



Drishti IAS Presents...



PT **SPRINT** 2022

POLITY & GOVERNANCE

(January 2021 – March 2022)



Drishti IAS, 641, Mukherjee Nagar,
Opp. Signature View Apartment,
New Delhi

Drishti IAS, 21
Pusa Road, Karol Bagh
New Delhi - 05

Drishti IAS, Tashkent Marg,
Civil Lines, Prayagraj,
Uttar Pradesh

Drishti IAS, Tonk Road,
Vasundhara Colony,
Jaipur, Rajasthan

e-mail: englishsupport@groupdrishti.com, Website: www.drishtias.com

Contact: 011430665089, 7669806814, 8010440440

Contents

| | |
|--|-----------|
| Fundamental Rights, DPSP & Fundamental Duties..... | 1 |
| ● Enforcing Fundamental Duties | 1 |
| ● Hijab & Freedom of Religion | 2 |
| ● Public Order..... | 3 |
| ● Right to Protest..... | 4 |
| ● Government Aid Not a Fundamental Right: SC | 4 |
| ● Fundamental Rights to Reside and to Move About Freely | 5 |
| ● SC Judgement on Preventive Detention | 6 |
| ● Uniform Civil Code..... | 7 |
| ● Minority Educational Institutions and Right to Education | 9 |
| ● Right to Privacy..... | 9 |
| ● Right to Forgotten | 10 |
| ● Right of Reputation vs Right to Dignity | 11 |
| ● Free Legal Aid | 12 |
| ● Lok Adalat..... | 13 |
| ● Draft Anti-Conversion Bill: Haryana | 14 |
| Federalism & States | 15 |
| ● Role and Power of Governor | 15 |
| ● Governor's Role in Universities | 17 |
| ● Governor's Power to decide on Bills: Veto Power..... | 18 |
| ● Chief Minister | 19 |
| ● 'Union' or 'Central' Government | 20 |
| ● Interim Report of J&K Delimitation Commission..... | 21 |
| ● Assam-Meghalaya Border Dispute | 22 |
| ● Krishna Water Dispute..... | 23 |
| ● Statehood Demand by Puducherry | 24 |
| ● Belagavi Border Dispute | 26 |
| ● Demand for Including Ladakh under Sixth Schedule | 27 |
| ● Special Category Status | 28 |
| ● E-ILP Platform: Manipur | 28 |
| ● Legislative Council | 29 |
| ● Government of NCT of Delhi (Amendment) Act, 2021..... | 30 |
| ● National Panchayati Raj Day..... | 31 |

| | |
|---|-----------|
| Union Executive & Legislature | 33 |
| ● Motion of Thanks | 33 |
| ● Private Members Bill | 34 |
| ● Privilege Motion | 35 |
| ● Deputy Speaker Election | 36 |
| ● Anti-Defection Law | 37 |
| ● Parliament Sessions..... | 39 |
| ● Council of Ministers..... | 40 |
| ● Attorney General of India | 41 |
| ● Appointment of CBI Director | 41 |
| ● Impeachment of the President of the USA..... | 42 |
| ● Supplementary Demand for Grants | 43 |
| ● The Appropriation Bill | 44 |
| Judiciary | 45 |
| ● Virtual Courts..... | 45 |
| ● Collegium System for the Appointment of Judges | 45 |
| ● SC Refuses to Give a Yardstick for Reservation in Promotions..... | 46 |
| ● Suspension of MLAs..... | 48 |
| ● Language of Courts in India | 49 |
| ● Supreme Court on SC/ST Act | 50 |
| ● Contempt of Court..... | 51 |
| ● SC on Central Information Commission (CIC) | 52 |
| ● Judicial Review..... | 53 |
| Miscellaneous | 54 |
| ● Election Freebies | 54 |
| ● Winter Session 2021..... | 55 |
| ● First Audit Diwas: CAG..... | 57 |
| ● Constitution Day: 26 th November..... | 58 |
| ● National Human Rights Commission | 59 |
| ● Election Symbols | 60 |
| ● Secrecy of Vote..... | 60 |
| ● Director of Inquiry for Lokpal | 61 |
| ● Electoral Trust Scheme, 2013..... | 62 |
| ● Chief Election Commissioner | 63 |
| ● Central Vigilance Commission | 65 |

Fundamental Rights, DPSP & Fundamental Duties

Enforcing Fundamental Duties

Why in News?

Recently, the **Supreme Court** issued a notice to the Centre and states to respond to a **petition to enforce the Fundamental Duties of citizens**, including patriotism and unity of the nation, **through comprehensive, well-defined laws**.

- Fundamental Duties are specified under **Article 51A (Part IVA)** of the Constitution, they **strive to uphold the country's ideals and contribute to its growth and betterment**.

What are Fundamental Duties?

- The idea of Fundamental Duties is inspired by the **Constitution of Russia (erstwhile Soviet Union)**.
- These were incorporated in Part IV-A of the Constitution by the **42nd Constitutional Amendment Act, 1976** on the recommendations of the **Swaran Singh Committee**.
- Originally **10 in number**, one more duty was added through the **86th Constitutional Amendment Act, 2002**.
- Like the **Directive Principles of State Policy**, the Fundamental duties are also **non-justiciable in nature**.
- **List of Fundamental Duties:**
 - To abide by the **Constitution and respect its ideals and institutions**, the **National Flag and the National Anthem**;
 - To cherish and follow the **noble ideals that inspired the national struggle** for freedom;
 - To uphold and protect the **sovereignty, unity and integrity of India**;
 - To defend the **country and render national service** when called upon to do so;
 - To promote **harmony and the spirit of common brotherhood** amongst all the people of India transcending **religious, linguistic and regional or sectional diversities** and to renounce practices derogatory to the dignity of women;
 - To value and **preserve the rich heritage** of the country's composite culture;

- To protect and improve the **natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures**;
- To develop **scientific temper, humanism** and the spirit of inquiry and reform;
- To safeguard **public property and to abjure violence**;
- To strive towards **excellence in all spheres of individual and collective activity** so that the nation constantly rises to higher levels of endeavour and achievement; and
- To provide opportunities for **education to his child or ward between the age of six and fourteen years** (added by the **86th Constitutional Amendment Act, 2002**).

What is the Significance of Fundamental Duties?

- **Rights and duties are correlative**
 - The Fundamental Duties are intended to serve as a **constant reminder to every citizen** that while the Constitution specifically conferred on them **certain fundamental rights**, it also requires citizens to observe **basic norms of democratic conduct and democratic behaviour**.
- These **serve as a warning to the people against the anti-social activities** that disrespect the nation like burning the flag, destroying the public property or disturbing public peace.
- These **help in the promotion of a sense of discipline and commitment towards the nation**. They help in realising national goals by the active participation of citizens rather than mere spectators.
- **It helps the Court in determining the constitutionality of the law**. For instance, any law passed by the legislatures, when taken to Court for constitutional validity of the law, if it is giving force to any Fundamental Duty, then such law would be taken as reasonable.

What is the Need to Legally Enforce Fundamental Duties?

- Since time immemorial the emphasis in **Indian society in accordance with the dictates of the ancient scriptures** has been on the individual's '**Kartavya**'.
- This is the performance of one's duties towards society, the country and especially towards one's parents.
- The **Gita and the Ramayana** enjoin people to perform their duties without caring for their rights.

Note:



- In the **erstwhile Soviet Union Constitution**, the rights and duties were placed on the same footing.
 - There is a pressing need to **enforce and implement at least some of the fundamental duties**.
 - For instance, to uphold and protect sovereignty, unity and integrity of India, to defend the country and render national service when called upon to do so and to disseminate a sense of nationalism and to promote the spirit of patriotism to uphold the unity of India.
 - These fundamental duties assume significance after the **emergence of China as a superpower**.
- The **Verma Committee on Fundamental Duties of the Citizens (1999)** identified the existence of legal provisions for the implementation of some of the Fundamental Duties. The committee provided with the provisions like:
 - No person can disrespect the **National flag, Constitution of India and the National Anthem under the Prevention of Insults to National Honour Act, 1971**.
 - The **Protection of Civil Rights Act (1955)** provided for punishments in case of any offence related to caste and religion.
- It was argued in the petition that the **non-adherence of the Fundamental Duties** has a direct bearing upon the **Fundamental Rights guaranteed under Articles 14 (Equality before Law), 19 (Protection of certain rights regarding freedom of speech) and 21 (Right to Life) of the Constitution of India**.
 - For example, the need to enforce fundamental duties arises due to the **new illegal trend of protest by protestors** in the garb of freedom of speech and expression.

What is the Supreme Court's Stand on Fundamental Duties?

- The Supreme Court's **Ranganath Mishra judgment 2003** held that fundamental duties should not only be enforced by **legal sanctions but also by social sanctions**.
- In **AIIMS Students Union v. AIIMS 2001**, it was held by the Supreme Court that **fundamental duties are equally important like fundamental rights**.
 - Though fundamental duties are not enforceable like fundamental rights they cannot be overlooked as duties in Part IV A.

- They are prefixed by the **same word fundamental** which was prefixed by the founding fathers of the Constitution to 'right' in Part III.

Hijab & Freedom of Religion

Why in News?

Recently, six students were **banned from entering a college** in Karnataka's Udupi district **for wearing a hijab** (a head covering worn in public by some Muslim women).

- The issue **throws up legal questions on reading the freedom of religion** and whether the right to wear a hijab is constitutionally protected.

How is Religious Freedom Protected under the Constitution?

- **Article 25(1)** of the Constitution guarantees the **"freedom of conscience and the right freely to profess, practise and propagate religion"**.
- It is a right that **guarantees a negative liberty** — which means that the state shall ensure that there is no interference or obstacle to exercise this freedom.
 - However, like all **fundamental rights**, the **state can restrict the right for grounds of public order, decency, morality, health and other state interests**.
- The implications of this are:
 - **Freedom of conscience:** Inner freedom of an individual to mould his relation with God or Creatures in whatever way he desires.
 - **Right to Profess:** Declaration of one's religious beliefs and faith openly and freely.
 - **Right to Practice:** Performance of religious worship, rituals, ceremonies and exhibition of beliefs and ideas.
 - **Right to Propagate:** Transmission and dissemination of one's religious beliefs to others or exposition of the tenets of one's religion.

What is the Essential Religious Practices Test?

- Over the years, the **Supreme Court (SC)** has evolved a practical test of sorts to determine what religious practices can be constitutionally protected and what can be ignored.
- In 1954, the **SC held in the Shirur Mutt case** that the term **"religion"** will cover all rituals and practices

Note:



“integral” to a religion. The test to determine what is integral is termed the “essential religious practices” test.

- The test, a **judicial determination of religious practices**, has often been criticized by legal experts as it pushes the court to delve into theological spaces.
 - In criticism of the test, **scholars agree that it is better for the court to prohibit religious practices for public order rather than determine what is so essential to a religion** that it needs to be protected.
- In several instances, **the court has applied the test to keep certain practices out.**
 - In a 2004 ruling, the SC held that the Ananda Marga sect had no fundamental right to perform Tandava dance in public streets, since it did not constitute an essential religious practice of the sect.
- While these issues are **largely understood to be community-based**, there are instances in which the court has applied the test to individual freedoms as well.
 - For example, in 2016, the SC **upheld the discharge of a Muslim airman from the Indian Air Force for keeping a beard.**
 - **Armed Force Regulations, 1964**, prohibits the growth of hair by Armed Forces personnel, except for “personnel whose religion prohibits the cutting of hair or shaving of face”.
 - The court essentially held that **keeping a beard was not an essential part of Islamic practices.**

Public Order

Why in News?

Recently, the **Karnataka High Court** is hearing a challenge to the constitutionality of the state government’s ban on students wearing a **hijab in educational institutions**.

- The case was regarding the arguments on whether the state can justify the ban on the ground that it **violates ‘public order’**.

What is Public Order?

- Public order is normally **equated with public peace and safety**.
- Public order is one of the three grounds on which the **state can restrict freedom of religion**.
 - **Article 25** of the Constitution guarantees to all persons the right to freedom and conscience and

the right freely to profess, practise and propagate religion **subject to public order, morality and health**.

- Public order is also one of the grounds to restrict **free speech and other fundamental rights**.
- According to **State List** (List 2) of the **Seventh Schedule of the Constitution**, the power to legislate on aspects of public order rests with the states.

How has Public order been Interpreted by Courts?

- What affects public order **is contextual and is determined by the state**.
- However, the courts have broadly interpreted it to mean something that **affects the community at large and not a few individuals**.
- In **Ram Manohar Lohia vs State of Bihar (1965)**, the **Supreme Court** held that in the case of ‘public order’, **the community or the public at large have to be affected by a particular action**.
- The **contravention of law** (to do something that is forbidden by the law or rule) always affects order but before it can be said to affect public order, it must affect the community or the public at large.
 - One has to imagine **three concentric circles**, the **largest representing ‘law and order’**, the next representing **‘public order’** and the **smallest representing ‘security of State’**.

How Does it relate to the Hijab Ban?

- According to the government order issued on February 5 under the **Karnataka Education Act, 1983**, **“public order”** is one of the reasons for not allowing students to wear a headscarf in educational institutions **along with “unity” and “integrity.”**
 - Previously, several courts have **given orders on prescription of dress code for minorities** in public institutions.
- **Petitioners Arguments:** The petitioners have argued that public order is not every breach of law and order.
 - Public order is an aggravated form of disturbance that is much higher than a law and order issue.
 - The petitioners have asked the state to show how the mere wearing of a hijab by students could constitute a public order issue.
- **Karnataka Government’ Stand:** Karnataka’s Advocate General has argued that the government order makes

no mention of “public order” and that the petitioner’s reading of the order could be an error in translation.

- The order, in Kannada, uses the words “*sarvajanika suvayavasthe*”.

Right to Protest

Why in News

The Supreme Court said **farmers had the right to protest**, but **roads cannot be blocked indefinitely** (impeding the **right of citizens to commute without hindrance**).

Key Points

➤ Right to Protest:

- Although the Right to Protest is **not an explicit right under the Fundamental rights**, it can be derived from the **Right to Freedom of Speech and Expression under Article 19**.
 - **Article 19(1)(a):** The Right to free speech and expression transforms into the right to freely express an opinion on the conduct of the government.
 - **Article 19(1)(b):** The Right to association is required to form associations for political purposes.
 - These can be formed to collectively challenge government decisions.
 - **Article 19(1)(c):** The Right to peaceably assemble allows people to question and object to acts of the government by demonstrations, agitations and public meetings, to launch sustained protest movements.
 - These rights, in cohesion, enable every citizen to assemble peacefully and protest against action or inaction of the State.
- Right to Protest ensures that **people can act as watchdogs** and constantly monitor governments’ acts.
 - It provides feedback to the governments about their policies and actions after which the concerned government, through consultation, meetings and discussion, recognizes and rectifies its mistakes.

➤ Restriction on Right to Protest:

- **Article 19(2)** imposes reasonable restrictions on the right to freedom of speech and expression. These reasonable restrictions are imposed in the interests of the following:

- Sovereignty and integrity of India,
- Security of the State,
- Friendly relations with foreign States,
- Public order,
- Decency or morality,
- Contempt of court,
- Defamation,
- Incitement to an offence.

- Further, resorting to violence during the protest is a violation of a key fundamental duty of citizens.
 - Enumerated in **Article 51A**, the Constitution makes it a fundamental duty of every citizen “**to safeguard public property and to abjure violence**”.

➤ Related Supreme Court’s Judgements:

- The Supreme Court hearing the plea regarding **Shaheen Bagh Protests in 2019**, upheld the right to peaceful protest against the law but also cleared that public ways and public spaces cannot be occupied and that too indefinitely.
- SC referred to its **2018 judgment in the Mazdoor Kisan Shakti Sangathan vs Union of India and Another case**, which dealt with demonstrations at Delhi’s Jantar Mantar.
 - The judgment **tried to balance the interests of local residents with those of protesters** to hold demonstrations and directed the police to devise a proper mechanism for limited use of the area for peaceful protests and demonstrations and to lay down parameters for this.
- In **Ramlila Maidan Incident v. Home Secretary, Union Of India & Ors. case (2012)**, the Supreme Court had stated, “Citizens have a fundamental right to assembly and peaceful protest which cannot be taken away by an arbitrary executive or legislative action”.

Government Aid Not a Fundamental Right: SC

Why in News

Note:



Recently, the **Supreme Court (SC)** ruled that **government aid to an institution is a matter of policy and it is not a fundamental right.**

- **Article 30 of the Constitution of India** (dealing with **rights of minorities to establish and administer educational institutions**) is subject to its own restrictions being reasonable.

Key Points

- **Aid not a Fundamental Right:**
 - The right of an institution, whether run by a **majority or minority community**, to get government aid is not a fundamental right. Both have to **equally follow the rules and conditions of the aid.**
- **Reason:**
 - Government aid is a **policy decision**. It **depends on various factors** including the interests of the institution itself and the ability of the government to understand the exercise.
 - **Financial constraints and deficiencies** are the factors which are considered relevant in taking any decision while giving aid, including both the decision to grant aid and the manner of disbursement of an aid.
- **Withdrawal of Aid:**
 - If the government made a policy call to withdraw aid, **an institution cannot question** the decision as a matter of right.
 - If an **institution does not want to accept and comply with the conditions** accompanying such aid, it is well **open to it to decline the grant** and move in its own way. On the contrary, an institution can never be allowed to say that the grant of aid should be on its own terms.

Article 30

- **Article 30 (1):** All minorities, whether based on religion or language, **shall have the right to establish and administer educational institutions** of their choice.
- **Article 30(1A)** deals with the **fixation of the amount for acquisition of property** of any educational institution established by minority groups.
- **Article 30(2)** states that the government **should not discriminate** against any educational institution on the ground that it is under the management of a minority, whether based on religion or language, **while giving aid.**

Fundamental Rights to Reside and to Move About Freely

Why in News

Recently, while setting aside an externment order against a journalist, the **Supreme Court (SC)** ruled that **a person's fundamental right to reside and to move about freely anywhere in India cannot be refused on "flimsy grounds".**

- **Externment orders** prevent the movement of a person in certain areas.
- According to the SC, the drastic action of externment should only be taken in exceptional cases, to maintain law and order in a locality and/or prevent a breach of public tranquility and peace.

Key Points

- **Freedom to Move Freely Throughout the Territory of India:**
 - **Article 19(1)(d) of the Indian Constitution** entitles every citizen to move freely throughout the territory of the country.
 - This right is protected **against only state action and not private individuals.**
 - Moreover, it is **available only to the citizens and to shareholders of a company** but not to foreigners or legal persons like companies or corporations, etc.
 - The freedom of movement has **two dimensions**, viz, internal (right to move inside the country) and external (right to move out of the country and right to come back to the country).
 - **Article 19 protects only the first dimension.**
 - The second dimension is dealt by Article 21 (Right to life and personal liberty).
 - **Restrictions** on this freedom can only be **imposed on two grounds** which are mentioned in the **Article 19(5)** of the constitution itself, namely, the interests of the general public and the protection of interests of any scheduled tribe. For example:
 - The Supreme Court held that the freedom of movement of prostitutes can be restricted on the grounds of public health and in the interest of public morals.
 - The entry of outsiders in tribal areas is restricted to protect the distinctive culture, language,

Note:



customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation.

➤ **Freedom to Reside and Settle in any part of the Territory of India:**

- According to **Article 19(1)(e) of the Constitution**, every citizen of India has the right “to reside and settle in any part of the territory of India.”
- The object of the clause is **to remove internal barriers** within India or any of its parts.
- This right is also **subject to reasonable restrictions mentioned in clause (5) of Article 19**.
- **Right to reside and the right to move freely** throughout the country **are complementary** and often go together.

Article 19 of the Constitution

- Article 19 entails **freedom of speech and expression**.
- It implies that every citizen has the **right to express his views, opinions, beliefs and convictions freely by word of mouth, writing, printing, picturing** or in any other manner.
- **Article 19** guarantees to all citizens the **six rights**. These are:
 - Right to freedom of speech and expression.
 - Right to assemble peaceably and without arms.
 - Right to form associations or unions or co-operative societies.
 - Right to move freely throughout the territory of India.
 - Right to reside and settle in any part of the territory of India.
 - Right to practice any profession or to carry on any occupation, trade or business.
- **Restrictions on Freedom of Speech and Expression (Article 19(2)):**
 - The reasons for such restrictions are in the interests of: Security, Sovereignty and integrity of the country, Friendly relations with foreign countries, Public order.

SC Judgement on Preventive Detention

Why in News

Recently, the **Supreme Court (SC)** ruled that a **preventive detention order can only be passed if the detenu is likely to adversely affect the maintenance of public order**.

- The SC also gave **direction to governments and to other courts**, for dealing with detention under preventive detention.

Key Points

- **Preventive Detention for Public Order:** The court held that it cannot seriously be disputed that the **Detenu may be a ‘white collar offender’** and if set free, will continue to cheat gullible persons.
 - **However, a Preventive Detention Order can only be passed if his activities** adversely affect or are likely to **adversely affect the maintenance of public order**.
- **Clarity on the Term ‘Public Order’:** Preventive detention is a **necessary evil** only to prevent public disorder, but a **liberal meaning cannot be given** to the expression public order in the context of preventive detention statute.
 - Contravention of law, such as indulging in cheating or criminal breach of trust, **certainly affects ‘law and order’**.
 - However, before it can be said to affect ‘public order’, **it must affect the community or the public at large**.
- **Direction to the Government:** The State **should not arbitrarily resort to “preventive detention”** to deal with all and sundry “law and order” problems, which could be dealt with by the ordinary laws of the country.
- **Directions to the Courts :** **One of the questions** the courts must ask in deciding the legality under a preventive detention should be:
 - **Was the ordinary law of the land sufficient to deal with the situation?** If the answer is in the affirmative, the detention order will be illegal.
 - For example, the court said two drunks fighting on a road was a law and order problem, and not ‘public disorder’. The solution here was not preventive detention.
- **Preventive Detention Undermines Liberty:** Liberty of a citizen is a most important right won by our forefathers after long, historical and arduous struggles.

Note:



- If the power of preventive detention is not narrowed down to limits, the right to liberty will become nugatory (of no value or importance).
- Therefore, Preventive detention must fall within the ambit of **Article 21** (due process of law) and read with **Article 22** (safeguards against arbitrary arrest and detention) and the **statute in question**.

Preventive Detention

➤ Constitutional Provisions:

- **Article 22 grants protection to persons who are arrested or detained.** Detention is of two types, namely, **punitive and preventive**.
 - Punitive detention is to punish a person for an offence committed by him after trial and conviction in a court.
 - Preventive detention, on the other hand, means detention of a person without trial and conviction by a court.
- Article 22 has two parts—the **first part deals with the cases of ordinary law** and the **second part deals with the cases of preventive detention law**.

| Rights Given Under Punitive Detention | Rights Given Under Preventive Detention |
|---|--|
| ➤ Right to be informed of the grounds of arrest. | ➤ The detention of a person cannot exceed three months unless an advisory board reports sufficient cause for extended detention. |
| | ➤ The board is to consist of judges of a high court. |
| ➤ Right to consult and be defended by a legal practitioner. | ➤ The grounds of detention should be communicated to the detenu. |
| | ➤ However, the facts considered to be against the public interest need not be disclosed. |
| ➤ Right to be produced before a magistrate within 24 hours, excluding the journey time. | ➤ The detenu should be afforded an opportunity to make a representation against the detention order. |

- Right to be released after 24 hours unless the magistrate authorises further detention.

- These safeguards are not available to an enemy alien.

- This protection is available to both citizens as well as aliens.

Note:

- The **44th Amendment Act of 1978** has reduced the period of detention without obtaining the opinion of an advisory board from three to two months. However, this **provision has not yet been brought into force**, hence, the original period of three months still continues.

➤ The preventive detention laws made by the Parliament are:

- Preventive Detention Act, 1950. Expired in 1969.
- Maintenance of Internal Security Act (MISA), 1971. Repealed in 1978.
- Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA), 1974.
- **National Security Act (NSA), 1980.**
- Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act (PBMSECA), 1980.
- Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985. Repealed in 1995.
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PITNDPSA), 1988.
- Prevention of Terrorism Act (POTA), 2002. Repealed in 2004.

➤ Issues related to Preventive Detention Laws in India:

- No democratic country in the world has made preventive detention as an integral part of the Constitution as has been done in India.
- The governments sometimes use such laws in an extra-judicial power. Also, there remains a fear of arbitrary detentions.

Uniform Civil Code

Why in News

Recently, the Ministry of Law and Justice said in

Note:



response to a **PIL** filed in 2019 that the implementation of the **Uniform Civil Code (UCC)**, a directive principle under the Constitution (Article 44), is a matter of public policy and that no direction in this regard can be issued by the Court.

- The Centre has **requested the Law Commission of India (21st)** to undertake examination of various issues relating to UCC and to make recommendations thereof.

Key Points

➤ About:

- UCC is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc.
- Article 44 of the Constitution lays down that the state shall endeavour to secure a UCC for the citizens throughout the territory of India.
 - Article 44 is one of the Directive Principles of State Policy (DPSP).
 - DPSP as defined in Article 37, are not justiciable (not enforceable by any court) but the principles laid down therein are fundamental in governance.

