

INDIAN POLITY, CONSTITUTION & GOVERNANCE

REVISION NOTES
FOR PRELIMS



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Practise Questions have been provided at the end of every lesson/ topic. Questions have been framed to highlight those articles, aspects of the news and related dimensions which we want you to develop clarity on. Answers are given at the last page of this issue.

THEME 1

INDIAN CONSTITUTION

1. ELECTION MUSEUM

Indian Constitution

Why is this topic important for the exam?

- Elections are the vital part of the democracy. Elections symbolise power of the people given in the form of universal adult suffrage.
- It is reflected in the form of government by the people.
- It is thus important to highlight the rich legacy of elections in empowering the people and strengthening of the democracy in the country since independence.

What is the current context?

- A first-of-its-kind museum that chronicles the country's historical electoral journey with artefacts, documents, photographs and film exhibits drawn from rare archives was thrown open to the public. This museum is christened as '**A Journey through Elections**'.
- Visitors will also be able to see an archival documentary "**The Great Experiment**" chronicling the first general elections in the country.
- A separate section presents the transformation from ballot boxes to the Electronic Voting Machines and Voter-Verifiable Paper Audit Trail (VVPAT).

Core: Points to focus

- **Universal Adult Suffrage**
 - a) The **Article 326** of the Indian Constitution grants universal adult suffrage, according to which, every adult citizen is entitled to cast his/her vote in all state elections unless that citizen is "convicted of certain criminal offences" or "deemed unsound of mind." As per this concept, the right to vote is not restricted by caste, race, sex, religion or financial status.
 - b) It was in **1928** when **Dr B.R. Ambedkar** appeared before the **Simon Commission** and insisted on incorporating universal adult franchise in the Constitution of India. According to him, elections were "a weapon in the hands of the most oppressed sections of society" and voting rights will give them the politico-legal equality.
 - c) Later, the Indian National Congress called for political equality at the **1931 Karachi session**. The party argued that it would be one of the crucial strides towards making the electoral process more participatory and inclusive. There were doubts in the minds of our constitution makers and the issue of adult franchise was debated in the Constituent Assembly by many senior leaders before it abolished all the previous restrictions and provided for universal adult suffrage.

- **Article 324 to 329** of the Indian Constitution deals with elections.
 - a) Article 324 deals with Superintendence, direction and control of elections to be vested in an Election Commission.
 - b) Article 325 provides for one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no discrimination shall be made on grounds of religion, race, caste, sex or any of them for inclusion in general electoral roll.
 - c) Under Article 329, validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies shall not be called in question in any court.

- **The Election Commission of India**
 - a) It is an autonomous constitutional authority responsible for administering election processes in India.
 - b) The body administers elections to the Lok Sabha, Rajya Sabha, state legislatures, and the offices of the President and Vice President in the country.
 - c) The Election Commission operates under the authority of Constitution per Article 324, and subsequently enacted Representation of the People Act, 1951.
 - d) The Commission has the powers under the Constitution, to act in an appropriate manner when the enacted laws make insufficient provisions to deal with a given situation in the conduct of an election.

Concepts: Points to focus

- **Voter-verified paper audit trail (VVPAT)**
 - a) Voter-verified paper audit trail (VVPAT) is a method of providing feedback to voters using a ballot less voting system.
 - b) VVPAT is intended as an independent verification system for electronic voting machines that allows voters to verify that their votes are cast as intended and can serve as an additional barrier to changing or destroying votes.
 - c) Under VVPAT, a printer-like apparatus is linked to Electronic Voting Machine (EVM). When a vote is cast, a receipt is generated showing the serial number, name and symbol of the candidate. It confirms the vote and the voter can verify the details.
 - d) The receipt, once viewed, goes inside a container linked to the EVM and can only be accessed by the election officers in rarest of rare cases.
 - e) The system allows a voter to challenge his or her vote on basis of the paper receipt for the first time. As per a new rule, the booth presiding officer will have to record the dissent of the voter, which would have to be taken into account at time of counting.

- **Indelible ink**
 - a) The indelible ink used during elections was first designed by Council of Scientific and Industrial Research (CSIR), and then given to the Mysore Paints and Varnish in 1962.
 - b) Indelible ink used in elections is a solution of **Silver Nitrate** which stains the skin on exposure to ultraviolet light leaving a mark on the skin which is very difficult to remove.
 - c) When the silver nitrate solution is put on the skin, it reacts with the salt present on our skin to form **silver chloride** which is not soluble in water and hence cannot be easily washed or removed.

Practice Questions

- Q1. Which among the following articles mentions about Universal Adult Suffrage?
- Article 325
 - Article 326
 - Article 328
 - Article 329
- Q2. Which among the following Indian National Congress sessions was important in emphasising on political equality by making the electoral process more participatory and inclusive?
- 1924, Belgaum session
 - 1928, Calcutta session
 - 1929, Lahore session
 - 1931, Karachi session
- Q3. Indelible ink, used in the elections, is a solution of
- Silver Nitrate
 - Silver Chloride
 - Silver Iodide
 - Potassium Iodide

2. STRONG CRITICISM OF GOVERNMENT IS NOT DEFAMATORY OR SEDITIOUS AS PER SUPREME COURT

Fundamental Rights

Why is this topic important for the exam?

- The criticism of the government actions and policies form the basis for strengthening of democracy.
- To facilitate this, **freedom of speech** plays an important part as it provides space for constructive criticism.
- On this, the Supreme Court has created a fine wedge between **criticism of the government and sedition**. Any criticism of the government cannot amount to sedition as criticizing the policies or administrative failure of the government comes within the fold of fundamental right of freedom of speech and expression.
- Also, UPSC has stressed on the importance of this topic by asking such questions previously, for e.g.

Q Consider the following statements: (# Pre-2014)

A Constitutional Government is one which:

- places effective restrictions on *individual liberty* in the interest of State Authority
- places effective restrictions on the *Authority of the State* in the interest of individual liberty

Which of the statements given above is/are correct?

- (a) 1 only

(b) 2 only

(c) Both 1 and 2

(d) Neither 1 nor 2

Q Starting from inventing the 'basic structure' doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. (#Mains-2014)

Q With greater power comes greater responsibility (#Essay-2014)

What is the current context?

- The Supreme Court held that "making a strong criticism of the government" is not even defamatory, let alone seditious.
- The court also directed all authorities, including police and trial judges, to follow its Constitution Bench ruling which stated that **only incitement to violence and public disorder** could form the basis of a sedition charge under Indian Penal Code.

Core& Concepts: Points to focus

- **Article 19(1)(a) of Indian Constitution** provides protection of certain rights regarding freedom of speech. All citizens shall have the right to freedom of speech and expression.
- **Section 124A of Indian Penal Code, 1860** defines **Sedition** as "Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished for imprisonment for life. The expression "disaffection" includes disloyalty and all feelings of enmity."
- **Difference between freedom of speech and defamation or sedition**
In KedarNath Singh vs State of Bihar, 1962, a Constitution Bench had ruled in favour of the constitutional validity of Section 124A (sedition) in the IPC, but said that a person could be prosecuted for sedition only if his acts caused "incitement to violence or intention or tendency to create public disorder or cause disturbance of public peace". Unless an act of a person does not incite violence or disturb public order cannot be booked under the dangerous section of sedition.
- **Section 499 of Indian Penal Code, 1860** defines **defamation** as "Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said to defame that person."
- Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence of sedition.

Practice Questions

- Q4. Which of the following cases deals with the constitutional validity of Section 124A (sedition) in the IPC?
- a) Harish Uppal vs. Union of India
 - b) Anil Rai vs. State of Bihar
 - c) Kedarnath Singh vs. State of Bihar

d) S. Chinnappa vs. State of Tamil Nadu

Q5. Which of the following statements is/are correct?

