

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- allow the parliament to supplement the provisions of the constitution with legislation add to the constitution's flexibility.

Synthesis of Parliamentary Sovereignty and Judicial Supremacy

- As a mixed political system, India has backed a completely unique politico-constitutional arrangement.
- Our constitution vests legislative sovereignty in the legislature and the Supreme Court with judicial review authority.
- The Supreme Court → has the power of judicial review to declare parliamentary laws unconstitutional. → Article 13 → Striking down National Judicial Appointments Commission (NJAC) by the Judiciary.
- The Parliament → can amend the major portion of the Constitution through its constituent power under Article 368.

Due Process of Law vs. Procedure Established by Law

- Indian judiciary adopted a liberal interpretation.
- Article 21 of our Constitution had embodied the English concept of personal liberty in preference to that of American 'due process of law'
- Maneka Gandhi vs Union of India (1978) → 'procedure established by law' within the meaning of Article 21 must be 'right, just, and fair.
- Selvi v State of Karnataka → Invoked the concept of 'due process of law'.

Conclusion:

- The Indian Constitution is unique in its contents and spirit. Although borrowed from almost every constitution of the world, the Indian Constitution has several salient features that distinguish it from the constitutions of other countries.

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PARLIAMENT AND STATE LEGISLATURES—STRUCTURE, FUNCTIONING, CONDUCT OF BUSINESS, POWERS & PRIVILEGES AND ISSUES ARISING OUT OF THESE.

43.	Parliamentary Privileges	
	<p>About privileges</p> <p>Certain rights + immunities enjoyed by members of Parliament, individually and collectively, so that they can “effectively discharge their functions”.</p> <p>When any of these rights and immunities are disregarded, the offence is called a breach of privilege → punishable under law of Parliament</p> <ul style="list-style-type: none">- Privileges available for → individuals who speak and participate in any committee of the Parliament, includes the Attorney General of India and the Union Ministers but not President <p>Constitutional and legal provisions</p> <p>Article 105 for Parliament + Article 194 for State Assemblies mentions two privileges, i.e. freedom of speech in Parliament and right of publication of its proceedings.</p> <p>Rule No 222 in Chapter 20 of the Lok Sabha Rules + Rule 187 in Chapter 16 of the Rajya Sabha rulebook governs privilege.</p> <ul style="list-style-type: none">- Collective Privileges- Right to publish its reports, debates and proceedings + right to prohibit others from publishing the same.- Exclude strangers from its proceedings + hold secret sittings- Make rules to regulate its own procedure + conduct- Punish members as well as outsiders for breach of its privileges / contempt- No person can be arrested, and no legal process can be served within the precincts of the House without the permission of the presiding officer. <p>Individual Privileges</p> <ul style="list-style-type: none">- They cannot be arrested(only civil) during the session of Parliament and 40 days before the beginning and 40 days after the end of a session.- They have freedom of speech in Parliament.- No member is liable to any proceedings in any court for anything said or any vote given by member- Exempted from jury service.	

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	<p>SC judgement Regarding Kerala Assembly case</p> <ul style="list-style-type: none"> - Supreme Court → legislative privilege cannot be extended to provide legal immunity to criminal acts committed by lawmakers. - The legislators who indulge in vandalism cannot claim parliamentary privilege and immunity from criminal prosecution. - Vandalism and destruction are not essential for exercising legislative function. - Vandalism on the Assembly floor could not be equated with the right to protest - No immunity from sanctions of the criminal law (Prevention of Damage to Public Property Act, 1984), which applies equally to all citizens. - Destruction of public property could not be equated with the exercise of freedom of speech. <p>Need to codify Parliamentary privileges</p> <ul style="list-style-type: none"> - Parliament has yet not codified privileges available to members in spite of its mentioning in the constitution - Misuse of Privileges to fulfil political ambitions. - India mostly follows British conventions → Since independence, the jurisprudence on privilege has evolved and various important case laws have shown the pathway. - Need to Streamline Parliamentary Privileges - Parliamentary democracy functions on the pillars of freedom of speech and criticism. 	
44.	Anti-defection law	
	<p>Important provisions</p> <ul style="list-style-type: none"> - The Tenth Schedule → the 52nd Amendment Act, 1985 → provisions for disqualification on the grounds of defection - As per the 1985 Act, a 'defection' by one-third of the elected members of a political party was considered a 'merger'. - But the 91st Constitutional Amendment Act, 2003, changed this and now at least two-thirds of the members of a party have to be in favour of a "merger" - The members disqualified under the law can stand for elections from any political party for a seat in the same House. - The decision on questions as to disqualification on ground of defection are referred to the Chairman or the Speaker of such House, which is subject to 'Judicial review' (<i>Kihoto Hollohan vs Zachillhu case</i>) 	

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Grounds for defection

- Elected member voluntarily gives up his membership of a political party.
- If he votes or abstains from voting in such House contrary to any direction issued by his political party
- If any independently elected member joins any political party.
- If any nominated member joins any political party after the expiry of six months.

Speakers role

- Criticised for being an agent of partisan politics
- SC in **Jagjit Singh versus State of Haryana (2006)** highlighted the similar allegations about the confidence on the role of Speaker in the matters of impartiality.
- In the **Kihoto Hollohan vs Zachillhu case (1992)** → bias on the Speaker's role could not be ruled out as his/her election and tenure depends on the majority will of the House (or specifically of the ruling party).

Problems with the law

- *Ambiguity about Party*: It does not clarify whether the original political party refers to the party at the national level or the regional level
- *Creating legal fiction* → that merger of two third members of the legislature party can be deemed to be a merger of political parties, even if there is no actual merger of the original political party
- *Undermining Representative & Parliamentary Democracy* → follow the party's direction blindly and has no freedom to vote in their judgment.
- Accountability broken as legislators accountable primarily to the political party not to electorate
- *Controversial Role of Speaker* → no clarity about the timeframe for the action in the anti-defection cases.
- *No Recognition of Split* → 91st amendment only recognises merger
- *Subversion of Electoral Mandate* → legislators who get elected on the ticket of one party but then find it convenient to shift to another.
- *Affects the Normal Functioning of Government* → leads to instability in the government and affects the administration.
- *Promote Horse Trading*
- *Allows only Wholesale Defection* but retail defection is not allowed

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	<p>Recommendations and judgements regarding anti defection law</p> <p>Dinesh Goswami Committee on Electoral Reforms (1990):</p> <ul style="list-style-type: none"> - Disqualification should be limited to cases where (a) a member voluntarily gives up the membership (b) a member abstains from voting, in a motion of vote of confidence or motion of no-confidence. - The issue of disqualification should be decided by the President/ Governor on the advice of the Election Commission. <p>Halim Committee on anti-defection law (1998) :</p> <ul style="list-style-type: none"> - The words 'voluntarily giving up membership of a political party' be comprehensively defined. - Restrictions like prohibition on joining another party or holding offices in the government be imposed on expelled members. - The term political party should be defined clearly. <p>Law Commission (170th Report, 1999)</p> <ul style="list-style-type: none"> - Provisions which exempt splits and mergers from disqualification to be deleted. - Pre-poll electoral fronts should be treated as political parties under anti-defection law. - Political parties should limit issuance of whips to instances only when the government is in danger. <p>Election Commission</p> <ul style="list-style-type: none"> - Decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the Election Commission. <p>Constitution Review Commission (2002)</p> <ul style="list-style-type: none"> - Defectors should be barred from holding public office or any remunerative political post for the duration of the remaining term. - The vote cast by a defector to topple a government should be treated as invalid. 	
45.	<p>Declining Productivity of Parliament And Disruptions in Parliament, State assemblies</p>	
	<p>Data of disruptions, Declining productivity</p> <ul style="list-style-type: none"> - A PRS (PRS Legislative Research) report says during the 15th Lok Sabha (2009-14), frequent disruptions of Parliamentary proceedings have resulted in the Lok Sabha working for 61% and Rajya Sabha for 66% of its scheduled time. 	

