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INDIAN POLITY**

**MAJOR AMENDMENTS
TO THE CONSTITUTION
OF INDIA**

PRELIMS SAMPOORNA

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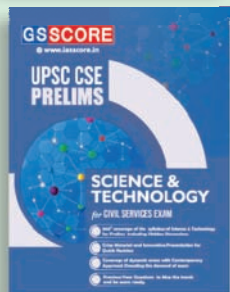
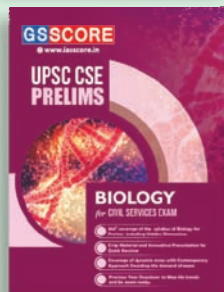
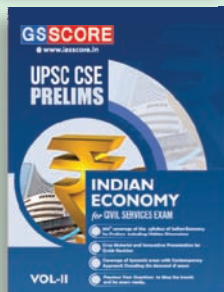
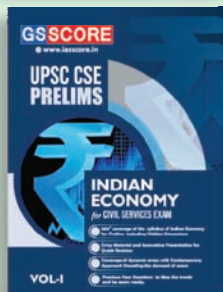
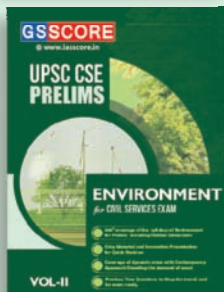
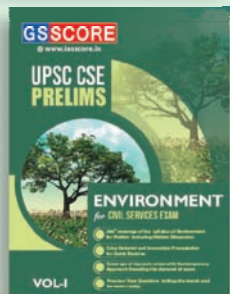
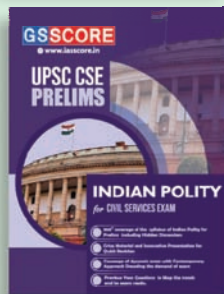
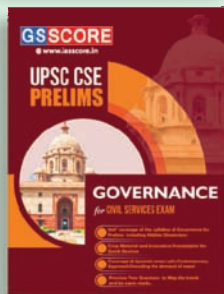
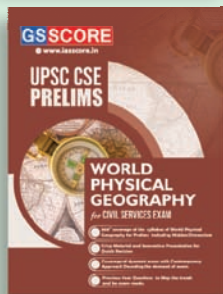
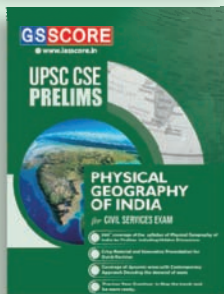
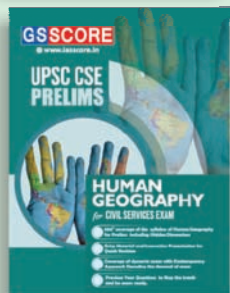
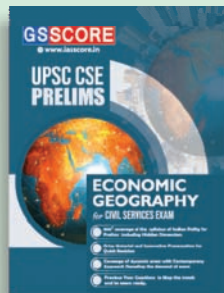
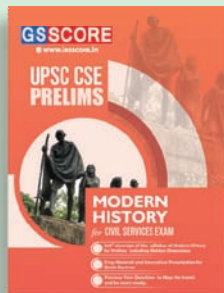
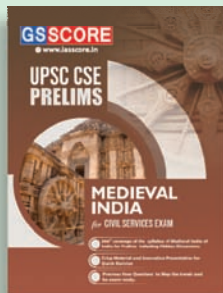
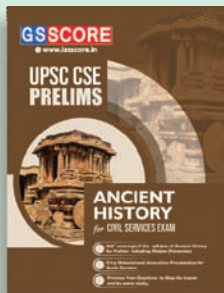
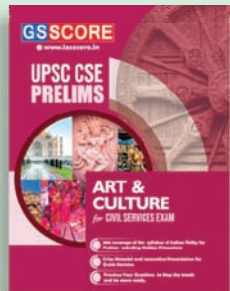
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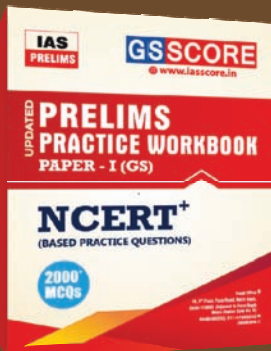
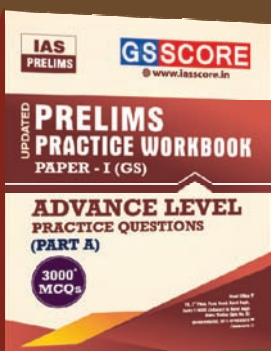
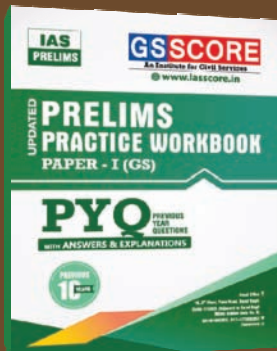
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Major Amendments to the Constitution of India

