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CONSTITUTION OF INDIA

1. CONSTITUTION, A “LIVING DOCUMENT”

CONTEXT: The Constitution is not merely a legal document but an embodiment of the aspirations and values of society, evolving over time to meet new challenges and reflect changing societal norms.

▣ Origin and Evolution

- ▶ The concept of the Constitution as a “living document” was articulated early on, influenced by ideas from Wilson’s “Constitutional Government in the United States.”
 - The Constitution of India, enacted on January 26, 1950, continues to adapt to new circumstances, marked annually as Constitution Day since 2015.

▣ Importance of Adaptation

- ▶ The Constitution’s ability to evolve reflects its responsiveness to societal needs and challenges, ensuring it remains relevant and effective.
- ▶ It **balances rigidity with flexibility**, allowing for amendments that uphold its core principles while adapting to modern realities.

▣ Amendment Procedures

- ▶ The Indian Constitution provides for various amendment processes, ensuring a balance between stability and adaptability.
- ▶ Amendments range from technical adjustments to significant changes reflecting political consensus and judicial interpretations.

❏ Challenges and Controversies

- ▶ Amendments during emergencies and contentious periods, like the 42nd Amendment, have sparked debates over the extent of governmental power versus constitutional integrity.

❏ Role of Basic Structure Doctrine

- ▶ The Kesavananda Bharati case established the basic structure doctrine, limiting Parliament's authority to amend certain fundamental aspects of the Constitution. This doctrine illustrates the judiciary's role in interpreting and preserving constitutional integrity.

❏ International Perspectives

- ▶ Comparisons with other countries (e.g., USA, France, UK, Canada) highlight varying approaches to constitutional amendments, emphasizing India's unique blend of rigidity and flexibility.

PREVIOUS YEAR QUESTION

Q. "The Constitution of India is a living instrument with capabilities of enormous dynamism. It is a constitution made for a progressive society." Illustrate with special reference to the expanding horizons of the right to life and personal liberty. (2023)

PRACTICE QUESTION

Q. Discuss the concept of the Constitution as a living document in India. How does the balance between rigidity and flexibility in the amendment process contribute to constitutional resilience and democratic governance?

2. UNIFORM CIVIL CODE

CONTEXT: State of Uttarakhand enacted Uniform Civil Code and implementing the same.

❏ What is a Uniform Civil Code?

- ▶ A UCC aims to provide a single law applicable to all citizens in matters such as marriage, divorce, inheritance, and adoption, irrespective of their religion.
 - **Article 44** of the Constitution mandates the state to strive for a UCC for citizens across India.
 - It is one of the Directive Principles of State Policy, intended to reinforce the "secular democratic republic" envisioned in the Constitution's Preamble.

❏ Background

- ▶ The UCC's origin dates back to colonial India. In 1835, the British government recommended codifying Indian law relating to crimes, evidence, and contracts, excluding personal laws of Hindus and Muslims.
- ▶ The **B N Rau Committee** was formed in 1941 to codify Hindu law, resulting in the Hindu Succession Act of 1956, which addressed intestate succession for Hindus, Buddhists, Jains, and Sikhs. However, separate personal laws continued for Muslims, Christians, and Parsis.

- ❏ **Status of Uniform Codes in India:** Indian laws follow a uniform code in many civil matters, including the Indian Contract Act, Civil Procedure Code, Transfer of Property Act, Partnership Act, and Evidence Act.

In significant judgments like **Shah Bano (1985)** and **Sarla Mudgal (1995)**, the courts urged the government to implement a UCC, citing issues like triple talaq and polygamy as impediments to gender equality and a dignified life for women.

- However, states have made numerous amendments, resulting in diversity even within these secular laws. *Goa is currently the only state with a UCC.*

▢ Implications of Uniform Civil Code on Personal Laws:

- **Protection of Vulnerable Sections:** The UCC aims to protect vulnerable groups, including women and religious minorities, promoting national unity through equality.
- **Simplification of Laws:** A UCC would simplify complex laws surrounding marriage, inheritance, succession, and adoption, applying uniformly to all citizens.
- **Adhering to Secularism:** Secularism, as enshrined in the Preamble, necessitates a common law for all citizens, replacing religiously differentiated rules.
- **Gender Justice:** A UCC would eliminate gender biases in existing laws, promoting equality.

Factors that inhibit India from enacting a Uniform Civil Code:

- Religious and Cultural Diversity
- Constitutional Sensitivities
- Political Opposition
- Lack of Consensus
- Resistance from Religious Leaders
- Legal and Practical Challenges
- Historical Context and Precedents
- Gender Justice Concerns
- Legal Complexity and Implementation Challenges

▢ Challenges:

- **Diverse Personal Laws:** The vast diversity of customs and practices across communities complicates the establishment of a uniform law. Even within communities, variations exist, such as marriage customs among Hindus in different regions.
- **Communal Politics:** The demand for a UCC is often viewed through the lens of communal politics, perceived by many as majoritarianism under the guise of social reform.

The need of the hour is a balanced, inclusive approach to reform personal laws, ensuring they uphold the principles of equality, justice, and secularism enshrined in the Indian Constitution.

PREVIOUS YEAR QUESTION

- Q. Discuss the possible factors that inhibit India from enacting for its citizen a uniform civil code as provided for in the Directive Principles of State Policy. (2015)

PRACTICE QUESTION

- Q. Discuss the problems associated with the implementation of a Uniform Civil Code (UCC) in India. Suggest measures to address these challenges.

3. GENDER JUSTICE IN CONSTITUTIONAL PERSPECTIVES

CONTEXT: Uttarakhand has become the first state to enact a Uniform Civil Code (UCC) under Article 44 of the Constitution. While the state's UCC has been touted as a step towards achieving gender justice, to what extent it fulfills this aspiration needs to be carefully examined.

- **Gender Justice in Constitutional Perspectives:** Gender justice in constitutional terms aims to ensure equality and non-discrimination based on gender, safeguarding the rights and dignity of all individuals, irrespective of sex.

- **Constitutional Framework:**

- ▶ The Constitution of India guarantees fundamental rights under Articles 14 (equality before law), 15 (prohibition of discrimination), and 21 (right to life and personal liberty), which form the cornerstone of gender justice.
- ▶ **Article 39(a)** mandates equal pay for equal work, promoting economic justice for women.

Case Laws and Judicial Interpretations

- **Vishakha v. State of Rajasthan (1997):** Supreme Court's guidelines on sexual harassment at workplace under Article 21, ensuring safe working conditions for women.
- **Shayara Bano v. Union of India (2017):** Triple talaq declared unconstitutional, emphasizing gender equality and dignity under Articles 14, 15, and 21.
- **Navtej Singh Johar v. Union of India (2018):** Decriminalization of consensual homosexual acts, recognizing the rights of LGBTQ+ individuals under Articles 14, 15, and 21.

- **Challenges to Gender Justice:** Personal Laws and Uniform Civil Code: Issues arise with the uniform application of laws affecting personal rights, often excluding progressive aspects of religious personal laws that benefit women (e.g., mehr in Muslim law).
- **Critique of Uttarakhand's Uniform Civil Code (UCC):**
 - ▶ **Impact on Gender Justice:** The Uttarakhand UCC has been criticized for regressive provisions that undermine women's rights gained through progressive amendments like the Hindu Succession Act, 2005.
 - ▶ **Examples:** Retention of archaic provisions like restitution of conjugal rights and mandatory registration of marriage that may not benefit women's rights.

PREVIOUS YEAR QUESTION

- Q. Explain the constitutional perspectives of Gender Justice with the help of relevant Constitutional Provisions and case laws (2023)

PRACTICE QUESTION

- Q. Evaluate the effectiveness of constitutional provisions in promoting gender equality and address the challenges faced in achieving comprehensive gender justice.

4. AMENDMENT OF THE CONSTITUTION OF INDIA

CONTEXT: The Constitution of India, as the supreme law of the land, provides for its own amendment to adapt to changing needs and circumstances. Amendment refers to making changes, additions, variations, or repeals to its provisions while upholding its core principles and values.

- **Provisions and Procedure for Amendment:**

- ▶ **Article 368:** This article outlines the detailed procedure for amending the Constitution. Amendments can be initiated only in Parliament, not in State Legislatures. They require special majorities in both Houses:
- ▶ **Special Majority:** More than 50% of the total membership and two-thirds of members present and voting.

- Certain amendments also require ratification by half of the State Legislatures by a Simple Majority.

Types of Amendments

- **Simple Majority:** Applies to provisions like admission of new states or changes in state boundaries.
- **Special Majority:** Required for amending Fundamental Rights, Directive Principles, and other provisions.
- **Special Majority + State Ratification:** Needed for amendments affecting federal provisions like the election of the President or powers of the Union and States.

- ▢ **Basic Structure Doctrine:** Established in the Kesavananda Bharati case (1973), it limits Parliament's amending power. Certain core principles of the Constitution, deemed essential, cannot be altered.

Significance of Constitutional Amendment:

- **Adaptability in Governance:** Allows the Constitution to evolve with societal changes and governance needs.
- **Incorporating New Rights:** Enables the inclusion of emerging rights and interpretations, such as Right to Privacy.
- **Addressing Emerging Issues:** Provides a legal framework to tackle new challenges like social reforms and rights assertions.
- **Social Reform:** Facilitates the elimination of outdated practices and promotes modernity.

Criticism of the Amendment Procedure:

- **Centralized Amendment Power:** Critics argue that the process lacks state involvement in most cases.
- **Limited Scope for State Initiative:** States have minimal role except for specific amendments.
- **Potential for Deadlock:** Absence of provisions for joint sittings can lead to parliamentary stalemates.
- **Judicial Intervention:** Ambiguities in the amendment process may necessitate judicial interpretation, leading to delays and disputes.

Amendment Act	Year	Provisions
1 st Amendment Act	1951	Added the Ninth Schedule, protecting certain laws from judicial review.
42 nd Amendment Act	1976	Added "socialist, secular, and integrity" to the Preamble. Introduced Fundamental Duties (Part IVA).
44 th Amendment Act	1978	Replaced "internal disturbance" with "armed rebellion" concerning National Emergency (Article 352). Deleted Right to Property from Fundamental Rights.
61 st Amendment Act	1988	Lowered the voting age from 21 years to 18 years.
73 rd Amendment Act	1992	Introduced provisions for Panchayati Raj Institutions, decentralizing power to grassroots level.
74 th Amendment Act	1992	Introduced provisions for Urban Local Bodies, empowering Municipalities and Municipal Corporations.

Amendment Act	Year	Provisions
86 th Amendment Act	2002	Added free and compulsory education for children aged six to fourteen years.
97 th Amendment Act	2011	Provided constitutional status and protection to cooperative societies.
101 st Amendment Act	2016	Introduced Goods and Services Tax (GST), aimed at simplifying tax structure and promoting economic integration.
102 nd Amendment Act	2018	Gave Constitutional Status to National Commission for Backward Classes.
103 rd Amendment Act	2019	Provided 10% reservation for Economically Weaker Sections (EWS).
104 th Amendment Act	2020	Reserved seats in Lok Sabha and State Legislative Assemblies for SCs and STs till January 25, 2030.
105 th Amendment Act	2021	Restored power to State Governments to identify Socially and Educationally Backward Classes (SEBCs).
106 th Amendment Act	2023	Reserved one-third of all seats for women in Lok Sabha, State Legislative Assemblies, and Delhi Legislative Assembly.

PREVIOUS YEAR QUESTION

- Q. Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism. (2023)
- Q. Explain the salient features of the constitution (One Hundred and First Amendment) Act, 2016. Do you think it is efficacious enough 'to remove cascading effect of taxes and provide for common national market for goods and services'? (2017)

PRACTICE QUESTION

- Q. Discuss the procedural framework and significance of constitutional amendments in India. Evaluate the efficacy of the amendment process in addressing contemporary socio-political challenges.

5. DOCTRINE OF CONSTITUTIONAL MORALITY

CONTEXT: Recently, the Chief Justice of India D Y Chandrachud has asked for that 'the doctrine constitutional morality' should not be rejected.

▣ What is Constitutional Morality?

- Constitutional morality refers to the principles and values that form the foundation of the constitution, directing both government and citizens in their conduct.
 - It encapsulates the concept that the constitution is not solely a legal instrument but also a moral guide, mirroring the collective values and dreams of a society.
 - The term "Constitutional Morality" is not mentioned in the constitution.

▣ Key Aspects of Constitutional Morality:

- **Constitution as the Supreme Law:** In India, the Constitution is the supreme law of the land. Constitutional Morality emphasizes that all state actions, laws, and policies must conform to constitutional provisions and principles.

- ▶ **Adherence to Constitutional Values:** It requires public authorities, institutions, and individuals to act in a manner that upholds constitutional values such as democracy, rule of law, secularism, and social justice.
- ▶ **Judicial Interpretation and Role:** Constitutional Morality plays a crucial role in judicial interpretation. Courts interpret laws and settle disputes based on constitutional principles, ensuring that legislative and executive actions comply with constitutional morality.
- ▶ **Limits on Majoritarianism:** It acts as a check against majoritarianism and populist measures that may violate fundamental rights or undermine the basic structure of the Constitution.
- ▶ **Promotion of Inclusivity and Diversity:** It promotes inclusivity and respects diversity by safeguarding the rights of minorities and marginalized groups against discriminatory practices.

Significant Supreme Court judgments relating to Constitutional Morality

- **SP Gupta Case/First Judge Case (1982):** The Supreme Court labeled constitutional violations as a grave breach of constitutional morality.
- **Naz Foundation vs. Government of NCT of Delhi (2010):** The Court prioritized constitutional principles over societal perceptions concerning the legitimacy of same-sex relationships.
- **Manoj Narula vs. Union of India (2014):** The Chief Justice of India emphasized constitutional morality as a commitment to constitutional norms, discouraging actions contrary to the rule of law or reflective of arbitrary conduct.
- **NCT of Delhi vs. Union of India (2018):** The Supreme Court aligned constitutional morality with the essence of the Constitution, emphasizing strict adherence to its principles.
- **Navtej Singh Johar vs. Union of India (2018):** The Court distinguished between constitutional and public morality, asserting that constitutional morality prioritizes justice over societal acceptance, leading to the decriminalization of homosexuality under Section 377 of IPC.
- **Joseph Shine vs. Union of India (2019):** Upholding gender equality and the right to equality, the Supreme Court annulled Section 497 of IPC, criminalizing adultery, emphasizing that constitutional morality should guide laws rather than the state's prevailing common morality.
- **Indian Young Lawyers Association & Ors vs. The State of Kerala & Ors., (2019) (Sabarimala Case):** The Court ruled that barring women aged 10-50 from the Sabarimala temple violated key principles of constitutional morality i.e. Justice, Liberty, Equality, and Fraternity. It clarified that the term "morality" in Articles 25 & 26 of the Constitution pertains to constitutional morality, not popular morality.

PREVIOUS YEAR QUESTION

- Q. What is the concept of Constitutional Morality in the Indian context? Highlight its significance in shaping judicial decisions and governance. [2019]

PRACTICE QUESTION

- Q. '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]

6. KESAVANANDA BHARATI CASE

CONTEXT: 2024 marks the 51st anniversary of the Kesavananda Bharati judgment which expounded the basic structure doctrine. It is the most celebrated constitutional case of the country.

Background

- Kesavananda Bharati was a monk from the Edneer Mutt in Kasargod, Kerala, born in 1940. He became the head of the Mutt at a young age and challenged the Kerala government's land reforms in 1970, which had adversely affected the Mutt financially.

Legal Challenge

- In his petition to the Supreme Court, Kesavananda Bharati argued that the Kerala government's actions violated his fundamental rights under-
 - Articles 25 (right to religion)
 - Article 26 (freedom of religious denomination)
 - Article 31 (right to property)

Evolution and Significance of the Case

- **Ninth Schedule and Judicial Review:** The case questioned Parliament's authority to amend the Constitution, especially regarding fundamental rights. The **Ninth Schedule** was introduced to shield certain laws from judicial scrutiny, aimed at advancing socialist principles of equitable resource distribution.
- **Basic Structure Doctrine:** The landmark judgment in Kesavananda Bharati v. State of Kerala (1973) articulated the '**basic structure doctrine**'. It holds that while Parliament has the power to amend the Constitution under **Article 368**, it cannot alter its basic structure, which includes principles of federalism, secularism, fundamental rights, and democracy.

Impact and Legacy

- **Constitutional Limitations:** The verdict established that Parliament's constituent power is not unlimited and cannot undermine the foundational principles of the Constitution.
- **Judicial Review and Fundamental Rights:** It reinforced the role of judicial review in protecting citizens' fundamental rights from legislative encroachment.

Significance of the Basic Structure Doctrine

- **Limiting Parliamentary Sovereignty:** Before Kesavananda Bharati, there was a perception that Parliament had unlimited power to amend the Constitution. The doctrine introduced limits on this power, ensuring that amendments do not undermine the Constitution's foundational principles.
- **Preserving Constitutional Values:** By safeguarding the basic structure, the doctrine preserves key constitutional values such as democracy, federalism, secularism, and fundamental rights. It prevents amendments that could compromise these principles.
- **Judicial Review and Accountability:** The doctrine enhances the role of judicial review as a check on legislative and executive actions. Courts can strike down constitutional amendments that violate the basic structure, thereby upholding the Constitution's integrity and protecting citizens' rights.
- **Stability and Continuity:** It provides stability and continuity in India's constitutional governance by ensuring that the core framework remains intact despite political changes or pressures.
- **Impact on Constitutional Amendments:** Post Kesavananda Bharati, Parliament has proceeded with caution when amending the Constitution. Amendments that sought to alter fundamental aspects of the Constitution have been subject to rigorous judicial scrutiny.

Examples of Application

- **Indira Gandhi v. Raj Narain (1975):** The Supreme Court applied the basic structure doctrine to strike down parts of the 39th Constitutional Amendment, which sought to immunize the Prime Minister from legal challenges.

- ▶ **Minerva Mills v. Union of India (1980):** The Court invalidated parts of the 42nd Constitutional Amendment Act, which had altered the balance of power between Parliament and the judiciary, emphasizing the supremacy of the Constitution and the separation of powers.

PRACTICE QUESTION

Q. Discuss the evolution and significance of the ‘basic structure doctrine’ as elucidated in the Kesavananda Bharati case. How has this doctrine shaped the landscape of constitutional governance in India?

7. NATIONAL EMERGENCY

CONTEXT: June 25th, 2024 marks the 50th anniversary of the Emergency, a pivotal moment in Indian history when fundamental rights were suspended and political dissent suppressed.

Reason behind Proclaiming Emergency

- ▶ Following a court verdict in June 1975 that found her **guilty of electoral malpractice**, she faced disqualification from holding any elected office.
- ▶ Citing “internal disturbances,” President Fakhruddin Ali Ahmed, under **Article 352 of the Constitution**, declared Emergency on June 25, 1975.

India has witnessed the proclamation of National Emergency three times:

- ▶ **1962 Indo-China War:** The first instance was in 1962 during the Indo-China War.
- ▶ **1971 Indo-Pakistan War:** The second instance was in 1971 during the Indo-Pakistan War.
- ▶ **1975 Internal Disturbance:** The third instance was in 1975, proclaimed by President Fakhruddin Ali Ahmed under advice from Prime Minister Indira Gandhi.

- **During the Emergency:** The Emergency period from 1975 to 1977 witnessed unprecedented curtailment of civil liberties:
 - ▶ **Suspension of Fundamental Rights:** Freedom of speech, assembly, and movement were suspended.
 - ▶ **Media Censorship:** Strict censorship was imposed on the press.
 - ▶ **Political Leaders Detained:** Opposition leaders and activists were arrested.
- **Aftermath of the Emergency:** The Emergency was lifted on March 21, 1977, paving the way for General Elections. The Congress Party, led by Indira Gandhi, faced electoral defeat, and the Janata Party, under Morarji Desai, came to power.
- **Constitutional Provisions: Emergency Types and Legal Framework**

The Indian Constitution provides for three types of emergencies under Articles 352 to 360:

Type of Emergency	Proclamation Basis	Duration & Approval
National Emergency (Article 352)	Threat from war, external aggression, or armed rebellion	Initial proclamation needs parliamentary approval within one month; extendable indefinitely with six-month intervals.

Type of Emergency	Proclamation Basis	Duration & Approval
President's Rule (Article 356)	Failure of constitutional machinery in a state	Proclamation must be approved by both Houses of Parliament within two months; extendable up to three years with six-month intervals.
Financial Emergency (Article 360)	Threat to financial stability or credit of India	Proclamation by the President; does not require parliamentary approval to continue indefinitely.

◉ **Landmark Cases: Judicial Interpretation of Emergency Provisions**

- ▶ **Makhan Singh Vs. State of Punjab:** This case dealt with the suspension of Article 19 during a National Emergency. The court held that the detention of the petitioner was legal and valid as it was done under a law which was protected by Article 359(1).
- ▶ **A.D.M. Jabalpur Vs. Shivkant Shukla:** The Supreme Court held that during the period of Emergency, a person's right to not be unlawfully detained (Article 21) can be suspended.
- ▶ **S.R. Bommai Vs Union of India:** The Supreme Court laid down the paradigm and limitations within which Article 356 was to operate. It held that the power under Article 356 is a conditioned power and it can be used only when the conditions specified in the Article are existent.

PRACTICE QUESTION

Q. Examine the impact of Emergency periods on civil liberties and democratic institutions in India.

8. PARLIAMENTARY COMMITTEES

CONTEXT: After allocating portfolios of the council of ministers, the next big task before the new government is to reconstitute a host of parliamentary committees that form the backbone of the country's law-making process, and provide crucial inputs to the governance machinery.

◉ **About Parliamentary Committees:**

- ▶ India's Parliament has several types of committees which discharge different functions.
- ▶ There are broadly two types of committees in the Parliament namely: Standing Committee (Permanent Committee) and Ad hoc Committee
 - ◉ **Standing Committee:** There are 12 Standing Committees that are permanent in nature, with their members nominated from time to time by the Chairman. Standing Committees can be classified into the following six categories:
 - Financial Committees
 - Departmental Standing Committees
 - Committees to Enquire
 - Committees to Scrutinise and Control

Constitutional Provisions:

Parliamentary Committees draw their authority from Article 105 and Article 118.

- ◉ Article 105 deals with the privileges of MPs.
- ◉ Article 118 gives Parliament authority to make rules to regulate its procedure and conduct of business.

- ❑ Committees Relating to the Day-to-Day Business of the House
- ❑ House-Keeping Committees or Service Committees
- **Ad hoc Committee:** Then there are ad hoc or temporary committees, which are set up for a specific purpose, such as examining a particular Bill, and are dissolved once that purpose has been served.
 - ❑ They are further subdivided into Inquiry Committees and Advisory Committees.
 - ❑ The principal Ad hoc Committees are the Select and Joint Committees on Bills.

❑ **Significance of Parliamentary Committees:**

- **Provides Legislative Expertise:** Most MPs are not subject matter experts on the topics being discussed — they are generalists who understand the pulse of the people but rely on advice from experts and stakeholders before making decisions.
 - Parliamentary committees are meant to help MPs seek expertise and give them time to think about issues in detail.
- **Acting as a Mini-Parliament:** These committees act as a mini-parliament, as they have MPs representing different parties are elected into them through a system of the single transferable vote, in roughly the same proportion as their strength in Parliament.
- **Instrument for Detailed Scrutiny:** When bills are referred to these committees, they are examined closely and inputs are sought from various external stakeholders, including the public.
- **Provides a Check on the Government:** Although committee recommendations are not binding on the government, their reports create a public record of the consultations that took place and put pressure on the government to reconsider its stand on debatable provisions.
- By virtue of being closed-door and away from the public eye, discussions in committee meetings are also more collaborative, with MPs feeling less pressured to posture for media galleries.

Why is the sidelining of the Parliamentary Committees an issue?

- **Weakening of Parliamentary System Government:** A parliamentary democracy works on the doctrine of fusion of powers between parliament and the executive, but the Parliament is supposed to maintain oversight of the government and keep its power in check.
 - Thus, by circumventing the Parliamentary committees in the passing of significant legislation, there is a risk of weakening democracy.
- **Enforcing Brute Majority:** In the Indian system, it is not mandatory for bills to be sent to committees. It's left to the discretion of the Chair — the Speaker in the Lok Sabha and Chairperson in the Rajya Sabha.
 - By giving discretionary power to the Chair, the system has been specially rendered weak in a Lok Sabha where the ruling party has a brute majority.

Type of Committee	Description	Examples
Standing Committees	Permanent committees; oversee different aspects of governance.	PAC, Estimates Committee, Committee on Public Undertakings
Committees to Inquire	Address petitions, privileges, ethics issues within Parliament.	Committee on Petitions, Committee of Privilege, Committee on Ethics
Committees to Scrutinize and Control	Monitor government assurances, legislation, and specific social groups.	Committee on Government Assurances, Committee on Subordinate Legislation, Committee on Welfare of SCs and STs
Day-to-Day Business Committees	Manage legislative schedules, attendance, and procedural rules.	Committee on Private Members' Bills, Business Advisory Committee, Rules Committee

Type of Committee	Description	Examples
Housekeeping (Service) Committees	Manage internal affairs such as house management, library, and member allowances.	House Committee, Library Committee, Joint Committee on Salaries and Allowances
Ad-Hoc Committees	Temporary committees for specific inquiries or advisory roles.	Inquiry Committees (e.g., Bofors Contract), Advisory Committees on Bills

PREVIOUS YEAR QUESTION

Q. Explain the structure of the Parliamentary Committee system. How far have the financial committees helped in the institutionalization of Indian Parliament? (2023)

PRACTICE QUESTION

Q. Discuss the significance of Parliamentary Committees in India's legislative process.

9. FUNDAMENTAL RIGHTS, NOT ABSOLUTE

CONTEXT: The Constitution of India guarantees its citizens several fundamental rights, considered the cornerstone of democratic governance and individual liberty. Among these rights are the freedom of movement and residence throughout the territory of India, which are foundational to the idea of citizenship and personal autonomy. However, it is essential to understand that these rights, like many others enshrined in the Constitution, are not absolute and can be subject to certain limitations and restrictions.

▢ Freedom of Movement and Residence

- **Constitutional Guarantee:** Article 19(1)(d) grants Indian citizens the right to move freely throughout the territory of India and reside in any part of the country.
- **Purpose:** Facilitates national integration, economic mobility, and personal autonomy.

▢ Limitations and Reasonable Restrictions

- **Article 19(5):** Allows the State to impose reasonable restrictions on the freedom of movement and residence in the interest of public order, tribal protection, and administrative efficiency.
- **Examples:** Residential permits, curfews during unrest, and protective measures for indigenous communities.

▢ Other Fundamental Rights with Restrictions

- **Freedom of Speech and Expression (Article 19(1)(a)):** Subject to restrictions to maintain public order, decency, and national integrity.
- **Right to Assembly (Article 19(1)(b)):** Can be restricted in the interest of public order or morality.
- **Right to Practice Religion (Article 25):** Regulated to ensure public order, health, and morality.
- **Right to Equality (Article 14):** Exceptions include affirmative action measures like reservations.