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- Another PRS report said, the 16th Lok Sabha (2014-19) lost 16% of its scheduled time to disruptions, better than the 15th Lok Sabha (37%), but worse than the 14th Lok Sabha (13%).
- The Rajya Sabha lost 36% of its scheduled time. In the 15th and 14th Lok Sabhas, it had lost 32% and 14% of its scheduled time respectively.
- The **Budget** Session of Parliament for 2021 ended two weeks before the planned time
- Discussion for Union Budget → Moreover, 76% of the total Budget was approved without any discussion(2021)
- Absence of the Deputy Speaker of Lok Sabha
- No discussion of supplementary budget - In this Lok Sabha, nine minutes were spent discussing and passing the supplementary budget
- The **productivity of the Rajya Sabha and the Lok Sabha during the monsoon session 2021** stood at 28% and 22% respectively.

Bypassing parliamentary committees

- PRS Legislative Research Data → while 60% of the Bills in the 14th Lok Sabha and 71% in the 15th Lok Sabha were referred to DRSCs concerned, this proportion came down to 27% in the 16th Lok Sabha.
- Just 11% in the 17th Lok Sabha (2019-present).
- Apart from the DRSCs, there are negligible bills referred to Select Committees of the Houses or Joint Parliamentary Committees.
- **Weakened Legislature Scrutiny:** 13 Bills were introduced in the 2021-2022 budget session out of which 8 were passed within the session and none of the 13 bills was referred to any parliamentary committee for examination.

Role of speaker or chairman in this regard

- The reference to the committees is within the discretion of the Speaker or the Chairman.
- The Rules of the house held that important Bills should go before the committees for a detailed examination.
- However, many times, the speaker or chairman have exercised their discretion not to refer to the committee an important Bill which has serious implications for society.
- For example, in the recently repealed farm bills which were enacted through ordinances, were passed from Lok

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	<p>Sabha within three days without being referred to a Standing Committee.</p> <p>Way forward/measures to improve productivity</p> <ul style="list-style-type: none"> - Parliamentary Scrutiny → Creating a system of research support to MPs, Providing sufficient time for MPs to examine issues. - Ensuring that Bills and budgets are examined by committees and public feedback is taken. - A detailed framework for pre and post Legislative Impact Assessment (LIA) is needed. - A new Legislation Committee of Parliament should be constituted to coordinate legislative planning. - Department Related Standing Committees (DRSCs) → longer tenure, promoting specialization, etc are needed. - Strengthening the Role of the Opposition → the institution of 'Shadow Cabinet' can be formed in India. - Need for strict enforcement of code of conduct for MPs and MLAs. - Increasing Number of Working Days - In 2019, Rajya Sabha Deputy Chairperson mooted an idea of evolving a 'Parliament Disruption Index' to monitor disruptions in Parliament and state legislature. - In the Lok Sabha, some members proposed automatic suspension of members who cause disruption and rush to the Well of the House. - A "Productivity Meter" → number of hours that were wasted on disruptions and adjournments, and monitor the productivity of the day-to-day working 	
46.	Delimitation	
	<p>Intro</p> <ul style="list-style-type: none"> - Delimitation: process of fixing limits or boundaries of territorial constituencies in a country to represent changes in population. Helps to follow the principle of "one vote one value". - Current: Delimitation Commission for J&K submitted report – increased 7 Assembly seats. <p>Provisions and impacts of constitutional amendment on delimitation</p> <ul style="list-style-type: none"> - Art 82: the Parliament enacts a Delimitation Act after every Census. - Art 170: the States get divided into territorial constituencies as per Delimitation Act after every Census. 	

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- Art 327: gives specific power to Parliament to make elaborate provisions for such readjustment including delimitation of constituencies.
- 42nd Amendment(on 55, 82, 170, 330): not to make any changes to the number of Lok Sabha and Assembly seats until the first census after 2000.
- 84th Amendment, 2001: extended that ban for another 25 years(upto 2026). But it empowered the govt to undertake readjustment and rationalisation of territorial constituencies based on 1991 census.
- 87th Amendment, 2003: Delimitation based on 2001 census and not 1991. But without altering the number of seats allotted to each state in Lok Sabha. Was justified on the grounds that uniform population growth rate would be achieved throughout the country by 2026.

Roles and functions of the Delimitation Commission

- Formed under the Delimitation Act (after every census, as given in Art 82) which gives the provisions of delimiting.
- Appointed by the President and works in collaboration with ECI.
- Functions: Determining the number and boundaries of constituencies to make population of all constituencies nearly equal.
- Identifying seats reserved for Scheduled Castes and Scheduled Tribes, wherever their population is relatively large.
- Orders of the DC cannot be called in question before any court.
- Current state of delimitation:

Challenges

- States which took measures to control population are at a risk of ending up with lesser seats.
- In 2008, Delimitation was done based on the 2001 census, but the total number of seats in the Assemblies and Parliament decided as per the 1971 Census was not changed. Goes against “one vote one value” principle.
- The constitution has also capped the number of LS & RS seats to a maximum of 550 & 250 respectively and increasing populations are being represented by a single representative.
- The current delimitation process of J&K is challenged in court since the same is frozen for the rest of the country until 2026.

Way forward and suggestions

- A national consensus exercise before 2026.

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	<ul style="list-style-type: none"> - Reduction of weightage given by Finance Commission can help in building a better consensus as states which managed to control their population. 	
47.	Position of Rajya Sabha vis-à-vis Lok Sabha	
	<p>Intro</p> <ul style="list-style-type: none"> - Significance of RS: Revising chamber, federal chamber, deliberative chamber, chamber of continuity, chamber securing executive accountability and a safety valve of India's federal polity. <p>Passing of Bills</p> <ul style="list-style-type: none"> - Money Bill: Introduced only in LS. Cannot be amended or rejected by RS and returned to LS within 14 days. Final power to decide is vested in Speaker of LS. - Finance Bill(not containing matters of Art 110): Introduced only in LS. But equal powers between LS and RS regarding its passage. - Equal powers wrt to Ordinary Bills. <p>Constitutional Amendments</p> <ul style="list-style-type: none"> - Enjoys equal power with LS in amending the constitution under 368. No joint sitting is possible. <p>Special powers</p> <ul style="list-style-type: none"> - Art 249: power to transfer a subject from the State List to Union List for a specified period. Legislation on state matters. - Art 312: to create additional All-India Services, only RS can authorise. - Art 352: to endorse Emergency for a limited period when the Lok Sabha remains dissolved. - Art 67: only RS can initiate a move to remove the Vice President. <p>Challenges</p> <ul style="list-style-type: none"> - No equal representation of States like in the US or Australia. - RS getting bypassed by the sheer majority of LS in joint sitting and also when the Speaker of the LS decides on Money Bill. Ex – Aadhar Act controversy. - RPA Amendment 2003: removed the word 'domicile'. Undermined the federal character of RS. - Less participation by nominated members. - Often deemed as secondary house since its considered a delaying house, having unequal status when compared with LS and its elections are notorious for alleged political poaching by parties. 	

