



SIVARAJAVEL IAS ACADEMY
FOUNDER - DIRECTOR OF **SMART LEADERS IAS**

TOPICS & POINTERS

Exclusively For
UPSC Mains 2022

POLITY
GS-2
MAINS WORK
BOOK



METIS 2022

Mentoring and Enabling Through Intelligent Support System

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TOPICS AND POINTERS

2022- MAINS STUDY MODULE



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ABOUT

The material aims to equip the aspirants with enough knowledge to attempt mains questions by incorporating various dimensions. This material will be provided every week as per the test module.

HOW TO READ THIS ?

1. Only key points will be provided .
2. Readers are advised to make a synopsis from topics and points given.
3. Make your own chart, diagrams and maps after reading the topics.
4. Understand the topics. Don't try to memorise them but link organically
5. Make sure to complete the module before the Test on Sunday.
6. Revise, Write, Practice- Repeat

MAINS ANSWER WRITING CHALLENGE

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Starting from 13th of June till the end of the test schedule every day two questions will be posted and answers may be provided in the evening.



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POLITY PART-1 THEMES AND PREVIOUS YEAR QUESTIONS

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

1. '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**
2. "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**
3. 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**
4. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. **2017**
5. Discuss each adjective attached to the word 'Republic' in the preamble. Are they defensible in the present circumstances? **2016**
6. 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**
7. 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**
8. 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**
9. 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**
10. 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.

1. Analyse the distinguishing features of the notion of Equality in the Constitutions of the USA and India. **2021**
2. 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**
3. What can France learn from the Indian Constitution's approach to secularism. **2019**
4. India and USA are two large democracies. Examine the basic tenants on which the two political systems are based. **2018**

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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.

1. How have the recommendations of the 14th Finance Commission of India enabled the states to improve their fiscal position? **2021**
2. 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**
3. 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**
4. 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**
5. How is the Finance Commission of India constituted? What do you about the terms of reference of the recently constituted Finance Commission? Discuss. **2018**
6. 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**
7. "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**
8. 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**
9. 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**
10. Did the Government of India Act, 1935 lay down a federal constitution? Discuss. **2016**
11. 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**
12. 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**
13. 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

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feature that militates against the concept of strong federalism. Discuss. **2014**

14. 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**
15. 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**
16. 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.

1. 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**
2. 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**
3. 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**
4. Whether the Supreme Court Judgement (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. **2018**
5. 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**
6. 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**
7. 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**
8. 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**
9. The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution. Discuss critically. **2013**

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

1	Anti-conversion laws	
	<p>Context :</p> <ul style="list-style-type: none"> – The Karnataka Right to Freedom of Religion Bill, 2021 passed by Karnataka Legislative assembly – It prohibits conversion from one religion to another by misrepresentation, force, fraud, allurement, or marriage. – Exemption -it exempts a person who “reconverts to his immediate previous religion” as the same shall not be deemed to be a conversion under this Act. – Offence - cognizable and non-bailable. – Currently 9 states have anti-conversion laws in force – which includes Odisha, Madhya Pradesh, Arunachal, Gujarat etc <p>Legality – previous judgements</p> <ul style="list-style-type: none"> – Rev. Stanislaus vs State of Madhya Pradesh & Ors (1977): – Court upheld the constitutionality of Acts of Madhya Pradesh and Odisha on the ground that these efforts to restrain the conversion are for securing freedom of conscience and public order. – Freedom to propagate one’s religion, as stipulated under Article 25 (1), did not grant a fundamental right to convert another person. – It also held that the Anti-Conversion Acts fall within the purview of Entry I of List II of the Seventh Schedule as they are meant to avoid disturbances to the public order. – M Chandra Vs M Thangamuthu & Another, 2010, the Supreme Court laid down the test to prove conversion: First, there has to be a conversion, and second, acceptance into the community to which the person converted. It also stated that the need of conversion cannot be altogether done away with. <p>Pros and cons</p> <p>Pros:</p> <ul style="list-style-type: none"> – Remedial measure to the problem of conversion which is considered as a way to bring demographic change. – Not blanket ban on prohibition but are intended to prohibit conversions that are effectuated by force, inducement, or fraud – Necessary safeguards for the protection of religious freedom, a right guaranteed both constitutionally and in international human rights instruments – India’s legal dispensation only recognizes the conversion which is not done with inducement or threat. 	

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- Similar views Echoed in Constitution Assembly - Sardar Patel had expressed concern about forceful conversion which later became as the moral base of anti-conversion laws in India

Cons :

- The burden of proof that the conversion was 'lawful' lies on the person who has 'caused' the conversion - laws reportedly focus more on prosecuting the 'convertor'
- These laws both by their design and implementation infringe, upon the individual's right to convert and may favor one religion over the other.
- Very rare instances of prosecution or arrest under anti-conversion laws
- Create an atmosphere of fear amongst the couples willing to do interfaith marriages.
- The terms used in such laws like force, fraud, allurement etc. are loosely defined, leaving wide scope for misuse.
- Religion or spirituality is the most integral part of human nature and thus any undue ban on it can be a gross violation of human rights.
- Raise concerns about the privacy of individuals who wish to adopt other religions
- Antithetical to the freedoms granted by provisions in the Special Marriage Act under which persons belonging to two different religions get married.

Sacrilege/blasphemy laws

Sacrilege - This means treating a religious object or place without the respect that it deserves.

- India being a secular state **protects all the religions by blasphemy laws.**
- **Sections 295 and 295A, 296, 297, 298 of the Indian Penal Code (IPC)** presently deals with blasphemy incidents.
- Eg - **Section 295** deals with punishment if any person **intentionally damages, destroys or defiles any religious object** deemed to be sacred
- **Section 295A** deals with punishment if a person **maliciously by words spoken or written or signs or by visible representation insults or attempts to insult religious sentiments.**

Why blasphemy laws are needed

- **To protect religious sentiments** as guaranteed by the Indian constitution as India is a secular country. FR - assure religious freedom to all.
- **To maintain communal harmony**
- **To prevent mobocracy** as most sacrilege incidents have resulted in mob lynching
- **To maintain law and order** in the state.

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	Conclusion Any law which limits individual/personal rights for the sake of harmony and law and order should follow the doctrine of proportionality - administrative action/legislative action should not be more drastic than it ought to be for obtaining the desired result	
2	Digital rights	
	Context <ul style="list-style-type: none"> - European Commission- proposed a set of digital rights and principles recently. - Extension of the Berlin declaration on Digital Society and Value- Based Digital Government of EU council. Digital rights <ul style="list-style-type: none"> - Digital rights, closely linked to freedom of expression and privacy, are those that allow people to access, use, create and publish digital media, as well as access and use computers, other electronic devices and communications networks. - Digital rights are merely an extension of the rights set out in the Universal Declaration of Human Rights to the online world. - It is a broad term implying right to privacy and data protection; it can be related to trolling, online threats and hate speech; it can address broader issues of equitable Internet access regardless of economic backgrounds and disabilities. Need <ul style="list-style-type: none"> - Protection of privacy and control of personal data - governments, companies and cyber criminals can easily collect our personal data and track our us - Digital transformation of businesses - traditional businesses entering the digital world - Enhancing trust of individuals in digital ecosystem to stimulate their involvement in a fair, sustainable, inclusive, democratic and competitive digital transformation. - Supporting workers in adjusting to changes brought on by digitalisation to the labour market - through education, training and re-skilling. - Tackling Pandemics - connectivity, access to data and digital technologies are a vital resource for governmental, educational, research, economic activity and innovation and will be central for the recovery efforts, including social and societal well-being. - Aligning R&D initiatives with the infrastructure and digitalization plans, thus promoting fundamental and applied research - Promoting digital democracy by Promoting children's participation, Promoting women's and girls' participation and leadership, Ensuring the rule of law online through equal access to justice etc. 	