1. Article 19(1) a of Indian Constitution provides protection of certain rights regarding freedom of speech.
2. Intention to harm, or knowing or having reason to believe that such action will harm, the reputation of such person is termed as defamation.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

3. EQUAL PAY FOR EQUAL WORK

Directive Principles of State Policy

Why is this topic important for the exam?

- Equal pay for equal work is a very big issue with respect to compensation and benefits given to a "permanent" and a "contract worker".
- While the unorganised and the private sectors are notorious for flouting the principle of natural justice in the matter of equal pay for equal work vis-à-vis permanent and contract worker. Such violations have far greater ramifications when government departments opt for such employment on a large scale, ostensibly to reduce their financial burden.
- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q In the Constitution of India, promotion of international peace and security is included in the (# Pre-2014)

- (a) Preamble to the Constitution
- (b) Directive Principles of State Policy
- (c) Fundamental Duties
- (d) Ninth Schedule

Q The ideal of Welfare State' in the Indian Constitution is enshrined in its (#Pre-2015)

- (a) Preamble
- (b) Directive Principles of State Policy
- (c) Fundamental Rights
- (d) Seventh Schedule

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

What is the current context?

- In a significant verdict, The Supreme Court, in *State of Punjab vs. Jagjit Singh*, upholds the principle of equal pay for equal work irrespective of whether one is a "permanent" or a "contract" employee.

Core: Points to focus

- The principle of "equal pay for equal work" is not *expressly declared by our constitution to be a fundamental right, but it certainly is a constitutional goal.*
- For this, the Parliament enacted the **Equal Remuneration Act, 1976** to implement **Article 39 (d)** of the Constitution. The Act provides for payment of equal remuneration to men and women workers for the same work, or work of similar nature and for the prevention of discrimination on grounds of sex.
- The Act also ensures that there will be no discrimination against recruitment of women and provides for setting up of advisory committees to promote employment opportunities for women. Non-observance of the Act by government contractors has been held to raise questions under Article 14. Besides the principle of gender equality in the matter specifically embodied in Article 39 (d), the Supreme Court extracted the general principle of equal pay for equal work by reading Articles 14, 16 and 39 (d).

Fundamental Rights (F.R.) and Directive principle of State Policy (D.P.S.P.)

The fundamental rights and the directive principles have a common origin but are differentiated on grounds of justifiable and non-justifiable rights respectively. The non-justifiable rights, categorized so keeping in mind that the state may not have resources to implement them, are directive principles to the state without any guarantee to be enforced via court. So, while fundamental rights are enforceable in court, DPSPs are not enforceable in court.

Basically, the idea is that the "state" should keep these DPSPs in mind while framing laws, policies, ordinances etc. They are basically a code of conduct for the legislature and administrators of the country.

Most of the DPSPs reflect the ideology of socialism and welfare state. Some directive principles are as follows:

- The directive principle under **Article 38** of the constitution directs the state to secure a social order with economic, political and social justice for the promotion and welfare of the people.
- **Article 39** directs state to strive to provide adequate means of livelihood, equal pay for equal work, resource distribution, safety of citizens and healthy development of children.
- The directive principle under **Article 39(d)** of the constitution proclaim "**equal pay for equal work**" for both men and women means equal pay for equal work for every one and as between the sexes. *Directive Principles have to be read into the fundamental rights as a matter of interpretation.*
- **Article 14** enjoins the state not to deny to any person equality before the law or the equal protection of laws and **Article 16** declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.
- *In Randhir Singh vs. Union of India*, the Supreme Court held that the principle of "equal pay for equal work" though not a fundamental right is certainly a constitutional goal and, therefore, capable of enforcement through constitutional remedies under **Article 32** of the constitution. The doctrine of equal pay for equal work is equally applicable to persons employed on daily wage basis. They are entitled to the same wages as other permanent employees in the department employed to do the identical work.
- **Article 41** says that state shall make effective provisions for securing right to work, education etc. and to Public Assistance in case of unemployment, old age, sickness, disablement or any other case of undeserved want. This article is used as a guiding principle for various social sector schemes such as social assistance programme, right to food security, old age pension scheme, schemes for sick and disabled, MGNREGA etc.
- **Article 44** says that the State shall endeavor to secure for the citizens a uniform civil code (UCC) throughout the territory of India.

- **Article 51** says that state shall endeavor to promote international peace and security, maintain just and honourable relations between nations, foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and encourage settlement of international disputes by arbitration.

Concepts : Points to focus

- According to the Supreme Court, any employer paying less wage to temporary staff was indulging in an “act of exploitative enslavement” and reminded all employers that “equal pay for equal work” was a constitutional principle.
- The judgment not only highlights the exploitative nature of such employment but also reminded the state that it is a signatory to the **1966 International Covenant on Economic, Social and Cultural Rights**.
- The covenant calls upon state parties to “recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular, remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind”.
- India ratified this covenant on April 10, 1979. SC further stated that there is no escape from the above obligation, in view of different provisions of the Constitution and in view of the law declared by this court under **Article 141 of the Constitution of India**.
- *Article 141*: The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Practice Questions

- Q6. The concept of ‘equal pay for equal work for both men and women’ has been enshrined in
- a) Article 14
 - b) Article 16
 - c) Article 39(a)
 - d) Article 39(d)
- Q7. The law declared by the Supreme Court shall be binding on all courts within the territory is mentioned in
- a) Article 123
 - b) Article 124
 - c) Article 137
 - d) Article 141

4. DELHI HIGH COURT VERDICT ON THE STATUS OF DELHI GOVERNMENT

#Constitutional Provisions for Delhi

Why is this topic important for the exam?

- Delhi is neither a State, nor a Union Territory. It used to be a full-fledged Union Territory till 1991, when the 69th amendment of the Constitution gave it a special status. The amendment declared the Union Territory of Delhi to be formally known as National Capital Territory of Delhi.

- However, the recent controversies with the Lieutenant Governor of Delhi and Delhi's Chief Minister over administrative issues led to this confusion over the actual status of Delhi. Hence a case was filed in Delhi High Court to clear the confusion over the status of Delhi.
- It is Subjudice in the Supreme Court
- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

- Q The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its (# Pre- 2014)
- (a) advisory jurisdiction
 - (b) appellate jurisdiction
 - (c) original jurisdiction
 - (d) writ jurisdiction
- Q Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any that have led to recent reported conflicts between the elected representatives and the institution of the Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian federal politics? (#Main-2016)

What is the current context?

- The Delhi High Court passed its judgment saying that the Lieutenant Governor (L-G) is the administrative head of the National Capital and not the Chief Minister, and Delhi continues to be a Union Territory rather than a full-fledged state.
- The matter is now being heard by the Supreme Court.

Core:Points to focus

- **Article 239(Administration of Union territories):** Every Union territory shall be administered by the President acting, to such extent as he thinks fit, *through an administrator to be appointed by him.*
- **Article 239A:** However, vide the Constitution 14th Amendment Act in 1962, the First Schedule was amended and Article 239A was added. *Article 239A provides for creation of local legislatures or Council of Ministers or both for certain Union Territories.*
- Further, The Government of Union Territories Act, 1962 created legislatures for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman, Diu and Pondicherry (Puducherry).
- **Article 239AA:** Article 239AA of the Indian Constitution, enacted as per 69th Amendment Act confers special provisions for Delhi (National Capital Territory of Delhi).
 - a) The administrator thereof appointed under Article 239 shall be designated as the Lieutenant Governor.
 - b) There shall be a Council of Ministers consisting of not more than ten percent, of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise to his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion.
 - c) Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

Concepts : Points to focus

- **Whether Delhi is a full-fledged state or is a Union Territory having a Legislative Assembly**

The Delhi State Legislative Assembly came into being on 7th March, 1952 under the Government of **Part-C States Act, 1951**. However, legislative powers granted to Part-C States were limited and the legislative powers of Delhi Assembly had been further curtailed.