First Amendment Act, 1951

Amended Provisions of the Constitution

- Empowered the state to make **special provisions for the advancement of socially and economically backward classes**.
- Added Ninth Schedule to protect the land reform and other laws included in **it from the judicial review**.
- Added three more grounds of restrictions on freedom of speech and expression, viz., public order, friendly relations with foreign states and incitement to an offence. Also, **made the restrictions "reasonable" and thus, justiciable in nature**.
- Provided that state trading and nationalisation of any trade or business by the state is **not to be invalid on the ground of violation of the right to trade or business**.
- Extended the scope of Article 31 A (savings of laws).

Note:

- The Constitution was first amended **for the welfare of scheduled castes, tribes and backward classes**.
- It inserted the **provisions of fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular**.

Seventh Amendment Act, 1956

Amended Provisions of the Constitution

- Abolished the existing classification of states into four categories** i.e., Part A, Part B, Part C and Part D states, and reorganised them into 14 states and 6 union territories.
- Extended the jurisdiction of high courts to union territories.
- Provided for the **establishment of a common high court for two or more states**.
- Provided for the **appointment of additional and acting judges of the high court**.

NOTE:

- The Constitution was amended **to implement the scheme of States reorganisation**.
- It also sought **amendments to certain provisions of the Constitution relating to the High Courts and High Court Judges, the executive power of the Union and the States, and a few entries in the legislative lists**.

Fourth Amendment Act, 1955

Amended Provisions of the Constitution

- Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
- Authorised the state to nationalise any trade.
- Included some more Acts in the Ninth Schedule.

Eleventh Amendment Act, 1961

Amended Provisions of the Constitution

- Changed the procedure of election of the vice-president by providing for an electoral college instead of a joint meeting of the two Houses of Parliament.
- Provided that the election of the president or vice-president cannot be challenged on the ground of any vacancy in the appropriate electoral college.

Fourteenth Amendment Act, 1962

Amended Provisions

- Incorporated Puducherry in the Indian Union.
- Provided for the creation of legislatures and council of ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.

Sixteenth Amendment Act, 1963

Amended Provisions

- Empowered the state to impose further restriction on the rights to freedom of speech and expression, to assemble peaceably and to form associations in the interests of sovereignty and integrity of India.
- Included sovereignty and integrity in the forms of oaths or affirmations to be subscribed by contestants to the legislatures, members of the legislatures, ministers, judges and CAG of India

Seventeenth Amendment Act, 1964

Amended Provisions

- Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
- Included 44 more Acts in the Ninth Schedule.

Twenty-Fourth Amendment Act, 1971

Amended Provisions of the Constitution

- Affirmed the power of Parliament to amend any part of the Constitution including fundamental rights.
- Made it compulsory for the president to give his assent to a Constitutional Amendment Bill.

NOTE:

- It was introduced to amend article 368 suitably for the purpose and made it clear that article 368 provides for amendment of the Constitution as well as procedure therefore.

Background

- The Supreme Court in the well-known **Golak Nath's case** [1967] reversed, by a narrow majority, its own earlier decisions upholding the power of **Parliament to amend all parts of the Constitution including Part III relating to fundamental rights.**
- The result of Golak Nath's case was that Parliament was considered to have **no power to take away or curtail any of the fundamental rights guaranteed by Part III of the Constitution** even if it becomes necessary to do so for giving effect to the **Directive Principles of State Policy** and for the attainment of the objectives set out in the Preamble to the Constitution.

- It was also introduced to amend article 13 of the Constitution to make it inapplicable to any amendment of the Constitution under article 368.