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	<p>Challenges faced to avail Digital Rights</p> <ul style="list-style-type: none"> – Digital Divide – Vulnerable to misuse - spread dangerous misinformation and fuel discrimination, xenophobia and racism. – Digital technology can also worsen economic and other inequalities. In 2020, close to 87 per cent of individuals in developed countries used the Internet – Privacy issue: Data-intensive technologies contribute to creating a digital environment to track, analyse, predict and even manipulate people's behaviour to an unprecedented degree – Digitally facilitated repression: Authoritarian governments now have enhanced capacities to censor expression, block or filter access to information, monitor online activity, and control populations than they did in the pre-digital world. – Violation of human rights: Use of digital technologies to surveillance or crack down on protesters can lead to human rights violations, including infringement of the right to peaceful assembly. <p>Scenario in India</p> <ul style="list-style-type: none"> – Digital rights in India are not as clearly laid out or structured as in some other parts of the world. – “Data Protection Bill” is still in making – will clear certain ambiguities – Courts recognising digital rights - the “Right to access Internet” is a fundamental right available to Indian citizens under the following articles: Article 19, Article 21 , Article 21A – Faheema Shirin v. State of Kerala, - Kerela HC right to be able to access the internet has been read into the fundamental right to life and liberty, as well as privacy under Article 21. – constitutes an essential part of the infrastructure of freedom of speech and expression. – Digital rights vs internet shut down - frequent and prolonged Internet Shutdowns by the district/state authorities hamper the very Right to Access Internet - few laws that are used by the executive to impose internet ban: – Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 – Section 144 of the Code of Criminal Procedure, 1973 – Indian Telegraph Act, 1885 – Information Technology Act, 2000 	
3	Local reservation in private sector (recent Haryana law)	
	<p>Context</p> <ul style="list-style-type: none"> – Haryana State Employment of Local Candidates Act, 2020 - provides for 75% reservation to local youngsters in private sector jobs that offered a monthly salary of less than ₹30,000 	

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- It covers **private companies, societies, trusts and partnership firms.**
- Haryana is not the first state in India to push for such a move. Others like **Maharashtra, Andhra Pradesh, Karnataka and Madhya Pradesh** have already tried to reserve private jobs for locals.

Constitutional provisions

- **Article 16:** prohibits the state from discriminating on grounds of place of birth or residence.
- **Article 16(2):** “No citizen shall, on grounds only of religion, race, caste, sex, descent, **place of birth, residence or any of them**, be ineligible for, or discriminated against in respect or, any employment or office under the State”.
- **Article 16 (3):** It provides an exception by saying that Parliament may make a law “prescribing” a requirement of residence for jobs in a particular state. **This power vests solely in the Parliament, not state legislatures.**
- **Article 16(2):** As the language is not mentioned as criteria of non-discrimination, states have mandated knowledge of State Language.
- **Article 371:** Special powers have been awarded to few states. **Eg.** Andhra Pradesh, under Section 371(d), has powers to have “direct recruitment of local cadre” in specified areas.
- **Constitution Talks about Government Jobs:** As per Haryana Government the recent act is constitutional as it deals with jobs in Private Sector.

Judgements in this regard

- **Dr Pradeep Jain v Union of India, 1984:** Legislation for “sons of the soil” was termed unconstitutional but did not expressly rule on it as the case was on different aspects of the right to equality.
- **Sunanda Reddy v State of Andhra Pradesh, 1995:** Supreme Court affirmed the observation in Pradeep Jain to strike down a state government policy that gave 5% extra weightage to candidates who had studied with Telugu as the medium of instruction.
- **The Supreme Court invalidated the appointment of government teachers in Rajasthan in 2002** in which the state selection board gave preference to “applicants belonging to the district or the rural areas of the district concerned”.
- **In 2019, the Allahabad High Court struck down a recruitment notification** by the UP-Subordinate Service Selection Commission which prescribed preference for women who are “original residents” of the UP alone.

Arguments For

- **Step to provide right to employment:** The Haryana government had argued that the law merely makes

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	<p>“geographical classification”, which is permitted under the Constitution - It is to protect the right to life/livelihood of people domiciled</p> <ul style="list-style-type: none"> - Dealing with shrinking employment opportunities - Centre for Monitoring Indian Economy (CMIE), Haryana’s unemployment rate has been in excess of the national average since the past four years. - Curbing the selectively discriminating corporations: Many business entities reluctant to employ local workers. - Skewed Resource Allocation: With successive Finance Commissions according a higher weightage to poverty and population vis-a-vis development, States like Bihar and UP end up receiving a generous share of the resources pie. <p>Arguments Against</p> <ul style="list-style-type: none"> - In contravention of the Constitution: The clause providing for preference in jobs to the local candidates domiciled in Haryana was in contravention of Article 14 and Article 16 of the Constitution pertaining to Right to Equality and Article 19 (1)(g) which provides for protection of certain rights to practice any profession, or to carry on any occupation, trade or business. - Fuels sons-of-the-soil syndrome - shutting the doors on employment to non-domiciles would be a gross violation of Fundamental Rights of citizens - Such reservation may push businesses to migrate, as their skilled workforce is not sufficiently ‘local’. - Allowing reservations in the private sector would be akin to nationalization of the private sector and it would result in the revival of license-raj. - No solution to core issues like Skewed geographical development: Investors prefer to stick to States where a governance ecosystem, Low quality of education and skills <p>Conclusion</p> <ul style="list-style-type: none"> - The State governments can come up with certain incentives to companies which are investing a certain amount of money for training the local youths. - The State governments should enable the reservation system to which serves its original purpose of making India a more just society. - Govt to focus on job creation, Skill development 	
4	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 	

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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.**

Minorities and related constitutional provisions

- **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**.:
 - ✓ **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)

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

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	<p>population. This will be so even in a state, region or district where such a minority is factually not a minority in numerical terms.</p> <p>SC judgements in this regard</p> <ul style="list-style-type: none"> – 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'. <p>Conclusion:</p> <ul style="list-style-type: none"> – 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. 	
5	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 	

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	<p>these secular civil laws. Ex: Recently, several states refused to be governed by the uniform Motor Vehicles Act, 2019.</p> <ul style="list-style-type: none"> – 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. <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. 	
6	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 	

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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").

Judgements

- *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".

Arguments for

- 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.

Arguments against:

- 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.

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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 <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. 	

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	<ul style="list-style-type: none"> - 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. - SC: Liberty of thought and expression is a cardinal value and constitution. And distinguish between discussion, advocacy and incitement. <p>Hate Speech:</p> <ul style="list-style-type: none"> - 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. <p>Sedition:</p> <ul style="list-style-type: none"> - 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 	

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	<p>law in India by words, either spoken or written, or by signs, or by visible representation, or otherwise.</p> <ul style="list-style-type: none"> – 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. <p>Arguments for the Sedition law:</p> <ul style="list-style-type: none"> – In line with 19(2) of the constitution. – Maintaining unity and integrity of the country. – Maintaining stability of the state. <p>Arguments against the Sedition law:</p> <ul style="list-style-type: none"> – 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. <p>Stance of court:</p> <ul style="list-style-type: none"> – 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”. <p>Way forward:</p> <ul style="list-style-type: none"> – Sedition law has its utility in combating anti-national, secessionist and terrorist elements. However, dissent and criticism of the government are essential ingredients of robust public debate in a vibrant democracy. They should not be constructed as sedition. 	
9	Doctrine of liberal interpretation(judicial interpretation) and expanding scopes of FR due to it	
	<ul style="list-style-type: none"> – According to this doctrine liberal interpretation, the ambit of a particular power of a legislature has to be determined with reference to the ‘purpose’ for that power was conferred on that legislature and the entry should receive such interpretation as would best effectuate that purpose rather than restrict or defeat it. – It is fundamental cannon of construction that a Constitution should receive a liberal interpretation in favour of citizen, especially with respect to those provisions which were designed to safeguard the liberty and security of the citizen in regard to both person and property. 	

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	<ul style="list-style-type: none"> – Constitution is the declaration of the will of people and should be interpreted liberally and not in any narrow or doctrinaire spirit. – Helps the constitution to stay dynamic and organic in order to adapt to the changing times. <p>Expanding scope of FR:</p> <ul style="list-style-type: none"> – At times, this doctrine can lead to expansion in the rights that the citizen can enjoy. From time to time, the courts gave judgements to expand the scope of fundamental rights. – For example, a liberal interpretation in the Maneka Gandhi case in 1978, SC enormously increased the scope of Right to Life(Art 21) declared Right to live with human dignity(legalising passive euthanasia), Right to Privacy(Puttaswamy case), Right of women to be treated with decency and dignity(Vishaka Guidelines against sexual harassment at workplace), Right to Information(striking down unconstitutional principles of IT Act), till even Right to Sustainable Development. – Right to Education was added as 21A by 86th CAA, 2002. But in 1993 itself, SC recognised a Fundamental Right to primary education in the Right to life under Art 21. – SC ruled out that Sec 377 as unconstitutional as it infringed on the fundamental rights of autonomy, intimacy and identity (Art 21) and thus paved way to legalise homosexuality in India. – SC ruled out that Sec 497(Adultery) as unconstitutional as it infringed on the FR Art 14 and 21 as the law was gender-biased. <p>Conclusion:</p> <ul style="list-style-type: none"> – Judiciary and judicial activism have been instrumental in safeguarding and exercising the ‘doctrine of liberal interpretation’ in India which has expanded the scope of rights enshrined in the constitution of India, thereby making India appear like a modern state in the changing world to deal with dynamic political issues and also upholding the liberal-democratic constitutional principles in its spirit. 	
10	Rights	
	<p><u>Right to protest</u></p> <p><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>	

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- 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.

Right to be forgotten

SC judgments:

- 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 RTBF 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.

Issues:

- 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
- 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.

Right to privacy and surveillance:

Surveillance in India:

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

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- 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.