When the constitution came into force on January 26, 1950, India became a union of states (earlier called provinces) with extensive autonomy and some territories administered by the central government. Under the constitution, there were three kinds of states - nine Part A states, eight Part B states and 10 Part C states.

Part A states were former governors' provinces in British India - Assam, West Bengal, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab and Uttar Pradesh.

Part B comprised the former princely states of Hyderabad, Saurashtra, Mysore, Travancore-Cochin, Madhya Bharat, Vindhya Pradesh, Rajasthan and the Patiala and East Punjab States Union (PEPSU).

Part C states included a few princely states as well as former provinces governed by chief commissioners such as Kutch, Himachal Pradesh, Coorg, Manipur and Tripura. Jammu & Kashmir had special status. Apart from the states, there were **part D territories**.

The *States Reorganisation Act, 1956*, abolished the three categories of states while the territories in part D were termed Union territories.

As a result of the recommendations of the State Reorganisation Commission (1955), Delhi ceased to be a Part-C State with effect from 1st November, 1956. The Delhi Legislative Assembly and the Council of Ministers were abolished and Delhi became Union Territory under the direct administration of the President.

There was considerable pressure of public opinion for providing a democratic set up and a responsive administration for Delhi. In partial fulfillment of this demand and on the basis of recommendations of Administrative Reforms Commission, the **Delhi Administration Act, 1966** was enacted. The Act provided for a deliberative body-called Metropolitan Council having recommendatory powers.

At the top, there was Lt. Governor or Administrator who was appointed by the President of India under Article 239 of the constitution. There was an Executive Council comprising of elected and nominated members but it had no legislative powers and had only an advisory role in the governance of Delhi.

Hence, there was a continuous demand for a full-fledged State Assembly with Council of Ministers to aid and advice the Lt. Governor which led to the formation of **Balakrishnan Committee in 1987** to go into the various issues connected with the administration of union territory of Delhi and to recommend measures for streamlining the administrative set up.

It recommended that Delhi should continue to be a Union Territory but should be provided with a Legislative Assembly and a Council of Ministers responsible to such Assembly with appropriate powers to deal with matters of concern to the common man.

The Committee also recommended that with a view to ensuring stability and permanence, the arrangements should be incorporated in the constitution to give the National Capital a special status among the Union Territories. Hence as per Constitution (**69th Amendment**) Act, 1991, **Article 239AA and Article 239AB** were added to the Constitution to give constitutional status to the National Capital Territory of Delhi.

- **Interpretation of Delhi High Court.**

Delhi High Court has held that the special provisions incorporated for Delhi, under Article 239AA of the Constitution, do not negate the effect of Article 239, which empowers the Lt Governor to act independently of his Council of Ministers. In other words, the concurrence of the Lt Governor is mandatory for administrative decisions. Delhi Government will have to abide by the categorical ruling that the Lt Governor is not bound to act on the aid and advice of the Council of Ministers until and unless Supreme Court gives a contrary judgment.

Practice Questions

Q8. Which of the following statements is/are incorrect?

1. Every Union territory shall be administered by the President through an administrator to be appointed by him.
2. The President may appoint the Governor of a State as the administrator of an adjoining Union territory.
3. The Administrator of a Union Territory shall administer as per the directions of his Council of Ministers without having any discretionary power.

Codes:

- a) 1 only
- b) 3 only
- c) 1 and 3 only
- d) None of the above

Q9. Which of the following statements with respect to National Capital Territory of Delhi is/are correct?

1. The Article 239AA contains specific provisions for National Capital Territory of Delhi.
2. The Lieutenant Governor may exercise his discretionary power in case of difference of opinion between the Lieutenant Governor and his Council of Ministers.

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

Q10. Which of the following articles empower the Parliament to create local Legislatures or Council of Ministers or both for certain Union territories?

- a) 239
- b) 239A
- c) 239AA
- d) 239AB

THEME 2

FUNCTIONING OF PARLIAMENT AND STATE LEGISLATURE

5. ROLE OF GOVERNOR IN ARUNACHAL PRADESH AND ITS INTERPRETATION BY SUPREME COURT

Discretionary power of Governor

Why is this topic important for the exam?

- The judgment is important as it is for the first time, the Supreme Court has restored a government after dismissal. This happened in Arunachal Pradesh by declaring all decisions of Governor Jyoti Prasad Rajkhowa as “unconstitutional” that had first led to the imposition of President’s rule in the state and later formation of a new government led by the Congress breakaway faction.
- It emphasises on the issue of defection by elected representatives, and its legality or illegality.
- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. Which one of the following Schedules of the Constitution of India contains provisions regarding anti-defection? (#Pre-2014)

- Second Schedule
- Fifth Schedule
- Eighth Schedule
- Tenth Schedule

Q. Which of the following are the discretionary powers given to the Governor of a State? (#Pre-2014)

- Sending a report to the President of India for imposing the President’s rule
- Appointing the Ministers
- Reserving certain bills passed by the State Legislature for consideration of the President of India
- Making the rules to conduct the business of the State Government

Select the correct answer using the code given below.

- 1 and 2 only
- 1 and 3 only
- 2, 3 and 4 only
- 1, 2, 3 and 4

Q. Consider the following statements: (#Pre-2015)

- The Legislative Council of a State in India can be larger in size than half of the Legislative Assembly of that particular State.
- The Governor of a State nominates the Chairman of Legislative Council of that particular State.

Which of the statements given above is/are correct?

- 1 only

- (b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2
- Q. Consider the following statements: (#Pre-2016)
1. The Chief Secretary in a State is appointed by the Governor of that State.
 2. The Chief Secretary in a State has a fixed tenure.
- Which of the statements given above is/are correct?
- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2
- Q. With greater power comes greater responsibility. (#Main-2014)

What is the current context?

- In the month of December 2015, a group of rebel Congress MLAs approached Governor J P Rajkhowa, seeking to impeach Assembly Speaker NabamRebia. The rebel MLAs were upset with Rebia, who is a cousin of Chief Minister NabamTuki and seen as being in his camp, because they said he was trying to get them disqualified from the Assembly. Though the Assembly was not in session, Governor Rajkhowa agreed it was an urgent matter. Since the Assembly was originally slated to convene only on January 14, the Governor called for an emergency session of the Assembly on December 16, 2015 in advance to take up the impeachment motion.
- As the Congress approached the High Court and later the Constitution bench of the Supreme Court against the Governor's convening of the special session, the Centre called for President's rule in the state under Article 356 of the Constitution. The Congress cried foul, saying this was the first instance of Article 356 being imposed while the case was being heard in court.
- With the governor's office accused of favouring the Congress's rebel MLAs and the BJP in the state. Governor Jyoti Prasad Rajkhowa's decision to advance the winter session of the assembly by a month and issue directions to vote on a resolution calling for the removal of the speaker at the first sitting of the House, with the deputy speaker in the chair, suggests a clear case of **gubernatorial** (anything related to a governor,) **overreach**.
- *The bench laid down that a Governor cannot have the freedom to determine when and in which situation can he take a decision at his own discretion without the aid and advice of the Chief Minister and his Council of Ministers. He can act without the aid and advice only when a government has lost its majority in a floor test, the court said.*