Judicial Role in Balancing Rights

- **Supreme Court's Interpretation:** Ensures restrictions on fundamental rights are reasonable, proportionate, and necessary.
- **Landmark Cases:** *Maneka Gandhi vs. Union of India* (1978) emphasized the test of reasonableness for any restriction on fundamental rights.

While fundamental rights in India are robust protections against state encroachment on individual liberties, they are not absolute and can be curtailed under specific circumstances. The fundamental rights, must be balanced with the legitimate interests of the State in maintaining public order, protecting vulnerable groups, and upholding national security.

PREVIOUS YEAR QUESTION

- Q. "Right of movement and residence throughout the territory of India are freely available to the Indian citizens, but these rights are not absolute." Comment (2022)

PRACTICE QUESTION

- Q. Discuss the significance of reasonable restrictions on fundamental rights in the Indian Constitution. How do these restrictions balance individual liberties with societal interests? Illustrate with examples from recent judicial pronouncements.

10. ESSENCE OF ARTICLE 31C

CONTEXT: The Supreme Court of India has recently convened a nine judge Bench to deliberate on the validity and implications of Article 31C of the Constitution.

Origins and Purpose of Article 31C

- Article 31C was introduced into the Indian Constitution in 1971 through the **25th Constitutional Amendment Act**. It was crafted in response to judicial challenges, particularly stemming from the *R.C. Cooper v. Union of India* case in 1969, which questioned the constitutional validity of laws related to nationalization due to compensation concerns.

Protective Framework

- The primary objective of Article 31C is to shield certain legislative enactments aimed at achieving socioeconomic objectives outlined in Directive Principles of State Policy (DPSP), specifically Articles 39B and 39C. These principles emphasize the equitable distribution of community resources and prevention of concentration of wealth to the detriment of society.

Judicial Position

- **Kesavananda Bharati Case (1973):** In a landmark decision, the Supreme Court articulated the "**basic structure doctrine**," asserting that certain foundational elements of the Constitution are beyond the reach of parliamentary amendments.
- The court limited the scope of **Article 31C**, ruling that laws enacted under it must align with the principles of **Articles 39B and 39C** and cannot violate fundamental rights guaranteed under Articles 14 (equality) and 19 (freedoms).

Constitution (Forty-Second) Amendment Act, 1976 and Subsequent Challenges

- The **42nd Amendment Act** expanded Article 31C to encompass all DPSPs from Articles 36 to 51, aiming to prioritize socioeconomic reforms over individual rights.

- ▶ However, in the **Minerva Mills case (1980)**, the Supreme Court struck down parts of the **42nd Amendment**, underscoring the judiciary's role in safeguarding the balance between fundamental rights and directive principles.

Argument Against Automatic Revival	Arguments for Doctrine of Revival
<ul style="list-style-type: none"> ◦ Critics argue that the original form of Article 31C, which was substituted by the expanded version in the 42nd Amendment, should not automatically revive if subsequent amendments are invalidated. ◦ They contend that unless explicitly reinstated, the original provision ceases to exist as per legal principles. 	<ul style="list-style-type: none"> ◦ Supporters of Article 31C's revival argue based on precedents where struckdown amendments led to the revival of previous provisions. ◦ They suggest that the pre-amended Article 31C should resurface to maintain legislative intent aligned with DPSPs.

❑ Impact on Fundamental Rights and DPSP

- ▶ Historically, conflicts have arisen between fundamental rights—ensuring individual liberties—and DPSPs, which focus on promoting social and economic justice.
- ▶ Judicial interpretations, such as in the **Champakam Dorairajan case (1951)** and subsequent rulings, have sought to harmonize these conflicting provisions while upholding the Constitution's core principles.

PRACTICE QUESTION

Q. Discuss the relationship between Fundamental Rights and Directive Principles of State Policy (DPSPs) in the Indian Constitution. Critically analyse the Supreme Court's verdicts on the interplay between these two.

11. ANTI-DEFECTION LAW

CONTEXT: Frequent occurrences of defections happening various state legislatures call for re-look into the law drafted to put an end to it.

- **Understanding the Anti-Defection Law:** The anti-defection law, found under the **Tenth Schedule of the Constitution**, was enacted to curb frequent floor-crossing by legislators.
 - ▶ It provides for the disqualification of elected legislators from the legislature in instances where they voluntarily switch parties or vote against the party's direction.
- **Constitutional Provisions related to Anti-defection:** The **52nd amendment (1985)** to the Constitution added the **Tenth Schedule** which laid down the process by which legislators may be disqualified on grounds of defection.

❑ Grounds of defection

- ▶ A state or central legislature was deemed to have defected if he either voluntarily resigned from his party or disobeyed the directives of the party.
- ▶ Independent members would be disqualified if they joined a political party.
- ▶ Nominated members who were not members of a party could choose to join a party prior to six months of the date of nomination.

❑ Exception

- ▶ Any person elected as speaker or chairman could resign from his party, and rejoin the party if he demitted that post.

- ▶ A party could be merged into another if at least two-thirds of its party legislators voted for the merger (Initially it was one third 91st amendment act made it two third).
- ▶ The law initially permitted splitting of parties, but that has now been outlaw

❏ Challenges and Criticisms

- ▶ **Democratic Freedoms:** The law restricts legislators' freedom of expression and accountability to their electorate, subordinating them to party dictates rather than the will of the people.
- ▶ **Procedural Delays:** Decisions on disqualification cases are often delayed, leading to prolonged uncertainty and potential political manipulation.
- ▶ **Loopholes and Ethical Concerns:** The provision allowing defection if at least two-thirds of the legislators agree to merge with another party has been criticized for facilitating opportunistic alliances aimed at securing power rather than serving public interest.

❏ Proposals to strengthen the Anti-Defection Law

- ▶ **Independent Adjudication:** Shifting the authority to adjudicate defection cases from Speakers of the House to an impartial body like the Election Commission could mitigate bias and ensure fairer decisions.
- ▶ **Timely Resolutions:** Enforcing strict timelines for resolving defection cases to prevent undue delays and political manoeuvring.
- ▶ **Internal Party Democracy:** Promoting intraparty democracy and transparency to reduce dissatisfaction among legislators, potentially lowering motivations for defection.
- ▶ **Public Interest Assessment:** Introducing criteria to assess the public interest in cases of defection, ensuring disqualification only when it demonstrably harms public good.
- ❖ **Global Perspectives on Defection:** Internationally, countries like the UK and USA handle defections differently, relying more on political consequences rather than legal prohibitions.

PREVIOUS YEAR QUESTION

- Q. 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? [2013]
- Q. On what grounds a people's representative can be disqualified under the representation of people act 1951? Also, mention the remedies available to such a person against his disqualification. (2019)

PRACTICE QUESTION

- Q. Critically analyse the effectiveness of the Anti-Defection Law in India. Discuss the major challenges associated with its implementation and suggest reforms needed to make it more effective.

12. ELECTORAL BONDS

CONTEXT: The Supreme Court (SC) of India has delivered a landmark judgment, declaring the Electoral Bonds Scheme unconstitutional.

❏ What is the Electoral Bond Scheme?

- ▶ Electoral bonds are financial instruments like promissory notes that individuals and companies can purchase from the SBI and donate to political parties. These bonds can only be encashed by the designated account of registered political parties.
 - ❖ Launched in 2018, the scheme aimed to bring transparency to political funding in India. It was intended to move the country towards a cashless-digital economy and reform electoral funding practices.

❑ Amendments in 2022

- **Additional Period of 15 Days:** An additional period for bond purchases in the year of general elections to state legislatures and Union Territories.
- **Validity:** Bonds are valid for 15 days from issuance and must be deposited within this period.
- **Eligibility:** Only political parties registered under **Section 29A of the Representation of the People Act, 1951**, and securing at least 1% of votes in the last General Election are eligible to receive these bonds.

❑ Why Did SC Strike Down the Scheme?

- **Violation of the Right to Information:** The SC held that the scheme infringed upon the fundamental right to information under **Article 19(1)(a) of the Constitution**. It emphasized that transparency is crucial for participatory democracy and holding the government accountable.
- **Lack of Proportional Justification to Curb Black Money:** The court noted that the scheme failed the proportionality test from the **KS Puttaswamy case (2017)**, which upheld the right to privacy. The government did not adopt the least restrictive method to achieve its objective, and alternatives like the Rs 20,000 cap on anonymous donations were ignored.
- **Right to Donor Privacy:** The court highlighted that large political contributions often aim to influence policies and are not genuine forms of political support. Thus, the right to privacy does not extend to such contributions.
- **Unlimited Corporate Donations:** The amendment to Section 182 of the Companies Act, 2013, which removed limits on corporate political donations, was deemed arbitrary. The court stressed that corporate donations should not be treated the same as individual donations due to the potential for quid pro quo arrangements.
- **Amendment to Section 29C of RPA, 1951 Quashed:** The amendment, which exempted donations via electoral bonds from disclosure, was struck down. The court found the original requirement to disclose contributions above Rs 20,000 balanced transparency with privacy.
- **Other Observations:** The SC directed the SBI to provide detailed information on bonds purchased and mandated the ECI to publish this information on its website.

❑ Concerns Raised by the Scheme:

- **Contradiction of Transparency:** Critics argue the scheme's anonymity contradicts its goal of transparency, benefiting only the ruling party.
- **Possibility of Extortion:** Government ownership of SBI allows potential extortion or victimization of donors, undermining fair elections.
- **Blow to Democracy:** The exemption from disclosing donations undermines voters' right to know and affects representative democracy.
- **Compromising Right to Know:** The Supreme Court has consistently upheld the right to know as integral to freedom of expression under **Article 19**.
- **Crony Capitalism:** The scheme's removal of donation limits fosters crony capitalism, where businesses gain undue influence over politics.

❑ Recommendations for Electoral Funding in India

- **Regulation of Donations:** Establish limits on donations and ensure transparency to prevent undue influence by large donors.
- **Expenditure Limits:** Implement expenditure limits on political parties to prevent financial arms races.
- **Public Funding:** Consider public funding of political parties based on their electoral performance to reduce dependency on private donations.
- **Disclosure Requirements:** Balance transparency and donor anonymity by mandating disclosure for large donations while protecting small donors.
- **National Election Fund:** Establish a National Election Fund where donors contribute, and funds are allocated to parties based on performance.

PRACTICE QUESTION

- Q. Discuss the concept of Electoral Bonds in India. Evaluate the Supreme Court's recent verdict declaring the scheme unconstitutional, and analyze its implications for transparency and accountability in political funding.

13. RESERVATION ON THE BASIS OF DOMICILE

CONTEXT: The decision by the Punjab and Haryana High Court to strike down the Haryana State Employment of Local Candidates Act, 2020, has reignited debates on the legality and impact of domicile-based reservations in the private sector across Indian states.

▢ Background

Enacted in January 2022, the Act aimed to address unemployment by prioritizing local candidates for jobs offering salaries below Rs 30,000 per month.

▢ Legal Challenge

- ▶ The legal battle centred on **Article 19(1)(g) of the Constitution**, which guarantees all citizens the right to practice any profession, carry on any occupation, trade or business throughout the territory of India.
- ▶ Critics argued that state-imposed reservations undermine this freedom by restricting the ability of employers to hire based on merit and suitability, thereby potentially stifling economic growth and industrial development.

▢ State vs. Constitutional Rights

- ▶ Proponents of domicile-based reservations cite **Article 16(4)**, which allows states to provide reservations in public employment for socially and educationally backward classes not adequately represented.
- ▶ However, extending such provisions to private sector jobs, as argued by states like Haryana and others such as Maharashtra, Karnataka, Andhra Pradesh, and Madhya Pradesh, has sparked widespread legal challenges and public debate.
- ▶ The crux of the issue lies in balancing local representation and economic rights.
- ▶ Supporters argue that domicile reservations promote social equity by ensuring opportunities for locals who may face socioeconomic disadvantages.
- ▶ They view it as a measure to safeguard cultural identity and provide economic security to residents in their own states.

▢ Socio-Economic Implications:

- ▶ **Domicile quotas may deter investment** and hinder industrial growth as companies seek flexibility in hiring to meet skill and operational needs.
- ▶ **Imposing restrictions on hiring could fragment the national labour market**, complicating mobility and reducing job opportunities for skilled workers from other states.
- ▶ **Courts have underscored the importance of constitutional morality**, emphasizing that laws must uphold individual rights and national integration over parochial interests.

▢ Required Measures:

- ▶ **Skill Development Initiatives:** Invest in education, vocational training, and skill development to enhance employability across states, addressing underlying causes of unemployment.
- ▶ **Pro-Market Policies:** Foster a business-friendly environment through incentives, subsidies, and streamlined regulations that encourage job creation without compromising merit-based recruitment.

- ▶ **Targeted Welfare Programs:** Implement targeted welfare schemes and employment guarantees to support local populations facing economic hardships, ensuring inclusive growth.

PRACTICE QUESTION

- Q. Critically examine the implications of state-imposed reservation for domiciles in private sector jobs. Discuss the constitutional, economic, and social dimensions of such policies

14. FREEDOM OF PRESS IN INDIA

CONTEXT: Recent events involving journalists associated with the online portal NewsClick, including raids, seizures, and arrests, have sparked heightened concerns about digital data protection and the state of press freedom in India.

▢ Defining Press Freedom

Press freedom encapsulates the unrestricted ability of journalists and media entities to report news and express opinions without censorship or undue interference from governmental or other authoritative bodies. It is a vital component of **Article 19(1)(a) of the Constitution of India**, which safeguards freedom of speech and expression.

▢ Key Aspects of Press Freedom

- ▶ **Freedom from Censorship:** Media should operate without fear of government censorship, enabling them to report impartially and comprehensively.
- ▶ **Access to Information:** Journalists must have access to information and sources to investigate and report on matters of public interest.
- ▶ **Independence:** Editorial independence ensures that media organizations report based on facts and principles, without external influence.
- ▶ **Protection of Sources:** Whistleblowers and informants must be safeguarded to encourage transparency and accountability.
- ▶ **Pluralism and Diversity:** A diverse range of viewpoints fosters open debate and enriches public discourse.
- ▶ **Accountability:** Media plays a crucial role in holding governments and powerful entities accountable for their actions and decisions.

▢ Challenges Facing Press Freedom in India

- ▶ **Legal Constraints:** Laws like defamation and sedition are occasionally misused to curtail press freedom.
- ▶ **Government Interference:** Political pressures and economic incentives may influence media independence.
- ▶ **Threats and Violence:** Violence, legal harassment, and obstruction of their work
- ▶ **Self-Censorship:** Fear of reprisal can lead to journalists avoiding contentious topics.
- ▶ **Ownership Issues:** Concentration of media ownership limits diversity of viewpoints.

Legal System of India Regarding Press Freedom

- The **Press Council of India**, a **statutory organization** that was first founded in India to support democracy and free expression, fought to enact the **Press Council Act in 1978**.
- **Article 19(1)(a)** states that in order to maintain democratic principles and practices, individuals must have the freedom to express their thoughts and views in public.
- **Article 19(2)** of the Constitution aims to moderate freedom by setting essential restraints in order to safeguard law and order, state security, morality, and decency.

- **World Press Freedom Day** is celebrated on May 3
- **Institutions Upholding Press Freedom:** Ministry of Information and Broadcasting, News Broadcasters Association (NBA), Editors Guild of India
- **Measures to Strengthen Press Freedom**
 - **Amend or repeal laws that restrict press freedom**, ensuring they cannot be misused against journalists.
 - **Establish impartial regulatory bodies** free from governmental influence.
 - **Ensure safety and security for journalists**, including online protection and whistleblower safeguards.
 - **Promote transparency in media ownership** and funding to prevent undue influence.
 - **Encourage adherence to ethical journalism** practices through training and professional development.
 - **Collaborate with global organizations** to promote press freedom and share best practices.

PREVIOUS YEAR QUESTION

Q. What do 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.

PRACTICE QUESTION

Q. Discuss why freedom of the press is a requisite for a democratic society. Examine the constitutional and legal safeguards in place to ensure press freedom in India, and the challenges faced in its implementation.

15. WORDS ‘SOCIALIST’ AND ‘SECULAR’ IN CONSTITUTION

CONTEXT: Recent debates in the Lok Sabha have ignited controversy over the presence of the words “Socialist” and “Secular” in the Preamble of the Constitution of India.

▢ Understanding the Preamble of the Indian Constitution

- The Preamble of the Indian Constitution serves as an introductory statement that outlines the guiding principles and aspirations of the Constitution.
- It was adopted on November 26, 1949, by the Constituent Assembly, which laid down the foundational values and goals for the newly independent nation.
- The words “Socialist” and “Secular” were inserted into the Preamble through the **Constitution (42nd Amendment) Act, 1976**, during the period of Emergency under Prime Minister Indira Gandhi’s government.
- This amendment aimed to emphasize socialism as a guiding principle for India’s development, focusing on eradicating poverty and promoting economic equality.
- It also reinforced the principle of a secular state, ensuring equal treatment of all religions by the state

Arguments for Removal	Arguments for Retention
<ul style="list-style-type: none"> ◦ The addition of “socialist” and “secular” disrupts the historical and cultural essence of India. ◦ The original Preamble, as drafted by the Constituent Assembly, did not include these terms. 	<ul style="list-style-type: none"> ◦ It reflects the changing socio-economic realities of India. The country has made significant strides in reducing poverty and promoting social welfare.

Arguments for Removal	Arguments for Retention
<ul style="list-style-type: none"> • The Constituent Assembly, led by Dr. B.R. Ambedkar, deliberately chose not to include "secular" in the Preamble during the drafting process. The omission was a conscious decision, reflecting the diverse religious fabric of India. • The inclusion infringes upon the fundamental rights guaranteed by the Constitution. • Freedom of speech, expression, and religion are fundamental rights enshrined in the Constitution. • The insertion of these terms may restrict these rights by imposing a specific ideological framework. 	<ul style="list-style-type: none"> • The insertion of "secular" reinforces India's secular character and commitment to religious harmony. • The Preamble not only formed the essential features of the Constitution but also the fundamental conditions based on which various groups and interests adopted the Constitution with the hope to create one unified integrated community. The Preamble, being an integral part of the Constitution, may fall within this protected zone.

THE CONSTITUTION OF INDIA PREAMBLE

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

JUSTICE, social, economic and political;

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

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the ²[unity and integrity of the Nation];

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

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Sovereign Democratic Republic" (w.e.f.3.1.1977)

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Unity of the Nation" (w.e.f.3.1.1977)

Way Forward

- ▶ **Inclusive Public Discourse:** Foster a comprehensive public dialogue involving academia, civil society, political stakeholders, and citizens to explore diverse perspectives on the inclusion or exclusion of “Socialist” and “Secular” in the Preamble.
- ◉ **Parliamentary Debate:** Facilitate structured debates within constitutional bodies, such as Parliament, to deliberatively examine the historical context, significance, and contemporary relevance of these terms in the Preamble.
- ◉ **Expert Committee Formation:** Establish an independent committee comprising constitutional experts, legal scholars, historians, and sociologists to conduct a thorough study on the constitutional philosophy and implications of the words “Socialist” and “Secular” in the Preamble.

Preamble

- ◉ The Preamble to the Indian Constitution serves as a concise statement of the fundamental principles and objectives that guide the nation.
- ◉ Adopted on November 26, 1949, it outlines the aspirations of the Indian people and sets the tone for the entire constitutional framework.
- ◉ The Preamble declares India to be a **sovereign, socialist, secular, democratic, and republic nation**.
- ◉ **Amendment:** As per **Article 368 of the Constitution of India**, the Preamble of the Constitution of India can be amended.

Key Words in the Preamble

- ◉ **Sovereign:**
 - ▶ The term ‘Sovereign’ which is proclaimed by the Preamble means that India has its own independent authority and it is not a dominion of any other external power. In the country, the legislature has the power to make laws which is subjected to certain limitations.
- ◉ **Socialist:**
 - ▶ The term ‘Socialist’ was added in the Preamble by **42nd Amendment, 1976** which means the achievement of socialist ends through democratic means. It is basically a ‘Democratic Socialism’ that holds faith in a mixed economy where both private and public sectors co-exist side by side.
- ◉ **Secular:**
 - ▶ The term ‘Secular’ was incorporated in the Preamble by **42nd Constitutional Amendment, 1976** which means that all the religions in India get equal respect, protection and support from the state.
- ◉ **Democratic:**
 - ▶ The term ‘Democratic’ implies that the Constitution of India has an established form of Constitution which gets its authority from the will of the people expressed in an election.
- ◉ **Republic:**
 - ▶ The term ‘Republic’ indicates that the head of the state is elected by the people directly or indirectly. In India, the President is the head of the state and he is elected indirectly by the people.

PREVIOUS YEAR QUESTION

Q. Discuss each adjective attached to the word ‘Republic’ in the ‘Preamble’. Are they defensible in the present circumstances? (2016)

PRACTICE QUESTION

Q. Explain the meaning and significance of the words ‘Socialist’ and ‘Secular’ as inserted in the Preamble of the Indian Constitution by the 42nd Amendment Act, 1976.

16. INDIAN FEDERALISM

CONTEXT: Federalism in India has evolved significantly since independence, reflecting the country's diverse socioeconomic landscape and governance challenges and hence relooking at it becomes necessary.

- ❑ **Federalism in India:** Federalism divides power between the central/federal government and its member states.
 - Federalism in India operates through a complex interplay between the Union and state governments, each endowed with specific constitutional powers and responsibilities.
 - The Constitution delineates subjects under the **Union List, State List, and Concurrent List**, outlining areas of jurisdiction and cooperation.
 - This structure aims to uphold unity amidst diversity, allowing states to legislate on matters crucial to local needs while ensuring national cohesion and integrity.

Types of Federalism

Holding Together Federation	Coming Together Federation	Asymmetrical Federation
<ul style="list-style-type: none"> ◦ Powers are shared among different parts of the country to accommodate diversity. ◦ Central authority typically holds more power. ◦ Examples: India, Spain, Belgium. 	<ul style="list-style-type: none"> ◦ States unite to form a stronger, unified entity. ◦ States enjoy greater autonomy compared to holding together federations. ◦ Examples: United States, Australia, Switzerland. 	<ul style="list-style-type: none"> ◦ Components of the nation have uneven powers in politics, administration, and finance. ◦ Asymmetry can be vertical (between states and the center) or horizontal (among states). ◦ Examples include Russia (Chechnya), Ethiopia (Tigray), Canada (Quebec), and until 2019, India with Jammu and Kashmir. ◦ India's Article 371 provides special powers to north-eastern states.

❑ Challenges in Contemporary Federalism

- **Fiscal Disparities:** Disparities in revenue generation and fiscal capacities among states pose challenges to equitable resource distribution and development outcomes.
- **Administrative Coordination:** Coordination between the Centre and states on policy implementation, especially in critical sectors like healthcare and education, requires streamlining to enhance efficiency.
- **Inter-State Relations:** Managing interstate disputes and fostering cooperative federalism amidst diverse political landscapes and regional aspirations demands nuanced strategies.

❑ Reforms and Innovations in Indian Federalism

- **Enhanced Fiscal Devolution:** Increasing states' share in central taxes and revising fiscal transfer mechanisms to align with current socioeconomic realities.
- **Administrative Reforms:** Strengthening institutional capacities, enhancing administrative coordination, and promoting best practices in governance across states.
- **Empowering Local Governments:** Devolving powers and resources to local bodies to ensure grassroots participation in decision-making and service delivery.
- **Legal and Constitutional Reforms:** Reviewing and revising constitutional provisions to accommodate evolving federal dynamics and address contemporary governance needs.

PREVIOUS YEAR QUESTION

Q. Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism. (2023)

PRACTICE QUESTION

Q. What are the major challenges faces by Indian Federalism and what reforms are needed to strengthen federalism in India?

17. ARTICLE 370 AND VERDICT OF SUPREME COURT

CONTEXT: In a significant ruling, the Supreme Court of India has upheld the constitutional validity of the Union government's 2019 decision to abrogate Article 370, thereby ending the special status accorded to the erstwhile state of Jammu and Kashmir.

▣ What was all Article 370 about?

- Article 370 of the Indian Constitution granted **special autonomy** to the region of Jammu and Kashmir.
- The article allowed the state to have its constitution, and its residents enjoyed certain privileges, including exclusive rights over land and property.
- **Article 35A:** Article 35A, inserted through a Presidential order in 1954, granted special rights and privileges to the residents of Jammu and Kashmir.
- It allowed the state's legislature to define permanent residents and provided them with exclusive rights over jobs and property.

▣ SC's validity of Constitutional Changes:

- Article 370 was a feature of **asymmetric federalism** and not sovereignty.
- The Supreme Court has reserved its verdict on upholding Article 370 by the President and mentioned that, the President has power to abrogate Article 370 if "special circumstances warrant a special solution".
- The Supreme Court also proclaimed that the concurrence of the State government was not required to apply the Indian Constitution to the State of Jammu and Kashmir.

▣ Government's stand to remove Article 370

- The move aimed at integrating Jammu and Kashmir fully into the Indian Union and promoting development in the region.
- It was a necessary step for the integration and development of the region of J&K
- The special provisions under Article 370 were hindering the region's progress and preventing the extension of various central laws and benefits to the people of Jammu and Kashmir.
- The abrogation of Article 370 and the reorganization of the state into two union territories, Jammu and Kashmir, and Ladakh, are aimed at promoting socio-economic development, ensuring better governance, and addressing security concerns.

PREVIOUS YEAR QUESTION

Q. 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]

PRACTICE QUESTION

Q. Examine the implications of the Supreme Court's decision on Article 370 on the constitutional status of Jammu and Kashmir.

18. RIGHT TO PERSONALITY

CONTEXT: Recent controversies involving Hollywood actresses (unauthorised use of voice) and OpenAI have underscored the critical issue of personality rights in the context of Artificial Intelligence (AI) models.

▢ Definition and Scope:

Personality rights encompass an individual's legal right to control and profit from aspects of their identity, including their name, voice, image, likeness, and distinctive characteristics. These rights are crucial in protecting the commercial and personal interests of public figures.

Types of Personality Rights:

- **Right to Privacy:** Protects against unauthorized intrusion into personal affairs and the dissemination of private information.
- **Right of Publicity:** Grants individuals control over the commercial use of their identity for endorsements, advertisements, and other commercial purposes.

Constitutional and Legal Protections:

- **Article 21 of the Indian Constitution:** Guarantees the right to privacy, providing foundational protection relevant to personality rights.
- **Copyright Act, 1957:** Offers indirect protection through provisions on copyright infringement and passing off in cases where an individual's identity is exploited without consent.
- **Trademarks Act, 1999:** Regulates the use of names and representations to prevent unauthorized commercial exploitation.

▢ Judicial Precedents:

- ▶ Courts in India have affirmed the **right of publicity as distinct from privacy rights**, recognizing celebrities' rights to control the use of their names, images, and personas. Notable cases (**Jackie Shroff and Anil Kapoor**), have resulted in legal protections against unauthorized commercial use of their identities.
- ▶ **Current Landscape of AI Regulations in India:** India lacks specific regulations exclusively dedicated to AI. However, existing advisories, guidelines, and IT rules offer some oversight over AI development and deployment.
- ▶ **Digital Personal Data Protection Act (2023)** addresses privacy concerns related to AI use, empowering the government to regulate data handling practices.
- **NITI Aayog's "National Strategy for Artificial Intelligence #AIForAll"** outlines principles for responsible AI development across various sectors, emphasizing ethical considerations and data governance.
- **Global Collaboration:** India's participation in international forums like the Global Partnership on Artificial Intelligence (GPAI) fosters global collaboration on AI regulation, ethics, and technology standards.