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	<p>Conclusion</p> <ul style="list-style-type: none"> - Still maintains federal equilibrium as it protects the interest of the states. - Hastily passed Bills in LS can get a chance to be scrutinised. - - It has remained a vanguard for political and social values, a melting pot of cultural diversity. Along with LS, it is a flag-bearer of the sovereign, socialist, secular, democratic republic called India. 	
48.	Office of Profit	
	<p>Intro:</p> <ul style="list-style-type: none"> - Article 102 (1) and Article 191 (1) of the Constitution, an MP or an MLA (or an MLC) will be disqualified if he/she holds office of profit. <p>Why is it prohibited?</p> <ul style="list-style-type: none"> - Conflict between Duty and Interests - Susceptible to government influence - Simply put- OOP is needed for securing the separation of powers. <p>What is OOP?</p> <ul style="list-style-type: none"> - No proper Definition under the law or constitution. <p>SC Guidelines to determine OOP:</p> <ul style="list-style-type: none"> - Office is appointed by Govt - Office is removed by Govt - Govt Decides and Gives Remuneration - Office comes with some Powers related to Govt functioning. <p>Office of Profit Issues:</p> <ul style="list-style-type: none"> - Law can exempt any position to be outside the OOP definition. - Parliamentary Secretaries Post given to MLA's → SC has ruled that it is OOP and subversion of Art161(1A)-15% cap on Ministers - 2017- Nagaland, 2018 Goa, 2019-Delhi MLAs disqualified. <p>Conclusion:</p> <ul style="list-style-type: none"> - 2nd ARC has recommended that all offices with executive decision-making powers and financial control be treated as an office of profit. 	

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STRUCTURE, ORGANIZATION AND FUNCTIONING OF THE EXECUTIVE AND THE JUDICIARY—MINISTRIES AND DEPARTMENTS OF THE GOVERNMENT; PRESSURE GROUPS AND FORMAL/INFORMAL ASSOCIATIONS AND THEIR ROLE IN THE POLITY.

49.	Judicial reforms	
	<p>Issues with Judiciary:</p> <ul style="list-style-type: none"> - National Judicial Data Grid (NJDG, 93 crore cases are pending in the subordinate courts, 49 lakhs in High Courts and 57,987 cases in Supreme Court. - Law commission – At this pace 460 years for all cases. - Regional Inequalities—Ex: West better than East in Disposing cases - Shortage of judges: Only 17/mn people→ Recommended 50/mn - Callous Adjournment - Judges Vacation - Political Appointments→Delay - Govt majority of cases→ Culture of Litigation→ Prosecution is low. Ex: 15% Tax disputes settled. - Infrastructure is crippled: Ex: Vidhi Centre for Policy finds only 40% of Courts have functional toilets. - Investigation Delay: Lack of coordination between Police and Judiciary - Increasing Legal Awareness – People come to courts <p>Measures Needed:</p> <ul style="list-style-type: none"> - Computerisation→Judges Strength needs to be filled→Ad-hoc Judges→ All India Judicial Service→Clear cut Procedures and Timelines→Revamp National Judicial Data Grid using AI→ More recourse to Alternate Disputes Resolution ADR→(Arbitration, Lok Adalat's, Fast Trak Courts, etc)→ A national Judicial Infrastructure Authority→Can Increase High Court Judges Age to 65→ 	
50.	All India Judicial Service	
	<p>Why?</p> <ul style="list-style-type: none"> - Judicial Backlog and Vacancies are interrelated. - Subordinate courts often serve as the first port of call for litigants. Today at District and Subordinate courts- 20% not filled. - Subordinate courts also suffer not only with respect to the speed of justice dispensation but also with respect to the quality of justice 	

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	<ul style="list-style-type: none"> - State Public Service Commissions (State PSCs) who conduct subordinate judiciary exams. But not periodic → 3 to 4 years (Articles 233 and 234) <p>AIJS:</p> <ul style="list-style-type: none"> - A centralised judicial service was first mooted by the 14th Law Commission - 42nd amendment → Article 312(1) empowering Parliament to legislate for the creation of one or more All-India Services, including an AIJS, <p>Pros:</p> <ul style="list-style-type: none"> - Improved Efficiency → Speedy Justice → Ease of Business (Enforcement of Contracts) → De burdening higher courts → Talent Pool → Dynamism in Judicial Education → Checks corruption at lower levels <p>Issues:</p> <ul style="list-style-type: none"> - Federalism → State Powers → High Court Powers restricted → Centralised System insensitive to local demand and aspiration → Demand for use of regional languages → Fiscal Burden of states. <p>Conclusion:</p> <ul style="list-style-type: none"> - AIJS would go a long way in fixing the talent deficit and vacancy in the district judiciary. This is most pertinent as the foundation of our judicial system rests on district and subordinate judiciary handling the bulk of our civil and criminal justice system. 	
51.	Cabinet Committees	
	<p>About:</p> <ul style="list-style-type: none"> - Extra Constitutional bodies. - Established under Rules of Business. - (Transaction of Business Rules, 1961). - Currently 8 committees. PM constitutes these committees. - Secretariat head- Cabinet Secretary. <p>Eight Cabinet Committees:</p> <ul style="list-style-type: none"> ○ Appointments committee, ○ Cabinet committee on accommodation, ○ Economic affairs, ○ Parliamentary affairs, ○ Political affairs (Super Cabinet) , ○ Security, ○ Investment and growth, ○ Employment and skill development 	

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	<p>Functions:</p> <ul style="list-style-type: none"> - To handle heavy workload of Govt and effective delegation. - In depth examination of policy issues and effective coordination - They not only resolve issues but also take decisions and review them too. - facilitates efficient utilization of time and human resources - Facilitate inter-governmental and inter-departmental coordination <p>Two types—standing and ad hoc. The former is permanent, while the latter is temporary. The ad hoc committees including GoM are formed at times to deal with special problems. They are disbanded after their job is done.</p> <p>Issues:</p> <ul style="list-style-type: none"> - Lack of transparency in functioning - Overlap between committees functions - Functions by cabinet committees take over essential roles that has to be done by parliament and parliamentary committees <p>Conclusion: Need transparency and regular functioning for efficient growth</p>	
52.	Collegium system	
	<ul style="list-style-type: none"> - System for appointment and transfer of judges. To maintain basic principle- Independence of Judiciary(Separation of Power). - Article 124(2) and Article 217 deals with appointment of SC and HC judges Resp. - President appoints SC and HC judges after names passed by Law ministry. But the names recommended by-Collegium <p>Evolution:</p> <ul style="list-style-type: none"> • First Judges case 1981: - CJI's recommendation is not binding and can be refused for cogent reasons - Second judges case 1993: Consultation means concurrence. But CJI+2 senior most judges of SC= Collegium(to prevent concentration of power with CJI) - Third Judges case 1998: Expansion of collegium. CJI+ 4 senior most judges of SC <p>Issues:</p> <ul style="list-style-type: none"> - Procedure being questioned as opaque- Merit or Seniority or Personal preferences(Nepotism) 	