Criminal procedure bill:

- It empowers police to obtain physical and biological samples of convicts and those accused of crimes.
- The Act permits the collection of photographs and specified details about convicts and other persons including finger impressions and footprint impressions.

Issues:

- The information specified under the Bill forms part of the personal data of individuals and is thus protected under the right to privacy of individuals.
- As per Puttaswamy judgement, the infringement of privacy must be necessary for and proportionate to that purpose. The Bill may fail this test on several parameters in **doctrine of proportionality**.
- It also provides for retaining the people's measurements for 75 years from the date of collection, was in violation of the **Right to be Forgotten** enshrined in the Right to Life under Article 21 of the Constitution".
- It may also fail Article 14 requirements of a law to be fair and reasonable, and for equality under the law.

Data protection bill

Issues:

- Definition of sensitive personal data under the rules is narrow, and some of the provisions can be overridden by a contract.
- The bill applies only to companies, not to the government. Section 35 of the bill provides for exemption of agency of the Government from the provisions of the law
- The bill does not regulate mass surveillance projects like Crime and Criminal Tracking Network and Systems (CCTNS), Central Monitoring System (CMS) or the National Intelligence Grid (NatGrid)

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	<ul style="list-style-type: none"> - Non-consensual processing of personal data as the state does not need to conform to the consent principle, if processing of personal data is necessary for the state to provide any service. - National security or reasonable purposes are open-ended terms, this may lead to intrusion of state into the private lives of citizens. <p><u>Wearing hijab not an essential part of religion:</u></p> <ul style="list-style-type: none"> - The court held that wearing the hijab is not “religion-specific”. - The court said that the petitioners did not present sufficient evidence to prove that wearing a hijab is an essential religious practice of Islam. - The court stressed on the institution’s right to prescribe a dress code. - The court held that on allowing hijab, the school uniform ceases to be uniform and would establish a sense of social-separateness. - It stated that the hijab offends the feel of uniformity which the dress-code is designed to bring about amongst all the students regardless of their religion & faiths. <p><u>Criticisms:</u></p> <ul style="list-style-type: none"> - The court failed to examine whether the wearing of the hijab, in addition to the prescribed uniform, but without any variation in colour, was a ground to refuse entry into a school or college. - Essential religious practices test, judicial determination of religious practises, has often been criticised by legal experts as it pushes the court to delve into theological spaces. - It is better for the court to prohibit religious practices for public order rather than determine what is so essential to a religion that it needs to be protected. 	
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 - 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 	

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	<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.	<p>Revisiting India's Reservation Policy</p> <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.) <p><u>Time to revisit:</u></p> <ul style="list-style-type: none"> - 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. 	

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- 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 Vanniyaars 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)
- 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

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	backwardness of the Scheduled Castes and the Scheduled Tribes.	
13	OBC reservation in local bodies	
	<p>Intro:</p> <ul style="list-style-type: none"> Recently Maharashtra's Decision for 27% OBC reservation in local polls was struck down. <p>Constitutional Provisions:</p> <ul style="list-style-type: none"> SC also observed that while for SC and ST's reservation is constitutionally mandatory, for OBC's the Onus lies on state legislature: K. Krishnamurthy (Dr.) v. Union of India (2010): Article 243D(6) and Article 243T(6), which permit reservation by enactment of law for backward classes in panchayat and municipal bodies respectively. Principles for Reservation in Local bodies different from Article 15 (4) and Article 16 (4) which form the basis for reservation in education and employment. <p>Rahul Ramesh Wagh v. State of Maharashtra 2021:</p> <ul style="list-style-type: none"> SC established the "triple test" condition Setting up a dedicated commission to conduct "rigorous empirical inquiry into the nature and implications of the backwardness qua local bodies, within the state". Making of recommendations by the commission on the number of seats to be reserved for OBCs "local body wise". Cumulative reservation (SC, ST, OBC) to not exceed 50 percent. <p>Madhya Pradesh OBC quota upheld:</p> <ul style="list-style-type: none"> Again when Madhya Pradesh enacted a law, it was struck down-ART 141 (SC judgments applicable throughout the territory). But after the Backward classes commission report, it allowed MP to go ahead with the OBC reservation. <p>Conclusion:</p> <ul style="list-style-type: none"> Rule of law is not just a set of letters, but it has to be followed in spirit. 	
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) 	

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	<ul style="list-style-type: none"> – Kesavanada Bharti: Overruled Golaknath→ Power to amend but restricted under Basic Structure→ Gave birth to Basic Structure Doctrine. Essential Features Doctrine. Basic structure doctrine itself is an evolving list. Got strengthened by: <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> <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>	
16	SC struck down some provisions of the 97th Amendment act	
	<p>92nd Amendment 2002:</p> <ul style="list-style-type: none"> – Part IXB- Articles 243ZH to 243ZT→ Article 19(1)(c)→Article 43B on the promotion of cooperative organizations (Part IV). <p>Why Govt brought it?</p> <ul style="list-style-type: none"> – Injecting professionalism and autonomy – Lack of accountability – Productivity and Efficiency of Management 	

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	<ul style="list-style-type: none"> - Expansion of Cooperatives across the country. - Co-operatives must operate under well-established democratic norms - Elections not held in time <p>Issues with the Amendment:</p> <ul style="list-style-type: none"> - Amendment was passed without ratification from the States. - Co-operative societies come under the “exclusive legislative power” of State legislatures. - fears voiced by States whether the new Central Ministry of Cooperation would disempower them. - Entry 32 of the State List covers the cooperative sector. <p>The doctrine of Severability applied→ Only Provisions affecting states are struck while multi-state cooperatives (Entry 44 of Union List) continue to be retained.</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) <ul 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. 	

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Proposed amendment to Inter-State River Water Disputes Act, 1956 -> to streamline the adjudication & make the present institutional architecture robust.

Key provisions

- 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.
- 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.

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	<ul style="list-style-type: none"> - 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. - 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. 	
18	People's Plan Campaign, 2021	
	<ul style="list-style-type: none"> - Panchayats -> centre of grassroot democracy -> 31.65 lakh elected Panchayat representatives in India (14.53 lakh women) -> plays effective role in implementing welfare schemes for the transformation of rural India. <p>People's Plan Campaign – Sabki Yojana Sabka Vikas, 2021</p> <ul style="list-style-type: none"> - Aims to help Gram Panchayats (GPs) -> in preparation of convergent & holistic Gram Panchayat Development Plan (GPDP) -> through identification of sectoral infrastructural gaps in respective areas. - Structured Gram Sabha meetings will be held for preparing Panchayat Development Plans for 2022–2023 -> which include physical presence & presentation by frontline workers/supervisors on 29 sectors (listed in 11th Schedule). <p>Vibrant Gram Sabha Dashboard</p> <ul style="list-style-type: none"> - To help in increasing maximum participation from Panchayats -> through the meeting of Gram Sabha, Standing Committee meeting of Gram Panchayat, meeting of elected Panchayat public representatives throughout the year. <p>Gram Panchayat Development Plan (GPDP)</p> <ul style="list-style-type: none"> - GPDP -> conducted from 2nd October to 31st December -> every year across the country -> under People's Plan Campaign (PPC). - Under Article 243G -> Gram Panchayats mandated for preparing GPDP for economic development & social justice -> utilizing the resources available to them. - It brings together both citizens & their elected representatives in the decentralized planning processes. 	

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	<ul style="list-style-type: none"> - GPDP planning process -> should be comprehensive & convergence of schemes of all related Central Ministries / Line Departments. <p>Village Poverty Reduction Plans (VPRP)</p> <ul style="list-style-type: none"> • VPRP -> is a comprehensive demand plan -> which needs to be integrated with Gram Panchayat Development Plan (GPDP). • VPRP -> presented in Gram Sabha meetings -> from Oct. to Dec. every year. <p>Demands under VPRP:</p> <ol style="list-style-type: none"> i. Demand for social inclusion of vulnerable people/household -> into SHGs under NRLM. ii. Demand for various schemes -> MGNREGS, SBM, NSAP, PMAY, Ujjwala, Ration card etc. iii. Demand for enhancing livelihood -> through developing agriculture, animal husbandry, production/service enterprises & skilled training for placement etc. iv. Demand for necessary basic infrastructure, for renovation of existing infrastructure & better service delivery. v. Demand for protection & development of natural resources. <p>Addressing specific social development issues -> under the low cost no cost component of GPDP.</p>	
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. 	

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- 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.
- 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, &

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	<p>ii. Cases registered elsewhere in India, but involving people in states which have withdrawn consent.</p> <ul style="list-style-type: none"> – 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.” <p>Way Forward</p> <ul style="list-style-type: none"> – 2nd ARC, L P Singh committee & various parliamentary committees -> called to replace DSPE Act -> with comprehensive & exclusive law to empower CBI (Statutory status). – 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: <ul 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. 	

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- 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.