➤ Status of Uniform Codes in India:

- Indian laws do follow a uniform code in most civil matters such as **Indian Contract Act 1872**, Civil Procedure Code, Transfer of Property Act 1882, Partnership Act 1932, **Evidence Act, 1872** etc.
- States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws.
 - Recently, several states refused to be governed by the **uniform Motor Vehicles Act, 2019**.

➤ Background:

- The origin of the UCC dates back to colonial India when the British government submitted its report in 1835 stressing the need for uniformity in the codification of Indian law relating to crimes, evidence, and contracts, specifically recommending that personal laws of Hindus and Muslims be kept outside such codification.
- Increase in legislation dealing with personal issues in the far end of British rule forced the government to form the B.N.Rau Committee to codify Hindu law in 1941.

- Based on these recommendations, a bill was then adopted in 1956 as the Hindu Succession Act to amend and codify the law relating to intestate or unwilled succession, among Hindus, Buddhists, Jains, and Sikhs.

- However, there were separate personal laws for muslim, christian and Parsis.

- In order to bring uniformity, the courts have often said in their judgements that the government should move towards a UCC.

- The judgement in the **Shah Bano case** (1985) is well known.

- Another case was the Sarla Mudgal Case (1995), which dealt with issue of bigamy and conflict between the personal laws existing on matters of marriage.

- By arguing that practices such as **triple talaq** and polygamy impact adversely the right of a woman to a life of dignity, the Centre has raised the question whether constitutional protection given to religious practices should extend even to those that are not in compliance with fundamental rights.

➤ Implications of Uniform Civil Code on Personal Laws:

○ Protection to Vulnerable Section of Society:

- The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including women and religious minorities, while also promoting nationalistic fervour through unity.

○ Simplification of Laws:

- The code will simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions making them one for all. The same civil law will then be applicable to all citizens irrespective of their faith.

○ Adhering to Ideal of Secularism:

- Secularism is the objective enshrined in the Preamble, a secular republic needs a common law for all citizens rather than differentiated rules based on religious practices.

○ Gender Justice:

- If a UCC is enacted, all personal laws will cease to exist. It will do away with gender biases in existing laws.

Minority Educational Institutions and Right to Education

Why in News?

Recently, the Supreme Court has refused to entertain a petition questioning the exclusion of madrasas and Vedic schools (**Minority Educational Institutions (MEI)**) from the ambit of the **Right of Children to Free and Compulsory Education (RTE) Act 2009**.

- The exclusion of these institutions was specifically inserted into the 2009 Act by an amendment of August 2012.
- Earlier, **a report by the NCPCR** showed the disproportionate number of minority institutions or dominance of non-minority category in Minority institutions.

What are Legal

Provisions regarding MEI and RTE?

- **Right to Education under Article 21A:** It describes modalities of the importance of free and compulsory education for **children aged between 6-14 years** in India under Article 21 (A) of the Constitution of India (86th Amendment).
 - The Act mandates **25% reservation for disadvantaged sections** of the society where disadvantaged groups include:
 - SCs and STs
 - Socially Backward Class
 - Differently abled
- **Article 29 and 30 of Indian Constitution** contain provisions securing rights of **minorities** and minority-run institutions.
 - Minority institutions have the fundamental right under Article 30 of the Constitution **to establish and administer their educational institutions according to their choice**.
- In this context, **RTE was amended to add in Sections 1(4) and 1(5) of the Act**.
 - **Section 1(5)** of the RTE Act states, "Nothing contained in this Act shall apply to madrasas, Vedic pathshalas and educational institutions primarily imparting religious instruction."
 - **Section 1(4)** of the RTE states that "Subject to the provisions of Articles 29 and 30 of the Constitution,

the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.

Right to Privacy

Why in News

Recently, a **Judge of the Madras High Court** has said that a recent order passed by another judge of the same court, **mandating the installation of CCTV cameras inside spas [massage and therapy centres]**, appears to run counter to the Supreme Court's landmark judgement in **K.S. Puttaswamy case (2017)**.

- In this case, the Supreme Court declared that the **right to life and personal liberty** guaranteed in **Article 21** also implicitly includes a right to privacy.

Key Points

- **About:**
 - **Underlying Values:** This right to privacy is seen as possessing:
 - **Inherent value:** It is important for every person's basic dignity.
 - **Instrumental value:** It furthers a person's ability to live life free of interference.
 - **Forms of Right to Privacy:** The privacy as guaranteed in Article 21 takes several different forms. It includes:
 - A right to bodily autonomy,
 - A right to informational privacy,
 - A right to a privacy of choice.
 - **Right to Relax:** Suspicion that immoral activities are taking place in spas **cannot be a reason** enough to intrude into an individual's right to relax, for it intrinsically is part and parcel of his fundamental right to privacy.
 - Thus, the installation of CCTV equipment inside premises such as a spa **would unquestionably go against a person's bodily autonomy**.
 - These are inviolable spaces where the prying eye of the State cannot be allowed to enter.
 - **Doctrine of Separation of Powers:** The reach of the fundamental rights cannot be curtailed by any judicial measure.
 - It held that, though no right can be absolute, restrictions can be put in place only by the legislature or the executive.

Note:



- Apart from it, the Supreme Court alone can do so in exercise of its power under **Article 142**.

Right to Privacy

- **About:**
 - Generally understood that privacy is synonymous with the **right to be let alone**.
 - The Supreme Court described privacy and its importance in the landmark decision of *K.S. Puttaswamy v. Union of India* in 2017.
 - The right to privacy is protected as an intrinsic part of the right to life and personal liberty under **Article 21** and as a part of the freedoms guaranteed by **Part III of the Constitution**.
 - The Puttaswamy judgement holds that the right to privacy is protected as a fundamental constitutional right under **Articles 14, 19 and 21** of the Constitution of India.
- **Restrictions (as stated in the Judgement):**
 - The right may be restricted only by state action that passes each of the three tests:
 - First, such state action must have a **legislative mandate**;
 - Second, it must be pursuing a **legitimate state purpose**; and
 - Third, it **must be proportionate** i.e., such state action- both in its nature and extent, must be necessary in a democratic society and the action ought to be the least intrusive of the available alternatives to accomplish the ends.
- **Step taken by Government:** Acknowledging the importance of privacy, the Government has presented the **personal Data Protection Bill 2019** in the Parliament.

Right to Forgotten


Why in News

- Recently, the Union Government informed the Delhi High Court that the international legal concept of the **Right to Be Forgotten** is evolving in India and it comes under the **Right to Privacy**.
- As per **Supreme Court** Judgement the Right to privacy includes the **Right to Be Forgotten (RTBF)** and the right to be left alone.

Key Points

- **Right to Privacy:** In *Puttaswamy v. Union of India* case, 2017, the Right to Privacy was declared a **fundamental right** by the Supreme Court.
 - Right to privacy is protected as an intrinsic part of the right to life and personal liberty under **Article 21** and as a part of the freedoms guaranteed by **Part III of the Constitution**.

The right to be forgotten (RTBF) is a right to have one's personal information removed from publicly available sources, such as search engines and online directories, on certain grounds.



INDIVIDUALS MAY SEEK TO HAVE THEIR INFORMATION (INCLUDING VIDEOS, PHOTOGRAPHS, IDENTIFYING INFO) **DELETED**.

AN ONGOING DEBATE

| FOR THOSE IN FAVOUR OF RTBF ARGUE | AGAINST WHAT THOSE AGAINST THE RTBF SAY |
|--|---|
| <ul style="list-style-type: none"> It is necessary due to issues such as revenge porn uploads To ensure references to petty crimes individuals may have committed in the past don't haunt them Potentially undue influence that such results exert upon a person's reputation, if not removed | <ul style="list-style-type: none"> Questions about the practicality in attempting to implement such a right Concerns about its impact on the right to freedom of expression Concerns that it would decrease the quality of the internet through censorship and the rewriting of history |

- **Right to be Forgotten:** It is the right to have publicly available personal information removed from the internet, search, databases, websites or any other public platforms, once the personal information in question is no longer necessary, or relevant.
 - The RTBF gained importance after the 2014 decision of the Court of Justice of the **European Union** ("CJEU") in the Google Spain case.
 - In the Indian context, the Supreme Court in *Puttaswamy v. Union of India*, 2017 noted that the RTBF was a part of the broader right of privacy.
 - The RTBF emerges from the right to privacy under Article 21 and partly from the right to dignity under Article 21.
- **Right to be Left Alone:** It doesn't mean that one is withdrawing from society. It is an expectation that society will not interfere in the choices made by the person so long as they do not cause harm to others.
- **Issues Associated with RTBF:**
 - **Privacy vs. Information:** The existence of RTBF in a given situation depends on its balancing with other conflicting rights such as the right to free expression or other publication rights.
 - For example, a person may want to de-link information about his criminal records and

Note:



make it difficult for people to access certain journalistic reports when they google him.

- This brings the person's right to be left alone, derived from Article 21, directly in conflict with the rights of the media to report on issues, flowing from [Article 19](#).
- **Enforceability Against Private Individuals:** The RTBF will normally be claimed against a private party (a media or news website).
 - This raises the question of whether fundamental rights can be enforced against the private individual, which is generally enforceable against the state.
 - Only Article 15(2), Article 17 and [Article 23](#) provides protection against a private act of a private party that is challenged based on its violation of the Constitution.
- **Ambiguous Judgements:** In recent years, without a data protection law to codify RTBF, there are some inconsistent and peculiar adjudications of the right by various high courts.
 - Courts in India have repeatedly either accepted or rejected the application of RTBF while completely ignoring the wider constitutional questions associated with it.

Government Steps to Protect Privacy

- **Personal Data Protection Bill 2019:**
 - To provide for protection of privacy of individuals relating to their Personal Data and to establish a Data Protection Authority of India for the said purposes and the matters concerning the personal data of an individual.
 - Framed on the recommendations of B N Srikrishna Committee (2018).
- **Information Technology Act, 2000:**
 - Provides for safeguard against certain breaches in relation to data from computer systems. It contains provisions to prevent the unauthorised use of computers, computer systems and data stored therein.

Right of Reputation vs Right to Dignity

Why in News

Recently, a Delhi court has rejected a criminal **defamation** case filed by former Union Minister against a journalist over her tweets accusing him of **sexual harassment**.

Key Points

➤ Consideration by the Court:

- The Court took consideration of the systematic abuse at the workplace due to the **lack of mechanism to redress the grievance of sexual harassment** at the time of the incident of sexual harassment against the accused journalist took place.
 - It was prior to the issuance of the **Vishaka Guidelines** by the **Supreme Court** and enactment of **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

➤ Court's Ruling:

- The **right of reputation** cannot be protected at the cost of the **right of life and dignity of women**.
 - **Right to Reputation:**
 - As per the SC, the right to reputation is an integral part of [Article 21](#) of the Constitution.
 - Further, existence of **Section 499 (Criminal Defamation) of the Indian Penal Code, 1860** is not a restriction on the freedom of speech and expression because it ensures that the social interest is served by holding a reputation as a shared value of the public at large.
 - **Right to Life (Article 21):**
 - No person shall be deprived of his life or personal liberty except according to procedure established by law.
 - It confers on every person the fundamental right to life and personal liberty.
 - **Right to Live with Dignity:**
 - In **Maneka Gandhi v. Union of India 1978**, the SC gave a new dimension to Article 21 and held that the **right to live is not merely a physical right but includes within its ambit the right to live with human dignity**.
- Woman has a **right to put her grievance at any platform** of her choice and **even after decades**.

Defamation

Note:



➤ **About:**

- In India, **defamation** can both be a **civil wrong** and a **criminal offence**.
 - The **difference** between the two lies in the **objects they seek to achieve**.
 - A **civil wrong** tends to provide for a **redress of wrongs** by awarding compensation and a **criminal law seeks to punish** a wrongdoer and send a message to others not to commit such acts.

➤ **Laws for Defamation:**

- **Criminal defamation** has been specifically defined as an offence under the **section 499 of the Indian Penal Code (IPC)** whereas the **civil defamation is based on tort law** (an area of law which does not rely on statutes to define wrongs but takes from ever-increasing body of case laws to define what would constitute a wrong).
- **Section 499 states defamation could be through words, spoken or intended to be read, through signs, and also through visible representations.**
 - These can either be published or spoken about a person with the **intention of damaging the reputation of that person, or with the knowledge or reason to believe that the imputation will harm his reputation**.

➤ **Exceptions:**

- **Section 499** also cites **exceptions**. These include **"imputation of truth"** which is required for the **"public good"** and thus has to be published, on the public conduct of government officials, the conduct of any person touching any public question and merits of the public performance.

➤ **Punishment:**

- **Section 500 of IPC**, which is on punishment for defamation, reads, **"Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both"**.
- Moreover, in a **criminal case**, **defamation has to be established beyond reasonable doubt** but in a **civil defamation suit**, **damages can be awarded based on probabilities**.

➤ **Validity:**

- The SC of India, in the **Subramanian Swamy vs Union of India, 2014**, upheld the constitutional validity of the criminal defamation law.

Free Legal Aid

Why in News?

Recently, the Ministry of Law and Justice informed Lok Sabha about the Pan India Legal Awareness and Outreach Campaign, which was launched in October 2021 on the occasion of **National Legal Service Day (NLSD)**.

What is NLSD and

Related Constitutional Provisions?

➤ **About:**

- NLSD was first started by the **Supreme Court of India** in 1995 to provide help and support to poor and weaker sections of the society.
- Free legal services are provided in matters before Civil, Criminal and Revenue Courts, Tribunals or any other authority exercising judicial or quasi judicial functions.
- It is **observed to make the citizens of the country aware of the various provisions under the Legal Services Authorities Act** and the rights of the litigants. On this day, each jurisdiction organizes legal aid camps, Lok adalats, and legal aid programmes.

➤ **Constitutional Provisions:**

- **Article 39A of the Constitution of India** provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability.
- **Articles 14 and 22(1)** also make it **obligatory for the State to ensure equality before law** and a legal system which promotes justice on a basis of equal opportunity to all.

What are the Objectives of Legal Service Authorities?

- Provide free legal aid and advice.
- Spread legal awareness.
- Organize **lok adalats**.
- Promote settlements of disputes through **Alternative Dispute Resolution (ADR)** Mechanisms. Various kinds of ADR mechanisms are Arbitration, Conciliation,

Note:



Judicial settlement including settlement through Lok Adalat, or Mediation.

- Provide compensation to victims of crime.

What are the Institutions for providing Free Legal Services?

- **National Level:**
 - National Legal Services Authority (NALSA). It was constituted under the Legal Services Authorities Act, 1987. The Chief Justice of India is the Patron-in-Chief.
- **State Level:**
 - State Legal Services Authority. It is headed by the Chief Justice of the State High Court who is its Patron-in-Chief.
- **District Level:**
 - District Legal Services Authority. The District Judge of the District is its ex-officio Chairman.
- **Taluka/Sub-Division Level:**
 - Taluka/Sub-Divisional Legal Services Committee. It is headed by a senior Civil Judge.
- **High Court:** High Court Legal Services Committee
- **Supreme Court:** Supreme Court Legal Services Committee.

Who is Eligible for Getting Free Legal Services?

- Women and children
- Members of SC/ST
- Industrial workmen
- Victims of mass disaster, violence, flood, drought, earthquake, industrial disaster.
- Disabled persons
- Persons in custody
- Those persons who have annual income of less than the amount prescribed by the respective State Government, if the case is before any court other than the Supreme Court, and less than Rs. 5 Lakhs, if the case is before the Supreme Court.
- Victims of Trafficking in Human beings or begar.

Lok Adalat

Why in News

Lok Adalat has emerged as the **most efficacious tool of Alternative Dispute Resolution.**

- A total number of 1,27,87,329 cases were disposed of in 2021. Due to technological advancement like **E-Lok Adalats, Lok Adalats have reached the doorsteps of parties.**

Key Points

- **About:**
 - The term '**Lok Adalat**' means '**People's Court**' and is based on Gandhian principles.
 - As per the **Supreme Court**, it is an old form of adjudicating system prevalent in ancient India and its validity has not been taken away even in the modern days too.
 - It is one of the components of the **Alternative Dispute Resolution (ADR) system** and delivers informal, cheap and expeditious justice to the common people.
 - The first **Lok Adalat camp was organized in Gujarat in 1982** as a voluntary and conciliatory agency without any statutory backing for its decisions.
 - In view of its growing popularity over time, it **was given statutory status under the Legal Services Authorities Act, 1987**. The Act makes the provisions relating to the organization and functioning of the Lok Adalats.
 - **National Legal Services Authority (NALSA)** along with other Legal Services Institutions conducts Lok Adalats.
 - NALSA was constituted under the **Legal Services Authorities Act, 1987** which came into force on **9th November 1995** to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society.
 - The Legal Services Authorities Act, 1987 was **amended in 2002 to provide for the establishment of the Permanent Lok Adalats** to deal with cases pertaining to the public utility services.
- **Jurisdiction:**
 - A Lok Adalat shall have **jurisdiction to determine and to arrive at a compromise or settlement** between the parties to a dispute in respect of:
 - Any case pending before any court, or
 - Any matter which falls within the jurisdiction of any court and is not brought before such court.
 - Any case pending before the court **can be referred to the Lok Adalat for settlement if:**

Note:



- Parties agree to settle the dispute in the Lok Adalat or one of the parties applies for referral of the case **to the Lok Adalat or court is satisfied that the matter can be solved** by a Lok Adalat.
- In the case of a pre-litigation dispute, the **matter can be referred to the Lok Adalat on receipt of an application from any one of the parties** to the dispute.
- Matters such as matrimonial/family disputes, criminal (compoundable offenses) cases, land acquisition cases, labor disputes, workmen's compensation cases, bank recovery cases, etc. **are being taken up in Lok Adalats.**
- However, the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offense **not compoundable under any law.** In other words, the offenses which are **non-compoundable under any law fall outside the purview** of the Lok Adalat.
- **Powers:**
 - The Lok Adalat shall have the same powers as are **vested in a Civil Court under the Code of Civil Procedure (1908).**
 - Further, a Lok Adalat shall have the **requisite powers to specify its own procedure for the determination of any dispute** coming before it.
 - All proceedings before a Lok Adalat shall be deemed to be **judicial proceedings within the meaning of the Indian Penal Code (1860)** and every Lok Adalat shall be deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973).
 - An award of a Lok Adalat shall be deemed to be a decree of a Civil Court or an order of any other court.
 - Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute. No appeal shall lie to any court against the award of the Lok Adalat.
- **Benefits:**
 - There is **no court fee and if court fee is already paid the amount will be refunded** if the dispute is settled at Lok Adalat.
 - There is **procedural flexibility and speedy trial** of the disputes. There is no strict application of procedural laws while assessing the claim by Lok Adalat.
 - The parties to the dispute **can directly interact**

with the judge through their counsel which is not possible in regular courts of law.

- The award by the Lok Adalat is **binding on the parties and it has the status of a decree of a civil court and it is non-appealable**, which does not cause the delay in the settlement of disputes finally.

Draft Anti-Conversion Bill: Haryana

Why in News?

Recently, the Haryana government released the draft of the **Haryana Prevention of Unlawful Conversion of Religious Bill, 2022.**

- The bill aims at prohibiting religious conversions which are affected through misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage or for marriage by making it an offense.
- Other States like **Karnataka, Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Odisha, Uttar Pradesh and Uttarakhand** have also passed laws restricting religious conversion.

What is the Need for Anti-Conversion Laws?

- **No Right to Proselytize:** The Constitution confers on each individual the fundamental right to profess, practice and propagate his religion.
 - The individual right to freedom of conscience and religion cannot be extended to construe a collective right to proselytize.
 - For the right to religious freedom belongs equally to the person converting and the individual sought to be converted.
- **Fraudulent Marriages:** In the recent past, several instances have come to the notice that whereby people marry persons of other religion by either misrepresentation or concealment of their own religion and after getting married they force such other person to convert to their own religion.
- **SC Observations:** Recently, the Supreme Court also took judicial notice of such instances.
 - According to the court, such incidents not only infringe the freedom of religion of the persons

Note:



so converted but also militate against the secular fabric of our society.

What is the Status of Anti-Conversion Laws in India?

- **Constitutional Provision:** The Indian Constitution under **Article 25** guarantees the **freedom to profess, propagate, and practise religion**, and allows all religious sections to manage their own affairs in matters of religion; subject to public order, morality, and health.
 - However, **no person shall force their religious beliefs** and consequently, no person should be forced to practice any religion against their wishes.
- **Existing Laws:** There has been **no central legislation** restricting or regulating religious conversions.
 - However, since 1954, on multiple occasions, **Private Member Bills** have been introduced in (**but never approved by**) the **Parliament**, to regulate religious conversions.
 - Further, in 2015, the Union Law Ministry stated that **Parliament does not have the legislative competence** to pass anti-conversion legislation.
 - Over the years, **several states have enacted 'Freedom of Religion' legislation** to restrict religious conversions carried out by force, fraud, or inducements.

What are the Issues Associated with Anti-Conversion Laws?

- **Uncertain and Vague Terminology:** The uncertain and vague terminology like **misrepresentation, force, fraud, allurement** presents a serious avenue for misuse.
 - These terms leave room for ambiguities or are too broad, extending to subjects far beyond the protection of religious freedom.
- **Antithetical to Minorities:** Another issue is that the present anti-conversion laws focus more on the prohibition of conversion to achieve religious freedom.
 - However, the broad language used by the prohibitive legislation might be used by officials to oppress and **discriminate against minorities**.
- **Antithetical to Secularism:** These laws may pose a threat to the **secular fabric of India** and the **international perception** of our **society's intrinsic values and legal system**.

What are Supreme Court Judgements on Marriage and Conversion?

- **Hadiya Judgement 2017:**
 - Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity.
 - Neither the State nor the law can dictate a choice of partners or limit the free ability of every person to decide on these matters.
 - The principle that the right to marry a person of one's choice is integral to **Article 21**.
- **K.S. Puttaswamy or 'privacy' Judgment 2017:**
 - Autonomy of the individual was the ability to make decisions in vital matters of concern to life.
- **Other Judgements:**
 - The SC in its various judgments, has held that **faith, the state and the courts have no jurisdiction over an adult's absolute right** to choose a life partner.
 - India is a **"free and democratic country"** and any interference by the State in an adult's right to love and marry has a **"chilling effect"** on freedoms.
 - Intimacies of marriage lie within a **core zone of privacy**, which is inviolable and the choice of a life partner, whether by marriage or outside it, is part of an **individual's "personhood and identity"**.
 - The absolute right of an individual to choose a life partner is **not in the least affected by matters of faith**.

Federalism & States

Role and Power of Governor

Why in News?

The Governor acts in **'Dual Capacity'** as the **Constitutional head of the state** and as the **representative of the Union government**.

- In recent years, the **bitterness between states and Governors** has been largely about the **selection of the party to form a government**, **deadline for proving majority**, **sitting on Bills**, and **passing negative remarks on the state administration**.

Note:



- Due to this, Governor is referred to with negative terms like an **agent of the Centre, Puppet and rubber stamps**.

What are Constitutional Provisions Related to the Governor?

- **Article 153** says that there shall be a Governor for each State. **One person can be appointed as Governor for two or more States.**
 - A Governor is appointed by the President and is a nominee of the Central Government.
- It is stated that the **Governor has a dual role.**
 - He is the **constitutional head of the state**, bound by the advice of his **Council of Ministers (CoM)**.
 - He functions as a **vital link between the Union Government and the State Government**.
- **Articles 157 and 158** specify eligibility requirements for the post of governor.
- Governor has the power to **grant pardons, reprieves, etc. (Article 161)**.
- There is a CoM with the CM at the head to aid and advise the Governor in the exercise of his functions, **except some conditions for discretion. (Article 163)**
- The Governor appoints the Chief Minister and other Ministers **(Article 164)**.
- Governor assents, withholds **assent**, or **reserves the bill for the consideration** of the President passed by the Legislative Assembly **(Article 200)**.
- Governors may promulgate the **Ordinances** under certain circumstances **(Article 213)**.

What are the Friction Points in Governor-State Relations?

- Governor is envisaged as an **apolitical head** who must act on the advice of the council of ministers. However, the **Governor enjoys certain discretionary powers granted under the Constitution**. For example,
 - Giving or **withholding assent** to a Bill passed by the state legislature,
 - **Determining the time** needed for a party to prove its majority, or
 - Which party must be called first to do so, **generally after a hung verdict in an election**.
- There are **no provisions** laid down for the manner in which the Governor and the state must engage publicly when there is a **difference of opinion**.

- The Governor has a 5-year tenure, he can remain in office only until the **pleasure of the President**.
 - In 2001, the **National Commission to Review the Working of the Constitution**, held that the Governor owes his appointment and his continuation to the Union.
 - There is the apprehension that he is likely to act in accordance with the instructions received from the Union Council of Ministers.
- In the Constitution, there are **no guidelines for exercise of the Governor's powers**, including for appointing a CM or dissolving the Assembly.
- There is **no limit** set for how long a Governor can withhold assent to a Bill.
- The Governor sends a report to the centre which forms the basis of the Union cabinet's recommendations to the President for invoking **Article 356 (President's Rule)**.