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	<ul style="list-style-type: none"> - Collegium nowhere mentioned in constitution - Undemocratic- They are not elected or accountable to anyone - Not able to prevent increasing vacancies in HC and piling up of cases - Principle of Seniority ignored sometimes for supersession <p>NJAC:</p> <ul style="list-style-type: none"> - Govt through 99th constitutional amendment act wanted to replace Collegium due to the above issues - NJAC- 3 SC judges + Central Law minister + 2 Civil society experts - But if any 2 members refuse, the name can't be moved(favours Govt) - SC founded NJAC to violate Independence of judiciary(Basic Structure)- Ultra Vires of constitution - Hence in Fourth Judges case,2015 it struck down 99th CA and NJAC. - Set of draft MoP between Govt and SC for making appointments was made. But didn't work. - Way Forward: - Need Transparency in appointment criteria. - Need permanent independent body like NJAC but with change in its constitution (more power to judiciary) - NJAC must reflect diversity 	
53.	Reservation for women in Judiciary	
	<p>State of women in judiciary:</p> <ul style="list-style-type: none"> - In HC-11.5% ,In SC-4 out of 33→ women judges - Advocates- Only 15% of 1.7 million - 30 percent of the lower judiciary - No women members in the Bar Council of India - No women judge in 8 high court <p>Reasons:</p> <ul style="list-style-type: none"> - No reservation in Higher judiciary(Bill for 33% reservation not passed till date) - Opaque collegium system for HC,SC (more women judges in lower courts due to entrance exams) - Significant number of women judges elevated from Bar. But Bar itself has low numbers - Patriarchal society- familial responsibilities - Preference of male advocates by clients <p>Need for Reservation:</p> <ul style="list-style-type: none"> - More women to seek Justice with confidence(They can feel free and easy with same gender) eg) Judge in MP high court 	

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	<p>making bail conditional on the perpetrator getting a rakhi tied by sexual assault victim</p> <ul style="list-style-type: none"> - Diversity in bench offers alternate and inclusive perspectives - Empathy - They represent nearly 50% in total population <p>Disadvantages:</p> <ul style="list-style-type: none"> - Even if there is reservation there is a larger issue of vacancies. - Issue of merit - There are other issues like Crowded, Small court rooms, Lack of basic facilities (Out of 6,000 trial courts, nearly 22 per cent have no toilet for women). - “Leaking pipeline” a term used to describe how employed women quit their jobs mid career. <p>Way Forward:</p> <ul style="list-style-type: none"> - Passing of reservation in higher judiciary bill in parliament - Transparent Collegium decisions - No compromise in meritocracy - The National Judicial Infrastructure Corporation will ensure inclusive design of Court complexes. - Gender diversity in legal education as well 	
54.	Confrontation of governor with elected governments	
	<p>Intro:</p> <ul style="list-style-type: none"> - Article 154 of Indian constitution says Governor is a nominal executive of the state. He forms an important part of the state executive. <p>BODY</p> <p>Recent examples:</p> <ul style="list-style-type: none"> - In Kerala, Governor made an allegation that he was under pressure from the Government to reappoint the Vice Chancellor. - In Maharashtra, the Governor refused to accept the date of election of the Speaker. - Non-acceptance of the advice of the Council of Ministers too has been witnessed in Rajasthan. - In Tamil Nadu, there is a tussle over Rajiv Gandhi pardon case. <p>Discretionary powers of governor:</p> <p>2 type of Discretionary power: Constitutional and situational.</p> <p><u>Constitutional discretion:</u></p> <ul style="list-style-type: none"> - Reservation of a bill for the President's consideration. - Recommendation for implementing President's Rule in the state. - As the administrator of a neighboring union territory. 	

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	<ul style="list-style-type: none"> - Seeking information from the chief minister <p>Situational discretion:</p> <ul style="list-style-type: none"> - Appointment of CM when no party has a clear majority. - Dismissal of government when it loses vote of confidence in the floor of house. - Dismissal of state legislative assembly when the council of ministers lose their majority. - Governor is charged with specific duties with respect to Maharashtra, Gujarat, Assam, Nagaland etc. <p>Judgments and committee regarding this:</p> <ul style="list-style-type: none"> - S.R Bommai case vs UOI, 1994 - Nabamrebia case 2016 (Reg :Dissolve assembly) - Rajmannar committee 1971 - Sarkaria commission 1988 - Punchhi commission 2007 <p>Conclusion:</p> <ul style="list-style-type: none"> - The role of Governor is indispensable for the successful working of democracy, The post is a constitutional one and shouldn't be seen as an agent of centre. 	
55.	Need for All India Legislative Service	
	<p>Introduction:</p> <ul style="list-style-type: none"> - Article 233 vests all powers of recruitment and appointment (judicial services of the state) with state public services commissions and high court. <p>Arguments in favor:</p> <ul style="list-style-type: none"> - Filling up of vacancy and reduce pendency of cases. - Compensate of dearth of quality of judicial officers - Uniformity across country and Increase efficiency - Promote national integration. - Provide objectivity in recruitment. - Better representative in character (reservation) - Avoid corruption, nepotism, subjectivity. <p>Arguments against :</p> <ul style="list-style-type: none"> - Undermine independence of High courts - Problem in familiarity with local laws and customs - Not address the important problem – judicial infrastructure. - Restricts promotional avenues for state officers. - 'Nation exam' promotes commercialization of judiciary. - Uncertainty regarding posts to be covered. <p>Conclusion:</p> <ul style="list-style-type: none"> - AIJS is a sound idea to attract capable judicial professionals who can make sub ordinate judiciary robust, but we need 	

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	caution in handling difference state holders with various interests.	
56.	Need to reform political parties	
	<p>Introduction:</p> <ul style="list-style-type: none"> - Under Section 291 of RPA act 1951, political parties are registered by election commission. Despite being the integral part of democracy, these parties are marked with problems. <p>Body:</p> <p><u>Problems with Political parties:</u></p> <ul style="list-style-type: none"> - Opacity in funding (Only 3% of political parties are available in public domain) - Money laundering (Income tax act exempts money donated to political parties) - No tax liabilities for parties. - 69% of parties were not contested in 2014 general election. - Noncompliance to RTI - Mushrooming of Ghost parties. - Lack of intra party democracy (My way high way politics, misuse of 10th schedule, dynasty succession) <p>Conclusion:</p> <ul style="list-style-type: none"> - Article 324 gives Election commission enormous power to regulate the election and their entities including Political parties. Both ECI and political parties should be ready to reform itself under changing circumstances. 	
57.	Contempt of the court	
	<ul style="list-style-type: none"> - Contempt of court →A ground for restrictions on freedom of speech and expression. - Article 129 : Supreme Court. Article 215 the High Courts. As a court of record, it can suo moto punish for contempt - The Contempt of Courts Act, 1971 <p>Types:</p> <ul style="list-style-type: none"> - Civil Contempt: Willful disobedience of order - Criminal Contempt: Scandalise authority of court, interfere or obstruct administration of justice <p>In- Favour:</p> <ul style="list-style-type: none"> - Undermines the Pillar of democracy. - Supremacy of law- SC upholder of Justice - Trust, Faith of citizens in Legal system is necessary for Democracy - Prevent Media Trial 	