Reasons of Dispute

Historical

- Several dynasties established & tried to capture areas -> never have clear demarcation of boundaries.
- 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.

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	<ul style="list-style-type: none"> - 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. <p>Social</p> <ul style="list-style-type: none"> - Clashes between different ethnic groups -> increase animosity/hatred. <p>Security</p> <ul style="list-style-type: none"> - Lack & additional cost of security. - 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. 	

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- 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.
- 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.

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	<ul style="list-style-type: none"> – 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. – 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). 	

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	<ul style="list-style-type: none"> 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. 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 	
23	25 years of Panchayat Extension to Scheduled Areas (PESA) Act 1996	
	<p>Objectives</p> <ul style="list-style-type: none"> To extend the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas with certain modifications. To provide self-rule for the bulk of the tribal population. 	

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- To have village governance with participatory democracy and to make the Gram Sabha a nucleus of all activities.
- To evolve a suitable administrative framework consistent with traditional practices.
- To safeguard and preserve the traditions and customs of tribal communities.

Major Provisions

The Gram Sabhas under PESA Act were entrusted with wide-ranging powers to:

- Enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant.
- Ownership of minor forest produce.
- Prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe.
- Manage village markets by whatever name is called.
- Exercise control over money lending to the Scheduled Tribes.
- Exercise control over institutions and functionaries in all social sectors.
- Control over local plans and resources for such plans including tribal sub-plans.

Significance

- It aimed to decentralise power and empower indigenous communities - paving the way for participatory democracy & envisaged that each tier of the local governance is independent.
- It is based on the cardinal principle of governance that human communities are the best agency - to handle most of their survival challenges, manage their affairs and progress - towards growing emancipation through the instrumentality of participatory deliberative democracy.
- It also calls for creating the appropriate levels of Panchayats similar to 6th Schedule Area - where the administrative boundaries are autonomous enough for self-rule.
- The act is constructed around the Gandhian concept of Gram Swaraj - was included in the Constitution as Article 40 (organisation of village panchayats) and came alive only when PESA was adopted.
- The principle that underlies PESA has two corollaries in relation to development namely
- Any community can best decipher advancement and modernity - when it is grounded in the strength of its own culture and way of life.
- Any community can negotiate both advancement and modernity - only when it is founded on the bedrock of its own culture and way of life.
- Its provisions appeared to come as a saviour that is designed to erase the historical injustice done to the tribal community and was perceived as restoration of their dignity and tradition of self-governance.

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	<p>Challenges</p> <ul style="list-style-type: none"> - Till now 40 per cent of States have not formulated necessary rules regarding PESA - which highlights the apathetic attitude of the state governments towards it. - Four states (Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha) - not even framed the rules for the implementation of the act yet. - Not a single state has currently amended the Panchayat Raj Act as required as per PESA. - Even in the states where the rules were formulated - they performed quite poorly on ensuring their implementation. - Violations of the self-governance aspects of the Gram Sabhas - with respect to customary resources, minor forest produce, minor minerals, minor water bodies, selection of beneficiaries, sanction of projects and control over local institutions continue. - Currently, no Gram Sabha can function without going through revenue officers at various levels and in a majority of cases, required sanctions are denied by inordinate delays or outright refusals. - No stretch of common property can in any way be rightfully owned and controlled by any village, communities, groups, or people. - And the gram sabha's power to accord such ownership is never recognised. - While the constitution of Gram Sabhas was made mandatory in states - the powers and functions of the Gram Sabhas have been left to the discretion of the state legislatures - As a result, different states have developed powers and functions for this body differently. - PESA laws of maintenance of autonomy and tribal culture remained obscure. - The biggest challenge is the degradation of the spirit of PESA as the formulation of rules did not take place for varied reasons giving rise to increased conflict. <p>Way Forward</p> <ul style="list-style-type: none"> - Structures above Gram Sabha should be patterned on the Sixth Schedule. - Scheduled areas should have had a structure where the powers of the State could be allocated - that the Gram Sabha is not overridden but empowered. - Need to pledge plausible and time bound actions to implement PESA in letter and spirit. - The conflict and the inconsistencies between the Gram Sabhas and the Panchayats - need to be ironed out. - State governments need to change their laws in order to comply with PESA - laws relating to land acquisition, excise, forest produce, mines and minerals, agri produce market and money lending need to be amended. 	
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 – 	

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	<p>Art 280 – 15th Finance commission under NK Singh (2021-2026) – 41% to states</p> <ul style="list-style-type: none"> – 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. – 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. 	

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	<ul style="list-style-type: none"> – 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. <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. 	
26	Issues with quasi federal democracy	
	<ul style="list-style-type: none"> – Cross-border police firing by one constituent State against another, inflicting fatalities, which also resulted in retaliatory action in the form of an embargo on goods trade and travel links with its land-locked neighbour. – Like popular voting behaviour, institutional preferences are based either on ethnic or kinship network, or like anti-incumbency, as the perceived lesser evil, – Institutions rely on individual role-models: T.N. Seshan for the Election Commission of India, J.F. Ribeiro for the police or Justices Chandrachud or Nariman for the judiciary. – Constitution guarantees “Fundamental Rights” and “Directive Principles”; but nothing about States’ rights, not even their territorial boundaries. This has enabled the Centre to unilaterally alter State boundaries and create new States. – Record number of Bills were passed amidst a record number of adjournment in Rajya Sabha. – The Rajya Sabha indirectly represents the States whose legislators elect it, but continue even after the electors are outvoted or dismissed; with no residential qualification, this House is a major source of political and financial patronage for all political parties. 	
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 	

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	<ul style="list-style-type: none"> – 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><u>Laws and policies questioning the federal spirit:</u></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><u>Other notable issues:</u></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. 	
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 	

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	<ul style="list-style-type: none"> - 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 Punchhi 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 	
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 <i>Lack of Effective Devolution</i></p>	

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- 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.

Insufficient Grants/Funds

- 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.

Issue of Sarpanch Pati

- 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.

Infrastructural Challenges

- 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 connection - Lack of internet connection in Gram Panchayats

Lack of Support Staff

- 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.

Lack of Convergence of Various Government Programmes

- There is a clear lack of convergence of various development programmes of the Centre and state governments

Ways to improve their effectiveness/functionality

- 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.

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	<ul style="list-style-type: none"> - 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. 	
SEPARATION OF POWERS BETWEEN VARIOUS ORGANS DISPUTE REDRESSAL MECHANISMS AND INSTITUTIONS		
31	Asymmetrical Federalism	
	<ul style="list-style-type: none"> - Federalism based on unequal powers and relationships between the units constituting a federation – To be viewed in both vertical (between Center and states) and horizontal (among the states) senses. - Forms of Asymmetric federalism in India – Art 370 (scrapped), Art 371 (special provisions), Administration of union territories, Distribution of seats of Rajya sabha, Sixth schedule, etc. - Significance – Ensures unity in diversity – social justice – better representation – reduces radicalisation - Cons – Discriminatory in nature 	
32	Administration of UTs – Delhi	
	<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 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. 	
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 	

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	<ul style="list-style-type: none"> – 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 <div style="text-align: center;"> <pre> graph TD SC[Supreme Court] --- HC[High Court] SC --- T1[Tribunals] HC --- SC2[Subordinate Courts] HC --- T2[Tribunals] </pre> </div>	
35.	The Tribunals Reforms Bill, 2021	
	<p>Intro:</p> <ul style="list-style-type: none"> – 2021 Bill - identical to The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021. <p>Highlights and Analysis of the bill</p> <ul style="list-style-type: none"> – The Bill dissolves certain existing appellate bodies and transfers their functions to other existing judicial bodies. (High courts, civil courts) Abolishing Tribunals - increase - disposal time for new cases. 	

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	<p>High Courts -as of July 20, 2021, there are over 59 lakh cases pending in High Courts across India.</p> <ul style="list-style-type: none"> - The Bill -a person should be at least 50 years of age to be eligible for appointment as a Chairperson or member. <p>The Supreme Court -minimum age limit requirement of 50 years for appointment of members may discourage young talent.</p> <ul style="list-style-type: none"> - The term of office for the Chairperson and members of Tribunals-four years, subject to an upper age limit of seventy years for the Chairperson, and sixty-seven years for other members. <p>The Supreme Court -four years of term of office violates the principles of separation of powers, independence of judiciary, rule of law, and equality before law.</p> <p>The Court -security of tenure and conditions of service (including adequate remuneration) are core components of independence of the judiciary.</p> <ul style="list-style-type: none"> - The Finance Act, 2017 specifies that the Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a Search-cum-Selection Committee. <p>This violates the principle of separation of powers and judicial independence . It allows the central government to make decisions on the search-cum-selection committee's recommendations.</p> <p>CONCLUSION :</p> <ul style="list-style-type: none"> - There are two main reasons for establishing tribunals: allowing for specialised subject knowledge for technical matters, and reducing the burden on the court system, which seems to be transgressed by The Tribunals Reforms Bill, 2021 	
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>	

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	<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. Impacts : <ul style="list-style-type: none"> examine whether -legislature deliberated the reasonableness of a measure. evaluating the factual basis justifying the law- The Supreme Court-adopted this approach in the Indian Hotel and Restaurants Association (2013) case. 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. <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. 	