Core and Concepts: Points to focus

- This topic touches upon some basic concepts, powers, functions, limitations and inter-disciplinary approach and relations among various Constitutional functionaries including that of **Governor of State, Speaker of Legislative Assembly, Chief Minister of a state, Council of Ministers of state, President of India and role of judiciary** in case of any overreach.
- This topic also touches upon the polity and governance of those states which falls under **Schedule V and Schedule VI** of the Constitution with respect to their autonomy and different political structure.
Hence lots of questions on preliminary can be formed and asked from these topics. Other important core areas to focus are given hereunder:

- Scope of Judicial Review (*Refer: Art 13, Art. 32, Art. 136, 137, 138, 139 and Art. 226*);
- Role of Speaker regarding disqualification of MLAs (*Refer: Article 190*);
- Provision for disqualification of elected representatives (*Refer: 10th Schedule*);
- Grounds for disqualification under the Anti-Defection Law's (*Refer: Articles 102 (2) and 191 (2)*)
- Constitutional duty of President to ensure compliance with the law and ensure that a constitutionally elected government is allowed to run on the basis of constitutional provisions (*Refer: Article 256*);
- Presidents rule in a state (*Refer: Article 356*)

Since, this topic is mainly about various powers and functions of the Governor of a state, hence, interpretation of the powers of the Governor becomes important. Let us understand those in detail:

Governor functions as;

1. Constitutional Head of a State under **Article 153 and 154**, and as
2. An agent of the Centre as he holds office during the pleasure of the President under **Article 156**.

But the real controversy arises when both functions of the Governor overlap and the question arises as to which function supersedes which in this era of multi-party system. This dual function of the Governor in recent times has created enough controversies where different parties enjoy power at the Centre and in the States.

The question still remains as to why this dual function was provided to the Governor by the constitution makers? Constituent Assembly adopted the system of centrally nominated, rather than elected Governor as that would keep the Centre in touch with the State and would remove a source of possible "separatist tendencies" of States.

- Hence exercise of discretionary power by Governor as Centre's representative is constitutionally justifiable. Let us analyze the various *discretionary powers of the Governor*.

The Constitution has not explicitly defined or described Governor's discretionary powers and provides no guidelines for deciding as to which matters may fall under this category and in effect the final judge of the matter is the Governor himself under **Article 163(2)**. However, going by the various provisions of the Constitution, one can decipher several categories of actions which the Governor "may" take in his discretion:

1. Under **Article 200**, Governor can reserve any Bill for the consideration of the President which in the opinion of Governor derogates from the powers of High Court as to endanger the position which that Court is by this Constitution designed to fill.
 2. To reserve any other Bill as he deems fit.
 3. To appoint the Chief Minister of State under **Article 164(1)**.
 4. To dismiss the ministry as the Chief Minister and other Ministers shall hold office during the pleasure of the Governor under **Article 164(1)**
 5. Governor's report under **Article 356** in case of failure of Constitutional machinery in States.
 6. Governor's responsibility for certain regions such as the Tribal Areas in Assam and responsibilities placed on the Governor under **Article 371A (Nagaland), 371C (Manipur), 371H (Arunachal Pradesh)**.
- The Governor performs functions 1, 2, 5 and 6 as the agent of the Centre and functions 3 and 4 as the Head of the State. In all other matters, the Governor like the President acts on the advice of his Council of Ministers (COMs) under **Article 166(1)**.

- **Article 244** mentions about administration of Scheduled Areas and Tribal Areas where the role of Governor becomes important as he can take certain administrative and welfare decisions for the tribal areas notified under Fifth Schedule at his discretion in consultation with the President of India.
- **Clause 5(1) of the Fifth Schedule** requires all laws applicable to the rest of the country to be adapted to suit the interests of the tribals before they are extended to tribal areas. Thus, the Constitution recognises that tribals shall not be assimilated with the general population and their special needs must be taken into account before any laws are extended to these areas and the Governor is empowered to decide the manner in which any law is to be made applicable to the Scheduled areas.
- Under **Article 166(3)**, Governor may frame Rules of Business and allocate all his functions to different ministers except those which governor discharges in his own "discretion". The expression "Business of the Government of the State" under Article 166(3) comprises of functions which the Governor is to exercise with the aid and advice of his Council of Ministers (COMs) including those functions which the Governor has to exercise in his own subjective satisfaction as well as statutory functions of State Government. Thus, except the matters to be discharged by the Governor in his discretion, his personal satisfaction is not required and any function may be allocated to Ministers.

Practice Questions

Q11. Which of the following statement is/are Incorrect?

1. The President of India before entering upon office, shall make or subscribe oath or affirmation before the Chief Justice of India.
 2. The executive power of the Union shall be vested in the Prime Minister and shall be exercised directly or through officers subordinate to him/her in accordance with the Constitution of India
 3. No person shall be eligible for the appointment of President unless he/she is a citizen of India, has completed the age of thirty five years and is qualified for election as a member of the Council of States.
- a) 1 and 2
 - b) 2 and 3
 - c) 1,2 and 3
 - d) 1 and 3

Q12. Which of the following statements with regard to the Governor of a State is/are correct?

1. There shall be a Governor for each State and the same person cannot be appointed as Governor for two or more states.
 2. The executive power of the State shall be vested in the Governor and shall be exercised directly or through officers subordinate to him/her in accordance with the Constitution of India
 3. The Governor shall hold office during the pleasure of the Chief Minister of the state.
 4. The Governor of a State shall be appointed by the President by warrant under his hand and seal.
- a) 1 and 4
 - b) 1,2 and 4
 - c) 1,2 and 3
 - d) 2 and 4

- Q13. The Governor of a state before entering upon his office, shall make or subscribe oath in the presence of which of the following dignitaries?
- Chief Justice of India
 - Chief Justice of High Court concerned
 - President of India
 - Chief Minister of State
- Q14. Consider the following statements
- There shall be a Council of Ministers with the Governor at the head to aid and advise the Chief Minister in the exercise of his functions.
 - Under the constitution, Governor cannot exercise his functions at his discretion and has to abide by the aid and advise of his Council of Ministers
 - The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Chief Minister.
- Choose the correct code
- 1 and 2
 - 2 and 3
 - 1 and 3
 - None of the Above

6. SMALLER PARTIES AND INDEPENDENTS IN RAJYA SABHA UNITE FOR MORE TALK TIME

#Parliament (Functioning)

Why is this topic important for the exam?

- This is only the third time in the history of Indian Parliament that a consolidated group of MPs have been united to discuss collectively on issues of National importance considering their lower representation in Rajya Sabha. The first instance was in 1983 and the second in 1990.
- This group of MPs have united to secure more time to speak in House debates, where their solitary or numerically lean status afforded them as little as three minutes of speech time. Time allotted to parties to speak on debates depends entirely on their strength in the House.
- A grouping of this kind will, therefore, make it possible, say, for a party like the Sikkim Democratic Front with a single MP to speak for as much time as say, a Samajwadi Party with 19 MPs in the Upper House. As a result, this group can also be represented in the Business Advisory Committee (BAC) that decides time allotment to speak.*
- Questions on functioning of Parliament are favourite with UPSC. For e.g.

Q. Consider the following statements regarding a No-Confidence Motion in India (#Pre-2014)

- There is no mention of a No-Confidence Motion in the Constitution of India.
- A Motion of No-Confidence can be introduced in the Lok Sabha only.

Which of the statements given above is/are correct?

- 1 only

- (b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2
- Q. Which of the following statements is/are correct? (#Pre-2016)
1. A Bill pending in the Lok Sabha lapses on its prorogation.
 2. A Bill pending in the Rajya Sabha, which has not been passed by the Lok Sabha, shall not lapse on dissolution of the Lok Sabha.
- Select the correct answer using the code given below.
- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2
- Q. The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes." Discuss. (#Main-2016)

What is the current context?