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	<p>Against:</p> <ul style="list-style-type: none"> - No man should be judge in his own case but Contempt is against this principle - High handedness of Judiciary - King could do no wring - Judicial Overreach - Doctrine of Overbreadth→Laws should not too ambiguous but contempt is. - Art 19 and 21: Even Fair criticisms are deemed contempt. <p>Some Cases:</p> <ul style="list-style-type: none"> - Auto Shankar case→“Sullivan Doctrine – Public persons must be open to stringent comments and accusation even in untrue. - Duda P.N. v. Shivshankar, P., the Supreme Court observed that the contempt jurisdiction should not be used by Judges to uphold their own dignity - Arundhati Roy case: Fair criticism of Judge not contempt If made in Public interest - Recently Prashant Bhushan held guilty of contempt for Tweets. - Indirect Tax practitioners’ Association v. R.K. Jain -- Truth can be used as Defence against contempt of court Proceedings. Accordingly Act was amended <p>Conclusion:</p> <ul style="list-style-type: none"> - Justice Krishna Iyer said, the law of contempt has a vague and wandering jurisdiction with uncertain boundaries. Such a law, regardless of public good, may unwittingly trample upon civil liberties. - Independence and Integrity of Judiciary is sacrosanct but accountability through dissent needed. Many foreign democracies don’t have contempt. 	
58.	Ordinance	
	<p>Ordinance - decree or law passed without the approval of the legislature -</p> <p>Article 123 - Power of President to issue ordinance when either of the two houses of the Parliament is not in session - on any subject on which Parliament can make law.</p> <p>Article 213 - Power of Governor to issue ordinances when State Legislative Assembly is not in session</p> <p>Validity of ordinances - 6 months or 6 weeks of reassembly of Parliament</p>	

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	<p>Conditions - only when either or both houses are not in session - Requirement of immediate action (44th amendment act) - Lapse of ordinance on a time period -</p> <p>Intent of the idea of ordinance - to deal with contingent situations that require urgent action by the executive</p> <p>Significance of ordinance</p> <ul style="list-style-type: none"> - Law making during contingent situations - Important during the time of political confusion to avoid lag in development of the country <p>Issues around ordinance</p> <ul style="list-style-type: none"> - Ordinance Raj - making multiple ordinances - Re-promulgation of ordinances - Legislative control reduces - Principle of separation of power is violated - Rather than for an administrative purpose, used for political purpose (Principle of colorable legislation) - The SC judgments are violated in making ordinances - Federal relations could be disturbed by the misuse of ordinance making powers - The significance of Parliamentary democracy - qualitative decision making is affected - Threat to the sovereign power of the Parliament <p>SC judgements</p> <p>1. R C Cooper Case (1970) - President's decision to promulgate ordinance could be challenged on the grounds that 'immediate action' was not required, but issued primarily to bypass debate and discussion in the legislature.</p> <p>2. DC Wadhwa Case 1987 - the legislative power of the executive to promulgate ordinances is to be used in exceptional circumstances and not as a substitute for the law-making power of the legislature.</p> <p>Krishna Kumar Singh Case 2017 - The requirement of situation of immediate action must be justified before making ordinance</p>	
59.	Constitutional breakdown and president's rule	
	<p>Article 365 - Provisions in case of failure of constitutional machinery in State</p> <p>Constitutional Breakdown -</p> <p>President satisfaction that the administration of any State cannot be carried in accordance with the constitution, on the basis the report of the Governor or otherwise.</p> <p>Means -</p> <ul style="list-style-type: none"> - Severe law and order problem which couldnt be controlled - Hung assembly / inability to form government - Conditions not conducive to conduct free and fair elections as per ECI 	

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<ul style="list-style-type: none"> - State's failure to give effect to the directive of the union (Article 365) <p>Implications -</p> <p>Presidents Rule - 356</p> <ul style="list-style-type: none"> - Powers of state legislature to be assumed by the Parliament - President can authorize the use of funds of the Consolidated Fund of the State - Sarkaria Commission - Punchi commission - ARC on imposition of President Rule - <p>Circumstances recommended by commissions and judgements under which President Rule can be imposed - Political crises - Internal subversion-Physical breakdown-Non-compliance with constitutional directions of the union executive</p> <p>Where it cant be imposed - Stringent financial crisis in the State-Problem of rampant corruption in the State-Poor performance of the ruling party of the State in the Lok Sabha elections -Intra-party crisis, etc</p> <p>Issues Involved</p> <p>used for political purposes - frequent presidents rule imposed - the president's satisfaction was questioned - Judicial review of the satisfaction of the President to impose president Rule - Attack on federalism</p> <p>SR Bommai Ruling</p> <p>Proclamation of President's Rule subject to judicial review - The court can call for the material upon which satisfaction to impose President rule was formed</p> <p>Rameshwar Prasad case</p> <p>Federalism vs, Article 356</p> <p>Govt of India act 1935 -president rule as a tool of controlled democracy</p> <p>Indian idea- to maintain the territorial integrity - India aims for a cooperative federalism -domination of union over state caused problems in federalism</p> <p>The application of provisions for the political purposes create issues.</p>	
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SALIENT FEATURES OF THE REPRESENTATION OF PEOPLE'S ACT. APPOINTMENT TO VARIOUS CONSTITUTIONAL POSTS, POWERS, FUNCTIONS AND RESPONSIBILITIES OF VARIOUS CONSTITUTIONAL BODIES. STATUTORY, REGULATORY AND VARIOUS QUASI-JUDICIAL BODIES.

60.	Official Secrets Act vs. Right to Information Act	
	<p>Background:</p> <ul style="list-style-type: none">- OSA -> roots in British colonial era => Indian Official Secrets Act, 1889 -> to muzzle the voice of large number of newspapers opposing British policies.- Amended & made more stringent -> as Indian OSA, 1904 -> during Lord Curzon's tenure.- In 1923 -> newer version -> extended to all matters of secrecy & confidentiality in governance -> retained after Independence => makes spying, sharing/withholding sensitive/secret information -> punishable offence. <p>About OSA</p> <ul style="list-style-type: none">- OSA -> not define the secret information -> government follows the Manual of Departmental Security Instructions, 1994 -> for classifying a document as secret.- It includes any official code, password, sketch, plan, model, article, note, document, or information.- If guilty -> person may get up to 14 years' imprisonment/fine/both.- Both -> person communicating & receiving the information -> can be punished under OSA.- Refused to divulge information -> for ensuring secrecy & confidentiality in governance -> mostly on national security & espionage issues => facing criticism for misusing the law against journalists & whistle-blowers. <p>How Official Secrets Act -> an obstacle to Right to Information Act?</p> <ul style="list-style-type: none">- OSA historically developed a culture of secrecy & non-disclosure => under RTI, OSA is a cause of exemption -> impinges freedom of information & against the spirit of RTI Act.- Wording of the law -> ambiguous => any information under Section 5 of OSA -> classified as 'secret' -> not defined in the Act -> allowing public servants to deny information under RTI.- OSA enacted during colonial era -> to govern matters of secrecy/confidentiality in governance. With time, law has not changed or amended to improve its provisions.	