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	<ul style="list-style-type: none"> - 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 th - e election." <p>CONCLUSION: 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. <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

Intro:

- Though the Presidents of India and USA share the title of the head of the country, their real positions are quite different.

Body:

Parameters	American President	Indian President
Presidential election	Elected directly by the citizens	Elected indirectly. i.e., through representatives of people.
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.

Conclusion:

- Nevertheless, as heads of their respective states, the US president and President of India, both enjoy a sovereign status in their states.

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40.	US Federalism vs Indian Federalism													
Intro: <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. Body: <table><tr><td></td><td>US Federalism</td><td>Indian Federalism</td></tr><tr><td>Rigidity of Constitution</td><td><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.</td><td><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.</td></tr><tr><td>Legislature working</td><td><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.</td><td><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.</td></tr><tr><td>Judicial working</td><td><ul style="list-style-type: none">established Federal judicial system.States have their own rules and their own Supreme Court.</td><td><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.</td></tr></table>				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.
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	Central Government	<ul style="list-style-type: none"> The ultimate power of defence and diplomacy is enforced by the central government. Flexibility in interpretation of powers. 	<ul style="list-style-type: none"> In its Seventh Schedule → powers bestowed on the Federal Government concerning 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. 	
	Conclusion: <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			
	Intro: <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. 			

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Body:

FEATURE	BRITISH	INDIAN
Nature	Unwritten	Written Constitution and lengthiest
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

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	<p>Judiciary</p> <p>judiciary lacks the intrinsic power to strike down an Act of Parliament as Parliament is Sovereign. British legal system is completely based on 'Common Law System'</p>	<p>Judicial review is the basic structure of Indian constitution. Laws in India has codified in the form of IPC and CrPC</p>	
	<p>Conclusion:</p> <p>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.	<p>Indian constitution – synthesis of many.</p>		
	<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: – 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"> ○ historical perspective of Indian Nationalist struggles, ○ the geographical diversity of India, and ○ its traditional characteristics. <p>Blend of Rigidity and Flexibility</p> <p>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. 		

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- Other provisions may be amended with a special majority of the Parliament and ratification by half of the total number of states.
- 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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POLITY PART-2 THEMES AND PREVIOUS YEAR QUESTIONS

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

1. To what extent, in your view, the Parliament is able to ensure accountability of the executive in India? **2021**
2. Explain the constitutional provisions under which Legislative Councils are established. Review the working and current status of Legislative Councils with suitable illustrations. **2021**
3. 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**
4. '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**
5. "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**
6. 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**
7. 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**
8. 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**
9. '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**
10. 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**
11. 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**
12. The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes." Discuss. **2016**
13. 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

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for the absence of legal codification of the 'parliamentary privileges'. How can this problem be addressed? **2014**

14. 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.

15. Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness. **2014**
16. 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**
17. 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**
18. 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**
19. 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**
20. 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.
21. 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.

22. 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**

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

23. 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**
24. 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**
25. 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**
26. "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**
27. "The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss. **2019**
28. "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**
29. 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**
30. 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**
31. 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**
32. What is a quasi-judicial body? Explain with the help of concrete examples. **2016**
33. 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**
34. "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**
35. National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure

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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**

36. 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**
37. Discuss the recommendations of the 13th Finance Commission which have been a departure from the previous commissions for strengthening the local government finances. **2013**
38. 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.

SIVARAJAVEL IAS ACADEMY

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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' (Kihoto Hollohan vs Zachillhu case) 	

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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.	Vacancy of Speaker's office in Maharashtra assembly(till recently) and deputy speaker's office in Lok Sabha	
	<p>Constitutional provisions</p> <ul style="list-style-type: none"> - Article 93 of the Constitution provides for the election of both the Speaker and the Deputy Speaker of the Lok Sabha. - Article 178 contains the corresponding position for Speaker and Deputy Speaker of the Legislative Assembly of a state. 	

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Issue	<ul style="list-style-type: none"> - No specific timeline for Deputy Speaker's appointment: Article 93 for Lok Sabha and Article 178 for state Assemblies state that these Houses "shall, as soon as may be", choose two of its members to be Speaker and Deputy Speaker. The Constitution and the Assembly rules do not specify a time-frame for filling a vacancy in the post. - Maintaining Neutrality: It would be unrealistic to expect a Presiding Officer to completely abjure all party considerations while <p>Need/Importance of the office</p> <ul style="list-style-type: none"> - Ensures continuity of Speaker's office → acting as the Speaker when the office becomes vacant: Illness, orby death, or because of resignation or any other reason. - When the Speaker's post falls vacant, it is the Deputy Speaker who assumes all the powers of the Speaker and exercises both legislative powers and administrative powers. - Presiding officer in specific cases→When a resolution for removal of the Speaker is up for discussion - A Deputy Speaker is also the ex-officio chairman of some committees by virtue of his position. - Check on the ruling party → The tradition for the post of the Deputy Speaker going to the Opposition party - Unprecedented Move: It is quite unfortunate that the Deputy Speaker has not been appointed for more than two years now (for the first time in the history of independent India). - Decreasing Discussion in Recent Times→unable to hold sessions in the absence of speaker - Falling Productivity: In 2020-21, Lok Sabha functioned for 34 days while Rajya Sabha functioned for 33 days. It was the lowest ever in India. Deputy speaker office can arrest this trend - Hasty Legislation: Every bill introduced in this Monsoon Session was passed within the same session. Surprisingly, 18 bills were passed in Lok Sabha with only one bill being discussed over 15 minutes. <p>Judgements and Recommendations regarding the importance of office of speaker</p> <ul style="list-style-type: none"> - Kihota Hollohon vs Mr. Zachilhu And Others 1992 - The office of the Speaker and deputy speaker is held in the highest respect and esteem in Parliamentary traditions. - The Speaker and deputy speaker is said to be the very embodiment of propriety and impartiality. He performs wide 	
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	ranging functions including the performance of important functions of a judicial character.	
46.	Declining Productivity of Parliament And Disruptions in Parliament, State assemblies	
	<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. - 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. <p>Bypassing parliamentary committees</p> <ul style="list-style-type: none"> - 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. 	

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	<p>Role of speaker or chairman in this regard</p> <ul style="list-style-type: none"> - 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 Sabha within three days without being referred to a Standing Committee. <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 	
47.	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 	

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population. Helps to follow the principle of “one vote one value”.

- Current: Delimitation Commission for J&K submitted report – increased 7 Assembly seats.

Provisions and impacts of constitutional amendment on delimitation

- 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.
- 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

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	<p>Parliament decided as per the 1971 Census was not changed. Goes against “one vote one value” principle.</p> <ul style="list-style-type: none"> - 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. <p>Way forward and suggestions</p> <ul style="list-style-type: none"> - A national consensus exercise before 2026. - Reduction of weightage given by Finance Commission can help in building a better consensus as states which managed to control their population. 	
48.	100 years of Public Accounts Committee	
	<p>Evolution of PAC</p> <ul style="list-style-type: none"> - The Public Accounts Committee was introduced in 1921 after its first mention in the Government of India Act, 1919 also called Montford Reforms. - With the enactment of the Constitution on January 26, 1950, it became a Parliamentary Committee, accountable to the Speaker and led by a non-official Chairman nominated by the Speaker from among the Lok Sabha Members elected to the Committee. - Until 1966-67, the chairman of the committee belonged to the ruling party. - Since 1967 a convention has developed, the chairman of the committee is selected invariably from the opposition. <p>Role:</p> <ul style="list-style-type: none"> - It was framed with the purpose of ascertaining whether money granted to the Government by the Parliament has been spent by the former within the “scope of demand” or not, the PAC restricts any Minister from being elected as a member of it. <p>Functions of PAC</p> <ul style="list-style-type: none"> - examines appropriation accounts and finance accounts of the central government which is laid before the Lok Sabha - scrutinizes the audit reports of CAG to satisfy itself that: - The money that has been disbursed was legally available for the applied service or purpose - The expenditure conforms to the authority that governs it - Every re-appropriation has been made in accordance with the related rules - It examines the accounts of: State corporation, Trading concerns and Manufacturing projects from the audit report made by the CAG 	