The intersection of AI technology and personality rights raises complex legal and ethical issues in India and globally. As AI capabilities continue to evolve, ensuring robust legal protections for individuals' identities and privacy rights remains paramount. India's evolving regulatory framework and judicial decisions will play a crucial role in defining the boundaries of AI use while safeguarding individual rights in an increasingly digital age.

PREVIOUS YEAR QUESTION

Q. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. [2017]

PRACTICE QUESTION

Q. Critically analyse the concept of the Right to Personality within the framework of the Indian Constitution. What are the potential challenges in its enforcement?

19. PROMOTION: NOT A FUNDAMENTAL RIGHT

CONTEXT: Recently, the Supreme Court of India reaffirmed its stance that promotion is not a fundamental right for government servants in India.

- **Fundamental Rights:** Fundamental rights are essential human rights guaranteed to all citizens by the Indian Constitution. Part III (Articles 12-35) enshrines these rights, which are crucial for personal development and wellbeing.

▢ Constitutional Provisions Related to Reservation:

- ▶ **Article 15(6):** Enables the State to make special provisions for the advancement of economically weaker sections, including reservations in educational institutions, except minority educational institutions under Article 30(1).
- ▶ **Article 16(4):** Allows the State to reserve appointments or posts in favour of any backward class of citizens not adequately represented in the services under the State.
- ▶ **Article 16(4A):** Permits reservations in matters of promotion for Scheduled Castes (SCs) and Scheduled Tribes (STs) if they are inadequately represented in the State services.
- ▶ **Article 16(6):** Provides for reservations in appointments, subject to a 10% ceiling in addition to existing reservations.
- ▶ **Article 335:** Recognizes the need for special measures to consider the claims of SCs and STs to services and posts to bring them at par with others.

Pros of Reservation	Cons of Reservation
<ul style="list-style-type: none"> ◦ Social Justice & Inclusion ◦ Breaks Caste & Social Barriers ◦ Empowerment & Upliftment of marginalized communities ◦ Addresses past discrimination and structural inequalities ◦ Promoting equity and social justice in employment and leadership roles. 	<ul style="list-style-type: none"> ◦ Concerns about overlooking the most qualified candidates for promotion ◦ General category candidates may experience demotivation and frustration ◦ Benefits intended for economically and socially disadvantaged groups may be enjoyed by the "creamy layer" within these groups ◦ Disruption of seniority-based promotion systems

▢ Key Legal Developments:

- ▶ **Indra Sawhney Judgment (1992):** Affirmed reservations in appointments but capped them at 50% unless exceptional circumstances justify exceeding this limit. Upheld the distinction between Articles 16(1) and 16(4).
- ▶ **77th Amendment Act (1995):** Introduced Article 16(4A), allowing reservations in promotions for SCs/STs if underrepresented, and Article 16(4B) for carrying forward unfilled quotas.
- ▶ **85th Amendment Act (2001):** Provided consequential seniority for SCs/STs promoted through reservations, applied retrospectively from June 1995.
- ▶ **M. Nagaraj Judgment (2006):** Introduced the creamy layer concept for SC/STs in promotions, balancing reservations with administrative efficiency.
- ▶ **Jarnail Singh Case (2018):** Relaxed requirements for data collection on backwardness of SC/STs when implementing reservation quotas.
- ▶ **103rd Amendment Act (2019):** Introduced reservations for Economically Weaker Sections (EWS) in jobs and education, amending Articles 15 and 16.

▢ Suggestive Measures:

- ▶ **Data Driven Approach:** Establish concrete targets based on data to assess representation across different levels and departments.

- ▶ **Merit with Relaxation:** Emphasize merit while allowing relaxation in qualifying marks for SC/ST/OBC candidates in promotions, ensuring competency levels are maintained.
- ▶ **Addressing Concerns:** Implement rigorous training and mentorship programs for promoted candidates to bridge skill gaps and enhance performance.
- ▶ **Long Term Vision:** Advocate for initiatives improving education and access to resources for marginalized communities, potentially reducing the need for reservations over time.

PREVIOUS YEAR QUESTION

Q. Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine.

PRACTICE QUESTION

Q. Discuss the constitutional provisions, judicial interpretations, and the socio-economic implications of such reservations.

20.CITIZENSHIP AMENDMENT ACT

CONTEXT: Central Government has notified the implementation of Citizenship Amendment Act (CAA), 2019.

- **Overview of the Citizenship Amendment Act, 2019:** The CAA seeks to amend the Citizenship Act, 1955, primarily to grant citizenship based on religion to **Hindu, Sikh, Buddhist, Jain, Parsi, and Christian** communities from **Pakistan, Bangladesh, and Afghanistan**.
 - ▶ It exempts these communities from being considered illegal migrants under the Foreigners Act, 1946, and the Passport Act, 1920. This legislative move is rooted in historical contexts of religious persecution in neighbouring countries.
- ▢ **Key Provisions**
 - ▶ **Citizenship Criteria:** Eligibility is based on religious identity and nationality, privileging specified minority communities from designated countries.
 - ▶ **Exemption from Legal Penalties:** Exempts eligible communities from penalties under immigration laws for illegal entry and overstaying visas.
- ▢ **Impact of CAA**
 - ▶ **Citizenship:** CAA was introduced to benefit the six minorities from the neighbouring countries of Pakistan, Afghanistan and Bangladesh. The citizens of India will not be impacted by the CAA.
 - ▶ **Preservation:** The objectives of the CAA are centred around removing legal barriers that impede the resettlement and attainment of Indian citizenship for migrants, thereby preserving their cultural, linguistic, and social identity.
 - ▶ **Economic benefits:** Furthermore, the legislation aims to ensure economic, commercial, freedom of movement, and property acquisition rights for these migrants.
 - ▶ **Why only these three countries?** The CAA deals with religious persecution in three neighboring countries where the Constitution provides for a specific state religion. Followers of other religions have been **persecuted in these three countries**.
- ▢ **The Centre has defended the CAA on several grounds**
 - ▶ **Historical Obligation:** India bears a historical responsibility and moral obligation to provide refuge to persecuted minorities from Afghanistan, Pakistan, and Bangladesh.
 - ▶ **Humanitarian Grounds:** The CAA is framed as a humanitarian response to the plight of religious minorities who have endured persecution in the neighboring countries.

- **Protection of Religious Minorities:** The primary aim of the CAA is to offer legal protection and a pathway to citizenship for religious minorities.

What does the Constitutional say for Citizenship?

The Constitution does not define the term 'citizen' but details of various categories of persons who are entitled to citizenship are given in **Part 2 (Articles 5 to 11)**.

- **Article 5:** It provided for citizenship on commencement of the Constitution.
- **Article 6:** It provided rights of citizenship of certain persons who have migrated to India from Pakistan.
- **Article 7:** Provided Rights of citizenship of certain migrants to Pakistan.
- **Article 8:** Provided Rights of citizenship of certain persons of Indian origin residing outside India.
- **Article 9:** Provided that if any person voluntarily acquired the citizenship of a foreign State will no longer be a citizen of India.
- **Article 11:** It empowers Parliament to make any provision with respect to the acquisition and termination of citizenship and all matters relating to it.

PRACTICE QUESTION

- Q. Critically examine the Citizenship Amendment Act (CAA), 2019, and analyse its potential impact on the secular fabric of India.

21. WELFARE STATE V/S FREEBIES

CONTEXT: The debate on welfarism and freebies has attracted attention of late, especially when state government finances have recently not been in good shape.

❑ What are freebies?

- Freebies can be defined as something without charge or cost.
- It is a very well-known and widespread practice during election.
- Freebies that are usually distributed include goods like **bicycles, smart phones, TVs, Laptops and waivers on bills (water, electricity, etc.)**

❑ Difference between merit goods and public goods

- Public goods are provided to the entire society.
- Merit goods are provided to targeted individuals.
- Hence in the case of merit goods, there is exclusion. On the other goods, there is no exclusion under public goods.

❑ Are freebies and subsidies needed for developing nations like India?

- **Food security:** To ensure proper Food Security and the Right to Food as a fundamental right under Article 21 of the constitution it becomes mandatory for the government to implement schemes for subsidized food.
- **SDG goals:** Sustainable Development Goals have objectives to eradicate hunger (SDG-2) and good health and wellbeing (SDG-3), Gender Equality (SDG-5) which can be achieved by the subsidized food schemes in developing nations.

❑ Obligation of state

- Government in general is not obliged.

- ▶ However; it creates a ground of involvement with the local population and the government.
- ▶ In India, every citizen has a divine right to produce children and Government has the unlimited duty and responsibility to feed, educate, and provide education, health, and employment to each of the children.

❏ Impacts

Positive	Negative
<ul style="list-style-type: none"> ◦ The role of free education, health and electricity is helping the economy grow rapidly. ◦ Freebies assist in mitigating the income gap ◦ Helpful for poor and marginalised 	<ul style="list-style-type: none"> ◦ Waste of taxpayers' money, Increasing burden on the state ◦ False promises for political benefits ◦ Not 'actually' free: Freebies are not free i.e. be it today or tomorrow ultimately tax payers have to bear the brunt.

❏ How do they impact State's fiscal health?

- ▶ They have direct implication of State's fiscal health.
- ▶ Any state expenditure has implications for its fiscal health.
- ▶ These are expenditures that do not positively affect production in the long run.

PRACTICE QUESTION

Q. A welfare programme in one state can be a freebie in another.

22.COOPERATIVE FEDERALISM IN CLIMATE ACTION

CONTEXT: In order to decarbonize industrial assets and for the adaptation efforts needed to mitigate climate change, 'Cooperative Federalism' is essential.

❏ Federal Division of Powers

- ▶ **India's Constitution (Seventh Schedule)** allocates specific powers to the central and state governments:
- ▶ **Central Government:** Controls critical areas like **atomic energy, mineral resources, and national policies including climate change.**
- ▶ **Concurrent Domain:** Both central and state governments share responsibility for **forests, electricity, and environmental issues**, with the central government holding final authority.
- **Role of Central Government:** The central government focuses on:
 - ▶ **National Policies:** Formulating and enacting legislation on climate change.
 - ▶ **International Commitments:** Representing India in global climate treaties and dialogues.
 - ▶ **Institutional Coordination:** Through bodies like the **Ministry of Environment, Forest and Climate Change (MEFCC)** and **Prime Minister's Council on Climate Change (PMCCC).**
- **National Climate Initiatives:** Historically, initiatives like the **National Action Plan on Climate Change (NAPCC)** and more recent efforts (**PM KUSUM**) highlight India's commitment at the national level.
- **Sub-national Initiatives**
 - ▶ **State Action Plans:** States formulate State Action Plans on Climate Change (SAPCCs) to align with national goals, focusing on local climate adaptation and mitigation measures.

- ▶ **Local Bodies' Role:** Panchayats and Urban Local Bodies (ULBs) are crucial in implementing climate policies at the grassroots level. They receive responsibilities to adopt climate-friendly practices and mitigate local climate impacts.

❑ **Challenges:**

The current institutional framework lacks effective coordination between the federal government and states, hindering the country's response to climate challenges.

- ▶ **Centralized Initiatives:** The federal government leads most climate initiatives with substantial financial power, but lacks effective coordination with state-level institutions.
- ▶ **State Challenges:** Despite being responsible for implementing international climate pledges, states often lack resources and leadership, impeding progress on State Action Plans on Climate Change (SAPCCs).
- ▶ **Local Governance:** Panchayats and Urban Local Bodies (ULBs) face hurdles in executing climate-friendly actions due to limited devolution of functions and finances from states.

❑ **Importance of Cooperative Federalism**

- ▶ **Leadership and Ownership:** While the federal government provides leadership, states must take ownership given their diverse capacities and climate vulnerabilities.
- ▶ **Policy Coordination:** A lack of policy coordination exacerbates challenges; cohesive national policies are essential for effective climate action.
- ▶ **Role of Intergovernmental Institution:** Establishing a robust intergovernmental body is crucial to minimize frictions and align national policies and actions against climate change.

PREVIOUS YEAR QUESTION

- Q. The concept of cooperative federalism has been increasingly emphasized in recent years. Highlight the drawbacks in the existing structure and extent to which cooperative federalism would answer the shortcomings. [2015]

PRACTICE QUESTION

- Q. "India urgently needs cooperative federalism in climate governance". Comment

23. INTERNAL DEMOCRACY IN POLITICAL PARTIES

CONTEXT: Also known as intra-party democracy, internal democracy refers to the level and methods of including party members in the decision-making and deliberation within the party structure.

❑ **Factors that hinder inner-party democracy**

- ▶ **Nepotism in Politics:** The lack of intra-party democracy has also contributed to the growing nepotism in political parties. With senior party leaders fielding their kins in elections, the succession plans for "family" constituencies are being put in place.
- ▶ **Absence of a credible regulatory framework:** Only Section 29A of the Representation of the Peoples' Act, 1951 which provides for the registration of political parties with the ECI. ECI does not have any statutory power to enforce internal democracy in parties or to mandate elections.
- ▶ **Others:** Easy to Subvert Internal Elections, Centralized Structure of Political Parties, Institutional weakness, an asymmetric political landscape, Criminalization of Politics

❑ **Need for Internal Party Democracy:**

- ▶ **Political parties, closed autocratic structures:** This adversely impacts the constitutional rights of all citizens to an equal political opportunity to participate in politics and contest elections.

- ▶ **Decentralizing Power:** Every political party has State and local body units, an election at each level will allow the creation of power centers at different levels. This will allow decentralization of power and the decision-making will take place at the ground level.
- ▶ **Bringing transparency & accountability**

■ Global scenario

- ▶ In the U.K., the Conservative Party has the National Conservative Convention as its top body.
- ▶ It has a Central Council and an Executive Committee. The Central Council elects its President, a chairman, and Vice Chairmen at its annual meeting. It also elects an Executive Committee which meets once a month.
- ▶ In the U.S., both the Democratic and the Republican Party have the National Committee as their top decision-making body.
 - The National Committee plays an important role in the presidential election and agenda setting.

PRACTICE QUESTION

Q. How important is internal party democracy for overall substances of democracy in India?

24.COMPARING INDIAN SECULARISM TO FRENCH

CONTEXT: The French government made headlines by announcing a ban on the wearing of the abaya, a traditional Islamic robe, in state-run schools. This decision, framed as a measure to uphold the principle of Laïcité, has sparked a mix of support and criticism, reigniting debates on secularism in modern France.

■ Understanding Laïcité

- ▶ Laïcité is a fundamental concept in French governance, emphasizing the strict separation of State and Church. Originating from the anticlerical movements of the 19th century, laïcité asserts the primacy of secular values such as liberty, equality, and fraternity in the public sphere, advocating for the removal of religious influence from governmental affairs.
- ▶ **Changing Demographics and Tensions:** Historically, laïcité wasn't a contentious issue in France until significant immigration from North Africa during the mid-20th century brought diverse religious practices into the national spotlight. This demographic shift has periodically challenged the application and interpretation of laïcité in a multicultural society.
- ▶ **Related Controversial Legislation:** France has a history of controversial legislation aimed at maintaining laïcité. In 2004, a law banned "ostentatious" religious symbols in public schools, affecting **Catholic crosses, Jewish kippahs, and Muslim headscarves**. Additionally, the 2011 ban on face covering veils in public spaces further underscored France's commitment to secularism, albeit with ongoing debates on its implementation.

■ Comparison with Indian Secularism

- ▶ Historical Origins
 - **Laïcité:** Originates from French history, solidified by the 1905 law on the Separation of Church and State.
 - **Indian Secularism:** Enshrined in the Indian Constitution, which declares India as a "Sovereign Socialist Secular Democratic Republic," with the term 'Secular' added in 1976.

■ Characteristics

- ▶ **Laïcité:** Advocates for a strict separation of religious institutions from the state, manifesting in bans on religious symbols in public schools and certain public spaces.

- ▶ **Indian Secularism:** Accommodates religious diversity, ensuring equal treatment of all religions by the state, and allowing for religious symbols in public spaces without restrictions.

▢ Inspiration from Indian Secularism

- ▶ **India's approach to secularism** draws from the principle of "Sarva Dharma Sambhava," advocating for equal respect for all religions.
- ▶ **Unlike laïcité**, Indian secularism integrates religious practices into public life while safeguarding minority rights to freely practice and propagate their faiths, manage their institutions, and maintain their cultural and educational autonomy.

PREVIOUS YEAR QUESTION

Q. What can France learn from the Indian Constitution's approach to secularism? (2019)

PRACTICE QUESTION

Q. Compare the Indian and French understandings of secularism. Highlight the key differences and their implications on the respective societies.

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2

UNION & STATES

1. SC CAUTIONS AGAINST CENTRE-STATE'S DISPUTES

CONTEXT: A division bench of Supreme Court verbally observed that various state governments are directly approaching the top court seeking similar reliefs while there should be no contest between the Centre and states.

Reason behind increasing tussle

- ▶ **Encroaching interesting areas:** Areas of governance which are essentially local in nature are being encroached upon by Union as electoral compulsions require greater connect with the people.
 - **Example: Health being a state subject,** the recent announcement by the Centre to provide free food grains to nearly 80 crore people is clearly part of this trend.
- ▶ **Fiscal centralization:** The unequal distribution of financial resources between the Centre and the states, coupled with the Centre's increasing control over tax revenues, has fueled disputes over fiscal autonomy.
 - **Example:** Goods and Services Tax (GST), leading to tensions between the Centre and the states.
- ▶ **Policy conflicts:** Divergent political ideologies and policy priorities between the Centre and various states often result in disagreements over the implementation of national policies at the regional level.

Required Measures

- ▶ **Minding one's work:** The Centre must maintain the monopoly of the national agenda. It must though let the States do their own work. The **Concurrent List** must be dismantled or at least shrunk and a new list that empowers local governments be instituted.

- ▶ **Decentralisation:** The phraseology of and the need for decentralisation, delegation and devolution have appeared repeatedly in committees and commissions-including the **Rajamanar (Centre-State Relations Inquiry) Committee**, the **Sarkaria Commission**, the **Administrative Reforms Commission** and the **2010 report of the Inter-State Council on centre-state relations**.
- ▶ **Modern approach:** Indian Polity demands a modern approach to transformation-the induction of efficiency, accountability and outcome orientation

Schedule VII of the Constitution

- **Central List:** The Union government could legislate on items given in the Central List
- **State List:** State could legislate for items in the State List.
- **Concurrent List:** In the Concurrent List both could legislate but the Central legislation had overriding powers. Increasingly, the powers of the Centre have increased, with restriction on the state's power to frame laws.
- Under the **42nd amendment to the Constitution**, five subjects including education and forests were transferred to the Concurrent List from the State List, thereby restricting the power of the state.

PRACTICE QUESTION

- Q. The Supreme Court has cautioned against increasing Centre-State disputes, emphasizing the need for clarity and cooperation in governance. Analyze the reasons behind escalating tensions between the Centre and states, highlighting their implications.

2. INTER-STATE WATER DISPUTE

CONTEXT: India has 25 major river basins, with most rivers flowing across states. However, interstate rivers in India have become sites of contestations, fuelled by conflicting perceptions of property rights, flawed economic instruments for food security, the lack of an integrated ecosystems approach, and the prevalence of reductionist hydrology for water resource development.

What escalates water conflicts?

- ▶ The interstate water disputes emerge and recur due to:
 - **Affected interests:** Water disputes arise when the action of one state affects the interests of one or more other states.
 - **Unsustainable use of water:** Economic factors like underpricing of irrigation waters, promotion of water-consuming crops through support pricing, etc., often lead to unsustainable use of water during lean seasons thereby escalating conflicts.
 - **Increasing demand, pollution and decreasing availability:** Water sharing disputes across the country (and even beyond) are only going to escalate with increasing demands, and also with increasing pollution & losses reducing the available water.
 - **Climate change** is likely to worsen the situation as monsoon patterns change, water demands going up with increasing temperatures, glaciers melt and sea levels rise.

Issues with Interstate Water Dispute Tribunals

- ▶ **Protracted Proceedings:** Delays in dispute resolution, such as those seen in the Godavari and Cauvery disputes.
- ▶ **Lack of Transparency:** Opacity in institutional frameworks and guidelines.
- ▶ **Composition:** Tribunals are often not multidisciplinary, consisting mainly of judiciary members.
- ▶ **Data Deficiency:** Lack of reliable water data for adjudication.
- ▶ **Politicization:** Growing nexus between water and politics, leading to defiance by states and extended litigations.

Measures to Resolve Water Disputes

- ▶ **Inter-State Council Involvement:** Bring inter-state water disputes under the Interstate Council, established by the President under Article 263, and encourage consensus-based decision-making.
- ▶ **Water Use Efficiency:** Motivate states to adopt efficient water use practices, water harvesting, and recharge techniques to reduce river water dependency.
- ▶ **Unified Water Management:** Establish a single water management agency for both ground and surface water, providing technical advice at various administrative levels.
- ▶ **Fast-Track Tribunals:** Ensure tribunals are fast-tracked, technically competent, and have enforceable verdict mechanisms within a specified timeframe.
- ▶ **Central Water Data Repository:** Create a central repository of water data for informed decision-making, with the central government playing a more active role in resolving disputes.

Constitutional Provisions and Water Laws in India

- **Entry 17 of State List:** Covers water-related matters such as water supply, irrigation, canals, drainage, embankments, water storage, and water power. This falls under the jurisdiction of state governments.
- **Entry 56 of Union List:** Empowers the Central Government to regulate and develop inter-state rivers and river valleys as deemed necessary by Parliament in the public interest.
- **Article 262 of the Indian Constitution:** Provides for adjudication of disputes concerning inter-state rivers:
 - ▶ Parliament may enact laws for resolving disputes related to the use, distribution, or control of waters of inter-state rivers.
 - ▶ No court, including the Supreme Court, has jurisdiction over such disputes once a law is enacted by Parliament.
- **Acts Enacted Under Article 262:**
- **River Boards Act, 1956:** Authorized the Central Government to establish boards for inter-state rivers and river valleys in consultation with state governments, although no such board has been formed to date.
- **Inter-State Water Dispute Act, 1956:** Allows state governments to approach the Central Government to constitute a Tribunal for resolving inter-state water disputes:
 - ▶ The Tribunal's decisions cannot be questioned by the Supreme Court regarding the award or formula but can be scrutinized for procedural aspects.

Principles of water sharing

- The tribunals have been using a number of principles while deciding about water sharing between contending states:
 - ▶ The Helsinki rules were issued in 1966
 - ▶ United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses were finalized in 1997
 - ▶ the World Commission on Dams report came in November 2000
 - ▶ the Berlin Rules were issued in 2004

PREVIOUS YEAR QUESTION

Q. 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]

PRACTICE QUESTION

Q. Discuss the constitutional provisions for resolving inter-state water disputes in India. Evaluate the effectiveness of these provisions and suggest reforms to improve the resolution mechanism.

3. SPECIAL CATEGORY STATUS

CONTEXT: After the recent Lok Sabha Election 2024, Bihar and Andhra Pradesh are demanding special category status for their respective states.

▢ What is Special Category Status?

- This is a classification granted by the Centre to certain states in India to aid in their development, based on specific geographical and socio-economic disadvantages. The scheme was introduced in 1969 following recommendations from the Fifth Finance Commission.

Currently, 11 states in India have been granted SCS, including Arunachal Pradesh, Assam, Himachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and Uttarakhand.

▢ Criteria for Granting SCS

- Hilly and difficult terrain
- Low population density and/or significant tribal population
- Strategic location along international borders
- Economic and infrastructural backwardness
- Non-viable nature of state finances

▢ Benefits of SCS

- **Favorable Funding:** States with SCS receive funding from centrally sponsored schemes in a more favorable ratio of 90:10 (Centre : State), compared to general category states.
- **Special Plan Assistance:** They are provided Special Plan Assistance for projects of special importance to the state.
- **Non-Lapsing Funds:** Unspent funds do not lapse at the end of the financial year.
- **Tax Concessions:** SCS states enjoy various tax concessions.
- **Bihar's demand:** Bihar is demanding SCS due to its low per capita net state domestic product and high poverty rates. Its per capita income is among the lowest in the country, and a significant portion of its population is multidimensionally poor according to the National Family Health Survey 5.
- **Andhra Pradesh's demand:** Andhra Pradesh is seeking SCS primarily because of the revenue loss it experienced after the 2014 bifurcation of the state, which led to the formation of Telangana.

▢ Required Measures

- **Revisit and Refine Criteria:** There is a need to revisit and refine the criteria for granting SCS to ensure fairness and transparency. In 2013, the Raghuram Rajan Committee suggested a new methodology based on a 'multi-dimensional index' for devolving funds instead of SCS, which can be revisited to address the state's socio-economic backwardness.
- **Promote Self-Sufficiency:** Implement policies that gradually reduce states' dependency on central assistance by promoting self-sufficiency and economic diversification. Encourage states to generate their revenue streams.
- **Strengthen Rule of Law:** Analysts suggest that Bihar needs a stronger rule of law for sustainable economic growth.

▢ Other Steps for Comprehensive Development

- **Education Revamp:** Improve early childhood development (ICDS centres), teacher training, and pedagogy shifts towards a more interactive and technology-integrated approach.
- **Skilling and Job Creation:** Focus on skilling initiatives aligned with growing industries, alongside fostering entrepreneurship through programs like the SIPB (Single-window Investment Promotion Board) to attract businesses and create a job market.

- ▶ **Infrastructure Development:** Improved infrastructure is crucial for overall growth. Focus on better irrigation systems to tackle floods and droughts, alongside developing a robust transport network to connect rural and urban areas, attracting investment and boosting agricultural trade.
- ▶ **Women's Empowerment and Social Inclusion:** Initiatives focused on women's education, skill development, and financial inclusion alongside tackling social inequalities through stricter enforcement of laws and promoting social harmony.

PRACTICE QUESTION

Q. Examine the criteria for granting Special Category Status (SCS) to states in India. In the context of current demands from states like Bihar and Andhra Pradesh, critically analyse whether new states should be added to the list of Special Category States.

4. PRI ELECTIONS: CHALLENGES AND REFORMS

CONTEXT: The recent Supreme Court judgment on the Chandigarh mayoral election has brought to light the issues associated with the electoral processes of Local Self Government Bodies.