What Reforms have been Suggested?

- **On Appointment and Removal of Governor:**
 - The **"Punchhi commission - 2010"** recommended that there should be a provision for the impeachment of the governor by the state legislature.
 - The state chief minister should have a say in the governor's appointment.
- **On the Use of Article 356:**
 - The **"Punchhi commission - 2010"** recommended that Articles 355 & 356 be amended.
 - The **Sarkaria Commission (1988)** recommended that Article 356 should be used in very rare cases when it becomes unavoidable to restore the breakdown of constitutional machinery in the State.
 - **Recommendations** have also been given by the **Administrative Reforms Commission (1968)**, **Rajamannar Committee (1971)** and **Justice V.Chelliah Commission (2002)**.
- **On Dismissal of State Government under Article 356:**
 - **S.R. Bommai Judgment (1994)**: The case put an end to the arbitrary dismissal of State governments by a hostile Central government.
 - The verdict ruled that the floor of the Assembly is the only forum that should test the majority of the government of the day, and not the subjective opinion of the Governor.
- **On Discretionary Powers:**
 - The Supreme Court in the **Nabam Rebia judgment (2016)** ruled that the exercise of Governor's

Note:



discretion Article 163 is limited and his choice of action should not be arbitrary or fanciful.

Governor's Role in Universities

Why in News

Recently, a controversy has erupted in Kerala over the **reappointment of Gopinath Ravindran as the Vice Chancellor of Kannur University**.

- The appointment was **against the decision of the Governor** as the Chancellor of State Universities.
- While the Governor's powers and functions as the Chancellor are laid out in the statutes that govern the universities under a particular state government, their role in appointing the Vice Chancellors has often **triggered disputes with the political executive**.

Key Points

- **Role of Governors in State Universities:**
 - In most cases, the Governor of the state is the **ex-officio chancellor of the universities in that state**.
 - While as Governor he functions with the **aid and advice of the Council of Ministers**, as Chancellor he acts independently of the Council of Ministers and takes his own decisions on all University matters.
- **Case of Central Universities:**
 - Under the **Central Universities Act, 2009**, and other statutes, the President of India shall be the Visitor of a central university.
 - With their role limited to presiding over convocations, **Chancellors in central universities are titular heads**, who are appointed by the President in his capacity as Visitor.
 - The Vice Chancellor too are appointed by the **Visitor from panels of names picked by search and selection committees** formed by the Union government.
 - The Act adds that the President, as Visitor, shall have the **right to authorise inspections of academic and non-academic aspects** of the universities and also to institute inquiries.
- **Constitutional Provisions Related to Governor:**
 - Governor has a **dual role vis-s vis State Government**:
 - He is the **constitutional head of the state**, bound by the advice of his council of ministers (CoM).

- He functions as a **vital link between the Union Government and the State Government**.

- **Article 153** says that there shall be a Governor for each State. One person can be appointed as Governor for two or more States.
 - A Governor is appointed by the President and is a nominee of the Central Government.
- **Article 163:** There is a CoM with the CM at the head to aid and advise the Governor in the exercise of his functions, **except some conditions for discretion**.
- **Article 200:** Governor assents, withholds assent, or reserves the bill for the consideration of the President passed by the Legislative Assembly.
- **Article 213:** Governor may promulgate the **Ordinances** under certain circumstances.
- **Controversies Related to Governor's Role:**
 - **Abuse of Power by the Centre:** There are numerous examples of the Governor's position being abused, usually at the behest of the ruling party at the Centre.
 - The process of appointment has generally been the cause behind it.
 - **Biased Ideology:** In several cases, politicians and former bureaucrats identifying with a particular political ideology have been appointed as the Governors by the central government.
 - This goes against the constitutionally mandated neutral seat and has resulted in bias, as appears to have happened in Karnataka and Goa.
 - **Puppet Rulers:** Recently, the Governor of Rajasthan has been charged with the violation of the **model code of conduct**.
 - His support of the central ruling party is against the spirit of non-partisanship that is expected from the person sitting on constitutional posts.
 - Due to such incidents, negative terms like an agent of the Centre, Puppet and rubber stamps are used to describe a governor of the state.
 - **Favouring a Particular Political Party:** Governor's discretionary powers to invite the leader of the largest party/alliance, post-election, to form the government has often been misused to favour a particular political party.
 - **Misuse of Power:** A Governor's recommendation for **President's Rule** (Article 356) in a state has not always been based on 'objective material', but on political whim or fancy.

Note:



➤ **Related Recommendations of Various Committees:**

- **On Appointment and Removal of Governor:**
 - The “**Punchhi commission - 2010**” recommended that there should be a provision for the impeachment of the governor by the state legislature.
 - The state chief minister should have a say in the governor’s appointment.
- **On the Use of Article 356:**
 - The “**Punchhi commission - 2010**” recommended that Articles 355 & 356 be amended.
 - The **Sarkaria Commission (1988)** recommended that Article 356 should be used in very rare cases when it becomes unavoidable to restore the breakdown of constitutional machinery in the State.
 - **Recommendations** have also been given by the **Administrative Reforms Commission (1968)**, **Rajamannar Committee (1971)** and **Justice V.Chelliah Commission (2002)**.
- **On Dismissal of State Government under Article 356:**
 - **S.R. Bommai Judgment (1994):** The case put an end to the arbitrary dismissal of State governments by a hostile Central government.
 - The verdict ruled that the floor of the Assembly is the only forum that should test the majority of the government of the day, and not the subjective opinion of the Governor.
 - **On Discretionary Powers:**
 - The Supreme Court in the *Nabam Rebia judgment* (2016) ruled that the exercise of Governor’s discretion Article 163 is limited and his choice of action should not be arbitrary or fanciful.

Governor's Power to decide on Bills: Veto Power

Why in News

Recently, the **speaker** of Tamil Nadu assembly called for setting a binding timeframe within which Bills should be assented to or returned or reserved for the consideration of the President of India by the governors.

Key Points

➤ **Issues Highlighted by the Speaker:**

- **Related to Governor:**
 - The **governors sometimes sat over the Bills** without giving assent or returning the Bills for an indefinite period, even though the Constitution required it to be done as soon as possible.
 - The **governors were also taking months together to reserve the Bills** for the assent of the President even though it was to be done immediately.
 - This **erodes the authority of the legislatures** and the governors, though heads of the state executive, are appointed by the Union government.
- **Related to President:**
 - The **President of India should also give reasons** for withholding the assent and returning the Bill.
 - This would help the **House to enact another bill** by correcting shortfalls that caused the bill to be rejected.

➤ **Related Examples:**

- The **Speaker’s comments assume significance** in the backdrop of a Bill passed by the Tamil Nadu Assembly in September, 2021 **seeking exemption for students from the state from the National Eligibility cum Entrance Test (NEET)** required for undergraduate medical college admissions.
- The **Tamil Nadu assembly passed a resolution in 2018** regarding the release of the seven prisoners convicted in the **Rajiv Gandhi assassination case**.
 - The resolution was sent to the then Governor but he did not take any action for more than two years.
 - In January 2021, the **Supreme Court**, while hearing a plea, expressed that they were unhappy with the delay.
 - In February, the **Governor, without taking a call, passed the buck** and said that the President was the competent authority to decide on the resolution.

Veto Power of the President and the Governor

➤ **About:**

- Veto Power of the President of India is guided by **Article 111 of the Indian Constitution**.

Note:



- **Article 200 of the Indian Constitution** deals with the **powers of the Governor with regard to assent given to bills** passed by the State legislature and other powers of the Governor such as reserving the bill for the President's consideration.
- **Article 201** pertains to 'Bills Reserved for Consideration'.
- The **Governor of India enjoys absolute veto, suspensive veto (except on money bills) but not the pocket veto.**
- **Three Types of Veto Power:** Absolute veto, Suspensive veto and Pocket veto.
 - **Exception:** The President has **no veto power** when it comes to the **constitutional amendment bills**.
 - Constitutional amendment bills **cannot be introduced in the state legislature.**
- **Absolute Veto:** It refers to the power of the President to **withhold his assent to a bill** passed by the Parliament. The bill then ends and does not become an act.
- **Suspensive Veto:** The President uses a suspensive veto when he **returns the bill to the Indian Parliament for its reconsideration.**
 - If the Parliament **resends the bill with or without amendment** to the President, he **has to approve the bill** without using any of his veto powers.
 - **Exception:** The President **cannot exercise his suspensive veto** in relation to the **Money Bill.**
- **Pocket Veto:** The **bill is kept pending by the President for an indefinite period** when he exercises his pocket veto.
 - He **neither rejects the bill nor returns the bill for reconsideration.**
 - **Unlike the American President** who has to **resend the bill within 10 days**, the Indian President has **no such time-rule.**
- **Veto over State Bills:**
 - The **governor is empowered to reserve certain types of bills** passed by the state legislature for the consideration of the President.
 - Then, the **Governor will not have any further role** in the enactment of the bill.
 - The President **can withhold his assent to such bills not only in the first instance but also in the second instance.**
 - Thus, the President **enjoys absolute veto (and not suspensive veto) over state bills.**

- Further, the President **can exercise pocket veto** in respect of state legislation also.

Chief Minister

Why in News

Recently, **Pushkar Singh Dhami** was sworn in as the **11th Chief Minister (CM)** of Uttarakhand.

- He takes over the position just a few months ahead of Assembly polls, due early in 2022.

Key Points

- **Appointment:**
 - **Article 164 of the Constitution** envisages that the **Chief Minister shall be appointed by the governor.**
 - A **leader of the party that has got the majority share of votes in the assembly elections**, is appointed as the Chief Minister of the state.
 - The **Governor is the nominal executive authority**, but **real executive authority rests with the Chief Minister.**
 - However, the **discretionary powers enjoyed by the governor reduces to some extent the power, authority, influence, prestige and role of the Chief Minister in the state administration.**
 - A **person who is not a member of the state legislature can be appointed as Chief Minister for six months**, within which time, he should be elected to the state legislature, failing which he ceases to be the Chief Minister.
- **Term of the CM:**
 - The **term of the Chief Minister is not fixed** and he **holds office during the pleasure of the governor.**
 - He **cannot be dismissed by the governor as long as he enjoys the majority support in the legislative assembly.**
 - The **State Legislative Assembly can also remove him by passing a vote of no-confidence** against him.
- **Powers and Functions:**
 - **With Respect to Council of Ministers:**
 - The **governor appoints only those persons as ministers** who are recommended by the Chief Minister.
 - He **allocates and reshuffles the portfolios among ministers.**

Note:



- He **can bring about the collapse of the council of ministers** by resigning from office, since the Chief Minister is the head of the council of ministers.
- **With Respect to Governor:**
 - **Under Article 167 of the Constitution**, the Chief Minister acts as a link between the Governor and state council of ministers.
 - CM **advises the Governor regarding the appointment of important officials** like advocate general, chairman and members of the **State Public Service Commission, State Election Commission**, etc.
- **With Respect to State Legislature:**
 - All the **policies are announced by him on the floor of the house.**
 - He **recommends dissolution of legislative assembly** to the Governor.
- **Other Functions:**
 - He is the **chairman of the State Planning Board.**
 - He **acts as a vice-chairman of the concerned zonal council** by rotation, holding office for a period of one year at a time.
 - He is a **member of the Inter-State Council and the Governing Council of NITI Aayog**, both headed by the prime minister.
 - He is the **chief spokesman of the state government.**
 - He is the **crisis manager-in-chief** at the political level during emergencies.
 - As a leader of the state, he **meets various sections of the people and receives memoranda from them regarding their problems**, and so on.
 - He is the **political head of the services.**

'Union' or 'Central' Government

Why in News

Recently, the Tamil Nadu government has decided to shun the usage of the term '**Central government**' in its official communications and **replace it with 'Union government'**.

- In common parlance, the terms "union government" and "central government" are used interchangeably in India. However, the Constituent Assembly did not

use the term 'Centre' or 'Central government' in all of its 395 Articles in 22 Parts and eight Schedules in the original Constitution.

Key Points

➤ Intent of Constituent Assembly:

- **Article 1(1) of the Constitution of India** says "**India, that is Bharat, shall be a Union of States.**"
- On 13th December, 1946, Jawaharlal Nehru introduced the aims and objectives of the Constituent Assembly by resolving that **India shall be a Union of territories willing to join the "Independent Sovereign Republic"**.
 - The emphasis was on the **consolidation and confluence** of various provinces and territories to form a strong united country.
- While submitting the draft Constitution in 1948, **Dr B R Ambedkar, chairman of the drafting committee, had said** that the committee had used the word '**Union**' because:
 - (a) the **Indian federation was not the result of an agreement** by the units, and
 - (b) the component **units had no freedom to secede from the federation.**
- The members of the Constituent Assembly were very cautious of **not using the word 'Centre' or 'Central government' in the Constitution** as they intended to **keep away the tendency of centralising of powers in one unit.**

➤ Meaning of Union & Centre:

- According to constitution expert Subash Kashyap, from the point of the usage of the words, '**centre**' indicates a point in the middle of a circle, whereas '**Union**' is the whole circle.
 - In India, the **relationship between the so-called 'Centre' and States**, as per the Constitution, is actually a **relationship between the whole and its parts.**
- Both the Union and the States are created by the Constitution, **both derive their respective authority from the Constitution.**
 - The one is not subordinate to the other in its own field and the authority of one is to coordinate with that of the other.
- The judiciary is designed in the Constitution to ensure that the Supreme Court, the tallest court

Note:



in the country, has no superintendence over the High Court.

- Though the Supreme Court has appellate jurisdiction, not only over High Courts but also over other courts and tribunals, they are **not declared to be subordinate** to it.
- In fact, the **High Courts have wider powers to issue prerogative writs** despite having the power of superintendence over the district and subordinate courts.

- In very common parlance, Union gives a sense of Federal while centre gives more of a sense of unitary government.
 - But practically both are the same in Indian political system.

➤ Associated Issues With the Term Central Government

- **Discarded By Constituent Assembly:** The word 'Centre' is not used in the Constitution; the makers of the Constitution specifically discarded it and instead used the word 'Union'.
- **Colonial Legacy:** 'Centre' is a hangover from the colonial period because the bureaucracy in the Secretariat, New Delhi who are used to using the word 'Central Laws,' 'Central legislature,' etc, and so everyone else, including the media, started using the word.
- **Conflict With Idea of Federalism:** India is a federal government. The power to govern is divided between a government for the whole country, which is responsible for subjects of common national interest, and the states, which look after the detailed day-to-day governing of the state.
 - According to Subash Kashyap, using the term 'Centre' or 'central government' would mean state governments are subservient to it.

Interim Report of J&K Delimitation Commission

Why in News

Recently, in its interim report, the **Jammu and**

FEDERAL vs. UNITARY

| Federal | Unitary |
|--|--|
| <ul style="list-style-type: none"> - Dual Government (Central + Regional) - Written Constitution - Division of Powers between Central & State Governments. - Supremacy of the Constitution - Rigid Constitution - Independent Judiciary - Bicameral Legislature | <ul style="list-style-type: none"> - Single Government - Central only (Regional Gov. may be formed by Central) - Written (France) or Unwritten (Britain) Constitution - No Division of Powers - Supremacy of the Constitution not guaranteed (like Britain) - Flexible (Britain) or Rigid (France) Constitution - Judiciary may or may not be Independent - Bicameral (Britain) or Unicameral (China) Legislature |

Kashmir (J&K) Delimitation Commission has proposed significant changes to the electoral map of J&K.

- The delimitation exercise had **started in June 2021 in the state.**

What is Delimitation?

- Delimitation is the **act of fixing or redrawing the limits or boundaries of territorial constituencies** (Assembly or Lok Sabha seat) in a country or a province having a legislative body, as per the **Election Commission**.
- The delimitation exercise is **carried out by an independent high-powered panel known as the Delimitation Commission** whose orders have the force of law and cannot be questioned by any court.
- The exercise has been carried out over the years to redefine the area of a constituency-based on its population size (based on the last **Census**).
- Aside from changing the limits of a constituency, **the process may result in change in the number of seats in a state.**
- This exercise also involves reservation of Assembly seats for **SC & ST** in accordance with the Constitution.
- The **key aim is to have equal representation to equal segments of the population** in order to ensure a fair division of geographical areas so that all political parties or candidates contesting elections have a level playing field in terms of a number of voters.

What is the Constitutional Basis for Delimitation?

- Under **Article 82**, the Parliament enacts a Delimitation Act after every Census.
- Under **Article 170**, States also get divided into territorial constituencies as per Delimitation Act after every Census.
- Once the Act is in force, the Union government sets up a Delimitation Commission.

Note:



- The delimitation commission is an **independent body constituted under Article 82** after the Parliament enacted a Delimitation Act after every census.
- However, the first delimitation exercise was carried out by the President (with the help of the Election Commission) in 1950-51.
- The Delimitation Commission Act was enacted in 1952.
- Delimitation Commissions **had been set up four times** — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002.
- There was **no delimitation after the 1981 and 1991 Censuses**.

Who is Included in a Delimitation Commission?

- The Delimitation Commission is **appointed by the President of India** and works in collaboration with the Election Commission of India.
- **Composition:**
 - Retired **Supreme Court** judge
 - Chief Election Commissioner
 - Respective State Election Commissioners.

Why is Delimitation Needed?

- The **uneven growth of population in different constituencies** in different parts of the country as well as within the same state.
- Also, **continuous migration of people** / electorate from one place to another especially from rural areas to urban areas have resulted in strikingly different sizes of electoral constituencies even within the same State.

What are the Issues with Delimitation?

- **States that take little interest in population control could end up with a greater number of seats in Parliament.** The southern states that promoted family planning faced the possibility of having their seats reduced.
- In 2002-08, Delimitation was done based on the 2001 census, but the total number of seats in the Assemblies and Parliament decided as per the 1971 Census was not changed.
- The Constitution has also capped the number of Lok Shaba & Rajya Sabha seats to a maximum of 550 &

250 respectively and **increasing populations are being represented by a single representative.**

Assam-Meghalaya Border Dispute

Why in News

Ahead of **Meghalaya's 50th Statehood Day celebration on 21st January**, the Home Minister is expected to seal the **final agreement to end the dispute** in six areas of the Assam-Meghalaya boundary.



Key Points

- **About:**
 - Assam and Meghalaya share an **885-km-long border**. As of now, there are **12 points of dispute along their borders**.
 - The Assam-Meghalaya border dispute are the areas of Upper Tarabari, Gazang reserve forest, Hahim, Langpih, Borduar, Boklapara, Nongwah, Matamur, Khanapara-Pilangkata, Deshdemoreah Block I and Block II, Khanduli and Retacherra.
 - Meghalaya was carved out of Assam under the **Assam Reorganisation Act, 1971**, a law that it challenged, leading to disputes.
- **Major Point of Contention:**
 - A major point of contention between Assam and Meghalaya is the **district of Langpih in West Garo Hills** bordering the Kamrup district of Assam.
 - Langpih was part of the Kamrup district during the British colonial period but post-Independence, it became part of the **Garo Hills** and Meghalaya.
 - Assam considers it to be part of the **Mikir Hills in Assam**.

Note:



- Meghalaya has questioned Blocks I and II of the Mikir Hills - now Karbi Anglong region - being part of Assam. Meghalaya says these were parts of erstwhile United Khasi and Jaintia Hills districts.

➤ **Efforts to Resolve Disputes:**

- Both Assam and Meghalaya have constituted **border dispute settlement committees**.
- It has been decided to set up **two regional committees to resolve the border disputes** in a phased manner and five aspects will be considered while resolving the border dispute.
 - They are historical facts, ethnicity, administrative convenience, mood and sentiments of the people concerned and the contiguity of the land.
- Six sites are in consideration in the first phase. These are Tarabari, Gijang, Hahim, Baklapara, Khanapara-Pilingkata and Ratacherra.
- These disputed areas are part of Cachar, Kamrup Metro and Kamrup Rural on Assam's side and West Khasi Hills, Ri Bhoi district and East Jaintia Hills on Meghalaya's side.

➤ **Assam and Border Issues:**

- The states of the **Northeast were largely carved out of Assam**, which has border disputes with several states.
- Assam's border disputes with **Arunachal Pradesh and Nagaland** are pending in the **Supreme Court**.
- Assam's **border disputes with Mizoram** are currently in the phase of resolution through negotiations.

➤ **Other Border Disputes between Different States:**

- **Belagavi Border Dispute** (between Karnataka and Maharashtra)
- **Odisha's Border Disputes**

Krishna Water Dispute

Why in News

Recently, two judges of the **Supreme Court** have **recused** themselves from hearing a matter related to the distribution of **Krishna water dispute** between **Andhra Pradesh, Telangana, Maharashtra and Karnataka**.

- They cited the reason that they **did not want to be the target of partiality** since the dispute is related to their home states.

Key Points

➤ **About:**

- In 2021 Andhra Pradesh alleged that the Telangana government had deprived it of its legitimate share of water for drinking and irrigation purposes in an **"unconstitutional and illegal" manner**.

Recusal of Judges

- It is the act of **abstaining from participation in an official action** such as a legal proceeding due to a **conflict of interest** of the presiding court official or administrative officer.
- When there is a **conflict of interest**, a judge can **withdraw from hearing** a case to prevent creating a perception that he carried a bias while deciding the case.
- There are **no formal rules governing recusals**, although several SC judgments have dealt with the issue.
 - In **Ranjit Thakur v Union of India (1987)**, the SC held that the test of the likelihood of bias is the reasonableness of the apprehension in the mind of the party.
 - The judge needs to look at the mind of the party before him, and decide that he is biased or not.

- The water of the **Srisailem reservoir** — which is the main storage for river water between the two states — has turned out to be a major warring point.

- Andhra Pradesh protested against **Telangana's use of the Srisailem reservoir water** for power generation.

- The Srisailem reservoir is constructed across the Krishna River in Andhra Pradesh. It is located in the **Nallamala hills**.

- It further contended that Telangana was refusing to follow decisions taken in the apex council constituted under the **Andhra Pradesh Reorganisation Act, 2014**, directions of **Krishna River Management Board (KRMB)** constituted under this Act and directions of the Centre.

➤ **Background:**

- **Krishna Water Disputes Tribunal:**
 - In 1969, the **Krishna Water Disputes Tribunal (KWDT)** was set up under the **Inter-State River Water Dispute Act, 1956**, and presented its report in 1973.

- At the same time, it was stipulated that the KWDT order may be reviewed or revised by a competent authority or tribunal any time after 31st May, 2000.

○ **Second KWDT:**

- **The second KWDT was instituted in 2004.** It delivered its report in 2010, which made allocations of the Krishna water at 65 % dependability and for surplus flows as follows: **81 TMC for Maharashtra, 177 TMC for Karnataka, and 190 TMC for Andhra Pradesh.**

○ **After the KWDT's 2010 report:**

- Andhra Pradesh challenged it through a **Special Leave Petition** before the Supreme Court in 2011.
- In 2013, the KWDT issued a 'further report', which was again challenged by Andhra Pradesh in the Supreme Court in 2014.

○ **Creation of Telangana:**

- After the creation of Telangana, Andhra Pradesh has asked that **Telangana be included as a separate party at the KWDT** and that the allocation of Krishna waters be reworked **among four states, instead of three.**
 - It is relying on **Section 89** of The Andhra Pradesh State Reorganisation Act, 2014.
 - For the purposes of this section, it is **clarified that the project-specific awards already made by the Tribunal on or before the appointed day shall be binding on the successor States.**

➤ **Constitutional Provisions:**

- **Article 262** of the Constitution provides for the adjudication of **inter-state water disputes.**
 - Under this, Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- The Parliament has enacted the two laws, the **River Boards Act (1956)** and the **Inter-State Water Disputes Act (1956).**
 - The **River Boards Act** provides for the establishment of river boards by the Central government for the regulation and development of inter-state river and river valleys.
 - The **Inter-State Water Disputes Act** empowers the Central government to set up an ad hoc

tribunal for the adjudication of a dispute between two or more states in relation to the waters of an inter-state river or river valley.

- Neither the Supreme Court nor any other court is to have jurisdiction in respect of any water dispute which may be referred to **such a tribunal under this Act.**

Krishna River

- **Source:** It originates near **Mahabaleshwar** (Satara) in Maharashtra. It is the second biggest river in peninsular India after the Godavari River.
- **Drainage:** It runs from four states **Maharashtra** (303 km), North **Karnataka** (480 km) and the rest of its 1300 km journey in **Telangana** and **Andhra Pradesh** before it empties into the Bay of Bengal.
- **Tributaries:** Tungabhadra, Mallaprabha, Koyna, Bhima, Ghataprabha, Yerla, Warna, Dindi, Musi and Dudhganga.