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	<ul style="list-style-type: none"> - It examines the accounts of: Autonomous and Semi-autonomous bodies - It keeps a check on the money spent on any service during a financial year. If the money is in excess of the amount granted by the Lok Sabha for that purpose, it goes on to its report. <p>Limitations:</p> <ul style="list-style-type: none"> - It cannot intervene in the questions of policy - It can keep a tab on the expenses only after they are incurred. It has no power to limit expenses. - It cannot intervene in matters of day-to-day administration. - Any recommendation that the committee makes is only advisory. They can be ignored by the ministries. - It is not vested with the power of disallowance of expenditures by the departments. - It cannot issue an order, being an exec committee. Only the Parliament can take a final decision on its findings. 	
49.	Suspension of MLAs in Maharashtra	
	<p>Intro</p> <ul style="list-style-type: none"> - 12 MLAs were suspended for misbehaviour in the Assembly pertaining to disclosure of data regarding OBCs. - The challenge to suspension relies mainly on grounds of denial of the principles of natural justice, and of violation of laid-down procedure. - The 12 MLAs have said they were not given an opportunity to present their case, and that the suspension violated their fundamental right to equality before the law under Article 14. <p>Provisions</p> <ul style="list-style-type: none"> - Rule 53 of Maharashtra Assembly: It states that the “Speaker may direct any member who refuses to obey his decision, or whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the Assembly”. - The member must “absent himself during the remainder of the day’s meeting”. - Should any member be ordered to withdraw for a second time in the same session, the Speaker may direct the member to absent himself “for any period not longer than the remainder of the Session”. <p>Arguments by Maharashtra Assembly:</p> <ul style="list-style-type: none"> - Article 212: The House had acted within its legislative competence, and courts do not have jurisdiction to inquire into the proceedings of the legislature. - Article 194: any member who transgresses these privileges can be suspended through the inherent powers of the House. So it’s not just through Rule 53 of the Assembly. 	

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	<p>SC judgment</p> <ul style="list-style-type: none"> - <u>Violation of Basic Structure of the Constitution</u>: the constituencies of the suspended MLAs remained unrepresented in the Assembly for a full year. - <u>Irrational Suspension</u>: Suspension of a member must be preferred as a short term or a temporary, disciplinary measure for restoring order in the Assembly. - Anything in excess of that would be irrational suspension. - <u>Manipulating Opposition</u>: It said that a thin majority coalition government could use such suspensions to manipulate the number of Opposition party members. - <u>Constitutional Requirement</u>: The bench referred to Article 190(4) of the Constitution - "If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant." - <u>Statutory Requirement</u>: Under Section 151 (A) of The Representation of the People Act, 1951, "a bye-election for filling any vacancy shall be held within a period of six months". This means that barring exceptions specified under this section, no constituency can remain without a representative for more than six months. - <u>Punishing Whole Constituency</u>: The Supreme Court said that the one-year suspension was prima facie unconstitutional as it went beyond the six-month limit, and amounted to "not punishing the member but punishing the constituency as a whole". - <u>Question of Supreme Court Intervention</u>: The Supreme Court is expected to rule on the question of whether the judiciary can intervene in the proceedings of the House. 	
50.	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. 	

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	<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. <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. 	
51.	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. 	

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	<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.

52.	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 	

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	<p>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→</p>	
53.	Recusal of judges	
	<p>Intro:</p> <ul style="list-style-type: none"> - When there is a conflict of interest, a judge can withdraw Eg: Holding shares in a company that is a litigant, to having a prior or personal association with a party involved in the case. - The practice stems from the cardinal principle “Nemo judex in causa sua”→nobody can be a judge in her own case. - →judge has a duty to act fair. - →Another instance for recusal is when an appeal is filed in the Supreme Court against a judgment of a High Court that may have been delivered by the SC judge when she was in the HC. <p>Are there any Rules? (Use in ETHICS also)</p> <ul style="list-style-type: none"> - no formal rules governing recusals - Judges recuse by themselves(conscience) - Ranjit Thakur v Union of India (1987): SC held that the question about bias should be seen in the mind of the party not just the Judge - Restatement of Values in Judicial Life', a code of ethics adopted by SC: Having shares in a company is conflict of interest <p>Should the reasons be disclosed?</p> <ul style="list-style-type: none"> - No such Mandate. But in the judgement that struck down NJAC: SC held that disclosing reasons for recusal is needed for transparency. <p>Flipside:</p> <ul style="list-style-type: none"> - Instances where cases get dragged causing delay in justice delivery. - recusal causes high amount of uncertainty and judicial backlogs. - Recusal for some insignificant conflict. - Justice VR Krishna Iyer→ Act of recusal is a breach of the solemn responsibility vested in the Judges by the constitution. <p>Conclusion:</p> <ul style="list-style-type: none"> - High time to bring a Law or guideline. There has to be a requirement of statutory obligation on the judges to inform 	

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	the litigants as to why there is a decision to recuse from the hearing. Recusal should be used sparingly like the emergency provision in the Indian Constitution.	
54.	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 - 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. 	
55.	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. 	

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	<ul style="list-style-type: none"> - 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 <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>	
56.	Article 161 vs Section 433A of CrPC	
	<p>SC Judgements:</p> <ul style="list-style-type: none"> - SC held that the Governor of a State can pardon prisoners, even before they have served a minimum 14 years of prison sentence. - The Governor's power to pardon overrides a provision in the CrPC Section 433A which mandates that a prisoner's sentence can be remitted only after 14 years of <ul style="list-style-type: none"> • Article 161,72-Pardoning powers of Governor and President respectively. 	

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	<p>Pardoning Power of Governor(161):</p> <ul style="list-style-type: none"> - The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment ,commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends. - State Govt. recommendation is binding on Governor in terms of these. - In a case of mercy petition, the SC noted that the Governor cannot reject the state's recommendation but there is no time prescribed to take a decision - Difference Between Pardoning Powers of President and Governor: - The scope of the pardoning power of the President is wider than that of the Governor <ul style="list-style-type: none"> o Court Martial: President can grant pardon in cases of punishment by Court Martial but not by Governor o Death sentence: The President can grant pardon in all including death sentence but the pardoning power of the Governor does not extend to death sentences. <p>Judgements related to Pardoning powers:</p> <ul style="list-style-type: none"> - In <i>Epuru Sudhakar vs Govt. Of A.P.</i>, the Supreme Court held that these powers are within judicial review - The Supreme Court in <i>Ranga Billa case</i>→ <i>pardon is a discretionary power and no need to give reason for grant or rejection of pardon</i> • In <i>Maru Ram vs. Union of India.</i>, SC held that Central Govt advice is mandatory and President cant decision on his own <ul style="list-style-type: none"> - Kehar Singh v Union of India→ Not justiciable, act of grace not matter of right <p>Conclusion:</p> <ul style="list-style-type: none"> - The pardoning power is for consideration of public good and to be exercised on the ground of public welfare.Helps in saving an innocent from being punished due to miscarriage of justice or in cases of doubtful conviction. 	
57.	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). 	

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	<ul style="list-style-type: none"> - 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: <ul style="list-style-type: none"> - 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) - 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: <ul style="list-style-type: none"> - 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 	
58.	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 	

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	<ul style="list-style-type: none"> - 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 making bail conditional on the perpetrator getting a rakhi tied by sexual assault victim - 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 	
59.	Need for the National Court of Appeal	
	<p>Intro:</p> <ul style="list-style-type: none"> - The National Court Appeal with regional benches in Chennai, Mumbai and Kolkata is meant to act as final court of justice in dealing with appeals from the decisions of the High Courts. <p>IN FAVOUR - National Court of Appeal</p> <ul style="list-style-type: none"> - Reduce burden of Supreme Court. - Give SC time to perform its mandate functions. - Increasing geographical proximity. 	

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	<ul style="list-style-type: none"> - Work as an excellent mechanism to sieve case. - Relieve the Supreme Court of regular civil and criminal appeals - process will become streamlined and will save a lot of time and expense for both litigants and courts <p>AGAINST - National Court of Appeal</p> <ul style="list-style-type: none"> - May curtail the powers of the Supreme Court: - May cost heavily on exchequer - Constitutionally impossible because hearing of appeals is a basic structure. - It will not reduce the litigation. Apex courts are not clogged but subordinate courts are. - It will merely add another layer of adjudication. - Require constitutional amendment under article 130. <p>Conclusion :</p> <ul style="list-style-type: none"> - The issues in Indian Judiciary are deep rooted, for which NCA to offer a solution. Efforts should be to strengthen subordinate judiciary (high courts) so that proper justice can be dispensed with. 	
60.	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. - Seeking information from the chief minister 	

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	<p><u>Situational discretion:</u></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) - Rajmanner 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. 	
61.	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 caution in handling difference state holders with various interests. 	

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62.	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. 	
63.	Criminal Laws amendment	
	<p>Centre has initiated the process for comprehensive amendment of criminal laws</p> <ul style="list-style-type: none"> - IPC 1860→governs all criminal acts and punishments, extends to whole of India, extended to both offence committed within + outside India - CRPC 1973→ how police should function, instigation and procedure, categories(bailable , non bailable), FIR - IEA 1872→ rules and regulations regarding admissibility of evidence, how to establish claims before court <p>Need for amendment</p> <ul style="list-style-type: none"> - Laws need to evolve in accordance with the contemporary needs and aspirations of people → IPC enacted in 1860 has not kept pace with the progressive times. - Recognise new crimes → crimes like mob lynching, financial crimes, white-collar crimes, economic crimes, etc., have not found proper recognition in the IPC. 	