- ❑ **Constitutional Provisions:** The superintendence, direction, and control of the preparation of electoral rolls for, and the conduct of, all elections to the panchayats and municipalities are vested in the State Election Commission (SEC).
 - ▶ The **74th Constitutional Amendment** bars the interference by courts in the electoral matters of municipalities.
 - ▶ **Article 243U**, introduced through the 74th Constitutional Amendment Act, mandates a five-year tenure for urban local governments.
 - ▶ **Legal Provisions:** The Supreme Court, in the *Suresh Mahajan v. State of Madhya Pradesh case (2022)*, emphasized the inviolability of this constitutional mandate.
- ❑ **Status of Municipal Elections in India**
 - ▶ **Annual Survey of India's City-Systems 2023:** Over 1,400 municipalities in India did not have elected councils in place as of September 2021.
 - ▶ **Comptroller and Auditor-General of India (CAG)'s Audit:** Between 2015 and 2021, over 1,500 municipalities did not have elected councils. Major cities like Chennai, Delhi, Mumbai, and Bengaluru faced delays ranging from months to years in holding elections.
- ❑ **Challenges Associated with Local Bodies' Elections**
 - ▶ **Discretionary Powers in Scheduling Elections:** Due to ambiguous constitutional safeguards, government officials like SECs possess discretionary powers regarding the scheduling of elections.
 - ▶ **Undue Influence by State Governments to delay elections for political or strategic reasons.**
 - ▶ **Reliance on Manual Ballot Paper-Based Processes** introduces vulnerabilities, such as errors in counting, potential tampering, and delays in declaring results.
 - ▶ **Delayed Formation of Councils:** Even after elections, municipal councils in urban local governments are not promptly constituted.
- ❑ **Possible Solutions Regarding Local Bodies' Elections**
 - ▶ **Empowering SECs:** SECs need to play a more significant role in overseeing the electoral process using powers mentioned in Articles 243K and 243ZA of the Constitution.
 - ▶ **Empowerment for Ward Delimitation:** Ward delimitation is crucial for ensuring fair and equitable representation in municipal elections. SECs should be granted greater authority, including the power to conduct ward delimitation.

- ▶ **Accountability Mechanisms:** Holding election officials and authorities accountable for any delays or irregularities in the conduct of municipal elections through transparent investigation processes and appropriate disciplinary action.
- ❏ **Policy Reforms:**
 - ▶ Addressing challenges from scheduling elections to ensuring fair processes requires comprehensive policy reforms.
 - ▶ The idea of ‘One Nation, One Election’ can be explored with a major focus on the efficient and timely election of local bodies.

PREVIOUS YEAR QUESTION

- Q. ‘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]

PRACTICE QUESTION

- Q. Discuss the reasons for the problems in the elections of Local Self Government bodies in India. What changes are needed to address these issues?

5. IMPORTANCE OF PANCHAYAT SYSTEM IN INDIA

CONTEXT: The Panchayat system in India represents the grassroots level of governance, playing a pivotal role in rural development and local administration. Established as part of the decentralization efforts outlined in the Constitution, Panchayats have evolved into crucial institutions responsible for addressing local issues and facilitating community development.

❏ Constitutional Foundation:

- ▶ **Constitutional Recognition:** The Panchayat system finds its constitutional recognition in the 73rd Amendment Act of 1992, which aimed to strengthen democracy at the grassroots level by promoting local self-governance.
- ▶ **Three-Tier Structure:** Panchayats operate at three levels—village, intermediate (block), and district—each entrusted with specific functions and responsibilities tailored to local needs.

❏ Importance of Panchayats:

- ▶ **Facilitating Local Development:** Panchayats are instrumental in identifying local needs, prioritizing development projects, and implementing schemes that directly benefit rural communities.
- ▶ **Empowering Local Communities:** They empower villagers by involving them in decision-making processes, thereby fostering a sense of ownership and accountability towards local development initiatives.
- ▶ **Ensuring Social Justice:** Panchayats play a crucial role in promoting social justice by addressing issues such as poverty alleviation, education, healthcare, and infrastructure development in rural areas.

❏ Sources of Financing Developmental Projects:

- ▶ **Government Grants:** Panchayats receive grants from both the central and state governments under various schemes aimed at rural development, infrastructure creation, and poverty alleviation.
- ▶ **Local Revenue Generation:** Panchayats have the authority to collect revenue through taxes, fees, and levies on services provided within their jurisdiction.
- ▶ **Financial Devolution:** The Finance Commissions periodically allocate funds to Panchayats, ensuring financial autonomy and enhancing their capacity to undertake developmental projects.

- **External Funding:** Panchayats can also secure funds through external sources such as corporate social responsibility (CSR) initiatives, non-governmental organizations (NGOs), and international aid agencies for specific projects.

PREVIOUS YEAR QUESTION

- Q. "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]

PRACTICE QUESTION

- Q. Explain the role of Panchayats in India's local governance structure. Discuss the sources of financing available to Panchayats for undertaking developmental projects, apart from government grants.

3

JUDICIARY

1. INDEPENDENCE OF DISTRICT JUDICIARY

CONTEXT: Recently, the Supreme Court of India issued a significant judgment highlighting the pivotal role of the district judiciary in upholding justice. The court underscored the independence of the district judiciary as an integral part of the Constitution's basic structure.

▢ What is the District Judiciary?

- ▶ The district judiciary constitutes the foundation of India's judicial system at the grassroots level. It includes district courts and lower courts presided over by district judges and other judicial officers.
- ▶ **Importance of District Judiciary:** The district judiciary plays a critical role in ensuring access to justice, serving as the primary interface between the justice system and the people.

▢ Supreme Court's Judgment

- ▶ **Declaration of Independence:** The Supreme Court affirmed that the district judiciary's independence is fundamental to the Constitution's basic structure.
 - It rejected the term "subordinate judiciary," emphasizing the constitutional stature of district judges.
- ▶ **Importance Acknowledged:** Acknowledging its vital role, the court emphasized the district judiciary's efficiency, especially during the pandemic, in handling approximately 1.13 million cases daily.
- ▶ **Financial Security:** The judgment highlighted the need for financial security and economic independence for judicial officers to uphold impartiality.

Constitutional Provisions

- **Article 233:** Deals with the appointment of district judges.
- **Article 234:** Covers recruitment to judicial services other than district judges.
- **Article 235:** Addresses control over district courts by High Courts.
- **Article 236:** Defines the term “judicial service.”
- **Article 237:** Empowers the Governor to extend these provisions to magistrates.

PRACTICE QUESTION

Q. Discuss the significance of the Supreme Court’s recent judgment on the independence of the district judiciary in India. How does this judgment reinforce the principles of judicial independence and ensure effective justice delivery?

2. JUDICIAL REVIEW IN INDIA

CONTEXT: Judicial review is a constitutional power granted to the judiciary to examine the validity of legislative enactments and executive actions, ensuring they conform to the constitution. This principle originated in the United States and has been adopted in various forms by countries like India.

▢ Types of Judicial Review: Judicial review in India is categorized into three broad types

- Review of Constitutional Amendments.
- Review of Legislation by Parliament and State Legislatures, including subordinate legislation.
- Review of Administrative Actions of the Union and State Governments, extending to authorities under them.

▢ Importance of Judicial Review

- **Upholding Supremacy of the Constitution:** Judicial review ensures that all laws and actions comply with constitutional provisions, thereby maintaining the supremacy of the constitution over all other laws.
- **Check on Misuse of Power:** It serves as a crucial check on the misuse of power by the legislature and executive, preventing them from exceeding their authority or violating fundamental rights.
- **Maintaining Federal Equilibrium:** By overseeing both central and state laws, judicial review helps maintain a balance between the powers of the central and state governments, thereby upholding federalism.
- **Protection of Fundamental Rights:** It safeguards the fundamental rights of citizens by striking down laws that infringe upon these rights.
- **Ensuring Judicial Independence:** Judicial review reinforces the independence of the judiciary by enabling it to act as a check on the other branches of government.

▢ Scope of Judicial Review

- Judicial review is not absolute and can only be invoked under specific conditions:
- When a law violates fundamental rights guaranteed by the constitution.
- When a law contradicts specific constitutional provisions.
- When a law exceeds the authority of the legislative body that enacted it.

PREVIOUS YEAR QUESTION

Q. 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]

PRACTICE QUESTION

Q. Discuss the significance of judicial review in upholding the rule of law and constitutional governance in India.

3. ALL INDIA JUDICIAL SERVICES

CONTEXT: The President of India emphasized the need for establishing the All-India Judicial Service (AIJS) to bolster judicial diversity and efficiency across the nation.

- ❑ **All-India Judicial Service (AIJS):** It is a proposed centralized recruitment system for judges at the level of additional district judges and district judges across all states.
 - Rooted in recommendations dating back to **Law Commission reports in 1958 and 1978**, AIJS seeks to address critical issues such as varying pay structures, expediting vacancy filling, and standardizing nationwide judicial training.
- ❑ **Constitutional Basis and Objectives**
 - Constitutionally, AIJS is grounded in **Article 312**, akin to the establishment of central civil services, requiring a resolution by the Rajya Sabha supported by at **least two-thirds of its members**.
 - However, **Article 312 (2)** stipulates that AIJS cannot include any post inferior to that of a district judge, as defined under **Article 236 of the Constitution**.
 - This ensures that AIJS focuses on higher judicial roles to maintain quality and uniformity in judicial appointments and training.
- ❑ **Rationale for AIJS**
 - **Uniform Standards:** By centralizing recruitment and training, AIJS aims to establish uniform and high standards in judicial selection, enhancing the judiciary's overall quality and efficiency.
 - **Vacancy Management:** AIJS would address the significant backlog of judicial vacancies, currently affecting lower courts with approximately 5,400 positions unfilled nationwide. This backlog contributes to the staggering pendency of 2.78 crore cases in lower judiciary, largely due to delays in conducting state level recruitment exams.
 - **Enhanced Diversity:** One of AIJS's primary goals is to increase judicial representation from diverse regions, genders, castes, and communities, ensuring that the judiciary reflects the social fabric of the country.
 - **Independence and Accountability:** Centralized recruitment under AIJS would reduce scope for undue political or executive interference in judicial appointments, safeguarding judicial independence and accountability.
 - **Career Progression:** AIJS would also create a talent pool of experienced judges eligible for elevation to higher judicial roles, thereby improving career prospects and mobility within the judiciary.
- ❑ **Current Judicial Recruitment Process:** Presently, district judges are appointed through state-level processes governed by **Articles 233 and 234 of the Constitution**.
- ❑ **Concerns**
 - **Federal Structure:** Critics argue that AIJS could infringe upon the federal structure and autonomy of states and high courts, which currently oversee the administration of subordinate judiciary.

- ▶ **Conflict of Interest:** Centralized recruitment might lead to dual control over judges, creating potential conflicts of interest between central and state governments.
- ▶ **Cultural Sensitivities:** AIJS's uniform approach may overlook local laws, languages, and customs essential for effective judicial functioning across diverse states.

PRACTICE QUESTION

Q. Highlight the constitutional provisions related to the creation of All India Judicial Services and analyse the potential benefits and challenges associated with implementing AIJS.

4. REGIONAL BENCHES OF SUPREME COURT

CONTEXT: The Indian government has reportedly given its nod to the recommendation of a parliamentary committee advocating the establishment of regional benches for the Supreme Court.

Key Highlights

- ▶ Presenting its action-taken report on "Judicial Processes and Their Reforms," the Standing Committee on Law and Personnel in the Lok Sabha revealed that the government has acknowledged its suggestion.
- ▶ Emphasising the significance of 'access to justice' as a fundamental right, the committee underscored the long-standing demand for regional benches to ensure justice reaches the doorsteps of citizens.

In 2009, the 18th Law Commission also recommended the formation of regional benches of the Supreme Court of India.

- ▶ **Constitutional Provision (regarding Seat of the Supreme Court):** As per Article 130, the Supreme Court is mandated to sit in Delhi or other locations designated by the Chief Justice of India with the President's approval.

Problems With Regard to the Centralisation

Capacity & Issue

- Presently there are 34 seats for judges in the Supreme Court, which is much less in comparison to the population of the country.
- Even these 34 seats are not filled in, and only 31 judges, including the Chief Justice, are holding the judicial seats at the Supreme Court.

- ▶ **Long-way for outsiders:** The Supreme Court of India sits in Delhi, which makes it a daunting task for people outside of Delhi to seek justice.
- ▶ **Expensive:** It has become an expensive affair to knock on the door of the apex court.
- ▶ **Ignored Underprivileged:** It makes it difficult for extensively underprivileged people who live in the remotest areas of the country to even think of reaching to Supreme Court.
- ▶ **Burden:** Further, it has also given birth to the long line of pending cases, thus, leading to a heavy burden on the apex court.

Arguments In-favour of Regional Benches	Arguments Given Against Regional Benches
<ul style="list-style-type: none"> The formation of regional benches will increase the number of seats of judges. It will also force the government to appoint more judges to the Supreme Court for all four zones. 	<ul style="list-style-type: none"> It will dilute the sacrosanct nature of the Supreme Court and lessen the binding force of the decisions of the Supreme Court. The huge infrastructural cost of setting up these regional benches will further be a loss of money and human resources.

5. SUPREME COURT AND CASE BURDEN

CONTEXT: The increasing case burden of the Supreme Court of India is causing legal experts express caution of the institute's ability to perform its duties.

■ Historical Evolution and Jurisdictions

- ▶ Since its inception on January 28, 1950, the Supreme Court has evolved from an initial panel of eight judges to its current sanctioned strength of 34 judges.
- ▶ Over the decades, its workload has grown significantly, necessitating periodic increases in judge numbers to manage the escalating caseload.
- ▶ The court operates across three key jurisdictions: original, appellate, and advisory.
- ▶ It functions both as a Constitutional Court and as the final appellate authority for civil and criminal matters, often convening benches of varying sizes to address diverse legal issues.
- ▶ **Current Backlog:** As of September 2023, the Supreme Court faces a daunting backlog of **80,344 cases**, predominantly comprising civil matters (78%) and criminal cases (22%). Despite commendable efforts—disposing of 36,164 cases in 2023 alone—over 4,000 cases have languished for over a decade, underscoring systemic challenges.

Factors contributing to backlog	Proposed Reforms
<ul style="list-style-type: none"> Despite a sanctioned strength of 34 judges, the court operates with only 32 judges as of August 2023, owing to delayed appointments. Supreme Court judges engage in various official and nonofficial duties, impacting their availability for hearing cases. The Supreme Court contends with limited infrastructure, hindering its efficiency despite efforts to introduce digital technologies like video conferencing and e-filing. A significant portion of the backlog comprises appeals from High Courts, primarily those geographically closer to the Supreme Court, creating logistical and administrative challenges. The court grapples with a high volume of frivolous or vexatious appeals, complicating efforts to prioritize substantive legal issues. 	<ul style="list-style-type: none"> Urgent appointments to fill judicial vacancies are crucial to bolstering the court's capacity to handle cases promptly. Establishing regional benches in key cities could decentralize workload and enhance accessibility, particularly for non-constitutional matters. Creating specialized courts could streamline the Supreme Court's focus on constitutional and public law matters while delegating other appeals to appropriate judicial forums. Investing in improved court infrastructure and technological upgrades is essential to modernizing operations and accommodating increased case volumes efficiently.

The backlog in India's Supreme Court reflects a pressing need for systemic reforms to fortify judicial efficiency and accessibility. By addressing judicial vacancies, enhancing infrastructure, and exploring innovative court models, India can mitigate delays, uphold judicial integrity, and deliver timely justice to its citizens. Embracing these reforms is crucial for realizing a judiciary that meets the evolving demands of a modern democratic society.

PRACTICE QUESTION

- Q. Analyse the current burden of cases on the Supreme Court of India. Discuss the underlying reasons for this backlog and propose measures that can be taken to alleviate this burden and improve the efficiency of the judiciary.**

6. CONTEMPT OF COURT

CONTEXT: Recently, the Supreme Court of India has initiated contempt of court proceedings against two members of the National Company Law Appellate Tribunal (NCLAT).

■ Contempt of Court

- Contempt of court is a legal mechanism aimed at safeguarding the authority and dignity of judicial institutions from unwarranted attacks and actions that undermine their functioning.
- It is grounded in **Article 129 of the Constitution**, and is supported by the **Contempt of Courts Act, 1971**.

■ Contempt of court can be classified into two categories

- **Civil Contempt:** Will-full disobedience to court orders or breach of undertakings given to a court.
- **Criminal Contempt:** Actions that scandalize or lower the authority of the court, interfere with judicial proceedings, or obstruct the administration of justice.

■ Essentials of Contempt of Court: These essentials should be fulfilled while making someone accused of Contempt of Court.

- Disobedience to any type of court proceedings, its orders, judgment, decree, etc should be done '**willfully**' in case of Civil Contempt.
- In Criminal Contempt 'publication' is the most important thing and this publication can be either spoken or written, or by words, or by signs, or by visible representation.
- The court should make a 'valid order' and this order should be in 'knowledge' of the respondent.
- The action of contemnor should be deliberate and also it should be clearly disregard of the court's order.

■ Required Measures

- To uphold freedom of speech while maintaining judicial integrity, it is essential to balance the need for respect towards judicial orders with constitutional rights.
- Guidelines should be established to ensure that contempt proceedings are fair, transparent, and adhere to principles of natural justice.

Provision in Indian Constitution

There are two Articles in the Constitution of India which talk about the Contempt of Court and these are Article 129 and Article 142(2).

- **Article 129:** The Supreme Court shall be the 'Court of Record' and it has all the powers of such courts including the power to punish for contempt of itself.

- The 'Court of Record' means a Court having its acts and proceedings registered for everlasting memory or that memory which has no end and as evidence or proof.
- The truth of these records cannot be questioned and also these records are treated as a higher authority. And anything stated against the truth of these records comprised Contempt of Court.
- **Article 142(2):** When any law is made by the Parliament on the provisions mentioned in clause 1 of this Article, the Supreme Court has all the power to make an order for securing any person's attendance, production of any documents or has the power to give punishment to anyone for its contempt.

PRACTICE QUESTION

Q. Examine the concept of Contempt of Court in India. Discuss the powers of the Supreme Court with respect to contempt.

7. JUDICIAL APPOINTMENTS

CONTEXT: Recent developments in India's judiciary have highlighted significant concerns raised by the Supreme Court regarding prolonged delays in processing High Court Collegium recommendations.

Issues Highlighted by the Supreme Court

- **Talent Drain and Delays:** The Supreme Court expressed deep concern over the exodus of potential judicial candidates who abandon their applications due to uncertainty caused by prolonged delays in the appointment process. Bright legal minds eager to contribute to the judiciary are deterred by the lack of timely action on their candidatures.
- **Controversial Segregation of Names:** The practice of segregating names from Collegium recommended lists by the government, despite explicit opposition by the Collegium, has sparked controversy. This divisive practice not only disregards Collegium recommendations but also undermines the judiciary's authority, leading to further complications and withdrawals by candidates.
- **Backlog and Vacant Positions:** The extensive backlog of pending Collegium recommendations has resulted in numerous judicial vacancies across the country. This backlog not only hampers the judicial system's efficiency but also exacerbates delays in delivering justice to citizens.
- **Specific Pending Cases:** Notable cases include the appointment of a Chief Justice to the Manipur High Court, which remains unresolved, causing uncertainty and operational challenges. Additionally, 26 transfers recommended by the Supreme Court Collegium await government response, further prolonging administrative uncertainties.

The Way Forward

- **Expedite Appointment Process:** The government must expedite the processing of pending Collegium recommendations to eliminate backlogs and promptly fill vacant judicial positions.
- **End Segregation Practices:** Cease the controversial practice of segregating names from Collegium recommendations and adhere strictly to Collegium directions in judicial appointments.
- **Transparency and Accountability:** Establish a transparent mechanism to monitor and report progress on judicial appointments and transfers. Hold accountable those responsible for undue delays or noncompliance with established procedures.

FACT BOX

Appointment of High Court judges in India.

- **Article 217 of the Constitution:** Judges of High Courts are appointed by the President in consultation with the Chief Justice of India (CJI) and the Governor of the State.
- Collegium Recommendation:
 - ▶ A Collegium consisting of the **CJI and the two senior-most judges of the Supreme Court** recommends candidates for High Court judgeship.
 - ▶ The Chief Justice of the High Court initiates the proposal in consultation with two senior-most colleagues.
- The recommendation is forwarded to the **Chief Minister**, who advises the Governor to send the proposal to the **Union Law Minister**.
- There is a policy to appoint Chief Justices of High Courts from outside their respective States.
- The Collegium makes the final decision regarding the elevation of judges to the High Court.

PREVIOUS YEAR QUESTION

- Q. 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]

PRACTICE QUESTION

- Q. Critically examine the Collegium system of appointing judges to the Supreme Court and High Courts in India. Discuss its merits and demerits and evaluate whether there is a need for reform in this system.

8. LOK ADALAT

CONTEXT: The Supreme Court of India has announced a special Lok Adalat scheduled for the upcoming months, marking the 75th year of its establishment.

Reason behind SC's Decision

- ▶ The Supreme Court is committed to enhancing accessible and efficient justice delivery for all segments of society. The special Lok Adalat is part of efforts to expedite the resolution of pending cases.
- ▶ This initiative aims to resolve pending cases through amicable settlements.
- ▶ At the end of 2023, the Supreme Court was saddled with 80,439 pending cases. The government is a litigant in more than 70% of all admitted matters before the Supreme Court.

About Lok Adalat and Its Role

- ▶ Lok-Adalat is a system of alternative dispute resolution developed in India. It is an integral part of India's judicial system, focusing on alternative dispute resolution outside formal court proceedings.
- ▶ **Aim:** to facilitate quick settlements while saving time, costs, and energy for both litigants and judges. The process emphasizes negotiation and compromise in an informal setting.
- ▶ The Lok Adalat has been given statutory status under the **Legal Services Authorities Act, 1987**.
- ▶ **National Legal Services Authority (NALSA)** and other legal service institutions conduct Lok Adalat. The **Chief Justice of India** is a **Patron-in-Chief of the NALSA**.
- ▶ Lok Adalats derive their authority from **Article 39A of the Constitution of India**, which mandates the state to ensure that the legal system promotes justice on the basis of equal opportunity.
- ▶ Lok Adalat can make awards/decisions, which are deemed to be a decree of a civil court and is final and binding on all the parties concerned.

PREVIOUS YEAR QUESTION

Q. Who are entitled to receive free legal aid? Assess the role of National Legal Services Authority (NALSA) in rendering free legal aid in India. [2023]

PRACTICE QUESTION

Q. Discussing the role and effectiveness of Lok Adalats in India's judicial system.

9. CURATIVE PETITION

CONTEXT: The Supreme Court of India, recently has utilized its extraordinary powers through a curative petition to reverse its earlier verdict from 2021 concerning the Delhi Metro Rail Corporation (DMRC) and Delhi Airport Metro Express Private Limited (DAMEPL), a consortium led by Reliance Infrastructure Ltd.

■ Background of the *Delhi Metro Rail Corporation Ltd. v Delhi Airport Metro Express Pvt. Ltd. Case, 2024*

- ▶ **Project Initiation:** In 2008, the DMRC entered into a partnership with DAMEPL to construct, operate, and maintain the Delhi Airport Metro Express, an essential infrastructure project aimed at enhancing connectivity to the airport.
- ▶ **Dispute and Termination:** Issues arose during the project's execution, leading DAMEPL to terminate the agreement in 2013, citing safety concerns and operational challenges.
- ▶ **Arbitration and Legal Battles:** Subsequently, the dispute escalated into arbitration proceedings, where an arbitral tribunal ruled in favour of DAMEPL, directing DMRC to pay nearly Rs 8,000 crore as compensation. The Delhi High Court mandated DMRC to deposit 75% of this amount in an escrow account, pending further legal proceedings.
- ▶ **Court Proceedings and Initial Supreme Court Decision:** Challenging this decision, DMRC appealed to the Supreme Court, which initially upheld the arbitral award in 2021. This ruling was based on interpretations of contractual obligations and liability under the partnership agreement.
- ▶ **Recent Judgement and Curative Petition:** However, in a recent turn of events, the Supreme Court revisited its earlier decision, invoking its curative jurisdiction. The court overturned its 2021 judgement, citing a "fundamental error" that warranted corrective action.
- ▶ **Judicial Discretion and Integrity:** The Supreme Court's decision underscores its commitment to upholding judicial integrity and correcting legal missteps, even years after a final judgement. This highlights the court's role in ensuring fair dispute resolution and adherence to legal principles in public-private partnerships.

■ Curative Petition

- ▶ A curative petition serves as a judicial mechanism available after the dismissal of review pleas, intended to correct miscarriages of justice due to fundamental errors not addressed in earlier proceedings.
- ▶ Established through precedents like the *Rupa Ashok Hurra case (2002)*, curative petitions are rare and are decided by a bench of senior judges. They require substantial grounds, such as violations of natural justice or apprehensions of bias.

The Supreme Court's exercise of curative powers in overturning the arbitral award in the DMRC-DAMEPL case reflects its crucial role in resolving complex disputes and upholding justice. This landmark decision provides clarity on legal frameworks governing infrastructure projects and underscores the importance of procedural fairness and judicial review in contractual disputes of national significance.

PRACTICE QUESTION

Q. Discuss the importance of curative petitions in the Indian judicial system. Illustrate your answer with relevant case laws and constitutional provisions.

10. ALTERNATIVE DISPUTE RESOLUTION

CONTEXT: The Mediation Bill, 2023 was passed by both Houses of Parliament and received the President of India's assent, thus becoming the Mediation Act, 2023. This Act aims to foster mediation, especially institutional mediation, and establish a mechanism for enforcing mediated settlement agreements.

▣ What is Mediation?

- ▶ Mediation is a voluntary, binding process in which an impartial and neutral mediator assists disputing parties in reaching a settlement. Unlike a judge or arbitrator, a mediator does not impose a solution but facilitates communication to help the parties resolve their disputes.
- ▶ Other methods of dispute resolution include **Arbitration, Negotiation, and Conciliation**.

▣ Key Features of the Act

- ▶ Parties must attempt to settle civil or commercial disputes through mediation before approaching any court or certain tribunals. Even if pre-litigation mediation fails, courts or tribunals can refer parties to mediation at any stage.
- ▶ The Act lists disputes that are unsuitable for mediation, including those involving minors, persons of unsound mind, criminal prosecution, and rights of third parties. The central government can amend this list.
- ▶ The Act applies to mediations conducted in India involving only domestic parties, at least one foreign party in commercial disputes, or when the mediation agreement specifies that the mediation will be under this Act.
- ▶ Mediation proceedings are confidential and must be completed within 180 days, extendable by another 180 days. A party can withdraw from mediation after two sessions.
- ▶ Mediators can be appointed by agreement between the parties or by a mediation service provider. Mediators must disclose any conflicts of interest that could affect their independence.

▣ Why India Needs to Promote Mediation?

- ▶ **To Tackle Case Pendency:** With over 4.7 crore cases pending in courts across different levels of the judiciary as of May 2022, mediation offers an effective alternative to reduce the backlog.
- ▶ **Absence of Standalone Laws on Mediation:** Despite mediation provisions in various statutes, India lacks a dedicated standalone mediation law. Countries like Australia, Singapore, and Italy already have such laws.
- ▶ **Mediation as a Tool for True Justice and Social Change:** Mediation offers a cost-effective, simplified method for delivering justice, aligning social norms with constitutional values through open communication.
- ▶ **Aspirations to Become an International Mediation Hub:** As a signatory to the Singapore Convention on Mediation since 2019, enacting a law governing both domestic and international mediation boosts India's credentials as an international mediation hub.

PRACTICE QUESTION

Q. Examine the need for Alternate Dispute Resolution (ADR) mechanisms in India. Discuss the various forms of ADR and their advantages over the traditional judicial system in the context of the Indian legal landscape.