Statehood Demand by Puducherry

Why in News

Recently, the Chief Minister of Puducherry has demanded Statehood for the **Union Territory (UT) of Puducherry.**

- The demand for Statehood is a long pending issue for Puducherry making it unable to exercise **any powers for creating employment potential** by inviting more industries to Puducherry and also **creating infrastructure facilities for tourism.**

Note:



Union Territory

- UT refers to those federal territories **that are too small to be independent or are too different** (economically, culturally and geographically) to be merged with the surrounding states or are financially weak or are politically unstable.
 - Due to these reasons, they **couldn't survive as separate administrative units and needed to be administered by the Union Government.**
- UTs are administered by the President. In the UTs **Lieutenant Governors are appointed by the President of India** as their administrators.
 - However, Puducherry, Jammu and Kashmir and Delhi are the exception in this regard and have an elected legislature and government due to the status of partial statehood.
- At present, **India has 8 UTs**-- Delhi, Andaman and Nicobar, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Jammu and Kashmir, Ladakh, Lakshadweep, and Puducherry.

Key Points

➤ Background:

- When the Constitution of India was adopted in **1949, the Indian federal structure** included:
 - **Part A:** Former British India provinces that had a Governor and a legislature.
 - **Part B:** The former Princely States that were governed by a Rajpramukh.
 - **Part C:** Chief Commissioners' provinces and some princely states that were governed by Chief Commissioner.
 - **Part D:** Territory of Andaman and Nicobar Islands that was governed by a Lieutenant Governor who was appointed by the Central Government.
- After the **States Reorganisation Act of 1956**, Part C and Part D states were combined into a single category of '**Union Territory**'. The concept of the UT was added by the **Constitution (Seventh Amendment) Act, 1956.**

➤ Reasons for Demand:

- **Linguistic and cultural reasons** are the primary basis for creating new states in the country.
- **Other factors are:**

- Competition for local resources.
- Government negligence towards certain regions
- Improper allocation of the resources,
- Difference in culture, language, religion, etc.
- The economy's failure to create enough employment opportunities
- Popular mobilization and the democratic political process is also one of the reasons.
- 'The sons of the soil' sentiments.

➤ Issues Arising Due to Creation of New States:

- Different statehood may **lead to the hegemony of the dominant community/ caste/ tribe** over their power structures.
- This can lead to **emergence of intra-regional rivalries** among the sub-regions.
- The creation of new states may also lead to certain negative political consequences like **a small group of legislators could make or break a government at will.**
- There is also a possibility of increase in the **inter-State water, power and boundary disputes.**
- The division of states **would require huge funds for building new capitals and maintaining a large number of administrators** as was the case in the **division of Andhra Pradesh and Telangana.**
- Creation of smaller states only transfers power from the old state capital to new state capital **without empowering already existing institutions** like Gram Panchayat, District Collector, etc. rather diffusion of development in the backward areas of the states.

➤ Constitutional Provisions:

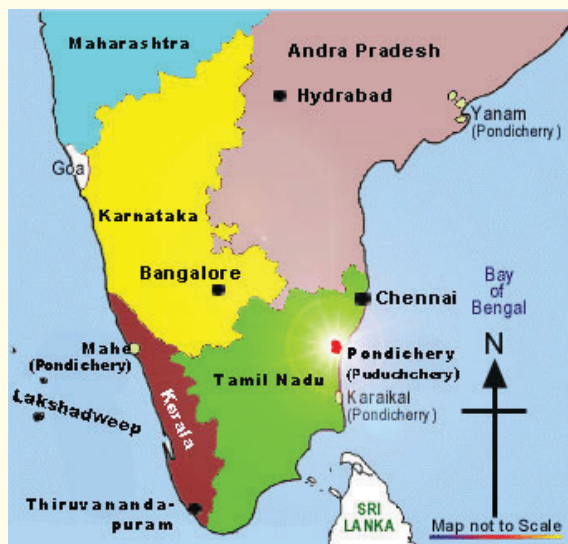
- The Indian constitution **empowers the Union government to create new states out of existing states** or to merge one state with another. This process is called reorganisation of the states.
- As per **Article 2** of the Indian Constitution, Parliament may by law admit into the Union, or establish, new States on such terms and conditions.
- **As per Article 3** of the Indian Constitution, the **Union Government has the power to form a State, increase or decrease the size of any State, and alter the boundaries or name of any State.**

Note:



Puducherry

- Puducherry city is capital of Puducherry UT in southeastern India.
- **UT was formed in 1962 out of the four former colonies** of French India:
 - **Pondicherry** (now Puducherry) and **Karaikal** along India's southeastern Coromandel Coast, **Yanam**, farther north along the eastern coast, and **Mahe**, lying on the western Malabar Coast, surrounded by Kerala state.
- It originated as a **French trade centre in 1674**, when it was purchased from a local ruler.
- The colony of Pondicherry was **the scene of frequent fighting between the French and Dutch in the late 17th century**, and it was occupied several times by British troops. However, it remained a **French colonial possession** until it was transferred to India in 1962.



Belagavi Border Dispute

Why in News

The decades-old dispute between Karnataka and Maharashtra over the Belagavi or as Maharashtra likes to call it the Belgaum district, is back in the headlines.

- **Belgaum or Belagavi** is currently part of Karnataka but is claimed by Maharashtra.

Reorganization of States in India

- At the time of independence in 1947, **India consisted of nearly 550 disjointed princely states**.



- In 1950, the Constitution contained a four-fold classification of the states of the Indian Union—Part A, Part B, Part C and Part D States.
 - **Part-A** states comprised nine erstwhile governor's provinces of British India.
 - **Part-B** states consisted of nine erstwhile princely states with legislatures.
 - **Part-C** states consisted of the erstwhile chief commissioner's province of British India and some of the erstwhile princely states.
 - **Part-D** state comprised the Andaman and Nicobar Islands only.
- The grouping of states at the time was done **on the basis of political and historical considerations rather than on linguistic or cultural divisions**, but this was a temporary arrangement.
- On account of the multilingual nature and differences that existed between various states, there was a need for the states to be reorganized on a permanent basis.
- In this context, in **1948, SK Dhar committee** - was appointed by the government to look into the need for the reorganization of states on a linguistic basis.
 - The Commission **preferred reorganisation of states on the basis of administrative convenience** including historical and geographical considerations instead of on linguistic lines.
 - This created much resentment and led to the appointment of another Linguistic Provinces Committee.
- In **December 1948, the JVP Committee** comprising Jawaharlal Nehru, Vallabh Bhai Patel and Pattabhi Sitaramayya was formed to study the issue.
 - The Committee, in its report submitted in April 1949, rejected the idea of reorganisation of states

Note:



on a linguistic basis but said that the issue could be looked at afresh in the light of public demand.

- However, due to protests, in **October 1953**, the **Government of India created the first linguistic state, known as Andhra state**, by separating the Telugu speaking areas from the Madras state.
- On **22nd December 1953**, Jawaharlal Nehru **appointed a commission under Fazl Ali** to consider the reorganisation of states.
 - The commission submitted its report in 1955 and it suggested that the whole country be divided into 16 states and three centrally administered areas.
- The government, while not agreeing with the recommendations entirely, **divided the country into 14 states and 6 union territories under the States Reorganisation Act that was passed in November 1956**.
- Even after the large-scale reorganization of the states in 1956, the political map of India underwent continuous changes due to the pressure of popular agitations and political conditions.
- On 5th August 2019, President of India in the exercise of the powers conferred by **Clause (1) of Article 370 of the Constitution** had issued the Constitution (Application to Jammu and Kashmir) Order, 2019.
 - This divided the state of Jammu and Kashmir into two new Union Territories (UTs): Jammu & Kashmir, and Ladakh.
- Recently, **Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019** have merged the Union Territories (UTs) of Daman and Diu (D&D) and Dadra and Nagar Haveli (DNH).
- Presently, India **comprises 28 states and 8 union territories**.

Demand for Including Ladakh under Sixth Schedule

Why in News

Recently, a demand has been raised in **Parliament** to include the **Union Territory (UT) of Ladakh** in the **Sixth Schedule of the Constitution** to safeguard land, employment, and cultural identity of the local population.

- The **Jammu and Kashmir Reorganisation Act, 2019** was introduced to bifurcate the State into two separate **union territories of Jammu and Kashmir (with legislature)**, and **Ladakh (without legislature)**.



Sixth Schedule

- **Article 244:** The Sixth Schedule under **Article 244** provides for the formation of autonomous administrative divisions — **Autonomous District Councils (ADCs)** — that have some legislative, judicial, and administrative autonomy within a state.
 - The **Sixth Schedule** contains **special provisions for the administration of tribal areas** in the **four north-eastern states of Assam, Meghalaya, Tripura and Mizoram**.
- **Autonomous Districts:** The tribal areas in these four states have been constituted as autonomous districts. The **governor is empowered to organise and re-organise the autonomous districts**.
 - The acts of Parliament or the state legislature do not apply to autonomous districts or apply with specified modifications and exceptions.
 - The power of direction, in this regard, lies **either with the President or Governor**.
- **District Council:** Each autonomous district has a district council **consisting of 30 members, of whom four are nominated by the Governor** and the remaining 26 are elected on the basis of adult franchise.
 - The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor.
 - Each autonomous region also has a separate regional council.
- **Powers of the Council:** The district and regional councils administer the areas under their jurisdiction.
 - They can make **laws on certain specified matters like land, forests, canal water, shifting cultivation,**

Note:



village administration, the inheritance of property, marriage and divorce, social customs and so on. But **all such laws require the assent of the Governor.**

- They can **constitute** village councils or **courts for trial of suits and cases between the tribes**. They hear appeals from them. The jurisdiction of the high court over these suits and cases is specified by the governor.
- The district council **can establish, construct or manage** primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district.
- They are empowered to **assess and collect land revenue** and to impose certain specified taxes.

Special Category Status

Why in News

Recently, the Bihar Government has asserted that it has not dropped the demand of **special category status** to Bihar.

Key Points

- **About Special Category Status (SCS):**
 - Special category status is a **classification given by the Centre to assist development of states that face geographical and socio-economic disadvantages**.
 - This classification was done on the **recommendations of the Fifth Finance Commission in 1969**.
 - It was **based on the Gadgil formula**. The parameters for SCS were:
 - Hilly Terrain;
 - Low Population Density And/Or Sizeable Share of Tribal Population;
 - Strategic Location along Borders With Neighbouring Countries;
 - Economic and Infrastructure Backwardness; and
 - Nonviable Nature of State finances.
 - SCS was **first accorded in 1969 to Jammu and Kashmir, Assam and Nagaland**. Since then eight more states have been included (Arunachal Pradesh, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Tripura and Uttarakhand).
 - There is **no provision of SCS in the Constitution**.
 - Special Category Status for plan assistance was granted in the past by the **National Development**

Council to the States that are characterized by a number of features necessitating special consideration.

- Now, it is **done by the central government**.
- The **14th Finance Commission** has done away with the '**special category status**' for states, except for the Northeastern and three hill states.
 - Instead, it suggested that the resource gap of each state be filled through 'tax devolution', urging the Centre to increase the states' share of tax revenues from **32% to 42%**, which has been implemented since 2015.
- **Benefits to States with SCS:**
 - The **Centre pays 90% of the funds required in a centrally-sponsored scheme** to special category status states as against 60% or 75% in case of other states, while the remaining funds are provided by the state governments.
 - **Unspent money does not lapse** and is carried forward.
 - **Significant concessions** are provided to these states in excise and customs duties, income tax and corporate tax.

E-ILP Platform: Manipur

Why in News

Recently, the Chief Minister of **Manipur** virtually launched the **e-ILP platform** for **effective regulation of the Inner Line Permit (ILP) system** in the state.

- The ILP system came into **effect in Manipur on 1st January 2020**.
- In Manipur, **four types of permits are issued** - temporary, regular, special and labour permits.

Key Points

- **Background of ILP System:**
 - Under the **Bengal Eastern Frontier Regulation Act, 1873**, the British framed regulations restricting the entry and regulating the stay of outsiders in designated areas.
 - This was to **protect the Crown's own commercial interests** by preventing "British subjects" (Indians) from trading within these regions.



- In **1950**, the Indian government replaced “British subjects” with “Citizen of India”.
- This was to address local concerns about **protecting the interests of the indigenous people** from outsiders belonging to other Indian states.
- **About:**
 - ILP is a document that **Indian citizens from other states are required to possess** in order to enter states like **Arunachal Pradesh, Mizoram, Nagaland and Manipur**.
 - It is **issued by the concerned State Government** and can be **issued for travel purposes solely**.
 - Such states are exempted from provisions of the **Citizenship Amendment Act (CAA)**.
 - The CAA, which relaxes eligibility criteria for certain categories of migrants from three countries seeking Indian citizenship, exempts certain categories of areas, including those protected by the Inner Line system.
- **Rules for Foreigners:**
 - Foreigners need a **Protected Area Permit (PAP)** to visit tourist places which are different from ILPs needed by domestic tourists.
 - Under the **Foreigners (Protected Areas) Order 1958**, all areas falling between the ‘Inner Line’, as defined in the said order, and the International Border of the State have been declared as a Protected Area.

- A **foreign national is normally not allowed** to visit a Protected/Restricted Area unless it is established to the satisfaction of the Government that there are extraordinary reasons to justify such a visit.

Legislative Council

Why in News

Recently, the **West Bengal** government has decided to set up a **Legislative Council (Vidhan Parishad)**.

- **For setting up** the Council, a **Bill** has to be introduced in the **Assembly** and then a **nod from the Governor** is required. The Legislative Council in the State was abolished in 1969.

Key Points

- **Basis of Formation:**
 - India has a **bicameral system** of legislature.
 - **Just as Parliament** has two Houses, **the states can also have a Legislative Council** in addition to the **Legislative Assembly** through **Article 169 of the Constitution**.
- **Six States having a Legislative Council:** Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, Karnataka.
 - In **2020**, **Andhra Pradesh** Legislative Assembly passed the **resolution for abolition** of the Legislative Council. This resolution is **yet to be cleared by the Parliament of India** to finally abolish the council.
 - In **2019**, the **Jammu & Kashmir Legislative Council** was **abolished** through the J&K Reorganisation Bill, 2019, which reduced the State of J&K to the **Union Territories of J&K and Ladakh**.
- **Article 169 (Creation and Abolition):**
 - The **Parliament** can **abolish** a Legislative Council (where it already exists) **or create** it (where it does not exist) **by a simple majority**, that is, a majority of the members of each House present and voting, **if the legislative assembly of the concerned state, by a special majority, passes a resolution** to that effect.
 - **Special majority** implies
 - A majority of the total membership of the assembly and

Note:



- A majority of not less than two-thirds of the members of the assembly present and voting.

➤ **Composition:**

- Under **Article 171** of the Constitution, the Legislative Council of a state **shall not have more than one-third of the total strength of the State Assembly, and not less than 40 members.**
- Like the Rajya Sabha, the legislative council is a **continuing chamber**, that is, it is a permanent body and is **not subject to dissolution**. The **tenure of a Member of the Legislative Council (MLC) is six years**, with one-third of the members retiring every two years.

➤ **Manner of Election:**

- One-third of the MLCs are elected by the state's MLAs,
- Another 1/3rd by a special electorate comprising sitting members of local governments such as municipalities and district boards,
- 1/12th by an electorate of teachers and another 1/12th by registered graduates.
- The remaining members are appointed by the Governor for distinguished services in various fields namely, literature, science, art, cooperative movement and social service.

➤ **LC vis-à-vis Rajya Sabha:**

- The **legislative power of the Councils are limited**. Unlike Rajya Sabha which has substantial powers to shape non-financial legislation, Legislative Councils lack a constitutional mandate to do so.
- Assemblies can override suggestions/amendments made to legislation by the Council.
- Again, unlike Rajya Sabha MPs, **MLCs cannot vote in elections for the President and Vice President**. The Vice President is the Rajya Sabha Chairperson while a member from the Council itself is chosen as the Council Chairperson.

➤ **Role of Legislative Council:**

- It can **ensure individuals** who might not be cut out for the elections are able to contribute to the legislative process (like artists, scientists, etc).
- It can **keep an eye on hasty decisions** taken by the Legislative Assembly.

➤ **Arguments Against Legislative Council:**

- It can delay legislation, also it is considered a burden on the state budget.

- It can also be used to park leaders who have not been able to win an election.

Government of NCT of Delhi (Amendment) Act, 2021

Why in News

The **Government of National Capital Territory (GNCT) of Delhi (Amendment) Act, 2021**, which gives **primacy to the Lieutenant Governor (L-G) over the elected government** in the city, has come into force.

Key Points

➤ **Provisions of the GNCT of Delhi (Amendment) Act 2021:**

- It **amended the Sections 21, 24, 33 and 44 of the 1991 Act.**
- States that the **"government"** in the National Capital Territory of Delhi **mean the Lieutenant-Governor** of Delhi.
- It **gives discretionary powers to the L-G** even in matters where the Legislative Assembly of Delhi is empowered to make laws.
- It **seeks to ensure that the L-G is "necessarily granted an opportunity"** to give her or his opinion before any decision taken by the Council of Ministers (or the Delhi Cabinet) is implemented.
- It **bars the Assembly or its committees from making rules** to take up matters concerning day-to-day administration, or to conduct inquiries in relation to administrative decisions.

➤ **Criticism:**

- The latest amendment will **greatly reduce the efficiency and timeliness of the Delhi government** by making it imperative for it to hold consultations with the L-G even when a situation demands urgent action.
- Significantly, the **L-G is not obliged to give his opinion to the State government within a time frame**. Critics argue that the L-G could politically exploit these unbridled powers to hamper the government's administrative work and thus turn the political tides against the incumbent if he so desires.
- It is **against the spirit of 'Federalism.'**

Note:



➤ Union Government's Stand:

- It is **in keeping with the Supreme Court's July 2018 ruling** on the ambit of powers of the L-G and the Delhi government following several headliner controversies between the two.
- The purported fair objectives of the Act, include **enhancing public accountability and easing out technical ambiguities** related to everyday administration.
- This will **increase administrative efficiency of Delhi** and will **ensure better relationship between the executive and the legislator**.

Background

➤ Enactment of GNCTD Act:

- The **GNCTD Act** was enacted in 1991 to “**supplement provisions of the Constitution** relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi”.
- It **enabled the process of an elected government in Delhi**.
- The **Supreme Court** had in the past appreciated the **1991 developments**, stating that the real purpose behind the **Constitution (69th Amendment) Act, 1991** is to establish a democratic set-up and representative form of government wherein the majority has a right to embody their opinions in laws and policies pertaining to the NCT of Delhi subject to the limitations imposed by the Constitution.

➤ Point of Friction:

- However, over the years, there was **friction between the Chief Minister and the Lieutenant Governor (L-G)** over power-sharing.
- The focal point of these conflicts was that **in case of a difference between the L-G and the Council of Ministers on any matter**,
 - The **matter was to be referred to the President** by the L-G for his decision,
 - And **pending such a decision the L-G was empowered to take any action** on the matter as he deemed right.

➤ Judgement of the Supreme Court:

- In the ***Government of NCT of Delhi vs Union of India and Another in 2018*** case, the SC held that:
 - The **government was not under obligation to seek the concurrence of the L-G** on its decisions and

69th Amendment Act, 1992

- It **added two new Articles 239AA and 239AB** under which the Union Territory of Delhi has been given a special status.
- **Article 239AA** provides that the Union Territory of Delhi be called the National Capital Territory of Delhi and its administrator shall be known as Lt. Governor.
 - It also **creates a legislative assembly for Delhi** which can make laws on subjects under the State List and Concurrent List **except on these matters**: public order, land, and police.
 - It also **provides for a Council of Ministers for Delhi** consisting of not more than 10% of the total number of members in the assembly.
- **Article 239AB** provides that the **President may by order suspend the operation of any provision of Article 239AA** or of all or any of the provisions of any law made in pursuance of that article. This provision **resembles Article 356 (President's Rule)**.

- That **any differences between them should be resolved keeping in view the constitutional primacy of representative government** and cooperative federalism.

- Essentially, the SC judgment **made it extremely difficult for the L-G to refer such matters to the President**.

National Panchayati Raj Day

Why in News

India commemorates the **12th National Panchayati Raj day** on **24th April 2021**.

- The Prime Minister has launched the distribution of **e-property cards** under the **SWAMITVA** scheme on the Day.

Key Points

➤ About:

- **Background:** The first **National Panchayati Raj Day** was celebrated in **2010**. Since then, the National Panchayati Raj Day is celebrated on **24th April** every year in India.
- **Awards Presented on the Day:**
 - The **Ministry of Panchayati Raj** has been awarding the best performing **Panchayats/**

States/UTs across the country in recognition of their good work.

- Awards are given **under various categories** namely,
 - Deen Dayal Upadhyay Panchayat Sashaktikaran Puraskar,
 - Nanaji Deshmukh Rashtriya Gaurav Gram Sabha Puraskar,
 - Child-friendly Gram Panchayat Award,
 - Gram Panchayat Development Plan Award and
 - e-Panchayat Puraskar (given to States/UTs only).
- **For the first time**, the Prime Minister will transfer the award money (as Grants-in-Aid) directly to the bank account of the Panchayats concerned in real time.

➤ **Panchayati Raj:**

- After the Constitution came into force, **Article 40** made a mention of panchayats and **Article 246** empowered the state legislature to legislate with respect to any subject relating to local self-government.
- **Panchayati Raj Institution (PRI)** was constitutionalized through the **73rd Constitutional Amendment Act, 1992** to build democracy at the grass roots level and was entrusted with the task of rural development in the country.
- **PRI** is a system of **rural local self-government** in India.
 - Local Self Government is the management of local affairs by such local bodies who have been elected by the local people.
- To **strengthen e-Governance in Panchayati Raj Institutions (PRIs)** across the country, Ministry of Panchayati Raj (MoPR) has launched **eGramSwaraj**, a user friendly web-based portal.
 - It unifies the planning, accounting and monitoring functions of Gram Panchayats. It's combination with the Area Profiler application, Local Government Directory (LGD) and the **Public Financial Management System (PFMS)** renders easier reporting and tracking of Gram Panchayat's activities.

➤ **About SVAMITVA Scheme:**

- **SVAMITVA** (Survey of Villages and Mapping with Improved Technology in Village Areas) scheme is

a collaborative effort of the **Ministry of Panchayati Raj, State Panchayati Raj Departments, State Revenue Departments** and **Survey of India**.

- **Aim:** To provide an integrated property validation solution for rural India.
 - It is a scheme for mapping the land parcels in rural inhabited areas using drone technology and Continuously Operating Reference Station (CORS).
 - The mapping will be done across the country in a phase-wise manner over a period of four years - from **2020 to 2024**.

Salient Features of the 73rd Constitutional Amendment

- The 73rd Constitutional Amendment **added Part IX titled "The Panchayats"** to the Constitution.
- Basic unit of democratic system-**Gram Sabhas (villages)** comprising all the adult members registered as voters.
- **Three-tier system of panchayats** at village, intermediate block/taluk/mandal and district levels except in States with population is below 20 lakhs (Article 243B).
- Seats at all levels **to be filled by direct elections** (Article 243C (2)).
- Reservation of Seats:
 - Seats reserved for **Scheduled Castes (SCs) and Scheduled Tribes (STs)** and the chairpersons of the Panchayats at all levels also shall be reserved for SCs and STs in proportion to their population.
 - One-third of the total number of seats to be **reserved for women**.
 - One-third offices of chairpersons at all levels reserved for women (Article 243D).
- **Duration:**
 - **Uniform five year term** and elections to constitute new bodies to be completed before the expiry of the term.
 - In the event of dissolution, elections compulsorily within six months (Article 243E).
- **Independent Election Commission in each State** for superintendence, direction and control of the electoral rolls (Article 243K).
- **Power of Panchayats:** Panchayats have been authorised to prepare plans for economic development and social justice in respect of subjects illustrated in Eleventh Schedule (Article 243G).

Note:



- **Source of Revenue (Article 243H):** State legislature may authorise the Panchayats with
 - Budgetary allocation from State Revenue.
 - Share of revenue of certain taxes.
 - Collection and retention of the revenue it raises.
- **Establish a Finance Commission in each State** to determine the principles on the basis of which adequate financial resources would be ensured for panchayats and municipalities (Article 243I).
- **Exemptions:**
 - The Act does not apply to the states of Nagaland, Meghalaya and Mizoram and certain other areas because of socio-cultural and administrative considerations. These areas include:
 - the Scheduled areas and the tribal areas (under **Schedule VI** of the Constitution) in the states.
 - the hill areas of Manipur for which district councils exist,
 - Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.
 - However, the Parliament has extended the provisions of Part IX to **Vth schedule** areas through an Act called the **Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996**.
 - At present, **10 States** namely **Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana** have **Fifth Schedule** Area.

Union Executive & Legislature

Motion of Thanks

Why in News

Recently, amendments to the **Motion of Thanks to the President's Address** were proposed (However, not passed).

- The amendment proposal mentioned the government's alleged use of **Pegasus spyware** and its handling of the **Covid-19 pandemic**.

What is the Motion of Thanks?

- **Article 87** provides for the special address by the President.
- The article provides that at the commencement of the **first session after each general election to the House of the People** and at the commencement of the **first session of each year**, the President shall address **both Houses of Parliament assembled together** and inform Parliament of the causes of its summons.
- Such an Address is called '**special address**', and it is also an **annual** feature.
- This Address has to be to both Houses of Parliament assembled together.