- Vice-President Hamid Ansari has formally recognised a group of 22 MPs belonging to parties with less than four MPs and certain independents as a consolidated block known as "The United Group".

Core and Concepts:Points to focus

- **Question Hour:**
 - a) The first hour of every sitting of Parliament is generally reserved for the asking and answering of questions.
 - b) Parliamentary question is a technique of parliamentary surveillance over the administration practiced in all the countries having representative Parliamentary Democracy.
 - c) Members of Parliament are free to ask questions to elicit information on matters of public importance and concern from ministers of the government.
 - d) The basic purpose of asking question is to implement national and international policies as declared by the government or approved by the Parliament.
 - e) The Government is, as it were, put on its trial during the Question Hour and every Minister whose turn it is to answer questions has to stand up and answer for his or his administration's acts of omission and commission.
 - f) Through the Question Hour the Government is able to quickly feel the pulse of the nation and adapt its policies and actions accordingly.
 - g) It is through questions in Parliament that the Government remains in touch with the people in as much as members are enabled thereby to ventilate the grievances of the public in matters concerning the administration. Questions enable Ministries to gauge the popular reaction to their policy and administration.
- **Types of Questions:** Questions are of four types - Starred, Unstarred, Short Notice Questions and Questions addressed to private Members.
 - a) A Starred Question is one to which a member desires an oral answer in the House and which is distinguished by an asterisk mark. When a question is answered orally, supplementary questions can be asked thereon. Only 20 questions can be listed for oral answer on a day.

- b) An Unstarred Question is one which is not called for oral answer in the House and on which no supplementary questions can consequently be asked. To such a question, a written answer is deemed to have been laid on the Table after the Question Hour by the Minister to whom it is addressed. It is printed in the official report of the sitting of the House for which it is put down. Only 230 questions can be listed for written answer on a day. In addition to this, 25 more questions can also be included in the Unstarred List relating to the States under Presidential Rule and the total number of questions in the list of Unstarred Questions for a day may not exceed 255 in relaxation of normal limit of 230 questions.
- c) A Short Notice Question is one which relates to a matter of urgent public importance and can be asked with shorter notice than the period of notice prescribed for an ordinary question. Like a starred question, it is answered orally followed by supplementary questions.
- d) The Question to a Private Member is addressed to the Member himself/herself and it is asked when the subjectmatter of it pertains to any Bill, Resolution or any matter relating to the Business of the House for which that Member is responsible. For such Questions, the same procedure is followed as in the case of Questions addressed to a Minister with such variations as the Speaker may consider necessary or convenient.
- **Zero Hour:** The time immediately following the Question Hour has come to be known as "Zero Hour". It starts at around 12 noon (hence the name) and members can, with prior notice to the Speaker, raise issues of importance during this time.
 - Typically, discussions on important Bills, the Budget, and other issues of national importance take place from 2 pm onwards.

- **Business Advisory Committee:** There are two Business Advisory Committees in the Parliament of India, one each for Lok Sabha and Rajya Sabha.

a) BAC of Lok Sabha

The Business Advisory Committee (BAC) of Lok Sabha consists of 15 members including the Speaker of Lok Sabha who is the *ex-officio* Chairman of BAC. The members are nominated by the Speaker. *BAC recommends allotment of time for discussion of government legislative and other businesses as the Speaker, in consultation with the Leader of the House, may direct to be referred to the Committee.*

The Committee, on its own initiative, may also recommend to the Government to bring forward particular subjects for discussion in the House and recommend allocation of time for such discussions. The decisions reached by the Committee are always unanimous in character and representative of the collective view of the House. The Committee generally meets at the beginning of each Session and thereafter as and when necessary.

b) BAC of Rajya Sabha

The Rajya Sabha Business Advisory Committee has 11 members including the Vice-President as its *ex-officio* chairman. The members are nominated by Speaker/Chairman. BAC of Rajya Sabha recommends the time that should be allocated for the discussion of the stage or stages of such Government Bills and other business as the Chairman in consultation with the Leader of the House may direct for being referred to the Committee.

The Committee also recommends the time that should be allocated for the discussion of stage or stages of private Members' Bills and Resolutions. It has the power to indicate in the proposed time-table the different hours at which the various stages of the Bill or other business are to be completed. The Committee performs such other functions as may be assigned to it by the Chairman from time to time.

Practice Questions

Q15. Which of the following statements is/are correct?

1. The first hour of every sitting of Parliament for asking questions is 'Zero Hour'.
2. The time immediately following the Zero Hour is 'Question Hour'.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

Q16. Which of the following statements is/are correct?

1. The discussions on important Bills, the Budget, and other issues of national importance take place before 2pm.
2. A Starred Question is one to which a member desires an oral answer in the House.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

#BILLS, ACTS AND PROCEDURES are very common area for asking questions by UPSC. Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. When a bill is referred to a joint sitting of both the Houses of the Parliament, it has to be passed by (#Pre-2015)

- (a) a simple majority of members present and voting
- (b) three-fourths majority of members present and voting
- (c) two-thirds majority of the Houses
- (d) absolute majority of the Houses

Q. With reference to the Union Government, consider the following statements: (#Pre-2015)

- (1) The Department of Revenue is responsible for the preparation of Union Budget that is presented to the Parliament.
- (2) No amount can be withdrawn from the Consolidated Fund of India without the authorization from the Parliament of India.
- (3) All the disbursements made from Public Account also need the authorization from the Parliament of India.

Which of the statements given above is/are correct?

- (a) 1 and 2 only
- (b) 2 and 3 only
- (c) 2 only
- (d) 1, 2 and 3

Q. National urban transport policy emphasizes on moving people instead of moving vehicles. Discuss critically the success of various strategies of the government in this regard. (#Main-2014)

Core: Points to focus

- **Bill, Bill passing process, types of Bills, passing of a Bill, joint session of Parliament**

A Bill is a draft statute which becomes law after it is passed by both the Houses of Parliament and assented by the President. All legislative proposals are brought before Parliament in the forms of Bills.

- Procedurally, Bills can be classified as:

1. Ordinary Bill
2. Money Bill
3. Finance Bill
4. Ordinance replacing Bill
5. Constitution Amendment Bill

- **Money Bill**

Under Article 110 (1) of the Constitution, a Bill is deemed to be a Money Bill if it contains only provisions on all or any of the following:

- a) imposition, abolition, remission, alteration or regulation of any tax;
- b) regulation of borrowing by the government;
- c) custody of the **Consolidated Fund** or **Contingency Fund** of India, and payments into or withdrawals from these Funds;
- d) appropriation of moneys out of the Consolidated Fund of India;
- e) declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- f) receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- g) any matter incidental to any of the matters specified in (a) to (f)

- **Consolidated Fund of India**

This fund was constituted under **Article 266 (1)** of the Constitution of India. All revenues received by the government by way of direct taxes and indirect taxes, money borrowed and receipts from loans given by the government flow into the Consolidated Fund of India.

All government expenditure is made from this fund, except exceptional items which are met from the Contingency Fund. Importantly, no money can be withdrawn from this fund without the Parliament's approval.

- **Contingency Fund of India**

This fund was constituted by the government under **Article 267** of the Constitution of India. This fund is at the disposal of the President.

Any expenditure incurred from this fund requires a subsequent approval from the Parliament and the amount withdrawn is returned to the fund from the Consolidated Fund.

- **Finance Bill**

Any Bill which deals with revenue or expenditure of the Government is a Finance Bill. However, only those Finance Bills which are endorsed by the Speaker under Article 110 (4) become a Money Bill. Financial Bills that are not certified by the Speaker are of two kinds: **Financial Bill (A) and Financial Bill (B)**.