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4

PARLIAMENT & STATE LEGISLATURES

1. PARLIAMENTARY PRIVILEGES

Context: Supreme Court of India in a landmark decision by overturned a 25 year-old ruling in the P V Narasimha Rao v State (CBI/Spe) Case, 1998, commonly known as the JMM bribery case. This ruling had previously granted immunity to lawmakers who accepted bribes in exchange for voting or speaking in Parliament.

- ❑ **Case Background:** In 1993, members of the Jharkhand Mukti Morcha (JMM) were accused of **accepting bribes to vote** against a **No-Confidence motion in Parliament**. The subsequent legal proceedings led to a Supreme Court ruling in 1998, which established **immunity for lawmakers under parliamentary privileges** if they fulfilled their part of the bargain by voting as agreed.
 - **Supreme Court's 1998 Ruling:** The earlier verdict underlined the **immunity of Members of Parliament (MPs) and Members of Legislative Assemblies (MLAs)** from criminal prosecution under certain circumstances, arguing that actions taken in accordance with parliamentary duties were protected under **Article 105(2) of the Indian Constitution**.
 - **Supreme Court's 2024 Ruling:** The latest judgment emphasized that **accepting a bribe constitutes a separate criminal offense** under the **Prevention of Corruption Act**, distinct from parliamentary duties protected under **Article 105(2) and Article 194 of the Constitution**.
- ❑ **Key Observations**
 - **Separation of Powers:** The court highlighted the need to uphold the integrity of legislative processes without shielding corruption. It emphasized that parliamentary privileges should not be used to evade criminal liability for acts of bribery, which undermine democratic principles.
 - **Constitutional Clarity:** By clarifying that immunity does not extend to criminal acts like bribery, the court reinforced accountability among elected representatives. This decision aims to prevent misuse of parliamentary privileges to shield illegal activities.

International Practices

- ▶ **United Kingdom:** Similar privileges exist for members of Parliament, protecting freedom of speech and regulating parliamentary proceedings.
- ▶ **Canada and Australia:** Both countries follow principles of parliamentary privilege, safeguarding legislators' rights to debate freely and function independently.

Need for Codification of Parliamentary Privileges

- ▶ **Clarity and Accountability:** Codifying privileges would provide clarity on the scope and limitations, enhancing accountability while safeguarding legislative autonomy.
- ▶ **Modernization:** Updating laws would align privileges with contemporary governance needs and uphold constitutional values.

FACT BOX

Parliamentary Privileges

- Parliamentary privileges, outlined in Article 105 (for Parliament) and Article 194 (for State Legislatures) of the Constitution, provide certain rights and immunities to MPs and MLAs.
- These include freedom of speech, immunity from civil proceedings for statements made in Parliament, and the right to regulate their own proceedings.

PRACTICE QUESTION

Q. Discuss the concept of Parliamentary privileges in India. Suggest measures to ensure accountability and transparency in their exercise.

2. TRIBUNALS IN INDIA

CONTEXT: In a recent landmark decision in the case of **Union of India (UoI) & Ors. v. AIR Commodore NK Sharma (2023)**, the Supreme Court has underscored that **tribunals, including the Armed Forces Tribunal (AFT), lack the authority to direct the government to formulate specific policies.**

- ▶ This ruling has significant implications for the separation of powers and the functioning of quasi-judicial bodies in India.

Key Points of the Supreme Court Ruling

- ▶ The case centred on whether the Armed Forces Tribunal (AFT) had the jurisdiction to instruct the government to establish a policy for filling the post of Judge Advocate General (Air).
- ▶ The Supreme Court unequivocally stated that tribunals operate within the confines of their enabling legislation and do not possess the power to mandate policy creation.
- ▶ The judiciary, including quasi-judicial bodies like the AFT, may adjudicate disputes and interpret laws but cannot encroach upon the executive's prerogative of policymaking.
- ▶ This distinction ensures the separation of powers and upholds constitutional principles.

What are Tribunals in India?

- ▶ **Constitutional Framework:** Tribunals in India were introduced through the **42nd Amendment Act, 1976**, under **Articles 323A and 323B of the Constitution.**
- ▶ **Types of Tribunals:** India's tribunal system includes diverse bodies such as:

- Administrative tribunals
- Water disputes tribunals
- Armed Forces Tribunal
- National Green Tribunal (NGT)
- Income Tax Appellate Tribunal (ITAT)
- ▶ Each tribunal is specialized to handle particular categories of disputes, ensuring expertise and efficiency in their respective domains.

❏ Role and Limitations

- ▶ While tribunals play a crucial role in resolving administrative and specialized disputes swiftly, their authority is circumscribed by the statutory provisions that establish them.
- ▶ They possess **quasi-judicial powers** but cannot transcend their defined legal mandate to issue directives that impinge on policy matters reserved for the executive and legislative branches of government.

The Supreme Court's ruling reinforces the constitutional boundaries governing tribunals and underscores the need for adherence to legal frameworks in decision making processes. It highlights the importance of maintaining a clear separation of powers to preserve democratic principles and ensure effective governance.

PREVIOUS YEAR QUESTION

Q. 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)

PRACTICE QUESTION

Q. Discuss the role of Tribunals in ensuring specialized and speedy justice, and highlight the challenges they face in maintaining judicial independence and effectiveness.

3. AGEING OF LOK SABHA

CONTEXT: India's Lok Sabha, the Lower House of Parliament, faces challenges of ageing membership and declining youth representation despite a youthful population. The average age of MPs elected to the 18th Lok Sabha is 56 years, a slight dip from 59 years in the 17th Lok Sabha.

❏ Demographic Shifts

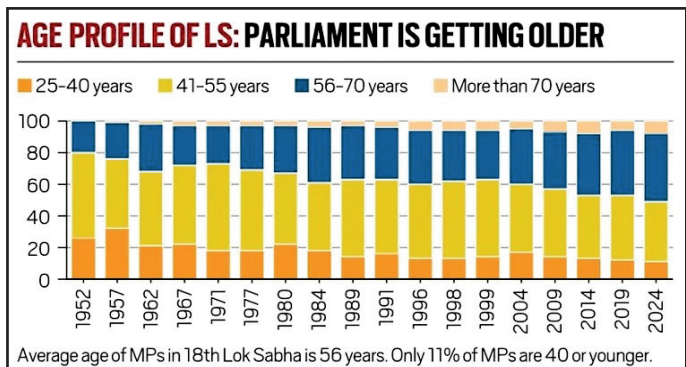
- ▶ Despite India's youthful population, the number of young MPs in the Lok Sabha has decreased significantly over the years.

❏ Gender Disparity

- ▶ Representation of women in the Lok Sabha remains low, with only 14.36% of MPs being women despite increasing numbers of women candidates and voters.
- ▶ This underrepresentation affects the quality of debate and decision-making in Parliament.

❏ Challenges and Implications

- ▶ Ageing membership may hinder Parliament's ability to address the evolving needs and aspirations of India's youthful population.



- ▶ Gender disparity limits the diversity of perspectives in decision-making processes.
- ▶ Absence of a Deputy Speaker raises questions about parliamentary oversight and procedural efficacy.

❏ Way Forward

- ▶ Addressing the decline in youth representation through proactive measures such as youth-focused electoral reforms and political engagement programs.
- ▶ Enhancing gender diversity through legislative measures like the long-pending Women's Reservation Bill.
- ▶ Ensuring the appointment of a Deputy Speaker to facilitate smoother parliamentary proceedings and effective governance.

PRACTICE QUESTION

Q. Discuss the implications of ageing membership and declining youth representation in India's Lok Sabha. How can these challenges be addressed to ensure a more dynamic and inclusive parliamentary democracy?

5

ELECTIONS

1. FIRST PAST THE POLL SYSTEM V/S PROPORTIONATE REPRESENTATION

CONTEXT: There is a growing consensus among a diverse array of citizens and political factions in India advocating for a shift from the current First-Past-The-Post (FPTP) electoral system to a Proportional Representation (PR) electoral system as a viable alternative.

- ❑ **First-Past-The-Post (FPTP) Electoral System:** FPTP is a voting method where voters cast a single vote for one candidate, and the candidate with the most votes wins, regardless of whether they achieve a majority. This system, also known as simple majority or plurality, is utilized in countries like the UK, US, Canada, and India.
- ❑ **Features**
 - Voters choose a candidate from a list presented by various political parties or independent candidates.
 - The candidate with the highest number of votes in a constituency wins the seat, even if they do not secure a majority.
 - This often results in disproportionate representation in legislative bodies, as parties may win seats not in line with their overall vote share.
- ❑ **Proportional Representation (PR) Systems:** PR allocates seats in proportion to the overall vote share received by each political party, aiming for fairer representation.
- ❑ **Why Shift from FPTP to PR in India?**
 - **Fair Representation:** FPTP can lead to parties winning disproportionate seats compared to their vote share.

- ▶ **Minority Representation:** PR offers better prospects for smaller parties and minority groups to gain representation.
- ▶ **Enhanced Democratic Participation:** PR ensures that all votes count towards representation, promoting inclusivity.

Amendment Act	First-Past-The-Post (FPTP) Electoral System	Proportional Representation (PR) Systems
Advantages	<ul style="list-style-type: none"> ◦ FPTP is straightforward for voters and administrators, ensuring efficient and cost-effective elections. ◦ It produces decisive outcomes, contributing to electoral stability and credibility. ◦ Candidates directly represent constituents, enhancing local accountability compared to PR systems where party lists dominate candidate selection. 	<ul style="list-style-type: none"> ◦ Ensures every vote contributes to seat allocation, enhancing democratic participation. ◦ Facilitates representation of smaller parties and minority views, fostering diverse legislative perspectives. ◦ PR systems are less susceptible to electoral boundary manipulation.
Challenges	<ul style="list-style-type: none"> ◦ Minor parties and minority groups may not secure seats proportionate to their support, leading to skewed representation. ◦ Voters may feel pressured to vote tactically rather than for their preferred candidate. ◦ Smaller parties often struggle to win seats, potentially undermining diversity in representation. 	<ul style="list-style-type: none"> ◦ PR may lead to coalition governments, potentially challenging stable governance. ◦ PR systems can be more intricate for voters and administrators to navigate. ◦ Conducting PR elections can be resource intensive.

Recommendations and Way Forward

- ▶ **Law Commission's Proposal:** The Law Commission has suggested experimenting with MMPR for a portion of Lok Sabha seats to enhance representation.
- ▶ **Delimitation Exercise:** It is crucial to conduct the upcoming delimitation exercise considering India's federal structure and population shifts to ensure fair representation across states.
- ▶ **Implementation of MMPR:** Considering India's diversity, implementing MMPR for a portion of seats could balance regional representation with national governance.

PRACTICE QUESTION

Q. Is the First-Past-The-Post (FPTP) System Truly Democratic? Evaluate its implications on the democratic fabric of India and analyze whether the country should transition to a Proportional Representation (PR) system.

2. NOTA IN INDIAN ELECTIONS

CONTEXT: In a recent development during the Lok Sabha elections in Indore, Madhya Pradesh, the NOTA (None of the Above) option garnered over 2 lakh votes, marking the highest ever NOTA count in any constituency.

What is NOTA?

- ▶ NOTA is an electoral option available on ballot papers and Electronic Voting Machines (EVMs) that allows voters to reject all contesting candidates without selecting any of them. It empowers voters to express disapproval while maintaining the secrecy of their ballot.
- ▶ **Background:** The concept of negative voting was deliberated by the **Law Commission** in its **170th Report** in 1999, exploring options alongside a 50%+1 voting system.
 - In 2013, the Supreme Court directed the Election Commission of India (ECI) to introduce the NOTA option to protect voters' secrecy following a petition by the People's Union for Civil Liberties (PUCL) in 2004.
 - NOTA was first implemented in the 2013 Assembly elections across several states and later in the 2014 General Elections.

Legal Status and Impact: Votes cast as NOTA are counted but are considered 'invalid votes' under current regulations.

- ▶ Despite receiving the highest number of votes in a constituency, NOTA does not alter the election outcome. The candidate with the highest valid votes is declared the winner.

Landmark Judgments Related to NOTA

- ▶ *Lily Thomas v. Speaker, Lok Sabha Case, 1993*: Upheld voting as a formal expression of will, including the right to neutrality or abstention.
- ▶ *People's Union for Civil Liberties & Anr v. Union of India & Anr Case, 2013*: Mandated the inclusion of the NOTA button on EVMs to safeguard voter choice and secrecy.
- ▶ *Shailesh Manubhai Parmar v. Election Commission of India Case, 2018*: Excluded NOTA from Rajya Sabha elections, citing potential negative implications for democracy.

Global Parallels

- ▶ European countries such as Finland, Spain, and Sweden, along with some states in the US, permit similar voting options to NOTA, albeit through different mechanisms.

Arguments For NOTA	Arguments Against
<ul style="list-style-type: none"> ◦ Enhanced Voter Choice: Allows voters to express dissatisfaction with available candidates. ◦ Political Accountability: Encourages parties to nominate more credible candidates to avoid losing votes. ◦ Feedback Mechanism: Provides valuable data on voter sentiment to electoral authorities and political parties. 	<ul style="list-style-type: none"> ◦ Symbolic Value: NOTA votes do not affect election outcomes, potentially undermining its effectiveness. ◦ Misuse Potential: Concerns that NOTA may be used as a protest vote rather than a genuine assessment of candidates. ◦ Caste Bias: High NOTA counts in reserved constituencies may reflect bias against certain candidates, contrary to intended purposes.

The introduction of NOTA in Indian elections has sparked debates on electoral reform, voter empowerment, and political accountability. It serves as a critical tool for voters to express dissent while maintaining ballot secrecy. As discussions continue on its impact and future implications, NOTA remains a significant aspect of India's democratic landscape, reflecting evolving public attitudes towards electoral participation and representation.

PRACTICE QUESTION

- Q. Discuss the role and significance of the 'None of the Above' (NOTA) option in the Indian electoral system. Evaluate its effectiveness in expressing voter dissent and the potential reforms needed to make NOTA a more impactful tool for democracy.

3. THE IDEA OF 'ONLINE VOTING'

CONTEXT: The landscape of governance and civic engagement has been evolving rapidly with the advent of digital technologies. From banking to e-commerce, various sectors have embraced automation and digitization. The concept of online voting emerges as a natural progression in this digital era, promising convenience and efficiency in the electoral process.

▣ Transition to Online Filing

- ▶ Candidate nominations should be shifted from physical to online filings before Election Commission (EC) officials, incorporating robust identity verification measures.
- ▶ Appropriate identity and validation checks must be integrated into the online filing system to maintain the integrity of the nomination process.

▣ Polling Booths

- ▶ With the adoption of online voting, the traditional infrastructure of polling booths, EVMs, and duty personnel will become obsolete, necessitating a redefinition of roles.
- ▶ Presiding officers and EC officials' roles may need to be redefined to align with virtual monitoring and supervision, reducing the reliance on physical infrastructure.
- ▶ While a limited number of physical booths may still be necessary initially, the gradual shift towards online voting will significantly reduce the requirement for physical infrastructure.

▣ Significance of Online voting

- ▶ **Increased Accessibility:** It can make voting more accessible to people with disabilities or those living in remote areas, reducing barriers like transportation issues.
- ▶ **Convenience:** Voters can cast their ballots from anywhere with internet access, reducing the need to travel to polling stations and wait in lines.
- ▶ **Higher Voter Turnout:** Easier access can potentially increase voter turnout, especially among younger voters who are more familiar with digital platforms.
- ▶ **Reduced Electoral Fraud:** Properly designed online systems can incorporate robust security measures like encryption and authentication to minimize the risk of fraud.
- ▶ **Cost Savings & Faster results:** Online voting can potentially reduce costs associated with physical polling stations, paper ballots, and manual counting processes.
- ▶ **Environmental Impact:** Moving away from paper-based systems can reduce the environmental footprint of elections.
- ▶ **Flexibility:** Voters can review and change their choices before final submission, potentially reducing errors.

PRACTICE QUESTION

Q. "Online voting holds the potential to revolutionize the electoral process". Discuss

4. RIGHT TO VOTE FOR UNDERTRIALS

CONTEXT: The 18th Lok Sabha elections have brought into focus a significant issue concerning the voting rights of undertrials in Indian prisons. Currently, more than four lakh undertrials across the country are unable to exercise their right to vote due to a sweeping legal prohibition.

❑ Historical Background and Legal Precedents

- Historically, disenfranchisement of prisoners in India dates back to colonial laws and was later enshrined in the Representation of the People Act, 1951.
- Legal challenges have upheld this provision, citing reasons of **public interest and maintaining the integrity of elections**.

❑ Legal Framework and Prohibition

- Under Indian law, the **Representation of the People Act, 1951**, specifically **Section 62(5)**, prohibits individuals confined in prisons—whether under trial or serving a sentence—from voting in any elections. This prohibition applies regardless of whether the individual has been convicted or is awaiting trial.
 - According to data from the **Crime in India 2022** report by the **National Crime Records Bureau (NCRB)**, there were approximately 4,34,302 undertrials in Indian jails as of 2022, comprising a significant portion of the total jail population.

Arguments in Favour	Arguments Against
<ul style="list-style-type: none"> ◦ Presumption of Innocence: Undertrials are presumed innocent until proven guilty. Denying them the right to vote may be seen as a premature punitive action. ◦ Representation and Participation: Allowing undertrials to vote ensures their voices are heard in the democratic process, particularly on issues affecting them and the criminal justice system. ◦ Temporary Nature of Detention: Undertrials are in a temporary state of confinement. Granting them voting rights acknowledges their citizenship despite legal proceedings. 	<ul style="list-style-type: none"> ◦ Public Safety Concerns: Concerns about potential electoral interference or intimidation if undertrials are allowed to vote, especially in cases involving serious crimes. ◦ Logistical Challenges: Facilitating voting within prison environments poses logistical challenges such as ensuring secrecy of ballots and preventing coercion. ◦ Punitive Measure: Disenfranchisement serves as a deterrent against criminal behavior and is a consequence of involvement in legal proceedings.

PRACTICE QUESTION

- Q. Examine the issue of voting rights for undertrials in India. What measures can be undertaken to address this issue?

5. COALITION POLITICS

CONTEXT: In a landmark development, a government has returned for a third consecutive term after completing two consecutive terms spanning a decade, marking the end of single-party dominance and the resurgence of a true coalition government at the Centre.

❑ Understanding Coalition Government

- A coalition government is formed when multiple political parties join forces to govern based on a mutually agreed program of action. This typically occurs in parliamentary systems where no single party secures an outright majority.

❑ Prepoll and Postpoll Coalitions

- **Pre-poll Coalitions:** Formed before elections, these alliances present a unified front to voters based on a joint manifesto.

- ▶ **Post-poll Coalitions:** Established after elections to secure a parliamentary majority, these coalitions involve negotiations among parties to gain governance.

❑ Key Features of Coalition Government

- ▶ **Multiplicity of Parties:** Coalition governments involve two or more political parties collaborating to achieve governance.
- ▶ **Pragmatism Over Ideology:** Decisions in coalition politics often prioritize practicality over ideological purity, requiring compromise among diverse political agendas.
- ▶ **Dynamic Nature:** Coalitions are fluid entities, subject to realignment and restructuring as political dynamics evolve.
- ▶ **Minimum Program:** Coalitions operate on a common minimum program, focusing on shared objectives while accommodating differing party interests.

❑ Recommendations of Punchhi and Sarkaria Commission on Coalition

- ▶ **Punchhi Commission:** Recommended guidelines for Governors in appointing Chief Ministers in hung assemblies, emphasizing the formation of a government by the coalition or alliance with the most significant legislative support.
- ▶ **Sarkaria Commission:** Highlighted the importance of consultation between the Centre and states, particularly emphasizing the role of regional parties in shaping national policies.

❑ Role of Coalition Governments in Reforms: Since the 1990s, coalition governments in India have been instrumental in implementing significant economic reforms despite lacking single party majorities.

- ▶ **P V Narasimha Rao Government (1991-1996):** Initiated economic liberalization, dismantling the license permit raj and integrating India into the global economy.
- ▶ **Atal Bihari Vajpayee Government (1998-2004):** Introduced fiscal discipline through the FRBM Act, promoted infrastructure development, and enacted key legislative reforms.
- ▶ **Manmohan Singh Government (2004-2014):** Implemented right- based legislation and economic deregulation, transforming social welfare and economic policies.

Merits Of Coalition Government	Demerits Of Coalition Government
<ul style="list-style-type: none"> ◦ Representation: Coalition governments reflect diverse societal interests, ensuring broader representation in decision-making. ◦ Federalism Strength: They are more responsive to regional aspirations, enhancing federal cohesion. ◦ Consensus Building: Promotes consensus driven policies through negotiation and compromise. 	<ul style="list-style-type: none"> ◦ Instability: Vulnerable to internal disagreements and coalition partner withdrawals, leading to potential government instability. ◦ Policy Paralysis: Decision making can be slower due to the need for consensus among coalition partners. ◦ Accountability Challenges: Diffused responsibility and blame shifting among coalition members can undermine accountability.

In conclusion, coalition governments in India represent a balancing act between diverse political interests and the imperative of governance. While they face challenges such as instability and policy fragmentation, they also offer opportunities for consensus building and inclusive governance.

PRACTICE QUESTION

- Q. Discuss the advantages and disadvantages of coalition government in the context of Indian polity. How has the coalition government influenced the political stability and governance in India?

6

CONSTITUTIONAL BODIES

1. ELECTION COMMISSION OF INDIA: POWERS & RESPONSIBILITIES

CONTEXT: The resignation of Election Commissioner and General Election conducted by ECI has brought the Constitutional body in focus.

- **Why there are dark cloud over ECI's transparency and functioning?** In recent years, the independence, transparency, and effectiveness of India's Election Commission (EC) have faced significant scrutiny due to several contentious issues.
 - ▶ **Electoral Bonds:** The EC initially warned against electoral bonds, fearing they could facilitate illegal donations and misuse of black money. However, it later shifted stance, opposing challenges in court against the bonds' release, despite concerns about transparency and accountability. The substantial proportion of bonds favoring one political party raised further questions about impartiality.
 - ▶ **EVMs and VVPATs:** The EC's use of Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trails (VVPATs) has been controversial. Calls for 100% verification of VVPATs in elections have been met with resistance from the EC, citing logistical challenges and questioning the necessity of such measures, despite lingering doubts about the accuracy and reliability of EVMs.
 - ▶ **Arun Goel's Appointment:** The swift appointment of Arun Goel as Election Commissioner raised eyebrows, prompting legal challenges and criticism over the process's transparency and timing. This move, coupled with his rapid resignation from the civil service, fueled concerns about political influence in EC appointments.
 - ▶ **New Legislation on EC Appointments:** The passage of the **Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill in 2023** altered the appointment process for EC members, prompting concerns about increased executive control and potential implications for the EC's independence.
- **Election Commission of India:** The Election Commission of India (ECI) is an autonomous constitutional authority responsible for administering Union and State election processes in India.

- ▶ Established in accordance with the Constitution on 25th January 1950 (celebrated as National Voters' Day), the secretariat of the commission is located in New Delhi.
- ▶ The ECI administers elections to the **Lok Sabha, Rajya Sabha, and State Legislative Assemblies**, as well as the **offices of the President and Vice President in India**.

❏ Constitutional Provisions

- ▶ **Part XV (Article 324-329):** Deals with elections and establishes a commission for these matters.
- ▶ **Article 324:** Superintendence, direction, and control of elections to be vested in an Election Commission.
- ▶ **Article 325:** No person to be ineligible for inclusion in, or to claim to be included in a special electoral roll on grounds of religion, race, caste, or sex.
- ▶ **Article 326:** Elections to the House of the People and to the Legislative Assemblies of States to be based on adult suffrage.
- ▶ **Article 327:** Power of Parliament to make provisions with respect to elections to Legislatures.
- ▶ **Article 328:** Power of Legislature of a State to make provisions with respect to elections to such Legislature.
- ▶ **Article 329:** Bar to interference by courts in electoral matters.
- ▶ However, it does not oversee elections to panchayats and municipalities, which are managed by separate **State Election Commissions as per the Constitution**.

❏ Structure of ECI

- ▶ Presently, it consists of the CEC and two Election Commissioners (ECs). At the state level, the election commission is assisted by the Chief Electoral Officer.

❏ Appointment & Tenure of Commissioners

- ▶ The President appoints the CEC and Election Commissioners as per the CEC and Other ECs (Appointment, Conditions of Service, and Term of Office) Act, 2023. They have a fixed tenure of six years or up to the age of 65 years, whichever is earlier.

❏ Removal

- ▶ The CEC and ECs can resign at any time or can be removed before the expiry of their term.
- ▶ The CEC can only be removed from office through a process similar to that of a Supreme Court judge by Parliament, while ECs can only be removed on the recommendation of the CEC.

❏ Limitations

- ▶ The Constitution has not prescribed specific qualifications (legal, educational, administrative, or judicial) for 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 retiring election commissioners from any further appointment by the government.

Anoop Baranwal vs Union of India Case, 2023

- A five-judge bench of the Supreme Court (SC) unanimously ruled that the appointment of the Chief Election Commissioner and the Election Commissioners shall be made by the President on the advice of a Committee consisting of the Prime Minister, the Leader of the Opposition of the Lok Sabha, and the Chief Justice of India (CJI).
- In case no Leader of the Opposition is available, the leader of the largest opposition party in the Lok Sabha in terms of numerical strength will be a part of such committee. The Parliament passed the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, in response to the directive of the Supreme Court in the Anoop Baranwal v Union of India case, 2023.

PREVIOUS YEAR QUESTION

- Q. 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)
- Q. Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct. (2022)

PRACTICE QUESTION

- Q. What are the major challenges faced by the Election Commission in carrying out its duties? Suggest key reforms that could enhance its effectiveness.

2. CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (APPOINTMENT, CONDITIONS OF SERVICE AND TERM OF OFFICE) ACT, 2023

CONTEXT: Under the newly enacted Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, two Election Commissioners (ECs) were appointed by a three-member Selection Committee.

- ▶ This committee included Prime Minister Narendra Modi, Union Home Minister Amit Shah, and Adhir Ranjan Chowdhury, the Leader of the Indian National Congress in the Lok Sabha. The Act replaced the earlier provision that involved the Chief Justice of India (CJI) in the appointment process, thereby giving the executive a dominant role.
- ▶ **Previous Appointment Process** Prior to the 2023 Act, the appointment of Election Commissioners was governed by **Article 324 of the Constitution**.
- ▶ Initially, only a Chief Election Commissioner (CEC) existed, with the ECs being added in October 1989 but rescinded shortly after.
- ▶ A law in 1991 provided conditions of service but lacked a specific appointment process. Traditionally, the President appointed ECs based on recommendations from a panel led by the Law Ministry and endorsed by the Prime Minister.

■ Supreme Court's Intervention

- ▶ In the *Anoop Baranwal vs. Union of India* case, a Constitution Bench ruled that the appointment power should not solely rest with the executive and proposed an interim committee including the Prime Minister, Leader of the Opposition in the Lok Sabha, and the CJI. However, Parliament enacted the 2023 Act, removing the CJI and reinstating executive dominance in the appointment process.

■ Criticism of the Act

- ▶ By excluding the CJI, the Act undermines the constitutional intent to ensure EC appointments are free from executive control. The Act's critics assert that it violates *principles of judicial oversight and independence in electoral governance*.