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	<ul style="list-style-type: none"> - OSA has become a tool of corruption => Ex: irregularities in Rafale or Bofors defence deal -> OSA lead to opaqueness -> undermine the very essence of RTI. - OSA makes it a punishable offence to share information that may help an enemy state. - Misused for booking journalists -> when they publicise information that causes embarrassment to the government. Ex: Journalist Tarakant Dwivedi -> booked for criminal trespass under OSA in 2011 -> an RTI query later revealed -> the armoury he visited was not a prohibited area. <p>Way forward:</p> <ul style="list-style-type: none"> - Section 5 of OSA -> be amended to make the penal provisions of OSA -> applicable only to violations affecting national security. - 'Security' clause -> should be defined clearly. - 2nd ARC Report, suggested => National Security Act should incorporate the necessary provisions of defined secrecy -> as it is a contentious issue after the implementation of RTI Act. - Law Commission suggested => consolidation of all legislation -> dealing with national security into a single law & pass the NSA. - According to SC => Right to freedom of speech & expression and information -> should be prioritised over the archaic OSA -> also ruled for the protections to the whistleblowers. - It is necessary to go back into the history of the law to understand why it was enacted & whether it is still relevant today. - Both the acts have different objectives to achieve -> should complement each other & not hinder good governance. 	
61.	Comptroller And Auditor-General Of India (CAG)	
	<p>CAG => independent authority under Constitution; head of Indian audit & account department; chief guardian of public purse; upholds Constitution & laws of Parliament in financial administration.</p> <p>Constitutional Provisions</p> <ul style="list-style-type: none"> - Article 148: Appointment, oath & conditions of service of CAG. - Article 149: Duties & Powers of CAG. - Article 150: Accounts of Union & States -> kept in format prescribed by President on advice of CAG. - Article 151: Reports of CAG relating to accounts of Union -> submitted to president -> lay them before Parliament. <p>Duties and Role of CAG</p> <ul style="list-style-type: none"> o CAG as an Auditor, audits 	

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- Funds pertaining to Centre & States => Consolidated, Contingency Funds & Public Account of India; Consolidated Fund of UT having legislative assembly.
- All trading, manufacturing, profit & loss accounts, balance sheets & other subsidiary accounts kept by any department of Central & State Government.
- Receipts & expenditures of all bodies/authorities substantially financed from Central/State revenues.
- CAG as a Financial Administrator
- Ascertains & certifies net proceeds of any tax/duty -> his certificate is final.
- Accountability of executives in financial administration -> secured through audit reports of CAG.
- CAG as an Anti-corruption Institution.
- Accountability of the executives.
- Ensure financial transparency -> by ascertaining whether money shown in the accounts -> used for the purpose it charged.
- Conduct propriety audit => means, looking into the wisdom & faithfulness of government expenditure -> comment on wastefulness & extravagance.
- Audit all receipts which are payable into the Consolidated Fund of India -> make rules & procedures -> designed to ensure effective check on the assessment, collection & proper allocation of revenue.
- CAG reports -> important role in exposing corruption & misuse of government money. Ex: Exposing the recent coal scam.

Challenges

- No criterion/procedure prescribed -> in Constitution/Statute for appointment of CAG.
- Political executives has sole power to appoint CAG in their choice -> it is against the international best practices.
- Though Constitution provides 6 years term -> cap of 65 years -> reducing the actual terms of CAGs in recent times.
- Impediment to independent & proper functioning due to shorter tenure. CAG of UK (10 years term), Comptroller General of US (15 years).
- No statutory backing to IA&AD in India -> questions the quality of audit & credibility.
- CAG doesn't have the right to release reports in public domain -> if they are not presented in legislature within a month of their submission.

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- No fixed timeline => no deadline for the production of documents & replies nor any contempt proceedings for their denial.
- CAG audits post-expenditure -> more of auditor than comptroller like British CAG.
- Audits getting complex -> because forms of corruption & mal-administration -> extremely difficult to detect.
- CAG cannot enforce any of its findings by decree -> Many times, government just ignore CAG findings.

Changing Role of CAG

- CAG -> now audits several public-private partnerships (PPP) projects.
- Dramatic changes in government funding & public goods exploitation -> ∴ need to change its audit mechanisms in this context.
- New tasks of auditing issues like implementation of SDG & GST.
- Big Data management policy of CAG in 2016 & establishment of Centre for Data Management & Analytics in Delhi.
- In 2017, CAG hosted the Commonwealth Auditors General Conference => Leveraging technology in public & environment audits -> were 2 themes of the conference.
- CAG audited the UN headquarters -> involves multifarious & complex operations -> shows credibility of Indian CAG.
- Pro-active works of CAG. Ex: Vinod Rai (11th CAG from 2008-13) => disclosed some biggest scams -> like, 2G spectrum licenses scam, Coalgate/coal blocks scam etc.

Way Forward

- Auditors -> should get records on priority basis -> like, the citizen's right to get the information within a month under RTI Act 2005.
- In 2015 -> All-India conference of Public Accounts Committee (PAC) of Parliament & State/UT legislatures -> discussed the need for complete independence of CAG -> making it a part of PAC, like UK & Australia.
- Bring all private-public partnerships (PPPs), PRIs and government-funded societies -> within the ambit of CAG.
- CAG Act, 1971 -> should be amended to keep pace with the changes in governance.
- Collegium type mechanism to choose new CAG -> on the lines of selecting Chief Vigilance Commissioner (CVC).
- CAG should follow rigorous standards -> to ensure integrity of audits not affected by extraneous considerations -> credibility & public trust.

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62.	Independence of Elections commission of India
	<p>Intro</p> <ul style="list-style-type: none"> - Article 324 - provisions to safeguard and ensure the independent and impartial functioning of the Election Commission which is as follows. - The chief election commissioner - security of tenure - he does not hold his office until the pleasure of the president - though he is appointed by him. - Any other election commissioner or a regional commissioner cannot be removed from office except on the recommendation of the chief election commissioner - Though the constitution has sought to safeguard and ensure the independence and impartiality of the Election Commission, some flaws can be noted, ie: - The Constitution has not prescribed the qualifications (legal, educational, administrative or judicial) of the members of the Election Commission. - The Constitution has not specified the term of the members of the Election Commission. - The Constitution has not debarred the retiring election commissioners from any further appointment by the government. <p>Recommendations of 255th law commission report</p> <ul style="list-style-type: none"> - Regulation of Political Parties and Inner Party Democracy - Proportional Representation - Anti Defection Law in India - a suitable amendment to the Tenth Schedule of the Constitution, which shall have the effect of vesting the power to decide on questions of disqualification on the ground of defection with the President or the Governor, as the case may be, (instead of the Speaker or the Chairman), who shall act on the advice of the ECI. This would help preserve the integrity of the Speaker's office. - Strengthening the office of the Election Commission of India - Paid News and Political Advertisements to be regulated - Opinion Polls - The regulation of opinion polls is necessary to ensure that first, the credentials of the organisations conducting the poll is made known to the public; second, the public has a chance to assess the validity of the methods used in conducting the opinion polls; and third, the public is made adequately aware that opinion polls are in the nature of forecasts or predictions, and as such are liable to error. Consequently, new sections 126C and 126D should be inserted in the RPA. - NOTA and the Right to Reject