Twenty-Fifth Amendment Act, 1971

Amended Provisions of the Constitution

- Curtailed the fundamental right to property.
- Provided that any law made to give effect to the Directive Principles contained in Article 39 (b) or (c) cannot be challenged on the ground of violation of the rights guaranteed by Articles 14, 19 and 31.

Thirty-Fifth Amendment Act, 1974

Amended Provisions of the Constitution

- Terminated the protectorate status of Sikkim and conferred on it the status of an associate state of the Indian Union.
- The Tenth Schedule was added laying down the terms and conditions of association of Sikkim with the Indian Union.

Thirty-Eighth Amendment Act, 1975

Amended Provisions of the Constitution

- Made the declaration of emergency by the president non-justiciable.

- Made the **promulgation of ordinances** by the president, governors and administrators of union territories **non-justiciable**.
- Empowered the president to declare different proclamations of national emergency on different grounds simultaneously.

Fortieth Amendment Act, 1976

Amended Provisions of the Constitution

- Empowered the Parliament to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.
- Included 64 more Central and state laws, mostly relating to land reforms, in the Ninth Schedule.

Forty-Second Amendment Act, 1976

Amended Provisions of the Constitution

- **Added three new words** (i.e., socialist, secular and integrity) **in the Preamble**.
- **Added Fundamental Duties** by the citizens (new Part IV A).
- Made the **president bound by the advice of the cabinet**.
- Provided for administrative tribunals and tribunals for other matters (Added Part XIV A).
- Froze the seats in the Lok Sabha and state legislative assemblies on the basis of 1971 census till 2001.
- Made the **constitutional amendments beyond judicial scrutiny**.
- **Curtailed the power of judicial review and writ jurisdiction** of the Supreme Court and high courts.
- Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.
- Provided that the **laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights**.
- Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.

- Added **three new Directive Principles** viz., equal justice and free-legal aid, participation of workers in the management of industries and protection of environment, forests and wild life.
- Facilitated the **proclamation of national emergency in a part of territory of India**.
- Extended the one-time duration of the **President's rule** in a state **from 6 months to one year**.
- Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
- Shifted five subjects from the state list to the concurrent list, viz, education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organisation of all courts except the Supreme Court and the high courts.
- Did away with the requirement of quorum in the Parliament and the state legislatures.
- Empowered the Parliament to decide from time to time the rights and privileges of its members and committees.
- Provided for the **creation of the All- India Judicial Service**.
- Shortened the procedure for disciplinary action by taking away the right of a civil servant to make representation at the second stage after the inquiry.

NOTE:

- The most comprehensive amendment made so far to the Constitution; it is known as "Mini-Constitution"; it gave effect to the recommendations of **Swaran Singh Committee**.)

Background

In the **Kesavananda Bharati case** (1973), the Supreme Court declared the second provision of **Article 31C as unconstitutional and invalid** on the ground that judicial review is a basic feature of the Constitution and hence, cannot be taken away. However, the first provision of Article 31C was held to be constitutional and valid.

Article 31C

- No law which seeks to implement the socialistic Directive Principles specified in Article 39 (b) 22 and (c) 23 shall be void on the **ground of contravention of the Fundamental Rights conferred by Articles 14, 19, 31**

- No law containing a declaration for giving effect to such policy shall be questioned in any court on the ground that it does not give effect to such a policy.

The 42nd Amendment Act (1976) extended the scope of the first provision of Article 31C by including within its protection any law to implement any of the Directive Principles and not merely those specified in Article 39 (b) and (c).

Forty-Fourth Amendment Act, 1978

Amended Provisions of the Constitution

- Restored the original term of the Lok Sabha and the state legislative assemblies.
- Omitted the reference to the British House of Commons in the provisions pertaining to the parliamentary privileges.
- Gave constitutional protection to publication in newspaper of true reports of the proceedings of the Parliament and the state legislatures.
- Empowered the president to send back once the advice of cabinet for reconsideration. But the reconsidered advice is to be binding on the president.
- Deleted the provision which made the satisfaction of the president, governor and administrators final in issuing ordinances.
- Replaced the term “internal disturbance” by “armed rebellion” in respect of national emergency.
- Made the **President to declare a national emergency only on the written recommendation of the cabinet.**
- Made certain procedural safeguards with respect to national emergency and President’s rule.
- **Deleted the right to property from the list of Fundamental Rights** and made it only a legal right.
- Provided that the **fundamental rights guaranteed by Articles 20 and 21 cannot be suspended during a national emergency.**
- Omitted the provisions which took away the power of the court to decide the election disputes of the president, the vice-president, the prime minister and the Speaker of the Lok Sabha.