PRACTICE QUESTION

- Q. Discuss the implications of the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, on the appointment process of Election Commissioners in India.

3. INFORMATION COMMISSIONS IN INDIA

CONTEXT: The 'Report Card on the Performance of Information Commissions in India 2022-23' provides a dismal picture as the number of states with defunct Information Commissions, Pendency rising and headless commissions.

Findings of the Report

- ▶ **Defunct ICs:** Showed that Information Commissions are “completely defunct” in Jharkhand (37 months), Tripura (27 months), Telangana (7 months) and Mizoram (ten days).
- ▶ **Headless states:** The CIC and Information Commissions in five states;
 - Manipur (56 months),
 - Chhattisgarh (since December 2022),
 - Maharashtra (since April),
 - Bihar (since May) and
 - Punjab (since September)

Pendency of Cases

- ▶ West Bengal with a pendency of **11,871 cases** would take around **24 years** and one month to dispose of an appeal filed on July 1 this year.
 - Uttar Pradesh which has **27,163 pending cases** may take seven months to clear an appeal and
 - Karnataka with 41,047 pending cases may take **one year and 11 months**.
 - Maharashtra with the highest pendency of **11 lakh cases** may take four years.

Reasons

- ▶ One of the primary reasons for the backlogs is the failure of central and state governments to take timely action to appoint information commissions to the **Central Information Commission** and state information commissions.

About Information Commissions (ICs)

- ▶ CIC is a **statutory body** constituted under **section 12** of the Right to Information Act, 2005.
- ▶ Similar to CIC, SIC is also a statutory body constituted under **section 15 of the Right to Information Act, 2005**.
- ▶ The Central Information Commission shall consist of the **Chief Information Commissioner** and such number of Central Information Commissioners not **exceeding 10** as may be deemed necessary.

What does Information Commission do?

- ▶ To exercise the powers conferred on them under the RTI Act, 2005.
- ▶ To receive and inquire into complaints from any citizen (Section 18 of the RTI Act, 2005).
- ▶ To receive and decide upon the second appeal from any citizen (Section 19 of the RTI Act, 2005).
- ▶ To perform the duty of “Monitoring and Reporting “(Section 25 of the RTI Act, 2005).

Features	CIC	SIC
Composition	CIC consists of a Chief Information Commissioner and not more than ten Information Commissioners.	SIC consists of a State Chief Information Commissioner and not more than ten State Information Commissioners.

Features	CIC	SIC
Appointment	They are appointed by the President on the recommendation of a committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha, and a Union Cabinet Minister nominated by the Prime Minister.	They are appointed by the Governor on the recommendation of a committee consisting of Chief Minister as Chairperson, the Leader of Opposition in the Legislative Assembly, and a State Cabinet Minister nominated by the Chief Minister.
Removal	<p>The President can remove the members of CIC and the Governor can remove the members of SIC from the office under the following circumstances:</p> <ul style="list-style-type: none"> ◦ If the member is adjudged as an insolvent ◦ If the Central government (for CIC) /Governor (for SIC) holds him responsible for an offense involving moral turpitude/ or he is convicted for such an offense. ◦ If he engages during his term of office in any paid employment outside the duties of his office ◦ If he is declared unfit by reason of infirmity of mind or body, by the President (for CIC)/Governor (for SIC). <p>The President/Governor can also remove the members on the ground of proved misbehaviour or incapacity. In such cases, the President (for CIC)/Governor (for SIC) has to refer the matter to the Supreme Court for an enquiry. After the enquiry, if the Supreme Court upholds the cause of removal and advises so, then the President (for CIC) /Governor (for SIC) can remove him.</p> <p>During the inquiry by the Supreme Court the President (for CIC)/Governor (for SIC) may suspend the member from office or prohibit him from attending the office.</p>	

PRACTICE QUESTION

Q. Analyse the challenges and implications of the functioning of Information Commissions in India.

4. 16TH FINANCE COMMISSION

CONTEXT: The Union Cabinet has approved the Terms of Reference (ToR) for the Sixteenth Finance Commission.

▢ Terms of Reference for the 16th Finance Commission-

- **Distribution of Net Proceeds:** Addressing the division of net tax proceeds between the Union and States, along with the allocation among States.
- **Principles for Grants-in-Aid:** Defining principles governing grants-in-aid of State revenues from the Consolidated Fund of India.
- **Resource Augmentation:** Identifying measures to supplement the Consolidated Fund of a State for empowering Panchayats and Municipalities, aligning with State Finance Commission recommendations.

The Constitution (Article 280) mandates the formation of a Finance Commission every fifth year or earlier, aligning with the fiscal cycle.

- ▶ **Disaster Management Financing:** Reviewing current financing arrangements for Disaster Management initiatives, proposing recommendations based on the Disaster Management Act, 2005.

❑ Functions of Finance Commission

- ▶ **Vertical Devolution:** This involves determining the share of states in the divisible pool of central taxes. Over the years, FCs have significantly increased the states' share, from 10% initially to the current 42%, enhancing fiscal autonomy and local governance.
- ▶ **Horizontal Distribution:** FCs allocate resources among states based on a formula reflecting their fiscal needs, capacities, and performance. This ensures that states with varying developmental challenges receive adequate financial support tailored to their specific circumstances.
- ▶ **Grants-in-Aid:** Additional transfers are provided to states or sectors requiring special assistance, such as for local bodies, disaster relief, health, education, and judicial reforms. These grants strengthen fiscal decentralization and empower local governance structures.

❑ Challenges Faced by FCs

- ▶ **Data Quality:** They rely on incomplete or outdated data, hindering accurate assessments of fiscal needs and performance across states.
- ▶ **Political Dynamics:** Balancing diverse stakeholder interests amidst evolving political and economic conditions poses a constant challenge.
- ▶ **Implementation Issues:** FCs lack direct authority over the execution of their recommendations, facing delays or noncompliance by recipient governments.

❑ Way Forward

- ▶ **Equitable Resource Allocation:** FCs should ensure fair distribution of resources while accommodating states' diverse needs and capacities.
- ▶ **Promoting Fiscal Efficiency:** Encouraging sound fiscal policies and effective public spending in critical sectors like health and education is essential.
- ▶ **Adapting to Challenges:** FCs must proactively address emerging issues such as digital transformation and climate change, fostering adaptive and responsive fiscal frameworks.
- ▶ **Strengthening Institutional Capabilities:** Improving data analytics, engaging stakeholders, and enhancing communication strategies will bolster FCs' effectiveness and credibility in shaping India's developmental trajectory.

PREVIOUS YEAR QUESTION

- Q. How is the Finance Commission of India constituted? What do you know about the terms of reference of the recently constituted Finance Commission? Discuss. [2018]
- Q. How have the recommendations of the 14th Finance Commission of India enabled the States to improve their fiscal position? (2023)

PRACTICE QUESTION

- Q. Discuss the Terms of Reference (ToR) of the Sixteenth Finance Commission of India. How do these ToRs reflect the constitutional mandate and fiscal responsibilities towards states and local bodies?

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7

STATUTORY, REGULATORY & VARIOUS QUASI- JUDICIAL BODIES

1. COMPETITION COMMISSION OF INDIA (DETERMINATION OF TURNOVER OR INCOME) REGULATIONS, 2023

CONTEXT: CCI seeks comments on draft of Competition Commission of India (Determination of Turnover or Income) Regulations, 2023.

▣ Key Highlights

- ▶ The Competition Commission of India (CCI) is soliciting feedback on the draft Competition Commission of India (Determination of Turnover or Income) Regulations, 2023.
- ▶ The Competition (Amendment) Act, 2023, introduced changes to Sections 27, 48, and Section 64, necessitating the formulation of regulations to determine turnover or income under specific clauses.
- ▶ To comply with the amended sections, the CCI has proposed the draft CCI (Determination of Turnover or Income) Regulations, 2023.
- ▶ These regulations outline the methodology for determining turnover or income concerning **Section 27(b) and Section 48 of the Act**.

▣ Role of Competition Commission of India (CCI)

- ▶ The Competition Commission of India (CCI) is a statutory body of the Government of India responsible for enforcing the **Competition Act, of 2002**, it was duly constituted in March 2009.
- ▶ The **Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act)** was repealed and replaced by the Competition Act, 2002, on the recommendations of the Raghavan committee.
- ▶ **Composition:** One Chairperson and six Members who shall be appointed by the Central Government.

- ▶ It is the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of India.

PREVIOUS YEAR QUESTION

Q. Discuss the role of the Competition Commission of India in containing the abuse of dominant position by the Multi-National Corporations in India. Refer to the recent decisions. [2023]

PRACTICE QUESTION

Q. Examine the implications of the proposed Competition Commission of India (Determination of Turnover or Income) Regulations, 2023, and their role in enhancing regulatory clarity and enforcement under the Competition Act, 2002.

2. NATIONAL COMMISSION FOR MINORITIES

CONTEXT: Comment made by Kerala Governor Arif Mohammed Khan, calling for the termination of National Commission for Minority and transferring its powers and functions to National Human Rights Commission.

▣ What is National Commission for Minorities?

- ▶ It is a statutory body established under the provisions of National Commission for Minorities Act, 1992.
- ▶ **Composition:** The NCM is supposed to have a Chairperson, a Vice-Chairperson, and 7 members, at least 5 of whom should be from minority communities.
- ▶ **Key-functions:** Functions of the Minority Commission are as follows:
 - Evaluate the progress of the development of Minorities under the Union and States.
 - Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
 - Make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments.
 - Look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.
 - Any other matter which may be referred to it by the Central Government.

▣ Why is the call for abolition of minority commission being made?

- ▶ **Creating differences:** Presence of such Commission cultivates an idea within certain groups that a community or some communities are different than the rest and hence special provisions or bodies are required for its or their protection.
- ▶ The abovementioned idea has the potential of sowing the seeds of separatism.
- ▶ **Wastage of resources:** The National Human Rights Commission is adequately empowered to look into the issues relating to infringement of rights of people in India and hence of any other organisation that focusses on the rights on just minorities leads to waste of both material and human resources.
- ▶ **Political influence:** National Minority Commission may become and in some instances has become place of where appointment for political appeasement are made.

❑ Why existence of separate National Minorities Commission is necessary?

- **Attentive protection of minorities:** The Constitution of India guarantees Secularism and hence protection of Minorities has to be paid adequate attention.
- **For effective functioning:** NHRC is already overburdened with its existing workload and therefore asking it to perform the duties of Minorities also would lead to compromise of the quality of work done by it and also severe backlog affecting many Indians.
- **Lack of expertise with NHRC:** NHRC may not possess the expertise required to tackle the issues impacting rights of Minorities
- **For diversity in unity:** Religious minorities add to the diversity of India.

FACT BOX

Who is a 'minority' in India?

- UN's definition: "Any group or community which is socially, political and economically non-dominant and inferior in population are minorities".
 - The Constitution of India mentioned the term 'minority' only on two occasions in Article 29 and in Article 30 but it nowhere defines the term.
- **Article 29** — Protection of interests of minorities
- **Article 30**— Right of minorities to establish and administer educational institutions
- **Section 2(c) of National Commission for Minorities Act, 1992** had granted minority status to five communities based on their national population
 - Muslims (largest minority group in India forming 14% of the total population.)
 - Christians
 - Sikhs
 - Buddhists
 - Parsis
 - Jains

Other important minority rights

- **Article 15** prohibits discrimination on grounds of religion race cast sex or place of birth.
- **Article 17** Prohibits untouchability.
- **Articles 25 to 30** preserve the right of minorities on grounds of religion.
- **Article 25** provides the right to practice any religion.
- **Article 26** allows religious institutions to be opened.
- **Article 27** provides that no person shall be forced to pay any taxes which is not mandatory.
- **Article 28** provides that there shall be no religious instruction to be followed in any particular educational institutions.

PREVIOUS YEAR QUESTION

- Q. Discuss the role of the National Commission for Backward Classes in the wake of its transformation from a statutory body to a constitutional body. [2022]
- Q. 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]

PRACTICE QUESTION

- Q. Evaluate the arguments for and against maintaining a dedicated body for minority rights in a secular democracy like India.

3. NATIONAL COMMISSION FOR WOMEN (NCW)

CONTEXT: The highest number of complaints received by the National Commission for Women (NCW) so far this year has been from Uttar Pradesh followed by Delhi and then Maharashtra. Strife-torn Manipur has recorded only three complaints of “crime against women” with the commission.

▣ **National Commission for Women (NCW):** The National Commission for Women (NCW) in India was established in 1992 under the National Commission for Women Act, 1990.

- It operates as a statutory body tasked with safeguarding and promoting the rights of women across the country.
- The NCW aims to ensure gender equality and protect women from violence, discrimination, and exploitation through various interventions and advocacy efforts.

▣ **Establishment and Mandate**

- The NCW was established to uphold the rights of women guaranteed by the Constitution of India and other laws.
- Its mandate includes evaluating the progress of women’s development, monitoring safeguards provided under the Constitution and laws, and recommending measures for effective implementation.

▣ **Functions**

- Investigate and examine complaints of gender-based discrimination and violence against women.
- Conduct studies, research, and advocacy campaigns related to women’s rights and empowerment.
- Recommend policies and legal reforms to protect women’s interests and promote gender equality.
- Work towards enhancing awareness and sensitization on women’s issues.

▣ **Challenges and Criticism**

- The NCW has faced criticism for its perceived politicization and occasional ineffectiveness in addressing critical issues affecting women.
- There are concerns about disparities in its response to complaints across different states, indicating challenges in uniform implementation and effectiveness.

▣ **Role in Women’s Empowerment**

- Despite challenges, the NCW plays a crucial role in advocating for women’s rights, conducting inquiries into violations, and recommending measures to empower women economically, socially, and politically.
- **Legal Framework:** Governed by the National Commission for Women Act, 1990, the NCW is empowered to summon witnesses, conduct inquiries, and submit reports to the Central Government.

PREVIOUS YEAR QUESTION

Q. Is the National Commission for Women able to strategize and tackle the problems that women face both public and private spheres? Give reasons in support of your answer. [2017]

PRACTICE QUESTION

Q. Discuss the role and challenges faced by the National Commission for Women (NCW) in India in promoting gender equality and addressing issues of violence and discrimination against women.

4. ENFORCEMENT DIRECTORATE AND PMLA

CONTEXT: Raids and Arrest carried out by Enforcement Directorate in recent times.

❑ What is Money Laundering?

- Money laundering entails the covert process of legitimizing illegally obtained funds, thereby concealing their illicit origins. It typically involves three stages:

❑ How is Money Laundering Done?

- **Placement:** Illicit funds are introduced into the financial system through methods like **cash deposits** or **currency exchanges**.
- **Layering:** The funds undergo complex transactions to obscure their origins, often involving transfers between accounts or across borders.
- **Integration:** Laundered funds are reintroduced into the economy as legitimate assets, such as investments in businesses or real estate.

❑ Supreme Court's Interpretation of PMLA

- **Narrowed Application of PMLA:** The Supreme Court limited the Prevention of Money Laundering Act's application to "wrongful gains" related to scheduled offenses.
- **Media Criticism of Enforcement Directorate (ED):** Recent case of *Pankaj Bansal vs Union of India* exposed ED's lapses and drew Supreme Court criticism.
- **Judicial Clarity on PMLA:** Clear declaration by the Supreme Court limits ED's authority without the existence of proceeds of crime.

❑ Federalism Challenges

- **ED Actions in Non-Scheduled Offenses:** ED's inquiry into non-scheduled offenses, like illegal sand mining, challenges federalism.
- **Judicial Oversight Criticism:** High Courts permitting investigations without scheduled offenses or proceeds of crime in certain states.
- **Political Targeting:** ED's selective focus on opposition-governed states raises concerns about political targeting.

❑ Need for Safeguards

- **Erosion of Federalism:** Misuse of investigative agencies undermines federalism, a fundamental aspect of India's constitution.
- **Abuse of Authority and Process:** Lack of scrutiny on investigating agencies in BJP-run states contrasts with opposition-governed states.
- **Preserving Democratic Values:** The need for checks on misuse of investigative agencies and judicial oversight to protect democratic values.

FACT BOX

Indian Initiatives to prevent Money Laundering

- The Income Tax Act, 1961
- The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA)
- The Smugglers and Foreign Exchange Manipulators Act, 1976 (SAFEMA)
- The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPSA)

- The Benami Transactions (Prohibition) Act, 1988
- The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988
- The Foreign Exchange Management Act, 2000, (FEMA)

Global initiatives to prevent money laundering

- The Vienna Convention
- Basle Committee's Statement of Principles
- The Financial Action Task Force (FATF)
- United Nations Global Programme Against Money Laundering (UNGPM)

PRACTICE QUESTION

Q. Critically analyse the Prevention of Money Laundering Act (PMLA), 2002, and discuss whether the powers conferred upon the Enforcement Directorate (ED) under this Act are justified. Highlight the implications of these powers on individual rights and the accountability mechanisms in place to prevent misuse.

5. SWEEPING POWERS OF DIRECTORATE OF ENFORCEMENT (ED)

CONTEXT: The Supreme Court endorsed the sweeping powers of the Directorate of Enforcement (ED), saying the Central agency could call "anybody for any information" even as it castigated Tamil Nadu District Collectors for failing to appear in person in response to a summons issued to them by the anti-money laundering body.

▢ Power and Function of ED

- ▶ **Search and Seizure-** ED carries out search (property) and seizure (money/documents) under Section 16 and Section 17 of the PMLA.
- ▶ **In case of Arrest-** If the person is arrested, the ED gets 60 days to file the prosecution complaint (charge sheet) as the punishment under PMLA doesn't go beyond seven years.
- ▶ **In property attachment-** If no one is arrested and only the property is attached, then the prosecution complaint along with attachment order is to be submitted before the adjudicating authority within 60 days.

▢ Power of ED for 'interrogation' and 'Custody'

- ▶ **Under Prevention of Money Laundering Act, 2002 (PMLA):** Following the recommendations of the Financial Action Task Force (FATF) India enacted PMLA.
- ▶ The ED has been entrusted with the responsibility of executing the provisions of PMLA by conducting investigation to trace the assets derived from proceeds of crime, to provisionally attach the property and to ensure prosecution of the offenders and confiscation of the property by the Special court.
- ▶ The ED carries out search (property) and seizure (money/documents) after it has decided that the money has been laundered, under Section 16 (power of survey) and Section 17 (search and seizure) of the PMLA.
- ▶ On the basis of that, the authorities decide if arrest is needed as per Section 19 (power of arrest).
- ▶ Under **Section 50 of the PMLA**, the ED can also directly carry out search and seizure without calling the person for questioning.
- ▶ It is not necessary to summon the person first and then start with the search and seizure.

- ▶ If the person is arrested, the ED gets 60 days to file the prosecution complaint (chargesheet) as the punishment under PMLA doesn't go beyond seven years.
- ▶ If no one is arrested and only the property is attached, then the prosecution complaint along with attachment order is to be submitted before the adjudicating authority within 60 days.

■ Effectiveness of ED

- ▶ As of March 31, 2022, the ED's conviction rate was less than 0.5 per cent, with only 23 convictions in 5,422 PMLA cases. In comparison, the national conviction rate in India for offences of the Indian Penal Code was 57 per cent in 2021.
- ▶ Petitions challenging PMLA provisions, particularly related to arrests and property attachments, have been presented in the Supreme Court.

FACT BOX

Important Judgments

- In its "*Vijay Madanlal Choudhary v. Union of India*", the Supreme Court upheld various provisions of the PMLA which relate to the powers of arrest, attachment, search, and seizure conferred upon the ED.
- The court was of the opinion that all the provisions under PMLA have a reasonable nexus with the objects sought to be achieved by the Act to prevent money-laundering effectively.
- In *P. Chidambaram v. Directorate of Enforcement* (2019), the Supreme Court rejected a prayer for anticipatory bail with respect to an offence of money laundering and proceeded to grant custody to the ED.
- The court reasoned that in a case of money laundering which involves many stages of placement and layering of funds, a 'systematic and analysed' investigation is required which would be frustrated if pre-arrest bail is granted.

Enforcement Directorate (ED)

- Directorate of Enforcement is a **Multi-Disciplinary Organization** mandated with the task of enforcing the provisions of two special fiscal laws – **Foreign Exchange Management Act, 1999 (FEMA)** and **Prevention of Money Laundering Act, 2002 (PMLA)**.
- Whenever any offence is registered by a local police station, which has generated proceeds of crime over and above Rs 1 crore, the ED steps in.

PREVIOUS YEAR QUESTION()

- Q. The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting probe within a particular state is being questioned by various States. However, the power of States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. (2021)

PRACTICE QUESTION

- Q. Despite being a central agency, the Enforcement Directorate possesses jurisdiction across India, posing intricate legal inquiries. Comment

6. SC UPHOLDS STATE AUTONOMY IN LAW & ORDER

CONTEXT: Following a complaint from the State of West Bengal against the Central Bureau of Investigation's (CBI) "unilateral right" to look into offenses committed by CBI officials within State jurisdiction, the Supreme Court said unequivocally that "law and order is a State subject". The decision emphasized the division of powers between the central and state authorities.

❑ 'State' Subject Status of Law and Order

- **Constitutional Division of Powers:** The Constitution of India delineates the distribution of powers between the central government and state governments, with law and order falling within the domain of the latter.
- **Autonomy of State Governments:** States possess the authority to enact laws, maintain public order, and ensure the safety and security of citizens within their jurisdictions.
- **Supreme Court's Clarification:** The recent statement by the Supreme Court reaffirms the principle that matters concerning law and order primarily fall under the purview of state governments, underscoring their autonomy and responsibility in this regard.

❑ Implications of SC's Assertion

- **Clarity on Jurisdiction:** The SC's clarification provides clarity on the division of powers between the central and state authorities, preventing potential conflicts and ensuring effective governance.
- **State Government Accountability:** Emphasizing law and order as a state subject highlights the accountability of state governments in addressing issues related to public safety and security.
- **Role of Central Government:** While law and order is primarily the responsibility of state governments, the central government may intervene in exceptional circumstances, such as maintaining constitutional integrity or combating threats to national security.

FACT BOX

Central Bureau of Investigation (CBI)

- The CBI is India's premier investigating agency established in 1963 to handle cases related to corruption, economic offenses, and serious crimes.
- **Organizational Structure:** Headquartered in New Delhi, the CBI operates with offices across all states and union territories of India.
- It is headed by a Director appointed by the Prime Minister on the recommendation of the Central Vigilance Commission (CVC).
- **Functions and Powers:**
 - The CBI is empowered to register cases, conduct investigations, arrest suspects, and conduct searches and seizures.
 - It is known for its impartiality, professionalism, and handling of high-profile cases.
- **Roles and Responsibilities:**
 - Combats corruption in public life and investigates serious offenses.
 - Fights cyber and high-technology crimes.
 - Protects human rights, environment, art, antiques, and national heritage.
 - Plays a leading role in combating national and transnational organized crime.

About Schedule VII

- The Indian Constitution has twelve schedules, the seventh of which is the Seventh Schedule.
- The Center and the State share the Legislative subjects listed in the Indian Constitution's seventh schedule.
- **Three lists are used for the division:** List I is the Union list, List II is the State list, and List III is the Concurrent list.
- One such article is **Article 246** of the Indian Constitution, which is located in the 7th schedule. The legislative authority of the Union and the State are defined under this article. The State List, which was formerly composed of 66 articles, is contained in the seventh schedule of the Indian constitution.

- Three lists are used by **Article 246** to categorize the topics covered by laws passed by State legislatures and Parliament. They are as follows:
 - List I – **Union List**
 - List II – **State List**
 - List III – **Concurrent List**

PREVIOUS YEAR QUESTION

Q. The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging FIR and conducting probe within a particular State is being questioned by various States. However, the power of the States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. (2021)

PRACTICE QUESTION

Q. Discuss the constitutional provisions related to the distribution of legislative powers between the Union and State governments under Schedule VII of the Indian Constitution.

7. PUBLIC EXAMINATIONS SYSTEM

CONTEXT: Following the cancellation of the UGC-NET examination by the Centre, the National Testing Agency (NTA) is under scrutiny with calls for its abolition.

▣ Challenges in Examination Conduct and Management

- **Recurring Irregularities:** The cancellation follows issues in other major exams like NEET-UG and JEE, indicating recurring irregularities and technical glitches, which have placed the NTA under intense scrutiny.
- **Government Response:** The Education Ministry's proactive cancellation of UGC-NET contrasts with its slower response to NEET issues, reflecting a learning curve but also exposing inconsistencies in handling examination fraud.
- **Impact on Candidates:** Over nine lakh UGC-NET candidates, who invested time and resources, face significant disruption and uncertainty, highlighting the profound personal and financial impacts of examination mismanagement.

▣ Systemic Issues and the Need for Reform

- **Switch to Offline Exams:** The UGC-NET was previously an online exam under NTA but reverted to offline this year, which is more vulnerable to paper leaks, raising questions about the rationale behind this decision.
- **Transparency and Accountability:** To regain trust, the NTA needs to ensure full transparency in the investigation and accountability for those responsible for irregularities, alongside a thorough overhaul of its systems and personnel.
- **Calls for Decentralization:** The testing agency's failures have led some Opposition leaders to suggest dismantling the NTA and decentralizing exam responsibilities to the states, arguing that smaller, state-level exams are easier to manage and less prone to large-scale issues.

Public Examinations (Prevention of Unfair Means) Act, 2024

- **Aim:** to prevent "unfair means" in order to "bring greater transparency, fairness and credibility to the public examinations system".

Exams come under the Act:

- **Union Public Service Commission (UPSC):** Civil Services Examination, Combined Defence Services Examinations, Combined Medical Services Examination, Engineering Services Examination, etc.
- **Staff Selection Commission (SSC):** Group C (non-technical) and Group B (non-gazetted) jobs in the central government
- **Railway Recruitment Boards (RRBs):** Groups C and D staff in the Indian Railways
- **Institute of Banking Personnel Selection (IBPS):** for nationalised banks and regional rural banks (RRBs)
- **National Testing Agency (NTA):** JEE (Main), NEET-UG, UGC-NET, the Common University Entrance Test (CUET), etc.
- Section 9 of the Act states that all offences shall be **cognizable, non-bailable, and non-compoundable**.

PRACTICE QUESTION

- Q. Discuss the implications of frequent examination irregularities on candidates and the education system in India. How can the government ensure fair and reliable assessments for students?

8. TYPE OF BODIES

CONTEXT: Each category of bodies in India plays a crucial role in governance, administration, justice delivery, and regulatory oversight, contributing to the functioning of the country's democratic framework and legal system.