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- **Simplification of the legal process**→cumbersome procedure delays justice → ensure speedy justice and simplify legal procedures.
- **Remove ambiguity and vagueness** → vaguely worded , scope for misuse, misinterpretation→ eg: the distinction between 'culpable homicide' and 'murder' is criticized for their obscure definitions, preventive detention laws
- **To give a fair share to individuals**→ individual is pitted against the might of the state→criminal law must ensure that the state does not take undue advantage of its position as a prosecutor →ensure fair trial , uphold principles of natural justice

Major changes required

- **Criminalization of Marital rape**→ long-standing recommendation of the law commission, various committees, demanded by many sections of society.
- **Gender Neutrality in the definition of sexual offences under IPC**→ to be amended to a neutral gender rather than continuing with language relating to the female gender
- **Amendment in the language of Section 124A of the IPC (sedition law)** →simple dissent against policies and decision of the government may attract a sedition charge→ burden of proof on the accused, difficult bail procedure
- **Laws on custodial torture and death** → a rise in cases related to custodial torture.
- Simplification of procedures regarding **Undertrials**
- Setting **time frame for investigation** of certain offences → regarding rape, offences under POCSO etc
- **Safeguards for witnesses** → widening the scope of witness protection

Recent/landmark judgements involving criminal laws

- **Amish Devgan v. Union of India (2020)**→case of hurting religious sentiments of community→included Section 153B and Section 295A IPC→Supreme Court held that it is important to make a difference between free speech and hate speech.
- **Anuradha Bhasin v. Union of India (2020)**→ Supreme Court held that Section 144 CrPC cannot be used as a tool to prevent legitimate expression of opinion.
- **Navtej Singh Johar Vs. Union of India 2018** → struck down Section 377 of IPC

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	<ul style="list-style-type: none"> - Joseph Shine v. Union of India, 2018 → Court struck down Section 497 <p>Way forward</p> <ul style="list-style-type: none"> - Accommodating new forms of crimes - Updated act → Malimath Committee on Reforms of Criminal Justice System, the Indian Police Act, 1861 has become outdated - Recommendations of Law Commission → - Taking DNA as the material of evidence is totally upon the discretion of the court. - Insertion of Section 53A for the protection of women at the workplace. - It suggested the insertion of Section 436A in Criminal Procedure Code for the release of undertrial prisoners in the jail. 	
64.	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 <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 wrong - Judicial Overreach - Doctrine of Overbreadth → Laws should not too ambiguous but contempt is. - Art 19 and 21: Even Fair criticisms are deemed contempt. 	

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	<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. 	
65.	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> <p>Conditions - only when either or both houses are not in session</p> <ul style="list-style-type: none"> - Requirement of immediate action (44th amendment act) - Lapse of ordinance on a time period - <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 	

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	<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>	
66.	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 couldn't be controlled - Hung assembly / inability to form government - Conditions not conducive to conduct free and fair elections as per ECI - 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 	

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	<ul style="list-style-type: none"> - 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 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 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 Federalism vs, Article 356 Govt of India act 1935 -president rule as a tool of controlled democracy Indian idea- to maintain the territorial integrity - India aims for a cooperative federalism -domination of union over state caused problems in federalism The application of provisions for the political purposes create issues.</p>	
SALIENT FEATURES OF THE REPRESENTATION OF PEOPLE'S ACT.		
67.	Election Petition	
	<p>West Bengal CM Mamata Banerjee -> filed an election petition in Calcutta High Court, challenging the Assembly election result of Nandigram constituency -> where she contested & lost.</p> <p>About Election Petition</p> <ul style="list-style-type: none"> - Election Commission's role ends with declaration of results - > after that, Election petition -> the only legal remedy available to voter or candidate, post results -> who believes there was malpractice in the election. - EP -> submitted to the HC of the state, in which the constituency is located -> filed within 45 days from the date of poll results. 	

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	<ul style="list-style-type: none"> - Although RPA, 1951 suggests HCs should try to conclude trial within 6 months -> it usually drags for much longer. - Under Section 100 of RPA -> EP can be filed on the grounds that: - On the day of election -> the winning candidate was not qualified to contest. - Winning candidate, his poll agent or any other with the consent of the winning candidate -> indulged in corrupt practice. - Improper acceptance of nomination of the winning candidate or improper rejection of a nomination. - Malpractice in counting process -> includes improper reception, refusal/rejection of any vote, or reception of any vote which is void. - Non-compliance with the provisions of Constitution/RPA/any rules, orders made under RPA. - Section 123 of RPA -> detailed list of what amounts to corrupt practice -> including bribery, use of force/coercion, appeal to vote or refrain from voting on grounds of religion, race, community & language. - Verdict on EP -> if in favour of the petitioner -> result in fresh election or court announce a new winner. - Ex: - Allahabad HC verdict of 1975 -> set aside Indira Gandhi's election from Rae Bareilly constituency -> on grounds of corrupt practice. - Congress leader C. P. Joshi's loss in Rajasthan Assembly elections in 2008, by one vote. <p>Provisions under RP Act 1951</p> <ul style="list-style-type: none"> - Regulates -> actual conduct of elections & by-elections. - Provides administrative machinery for conducting elections. - Deals with registration of political parties. - Specifies -> qualifications & disqualifications for membership of Houses. - Provisions to curb corrupt practices & other offences. - Lays down procedure for settling doubts & disputes arising out of elections. 	
68.	Election Laws (Amendment) Bill, 2021	
	<p>Features of Bill</p> <ul style="list-style-type: none"> - Section 23 of RPA, 1950 -> will be amended -> to allow linking of electoral roll data with Aadhaar ecosystem -> to curb multiple enrolment of same person in different places. 	

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- Empower electoral officers -> to seek Aadhaar number of people, who want to register as voters, for establishing their identity.
- Allow the electoral registration officers -> to ask for Aadhaar number from persons already included in the electoral roll -> for the purposes of authentication of entries in the electoral roll.
- Application for inclusion of name in electoral roll can't be denied & entries in electoral roll can't be deleted for inability of an individual to furnish/intimate Aadhaar number -> Such people will be allowed to furnish other documents as may be prescribed.
- 4 qualifying dates will be declared for updating the voting rolls -> to include those who have turned 18 -> 1st day of months of January, April, July & October.
- 'Wife of service voters' -> now be replaced by spouse -> make it more "gender-neutral".
- 1951 Act permits state government to requisition premises needed/likely to be needed for being used as polling stations, or for storing ballot boxes after a poll conducted -> bill expands the purposes for which such premises can be requisitioned.

Arguments in favour of the Bill

- Linking Aadhaar with electoral rolls -> solve the problem of multiple enrolments of same person at different places.
- Stop bogus voting & fraudulent votes.
- This linking is in consonance with 105th report of Department Related Parliamentary Standing Committee on Personal, Public Grievances & Law and Justice.
- Enhance the objective of National Electoral roll Purification & Authentication Programme -> which aims to create an error-free voter identification system in India -> especially by removing duplications.
- Provision of 4 qualifying dates for revision of rolls -> helps faster enrolment of younger people who are turning 18.
- Linking Aadhaar & election databases -> purely voluntary.
- To help migrant voters -> the amendment allows remote voting.

Arguments against the bill

- Concern over objective achievement -> as the linkage is not compulsory.
- Conceptual confusion whether Aadhaar linkage will enable non-citizens to vote -> as Aadhaar is not proof of citizenship & goal of preventing non-citizens from voting -> not be solved.

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- It violates individual privacy.
- Against SC Judgement -> that limits the use of Aadhaar -> to financial & welfare benefits by government & bars expansion to other areas. Ex: Bill violates SC judgment on Justice K. S. Puttaswamy case.
- It may lead to large-scale deletion of names -> inadvertently or deliberate targeting.
- Aadhar is not really voluntary -> as only a set of reasons prescribed can be given for those who can't/do not wish to give Aadhaar number.
- It may help political parties -> to profile voters as favourable or unfavourable.
- Verification is separate from capturing the identity -> with this the foundation for targeted political propaganda will be laid down -> which is against the model code of conduct.
- Linkage opens the ecosystem -> to a possibility of data breach by any agency or non-state actors. Ex: In 2019, UIDAI accused IT Grids (India) Pvt Ltd -> illegally procuring details of Aadhaar holders in Andhra Pradesh & Telangana + storing => raises concern regarding the security vulnerabilities of UIDAI servers.
- Danger of violating -> secrecy of vote & undermining the principle of secret ballot.