What is the Content of the President of Address?

- The President's Address is the **statement of policy of the Government** and, as such, is drafted by the Government.
- The Address contains a **review of various activities and achievements of the Government** during the previous year and sets out the policies, projects and programmes which the Government of the day wishes to pursue with regard to the important national and international issues.
- The Address also indicates, in broad terms, **items of legislative business** which are proposed to be brought during the sessions to be held in that year.
- The address of the president, which corresponds to the 'speech from the Throne in Britain', is discussed in **both the Houses of Parliament** on a motion called the '**Motion of Thanks**'.
- If any of the amendments are put forward and accepted then the Motion of Thanks is adopted in the amended form.
 - Amendments may refer to matters contained in the Address as well as to matters which, in the opinion of the member, the Address has failed to mention.
- At the end of the discussion, **the motion is put to vote**.

What is the Significance of Motion of Thanks?

- The Motion of Thanks **must be passed in the House**. Otherwise, it amounts to the **defeat of the government**. It is one of the ways through which the Lok Sabha can also express a lack of confidence in the government. The other ways are:
 - Rejection of a **money bill**.

Note:



- Passing a censure motion or an adjournment motion.
- The defeat of the government on a vital issue.
- Passing a cut **motion**.

Other Motions in Indian Parliament

➤ Privilege Motion

- It is **moved by a member when he feels that a minister has committed a breach of privilege of the House** or one or more of its members by withholding facts of a case or by giving wrong or distorted facts. Its purpose is **to censure the concerned minister**.
- It **can be moved in Rajya Sabha as well as Lok Sabha**.

➤ Censure Motion

- It **should state the reasons** for its adoption in the Lok Sabha. It **can be moved against an individual minister or a group of ministers** or the entire council of ministers.
- It is moved **to censure the council of ministers** for specific policies and actions. It **can be moved only in Lok Sabha**.

➤ Call-Attention Motion

- It is introduced in the Parliament by a member **to call the attention of a minister to a matter of urgent public importance**, and to seek an authoritative statement from him on that matter.
- It **can be moved in Rajya Sabha as well as Lok Sabha**.

➤ Adjournment Motion

- It is introduced in the Lok Sabha **to draw the attention of the House to a definite matter of urgent public importance**. It involves an element of censure against the government.
- It **can be moved only in Lok Sabha**.

➤ No-Day-Yet-Named Motion

- It is a motion that has been admitted by the Speaker but **no date has been fixed for its discussion**.
- It **can be moved in Rajya Sabha as well as Lok Sabha**.

➤ No Confidence Motion

- **Article 75 of the Constitution** says that the council of ministers shall be collectively responsible to the Lok Sabha. In other words, **the Lok Sabha can remove the ministry from office by passing**

a no-confidence motion. The motion **needs the support of 50 members to be admitted**.

- It **can be moved only in Lok Sabha**.

➤ Cut Motions

- A cut motion is a **special power vested in members of the Lok Sabha to oppose a demand being discussed for specific allocation by the government** in the Finance Bill as part of the Demand for Grants.
- If the motion is adopted, it **amounts to a no-confidence vote**, and if the government fails to jot up numbers in the lower House, it is obliged to resign according to the norms of the House.
- A motion may be moved to reduce the amount of a demand in any of the following ways:
 - **Policy Cut Motion**: It is moved so that the amount of the demand be reduced to Re.1 (**represents disapproval of the policy underlying the demand**).
 - **Economy Cut Motions**: It is moved so that the amount of the demand will be reduced by a **specified amount**.
 - **Token Cut Motions**: It is moved so that the amount of the demand is reduced by Rs.100 (**expresses a specific grievance**).
- It **can be moved only in Lok Sabha**.

Private Members Bill

Why in News

Recently, Rajya Sabha reserved its decision to allow the introduction of a **Private Member's Bill** to amend the Preamble to the Constitution.

- The Bill seeks to change the words in the Preamble **"EQUALITY of status and of opportunity"** to **"EQUALITY of status and of opportunity to be born, to be fed, to be educated, to get a job and to be treated with dignity"**.

Key Points

➤ About:

- Any **Member of Parliament (MP)** who is **not a minister** is referred to as a private member.
- Its drafting is the responsibility of the member concerned. Its **introduction in the House requires one month's notice**.

Note:



Amendability of Preamble

- As a part of the Constitution, the preamble can be amended under **Article 368** of the Constitution, but the **basic structure** of the preamble can not be amended.
 - As per the **Supreme Court** verdict in the **Kesavananda Bharati vs State of Kerala, 1973**, **Parliament cannot change the basic structure of the Constitution.**
- As of now, the preamble is only amended once through the **42nd Amendment Act, 1976**.
 - It added **three new words—Socialist, Secular and Integrity.**
- The government bills/public bills can be introduced and discussed on any day, **private member's bills can be introduced and discussed only on Fridays.**
 - In case of multiple Bills, a **ballot system is used to decide the sequence of bills for introduction.**
 - The **Parliamentary Committee on Private Member's Bills and Resolutions** goes through all such Bills and **classifies them based on their urgency and importance.**
- Its rejection by the House has **no implication on the parliamentary confidence** in the government or its resignation.
- Upon conclusion of the discussion, the member piloting the bill can either withdraw it on the request of the minister concerned, or he may choose to press ahead with its passage.
- **Previous Private Bills:**
 - The **last time a private member's bill was passed by both Houses was in 1970.**
 - It was the **Supreme Court** (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968.
 - **14 private member's bills** — five of which were introduced in Rajya Sabha — have become law so far. Some other private member bills that have become laws include-
 - Proceedings of Legislature (Protection of Publication) Bill, 1956, in the Lok Sabha.
 - The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964, introduced in the Lok Sabha.
 - The Indian Penal Code (Amendment) Bill, 1967 introduced in the Rajya Sabha.

➤ Significance:

- The purpose of the private member's bill is **to draw the government's attention to what individual MPs see as issues and gaps** in the existing legal framework, which require legislative intervention.
 - Thus it **reflects the stand of the opposition party on public matters.**

Public Bill vs Private Bill

| Public Bill | Private Bill |
|--|--|
| 1. It is introduced in the Parliament by a minister. | 1. It is introduced by any member of Parliament other than a minister. |
| 2. It reflects of the policies of the government (ruling party). | 2. It reflects the stand of opposition party on public matter. |
| 3. It has greater chance to be approved by the Parliament. | 3. It has lesser chance to be approved by the Parliament. |
| 4. Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation. | 4. Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation. |
| 5. Its introduction in the House requires seven days' notice. | 5. Its introduction in the House requires one month's notice. |
| 6. It is drafted by the concerned department in consultation with the law department. | 6. Its drafting is the responsibility of the member concerned. |

Privilege Motion

Why in News

Congress' chief whip in the **Rajya Sabha** sought to move a **privilege motion** against the **Union Culture Minister over the appointment of chairperson of the National Monuments Authority (NMA).**

- The educational and professional background of the current chairperson of NMA does not meet the requirements of law passed by Parliament in March 2010.

National Monuments Authority (NMA)

- **Established:** NMA is set up under the **Ministry of Culture** as per the provisions of the **Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act (AMASR)** which was enacted in March, 2010.
- **Functions:** Several functions have been assigned to the NMA for the protection and preservation of monuments and sites through management of the

Note:



prohibited and regulated areas around the centrally protected monuments.

- NMA also considers grant of permissions to applicants for construction related activity in the prohibited and regulated areas.

- **Qualifications for the Appointment of the Chairman:** AMASR Act says that the **chairperson of the NMA** should have “proven experience and expertise in the field of archaeology, country and town planning, architecture, heritage, conservation architecture or law”.

Key Points

- **About:** It is concerned with the **breach of parliamentary privileges by a minister**.
- **Breach of Parliamentary Privileges:** Parliamentary Privileges are **certain rights and immunities enjoyed by members of Parliament**, individually and collectively, so that they can “effectively discharge their functions”.
 - When any of these rights and immunities are disregarded, the offence is called a breach of privilege and is punishable under law of Parliament.
 - **A notice is moved in the form of a motion by any member of either House against** those being held guilty of breach of privilege.
 - Its purpose is **to censure the concerned minister**.
- **Role of the Speaker/Rajya Sabha (RS) Chairperson:**
 - The Speaker/RS chairperson is the **first level of scrutiny** of a privilege motion.
 - The Speaker/Chairperson can decide on the privilege motion himself or herself **or refer it to the privileges committee of the Parliament**.
 - If the Speaker/Chairperson gives consent under relevant rules, the member concerned is given an opportunity to make a short statement.
- **Rules Governing Privilege:**
 - **Rule No 222** in Chapter 20 of the **Lok Sabha Rule Book** and correspondingly **Rule 187** in Chapter 16 of the **Rajya Sabha rulebook** governs privilege.
 - Rules say that a member may, with the consent of the Speaker or the Chairperson, raise a question involving a breach of privilege either of a member or of the House or a committee thereof.

Parliamentary Privileges

- Parliamentary privileges are **special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members**.
- The Constitution also extends the parliamentary privileges to those persons who are entitled to speak and take part in the proceedings of a House of Parliament or any of its committees. These **include the Attorney General of India and Union ministers**.
- The parliamentary privileges **do not extend to the President** who is also an integral part of the Parliament. **Article 361** of the Constitution provides for privileges for the President.
- **Article 105** of the Constitution expressly mentions **two privileges**, that is, freedom of speech in Parliament and right of publication of its proceedings.
- Apart from the privileges as specified in the Constitution, **the Code of Civil Procedure, 1908**, provides for freedom from arrest and detention of members under civil process during the continuance of the meeting of the House or of a committee thereof and forty days before its commencement and forty days after its conclusion.
- It needs to be noted that the **Parliament, till now, has not made any special law** to exhaustively codify all the privileges.

Privilege Committee

- It is a **Standing Committee**. It examines the cases of breach of the privileges of the House and its members and recommends appropriate action.
- The **Lok Sabha** committee has **15 members**, while the **Rajya Sabha** committee has **10 members**.

Deputy Speaker Election

Why in News

Recently, an MLA from UP was elected Deputy Speaker of the Uttar Pradesh Assembly.

- **Article 93** of the Constitution provides for the election of both the **Speaker** and the **Deputy Speaker of the Lok Sabha**.
- **Article 178** contains the corresponding position for **Speaker and Deputy Speaker of the Legislative Assembly of a state**.

Note:



Key Points

➤ Deputy Speaker:

○ Elected By:

- The **Deputy Speaker is elected by the Lok Sabha** from amongst its members right after the election of the Speaker has taken place.
- The **date of election of the Deputy Speaker is fixed by the Speaker** (date of election of the Speaker is fixed by the President).
- The institutions of **Speaker and Deputy Speaker originated in India** in 1921 under the provisions of the **Government of India Act of 1919 (Montague-Chelmsford Reforms)**.
 - At that time, the Speaker and the Deputy Speaker were called the President and Deputy President respectively and the same nomenclature continued till 1947.

○ Time Frame & Rules of Election:

- The practice in **both Lok Sabha and the State Legislative Assemblies** has been to **elect the Speaker during the (mostly short) first session of the new House** usually on the third day after oath-taking and affirmations take place over the first two days.
- The **election of the Deputy Speaker usually takes place in the second session**, even though there is no bar on having this election too in the first session of the new Lok Sabha/Assembly.
- But the **election of Deputy Speaker is generally not delayed** beyond the second session without genuine and unavoidable constraints.
- In Lok Sabha, the **election of Deputy Speaker is governed by Rule 8 of The Rules of Procedure and Conduct of Business in Lok Sabha**.
 - Once elected, the **Deputy Speaker usually continues in office** until the dissolution of the House.

○ Term of Office and Removal:

- Like the Speaker, the Deputy Speaker **remains in office usually during the life of the Lok Sabha (5 years)**.
- The **Deputy Speaker may vacate his/her office earlier** in any of the following three cases:
 - If he ceases to be a member of the Lok Sabha.
 - If he resigns by writing to the Speaker.

- If he is **removed by a resolution passed by a majority of all the then members of the Lok Sabha**.

- Such a resolution can be moved only after giving 14 days' advance notice.

- **In the case of the State Assembly**, the removal process is the same as that of the Speaker and Deputy Speaker of the Lok Sabha.

○ Responsibilities and Powers (Deputy Speaker of the Lok Sabha):

- Under **Article 95** of the constitution, the Deputy Speaker **performs the duties of the Speaker's office** when it is vacant.
 - He/She also **acts as the Speaker when the latter is absent** from the sitting of the House.
 - He/She also **presides over the joint sitting** of both the Houses of Parliament, in case the Speaker is absent from such a sitting.
- The Deputy Speaker has one special privilege, that is, **whenever he/she is appointed as a member of a parliamentary committee**, he/she automatically becomes its chairman.

➤ Deputy Speaker and Tenth Schedule (Exception):

- **Para 5 of the Tenth Schedule** (commonly known as the anti-defection law) says that **a person who has been elected Speaker/ Deputy Speaker shall not be disqualified**:
 - If he, by reason of his election to that office, **voluntarily gives up the membership of the political party** to which he belonged immediately before such election,
 - **And does not**, so long as he continues to hold such office thereafter, **rejoin that political party** or become a member of another political party.
- This **exemption applies to the Rajya Sabha Deputy Chairman, Chairman/ Deputy Chairman of a state Legislative Council, and Speaker/ Deputy Speaker of a state Legislative Assembly** as well.

Anti-Defection Law

Why in News

Recently, the Calcutta High Court has given West Bengal Assembly Speaker a deadline to pass an order in the **defection case** involving a Member of Legislative Assembly (MLA).

Note:



- **Anti-defection** proceedings are also going on in other states such as Jharkhand and Rajasthan.

Key Points

➤ About:

- The anti-defection law **punishes individual** Members of Parliament (MPs)/MLAs **for leaving one party** for another.
- Parliament added it to the Constitution as the **Tenth Schedule in 1985**. Its purpose was to **bring stability to governments** by discouraging legislators from changing parties.
 - **The Tenth Schedule** - popularly known as the Anti-Defection Act - was included in the Constitution via the **52nd Amendment Act, 1985** and sets the provisions for disqualification of elected members on the grounds of defection to another political party.
 - It was a response to the toppling of multiple state governments by party-hopping MLAs after the general elections of 1967.
- However, it **allows a group of MP/MLAs to join (i.e. merge with) another political party** without inviting the penalty for defection. And it does not penalise political parties for encouraging or accepting defecting legislators.
 - As per the **1985 Act**, a 'defection' by one-third of the elected members of a political party was considered a 'merger'.
 - But the **91st Constitutional Amendment Act, 2003**, **changed this** and now at least **two-thirds of the members** of a party have to be in favour of a "merger" for it to have validity in the eyes of the law.
- The **members disqualified** under the law can **stand for elections** from any political party for a seat in the same House.
- The **decision** on questions as to disqualification on ground of defection are **referred to the Chairman or the Speaker of such House**, which is subject to '**Judicial review**'.
 - However, the law **does not provide a time-frame** within which the presiding officer has to decide a defection case.

➤ Grounds of Disqualification:

- If an elected member **voluntarily gives up his membership** of a political party.

- If he votes or **abstains from voting in such House contrary to any direction issued by his political party** or anyone authorised to do so, without obtaining prior permission.

- As a pre-condition for his disqualification, **his abstention from voting should not be condoned by his party** or the authorised person within 15 days of such incident.

- If any **independently elected member joins any political party**.
- If any **nominated member joins any political party after the expiry of six months**.

➤ Related Issues:

- **Undermining Representative & Parliamentary Democracy:**

- After enactment of the Anti-defection law, the MP or MLA has to follow the party's direction blindly and has no freedom to vote their judgment.
- Due to Anti-Defection law, the chain of accountability has been broken by making **legislators accountable primarily to the political party**.

- **Controversial Role of Speaker:**

- In many instances, the Speaker (usually from the ruling party) has **delayed deciding on the disqualification**.

- **No Recognition of Split:**

- Due to the 91st amendment, the anti-defection law created an exception for anti-defection rulings.
- However, the amendment **does not recognise a 'split' in a legislature party** and instead recognises a 'merger'.

- **Subversion of Electoral Mandates:**

- Defection is the **subversion of electoral mandates by legislators** who get elected on the ticket of one party but then find it convenient to shift to another, due to the lure of ministerial berths or financial gains.

- **Affects the Normal Functioning of Government:**

- The infamous "**Aaya Ram, Gaya Ram**" slogan was coined against the background of continuous defections by the legislators in the 1960s. The defection leads to instability in the government and affects the administration.

- **Promote Horse-Trading:**

Note:



- Defection also promotes **horse-trading of legislators** which clearly go against the mandate of a democratic setup.

➤ **Suggestions:**

- The **Election Commission** has suggested it should be the deciding authority in defection cases.
- Others have argued that the **President and Governors should hear defection petitions**.
- The **Supreme Court** has suggested that **Parliament should set up an independent tribunal** headed by a retired judge of the higher judiciary to decide defection cases swiftly and impartially.
- Some commentators have said the law has failed and recommended its removal. Former Vice President Hamid Ansari has suggested that it **applies only to save governments in no-confidence motions**.

Parliament Sessions

Why in News

Recently, the **Monsoon session of Parliament** has begun, after the reshuffling of the **Council of ministers** and the **Cabinet committees**.

Key Points

➤ **Sessions of Parliament:**

- The summoning of Parliament is **specified in Article 85** of the Constitution.
- The **power to convene a session of Parliament rests with the Government**.
 - The **decision is taken by the Cabinet Committee on Parliamentary Affairs which is formalised by the President**, in whose name MPs (Members of Parliament) are summoned to meet for a session.
- India **does not have a fixed parliamentary calendar**. By convention (i.e. not provided by the Constitution), Parliament **meets for three sessions in a year**.
 - The **longest, Budget Session (1st session)**, starts towards the end of January, and concludes by the end of April or first week of May.
 - The **second session is the three-week Monsoon Session**, which usually begins in July and finishes in August.
 - **Winter Session (3rd session)**, is held from November to December.

➤ **Summoning of Parliament:**

- Summoning is the **process of calling all members of the Parliament** to meet. The **President summons each House** of the Parliament from time to time. The **gap between two sessions of the Parliament cannot exceed 6 months**, which means the Parliament meets at least two times in one year.

➤ **Adjournment:**

- Adjournment **terminates the sitting of the House** which meets again at the time appointed for the next sitting. The **postponement may be for a specified time** such as hours, days or weeks.
- If the meeting is terminated without any definite time/ date fixed for the next meeting, it is **called Adjournment sine die**.
- The power of adjournment as well as adjournment sine die **lies with the presiding officer (Speaker or Chairman) of the House**.

➤ **Prorogation:**

- Prorogation is the **end of session and not the dissolution** of the house (in case of Lok Sabha, as Rajya Sabha does not dissolve).
- It is **done by the President of India**.

➤ **Quorum:**

- Quorum refers to the **minimum number of the members required** to be present for conducting a meeting of the house.
- The Constitution has fixed **one-tenth strength** as quorum for both Lok Sabha and Rajya Sabha.
- Thus, to conduct a sitting of **Lok Sabha**, there should be **at least 55 members present** while to conduct a sitting of **Rajya Sabha**, there should be **at least 25 members present**.

➤ **Joint Session of Parliament (Article 108):**

- The Constitution of India provides for the joint sitting of the **Parliament's two Houses, the Lok Sabha and the Rajya Sabha**, in order to break any deadlock between the two.
- The joint sitting is **called by the President**. Such a session is **presided over by the Speaker**, and in his/her absence, by the Deputy Speaker of the Lok Sabha.
- In the absence of both, it is presided over by the **Deputy Chairman of the Rajya Sabha**.
 - If any of the above are not present, **any other member of the Parliament can preside** by consensus of both the Houses.

Council of Ministers

Why in News

Recently, the Prime Minister **expanded and reshuffled his Council of Ministers (COM)**. The Prime Minister now has 77 ministers, nearly half of them new.

Key Points

➤ About:

- **Article 74 of the Constitution** deals with the **status of the council of ministers** while **Article 75** deals with the appointment, tenure, responsibility, qualification, oath and salaries and allowances of the ministers.
 - The COM consists of three categories of ministers, namely, **cabinet ministers, ministers of state, and deputy ministers**. At the **top of all these ministers stands the Prime Minister**.
 - **Cabinet Ministers:** These head the important ministries of the Central government like home, defence, finance, external affairs and so forth.
 - **Cabinet** is the **chief policy formulating body** of the Central government.
 - **Ministers of State:** These can either be given independent charge of ministries/ departments or can be attached to cabinet ministers.
 - **Deputy Ministers:** They are attached to the cabinet ministers or ministers of state and assist them in their administrative, political, and parliamentary duties.
 - At times, the COM **may also include a deputy prime minister**. The deputy prime ministers are appointed mostly for political reasons.
- #### ➤ Constitutional Provisions:
- **Article 74 (COM to aid and advise President):** The advice tendered by Ministers to the President shall not be inquired into in any court.
 - The **President may require the COM to reconsider such advice** and the President shall **act in accordance with the advice tendered after such reconsideration**.
 - **Article 75 (Other Provisions as to Ministers):** The PM shall be **appointed by the President** and the other Ministers shall be appointed by the President on the **advice of the PM**.

- The **total number of ministers, including the Prime Minister, in the COM shall not exceed 15% of the total strength of the Lok Sabha**.
 - This provision was added by the 91st Amendment Act of 2003.
- A **minister who is not a member of the Parliament (either house) for any period of six consecutive months** shall cease to be a minister.
- **Article 77 (Conduct of Business of the Government of India):** The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.
- **Article 78 (Duties of Prime Minister):** To communicate to the President all decisions of the COM relating to the administration of the affairs of the Union and proposals for legislation.
- **Article 88 (Rights of Ministers as Respects the Houses):** Every minister shall have the right to speak and take part in the proceedings of either House, any joint sitting of the Houses and any Committee of Parliament of which he may be named a member. But he shall not be entitled to vote.
- **Responsibility of Ministers:**
 - **Collective Responsibility:**
 - Article 75 clearly states that the **COM is collectively responsible to the Lok Sabha**. This means that all the ministers own joint responsibility to the Lok Sabha for all their acts of omission and commission.
 - **Individual Responsibility:**
 - Article 75 also contains the principle of individual responsibility. It states that the ministers hold office during the pleasure of the President, which means that the President can remove a minister even at a time when the COM enjoys the confidence of the Lok Sabha.
 - However, the President removes a minister only on the advice of the Prime Minister.
- **Council of Ministers in States:**
 - The **Council of Ministers in the states** is constituted and functions in the **same way** as the **Council of Ministers at the Centre (Article 163: COM to aid and advise Governor) and Article 164: Other Provisions as to Ministers)**.

Note:



Attorney General of India

Why in News

The central government has **extended the term of K.K. Venugopal as Attorney General (AG) for one more year.**

- This is the **second time the Centre has extended his tenure.** Venugopal received his first extension of term in 2020.
- Venugopal was appointed the **15th AG of India in 2017.** He succeeded Mukul Rohatgi who was AG from 2014-2017.
- He would be in command of the **government's legal defence in several sensitive cases** pending in the **Supreme Court**, which includes the challenge to the **abrogation of Article 370** of the Constitution and the **Citizenship Amendment Act.**

Key Points

- **About:**
 - The Attorney General (AG) of India is a **part of the Union Executive.** AG is the **highest law officer in the country.**
 - **Article 76 of the Constitution** provides for the office of AG of India.
- **Appointment and Eligibility:**
 - AG is **appointed by the President** on the advice of the government.
 - S/he must be a person who is **qualified to be appointed a judge of the Supreme Court**, i.e. s/he must be a citizen of India and must have been a judge of some high court for five years or an advocate of some high court for ten years or an eminent jurist, in the opinion of the President.
- **Term of the Office:** Not fixed by the Constitution.
- **Removal:** Procedures and grounds for the removal of AG are not stated in the Constitution. S/he holds office during the pleasure of the President (may be removed by the President at any time).
- **Duties and Functions:**
 - To **give advice to the Government of India (GoI)** upon such legal matters, which are referred to her/him by the President.
 - To perform such other duties of a legal character that are assigned to her/him by the President.

- To appear on behalf of the GoI in all cases in the **Supreme Court** or in any case in any High Court in which the GoI is concerned.
- To represent the GoI in any reference made by the President to the Supreme Court **under Article 143** (Power of the President to consult the Supreme Court) of the Constitution.

- To discharge the functions conferred on her/him by the Constitution or any other law.

Rights and Limitations:

- S/he has the **right to speak and to take part in the proceedings of both the Houses of Parliament** or their joint sitting and any committee of the Parliament of which s/he may be named a member, but **without a right to vote.**
- S/he **enjoys all the privileges and immunities** that are available to a member of Parliament.
- S/he does **not fall in the category of government servants.** S/he is **not debarred from private legal practice.**
- However, s/he **should not advise or hold a brief against the GoI.**
- **Solicitor General of India and Additional Solicitor General of India** assist the AG in fulfillment of the official responsibilities.
- **Corresponding Office in the States:** Advocate General (Article 165).