- ▢ **Constitutional Bodies:** Constitutional bodies derive their powers and authorities directly from the Indian Constitution. They are specifically mentioned in the Constitution and any changes to their structure require a constitutional amendment.
 - **Examples:** Election Commission of India, Union Public Service Commission (UPSC), Finance Commission, Comptroller and Auditor General of India (CAG), National Commissions for SCs and STs
- ▢ **Statutory Bodies:** Statutory bodies are established by an Act of Parliament or state legislatures. They derive their powers and functions from statutes passed by the legislative bodies.
 - **Examples:** Securities and Exchange Board of India (SEBI), National Human Rights Commission (NHRC)
- ▢ **Regulatory Bodies:** Regulatory bodies are public or government agencies responsible for overseeing and regulating specific activities or sectors. They may operate independently of the government and are empowered by legislative acts to enforce standards and norms.
 - **Examples:** Telecom Regulatory Authority of India (TRAI), Food Safety and Standards Authority of India (FSSAI), Reserve Bank of India (RBI)
- ▢ **Executive Bodies**
 - Executive bodies are neither constitutional nor statutory. They are formed by executive action of the government, typically through resolutions or orders. They can later be converted into statutory bodies by passing a law.
 - **Examples:** NITI Aayog
- ▢ **Judicial Bodies**
 - Judicial bodies refer to courts in India. They uphold justice by interpreting and applying the laws of the country.

- ▶ **Examples:** Supreme Court of India, High Courts, District Courts

❑ Quasi-Judicial Bodies

- ▶ Quasi-judicial bodies have powers similar to a court but are not courts themselves. They adjudicate disputes and enforce laws in specific areas or domains assigned to them by statutes.
- ▶ **Characteristics:**
 - They can adjudicate and impose penalties.
 - They are established by law to handle disputes within their specific jurisdiction.
 - Their decisions are legally enforceable.
- ▶ **Examples:** National Green Tribunal (NGT), Securities Appellate Tribunal (SAT), Competition Commission of India (CCI)

Constitutional Bodies in India:

Constitutional Body	Function and Role	Established By	Key Responsibilities
Election Commission of India	Conducts free and fair elections at various levels of government.	Constitution of India	Supervising elections, enforcing electoral laws.
Union Public Service Commission	Responsible for recruitment to various civil services and government jobs through examinations.	Constitution of India	Conducting exams, appointments, promotions in civil services.
Finance Commission	Determines financial devolution from the Union to states and local governments.	Article 280	Recommending revenue distribution and grants-in-aid.
Comptroller and Auditor General	Ensures accountability and transparency in government financial operations through audits.	Article 148	Auditing government expenditures and financial accounts.
National Commission for Scheduled Castes	Safeguards the rights and interests of Scheduled Castes in India.	Article 338	Investigating and monitoring matters related to SCs.
National Commission for Scheduled Tribes	Protects the rights and welfare of Scheduled Tribes in India.	Article 338A	Investigating and monitoring matters related to STs.

Non-Constitutional Bodies

Type	Description	Examples
Statutory Bodies	Created by an act of Parliament, empowered to perform specific functions.	National Human Rights Commission (NHRC), Central Bureau of Investigation (CBI)

Type	Description	Examples
Non-Statutory Bodies	Created by executive orders or resolutions, derive authority from the government.	NITI Aayog, National Development Council

Judicial Bodies

Type	Description	Examples
Judicial Bodies	Courts and tribunals responsible for administering justice according to Indian laws.	Supreme Court of India, High Courts, National Green Tribunal

Executive Bodies

Type	Description	Examples
Executive Bodies	Government agencies and organizations formed by executive action.	Unique Identification Authority of India (UIDAI)

Quasi-Judicial Bodies

Type	Description	Examples
Quasi-Judicial Bodies	Have powers asimilar to courts but limited to specific domains; adjudicate on specific legal matters.	Central Information Commission (CIC), Securities and Exchange Board of India (SEBI)

PREVIOUS YEAR QUESTION()

Q. What is quasi-judicial body? Explain with the help of concrete examples. (2016)

PRACTICE QUESTION

Q. Discuss the role and significance of quasi-judicial bodies in India's governance framework. What distinguishes them from judicial bodies? Illustrate your answer with relevant examples.

9. PRESIDENT OF INDIA

CONTEXT: The President of India plays a pivotal role in India's governance structure, with powers spanning legislative, executive, military, and judicial domains

- The President of India serves as the head of state and commander in chief of the Indian Armed Forces. Indirectly elected, the President holds significant constitutional responsibilities and authorities to safeguard and uphold the Constitution.

▢ Appointments

- **Prime Minister:** The President appoints the Prime Minister of India.
- **Judicial Appointments:** Appoints the Chief Justice and other judges.
- **Governors:** Appoints and can dismiss state governors for constitutional violations.
- **Other Appointments:** Appoints ambassadors, and top civil servants like IAS, IPS, and IFS officers, and the Attorney General.

❑ Legislative Powers

- ▶ **Dissolution of Lok Sabha:** The President can dissolve the Lok Sabha.
- ▶ **Assent to Bills:** Bills passed by Parliament require the President's assent to become law, except for money bills and constitutional amendments.
- ▶ **Nomination to Rajya Sabha:** The President nominates 12 members to the Rajya Sabha for their contributions to various fields.
- ▶ **Returning Bills:** Non-money bills can be returned by the President to Parliament for reconsideration.
- ▶ **Executive Powers**
- ▶ **Chief Executive:** The President holds executive powers.
- ▶ **Delegated Powers:** Parliament can grant additional powers to the President, who can further delegate these to state governors.

❑ Military Powers

- ▶ **Commander in Chief:** The President is the supreme commander of the Indian Armed Forces.
- ▶ **War and Peace:** Can declare war or make peace on the advice of the Prime Minister's council.
- ▶ **Treaties:** All treaties with foreign nations are signed in the President's name.

❑ Power to Pardon

- ▶ The President can grant pardons for offenses against union law or military court convictions, including death penalties.

PRACTICE QUESTION

Q. Discuss the constitutional powers and responsibilities of the President of India. How do these powers contribute to the effective functioning of India's democratic governance? Explain with examples.

10. PRESIDENTIAL ASSENT WITHHOLDING

CONTEXT: The problem of delay in according assent to Bills passed by the legislature is a burning issue that confronts Indian polity. Kerala decided to challenge the legality of President Droupadi Murmu withholding her assent for the Bills that were passed by the Kerala Legislature before the Supreme Court. The President had withheld assent to few Bills that were referred to her.

❑ Significance of the move

- ▶ The unusual move of the Kerala Government will **open doors for a Constitutional debate on the scope of a judicial review** of the decisions of the President of India.
- ▶ The State plans to bring up the issue before the Supreme Court. The state would argue:
 - **Governor should not have referred the Bills to the President** as its **subject matters** were confined to the **State List of the Constitution** where the State has powers to legislate.
 - None of the Bills were in **conflict with any Central legislation**.
 - The Bills **did not belong to the special categories** for which prior Presidential assent was required, sources pointed out.

❑ Impact of the Delay

- ▶ **Political implications:** The object of every legislation is public good, which is defeated by delay. Delay may also have political implications for the party in power in the State.

- ▶ **Unfulfilled objectives:** By such delay, fulfilment of laudable objectives sought to be achieved by the legislation gets delayed or even be defeated.
- ▶ **Affected Centre-State Relations:** The Union is not affected by such delay or inaction. It is the interests of the State that are jeopardized. Centre-State relations may also be adversely affected.

FACT BOX

Assent to the Bill

- When a Bill passed by both Houses of the Legislature is presented to the Governor for his assent, he is empowered under **Article 200 of the Constitution** to exercise any of four alternatives —
 - ▶ to give assent
 - ▶ withhold assent
 - ▶ return the Bill to the Legislative Assembly for reconsideration
 - ▶ reserve it for the consideration of the President
- The President may either give or withhold his assent to a Money Bill. A Money Bill cannot be returned to the House by the President for reconsideration.
- Also, the President is bound to give his assent to Constitution Amendment Bill passed by Parliament by the prescribed special majority and, where necessary, ratified by the requisite number of State Legislatures.
- However, **no timeline has been outlined for the President to decide on the outcome of a Bill**. There is, however, a time period of **six months prescribed for the State Assembly** to reconsider a Bill if the President decides to refer it back to the House.

11. CONSTITUTIONALITY OF GOVERNOR'S VETO POWER OVER BILLS

CONTEXT: Recent instances in states like Punjab and Tamil Nadu where Governors, as unelected heads of state, have withheld assent to crucial bills passed by the state legislatures. This action has sparked controversy regarding its constitutionality and its implications for democratic principles.

▢ Constitutional Provisions

- ▶ **Article 200:** Empowers the Governor to withhold assent to a bill passed by the State Legislature.
- ▶ The Governor must communicate their decision "as soon as possible" to the State Legislature with a message for reconsideration of the bill.
- ▶ The legislature has the ultimate decision on whether to accept the Governor's advice or pass the bill again, with or without amendments.
- ▶ The Governor, under **Article 168**, is a part of the legislature and must operate within the constitutional framework.

▢ Observations of the Supreme Court:

- ▶ The Supreme Court ruled that if a Governor withholds assent, they must send the bill back to the State Legislature "as soon as possible" with a message for reconsideration.
- ▶ The phrase "as soon as possible" implies a constitutional imperative of prompt action.
- ▶ If the State Legislature reiterates the bill "with or without amendments," the Governor has no discretion and must give assent.

- ▶ Withholding a bill without taking further action would contravene constitutional principles of democratic governance.

❏ Role of the Governor in the Legislature

- ▶ The Governor has four options when a bill is presented: give assent, withhold assent, return for reconsideration (if not a Money Bill), or reserve for the President's consideration.
- ▶ The Governor typically acts on the advice of the Council of Ministers.
- ▶ Discretionary powers are seldom exercised; typically, withholding assent may occur for private members' bills or bills from a government that has since fallen.
- ▶ Bills that affect the powers of the High Court or conflict with Union laws may be reserved for the President.

PRACTICE QUESTION

Q. Discuss the constitutional provisions and recent judicial interpretations regarding the Governor's power to withhold assent to bills passed by State Legislatures in India.

12. ATTORNEY GENERAL OF INDIA

CONTEXT: The Attorney General of India is the highest law officer of the country and serves as the chief legal advisor to the government of India. The current Attorney General, KK Venugopal, assumed office on June 30, 2017, marking the 15th person to hold this constitutional post.

❏ Appointment

- ▶ Appointed by the President of India on the advice of the Union Cabinet.
- ▶ Must be a citizen of India and qualified to be a Supreme Court judge, either by serving as a High Court judge for at least five years, practicing as an advocate in a High Court for at least ten years, or recognized as an eminent jurist.

❏ Duties

- ▶ Advises the government on legal matters referred by the President.
- ▶ Undertakes legal responsibilities assigned by the President.
- ▶ Performs functions conferred upon him by the Constitution.
- ▶ Represents the central government in the Supreme Court, handles references under Article 143, and appears in High Courts in cases involving the Government of India.

❏ Special Rights

- ▶ Right of audience in any court of India concerning his duties.
- ▶ Enjoys immunities and privileges similar to Members of Parliament.
- ▶ Can participate in proceedings of both houses of Parliament without voting rights and may be designated as a member.

PRACTICE QUESTION

Q. Discuss the role and constitutional significance of the Attorney General of India.

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8

MISCELLANEOUS

1. IGNCA'S LANGUAGE ATLAS

CONTEXT: The Indira Gandhi National Centre for the Arts (IGNCA), an autonomous institution under India's Ministry of Culture, has embarked on a groundbreaking initiative to conduct a comprehensive linguistic survey across the country.

▣ Significance of India's Linguistic Diversity

- ▶ India stands as one of the world's most linguistically diverse nations, boasting a **tapestry of languages, dialects, and scripts** that enrich its cultural mosaic. From the ancient languages preserved in scriptures to modern vernaculars spoken in remote villages, each tongue contributes uniquely to India's cultural identity and societal fabric.

▣ Historical Context and Census Records

- ▶ The first **comprehensive Linguistic Survey of India (LSI)** was conducted by **Sir George Abraham Grierson** and published in 1928, laying the groundwork for understanding India's linguistic landscape.
- ▶ Subsequent censuses, particularly in 1961, meticulously documented 1,554 languages spoken across the country, reflecting the intricacy and depth of linguistic diversity.
- ▶ Since 1971, however, languages spoken by fewer than 10,000 individuals have been excluded from official census records, inadvertently marginalizing tribal and minority languages.
- ▶ This omission underscores the importance of initiatives like IGNCA's linguistic survey in rectifying historical gaps and preserving endangered languages.

▣ Proposed Objectives of the Linguistic Survey

- ▶ **Comprehensive Enumeration:** The survey aims to enumerate and document all languages and dialects spoken across India, including those that are endangered or on the verge of extinction. By capturing linguistic nuances, the survey seeks to create a holistic repository of India's linguistic wealth.

- ▶ **Digital Archiving:** IGNCA plans to digitally archive audio recordings of all languages documented during the survey. This archival effort is crucial for future research, preservation, and revitalization initiatives aimed at safeguarding linguistic diversity.
- ▶ **Stakeholder Collaboration:** The survey involves collaboration with various stakeholders, including the Ministries of Culture, Education, and Tribal Affairs, as well as linguistic communities and experts. This inclusive approach ensures comprehensive data collection and community involvement in linguistic preservation efforts.

❏ Importance of a Linguistic Survey

- ▶ Preservation of Cultural Heritage
- ▶ Better Policy Formulation
- ▶ Education Planning that cater to diverse linguistic backgrounds
- ▶ Community Empowerment
- ▶ Invaluable resources for researchers, linguists, and anthropologists
- ▶ Promotion of Multilingualism

❏ Constitutional Provisions and Challenges

- ▶ India's Constitution, through **Articles 343 to 351**, safeguards official languages and recognizes the linguistic rights of citizens.
- ▶ The Eighth Schedule lists **22 official languages**, with provisions for the recognition and preservation of minority languages under **Articles 29, 350, and 350A**.

❏ Challenges to Linguistic Diversity

- ▶ Dominance of certain languages can marginalize minority tongues, threatening linguistic diversity
- ▶ Linguistic diversity sometimes fuels identity politics and tensions
- ▶ Insufficient preservation efforts
- ▶ Risk to linguistic diversity

❏ To safeguard India's linguistic diversity, concerted efforts are needed

- ▶ **Policy Reforms:** Strengthen policies that promote multilingual education and support the preservation of regional languages.
- ▶ **Community Involvement:** Empower linguistic communities to spearhead language preservation efforts through collaborative initiatives.
- ▶ **Research and Awareness:** Conduct further research on endangered languages and raise public awareness about the importance of linguistic diversity.

PRACTICE QUESTION

Q. Examine the Constitutional provisions related to languages in India. Discuss their significance in promoting linguistic diversity and national unity.

2. LADAKH AND DEMAND FOR 6TH SCHEDULE

CONTEXT: Fervent call for Ladakh to be accorded tribal area status under the Sixth Schedule of the Indian Constitution.

❏ Why Ladakh is demanding for sixth Schedule inclusion?

- ▶ **Representation and Autonomy:** Ladakh's transition to a Union Territory curtailed its autonomy and local representation. Inclusion under the **Sixth Schedule** would restore a **degree of self-governance** through autonomous district councils, empowering locals to manage their affairs, safeguard cultural identity, and protect natural resources.

- ▶ **Preservation of Cultural Identity:** Sixth Schedule status provides constitutional safeguards to protect Ladakh's unique cultural heritage and traditional practices. It ensures that decisions regarding land use, customs, and social practices are made locally, fostering cultural preservation and community empowerment.
- ▶ **Socioeconomic Development:** Sixth Schedule provisions could facilitate tailored development initiatives, promoting inclusive growth and addressing local aspirations effectively.

❑ What are the hurdles in extending the 6th Schedule?

- ▶ **Legal and Administrative Complexities:** The Ministry of Home Affairs highlights constitutional and administrative hurdles in extending the Sixth Schedule beyond northeastern states, where it currently applies. Amendments would be required, potentially complicating governance and decision-making in Ladakh.
- ▶ **Developmental Concerns:** Sixth Schedule inclusion might hinder economic development by imposing restrictions on land use and resource exploitation.
- ▶ **Security Considerations:** Altering governance structures could disrupt effective security coordination amidst ongoing border challenges.

❑ Strategic and Geopolitical Importance:

- ▶ **Geopolitical position:** Ladakh, known as "the Land of High Passes," occupies a crucial geopolitical position at the crossroads of **South Asia, Central Asia, and East Asia**. Its strategic significance lies in serving as a **buffer zone** between India and neighbouring nations like China and Pakistan.
- ▶ **Tourism and Economic Potential:** Ladakh boasts immense tourism potential. The region also holds promise in sectors such as **agriculture, renewable energy, and cultural tourism**.
- ▶ **Cultural Significance:** The region's centuries old monasteries, such as **Hemis** and **Thiksey**, serve as spiritual and cultural hubs, reflecting its historical role along the **ancient Silk Route**.
- ▶ **Environmental Significance:** Ladakh's fragile ecosystem consists of highaltitude deserts, glaciers, and alpine meadows.

❑ Way Forward:

- ▶ Inclusive Dialogue and Consultation
- ▶ A detailed feasibility study should evaluate the implications of Sixth Schedule inclusion for Ladakh's governance, development, and security.
- ▶ Any decision on Ladakh's constitutional status should be approached through a phased and iterative process.

PRACTICE QUESTION

Q. Discuss the provisions related to the Sixth Schedule of the Indian Constitution. Evaluate their significance in safeguarding the rights and autonomy of tribal areas.

3. COUNTING DEATHS IN INDIA'S PRISONS

CONTEXT: Recently, the Supreme Court Committee on Prison Reforms found suicide to be the leading cause of 'unnatural' deaths — deaths other than ageing or illnesses — among Indian prisoners.

❑ Highlights of the report

- ▶ Uttar Pradesh recording the highest number of suicides between 2017 and 2021.
- ▶ The number of custodial deaths has seen a steady rise since 2019, and 2021 has recorded the highest number of deaths so far.

Almost 1.5% of the prison population suffers from mental illnesses, per the CHRI report.

❑ Factors responsible for deaths

- The infrastructural deficiencies are both a cause and effect of callousness and neglect of the health of individuals in jail custody.
- The neglect could be medical, psychological or a continued denial of access to healthcare, food or safety.

❑ Role of State Government

- Police and public order are State subjects as per the Seventh Schedule of the Constitution of India.
- It is primarily the responsibility of the state government concerned to ensure the protection of human rights.

❑ Role of Central Government

- The Central Government issues advisories from time to time and also has enacted the Protection of Human Rights Act (PHR), 1993.
- It stipulates establishment of the NHRC and State Human Rights Commissions to look into alleged human rights violations by public servants.

❑ Supreme Court's Judgments

- The Supreme Court in a *1996 judgment* mentioned that, prisoners' incarceration places limitations to access; no physician of choice, no second opinions, and few if any specialists.
- Secondly, because of the conditions of their incarceration, inmates are exposed to more health hazards than free citizens."

❑ Provisions for protection of prisoners

- The Ministry of Home Affairs finalized the '**Model Prisons Act 2023**', aiming to replace the outdated Prisons Act of 1894 with a focus on reform and rehabilitation of prisoners.
- The **Model Prison Manual of 2016** and the **Mental Healthcare Act of 2017**, outline inmates' right to healthcare, which includes adequate investment in healthcare facilities, setting up mental health units, training officers to provide basic and emergency care, and formulating suicide prevention programmes to thwart such instances.

FACT BOX

Constitutional Provisions Available Regarding Custody

- ◉ **Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law
 - Protection from torture is a fundamental right enshrined under Article 21 (Right to Life) of the Indian constitution.
- ◉ **Article 22:** Protection against arrest and detention in certain cases

PRACTICE QUESTION

Q. Evaluate the effectiveness of existing frameworks and suggest measures to mitigate the rising incidences of custodial deaths.

4. NEED TO REFORM BAIL LAW

CONTEXT: The Supreme Court of India recently acknowledged the ineffectiveness of India's bail system and its contribution to crisis. Despite repeated guidelines on bail law (such as timelines, separate legislation), things have not changed much on the ground.

❑ Crisis in India's criminal justice system

- **Large number of undertrials:** Over 75% of India's prison population are undertrials while overcrowding in Indian prisons stands at 118%.
- **Marginalised persons bear the brunt:** The foundations of the current bail law ensure that it is anti-poor and disproportionately burdens those from marginalised backgrounds.
- **Bail rejections with no clear rationale:** The power to grant bail rests on court discretion, guided by principles emphasizing release but allowing denial or imposing stringent conditions based on offense severity, accused character, and flight risk, yet often lacking clear rationale for rejection.
- **Incompliance:** Lack of means to arrange for money/property and local sureties are the most significant reasons accounting for an undertrial's inability to comply with bail conditions.
- **Flawed assumptions:** The current bail system operates on flawed assumptions of wealth and social connections, undermining the principle of "bail not jail" for many undertrial individuals, necessitating urgent reform grounded in empirical understanding.

❑ Required measures

- **Presumption of innocence:** Crowding jails with undertrial prisoners ignored the principle of 'presumption of innocence' and that 'bail not jail' should be the norm. However, there is still a need to reflect on why these established principles are honoured more in their breach than observance.
- **Effective bail law:** An effective bail law must be based on the correlation of these answers with variables such as the demographics of undertrials, category of offences and timelines for bail, and also address socio-economic and structural barriers.
- **Enforcement of safeguards against arbitrary arrest** would eliminate the need to seek bail from courts.

5. CRIMINAL LAW REFORMS

CONTEXT: The Indian Parliament has passed three pivotal bills aimed at modernizing and reforming key aspects of the country's legal framework.

- ❑ **Bharatiya Nyaya Sanhita, 2023:** The Bharatiya Nyaya Sanhita (BNS) replaces the antiquated Indian Penal Code, 1860, with a comprehensive overhaul designed to address contemporary challenges and enhance legal efficacy.
 - **Expanded Offenses:** BNS retains fundamental IPC provisions while introducing new categories such as organized crime, terrorism, and group related violence, with penalties ranging from imprisonment to fines.
 - **Terrorism and Organized Crime:** Defined and penalized rigorously, these offenses include severe penalties up to life imprisonment or death in extreme cases, reflecting a robust stance against national security threats.
 - **Mob Lynching:** Recognizing mob violence as a grave offense, BNS imposes strict penalties including life imprisonment or the death penalty for crimes committed on grounds of race, caste, or other discriminatory motives.
 - **Sexual Offenses:** Enhanced protections for women include raising the age threshold for gangrape victims and criminalizing deceptive sexual acts.
 - **Sedition Revisions:** Replaces sedition with offenses against national sovereignty, ensuring alignment with constitutional principles and contemporary legal standards.
- ❑ **Criticism:** Despite revisions, concerns persist regarding criminal responsibility ages and inconsistencies in defining offenses against children.

❑ **Bharatiya Nagarik Suraksha Sanhita, 2023**

- **Replacing the Criminal Procedure Code, 1973**, the Bharatiya Nagarik Suraksha Sanhita (BNSS) introduces reforms aimed at streamlining legal procedures and enhancing judicial efficiency.
- **Detention and Medical Examination:** Enhanced provisions for undertrials and expanded powers for forensic investigations ensure rigorous adherence to legal standards.
- **Timelines and Court Hierarchy:** BNSS2 mandates strict timelines for judicial processes and streamlines court hierarchies for improved administrative efficiency.

- ❑ **Criticism:** Concerns arise over property seizures and restrictions on bail, potentially impacting due process and individual rights.

❑ **Bharatiya Sakshya Bill, 2023**

- The Bharatiya Sakshya Bill (BSB) replaces the Indian Evidence Act, 1872, with updated provisions aimed at integrating electronic evidence and modernizing evidentiary standards.
- **Electronic Evidence:** Recognition of electronic records on par with traditional forms, ensuring broader admissibility and reliability in legal proceedings.
- **Witness Testimony:** Provisions for electronic provision of oral evidence, facilitating remote testimony and enhancing accessibility.

- ❑ **Criticism:** Issues raised include concerns over tampering with electronic records and unaddressed recommendations regarding custodial responsibilities.

The passage of these bills underscores India's commitment to legal reform and adaptation to contemporary challenges. While these legislative strides promise enhanced legal clarity and efficiency, ongoing scrutiny and adaptation will be crucial to address criticisms and ensure robust implementation aligned with constitutional principles and human rights standards.

PRACTICE QUESTION

- Q. Discuss the key provisions of the Bharatiya Nyay Sanhita, 2023, highlighting its significance and potential impact on the Indian legal system.

6. A PRISON MAPPED BY CASTE

CONTEXT: The Centre has asked states and Union Territories not to segregate prisoners on the basis of their caste and religion and to stop assigning duties like managing prison kitchens according to the discriminatory approach.

❑ **How caste is an “endless battle” in Indian society?**

- Despite laws to protect the **Scheduled Castes (SC)**, abuse is frequently reported from across the country.
- Shunned by many in society who call them ‘**untouchable**’, Dalits, particularly in villages, are discriminated against, denied access to land, forced to work in degrading conditions like in scavenging, and routinely abused, even killed, sometimes at the hands of the police and at times by people of upper castes.
- **This entrenched form of societal segregation**, often described as hidden apartheid, has led to the complete isolation of many villages along caste lines.
- **The prevalence of caste-based violence in Indian society** is a complex issue rooted in historical, social, and economic factors.

❑ The in-discriminatory approach and required measures

- The jail manuals of some states provide for segregation of prisoners based on their caste and religion and they are being assigned duties in the prisons accordingly.
- **Composition:** *Two-third of prisoners in Indian jails are Dalits, tribals and from Other Backward Classes (OBCs), 19% are Muslims and 66% of 4.66 lakh inmates are either illiterate or have not studied beyond Class X*
- **Worse for women:** Unlike the male prisoners, women are fewer in number and so are the provisions made available to them.

❑ Upholding Constitutional Principles

- There is constitutional imperative to ensure equality and non-discrimination within prison facilities.

❑ Compliance with Model Prison Manual

- The **Model Prison Manual, 2016** serves as a guiding framework for prison administration, explicitly prohibiting any form of caste or religion-based discrimination. States and Union Territories are urged to act as per these guidelines.

❑ When the rules themselves are casteist?

- Caste-based labour, in fact, is sanctioned in the prison manuals of many states.
- The colonial texts of the late **19th century** have barely seen any amendments, and caste-based labour remains an untouched part of these manuals.
- While every state has its own unique prison manual, they are mostly based on **The Prisons Act, 1894**.
- These jail manuals mention every activity in detail – from the measurement of food and space per prisoner to punishments for the “disorderly ones”.

PRACTICE QUESTION

Q. “Caste system is assuming new identities and associational forms. Hence caste system cannot be eradicated in India.” Comment. (2018)

7. SPECIAL AND LOCAL LAWS

CONTEXT: Legislative discussions concerning India’s criminal justice framework, there has been notable attention towards revising substantive criminal laws encapsulated in the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act (IEA).

❑ What are Special and Local Laws (SLLs)?

- Special and Local Laws (SLLs) are legislative instruments designed to address region-specific, cultural, or unique legal issues within particular states or localities. Unlike the general provisions of the Indian Penal Code (IPC), SLLs cater to specific criminal activities framed by state governments to tackle distinct challenges within their jurisdictions.

❑ Significance of SLLs

- SLLs form a vital component of India’s Criminal Justice System, encompassing offenses and procedural norms crucial for maintaining law and order. As of 2021, nearly 39.9% of all cognizable offenses registered fell under SLLs, highlighting their significant impact on law enforcement and judicial proceedings.

❑ Why Reforms are Needed in Special and Local Laws?