NOTE:

- Enacted by the Janata Government mainly to **nullify some of the other distortions introduced by the 42nd Amendment Act, 1976.**

Fifty-Second Amendment Act, 1985

Amended Provisions of the Constitution

- Provided for disqualification of members of Parliament and state legislatures on the ground of defection and added a new Tenth Schedule containing the details in this regard.

NOTE:

- To stop defection and the politics of ‘Aaya Ram, Gaya Ram’. **It is popularly known as Anti- Defection Law.**

Ninety-First Amendment Act, 2003

- The provision of the Tenth Schedule (anti-defection law) pertaining to exemption from **disqualification in case of split by one-third members of legislature party was deleted.** It means that the defectors have no more protection on grounds of splits.

Sixty-First Amendment Act, 1989

Amended Provisions of the Constitution

- Reduced the voting age from 21 years to 18 years for the Lok Sabha and state legislative assembly elections.

Sixty-Ninth Amendment Act, 1991

Amended Provisions of the Constitution

- Accorded a special status to the Union Territory of Delhi by designing it as the National Capital Territory of Delhi. The amendment also provided for the

creation of a 70-member legislative assembly and a 7-member council of ministers for Delhi.

Seventy-Third Amendment Act, 1992

Amended Provisions of the Constitution

- Granted constitutional status and protection to the **Panchayati raj institutions**. For this purpose, the Amendment has added a new **Part-IX** entitled as “the **panchayats**” and a new **Eleventh Schedule** containing 29 functional items of the panchayats.

Seventy-Fourth Amendment Act, 1992

- Granted constitutional status and protection to the **urban local bodies**. For this purpose, the Amendment has added a new Part IX-A entitled as “the **municipalities**” and a new **Twelfth Schedule** containing 18 functional items of the municipalities

NOTE:

- The 73rd and 74th CAA has given a practical shape to **Article 40 of the Constitution**. To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (Article 40).

Seventy-Seventh Amendment Act, 1995

Amended Provisions of the Constitution

- Provided for reservation in promotions in government jobs for SCs and STs. This amendment nullified the Supreme Court ruling with regard to reservation in promotions.

Background

- In order to nullify the ruling with regard to reservation in promotions, the 77th Amendment Act was enacted in 1995. It added a new provision in **Article 16** that empowers the State to provide for reservation in promotions of any services under the State in favour of the SCs and STs that are not adequately represented in the state services.

- Again, the 85th Amendment Act of 2001 provides for ‘**consequential seniority**’ in the case of promotion by virtue of rule of reservation for the government servants belonging to the SCs and STs with retrospective effect from June 1995.

Seventy-Eighth Amendment Act, 1995

Amended Provisions of the Constitution

- Included 27 more land reforms Acts of various states in the Ninth Schedule. With this, the total number of Acts in the Schedule increased to 282. But the last entry is numbered 284.

Seventy-Ninth Amendment Act, 1999

Amended Provisions of the Constitution

- Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years (i.e., up to 2010)

Eightieth Amendment Act, 2000

Amended Provisions of the Constitution

- Provided for an “**alternative scheme of devolution**” of revenue between the Centre and states. This was enacted on the basis of the recommendations of the **Tenth Finance Commission** which has recommended that out of the total income obtained from Central taxes and duties, twenty-nine per cent should be distributed among the states

Eighty-First Amendment Act, 2000

Amended Provisions of the Constitution

- Empowered the state to consider the **unfilled reserved vacancies of a year as a separate class of vacancies to be filled up** in any succeeding year or years. Such class of vacancies are not to be combined with the

vacancies of the year in which they are being filled up to determine the ceiling of 50 per cent reservation on total number of vacancies of that year. **In brief, this amendment ended the 50 per cent ceiling on reservation in backlog vacancies.**

Background

It was in 1990 that the V.P. Singh Government declared reservation of 27% government jobs for the OBCs.