Appointment of CBI Director

Why in News

Recently, the Central Government has appointed '**Subodh Kumar Jaiswal**' as a new Director of the **Central Bureau of Investigation (CBI).**

- The Director of the CBI is appointed as per **section 4A** of the **Delhi Special Police Establishment Act of 1946.**

Key Points

- **About the Central Bureau of Investigation (CBI):**
 - The CBI was **set up in 1963** by a resolution of the Ministry of Home Affairs.
 - Now, the CBI comes under the **administrative control of the Department of Personnel and Training (DoPT)** of the Ministry of Personnel, Public Grievances and Pensions.

Note:



- The establishment of the CBI was **recommended** by the **Santhanam Committee** on Prevention of Corruption (1962–1964).
- The CBI is **not a statutory body**. It derives its powers from the **Delhi Special Police Establishment Act, 1946**.
- The CBI is the **main investigating agency of the Central Government**.
 - It also provides assistance to the **Central Vigilance Commission** and **Lokpal**.
 - It is also the nodal police agency in India which coordinates investigations on behalf of **Interpol Member countries**.
- The CBI is **headed by a Director**.
- The CBI has **jurisdiction** to investigate offences pertaining to 69 Central laws, 18 State Acts and 231 offences in the IPC.
- **Appointment of CBI Director:**
 - The Director of CBI as Inspector General of Police, **Delhi Special Police Establishment**, is responsible for the administration of the organisation.
 - The **Lokpal and Lokayuktas Act (2013)** amended the **Delhi Special Police Establishment Act (1946)** and made the following changes with respect to appointment of the Director of CBI:
 - **Appointment Committee:** The Central Government shall appoint the Director of CBI on the recommendation of a **three-member committee** consisting of the **Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha** and the **Chief Justice of India or Judge of the Supreme Court (SC)** nominated by him.
 - The **Delhi Special Police Establishment (Amendment) Act, 2014** made a change in the composition of the committee related to the appointment of the Director of CBI.
 - It states that where there is no recognized leader of opposition in the Lok Sabha, then the **leader of the single largest opposition party in the Lok Sabha** would be a member of that committee.
 - **Tenure of Director:** The Director of CBI has been provided **security of two-year tenure** in office by the CVC Act, 2003.
- **SC Rulings Related to CBI Director:**
 - The **six-month minimum residual tenure** rule was introduced by the Supreme Court in a **March 2019 order**.

- **No officer with less than six months' tenure remaining can be considered** for the post of chief.
- Though the order in the Prakash Singh case pertained to the appointment of DGPs, it was extended to CBI Director too.
- In the **Prakash Singh case**, 2006 the SC had stressed the point that appointment of DGPs "should be purely on the basis of merit and to insulate the office from all kinds of influences and pressures".
- The **Director of CBI is to hold the post for not less than two years** as held by the **Vineet Narain judgment of 1998**.
 - He/she may not be transferred except with the previous consent of the high-level committee.
- The SC in **Union of India versus C. Dinakar, 2001** case has held that "ordinarily IPS officers of the senior most four batches in service on the date of retirement of CBI Director, irrespective of their empanelment, shall be eligible for consideration for appointment to the post of CBI Director".

Impeachment of the President of the USA

Why in News

Donald Trump has become the **first President of the USA** in history to be **impeached twice** by the **House of Representatives**. He was charged for **inciting an insurrection**.

- On 6th January, 2021, as the USA Congress assembled to **certify President-elect Joe Biden's victory**, a mob of Donald Trump supporters occupied the USA Capitol in a failed bid to overturn the election results.

Key Points

- **Mechanism of Impeachment of President in USA:**
 - **Two Houses:** The legislature of the United States of America i.e. Congress of the United States consists of two houses:
 - **The Senate**, in which each state, regardless of its size, is represented by two senators.
 - **House of Representatives**, to which members are elected on the basis of population.
 - **Reasons for Impeachment:** The USA Constitution states that the President can be removed for

Note:



conviction of **treason, bribery, or other high crimes or misdemeanour**.

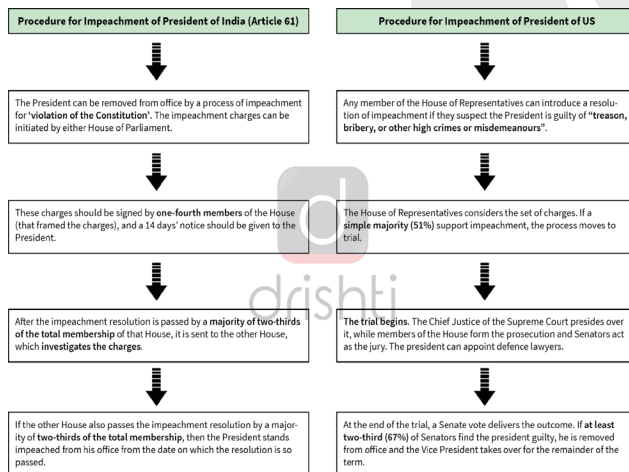
○ **Earlier Impeachments:**

- **Three USA Presidents, Trump** in 2019, **Bill Clinton** in 1998 and **Andrew Johnson** in 1868, previously were impeached by the House but **acquitted by the Senate**.
- Thus, **no USA President ever has been removed from office through impeachment**.
- The present impeachment process against President Trump would **certainly not be completed** because until that time he may have left the White House, yet Democrats are determined to Impeach him so that **unpunished abuse of power doesn't set a dangerous precedent** of impunity for future presidents.

➤ **Mechanism of Impeachment of President in India:**

- In India, the President can be removed only for 'violation of the Constitution' and the Constitution **does not define the meaning** of the phrase 'violation of the Constitution'.
- The **impeachment charges can be initiated by either House of Parliament - Lok Sabha or Rajya Sabha**.

Mechanism of Impeachment of President in India and the USA



Supplementary Demand for Grants

Why in News

The Lok Sabha has passed **supplementary demand for grants** for the second batch (2020-2021).

Key Points

- **About:** It is needed when the amount authorised by the Parliament through the **appropriation act** for a particular service for the current financial year is found to be **insufficient** for that year.
 - This grant is **presented and passed by the Parliament before the end of the financial year**.
- **Constitutional Provisions:** **Article 115** pertains to supplementary, additional or excess grants.
- **Other Grants:**
 - **Additional Grant:** It is granted when a need has arisen during the current financial year for additional expenditure upon some **new service not contemplated in the budget** for that year.
 - **Excess Grant :** It is granted when **money has been spent on any service during a financial year in excess of the amount granted** for that service in the budget for that year. It is **voted by the Lok Sabha** after the financial year. Before the demands for excess grants are submitted to the Lok Sabha for voting, they **must be approved by the Public Accounts Committee of Parliament**.
 - **Vote of Credit:** It is granted for meeting an **unexpected demand upon the resources of India**, when on account of the magnitude or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget. Hence, it is like a blank cheque given to the Executive by the Lok Sabha.
 - **Exceptional Grant:** It is **granted for a special purpose** and forms **no part of the current service of any financial year**.
 - **Token Grant:** It is granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation. A demand for the grant of a token sum (of Re 1) is **submitted to the vote of the Lok Sabha** and if assented, funds are made available.
 - **Reappropriation** involves transfer of funds from one head to another. It does not involve any additional expenditure.
- **Article 116** of the Constitution pertains to **Votes on account, votes of credit and exceptional grants**.
- Supplementary, additional, excess and exceptional grants and vote of credit are **regulated by the same procedure** which is **applicable in the case of a regular budget**.

Note:



The Appropriation Bill

Why in News

Recently, the Lok Sabha cleared the **Appropriation Bill**, allowing the Central government to **draw funds from the Consolidated Fund of India**.

Key Points

➤ About:

- Appropriation Bill **gives power to the government to withdraw funds from the Consolidated Fund of India** for meeting the expenditure during the financial year.
 - As per **Article 114** of the Constitution, the government can withdraw money from the Consolidated Fund only after receiving approval from Parliament.
 - The amount withdrawn is used to meet the current **expenditure during the financial year**.

➤ Procedure Followed:

- **The Appropriation Bill is introduced in the Lok Sabha** after discussions on Budget proposals and Voting on Demand for Grants.
 - The defeat of an Appropriation Bill in a parliamentary vote would **lead to the resignation of a government** or a general election.
- Once it is passed by the Lok Sabha it is sent to the **Rajya Sabha**.
 - **Power of Rajya Sabha:**
 - It has the power to **recommend any amendments** in this Bill. However, it is the prerogative of the **Lok Sabha to either accept or reject the recommendations** made by the Rajya Sabha.
- After the bill receives **assent** from the **President** it becomes an **Appropriation Act**.
 - The unique feature of the Appropriation Bill is its **automatic repeal clause**, whereby the Act gets repealed by itself after it meets its statutory purpose.
- The government **cannot withdraw money** from the Consolidated Fund of India **till the enactment of the appropriation bill**. However, this takes

time and the government needs money to carry on its normal activities. To meet the immediate expenses the **Constitution has authorised the Lok Sabha to make any grant in advance** for a part of the financial year. This provision is known as the **'Vote on Account'**.

Vote on Account

➤ About:

- A vote on account, as defined by **Article 116** of the Indian Constitution, is a **grant in advance** for the central government to **meet short-term expenditure** needs from the Consolidated Fund of India, generally **lasting for a few months** till the new financial year kicks in.

➤ Need:

- During an election year the Government either opts for **'interim Budget'** or for **'Vote on Account'** as after the election the Ruling Government may change and so the policies.

➤ Amendment:

- **No amendment can be proposed** to an Appropriation Bill which will have the effect of **varying the amount or altering the destination of any grant** so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the **decision of the Lok Sabha Speaker as to whether such an amendment is admissible is final**.

➤ Appropriation Bill vs Finance Bill:

- While the **Finance Bill** contains provisions on financing the expenditure of the government, an **Appropriation Bill** specifies the quantum and purpose for withdrawing money.
- Both appropriation and finance bills are classified as **money bills** which do not require the explicit consent of the Rajya Sabha. The **Rajya Sabha only discusses them and returns the bills**.
 - **Money Bill:**
 - A Bill is said to be a Money Bill if it only **contains provisions related to taxation, borrowing of money by the government, expenditure from or receipt** to the Consolidated Fund of India.
 - Bills that only contain **provisions that are incidental to these matters** would also be regarded as Money Bills.

Note:



Consolidated Fund of India

- It was constituted under **Article 266 (1)** of the Constitution of India.
- It is made up of:
 - All **revenues received** by the Centre by way of taxes (Income Tax, Central Excise, Customs and other receipts) and all non-tax revenues.
 - All **loans raised** by the Centre by issue of Public notifications, treasury bills (internal debt) and from foreign governments and international institutions (external debt).
- All **government expenditures are incurred from this fund** (except exceptional items which are met from the Contingency Fund or the Public Account) and no amount can be withdrawn from the Fund without authorization from the Parliament.
- The **Comptroller and Auditor-General of India (CAG)** audits the fund and reports to the relevant legislatures on the management.

Stages of Budget in the Parliament

- Presentation of Budget.
- General discussion.
- Scrutiny by Departmental Committees.
- Voting on Demands for Grants.
- Passing an Appropriation Bill.
- Passing of Finance Bill.

Judiciary

Virtual Courts

Why in News

Recently, **Chief Justice of India (CJI) N.V. Ramana** has expressed his dissatisfaction towards the newly put open court software in the **Supreme Court** for **virtual hearings**.

- The dissatisfaction emanates from the problem of disconnections, resonance of voices during virtual hearings.

Key Points

- **About:**
 - **Virtual Courts or e-Courts** is a concept aimed at

eliminating the presence of litigants or lawyers in the court and adjudication of the case online.

- It requires an Online environment and an Information and Communication Technology (ICT) enabled infrastructure.
- In the wake of the **Coronavirus Pandemic in 2020**, the Supreme Court (SC) exercising its **plenary power under Article 142** passed directions for all courts across the country to **extensively use video-conferencing for judicial proceedings**.
- Earlier, an **Artificial Intelligence (AI)** based portal '**SUPACE**' was launched by the CJI in the judicial system aimed at assisting judges with legal research.
- Also, the SC has released the **Draft Model Rules for Live-Streaming and Recording of Court Proceedings**.

e-Courts Project

- It was conceptualized on the basis of the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary-2005" submitted by e-Committee, Supreme Court of India with a vision to transform the Indian Judiciary by ICT enablement of Courts.
- The e-Courts Mission Mode Project, is a pan-India Project, monitored and funded by the Department of Justice, Ministry of Law and Justice, for the District Courts across the country.

Collegium System for the Appointment of Judges

Why in News?

Recently, the **Supreme Court Collegium** has recommended appointing Justice Munishwar Nath Bhandari as **Chief Justice** of Madras High Court.

What is a Collegium System and How Did It Evolve?

- It is the **system of appointment and transfer of judges** that has evolved through judgments of the **Supreme Court (SC)**, and **not by an Act of Parliament** or by a provision of the Constitution.
- **Evolution of the System:**
 - **First Judges Case (1981):**
 - It declared that the "primacy" of the **CJI's (Chief Justice of India)** recommendation on judicial

Note:



appointments and transfers can be refused for "cogent reasons."

- The ruling gave the Executive primacy over the Judiciary in judicial appointments for the next 12 years.
- **Second Judges Case (1993):**
 - SC introduced the Collegium system, holding that "consultation" really meant "concurrence".
 - It added that it was not the CJI's individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.
- **Third Judges Case (1998):**
 - SC on the President's reference (Article 143) expanded the Collegium to a five-member body, comprising the CJI and four of his senior-most colleagues.

Who Heads the Collegium System?

- The SC collegium is headed **by the CJI (Chief Justice of India) and comprises four other senior most judges** of the court.
- A HC collegium is led by its Chief Justice and four other senior most judges of that court.
 - Names recommended **for appointment by a HC collegium reaches the government only after approval by the CJI** and the SC collegium.
- Judges of the higher judiciary are appointed only through the collegium system and the government has a role only after names have been decided by the collegium.

What are the Procedures for Judicial Appointments?

- **For CJI:**
 - The President of India appoints the CJI and the other SC judges.
 - As far as the CJI is concerned, the outgoing CJI recommends his successor.
 - In practice, it has been strictly by seniority ever since the supersession controversy of the 1970s.
- **For SC Judges:**
 - For other judges of the SC, the proposal is initiated by the CJI.
 - The CJI consults the rest of the Collegium members, as well as the senior-most judge of the court hailing

from the High Court to which the recommended person belongs.

- The consultees must record their opinions in writing and it should form part of the file.
- The Collegium sends the recommendation to the Law Minister, who forwards it to the Prime Minister to advise the President.
- **For Chief Justice of High Courts:**
 - The Chief Justice of the High Court is appointed as per the policy of having Chief Justices from outside the respective States.
 - The Collegium takes the call on the elevation.
 - High Court judges are recommended by a Collegium comprising the CJI and two senior-most judges.
 - The proposal, however, is initiated by the outgoing Chief Justice of the High Court concerned in consultation with two senior-most colleagues.
 - The recommendation is sent to the Chief Minister, who advises the Governor to send the proposal to the Union Law Minister.

What is Critical about the Collegium System?

- Opaqueness and a lack of transparency.
- Scope for nepotism.
- Embroilment in public controversies.
- Overlooks several talented junior judges and advocates.

What were Attempts to reform the Appointment System?

- The attempt made to replace it by a '**National Judicial Appointments Commission**' (through Ninety-ninth Amendment Act, 2014) was struck down by the court in 2015 on the ground that it posed a threat to the independence of the judiciary.

SC Refuses to Give a Yardstick for Reservation in Promotions

Why in News

Recently, the **Supreme Court (SC)** refused to lay down the "yardstick" for determining the inadequacy of representation for granting **reservation in promotions** for **Scheduled Caste (SC)/Scheduled Tribe (ST)** candidates in government jobs.

Note:



- The court's judgement came in a batch of **petitions** from across the country **seeking further clarity on the modalities for granting reservation in promotion.**

Key Points

➤ Background:

○ Reservation in Promotions:

- The **Central and the State Government since the 1950s have been following a policy of reserving seats in promotions** in favours of SC and ST communities on the ground that they are not adequately represented at the decision making level of public services.

○ Indra Sawhney Case 1992:

- This policy was held to be unconstitutional and void by the SC in **Indra Sawhney v. Union Of India 1992** case on the ground that under Article 16(4) the State is provided with the power to make reservations in favour of backward classes of citizens only at the entry level that is at the time of recruitment into public services but not subsequently.
- The Parliament responded by enacting the **77th Constitutional Amendment Act** which introduced **Article 16(4A)**.

○ M Nagaraj Case 2006:

- In this case applying the creamy layer concept in SC/ST reservation in promotions, the SC reversed its earlier stance in the **Indra Sawhney case (1992)**, in which it had excluded the **creamy layer concept on SCs/STs** (that was applicable on OBCs).
- The SC had **upheld the Constitutional amendments by which Articles 16 (4A) and 16 (4B) were inserted**, saying they flow from Article 16 (4) and do not alter its structure.
- It also laid down **three conditions for promotion of SCs and STs** in public employment.
 - The SC and ST community should be socially and educationally backward.
 - The SC and ST communities are not adequately represented in Public employment.
 - Such a reservation policy shall not affect the overall efficiency in the administration.
- The court held that the **government cannot introduce a quota in promotion for its SC/ST**

employees unless it proves that the particular community was backward, inadequately represented and providing reservation in promotion would not affect the overall efficiency of public administration.

- The opinion of the government should be **based on quantifiable data.**

○ Jarnail Singh Case 2018:

- Later in 2018, in the Jarnail Singh case, SC modified the Nagaraj judgement to the extent that **State need not produce quantifiable data to prove the "backwardness"** of a Scheduled Caste/Scheduled Tribe community in order to provide quota in promotion in public employment.
- The court had given a **huge fillip to the government's efforts to provide "accelerated promotion with consequential seniority"** for Scheduled Castes/ Scheduled Tribes (SC/ST) members in government services.

Constitutional

Provisions for Promotion in Reservation

- **Article 16 (4):** Provides that the State can make any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the state, are not adequately represented in the services under the State.
- **Article 16 (4A):** Provides that the State can make any provision for reservation in matters of promotion in favour of the Scheduled Castes and the Scheduled Tribes if they are not adequately represented in the services under the State.
- **Article 16(4B):** Added by the **81st Constitutional Amendment Act, 2000** which enabled the unfilled SC/ST quota of a particular year to be carried forward to the next year.
- **Article 335:** It recognises that special measures need to be adopted for considering the claims of SCs and STs to services and posts, in order to bring them at par.
 - **82nd Constitutional Amendment Act, 2000** inserted a condition at the end of Article 335 that enables the state to make any provision in favour of the members of the SC/STs for relaxation in qualifying marks in any examination.

Note:



Suspension of MLAs

Why in News

Recently, **12 MLAs** from the **Maharashtra legislative assembly** have gone to the **Supreme Court** against their **year-long suspension from the Assembly**.

- The Supreme Court has observed that the suspension for a full year is **prima facie unconstitutional** and **created a constitutional void** for these constituencies.

Key Points

➤ About the Suspension of MLAs:

- The MLAs were suspended for **misbehaviour in the Assembly** pertaining to **disclosure of data regarding OBCs**.
- The challenge to suspension relies mainly on grounds of denial of the **principles of natural justice**, and of **violation of laid-down procedure**.
 - The 12 MLAs have said they were not given an opportunity to present their case, and that the suspension violated their fundamental right to equality before the law under **Article 14 of the Constitution**.
- **Rule 53 of Maharashtra Assembly:** It states that the **"Speaker may direct any member who refuses to obey his decision, or whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the Assembly"**.
 - The member must **"absent himself during the remainder of the day's meeting"**.
 - Should any member be ordered to withdraw for a second time in the same session, the Speaker may direct the member to absent himself "for any period not longer than the remainder of the Session".

➤ Arguments by Maharashtra Assembly:

- **Article 212:** The House had acted within its **legislative competence**, under Article 212, and courts do not have jurisdiction to inquire into the proceedings of the legislature.
 - Article 212 (1) states that "The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure".

- **Article 194:** The state has also referred to **Article 194 on the powers and privileges of the House**, and argued that any member who transgresses these privileges can be suspended through the inherent powers of the House.

- It has denied that the power to suspend a member can be exercised only through Rule 53 of the Assembly.

➤ Arguments By the Supreme Court:

- **Violation of Basic Structure of the Constitution:** The **basic structure of the Constitution** would be hit if the constituencies of the suspended MLAs remained unrepresented in the Assembly for a full year.
- **Constitutional Requirement:** The bench referred to **Article 190 (4)** of the Constitution, which says, "If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant."
- **Statutory Requirement:** Under **Section 151 (A) of The Representation of the People Act, 1951**, "a bye-election for filling any vacancy shall be held within a period of six months from the date of the occurrence of the vacancy".
 - This means that barring exceptions specified under this section, no constituency can remain without a representative for more than six months.
- **Punishing Whole Constituency:** The Supreme Court said that the **one-year suspension was prima facie unconstitutional as it went beyond the six-month limit**, and amounted to "not punishing the member but **punishing the constituency as a whole**".
- **Question of Supreme Court Intervention:** The Supreme Court is expected to rule on the question of whether the judiciary can intervene in the proceedings of the House.
 - Constitutional experts, however, say that the court has clarified in previous rulings that the judiciary can intervene in case of an **unconstitutional act done by the House**.

Provisions for

Suspension of a Member of Parliament

- Rules 373, 374, and 374A of the **Rules of Procedure and Conduct of Business in Lok Sabha** provide for the withdrawal of a member whose conduct is

Note:



“grossly disorderly”, and suspension of one who abuses the rules of the House or willfully obstructs its business.

- The maximum suspension as per these Rules is **“for five consecutive sittings or the remainder of the session, whichever is less”**.
- The maximum suspension for **Rajya Sabha under Rules 255 and 256** also does not exceed the remainder of the session.
- Similar Rules also are in place for **state legislative assemblies** and councils which prescribe a maximum suspension not exceeding the remainder of the session.

Language of Courts in India

Why in News

Recently, the Gujarat High Court has asked a journalist facing **contempt of court** proceedings to **speak only in English** as that was the language in the higher judiciary.

Key Points

- **Background:**
 - The language used in Courts in India has seen a **transition over centuries with the shift from Urdu to Persian and Farsi scripts during the Mughal period** which continued in subordinate courts even during the British Rule.
 - The **British introduced a codified system of law in India with English** as the official language.
 - Post-independence, **Article 343 of the Constitution of India provides that the official language of the Union shall be Hindi in the Devanagari script.**
 - However, it **mandated that the English language will continue to be used for all official purposes of the Union for 15 years** from the commencement of the Constitution of India.
 - It further provides that the **President** may, during the said period, by order to authorise the use of the Hindi language for any official purpose of the Union, other than the English language.
- **About:**
 - **Article 348(1)(a)** states that unless Parliament by law provides otherwise, all **proceedings** before the **Supreme Court** and in every High Court shall be **conducted in English**.

- **Article 348(2)** provides further that notwithstanding the provisions of Article 348(1), the **Governor of a state may, with the previous consent of the President, authorise the use of Hindi or any other language** used for any official purpose, in proceedings in the High Court.
 - States of **Uttar Pradesh, Bihar, Rajasthan and Madhya Pradesh** have already authorised the use of Hindi in proceedings before their respective high courts and taking a cue, Tamil Nadu is also working in that direction – to authorise the use of Tamil before its high court.
- A further provision states that nothing in this clause would apply to any judgement, decree, or order made by the High Court.
- Therefore, **the Constitution recognizes English as the primary language of the Supreme Court and the High Courts**, with the caveat that when some other language is used in the proceedings of High Courts, judgments of the High Courts must be delivered in English.

➤ Official Languages Act 1963:

- It empowers **the Governor of a state to, with previous consent of the President, authorise the use of Hindi/the official language of the state, in addition to English**, for the purpose of any judgement, decree or order passed by the High Court of that state.
- It further **provides that where any judgement/decree/order is passed in any such language it shall be accompanied by a translation of the same in English.**
 - Read with the constitutional provisions, it is clear that **primacy is given to English even by this Act.**
- The Official Languages Act **makes no mention of the Supreme Court, where English is the only language in which proceedings are conducted.**

➤ Language of Subordinate Courts:

- The language of all courts subordinate to High Courts generally **remains the same as the language on the commencement of the Civil Procedure Code 1908**, till the state government determines.
- There are two provisions regarding the use of language in subordinate courts. **Under Section 137 of the Code of Civil Procedure, the language of the district courts shall be similar to the language of the act.**

Note:



Note:

- The litigant has the **fundamental right** to understand and participate in the courtroom proceedings as it arguably confers a bundle of rights under **Article 19 and Article 21**.
 - The **litigant has the right to speak in the language he/she understands before the magistrate**. Similarly "right to justice" is also recognised under Article 21 of the Constitution.
 - So, **the constitution has conferred the right to justice on the litigant** which further encompasses that he shall have the right to understand the whole proceedings and the judgement delivered.
- The **state government has the power to declare any regional language as an alternative for the proceedings of the court**.
 - However, **judgments, orders, and decree may be passed by the magistrate in English**.
 - The **recording of the evidence** shall be done in the prevailing **language of the state**.
 - In case of a pleader being unacquainted with English, a translation into the language of the court shall be supplied to him on his request and the court shall bear such costs.
 - **Section 272 of the Code of Criminal Procedure 1973**, states that the State government shall determine the language of all courts other than the High Courts. So, broadly it means that the language used in the district courts shall be in the regional language as the state government directs.