Financial Bill (A) as under **Article 117(1)** includes any matters mentioned above under Article 110(1) (a) to (f) plus any other matters related to revenue or expenditure of the Government. Financial Bill (A) can only be introduced in the Lok Sabha on the recommendation of the President.

Financial Bill (B) are just like other Ordinary Bills that contain provisions involving expenditure from the Consolidated Fund as specified in **Article 117 (3)**. Financial Bill Category B and Ordinary Bills can be introduced in either House of Parliament. Thus, every Bill other than a Money Bill and Financial Bill (A) introduced in the Parliament acts like an Ordinary Bill.

- Money Bill (Article 109) and Finance Bill (A) (Article 117(1)) shall not be introduced in the Rajya Sabha. Whereas all other Bills including Ordinary Bill, Financial Bill (B), and Constitution Amendment Bill can be introduced in either House of the Parliament under Article 107.
- Once a Bill is passed by Lok Sabha, it goes to Rajya Sabha along with Speaker's certificate that it is a Money Bill for its recommendations. However, Rajya Sabha can neither reject nor amend such Bill but can only recommend changes in the Bill. Rajya Sabha must return the Bill within 14 days, after which Lok Sabha may accept or reject all or any of its recommendations. In either case, the Bill is deemed to have been passed by both Houses. Under Article 109 (5), if Rajya Sabha fails to return the Bill to Lok Sabha within 14 days, it is deemed to have been passed anyway.
- The recent controversy over passage of bill as money bill is with respect to **The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016** which was passed by the incumbent government as Money Bill. A PIL filed in Supreme Court has challenged the decision to treat Aadhaar Bill as a money Bill. The petitioner has claimed that introduction of Aadhaar Bill as a money Bill is a brazen and malafide attempt to bypass the approval of the Rajya Sabha, which holds an important place in the Constitutional and democratic framework of law-making. However, the contentious issue to be decided by the Supreme Court is whether the grounds on which Speaker of Lok Sabha certifies a Bill as money bill under Article 110 (4) can be subject to judicial review.

#	Issues	Money Bill	Finance Bill (A)	Financial Bill (B)	Ordinary Bill
1	President Recommendation Required	✓	✓	No	No
2	Rejection of Bill by Rajya Sabha	No	No	✓	✓
3	Introduction in Rajya Sabha	No	No	✓	✓
4	Introduction in Lok Sabha	✓	✓	✓	✓

- **Ordinance Replacing Bill**

Ordinance replacing Bills are brought before Parliament to replace an Ordinance, with or without modifications, promulgated by the President under **Article 123** of the Constitution of a subject. To provide continuity to the provisions of the Ordinance, such a Bill has to be passed by the Houses of Parliament and assented to by the President within six weeks of the reassembly of Parliament.

Article 123 of the Constitution grants the President and **Article 213** grants the Governor certain law making powers to promulgate Ordinances when either of the two Houses of Parliament or State Assembly is not in session.

However, an ordinance cannot be made on subjects which Parliament or State Legislative Assembly under this constitution is not competent to enact. If an ordinance is made on such subjects, then it is open to judicial review.

- **Constitution Amendment Bill**

Article 368 provides Power of Parliament to amend the Constitution and procedure thereof. Amendment of this Constitution may be initiated only by the introduction of a Bill in either House of the Parliament. As per the procedure laid down in the Constitution under Article 368, Constitution Amendment Bills can be of three types:

1. Amendment requiring simple majority for their passage in each House
 2. Amendment requiring special majority for their passage in each House *i.e.*, a majority of the total membership of a House and by a majority of not less than two-thirds of the members of that House present and voting (article 368); and
 3. Amendment requiring special majority for their passage and ratification by Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures (proviso to clause (2) of article 368).
- If amendment seeks to change the following, then amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolution to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.
 - a) Election of President, Manner of election of President, Extent of executive power of the Union, Extent of executive power of the State, High Courts for Union Territories
 - b) Union Judiciary under The Union, The High Courts in the States under The States or Legislative Relations under Relations between the Union and the States, or
 - c) Any of the Lists in the Seventh Schedule, or
 - d) The representation of States in Parliament, or

- When a bill is introduced by any ministry or government department, it is known the Government Bill. On the contrary, a bill introduced by a private Member of Parliament is called a Private Member's Bill.

- *A bill has to pass through three stages.* In each stage, there is a reading of the bill, is why these three stages are known as the first reading, the second reading and the third reading.
- The Committee stage and the Report stage form a part of the second reading.
- **First Reading:** In the first stage, the bill is introduced in one of the Houses of the Parliament. While Money Bills are to be introduced only in the Lok Sabha, all other bill can be introduced either in the Lok Sabha or in the Rajya Sabha. The mover of the bill just reads the title of the bill. Normally there is no opposition at this stage. So usually the bill is allowed to be introduced by a voice vote.

If, in the stage of first reading, the bill is opposed, the mover and the opposer of the bill are required to make brief statements on the floor of the House. After that, the vote is taken.

Once the bill is cleared in the first stage, the presiding officer of the House (the Speaker or the Chairman) sends the bill for publication in the Gazette. Sometimes important bills are already published in the Gazette before they are introduced in a House.

- **Second Reading:** This is considered the most important stage of lawmaking in the Parliament. At this stage there are several options. First, it may go straight to the House for consideration. Secondly, it may be referred to a Select Committee of the House. Thirdly, it may also be sent to a Joint Committee of both Houses. Fourthly, it may go for circulation for eliciting public opinion.

In most of cases, the bill is referred to a Select Committee. But, if the bill is of great importance, it is circulated among the public for knowing the opinions and reactions of different segments of the society.

- **Select Committee Stage:** After initial discussion on the bill during the second reading, the bill is usually sent to a Select Committee for more critical considerations. The Chairman of the Committee is appointed by the presiding officer of the House (the Speaker or the Chairman). After a general discussion, the bill is discussed clause by clause. Experts and witnesses are invited to express their opinions.
- **The Report Stage:** The Select Committee is expected to submit a report to the House within three months. In the Select Committee, the decision is taken by majority and the report of the committee may include the recommendations of the committee and the changes that it wants to be incorporated in the bill.
- Then the bill and the report of the Select Committee are placed before the House for its consideration. At this stage, amendments can be moved, but no member will be allowed to move an amendment which seeks to defeat the main purpose of the bill. The bill is discussed and put to vote clause by clause. With the completion of this process the second reading of the bill is over.
- **Third Reading:** At the stage of third reading amendments are not allowed, but the members are allowed to discuss the general character of the bill. The bill, as a whole, is put to vote. If the bill is passed by a majority, it is signed by the presiding officer (the Speaker or the Chairman) and it is then sent to the other House in which the bill has to pass through three identical stages.
- If the bill is cleared in all three stages by the other House, it is sent to the President for his assent. If the other House does not agree to the bill, already passed by one House, it is free to make suggestions or propose amendments.
- But, if the amendments or changes suggested are not acceptable to the House which had passed the bill, the two Houses meet jointly to take a decision on the bill. In the joint sitting of both Houses, decision is taken on the basis of majority vote.
- When the bill is sent to the President for his assent, he can do one of the following two things. He may give assent to the bill; he may also return the bill to the originating House for reconsideration. If the bill is again passed by both Houses of the Parliament with or without amendments, the President is bound to give his assent to the bill. Thus, lawmaking in the Parliament is a long and complicated process.

Practice Questions

Q17. Which of the following best describes an Ordinance as?

- a) Legislative power of the Legislature
- b) Executive Power of the Legislature
- c) Executive Power of the Executive

d) Legislative Power of the Executive

Q18. Which of the following statements with respect to an Ordinance is correct?