- **Ambiguous Definitions and Legal Clarity:** Many SLLs, such as the Unlawful Activities (Prevention) Act, 1967, suffer from ambiguous and vague definitions of offenses like 'terrorist act' or 'unlawful activity.' These ambiguities can lead to misinterpretation, misuse, and violations of due process, undermining legal certainty and fairness.
- **Inconsistencies in Legal Processes:** The variability in legal procedures under SLLs can result in disparate treatment of individuals based on their geographical location. This lack of uniformity poses challenges for ensuring equal access to justice and protection under the law across different states.
- **Impact on Individual Rights:** Certain SLLs have been criticized for their broad powers of search, seizure, and admissibility of confessions, which can compromise the rights of the accused. Restrictive bail provisions, such as those under the Unlawful Activities (Prevention) Act, make obtaining bail exceedingly difficult, raising concerns about fairness and individual liberties.
- **Need for Integration and Consistency:** There is a pressing need to integrate SLLs into the broader framework of the penal code or standardize their procedures within the Code of Criminal Procedure (CrPC). This would ensure clarity, consistency, and adherence to due process while addressing region-specific legal concerns.

PRACTICE QUESTION

Q. Discuss the necessity of Special and Local Laws (SLLs) in India. Analyse their role in addressing region-specific issues and promoting justice, and evaluate the challenges and criticisms associated with these laws.

8. NARI SHAKTI VANDAN (106TH AMENDMENT) ACT, 2023

CONTEXT: The Constitution (106th Amendment) Act, 2023, known as the Women's Reservation Act, reserves one-third of all seats for women in the Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi.

❑ Legislative Progression of Women's Reservation Bills

- India is a signatory to the **Convention on the Elimination of All Forms of Discrimination Against Women, 1979**, which mandates the eradication of gender-based discrimination in political and public spheres.
- Despite progress, the representation of women in decision-making bodies remains relatively low. Representation increased from **5% in the first Lok Sabha to 15% in the 17th Lok Sabha**.
- Constitutional amendments aimed at reserving seats for women in Parliament and state legislative assemblies were proposed in **1996, 1998, 1999, and 2008**.
- The first three Bills expired when their respective Lok Sabhas dissolved, and the 2008 Bill, despite being approved by the Rajya Sabha, also lapsed when the 15th Lok Sabha dissolved.

❑ Issue of Triple Test

- The reservation for women requires clearing the "triple test" as laid out by the Supreme Court. In 2010, the Supreme Court held that backwardness in local bodies has to be "political" rather than "social and educational." The three-fold test for granting reservations involves:
- Setting up a dedicated commission to examine backwardness in local bodies.
- Determining the size of the quota based on the commission's survey data.
- Ensuring the combined reservations for SCs, STs, and OBCs do not exceed 50% of the total seats in the local body.

❑ Committees and Their Reports

- **1971 Committee on the Status of Women in India (CSWI):** Established to review constitutional, administrative, and legal provisions affecting women's status, education, and employment, leading to the 'Towards Equality' report.
- **1987 Committee under Margaret Alva:** Presented the National Perspective Plan for Women 1988-2000, recommending reservations for women in elected bodies.
- **First Women's Reservation Bill (1996):** Proposed 33% reservation for women in Parliament and state legislatures but faced opposition and lapsed.
- **2013 Committee on the Status of Women:** Recommended 50% reservation of seats for women in various decision-making bodies.

❑ Present Status of Women Representation

- **In Politics:** Out of the total 543 Members of Parliament (MPs) elected to the **18th Lok Sabha**, women constituted **only 74**, which is **13.6% of the total**. This is down from 78, or 14.4%, elected in the 2019 elections, the highest ever in the history. Nonetheless, the share of women MPs has increased from about 5.5% in 1957 to above 10% since 2009.
- **In Local Bodies:** States like Bihar, Maharashtra, Odisha, and others have made legal provisions for 50% reservation for women in local bodies.
- **In Services:** Various states, including Uttarakhand, Karnataka, and Tripura, have implemented reservations for women in state government jobs.

❑ Issues Related to Delimitation

- The reservation will come into effect only after the next census and subsequent delimitation. Delimitation exercises in the past have faced delays and controversies, such as in the cases of Assam, Arunachal Pradesh, and Manipur.

❑ OBC Issue

- The Constitution does not provide for political reservation for OBCs in the Lok Sabha or state assemblies, leading to demands for a separate quota for OBC women within the 33% reservation.

Arguments in Support of the Act	Arguments Against the Act
<ul style="list-style-type: none"> ◦ Gender Equality: Enhances political empowerment and gender equality. ◦ Historical Underrepresentation: Increases women's representation in decision-making bodies. ◦ Diverse Perspectives: Brings broader perspectives to the legislative process. ◦ Empowerment of Women: Encourages women to take on leadership roles. 	<ul style="list-style-type: none"> ◦ Homogeneity Issue: Women are not a homogeneous community, making it challenging to apply similar arguments used for caste-based reservations. ◦ Merit vs. Reservation: Concerns that reservations might undermine the meritocracy principle.

PRACTICE QUESTION

- Q. Discuss the key provisions of the Women's Reservation Act, 2023, and evaluate its potential impact on political representation and gender equality in India. What are the challenges in its implementation, and how can they be addressed?

9. BAIL AS RIGHT

CONTEXT: In recent developments, the number of bail appeals filed in India's High Courts has seen a significant rise post 2020, according to a recent report.

❑ Statistics and Analysis

- The study covered a period from 2010 to 2021, examining 927,896 bail cases across 15 High Courts. The data revealed a diverse array of 81 case types associated with bail appeals, shedding light on the complex landscape of judicial proceedings across different states.

❑ Increase in Bail Appeals

- Prior to 2020, the annual number of bail appeals stood at approximately 3.2 lakh to 3.5 lakh. However, from July 2021 to June 2022, this figure surged to 4 lakhs to 4.3 lakhs annually.
- Consequently, the backlog of pending bail appeals in High Courts escalated from around 50,000 to 65,000 cases to between 1.25 lakh and 1.3 lakh cases.

❑ Caseload Distribution

- The distribution of caseloads varied significantly among different High Courts.
- States such as Bihar, Jharkhand, Odisha, Madhya Pradesh, and Chhattisgarh reported that bail appeals accounted for more than 30% of their total caseload between July 2021 and June 2022.

❑ Challenges in Disposal Time and Outcome Clarity

- Median disposal times for regular bail applications varied widely across High Courts, raising concerns about prolonged delays in judicial proceedings.
- Delays in deciding on bail cases are seen as tantamount to denying bail, as the accused remain incarcerated during these extended periods.
- Furthermore, there was considerable ambiguity regarding the outcomes of disposed bail cases, with nearly 80% lacking clear documentation on whether appeals were granted or rejected.

❑ Reasons for Surge in Bail Appeals

- The COVID19 pandemic led to an influx of cases related to violations of lockdown norms, disrupting court functioning and contributing to the accumulation of pending bail cases.
- Additionally, the enforcement of the **Epidemic Diseases Act, 1897** potentially spurred an increase in bail appeals, with a notable proportion of cases falling under this legislation.

❑ About Bail

- Bail refers to the conditional release of individuals held under legal custody, contingent upon their promise to appear in court as required.
- It involves the deposit of security or collateral with the court to secure release.

❑ Types of Bail in India

- **Regular Bail:** Granted by courts to individuals already under arrest and in police custody, filed under Sections 437 and 439 of the Code of Criminal Procedure (CrPC), 1973.
- **Interim Bail:** Temporary release granted by courts pending the decision on applications for anticipatory or regular bail.
- **Anticipatory Bail:** Prearrest bail sought under Section 438 of the CrPC, allowing individuals to seek protection against arrest in anticipation of false or frivolous charges.
- **Statutory Bail:** Also known as default bail, provided when the police fail to file a charge sheet within a specified timeframe.

The surge in bail appeals in India's High Courts underscores systemic challenges in judicial efficiency and access to justice. Addressing these issues requires strategic reforms to streamline case disposal, enhance transparency in judicial outcomes, and mitigate delays caused by external factors like the pandemic.

PRACTICE QUESTION

Q. Discuss the principle of 'Bail not Jail' in the context of criminal jurisprudence in India. Why is it important and what challenges does it face in implementation?

10. RESERVATION ON THE BASIS OF RELIGION

CONTEXT: Recent developments in Andhra Pradesh have brought back discussions on the 5% reservation quota for Muslims, reigniting debates surrounding religion-based reservations in the state.

▢ Background of Reservation for Muslims in Andhra Pradesh

- ▶ In 2004, Andhra Pradesh introduced a 5% reservation quota for Muslims under Articles 15(4) and 16(4) of the Constitution. This move was aimed at addressing the socioeconomic and educational backwardness among Muslims, who constitute approximately 9.5% of the state's population.

▢ Legal Challenges

- ▶ The Andhra Pradesh High Court initially struck down this reservation, citing procedural lapses such as the absence of a recommendation from the Backward Classes Commission and the inclusion of the creamy layer within the quota beneficiaries.
- ▶ The court also questioned the homogeneity of Muslims as a group for the purpose of affirmative action.

▢ Current Status

- ▶ The Supreme Court was scheduled to hear the case following the resolution of the Economically Weaker Section (EWS) quota issue. However, the matter remains unresolved, leaving the fate of the Muslim reservation in Andhra Pradesh pending judicial review.

▢ Issues and Controversies

- ▶ Critics argue that granting reservations based solely on religion violates the constitutional principles of equality (Articles 15(1) and 16(2)) and secularism.
- ▶ They contend that any affirmative action should be based on socioeconomic backwardness rather than religious identity.

▢ Comparative Perspectives

- ▶ Other states like Kerala and Karnataka have implemented similar religious subquotas within their OBC categories, albeit with varying degrees of controversy and legal challenges. Karnataka, for instance, categorizes Muslims under separate OBC classifications, which has also faced scrutiny from the National Commission for Backward Classes.

▢ Legal Framework and Judicial Precedents

- ▶ India's legal landscape on reservations is shaped by landmark cases such as Indra Sawhney v. Union of India (1992), which established the criteria for reservations including the exclusion of the creamy layer and the 50% quota limit.

Supporting Arguments Religion-Based Reservations	Arguments opposing Religion-Based Reservations
<ul style="list-style-type: none"> ◦ Proponents argue that reservations for Muslims and other religious minorities are necessary to address historical socioeconomic disparities. ◦ They cite reports like the Sachar Committee, which highlight the underrepresentation of Muslims in education and employment sectors. 	<ul style="list-style-type: none"> ◦ Opponents contend that religion-based reservations undermine the principle of secularism and may lead to communal tensions. ◦ They advocate for reservations based on economic criteria to ensure that benefits reach those most in need, regardless of religious affiliation.

❏ Suggestive Measures

- **Socio-Economic Criteria:** To navigate the complexities of affirmative action, there is a growing consensus towards using socioeconomic indicators rather than religious identity as the basis for reservations.
- **Inclusive Policies:** Governments should focus on inclusive policies that empower marginalized communities through education, skill development, and targeted welfare schemes.
- **Dialogue and Consensus:** Engaging in constructive dialogue involving all stakeholders is crucial to forging consensus on equitable and effective measures to uplift backward communities.

PRACTICE QUESTION

Q. What are the potential implications for social harmony and secularism if reservation is provided on the basis of religion?

11. RESERVATION IN JAMMU & KASHMIR

CONTEXT: Recently, the Lok Sabha has passed the Jammu and Kashmir Reorganisation (Amendment) Bill, 2023 and the Jammu and Kashmir Reservation (Amendment) Bill, 2023

❏ Background

- Before the Revocation of Article 370, Jammu and Kashmir had distinct rules for delimiting Lok Sabha and Assembly seats.
- Post the abrogation of Article 370 and the region's transition into a Union Territory, a Delimitation Commission was formed in March 2020.
- This commission was tasked not only with delimiting J&K's seats but also those of Assam, Manipur, Arunachal Pradesh, and Nagaland, aiming to finish within a year.
- Recently, the commission concluded its delimitation process, resulting in an increase in J&K's legislative assembly seats from 107 to 114, facilitated by the Jammu and Kashmir Reorganisation (Amendment) Bill, 2023.

❏ Jammu & Kashmir Reservation (Amendment) Bill, 2023

- **Objective:** It seeks to amend Section 2 of the Jammu and Kashmir Reservation Act, 2004.
- **Existing Law:** The Jammu and Kashmir Reservation Act, 2004 provided reservation in jobs and admission in professional institutions to Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially and educationally backward classes.
- **Amendment:** The Bill suggests changing the nomenclature of a section of people earlier described as "weak and underprivileged classes (social castes)" to "other backward classes".
- Jammu and Kashmir Reorganisation (Amendment) Bill, 2023:
- **Objective:** It seeks to amend the 2019 Act to provide representation in the Legislative Assembly to the Kashmiri Migrants and displaced persons from PoK.

❏ Provisions

- Nominate two members from the Kashmiri migrant community, with one nominee being a woman.
- The lieutenant governor to nominate one person representing the displaced persons from PoK to the Legislative Assembly.
- Increase the total number of seats in the Jammu and Kashmir legislative assembly from 107 to 114, with 7 reserved for scheduled caste members and 9 for legislators from scheduled tribes.
- 24 seats of the Assembly will remain vacant until the occupation in PoK ceases, making the effective strength of the Assembly 83, which the amendment seeks to increase to 90.

▢ What is Delimitation?

- Delimitation is the act of fixing or redrawing the limits or boundaries of territorial constituencies (Assembly or Lok Sabha seats) in a country or a province having a legislative body, as per the Election Commission.
 - **Purpose:** The delimitation exercise is carried out to redefine the area of a constituency based on its population size (based on the last Census). This may result in a change in the number of seats in a state and involves the reservation of Assembly seats for SC & ST in accordance with the Constitution.
 - **Delimitation Commissions:** These have been set up four times — 1952, 1963, 1973, and 2002 under the Acts of 1952, 1962, 1972, and 2002.

PRACTICE QUESTION

Q. Critically examine the key provisions of the Jammu and Kashmir Reservation (Amendment) Bill, 2023, and discuss its potential implications on the socio-political landscape of the region.

12. OBC RESERVATION IN LOCAL BODIES

CONTEXT: The state government of Gujarat has increased reservations for Other Backward Classes (OBCs) from 10% to 27% in panchayats and urban local bodies.

▢ Key Points about this Decision

- **Background:** The decision follows recommendations from the Justice K S Jhaveri Commission, which was established in response to a Supreme Court (SC) directive in 2022. This directive was to make suggestions for OBC reservation in local bodies in Gujarat.
- **Scope:** The expanded 27% OBC reservation will apply to all levels of local bodies, including municipal corporations, municipalities, gram panchayats, taluka panchayats, and district panchayats.
- **Exceptions:** The increased OBC reservation will not apply in areas covered by the PESA Act 1996, where the Scheduled Tribe (ST) population exceeds 50%. In these regions, OBC candidates will receive a 10% reservation.
- **Status Quo for SCs and STs:** The existing quota for Scheduled Castes (14%) and Scheduled Tribes (7%) remains unchanged, ensuring compliance with the 50% reservation ceiling mandated by the SC.

▢ Supreme Court's View on Reservation in Local Bodies

- **Constitutional Interpretation:** In the 2010 case of K. Krishnamurthy (Dr.) v. Union of India, the SC interpreted **Article 243D (6)** and **Article 243T (6)**, which permit reservations for backward classes in panchayat and municipal bodies respectively.
- **Empirical Requirement:** The SC held that barriers to political participation differ from those limiting access to education and employment. Therefore, reservation in local bodies is permissible but subject to an empirical finding of backwardness, satisfied through the "triple tests":
 - Establish a dedicated commission to conduct an empirical inquiry into the nature of the backwardness in local bodies.
 - Specify the proportion of reservation required, local body-wise.
 - Ensure that the reservation does not exceed an aggregate of 50% of the total seats reserved for SCs, STs, and OBCs.

Arguments in Favour	Arguments Against
<ul style="list-style-type: none"> ◦ Provides OBC individuals with opportunities to actively participate in local governance, allowing them to voice their concerns and contribute to policy-making. 	<ul style="list-style-type: none"> ◦ Caste-Based Division: Some argue that caste-based reservations perpetuate societal divisions rather than fostering unity.

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| <ul style="list-style-type: none"> ◦ Elected representatives from OBC communities are more likely to understand and address the challenges faced by their communities effectively. ◦ Offers more opportunities for OBC individuals to gain experience in leadership roles and decision-making. ◦ Encourages political awareness and engagement within the community, inspiring more active political participation. ◦ Aims for a more equitable distribution of resources, improved socio-economic indicators, and reduced disparities over time. | <ul style="list-style-type: none"> ◦ Disadvantaged Groups Within OBCs: Concerns exist that within the OBC category, some groups (the “creamy layer”) might benefit disproportionately, leaving the most marginalized OBCs underrepresented. ◦ Reservation Efficacy: Skeptics question the long-term effectiveness of reservations in addressing socio-economic disparities, advocating for alternative approaches like targeted welfare programs and skill development. ◦ Impact on Local Governance: Apprehensions that political considerations might outweigh governance concerns, potentially hindering effective decision-making and overall development of local bodies. |
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PRACTICE QUESTION

Q. Discuss the rationale behind providing OBC reservation in local bodies. What are the challenges and potential implications of increasing OBC reservation to 27% in local bodies?

13. SUB-CATEGORISATION OF OBCS

CONTEXT: The Justice G. Rohini headed Commission for the sub-categorisation of Other Backward Classes (OBCs) submitted its long-awaited report to the Ministry of Social Justice and Empowerment.

▢ Terms of Reference and Mandate:

- **Examine Inequitable Distribution:** Assess the uneven distribution of benefits among OBCs listed in the Central List and propose corrective measures.
- **Scientific Approach for Sub-categorisation:** Develop a scientific methodology and parameters for subcategorising OBCs to ensure fairer distribution of reservation benefits.
- **Identify and Classify Castes:** Identify specific castes or communities within OBCs and classify them into appropriate subcategories based on socioeconomic and educational criteria.
- **Rectify Central List Entries:** Review and recommend corrections for any repetitions, ambiguities, inconsistencies, or errors in the entries of OBCs in the Central List.

▢ Need for Sub-categorisation of OBCs

- The rationale behind sub-categorisation stems from the observation that despite the 27% reservation quota for OBCs in central government jobs and educational institutions, a few dominant caste groups within the OBC category tend to disproportionately benefit.
- Data analysis by the commission revealed that a significant majority of benefits were availed by a small fraction of OBC communities, leaving many historically underrepresented groups marginalized.
- In fact, approximately **983 OBC communities**, constituting 37% of the total, had zero representation in both central government jobs and educational institutions.
- Sub-categorisation aims to address this disparity by creating more targeted quotas within the existing reservation framework, thereby ensuring equitable access to opportunities for all OBC communities.

▢ Historical Evolution of OBC Reservation:

- The journey of OBC reservation in India began with the **Kalelkar Commission in 1953**, which first recognized backward classes on a national level beyond **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**.

- ▶ Subsequently, the **Mandal Commission Report in 1980** estimated the OBC population at 52% and recommended extending reservations to OBCs to rectify historical injustices.
- ▶ Following these recommendations, the Indian government implemented OBC reservations in central government jobs and educational institutions through constitutional amendments, aiming to uplift disadvantaged communities.
- ▶ The Supreme Court's intervention in 2008 to exclude the **"creamy layer"** among OBCs from reservation benefits further refined the policy, ensuring it reaches those most in need.
- ▶ In 2018, the **National Commission for Backward Classes (NCBC)** gained constitutional status through the **102nd Constitution Amendment Act**, enhancing its authority to safeguard the interests of backward classes, including OBCs, with greater autonomy and recognition.

PRACTICE QUESTION

Q. Examine the rationale behind the sub-categorisation of Other Backward Classes (OBCs) in India. Discuss the potential benefits and challenges associated with this move.

14. SUB-CATEGORISATION OF SCHEDULE CASTE

CONTEXT: In response to the Madiga Community's demands in Telangana, the Indian government has established a high-level committee, headed by the Cabinet Secretary, aimed at resolving disparities among Scheduled Caste (SC) communities concerning the distribution of benefits.

▣ Objectives of the Committee

- ▶ The primary mandate of the committee is to devise alternative methods for addressing grievances faced by various SC communities nationwide.
- ▶ While initially prompted by demands from the **Madiga community**, the committee's scope extends to all 1,200 plus SCs in India.
- ▶ It seeks to ensure more equitable allocation of benefits, schemes, and initiatives, which have often favoured more dominant SC groups over the most backward ones.

▣ Key Aspects of SC Sub-categorisation in India

- ▶ **Madiga Community's Challenges:** In Telangana, the Madiga community, comprising 50% of the SC population, has struggled to access government benefits due to dominance by the Mala community. Since 1994, the Madiga community has advocated for subcategorisation within SCs, leading to the formation of commissions to study their plight.
- ▶ **State Level Efforts and Legal Battles:** Several states, including Punjab, Bihar, and Tamil Nadu, have attempted sub-categorisation within SCs at the state level, but these efforts have faced legal challenges. The constitutional stance on this issue, governed by Articles 341 and 342, empowers the President to notify SC lists, with no explicit prohibition against sub-categorisation.
- ▶ **Legal Tussles and Supreme Court Intervention:** The Supreme Court's involvement has been pivotal, with a recent ruling acknowledging inequalities within SCs and recommending reconsideration of the 2004 decision that treated SCs as a homogeneous group. This legal backdrop underscores the complexity and significance of sub-categorisation.

Benefits	Challenges
<ul style="list-style-type: none"> Targeted policies and programs tailored to specific socioeconomic and historical disadvantages faced by subgroups within SCs. Fair representation and political participation Recognizing and empowering cultural identities. 	<ul style="list-style-type: none"> Potential social divisions and politicisation Complexities in accurate identification and verification of beneficiaries.

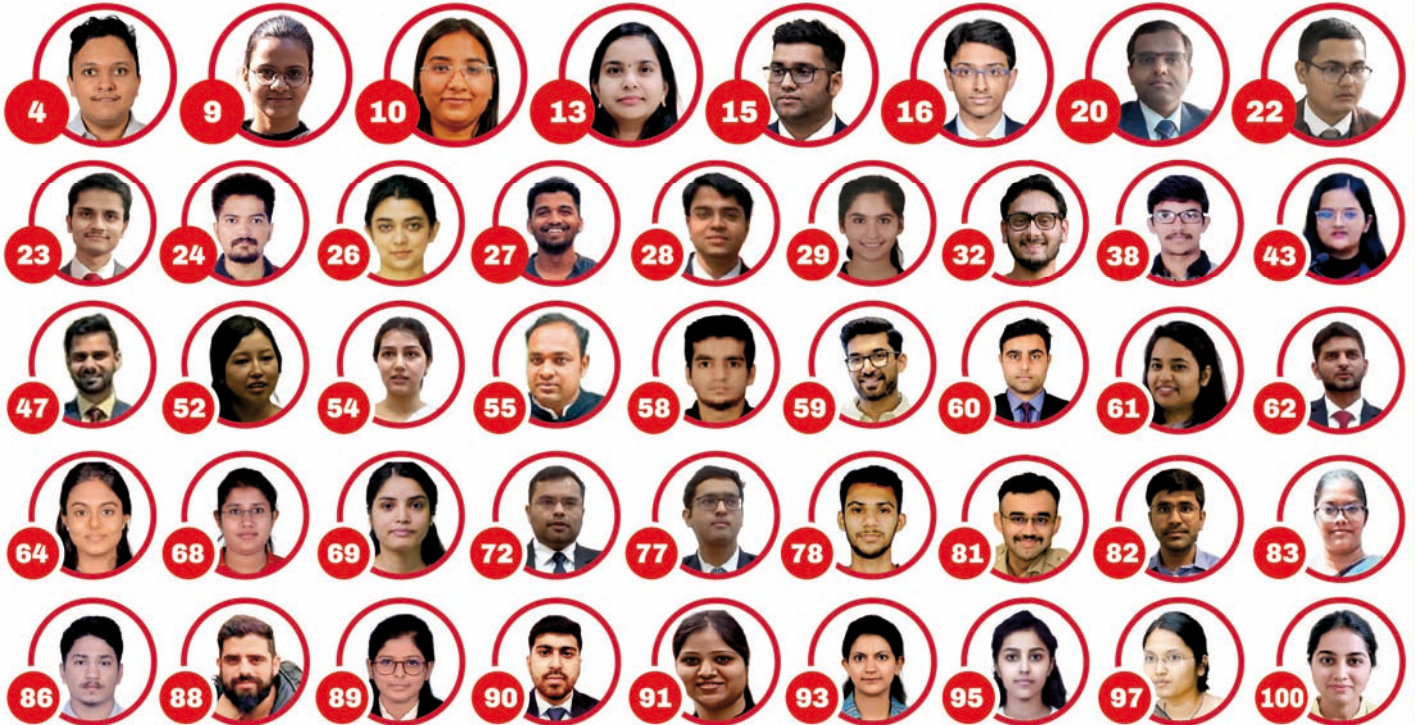
PRACTICE QUESTION

Q. Discuss the rationale behind the sub-categorization of Scheduled Castes (SCs) in India. Examine the challenges associated with implementing this sub-categorization and suggest measures to address these challenges effectively.

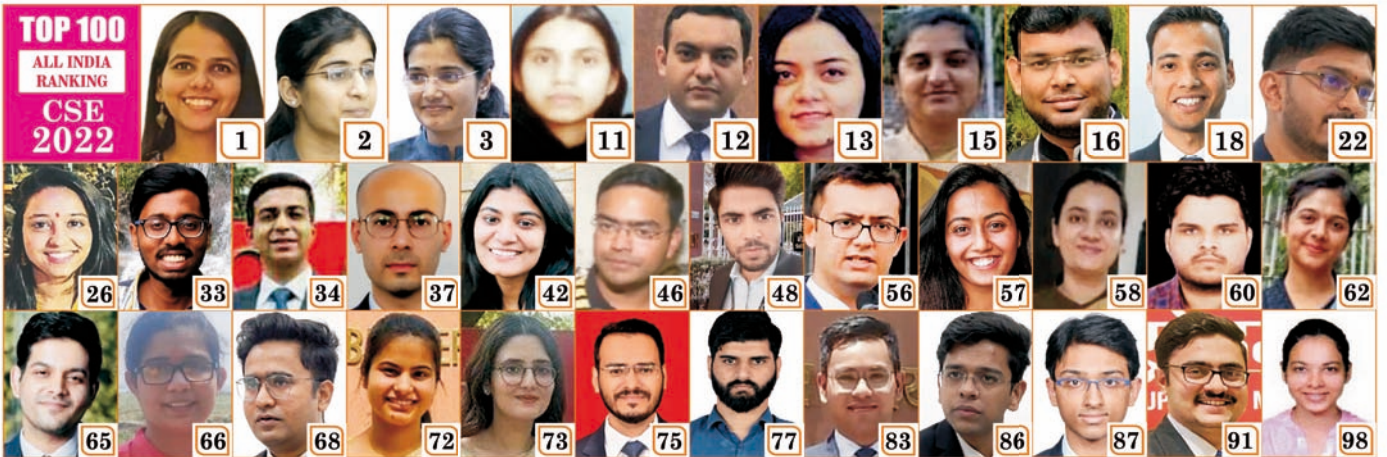


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