Supreme Court on SC/ST Act

Why in News

Recently, in a judgement, the **Supreme Court** has observed that the **apex court and high courts have the power to quash criminal cases filed under various 'special statutes' including the SC/ST Act**.

- The **Supreme Court** has inherent powers under **Article 142 of the Constitution** or that of the **High Court under Section 482 of the Code of Criminal Procedure** to quash proceedings under the **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989 (SC/ST Act)**.

Key Points

- **Situations on Quashing Cases under 'Special Statutes':**
 - When the court is **satisfied that the offence in question**, although covered under the SC/ST Act, is **primarily private or civil in nature** or when this offence has not been committed on account of the victim's caste or where the continuation of legal proceedings would constitute an abuse of process of law.
 - When **considering a prayer for quashing** on the basis of a compromise/settlement between the two parties, the court is satisfied that **the underlying objective of the SC/ST Act would not be contravened** if the crime goes unpunished.
- **Article 142:**
 - **About:** It provides **discretionary power to the Supreme Court** as it states that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is **necessary for doing complete justice** in any cause or matter pending before it.
 - **Constructive Application:** In the early years of the evolution of Article 142, the general public and the lawyers both lauded the Supreme Court for its efforts to bring complete justice to various deprived sections of society or to protect the environment.
 - In the **Union Carbide case**, relating to the victims of the Bhopal gas tragedy, the Supreme Court placed itself above the laws made by the Parliament or the legislatures of the States by saying that, to do complete justice, it could even override the laws made by Parliament.
 - However, in the **Supreme Court Bar Association v. Union of India**, the Supreme Court stated that **Article 142 could not be used to supplant the existing law, but only to supplement the law**.
 - **Cases of Judicial Overreach:** In recent years, there have been several judgments of the Supreme Court wherein it has been **foraying into areas which had long been forbidden to the judiciary by reason of the doctrine of 'separation of powers'**, which is part of the basic structure of the Constitution. One such example is:
 - The **ban on the sale of alcohol along national and state highways**: While the notification by the central government prohibited liquor stores

Note:



along National Highways only, the Supreme Court put in place a **ban on a distance of 500 metres by invoking Article 142**.

➤ **Section 482 of the Code of Criminal Procedure:**

- The section **allows the High Court to pass any order so as to ensure justice**. It also gives the court power to quash the proceedings of lower court or to quash FIRs.

➤ **SC/ST Act:**

- SC ST Act 1989 is an Act of Parliament enacted to **prohibit discrimination against SC & ST communities members** and prevent atrocities against them.
- The Act is also a **recognition of the depressing reality** that despite undertaking several measures, the **Scheduled Castes/ Scheduled Tribes** continue to be subjected to various atrocities at the hands of upper-castes.
- The Act has been enacted keeping in view the express constitutional safeguards enumerated in **Articles 15 (Prohibition of Discrimination), 17 (Abolition of Untouchability) and 21 (Protection of Life and Personal Liberty) of the Constitution**, with a twin-fold objective of **protecting the members of these vulnerable communities** as well as to **provide relief and rehabilitation** to the victims of caste-based atrocities.
- In the **amended SC/ST Act (2018)**, preliminary inquiry is not a must and no prior approval is also required for appointing authorities for senior police officers to file FIRs in cases of atrocities on SC and ST

Contempt of Court

Why in News

Recently, the **Supreme Court held that its power to punish for contempt under Article 129 is a constitutional power**, which cannot be done away with even by any law.

Key Points

➤ **Highlights of the Judgment:**

- The power to punish for contempt is a constitutional power vested in this court which **cannot be abridged or taken away even by legislative enactment**.

- **Article 142 (2)** states that “subject to the provisions of any law made in this behalf by Parliament” the **Supreme Court shall have all and every power** to make any order on punishment of any contempt of itself.

- However, **Article 129** lays down that the Supreme Court shall be a court of record, and shall have all the powers of such a court, **including the power to punish for contempt**.

- The comparison of the two provisions show that whereas the founding fathers felt that the powers under clause (2) of Article 142 could be subject to any law made by the Parliament, there is no such restriction as far as Article 129 is concerned.

- It emphasised that the rationale behind the **contempt jurisdiction is to maintain the dignity of the institution of judicial forums**.

➤ **About ‘Contempt of Court’:**

- Contempt of court is the power of the court to protect its own majesty and respect. The power is regulated but not restricted in the **Contempt of Courts Act, 1971**.

- The expression ‘contempt of court’ has **not been defined by the Constitution**.

- However, **Article 129** of the Constitution conferred on the Supreme Court the power to punish contempt of itself.

- **Article 215** conferred a corresponding power on the High Courts.

- The Contempt of Courts Act, 1971 defines both **civil and criminal contempt**.

- **Civil contempt** refers to wilful disobedience to any judgment of the court.

- **Criminal contempt** can be invoked if an act:

- Tends to scandalise or lower the authority of the court.
- Tends to interfere with the due course of any judicial proceeding.
- Obstruct the administration of justice.

➤ **Related Issues Regarding:**

- **Open-Ended Terms:** Section 5 of the Act provides that “fair criticism” or “fair comment” on the merits of a finally decided case would not amount to contempt.

- However, the determination of what is “fair” is left to the interpretation of judges.

Note:



- This open-ended interpretation sometimes **compromise freedom of speech and expression under Article 19.**
- **Violating Principle of Natural Justice:** The judges may often be seen to be acting in their own cause, thus violating the principles of natural justice and adversely affecting the public confidence they seek to preserve through the proceeding.

SC on Central Information Commission (CIC)

Why in News

The **Supreme Court** has directed the **Union of India and all States** to file **status reports** on the latest developments regarding **vacancies and pendency** in the **Central Information Commission (CIC)** and **State Information Commissions (SICs)**.

Key Points

- **About Central Information Commission (CIC):**
 - **Establishment:** The CIC was **established by the Central Government in 2005**, under the provisions of the **Right to Information Act (2005)**. It is **not a constitutional body**.
 - **Members:** It consists of a **Chief Information Commissioner and not more than ten Information Commissioners**.
 - **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**.
 - **Jurisdiction:** The jurisdiction of the Commission extends over all Central Public Authorities.
 - **Tenure:** The Chief Information Commissioner and an Information Commissioner shall hold office for such term as prescribed by the **Central Government or until they attain the age of 65 years**, whichever is earlier.
 - They are **not eligible for reappointment**.
 - **Power and Functions of CIC:**
 - To **receive and inquire into a complaint from any person** regarding information requested under RTI, 2005.

- It can **order an inquiry into any matter** if there are reasonable grounds (suo-moto power).
- While inquiring, the Commission has the powers of a **civil court in respect of summoning, requiring documents etc.**
- **State Information Commission:**
 - It is constituted by the **State Government**.
 - It has **one State Chief Information Commissioner (SCIC)** and **not more than 10 State Information Commissioners (SIC)** to be appointed by the **Governor** on the recommendation of the **Appointments Committee headed by the Chief Minister**.
- **Issues:**
 - **Delays and Backlogs:**
 - On average, the CIC **takes 388 days (more than one year)** to dispose of an appeal/complaint from the date it was filed before the commission.
 - A report released last year has pointed out that **more than 2.2 lakh Right to information cases are pending** at the Central and State Information Commissions (ICs).
 - **No Penalties:**
 - The report found that the Government officials hardly face any punishment for violating the law.
 - Penalties were **imposed in only 2.2% of cases** that were disposed of, despite previous analysis showing a rate of about 59% violations which should have triggered the process of penalty imposition
 - **Vacancy:**
 - Despite repeated directions from the court, there are still **three vacancies in the CIC**.
 - **Lack of Transparency:**
 - The criteria of selection, etc, nothing has been placed on record.

Right to Information Act

- Genesis of RTI law started in 1986, through judgement of Supreme Court in **Mr. Kulwal v/s Jaipur Municipal Corporation** case, in which it directed that freedom of speech and expression provided under **Article 19** of the Constitution clearly implies Right to Information, as without information the freedom of speech and expression cannot be fully used by the citizens.

Note:



- It has been implemented in order to see that the **Indian citizens are enabled to exercise their rights to ask some pertinent questions** to the Government and different public utility service providers in a practical way.
- The RTI Act replaced the **Freedom of Information Act 2002**.
- The objective of this act was to **help the citizens avail of quicker services from the government agencies** since the act enables them to ask questions like why a particular application or an official proceeding gets delayed.
- Mainly the act aims at achieving a **corruption-free India**.

Judicial Review

Why in News

Recently, the **Supreme Court (SC)** refused to treat the **Central Vista project** as a unique one requiring greater or heightened **judicial review**.

- The **SC** said the **government** was “**entitled to commit errors or achieve successes**” in **policy matters** without the court’s interference **as long as it follows constitutional principles**.
- The **Central Vista project** of New Delhi includes **Rashtrapati Bhawan, Parliament House, North and South Block, India Gate, National Archives** among others.
- The Indian Constitution **adopted the Judicial Review** on **lines of the American Constitution**.

Key Points

- **Judicial Review:**
 - It is a type of **court proceeding** in which a judge **reviews the lawfulness of a decision or action made by a public body**.
 - In other words, judicial reviews are a **challenge to the way in which a decision has been made**, rather than the rights and wrongs of the conclusion reached.
 - **Concepts of Law:**
 - **Procedure Established by Law:** It means that a law enacted by the legislature or the concerned body is valid only if the correct procedure has been followed to the letter.

- **Due Process of Law:** It is a doctrine that not only checks if there is a law to deprive the life and personal liberty of a person but also ensures that the law is made fair and just.
- India follows **Procedure Established by Law**.
- It is the **power exerted by the courts of a country to examine the actions of the legislatures, executive and administrative arms of government** and to ensure that such actions conform to the provisions of the nation’s Constitution.
- Judicial review has **two important functions**, like, of **legitimizing government action** and the **protection of constitution against any undue encroachment by the government**.
 - Judicial review is considered a **basic structure of the constitution** (*Indira Gandhi vs Raj Narain Case 1975*).
 - Judicial review is also called the **interpretational and observer roles of the Indian judiciary**.
 - **Suo Moto cases** and the **Public Interest Litigation (PIL)**, with the discontinuation of the principle of Locus Standi, have **allowed the judiciary to intervene in many public issues**, even when there is no complaint from the aggrieved party.
- **Types of Judicial Review:**
 - **Reviews of Legislative Actions:**
 - This review implies the power to ensure that **laws passed by the legislature are in compliance with the provisions of the Constitution**.
 - **Review of Administrative Actions:**
 - This is a tool for **enforcing constitutional discipline** over administrative agencies while exercising their powers.
 - **Review of Judicial Decisions:**
 - This review is used to correct or make any change in previous decisions by the judiciary itself.
- **Importance of Judicial Review:**
 - It is essential for maintaining the **supremacy of the Constitution**.
 - It is essential for **checking the possible misuse of power** by the legislature and executive.
 - It **protects the rights** of the people.
 - It **maintains the federal balance**.
 - It is essential for securing the **independence of the judiciary**.

Note:



- It **prevents tyranny** of executives.
- **Problems with Judicial Review:**
 - It **limits the functioning of the government.**
 - It **violates the limit of power set to be exercised by the constitution** when it overrides any existing law.
 - In India, a **separation of functions rather than of powers is followed.**
 - The concept of separation of powers is not adhered to strictly. However, a system of **checks and balances** have been put in place in such a manner that the judiciary has the power to strike down any **unconstitutional laws passed by the legislature.**
 - The judicial opinions of the judges once taken for any case becomes the standard for ruling other cases.
 - Judicial review can harm the public at large as the judgment may be **influenced by personal or selfish motives.**
 - Repeated interventions of courts can **diminish the faith of the people in the integrity, quality, and efficiency of the government.**

Constitutional Provisions for Judicial Review

- There is no direct and express provision in the constitution empowering the courts to invalidate laws, but **the constitution has imposed definite limitations upon each of the organs, the transgression of which would make the law void.**
- The **court is entrusted with the task of deciding whether any of the constitutional limitations has been transgressed or not.**
- Some provisions in the constitution supporting the process of judicial review are:
 - **Article 372 (1)** establishes the judicial review of the pre-constitution legislation.
 - **Article 13** declares that any law which contravenes any of the provisions of the part of Fundamental Rights shall be void.
 - **Articles 32 and 226** entrusts the roles of the protector and guarantor of fundamental rights to the Supreme and High Courts.
 - **Article 251 and 254** states that in case of inconsistency between union and state laws, the state law shall be void.
 - **Article 246 (3)** ensures the state legislature's exclusive powers on matters pertaining to the State List.

- **Article 245** states that the powers of both Parliament and State legislatures are subject to the provisions of the constitution.
- **Articles 131-136** entrusts the court with the power to adjudicate disputes between individuals, between individuals and the state, between the states and the union; but the court may be required to interpret the provisions of the constitution and the interpretation given by the Supreme Court becomes the law honoured by all courts of the land.
- **Article 137** gives a special power to the SC to review any judgment pronounced or order made by it. An order passed in a criminal case can be reviewed and set aside only if there are errors apparent on the record.

Miscellaneous

Election Freebies

Why in News

Recently, a petition has been filed in the Supreme Court seeking a direction to the **Election Commission of India (ECI)** to seize the **election symbol or deregister a political party** that promises or distributes **"irrational freebies"** from public funds before elections.

- The petition argued that the recent trend of political parties to influence voters by offering freebies with an eye on elections is not only the **greatest threat to the survival of democratic values** but also injures the **spirit of the Constitution.**

Key Points

- **About Freebies in Indian Politics:**
 - Political parties promise to offer **free electricity/ water supply, monthly allowance to unemployed, daily wage workers and women as well as gadgets like laptops, smartphones etc.** in order to secure the vote of the people.
- **About the Petition:**
 - Petitioner submits that arbitrary promises of irrational freebies violate the **ECI's mandate for free and fair elections.**

- **Distributing private goods-services**, which are not for public purposes, from public funds clearly violates **Articles 14 (equality before law), 162 (executive power of a State), 266(3) (expenditure from Consolidated Fund of India) and 282 (Discretionary grants) of the Constitution.**
 - The petition also sought the Supreme Court to give a direction to the Union **to enact a law in this regard.**
 - It sought a direction to the ECI to insert an additional condition in the relevant paragraphs of the **Election Symbols (Reservation and Allotment) Order 1968.**
 - It deals with conditions for recognition as a state party, that a **“political party shall not promise/distribute irrational freebies from the public fund before the election”.**
- **Arguments in Favor of Freebies:**
- **Essential for Fulfilling Expectations:** In a country like India where the states have (or don't have) a certain level of development, upon the emergence of the elections, there are **expectations from the part of people which are met by such promises of freebies.**
 - Moreover, there are also comparative expectations when the people of the adjoining/ other states (with different ruling parties) get freebies.
 - **Helps Lesser Developed States:** With the states that have comparatively lower level of development with a larger share of the population suffering from poverty, such **kind of freebies become need/ demand-based** and it becomes **essential to offer the people such subsidies for their own upliftment.**
- **Associated Issues With 'Freebies':**
- **Economic Burden:** This places a huge economic burden on the exchequer of the state as well as centre.
 - **Against Free and Fair Election:** The promise of irrational freebies from public funds before elections unduly influences the voters, disturbs the level playing field and vitiates the purity of the poll process.
 - It amounts to an unethical practice that is just like giving bribes to the electorate.
 - **Against Equality Principle:** Distribution of private goods or services, which are not for public purposes, from public funds before the election violates

several articles of the Constitution, including **Article 14 (equality before law).**

- **SC Judgement:** The Supreme Court in ***S Subramaniam Balaji vs Government of Tamil Nadu 2013*** case held that unrealistic poll promises and freebies are a serious issue that disturbs the level-playing field in elections.
- The court also held that **promises in the election manifesto cannot be construed as “corrupt practice” under the Representation of People Act** or under any other prevailing law and hence, distribution of freebies can't be stopped when the ruling party uses public funds for this purpose through passage of Appropriation Acts in state assembly.
 - At the same time, the court noted that there is no enactment that directly governs the contents of the election manifesto, and **directed ECI to frame guidelines for the same in consultation with all the recognised political parties.**

Winter Session 2021

Why in News

Recently, the **Winter Session of Parliament** has been **adjourned sine die** (terminating a sitting of Parliament without naming a day for reassembly). The session witnessed **passing of some of the important legislations.**

Key Points

- **Termination of Sitting of Parliament:** The sitting of the Parliament in both the Houses can be terminated only by:
- **Adjournment,**
 - **Adjournment sine die,**
 - **Prorogation**
 - **Dissolution** (not applicable for Rajya Sabha).
- **Adjournment:** An adjournment results in the **suspension of work in a sitting for a specified time**, which may be hours, days or weeks.
- In this case, the time of reassembly is specified as **an adjournment only terminates a sitting and not a session of the House.**
 - The power of adjournment lies with the **presiding officer of the House.**

Note:



- **Adjournment sine die:** Adjournment sine die means terminating a **sitting of Parliament for an indefinite period**, that is, when the House is adjourned without naming a day for reassembly, it is called **adjournment sine die**.
 - The power of adjournment sine die lies with the presiding officer of the House.
 - However, the presiding officer of a House can **call a sitting of the House before the date or time to which it has been adjourned** or at any time after the House has been adjourned sine die.
 - **Prorogation:** The term prorogation means the termination of a session of the House by an order made by the President under **Article 85(2)(a)** of the Constitution.
 - The prorogation **terminates both the sitting and session of the House** and is usually done within a few days after the House is adjourned sine die by the presiding officer.
 - The **President issues a notification** for the prorogation of the session.
 - However, the president can also prorogue the House while in session.
 - It must be noted that **all pending notices except those for introducing bills lapse**.
 - The period between the prorogation of a House and its reassembly in a new session is called a **recess**.
 - **Dissolution:** Whenever a dissolution happens, it ends the **very life of the existing House** and a **new House is constituted after the General Elections**.
 - However, only the Lok Sabha is subject to dissolution as the **Rajya Sabha, being a permanent House, is not subject to dissolution**.
- Some of the Important Bills Passed by Houses of Parliament:**
- **The Farm Laws Repeal Bill, 2021:** In view of protests by the farmers, the bill was introduced and passed to repeal the three farm laws namely:
 - Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020
 - Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020
 - Essential Commodities (Amendment) Act, 2020
 - **The Dam Safety Bill, 2021:** It provides for surveillance, inspection, operation and maintenance of the specified dam for **prevention of dam failure related disasters**.
 - It also seeks to provide for institutional mechanisms to ensure their safe functioning and for matters connected therewith or incidental thereto.
 - **The Assisted Reproductive Technology (Regulations) Bill, 2021:** It provides for **regulation and supervision of the assisted reproductive technology** clinics and the assisted reproductive technology banks, prevention of misuse, safe and ethical practice of assisted reproductive technology services.
 - It also envisaged establishment of the National Board, the State Boards and the National Registry.
 - **The Surrogacy (Regulation) Bill, 2021:** It provides for **regulation of surrogacy services in the country**.
 - It also prohibits the potential exploitation of surrogate mothers and to protect the rights of children born through surrogacy.
 - **The National Institute of Pharmaceutical Education and Research (Amendment) Bill, 2021:** It provides **clarity that the institutes established as well as any other similar institute** to be established under the National Institute of Pharmaceutical Education and Research Act shall be institutes of national importance.
 - It also established a central body, to be called the Council to ensure coordinated development of pharmaceutical education and research and maintenance of standards, etc.
 - **The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2021:** It seeks to bring clarity on when Supreme Court and High Court judges are **entitled to an additional quantum of pension or family pension** on attaining a certain age.
 - **The Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 2021:** The bill would replace an ordinance promulgated earlier this year (2021) to correct a drafting error in **section 27A of the Act**.
 - **The Delhi Special Police Establishment (Amendment) Bill, 2021:** It provides for **extension of tenure of Director of the Central Bureau of Investigation by up to one year** at a time in public interest, till the completion of five years in total including the period mentioned in the initial appointment.
 - **The Central Vigilance Commission (Amendment) Bill, 2021:** It provides for **extension of tenure of Director of the Directorate of Enforcement by up to one year at a time** in public interest, till the completion of five years in total including the period mentioned in the initial appointment.

Note:



- **The Election Laws (Amendment) Bill, 2021:** It provides **linking of electoral roll data with the Aadhaar ecosystem** to curb the menace of multiple enrolment of the same person in different places.

First Audit Diwas: CAG

Recently, the Prime Minister **unveiled the statue of Sardar Vallabhbhai Patel** at the office of the **Comptroller and Auditor General (CAG)** of India to mark the **First Audit Diwas (16th November, 2021)**.

- It is celebrated to mark the **historic origins of the institution of the CAG**. It aims to **highlight the rich contributions of the CAG to boost transparency and good governance**.
- **Girish Chandra Murmu** assumed office as the Comptroller and Auditor General of India on 8th August 2020.

Key Points

- **Constitutional Body: Article 148** provides for an independent office of the CAG. It is the **supreme audit institution of India**.
 - **Other Provisions** Related to CAG include: **Articles 149-151** (Duties & Powers, Form of Accounts of the Union and the States and Audit Reports), **Article 279** (calculation of net proceeds, etc.) and **Third Schedule** (Oath or Affirmation) and **Sixth Schedule** (Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram).
- **Profile in Brief:**
 - **CAG:** Head of the **Indian Audit and Accounts Department** - created in 1753.
 - **Guardian of the public purse** and controls the entire **financial system** of the country at both the levels—the **Centre and the state**.
 - **One of the bulwarks** of the democratic system of government in India.
 - The others being the **Supreme Court**, the **Election Commission** and the **Union Public Service Commission**.
 - The **accountability of the executive (i.e. Council of Ministers)** to the Parliament in the sphere of **financial administration** is secured through audit reports of the CAG.
- **Appointment:** Appointed by the **President of India** by a warrant under his hand and seal.

- **Tenure:** A period of **six years** or upto the age of **65** years, whichever is earlier.
- **Removal:** CAG can be removed by the President on the **same grounds and in the same manner as a judge of the Supreme Court**. He **does not hold his office till the pleasure of the President**.
 - In other words, he can be removed by the President on the basis of a **resolution** passed to that effect by both the **Houses of Parliament with special majority**, either on the ground of **proved misbehaviour or incapacity**.
- **Other Related Points:**
 - **Not eligible for further office**, either under the Government of India or of any state, after he ceases to hold his office.
 - **Salary and other service conditions are determined by the Parliament**.
 - The administrative expenses of the office of the CAG, including all salaries, allowances and pensions of persons serving in that office are **charged upon the Consolidated Fund of India** (thus are **not subject to the vote of Parliament**).
 - **No minister can represent the CAG in Parliament**.
- **Duties & Powers as also under the CAG's (Duties, Powers and Conditions of Service) Act, 1971:**
 - Audits the accounts related to all **expenditure from the Consolidated Fund of India**, consolidated fund of each state and consolidated fund of each union territory having a Legislative Assembly.
 - Audits all expenditure from the **Contingency Fund of India** and the **Public Account of India** as well as the contingency fund of each state and the public account of each state.
 - **Audits profit and loss accounts, balance sheets and other subsidiary accounts kept by any department of the Central Government and state governments**.
 - Audits the receipts and expenditure of the following:
 - Bodies and authorities substantially **financed from the Central or state revenues**;
 - **Government companies**; and
 - Other corporations and bodies, when so required by related laws.
 - Audits the accounts of any other authority when **requested by the President or Governor**. For example, the audit of local bodies.

Note:



- Acts as a **guide, friend and philosopher of the Public Accounts Committee** of the Parliament.

➤ **Limitation:**

- The Constitution of India visualises the CAG to be Comptroller as well as Auditor General. However, in practice, the CAG is **fulfilling the role of an Auditor-General only and not that of a Comptroller**.
- In other words, the CAG has no control over the issue of money from the consolidated fund and many departments are authorised to draw money by issuing cheques without specific authority from the CAG, who is concerned only at the audit stage when the expenditure has already taken place.
- In this respect, the CAG of India **differs totally from the CAG of Britain** who has powers of both Comptroller as well as Auditor General.
 - In other words, in Britain, the executive can draw money from the public exchequer only with the approval of the CAG.

Constitution Day: 26th November

Why in News

The **Ministry of Law & Justice** has launched 'Online Course on Indian Constitution' on the eve of '**Constitution Day**' as a part of celebrations of '**Azadi Ka Amrit Mahotsav**' for **75 years of India's Independence**.

- The online course aims to **enhance the awareness of the constitutional values** to understand the fundamental rights and duties.
- It will also **help the citizens familiarize with the glorious constitutional journey** and to **understand the supreme law of the land** including the right to life, personal liberty and privacy issues.

Key Points

➤ **About:**

- It is celebrated on **26th November** every year.
- It is also known as **National Law Day**.
- On this day in 1949, the **Constituent Assembly of India formally adopted**

the **Constitution of India** that came into force on 26th January 1950.