1. Ordinance may be promulgated only by the President when both the Houses is not in Session at his sole discretion
 2. Ordinance cannot be forced to be promulgated by the Prime Minister and his Council of Ministers
 3. An ordinance shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament
- a) 1 only
 - b) 1 and 3 only
 - c) 2 and 3 only
 - d) 1, 2 and 3

Q19. Which of the following statements with respect to Business Advisory Committee is/are incorrect?

1. There are two Business Advisory Committees in the Parliament of India, one each for Lok Sabha and Rajya Sabha.
2. Finance Minister is the ex-officio Chairman of Business Advisory Committee
3. Business Advisory Committee recommends the time that should be allocated for the discussion of Government Bills and other Bills

Choose the correct code

- a) 1 only
- b) 2 only
- c) None of the Above
- d) 3 only

Q20. Which of the following cannot be described as Money Bill?

1. A bill for providing reservation to minorities
 2. A bill for regulation of borrowing by the government
 3. A bill for imposition, abolition, remission, alteration or regulation of any tax
 4. A bill for appropriation of moneys out of the Consolidated Fund of India
 5. A bill for alteration of boundary of states
- a) 1, 2 and 4
 - b) 2, and 3
 - c) 1, 3 and 5
 - d) 1 and 5

Q21. Which of the following is/are correct about Money Bill?

1. Money Bill shall not be introduced in the Rajya Sabha.

2. Rajya Sabha can amend such Money Bill and also recommend changes therein.
 3. Money Bill can only be introduced in the Lok Sabha on the recommendation of the President.
- a) 1 and 2
 - b) 1 and 3
 - c) 1, 2 and 3
 - d) None of the above

Q22. Which of the following statement is/are correct?

1. The Joint sitting of Parliament is allowed in case of Money Bill
 2. The Joint sitting of Parliament is allowed in case of Constitution Amendment Bill
 3. A Bill passed in Joint sitting of the Parliament shall pass by a total number of members of both Houses present and voting
- a) 1 only
 - b) 2 and 3 only
 - c) 3 only
 - d) 1, 2 and 3

Q23. Which of the following Constitutional amendments, also require to be ratified by the Legislatures of not less than one-half of the States by resolution to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent?

1. Election of President,
 2. Union Judiciary under the Union
 3. Manner of election of President
 4. Any of the Lists in the Seventh Schedule
- a) 1 and 3 Only
 - b) 1 and 4 Only
 - c) 1, 3 and 4 Only
 - d) All of the above

7. MOTOR VEHICLES (AMENDMENT) BILL, 2016

Parliament (conduct of business)

Why is this topic important for the exam?

- As per official report released by the Ministry of Road Transport and Highways, 1.46 lakh people were killed in road accidents in India in 2015. Road accidents as a whole increased by 2.5 % during 2015 to 5.01 lakh.
- Government of India has thus reiterated its resolve and commitment as a signatory to the **Brasilia Declaration** to reduce the number of road accidents and fatalities by 50 per cent by 2020. Hence, Ministry of Road Transport

and Highways has tabled the Motor Vehicles (Amendment) Bill, 2016 to make suitable changes in the previous Motor Vehicles Act, 1988.

What is the current context?

- The Motor Vehicles (Amendment) Bill 2016, was tabled in the Lok Sabha to amend the Motor Vehicles Act, 1988 because India has got dubious distinction of having highest number of road accidents in the world. Hence the focus is now on making a new law to address this problem.

Concept: Points to focus

- Major provisions proposed in the Bill
 - a. **National Transportation Policy:** The Bill requires the central government to develop a National Transportation Policy, in consultation with the states.
 - b. **Recall of vehicles:** The Bill allows the central government to order for recall of motor vehicles if a defect in the vehicle may cause damage to the environment, or the driver, or other road users.
 - c. **Compulsory insurance:** The Bill requires the central government to constitute a Motor Vehicle Accident Fund. The Fund will provide compulsory insurance cover to all road users in India.
 - d. **Care for road accident victims:** The central government will develop a scheme for cashless treatment of road accident victims during golden hour. The Bill defines golden hour as the time period of up to an hour following a traumatic injury, during which the likelihood of preventing death through prompt medical care is the highest.
 - e. **Protection of good Samaritans:** The Bill defines a good Samaritan as a person who renders emergency medical or non-medical assistance to a victim at the scene of an accident. The assistance must have been (i) in good faith, (ii) voluntary, and (iii) without the expectation of any reward. Such a person will not be liable for any civil or criminal action for any injury to or death of an accident victim.
 - f. **Electronic services:** The Bill provides for the computerization of certain services. These include: (i) issue or grant of licenses or permits, (ii) filing of forms or applications (such as for licenses and registration), (iii) receipt of money (such as fines), and (iv) change of address.
 - g. The Bill also recognizes offences committed by juveniles. In such cases the guardian of the juvenile or owner of the motor vehicle will be liable unless they prove that: (i) the offence was committed without their knowledge, or (ii) they exercised all due diligence to prevent commission of the offence.
 - h. **Transportation schemes:** The Bill requires state governments to make transportation schemes that provide for certain objectives. These may include: (i) last mile connectivity, (ii) reducing traffic congestion, and (iii) safety of road users. The state may also make rules for regulating activities in public places, and non-motorized transport (bicycles, cycle rickshaws).

Practice Questions

- Q24. Which of the following is true with regards to Brasilia Declaration?
- a) It is a declaration about air pollution
 - b) It is a declaration about global warming in the Arctic
 - c) It is a declaration about road accidents
 - d) It is a declaration about marine oil spills

Q25. The Committee stage and the Report stage form a part of the

- a) First Reading of the Bill.
- b) Second Reading of the Bill.
- c) Third Reading of the Bill.
- d) Joint sitting for the Bill

8. CITIZENSHIP (AMENDMENT) BILL, 2016

Parliament (conduct of business)

Why is this topic important for the exam?

- The Citizenship Act of 1955 lists the ways to acquire the citizenship of India and its denial to undocumented migrants.
- The Citizenship (Amendment) Bill, 2016 was introduced with the object to enable Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who have fled to India from Pakistan, Afghanistan and Bangladesh without valid travel documents, or those whose valid documents have expired in recent years, to acquire Indian citizenship *by the process of naturalization*.

What is the current context?

- The Citizenship (Amendment) Bill, 2016 was introduced in Lok Sabha to amend the Citizenship Act, 1955 and seeks to make illegal migrants belonging to the same six religions (Hindus, Sikhs, Buddhists, Jains, Parsis and Christians) from three countries (Afghanistan, Bangladesh and Pakistan) eligible for citizenship. However, Muslims are not included in the list of six religions.
- This means that these groups of illegal migrants from three countries will not be deported or imprisoned for being in India without valid documents.

Core: Points to focus

- The Citizenship Act, 1955 provides various ways in which citizenship may be acquired. It provides for citizenship by birth, descent, registration, naturalization and by incorporation of territory into India. In addition, it regulates registration of Overseas Citizen of India Cardholders (OCIs), and their rights. An Overseas Citizen of India is entitled to some benefits such as a multiple-entry, multi-purpose life-long visa to visit India.
- Provisions given in the Constitution of India in Part II:
 - a) Citizenship at the commencement of the Constitution (Refer: Art 5);
 - b) Rights of citizenship of certain persons who have migrated to India from Pakistan (Refer: Article 6);
 - c) Rights of citizenship of certain migrants to Pakistan (Refer: Article 7);
 - d) Rights of citizenship of certain persons of Indian origin residing outside India (Refer: Article 8);
 - e) Persons voluntarily acquiring citizenship of a foreign State not to be citizens (Refer: 9)
 - f) Continuance of the rights of citizenship (Refer: Article 10);
 - g) Parliament to regulate the right of citizenship by law (Refer: Article 11);
- Indian nationality law largely follows the jus sanguinis (citizenship by right of blood) as opposed to the jus soli (citizenship by right of birth within the territory).