Way Forward

- Free & fair election requires an error-free electoral roll.
- Government must present a comprehensive bill, allow deeper parliamentary scrutiny & invite public opinion before implementing new provisions.
- Bill should specify the extent of data sharing between 2 databases, methods through which consent will be obtained & whether consent to link the databases can be revoked.
- Rather than linking the Aadhar -> evidence proving citizenship must be shown at the time of elections.
- After casting the votes -> unique code generated on the bases of biometric identification -> this further prevented the duplicity.

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APPOINTMENT TO VARIOUS CONSTITUTIONAL POSTS, POWERS, FUNCTIONS AND RESPONSIBILITIES OF VARIOUS CONSTITUTIONAL BODIES. STATUTORY, REGULATORY AND VARIOUS QUASI-JUDICIAL BODIES.

69.	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. - 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. 	

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	<ul style="list-style-type: none"> - 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. 	
70.	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"> ○ CAG as an Auditor, audits - Funds pertaining to Centre & States => Consolidated, Contingency Funds & Public Account of India; Consolidated Fund of UT having legislative assembly. 	

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- 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.
- No fixed timeline => no deadline for the production of documents & replies nor any contempt proceedings for their denial.

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- 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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71.	The Central Vigilance Commission (Amendment) Bill, 2021 and the Delhi Special Police Establishment (Amendment) Bill, 2021	
	<p>Intro</p> <ul style="list-style-type: none"> - The President promulgated two ordinances - would allow the Centre to extend the tenures of the directors of the Central Bureau of Investigation and the Enforcement Directorate from two years to up to five years. <p>Acts amended</p> <ul style="list-style-type: none"> - The Delhi Special Police Establishment (DSPE) Act, 1946 & the Central Vigilance Commission (CVC) Act, 2003 - been amended to give the government the power - to keep the two chiefs in their posts for one year after they have completed their two-year terms - The chiefs of the Central agencies currently have a fixed two-year tenure, but can now be given three annual extensions. <p>Amendments in DSPE Act:</p> <ul style="list-style-type: none"> - Provided that the period for which the Director holds the office on his initial appointment may, in public interest - on the recommendation of the Committee (the committee led by the Prime Minister and leader of Opposition and CJI as members) and for the reasons to be recorded in writing, be extended up to one year at a time. - Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment. <p>Amendments in CVC Act:</p> <ul style="list-style-type: none"> - Provided that the period for which the Director of Enforcement holds the office on his initial appointment may, in public interest, on the recommendation of the Committee (comprising of CVC chief, Revenue and Home Secretaries among others) and for the reasons to be recorded in writing, be extended up to one year at a time. - Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment. <p>Concerns</p> <ul style="list-style-type: none"> - The notification will compromise the autonomy of these two agencies. - It goes against the spirit of the Supreme Court judgment in Vineet Narain vs Union of India (1997) which said that the Directors of the CBI and the ED should have a minimum tenure of 2 years. 	

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	<ul style="list-style-type: none"> - While it did not bar longer terms or extensions, giving an annual extension can be an incentive for displaying loyalty to the ruling government in the discharge of their duties. - Ordinance route - The changes were brought in through the ordinance route which raises a doubt whether the Government is keen on retaining the present Director of Enforcement, S.K.Mishra. - Beyond superannuation - There is an implied extension for an officer appointed to one of these protected posts if the appointment comes within two years of retirement. - A further extension beyond superannuation for one year at a time, will render the heads of two investigating agencies under the influence of the Government. 	
72.	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 	

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	<p>or the Chairman), who shall act on the advice of the ECI. This would help preserve the integrity of the Speaker's office.</p> <ul style="list-style-type: none"> - 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 - 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: <ul style="list-style-type: none"> - 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. <p>Recommendations of Dinesh Goswami committee for autonomy of ECI</p> <ul style="list-style-type: none"> - 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 	
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	<p>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.</p> <ul style="list-style-type: none"> - 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 assembly seats should be reduced to 21 and for the Council to 25. - To discourage non-serious candidates 	
73.	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. 	

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	<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. - 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. 	
74.	The tribunals reforms (rationalisation and conditions of service) act, 2021	
	<ul style="list-style-type: none"> - The Tribunals Reforms Act, 2021 replaces a similar Ordinance promulgated in April 2021 that sought to dissolve eight tribunals. - The tribunals functioned as appellate bodies to hear disputes under various statutes and transferred their functions to existing judicial forums such as a civil court or a High Court. <p>Abolition of Appellate Tribunals</p> <ul style="list-style-type: none"> - Film Certification Appellate Tribunal, Airports Appellate Tribunal, Authority for Advance Rulings, Intellectual Property Appellate Board and the Plant Varieties Protection Appellate Tribunal are the five tribunals which are sought to be abolished by the Act and their functions are to be transferred to the existing judicial bodies. <p>Controversial provisions</p> <ul style="list-style-type: none"> - As per the Act, the minimum age criterion is 50 years for appointment of advocates as members of tribunals and the tenure is four-years. - The court found the caps arbitrary. But, the government has argued that the move will bring in a specialised talent pool of advocates to pick from. 	

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- Section 3(1), Sections 3(7), 5 and 7(1) ultra-vires Articles 14, 21 and 50 of the Constitution.
- Section 3 (1) bars appointments to tribunals of persons below 50 years of age. This undermines the length/security of tenure and violates both judicial independence and the principle of separation of powers.
- Section 3(7) of the impugned Act which mandates the recommendation of a panel of two names by the search-cum selection committee to the Central Government, violates the principles of separation of powers and judicial independence.

Highlights of the Act

- *Amendments to the Finance Act, 2017:* The Finance Act, 2017 merged tribunals based on domain. It also empowered the central government to notify rules on
 - the Composition of search-cum-selection committees
 - Qualifications of tribunal members.
 - Their terms and conditions of service (such as their removal and salaries).
- The act removes these provisions from the Finance Act, 2017.
- Provisions on the composition of selection committees and term of office have been included in the act.
- *Search-cum-selection committees:* The Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a Search-cum-Selection Committee - State administrative tribunals will have separate search-cum-selection committees.
- The central government must decide on the recommendations of selection committees, preferably within three months of the date of the recommendation.
- *Eligibility and term of office:* The act provides for a four-year term for tribunal members. It sets the upper age for the chairperson at 70 years and for the other members at 67 years.
- *Uniform pay and rules:* The act provide for uniform pay and rules for the search and selection committees across tribunals.
- The act states that the Chairpersons and Members of the tribunal being abolished shall cease to hold office, and they will be entitled to claim compensation equivalent to three months' pay and allowances for their premature termination.

Recent Petition/Issues

- The Act was introduced in the Lok Sabha just days after the Supreme Court struck down the Tribunal Reforms

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	<p>(Rationalisation and Conditions of Service) Ordinance of 2021.</p> <ul style="list-style-type: none"> - The Act brought back the very same provisions in the ordinance which were struck down by the Supreme Court. - The 2021 Act abolishes nine key tribunals, raises a serious threat to judicial independence by giving the government-wide powers regarding appointments, service conditions, salaries etc., of members of key tribunals. <p>Supreme Court's ruling</p> <ul style="list-style-type: none"> - The Supreme Court in the case of Madras Bar Association v. Union of India had struck down the provisions requiring a minimum age for appointment as chairperson or members as 50 years and prescribing the tenure of four years. - It held that such conditions are violative of the principles of separation of powers, independence of judiciary, rule of law and Article 14 of the Constitution of India. <p>Way Forward</p> <ul style="list-style-type: none"> - Impartiality, independence, fairness and reasonableness in decision-making are the hallmarks of the judiciary. - Parliament should take caution while overriding or manipulating the judgements/orders of the Court. 	
75.	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. 	

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	<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. 	
76.	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 	

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77.	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 - 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. <p>Reasons for Criminalization:</p> <ul style="list-style-type: none"> - 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. <p>Effects:</p> <ul style="list-style-type: none"> - 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. <p>Steps by the Supreme Court:</p> <ul style="list-style-type: none"> - Union of India vs. Association for Democratic Reforms 2002: <ul style="list-style-type: none"> 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 	

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	<ul style="list-style-type: none"> ○ the educational qualifications at the time of filing the nomination. - Ramesh Dalal vs. Union of India 2005: <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ 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. ○ However, if the member goes on appeal against his conviction within 3 months, then he shall not be subject to disqualification. ○ 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. <p>Electoral reforms:</p> <p>In effect:</p> <ul style="list-style-type: none"> - 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. <p>Measures yet to be taken:</p> <ul style="list-style-type: none"> - 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.
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	<p>Conclusion:</p> <ul style="list-style-type: none"> - 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. 	
78.	<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, 	

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- evaluate the progress of the development of women under the Union and any State,
- inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners.

Issue related to National Commission for Women:

- 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.
- 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.

TOPICS AND POINTERS

2022- MAINS STUDY MODULE

	<ul style="list-style-type: none"> - 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. - 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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