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- Not in favour of introducing the right to recall in any form because it can lead to an excess of democracy
- The Commission reiterates and endorses the ECI's suggestion for introducing a totaliser for the counting of votes recorded in electronic voting machines to prevent the harassment of voters in areas where voting trends in each polling station can be determined.
- It also recommended, to add a new sub-clause as (2A) to Article 324 of the Constitution to provide for a separate independent and permanent Secretariat for the ECI along the lines of the Lok Sabha/Rajya Sabha Secretariats under Article 98 of the Constitution. This will further improve the independence of the ECI.
- The ECI must be strengthened by:
 - Giving equal constitutional protection to all members of the Commission in matters of removability;
 - Making the appointment process of the Election Commissioners and the CEC consultative; and
 - Creating a permanent, independent Secretariat for the ECI.

Recommendations of Dinesh Goswami committee for autonomy of ECI

- The ordering of re-poll or countermanding should be not only be on the report of the returning officer, but also otherwise and, also to give the Election Commission the requisite powers to appoint investigating agencies, prosecuting agencies and constitution of special courts.
- There is a need for an amendment to the anti-defection law to restrict disqualification only to those cases, where an elected member voluntarily gives up his membership of the political party, or when he votes or abstain from voting contrary to party whips, directions etc. only in respect of motion of vote of confidence. The question of disqualification of members should not be decided by the speaker or the Chairman of the concerned House.
- Changes in the voting pattern and shift to proportional representation of the list system, instead of present voting system should be made (However, this matter was to be further discussed amongst exports)
- There should be fresh delimitation on the basis of 1981 census and there should be a provision for rotation of reserved seats for Scheduled Castes and Scheduled Tribes.
- No candidates should be allowed to contest an election from more than two constituencies. The age of Candidates for

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	<p>assembly seats should be reduced to 21 and for the Council to 25.</p> <ul style="list-style-type: none"> - To discourage non-serious candidates 	
63.	Electoral Bonds	
	<p>Features</p> <ul style="list-style-type: none"> - An Electoral Bond - a promissory note - may be purchased by a person who is a citizen of India or incorporated or established in India. - A person being an individual can buy Electoral Bonds, either singly or jointly with other individuals. - Like banknotes that are payable - on demand and - interest-free. - Only the Political Parties registered under Section 29A of the Representation of the People Act (RPA), 1951 (43 of 1951) and which secured not less than one percent of the votes polled in the last General Election to the House of the People or the Legislative Assembly of the State, shall be eligible to receive the Electoral Bonds. - The State Bank of India (SBI) - been authorised to issue - encash Electoral Bonds through its 29 Authorized Branches. - One can purchase these bonds only digitally or through cheques. - The Electoral Bonds can be encashed by an eligible Political Party only through a Bank account with the Authorized Bank. - The Electoral Bond deposited by an eligible Political Party in its account is credited on the same day. - Electoral Bonds shall be valid for fifteen calendar days from the date of issue and no payment is being made to any payee Political Party if the Electoral Bond is deposited after expiry of the validity period. <p>Pros</p> <ul style="list-style-type: none"> - More transparency - Ensures Accountability - Discouraging Cash - Maintains Anonymity <p>Cons</p> <ul style="list-style-type: none"> - Hindering Right to Know - Shallow Anonymity - Unauthorized Donations - Leading to Crony-Capitalism - Loopholes - Electoral bonds eliminate the 7.5% cap on company donations which means even loss making companies can make unlimited donations etc. 	

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	<ul style="list-style-type: none"> - The Supreme Court (SC) agreed - the scheme protects the identity of purchasers of electoral bonds in a cloak of anonymity - highlighted that such purchases happened only through regular banking channels. - The Election Commission of India (ECI) also told the Supreme Court of India that while it was not against the Electoral Bonds Scheme, it did not approve of anonymous donations made to political parties. 	
64.	One Nation One Election	
	<p>Intro:</p> <ul style="list-style-type: none"> - “One Nation, One Election”- envisages a system where elections to all states and the Lok Sabha - simultaneously. - The voters will cast their vote for electing members of the LS and the state assemblies on a single day, at the same time (or in a phased manner) <p>BODY</p> <ul style="list-style-type: none"> - Simultaneous elections - norm until 1967- following dissolution of some Legislative Assemblies in 1968 and 1969 and that of the Lok Sabha in December 1970-separate elections to State Assemblies and Parliament . <p>IN FAVOUR -SIMULTANEOUS POLLS</p> <ul style="list-style-type: none"> - Reduce- enormous costs involved in separate elections. - Cost of repeated administrative freezes gets reduced. - Minimizing -visible and invisible costs of repeatedly deploying security forces. - Help ruling parties focus on governance instead constant election mode. - The Law Commission-Simultaneous elections- Boost voter turnout. <p>AGAINST -SIMULTANEOUS ELECTIONS</p> <ul style="list-style-type: none"> - National and state issues are different- likely to affect the judgment of voters. - Government's accountability to the people-reduced -elections -once in 5 years. - When an election in a State - postponed until the synchronised phase- President’s rule will have to be imposed in the interim period in that state- will be a blow to democracy and federalism. - an -advantage to national parties -questioned -political analysts . <p>Conclusion :</p> <ul style="list-style-type: none"> - Weighing pros & cons -keeping the idea of diversity -mind - better policy consensus -arrived at. 	

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65.	NCST	
	<p>Intro:</p> <ul style="list-style-type: none"> - NCST was set up -2004 -amending Article 338 - special approach for Tribal development and special independent machinery to safeguard the rights of Scheduled Tribes- 338A -89th Constitution Amendment Act, 2003. <p>BODY</p> <p>Functions and Powers</p> <ul style="list-style-type: none"> - Investigate and monitor – constitutional safeguards - the STs - inquire -specific complaints - to the deprivation of rights -STs - Planning process of socio-economic development of the STs - Annual reports -president - Discharge such other functions -as the President may specify upon parliament by law. <p>Concerns of the commission :</p> <ul style="list-style-type: none"> - In the year 2021-22, commission -has met only four times. - Rate of pendency of resolution of complaints & cases -it receives is also close to 50 per cent. - Reports of the Commission since 2018 - under process in the Ministry of Tribal Affairs -not been presented to the Parliament till date. - As the eligibility bar was set too high - lack of applicants-manpower shortage - Budgetary shortage. <p>CONCLUSION:</p> <ul style="list-style-type: none"> - Proper functioning of the commissioning -NCST -important - protecting the constitutional safeguards 	
66.	Criminalisation of politics and electoral reforms	
	<p>Intro:</p> <ul style="list-style-type: none"> - Free and fair elections are essential in a healthy democracy. Criminals entering the election fray. - According to Election Commission, about 40% of members elected to 15th Lok Sabha are facing criminal charges in court of law → need for systematic and strategic improvements. <p>Body:</p> <ul style="list-style-type: none"> - The criminalisation of politics - law-breakers get elected as law-makers due to - intimidation of voters - booth capturing - the proliferation of non-serious candidates - tampered electoral rolls and 	

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- other polling irregularities.
- Vohra Committee on “Criminalisation of Politics” → money power is being utilized to develop the muscle-power network which the politicians use during elections.