In the **famous Mandal case (1992)**, though the Supreme Court upheld the constitutional validity of 27% reservation for the OBCs but it gave certain conditions:

- **No reservation in promotions; reservation should be confined to initial appointments only.** Any existing reservation in promotions can continue for five years only (i.e., upto 1997).
- **The total reserved quota should not exceed 50% except in some extraordinary situations.** This rule should be applied every year.
- The **'carry forward rule' in case of unfilled (backlog) vacancies is valid.** But it should not violate 50% rule.
- A permanent statutory body should be established to examine complaints of over-inclusion and under-inclusion in the list of OBCs.

With regard to **the above rulings of the Supreme Court the government took following actions:**

- Ram Nandan Committee was appointed.
- The 77th Amendment Act was enacted in 1995
- 81st Amendment Act of 2000 was enacted
- The 76th Amendment Act of 1994 has placed the Tamil Nadu
- Reservations Act of 1994 in the Ninth Schedule

Eighty-Second Amendment Act, 2000

Amended Provisions of the Constitution

- Provided for making of any provision in favour of the SCs and STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the Centre and the states.

Eighty-Fourth Amendment Act, 2001

Amended Provisions of the Constitution

- Extended the ban on readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures. In other words, the number of seats in the Lok Sabha and the assemblies are to remain same till 2026.
- It also provided for their adjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.

Eighty-Sixth Amendment Act, 2002

Amended Provisions of the Constitution

- **Made elementary education a fundamental right.** The newly-added **Article 21-A** declares that “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may determine”.
- **Changed the subject matter of Article 45 in Directive Principles.** It now reads— “The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years”.
- Added a **new fundamental duty under Article 51-A** which reads— “It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years”.

Eighty-Seventh Amendment Act, 2003

Amended Provisions of the Constitution

- Provided for the re-adjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 2001 census and not 1991 census as provided earlier by the 84th Amendment Act of 2001.

Eighty-Ninth Amendment Act, 2003

Amended Provisions of the Constitution

- Bifurcated the erstwhile combined National Commission for Scheduled Castes and Scheduled Tribes into two separate bodies, namely, National Commission for Scheduled Castes and National Commission for Scheduled Tribes.

Ninety-First Amendment Act, 2003

Amended Provisions of the Constitution

- The total number of ministers, including the Prime Minister, in the Central Council of Ministers **shall not exceed 15% of the total strength of the Lok Sabha.**
- A member of either house of Parliament belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- The total number of ministers, including the Chief Minister, in the Council of Ministers in a state shall not exceed 15% of the total strength of the legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than 12.
- A member of either House of a state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- A member of either House of Parliament or either House of a State Legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to hold any remunerative political post.
- The provision of the Tenth Schedule (anti-defection law) pertaining to exemption from disqualification in case of split by one-third members of legislature party has been deleted.

Ninety-Second Amendment Act, 2003

Amended Provisions of the Constitution

- Included four more languages in the Eighth Schedule. They are Bodo, Dogri (Dongri), Maithili (Maithili) and Santhali. With this, the total number of constitutionally recognised languages increased to 22.

Ninety-Third Amendment Act, 2005

Amended Provisions of the Constitution

- Empowered the state to make special provisions for the socially and educationally backward classes or the Scheduled Castes or the Scheduled Tribes in educational institutions including private educational institutions (whether aided or unaided by the state), **except the minority educational institutions.**

Background

- This amendment added a provision in **Article 15(c)** (mentioned above). In order to give effect to this provision, the Centre enacted the **Central Educational Institutions (Reservation in Admission) Act, 2006, providing a quota of 27% for candidates belonging to the Other Backward Classes (OBCs)** in all central higher educational institutions including the Indian Institutes of Technology (IITs) and the Indian Institutes of Management (IIMs).
- In **April 2008, the Supreme Court upheld the validity of both, the Amendment Act and the OBC Quota Act.** But the Court directed the central government to exclude the 'creamy layer' (advanced sections) among the OBCs while implementing the law.

Reservation for EWSs in Educational Institutions (103rd Amendment Act of 2019).