- The Ministry of Social Justice and Empowerment on **19th November 2015**, notified the decision of the Government of India **to celebrate 26 November as 'Constitution Day'**.

➤ **Framing of Constitution:**

- In 1934, **M N Roy** first proposed the idea of a constituent assembly.
- Under the **Cabinet Mission plan** of 1946, elections were held for the **formation of the constituent assembly**.
- The Constitution of India is framed by the Constituent Assembly. The Constituent Assembly of India appointed a total of 13 committees to deal with different tasks related to the framing of the constitution.
- There were 8 major committees and the rest were minor ones. The list of **major committees** and their heads are mentioned below:
 - **Drafting Committee** – B. R. Ambedkar
 - **Union Power Committee** – Jawaharlal Nehru
 - **Union Constitution Committee** – Jawaharlal Nehru
 - **Provincial Constitution Committee** – Vallabhbhai Patel
 - **Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas** – Vallabhbhai Patel.
 - **Rules of Procedure Committee** – Rajendra Prasad
 - **States Committee (Committee for Negotiating with States)** – Jawaharlal Nehru
 - **Steering Committee** – Rajendra Prasad
- **Facts about the Constitution of India:**
 - World's **longest** Constitution.

Indian Constitution Borrowed Features

| | | |
|----|-------------------------|---|
| 1. | British Constitution | Parliamentary form of Government, Rule of Law, Law making procedure, Single Citizenship; Institution of Speaker, doctrine of pleasure tenure of civil servants. |
| 2. | American Constitution | Judicial System, Fundamental Rights |
| 3. | Canadian Constitution | Federal System with a strong central authority; Residual powers, Centre State Relation. |
| 4. | Irish Constitution | Directive Principles, Election of the President of India |
| 5. | Australian Constitution | Concurrent list; Freedom of Trade & Service within country |
| 6. | Weimar Constitution | Emergency Provision |
| 7. | Soviet Constitution | Five Year Plans; Fundamental duties |
| 8. | Govt of India Act 1935 | Office of the governor, powers of the federal jury. |
| 9. | South African | Amendment of Constitution. |

Note:



- **Federal System with Unitary Features.**
- **Parliamentary Form of Government.**
- The framing of the Constitution took over **2 years, 11 months and 18 days.**
- The original copies of the Indian Constitution weren't typed or printed. They have been **handwritten** and are now kept in a helium-filled case within the library of the Parliament.
- **Prem Bihari Narain Raizada** had written the unique copies of the Structure of India.
- Originally, the Constitution of India was **written in English and Hindi.**
- The **basic structure of the Indian Constitution** stands on the **Government of India Act, 1935.**
- The Constitution of India has also **borrowed some of its features** from a number of countries.

Further Reading

- **Preamble to the Indian Constitution**
- **Important Articles from Indian Constitution (Part I and II)**
- **Fundamental Rights (Part-I and II)**
- **Directive Principles of State Policy (DPSP)**
- **Parliament (Part-I, II and III)**
- **Major Constitutional Amendments (Part-I, II and III)**
- **Emergency Provisions**

National Human Rights Commission

Why in News

The **28th** anniversary of the **National Human Rights Commission (NHRC)** was observed on **12th October 2021.**

Key Points

- **About:**
 - It is a **watchdog of human rights in the country**, i.e. the rights related to life, liberty, equality and dignity of the individual guaranteed by Indian Constitution or embodied in the international covenants and enforceable by courts in India.
- **Establishment:**
 - Established on **12th October, 1993**, under **Protection of Human Rights Act (PHRA), 1993.** It was **amended**

by the Protection of Human Rights (Amendment) Act, 2006 and Human Rights (Amendment) Act, 2019

- It was established in conformity with the **Paris Principles**, adopted for the promotion and protection of human rights in Paris (October, 1991) and endorsed by the **General Assembly of the United Nations** in December, 1993.
- **Composition:**
 - **Key Members:**
 - It is a multi-member body consisting of a chairman and four members. A person who has been the **Chief Justice of India** or a judge of the **Supreme Court** is a chairman.
 - **Appointment:**
 - The chairman and members are **appointed by the President on the recommendations of a six-member committee** consisting of the Prime Minister as its head, the **Speaker of the Lok Sabha**, the Deputy Chairman of the Rajya Sabha, leaders of the Opposition in both the **Houses of Parliament** and the Union Home Minister.
 - **Tenure:**
 - The chairman and members hold office **for a term of three years or until they attain the age of 70 years**, whichever is earlier.
 - The **President can remove the chairman** or any member from the office under some circumstances.
- **Role and Function:**
 - It has all the **powers of a civil court** and its **proceedings have a judicial character.**
 - It is empowered to **utilise the services of any officer or investigation agency of the Central government or any state government** for the purpose of investigating complaints of human rights violation.
 - It can look into a matter within one year of its occurrence, i.e. the Commission is **not empowered to inquire into any matter after the expiry of one year** from the date on which the act constituting violation of human rights is alleged to have been committed.
 - The functions of the commission are **mainly recommendatory in nature.**
 - It has no power to punish the violators of human rights, nor to award any relief including monetary relief to the victim.

Note:



- It has **limited role**, powers and jurisdiction **with respect to the violation of human rights by the members of the armed forces**.
- It is **not empowered to act when human rights violations through private parties take place**.

Election Symbols

Why in News

Recently, the **Election Commission of India (ECI)** has decided to freeze the election symbol of a Political Party.

- The **Election Symbols (Reservation and Allotment) Order, 1968** empowers the Election Commission to recognise political parties and allot symbols.

Key Points

- **About:**
 - An electoral or election symbol is a **standardized symbol** allocated to a political party.
 - They are **used by the parties during their campaigning** and are shown on **Electronic Voting Machines (EVMs)**, where the voter chooses the symbol and votes for the associated party.
 - They were **introduced to facilitate voting by illiterate people**, who can't read the name of the party while casting their votes.
 - In the 1960s, it was proposed that the **regulation, reservation and allotment of electoral symbols** should be done through a law of Parliament, i.e. Symbol Order.
 - In a response to this proposal, the ECI stated that the recognition of political parties is supervised by the provisions of **Election Symbols (Reservation and Allotment) Order, 1968** and so will the allotment of symbols.
 - The Election Commission registers political parties for the purpose of elections and grants them recognition as national or state parties on the basis of their poll performance. The other parties are simply declared as registered-unrecognised parties.
 - The **recognition determines their right to certain privileges** like allocation of the party symbols, provision of time for political broadcasts on television and radio stations and access to electoral rolls.

- **Every national party and every state party is allotted a symbol exclusively reserved** for its use throughout the country and the states respectively.

➤ Election Symbols (Reservation and Allotment) Order, 1968:

- Under **Paragraph 15 of the Order**, EC can decide **disputes** among rival groups or sections of a **recognised political party** staking claim to its name and symbol.
- The **EC is the only authority to decide issues** on a dispute or a merger under the order. The **Supreme Court (SC)** upheld its validity in **Sadiq Ali and another vs. ECI in 1971**.
- This applies to **disputes in recognised national and state parties**.
- For **splits in registered but unrecognised parties**, the EC usually advises the warring factions to resolve their differences internally or to approach the court.
- In almost all disputes decided by the EC so far, a **clear majority of party delegates/office bearers, MPs and MLAs** have supported one of the factions.
- **Before 1968**, the EC issued notifications and executive orders under the **Conduct of Election Rules, 1961**.
- The **splinter group of the party** - other than the group that got the party symbol - **had to register itself as a separate party**.
 - They **could lay claim to national or state party status only** on the basis of its performance in state or central elections after registration.

Secrecy of Vote

Why In News

Recently, the **Supreme Court of India** held that in any election, be it to Parliament or State legislature, the **maintenance of secrecy of voting is "a must"**.

- It reiterated its **2013 judgement in the People's Union for Civil Liberties case**.

Key Points

- **Highlights of the Latest Judgement:**
 - **Part of Fundamental Right:** The secrecy is a part of the **fundamental right of freedom of expression**.

- The confidentiality of choice strengthened democracy.
- **Part of Basic Structure:** Democracy and free elections were a part of the **Basic Structure of the Constitution**.
 - The concept of 'basic structure' came into existence in the landmark judgment in **Kesavananda Bharati vs State of Kerala case (1973)**.
- **On Booth Capturing:** Booth capturing and/or bogus voting should be dealt with iron hands, because it ultimately **affects the rule of law and democracy**.
 - Nobody can be permitted to **dilute the right to free and fair election**.
- **On Unlawful Assembly:** Once the unlawful assembly is established in prosecution of the common object, each member of the unlawful assembly is guilty of the offence of rioting.
 - The use of the force, even though it be the slightest possible character by any one member of the assembly, once established as unlawful constitutes rioting.
 - It is not necessary that force or violence must be by all but the liability accrues to all the members of the unlawful assembly.
 - The definition of 'unlawful assembly', according to Indian law, is laid down in **Section 141 of the Indian Penal Code**.
- **Judgement in People's Union for Civil Liberties case, 2013:**
 - The two main key components that came out of the Supreme Court judgment are:
 - Right to vote also includes **a right not to vote** i.e right to reject.
 - Right to secrecy is an integral part of a free and fair election.
 - **Right to Reject:** It implies that a voter while voting has every right not to opt for any of the candidates during an election.
 - Such a right implies a choice to remain neutral. It has its genesis in freedom of speech and expression.
 - Introducing a '**None of the Above**' (NOTA) button can increase public participation in an electoral process.
 - **Right to Secrecy:**

- It is a **central right of an elector to cast his vote without fear** of reprisal, duress or coercion as **per Article 21 of the Indian Constitution**.
 - Protection of the elector's identity and affording secrecy is therefore integral to free and fair elections.
- An arbitrary **distinction between the voter who casts his vote and the voter who does not cast his vote** is **violative of Article 14, Article 19(1) (a) and Article 21** of the Indian Constitution.
- **Article 21(3)** of the **Universal Declaration of Human Rights** and **Article 25(b)** of the **International Covenant on Civil and Political Rights** deals with the "**Right to secrecy**".

➤ **Other Related Judgement:**

- Earlier, the SC held that the **principle of secrecy of ballots** is an important postulate of **constitutional democracy** and referred to **Section 94** of the **Representation of People Act (RPA) 1951**.
 - The section upholds the **privilege of the voters to maintain confidentiality** about their choice of the vote.

Director of Inquiry for Lokpal

Why in News

Recently, in a **RTI** Reply, it has been revealed that the **Centre is yet to appoint a director of inquiry, more than two years after the Lokpal came into being**.

Key Points

➤ **About the Director of Inquiry:**

- As per the Lokpal and Lokayuktas Act, 2013, there shall be a Director of Inquiry, **not below the rank of Joint Secretary** to the Central Government.
- As per the provisions contained under **Section 20 (1) (b)** of the Lokpal and Lokayuktas Act, 2013, **complaints in respect of public servants are referred by the Lokpal to the Central Vigilance Commission (CVC)** for a preliminary inquiry.
- The non-appointment of director of inquiry again reflects the **lack of political will** for strengthened Lokpal in India.

➤ **About Lokpal:**

- A Lokpal is an **anti-corruption authority or ombudsman who represents the public interest**.

Note:



- India is a **signatory to the United Nations Convention against Corruption**.
- The concept of an ombudsman **was borrowed from Sweden**.
- The Lokpal, the **apex body to inquire and investigate graft complaints against public functionaries**, came into being with the appointment of its chairperson and members in **March 2019**.
- The **First Administrative Reforms Commission (ARC) of India (1966– 1970)** recommended the setting up of two special authorities designated as '**Lokpal**' and '**Lokayukta**' for the redressal of citizens' grievances.
 - The **Lokpal** is responsible for enquiring into corruption charges at the **national level** while the **Lokayukta** performs the same function at the **state level**.
- The Lokpal has **jurisdiction over all Members of Parliament and central government employees** in cases of corruption.
- Apart from this, Lokpal **can also inquire into anti-graft complaints regarding any member of an institution** which is wholly or partially financed by the central government or controlled by it.
- Presently, **Justice Pinaki Chandra Ghose** is the chairperson of the Lokpal.
- Lokpal is a **multi-member body** that consists of **one chairperson and a maximum of 8 members**.
- **Issues Regarding Lokpal:**
 - Lokpal is **not free from political influence** as the appointing committee itself consists of members from political parties.
 - The **selection committee for Lokpal** is composed of the Prime Minister who is the Chairperson; Speaker of Lok Sabha, Leader of Opposition in Lok Sabha, Chief Justice of India or a Judge nominated by him/her and One eminent jurist.
 - The appointment of Lokpal can be manipulated in a way as there is **no criterion to decide who is an 'eminent jurist'** or 'a person of integrity'.
 - The biggest lacunae is the **exclusion of the judiciary from the ambit of the Lokpal**.
 - The Lokpal is **not given any constitutional backing** and there is **no adequate provision for appeal against the Lokpal**.
 - The complaint against corruption **cannot be registered after a period of seven years** from

the date on which the offence mentioned in such a complaint is alleged to have been committed.

Electoral Trust Scheme, 2013

Why in News

For the first time, an **electoral trust (under Electoral Trust Scheme, 2013)** has declared donation through **electoral bonds** and hasn't revealed the names of the political parties that received the money, citing anonymity guaranteed under the **electoral bond scheme**.

- According to the **Association of Democratic Reforms (ADR)**, this "practice is against the spirit of the **Electoral Trusts Scheme, 2013** and the **Income Tax Rules, 1962** which make it mandatory for trusts to furnish each and every detail about the donor contributing to the trust.
 - If Electoral trusts start adopting this precedent of donating through bonds, it will be a complete situation of **unfair practices** i.e. total anonymity, unchecked and unlimited funding, free flow of black money circulation, corruption, foreign funding, corporate donations and related conflict of interest etc.

Key Points

- **About the Electoral Trust Scheme:**
 - Electoral Trust is a **non-profit organization** formed in India for orderly receiving of the contributions from any person.
 - Electoral Trusts are relatively **new in India** and are part of the ever-growing electoral restructurings in the country.
 - **Electoral Trusts Scheme, 2013** was notified by the **Central Board of Direct Taxes (CBDT)**.
 - The provisions related to the electoral trust are under **Income-tax Act, 1961** and **Income tax rules-1962**.
- **Objective:**
 - It lays down a procedure for grant of approval to an electoral trust which will **receive voluntary contributions and distribute the same to the political parties**.
 - A political party registered under **section 29A of the Representation of the People Act, 1951** shall be an **eligible political party** and an electoral trust

Note:



shall distribute funds only to the eligible political parties.

➤ **Criteria for Approval of Trusts:**

- An electoral trust shall be considered for approval if it fulfills following conditions, namely:-
 - The company registered for the purposes of **section 25 of the Companies Act, 1956**.
 - The object of the electoral trust shall not be to earn any profit or pass any direct or indirect benefit to its members or contributors.

➤ **Contributions to Electoral Trusts:**

- **Receive Voluntary Contributions From:**
 - An individual who is a citizen of India;
 - A company which is registered in India; and
 - A firm or Hindu undivided family or an Association of persons or a body of individuals, resident in India.
 - **Shall not accept contributions From-**
 - An individual who is **not a citizen of India**.
 - Any **other electoral trust** which has been registered as a company under **section 25 of the Companies Act, 1956** and approved as an electoral trust under the Electoral Trusts Scheme, 2013;
 - A **Government company** as defined in section 2 of the Companies Act, 2013.
 - A **foreign source** as defined in section 2 of the **Foreign Contribution (Regulation) Act, 2010**.
 - An electoral trust can accept contributions only by cheque, demand draft or account transfer to the bank.
- **Other Points:**
- The electoral trust may **spend up to 5%** of the total contributions received in a year subject to an aggregate limit of Rs. 5 Lakh in the first year of incorporation and Rs. 3 Lakh in subsequent years.
 - The trust obtains a receipt from the eligible political party indicating the name of the political party, its permanent account number etc.
 - The trust shall **keep and maintain such books of account** and other documents in respect of its receipts, distributions and expenditure.
 - The trust shall also **maintain a list of persons from whom contributions** have been received and to whom the same have been distributed.

➤ **Significance of Scheme:**

- Electoral Trusts are designed to bring in **more transparency** in the funds provided by corporate entities to the political parties for their election related expenses.
- The **Election Commission** had also circulated **guidelines for submission of contribution reports** of electoral trusts to **submit an annual report containing details of contributions** received by the electoral trusts and disbursed by them to political parties in the interest of transparency.

Electoral Bond

- Electoral Bond is a financial instrument for making donations to **political parties**.
- The bonds are **issued in multiples** of Rs. 1,000, Rs. 10,000, Rs. 1 lakh, Rs. 10 lakh and Rs. 1 crore **without any maximum limit**.
- **State Bank of India** is authorised to issue and encash these bonds, which are **valid for fifteen days from the date of issuance**.
- These bonds are **redeemable in the designated account of a registered political party**.
- The bonds are available for purchase by **any person (who is a citizen of India or incorporated or established in India)** for a period of ten days each in the months of January, April, July and October as may be specified by the Central Government.
 - A person being an individual can buy bonds, either **singly or jointly** with other individuals.
 - Donor's name is **not mentioned** on the bond.

Chief Election Commissioner

Why in News

Recently, the President appointed **Election Commissioner Sushil Chandra** as the **Chief Election Commissioner (CEC)**.

- He replaces **Sunil Arora** who has retired.

Key Points

➤ **About the 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.

Note:



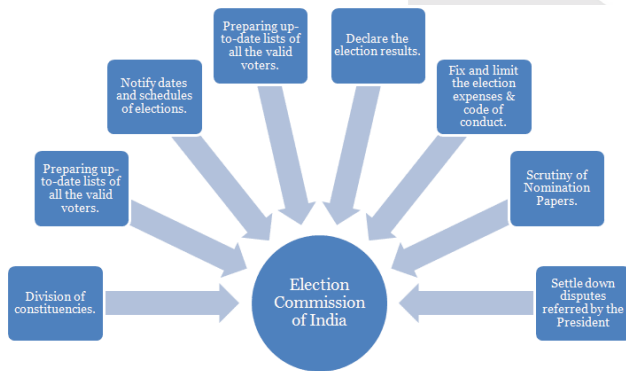
- It was established in accordance with the Constitution on **25th January 1950 (celebrated as national voters' day)**. The **secretariat** of the commission is located in **New Delhi**.
 - The body administers elections to the **Lok Sabha, Rajya Sabha, and State Legislative Assemblies** in India, and the **offices of the President and Vice President in the country**.
 - It is not concerned with the elections to panchayats and municipalities in the states. For this, the Constitution of India provides for a separate **State Election Commission**.
 - **Constitutional Provisions:**
 - **Part XV (Article 324-329) of the Indian Constitution:** It 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 on the basis of adult suffrage.
 - **Article 327:** Power of Parliament to make provision with respect to elections to Legislatures.
 - **Article 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.
 - **Article 329:** Bar to interference by courts in electoral matters.
 - **Structure of ECI:**
 - Originally the commission had only **one election commissioner** but after the **Election Commissioner Amendment Act 1989**, it has been made a multi-member body
 - The Election Commission **shall consist of the Chief Election Commissioner (CEC) and such number of other election commissioners**, if any, as the President may from time to time fix.
 - Presently, it consists of the CEC and two Election Commissioners.
 - At the state level, the election commission is helped by the **Chief Electoral Officer** who is an IAS rank Officer.
 - **Appointment & Tenure of Commissioners:**
 - The **President appoints** CEC and Election Commissioners.
 - They have a **fixed tenure of six years**, or up to the **age of 65 years**, whichever is earlier.
 - They enjoy the **same status and receive salary and perks as available to Judges of the Supreme Court (SC)** of India.
 - **Removal:**
 - They can **resign anytime** or can also be **removed before the expiry of their term**.
 - The CEC can be removed from office only **through a process of removal similar to that of a SC judge** by Parliament.
- Procedure of Removal**

 - Judges of High Courts and **SC, CEC, Comptroller and Auditor General (CAG)** may be removed from office through a motion adopted by Parliament on grounds of **'proved misbehaviour or incapacity'**.
 - Removal requires a **special majority of 2/3rd members present and voting supported by more than 50% of the total strength of the house**.
 - The **Constitution does not use the word 'impeachment'**, for the removal of the judges, CAG, CEC.
 - The term **'Impeachment'** is only used for removing the **President** which requires the special majority of 2/3rd members of the total strength of both the houses which is not used elsewhere.
- **Limitations:**
 - The Constitution has **not prescribed the qualifications** (legal, educational, administrative or judicial) of the members of the Election Commission.
 - The Constitution has **not specified the term** of the members of the Election Commission.
 - The Constitution has **not debarred the retiring election commissioners from any further appointment by the government**.
 - **Powers and Functions of ECI:**
 - **Administrative:**
 - To **determine the territorial areas** of the electoral constituencies throughout the country on the basis of the **Delimitation Commission Act** of Parliament.
 - To prepare and **periodically revise electoral rolls** and to register all eligible voters.

Note:



- To **grant recognition to political parties** and **allot election symbols** to them.
- Election Commission **ensures a level playing field** for the political parties in election fray, through strict observance by them of a **Model Code of Conduct** evolved with the consensus of political parties.
- **Advisory Jurisdiction & Quasi-Judicial Functions:**
 - Under the Constitution, the Commission has **advisory jurisdiction in the matter of post election disqualification** of sitting members of Parliament and State Legislatures.
 - The **opinion of the Commission in all such matters is binding on the President or, as the case may be, the Governor** to whom such opinion is tendered.
 - Further, the **cases of persons found guilty of corrupt practices at elections** which come before the SC and High Courts are also **referred to the Commission for its opinion** on the question as to whether such person shall be disqualified and, if so, for what period.
 - The Commission has the **power to disqualify a candidate** who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law.



Central Vigilance Commission

Why in News

Recently, the **Central Vigilance Commission (CVC)** has modified the guidelines pertaining to the transfer and posting of officials in the vigilance units of government organisations, restricting their tenure to three years at one place.

- There are 3 principal actors at the national level in the fight against corruption: the **Lokpal**, the CVC and the **Central Bureau of Investigation (CBI)**.

Key Points

➤ The Guidelines:

- The **tenure of personnel in a vigilance unit at one place** including lower level functionaries, should be **limited to three years only**.
 - The **tenure may be extended to three more years**, although at a different place of posting.
- The personnel, who have **completed more than five years** in vigilance units at the same place, should be **shifted on top priority basis**.
- After transfer from the vigilance unit, a **compulsory cooling off period of three years should be observed** before a person can be considered again for posting in the vigilance unit of the organisation concerned.

➤ Reason:

- It has been observed that undue long stay of an official in such a sensitive post at one place, has the **potential of developing vested interests, apart from giving rise to unnecessary complaints/allegations etc.**
- To **ensure transparency, objectivity, and uniformity in approach**.

Central Vigilance Commission

➤ About:

- Central Vigilance Commission is conceived to be the **apex vigilance institution, free of control from any executive authority**, monitoring all vigilance activity under the Central Government.
- It **advises various authorities** in Central Government organizations in planning, executing, reviewing and reforming their vigilance work.

➤ Background:

- The CVC was set up by the Government in February, 1964 on the recommendations of the **Committee on Prevention of Corruption, headed by K. Santhanam**.
- The Parliament enacted **Central Vigilance Commission Act, 2003 (CVC Act)** conferring statutory status on the CVC.
- It is an **independent body** which is **only responsible to the Parliament**.
 - It submits its report to the **President of India**.

Note:



➤ **Functions:**

- Exercise superintendence over the functioning of the **Delhi Special Police Establishment (CBI)** insofar as it relates to the investigation of offences under the **Prevention of Corruption Act, 1988**.
 - The CVC receives complaints on corruption or misuse of office and recommends appropriate action.
 - Following institutions, bodies, or a person can approach CVC: **Central government, Lokpal and Whistle blowers**.
- CVC has **no investigation wing of its own as it depends on the CBI and the Chief Vigilance Officers (CVO)** of central organizations, while CBI has its own investigation wing drawing its powers from **Delhi Special Police Establishment Act, 1946**.

➤ **Composition:**

- It is a **multi-member Commission** consisting of a **Central Vigilance Commissioner (Chairperson)** and not more than **2 Vigilance Commissioners (Member)**.

➤ **Appointment of Commissioners:**

- They are **appointed by the President of India** on the recommendations of a committee consisting of Prime Minister, Union Home Minister and Leader of the Opposition in Lok Sabha (if there is no Leader of Opposition then the leader of the single largest Opposition party in the Lok Sabha).

➤ **Term:**

- Their term is **4 years or 65 years**, whichever is earlier.

➤ **Removal:**

- Removal is **done by the President** on grounds of bankruptcy, unsound mind, infirmity of body or mind, sentenced to imprisonment for a crime, or engages in paid employment or has acquired financial or other interest that might affect his judgment.
- He can also be removed for **proved misbehaviour** or incapacity if the **Supreme Court** inquiry finds him guilty.
- They can also resign by writing to the President.

Note:



Key Points

Details

[illegible]

Summary

[illegible][illegible]

Summary