Reasons for Criminalization:

- Lack of Political Will and Moral Values.
- Lack of Enforcement. i.e., scarcity of state capacity.
- Narrow Self-interests → voting for community interests like caste or religion.
- With cases dragging in courts for years, a disqualification based on conviction becomes ineffective → Low conviction rates compounds the problem.
- Unwarranted granting of parole and withdrawal of the court cases.

Effects:

- affects the efficacy of the democratic process in delivering good governance.
- Affecting Integrity of Public Servants.
- Causes Social Disharmony → culture of violence → reduces people's faith in democracy.
- poor image of the nature of India's state institutions.

Steps by the Supreme Court:

- **Union of India vs. Association for Democratic Reforms 2002:**
 - o mandatory for contesting candidates to declare their assets and liabilities, that of their spouses and dependent children,
 - o any criminal conviction in the court of law,
 - o any criminal case pending and
 - o the educational qualifications at the time of filing the nomination.
- **Ramesh Dalal vs. Union of India 2005:**
 - o a sitting MP or MLA shall be subject to disqualification from contesting elections if he is convicted and sentenced to not less than 2 years of imprisonment by a court of law.
- **Lily Thomas vs. Union of India 2013:**
 - o Section 8(4) of RPA, 1951. → if a sitting MP or MLA is convicted and sentenced to not less than 2 years of imprisonment shall be disqualified from being member of house.
 - o However, if the member goes on **appeal** against his conviction within 3 months, then he shall not be subject to disqualification.

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- held Section 8(4) as unconstitutional and void.
- **Public Interest Foundation vs Union Of India, 2018.** → directed political parties to **publish online** the pending criminal cases of their candidates.

Electoral reforms:

In effect:

- Cap on individual candidates' spending. For the Lok Sabha elections, it is Rs. 50 – 70 lakhs and Rs. 20 – 28 lakhs for an assembly election.
- Section 8 of RPA, 1951 – convicted for more than 2 years cannot stand in an election for 6 years after the jail term has ended.
- declaring false information in the affidavit is now an electoral offence punishable with imprisonment up to 6 months or fine or both.
- Awareness Creation: The government decided to observe January 25th as 'National Voters Day'.
- Restriction on contesting from more than 2 constituencies.

Measures yet to be taken:

- Dinesh Goswami, Inderjeet Committee on the electoral reforms → state funding of elections to curb use of black money.
- ECI → to have the power of auditing the financial accounts of the political parties or the finance of the political parties must be brought to the RTI law.
- break the link between the criminals and politicians → Greater transparency.
- no concept of electoral reform without judicial and police reforms.

Conclusion:

- Criminalisation in politics is a termite to the citadel of democracy.
- For the success of democracy, it is necessary that people maintain their allegiance towards the democratic institutions based on rule of law.
- The more the elections are free and fair, the stronger the allegiance the people will have towards democratic institutions.

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67.	<p>National Commission for Women and National Commission for Protection of Child's Rights:</p> <p>National Commission for Women:</p>	
	<p>Intro:</p> <ul style="list-style-type: none"> - statutory body constituted under the National Commission for Women Act, 1990. - Though there are no direct provisions in the Indian Constitution, there are several safeguards for women's safety mentioned in Article 15 (3), Article 14, and other places. <p>Body:</p> <p>Objectives:</p> <ul style="list-style-type: none"> - review the Constitutional and Legal safeguards for women - recommend remedial legislative measures - facilitate redressal of grievances - advise the Government on all policy matters affecting women. <p>Composition:</p> <ul style="list-style-type: none"> - Central Government will nominate a Chairperson + 5 members (atleast 1 member from each of the Scheduled Castes and Scheduled Tribes). - Tenure → 3 yrs. <p>Powers & Functions:</p> <ul style="list-style-type: none"> - all the powers of a civil court while trying a case <ul style="list-style-type: none"> o summoning and enforcing the attendance of any person from any part of India; o obtaining evidence through affidavits; o obtaining a copy of any public record from any court or office; o issuing commissions for witness and document examinations. - Look into complaints and take suo moto notice of matters. - Annual Reporting to the Central Government and at other times as the Commission sees suitable. - participate and advice on the planning process of socio-economic development of women, - evaluate the progress of the development of women under the Union and any State, - inspect or cause to inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners. <p>Issue related to National Commission for Women:</p> <ul style="list-style-type: none"> - very little financial assistance to meet its needs. - The members are appointed by the government → no authority to choose its members. - No legislative authority conferred on the NCW. 	

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- Only to make suggestions for changes and provide reports.
- The jurisdiction of the commission is not operating in Jammu and Kashmir.

Way Forward:

- Need to expand the scope of the NCW → To address violence against women → Rise of 46% in complaints of crimes.
- Development of New India: Atmanirbhar Bharat → promote women entrepreneurs - link between the ability of women with the development of the country.
- a state-wide training and capacity-building initiative.

Conclusion:

- Considering the current political unrest in many regions and human rights infringements, the presence of commission is vital. Holistic efforts to fulfil the SDG 5, 10.

National Commission for Protection of Child's Rights:

Intro:

- statutory body established in 2007 under an act of Parliament, the Commissions for Protection of Child Rights (CPCR) Act, 2005.
- works towards achieving a child rights-centric approach in all the laws, programmes, policies and administrative mechanisms in India.

Body:

- acknowledges the universality and inviolability of child rights.
- Mandate → To ensure that all Laws, Policies, Programmes, and administrative mechanisms - in consonance with the Child Rights perspective as enshrined in the Constitution of India and UN Convention on the Rights of the Child.

Functions:

- Present annual reports on working of those safeguards to the central government.
- Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence etc.
- Study treaties and other international instruments and undertake periodic review of existing policies, programmes.
- **Under the RTE Act, 2009, the NCPCR can:**
- inquire into complaints about violation of the law.
- summon an individual and demand evidence.
- seek a magisterial enquiry.
- file a writ petition in the High Court or Supreme Court.
- approach the government concerned for prosecution of the offender.
- recommend interim relief to those affected.

TOPICS AND POINTERS

2023 - MAINS STUDY MODULE

	<ul style="list-style-type: none">- Spread child rights literacy.- Composition: chairperson and six members of which at least two should be women. <p>Limitations with NCPCR:</p> <ul style="list-style-type: none">- seems to be deriving its priorities from the political agenda of the day rather than upholding fair commitment to the welfare of children.- NCPCR charged with the monitoring of Child Care Institutions (CCIs) → an order of mandated repatriation without an adequate case-by-case assessment plan within a short period of time.- sheer inadequacy of current systems to organise adoption and foster care. <p>Conclusion:</p> <ul style="list-style-type: none">- The Commission envisages a rights-based perspective. It is intended to make deep penetration into the communities and families.	
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