- It added a new provision to **Article 15** i.e. The state is empowered to make **any special provision for the advancement of any economically weaker sections of citizens.**
- Further, the state is allowed to make a provision for the reservation of up to 10% of seats for such sections in admission to educational institutions including private educational institutions, whether aided or unaided by the state, except the minority educational institutions. This reservation of up to 10% would be in addition to the existing reservations. For this purpose, the economically weaker sections would be notified by the state from time to time on the basis of family income and other indicators of economic disadvantage.

- In order to give effect to this provision, the central government issued an order (in 2019) providing 10% reservation to the Economically Weaker Sections (EWSs) in admission to educational institutions.

NOTE:

- However, in 2015, the Supreme Court has declared this amendment act as unconstitutional and void. Consequently, the collegium system became operative again.

Ninety-Seventh Amendment Act, 2011

Amended Provisions of the Constitution

- Gave a constitutional status and protection to co-operative societies. In this context, it made the following three changes in the constitution:
 - ▶ It made the right to form co-operative societies a fundamental right.
 - ▶ It included a new Directive Principle of State Policy on promotion of cooperative societies.
 - ▶ It added a new Part IX-B in the constitution which is entitled as "The Co-operative Societies"

Ninety-Eighth Amendment Act, 2012

Amended Provisions of the Constitution

- Provided for special provisions for the Hyderabad-Karnataka region of the State of Karnataka.
- The special provisions aim to establish an institutional mechanism for equitable allocation of funds to meet the development needs over the region, as well as to enhance human resources and promote employment from the region by providing for local cadres in service and reservation in educational and vocational training institutions.

Ninety-Ninth Amendment Act, 2014

Amended Provisions of the Constitution

- Replaced the collegium system of appointing judges to the Supreme Court and High Courts with a new body called the National Judicial Appointments Commission (NJAC).

One Hundredth Amendment Act, 2015

Amended Provisions of the Constitution

- Gave effect to the acquiring of certain territories by India and transfer of certain other territories to Bangladesh (through exchange of enclaves and retention of adverse possessions) in pursuance of the Land Boundary Agreement of 1974 and its Protocol of 2011.
- For this purpose, this amendment act amended the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution.

One Hundred and First Amendment Act, 2016

Amended Provisions of the Constitution

- Paved the way for the introduction of the **goods and services tax (GST) regime in the country**. The GST shall replace a number of indirect taxes being levied by the Union and the State Government. The proposed Central and State GST will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the GST. Accordingly, the amendment made the following provisions:
 - ▶ **Conferred concurrent taxing powers upon the Parliament and the State Legislatures** to make laws for levying GST on every transaction of supply of goods or services or both.
 - ▶ Dispensed the concept of "**declared goods of special importance**" under the constitution.
 - ▶ **Provided for the levy of Integrated GST** on inter-state transactions of goods and services.
 - ▶ **Provided for the establishment of a Goods and Services Tax Council** by a presidential order.

- ▶ Made the provision of compensation to the states for loss of revenue arising on account of introduction of GST for a period of five years.
- ▶ Substituted and omitted certain entries in the Union and State Lists of the Seventh Schedule.

One Hundred and Second Amendment Act, 2018

Amended Provisions of the Constitution

- **Conferred a constitutional status on the National Commission for Backward Classes** which was set-up in 1993 by an Act of the Parliament.
- Relieved the National Commission for Scheduled Castes from its functions with regard to the backward classes.
- Empowered the President to specify the socially and educationally backward classes in relation to a state or union territory.

One Hundred and Third Amendment Act, 2019

Amended Provisions of the Constitution

- Empowered the state to make any **special provision for the advancement of any economically weaker sections of citizens.**
- **Allowed the state to make a provision for the reservation of up to 10% of seats for such sections in admission to educational institutions including private educational institutions,** whether aided or unaided by the state, except the minority educational institutions. **This reservation of up to 10% would be in addition to the existing reservations.**
- Permitted the state to make a provision for the reservation of upto 10% of appointments or posts in favour of such sections. This reservation of upto 10% would be in addition to the existing reservation.

One Hundred and Fourth Amendment Act, 2020

Amended Provisions of the Constitution

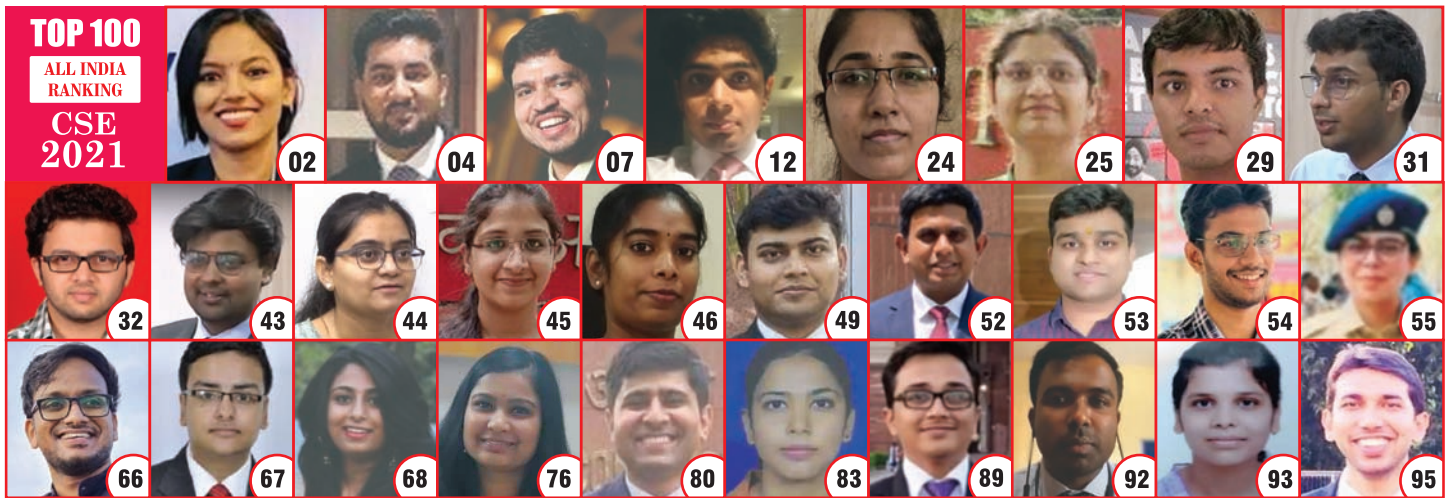
- The One Hundred and Fourth Amendment of the Constitution of India **extends the deadline for the**

cessation for the reservation of seats for members from Scheduled Castes and Scheduled Tribes in the Lok Sabha and State Legislative Assemblies by a **period of 10 years.** The act was enforced on 25 January 2020 and amended Article 334

- The reservation of seats for the Scheduled Castes and Scheduled Tribes was set to expire on 26 January 2020 as mandated by the Ninety Fifth Amendment but was extended for another 10 years till January 25, 2030.
- The amendment does not, however, extend the period of reservation of the 2 Lok Sabha seats reserved for members of the Anglo-Indian Community and **thus the practice of nominating two members of the Anglo-Indian community by the President of India under the recommendation of the Prime Minister of India was effectively abolished.**
- The Constitution (One Hundred and Twenty-Sixth Amendment) Bill, 2019 was introduced in the Lok Sabha on 9 December 2019 and was unanimously passed by the Lok Sabha on 10 December 2019 with 355 votes in favour and 0 votes against.

One Hundred and Fifth Amendment Act, 2021

- The Constitutional 105th Amendment amends **clauses 1 and 2 of Article 342A** and also **introduces a new clause 3.** The bill will also **amend the Articles 366 (26c) and 338B (9).**
- **It allows the states to maintain the “state list” of OBCs as was the system before the Supreme Court judgment which in its order on Maratha reservation, upheld the 102nd Constitutional Amendment Act** that removed the power of the states to identify socially and educationally backward classes under their territory for grant of quota in jobs and admissions.
- **The 105th Amendment aims at restoring the power of the States and the Union Territories to make their own OBC list.**
- According to the amendment, the “state list” will be completely taken out of the ambit of the President and will be notified by the state assembly.
- **It inserted Articles 338B and 342 A (with two clauses) after Article 342,** which said the President of India, in consultation with the Governors, would specify socially and educationally backward classes, taking away the powers of State governments to do so.
- **Articles 15 (4), 15 (5), and 16 (4) confer power on the State Government to declare and identify the list of socially and educationally backward classes.** As a practice, separate OBC lists are drawn up by the



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