- The President of India is termed the first Citizen of India.
- Bill passing process, Types of Bills, Passing of a Bill, Joint session of Parliament

Concept: Points to focus

- **Indian Citizenship Act, 1955:**
 - a) The Indian Citizenship Act, 1955 provides for acquisition and determination of Indian Citizenship. Indian Citizenship can be acquired under the following ways: (1) Citizenship at the commencement of the constitution of India (2) Citizenship by birth: This provision has different clauses for different periods (3) Citizenship by descent (4) Citizenship by registration (5) Citizenship by naturalization.
 - b) However, illegal migrants are prohibited from acquiring Indian citizenship under the 1955 Act.
 - c) As per the Act, an illegal migrant is a foreigner who (i) enters the country without valid travel documents, like a passport and visa, or (ii) enters with valid documents, but stays beyond the permitted time period.
 - d) Illegal migrants may be imprisoned or deported under the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920.
 - e) These Acts empower the Union government to regulate the entry, exit and residence of foreigners within India.
 - f) One can lose citizenship of India in three ways – Renunciation, Termination and Deprivation.
- **Salient features of Citizenship (Amendment) Bill, 2016**
 - a) The Bill amends the Citizenship Act, 1955 to make illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship.
 - b) Under the Act, one of the requirements for citizenship by naturalisation is that the applicant must have resided in India during the last 12 months, and for 11 of the previous 14 years.
 - c) The Bill relaxes this 11 years' requirement to 6 years for persons belonging to the above mentioned six religions and three countries.
- **Does the Bill violate Article 14?**
 - a) Article 14 of the Indian Constitution provides every 'person' equality before the law and equal protection of the laws. However, it permits reasonable classification but there has to be a nexus between the classifications sought and objectives to be achieved.
 - b) The Citizenship (Amendment) Bill, 2016 makes illegal migrants eligible for citizenship on the basis of religion which can be challenged on grounds of equality and discrimination which is a basic structure of the Constitution in a Court of law.

Practice Questions

- Q26. As per the Citizenship (Amendment) Bill, 2016, illegal migrants from three countries are allowed the courtesy to get Indian citizenship. Which of the following is not one of them?
- a) Sri Lanka
 - b) Afghanistan
 - c) Bangladesh
 - d) Pakistan

Q27. Which of the following statements is/are correct?

1. The provisions related to citizenship are mentioned in the Part III of the Indian Constitution.
2. One can lose citizenship of India in three ways – Renunciation, Termination and Deprivation.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) Neither 1 nor 2

9. TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2016

#Parliament (conduct of business)

Why is this topic important for the exam?

- Transgender community is among one of the most marginalized communities in the country because they don't fit into the stereotypical categories of gender of 'men' or 'women'. Consequently, they face problems ranging from social exclusion to discrimination, lack of education facilities, unemployment, lack of medical facilities and so on.
- It brings into account the role of all the stakeholders to mitigate the stigma, discrimination and abuse against this marginalized section and bring them into the mainstream of society.

What is the current context?

- The United Nations Human Rights Council, in a defining vote, adopted a resolution in June, 2016 on "Protection against violence and discrimination based on sexual orientation, and gender identity".
- In tune with changes on the global front, the Union Cabinet has approved The Transgender Persons (Protection of Rights) Bill 2016.

Core: Points to focus

Issue of Fundamental Rights

- **Right to equality:** Which includes equality before law, prohibition of discrimination on grounds of religion, race, caste, gender or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles. Right to equality is provided from Article 14 to Article 18 of Indian constitution.
- **Right to freedom:** Which includes freedom of speech and expression, assembly, association or union or cooperatives, movement, residence, and right to practice any profession or occupation, right to life and liberty, protection in respect to conviction in offences and protection against arrest and detention in certain cases. Right to freedom is provided from Article 19 to 22 of constitution.
- **Right against exploitation:** Article 23, which prohibits all forms of forced labour, and traffic of human beings.
- Right to constitutional remedies (Article 32)
- Bill passing process, Types of Bills, Passing of a Bill, Joint session of Parliament

Concepts: Points to focus

- For the first time, a proposed legislation acknowledges the fact that the *gender assigned at birth may not necessarily match the person's own sense of the gender they belong to*.
- The Bill allows a transgender person to identify himself/ herself as 'man', 'woman' or 'transgender', while doing away with the nomenclature 'Other' that is currently in use.
- The term 'transgender' refers to all those who differ in behaviour and appearance from the usual gender stereotypes. It includes transsexuals, transvestites (cross-dressers), intersexed individuals and gender queers.
- In the Indian context, it also includes social identities such as hijras, kinnars, aravanis, jogtas, Shiv-shaktis and aradhis.
- In a landmark ruling in 2014, the Supreme Court recognised transgender as a third gender; in June 2015, the court clarified the term does not cover gay, lesbian and bisexual persons.
- Prohibition against discrimination: The Bill prohibits the discrimination against a transgender person, including denial of service or unfair treatment in relation to: (i) education; (ii) employment; (iii) healthcare; (iv) access to, or enjoyment of goods, facilities, opportunities available to the public; (v) right to movement; (vi) right to reside, rent, own or otherwise occupy property; (vii) opportunity to hold public or private office; and (viii) access to a government or private establishment in whose care or custody a transgender person is.
- Certificate of identity for a transgender person: A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'. The District Magistrate will issue such certificate based on the recommendations of a District Screening Committee. The Committee will comprise: (i) the Chief Medical Officer; (ii) District Social Welfare Officer; (iii) a psychologist or psychiatrist; (iv) a representative of the transgender community; and (v) an officer of the relevant government.
- Offences and Penalties: The Bill recognizes the following offences: (i) begging, forced or bonded labour (excluding compulsory government service for public purposes); (ii) denial of use of a public place; (iii) denial of residence in household, village, etc.; (iv) physical, sexual, verbal, emotional and economic abuse.
- Creation of **National Council for Transgender persons** (NCT)
 - a) The NCT will consist of: (i) Union Minister for Social Justice (Chairperson); (ii) Minister of State for Social Justice (Vice- Chairperson); (iii) Secretary of the Ministry of Social Justice; (iv) one representative from ministries including Health, Home Affairs, Minority Affairs, Housing, Human Resources Development, etc. Other members include representatives of the NITI Aayog, National Human Rights Commission, and National Commission for Women. State governments will also be represented. The Council will also consist of five members from the transgender community and five experts from non-governmental organisations.
 - b) The Council will advise the central government on the formulation and monitoring of policies, legislation and projects with respect to transgender persons.
- Finally, the Bill also states that the relevant government will take measures to ensure the full inclusion and participation of transgender persons in society. It must also take steps for their rescue and rehabilitation, vocational training and self-employment, create schemes that are transgender sensitive, and promote their participation in cultural activities.

Practice Questions

Q28. Which of the following statements is/are correct?

1. The Transgender Bill allows a transgender person to identify himself/ herself as 'man', 'woman' or 'transgender'.
 2. According to Supreme Court third gender covers gay, lesbian and bisexual persons
- a) 1 only

- b) 2 only
- c) Both 1 and 2
- d) None of the above

Q29. Which of the following statements is/are correct?

- 1. The Supreme Court recognise transgender as a third gender.
 - 2. The Transgender Bill, 2016, empowers District Magistrate to issue certificate of identity to transgenders
- a) 1 only
 - b) 2 only
 - c) Both 1 and 2
 - d) None of the above

THEME 3

JUDICIARY

10. ROLE OF EXECUTIVE IN JUDICIAL APPOINTMENTS

#Judiciary

Why is this topic important for the exam?

- Constitution of India provides for the appointment of judges including that of district judge (Article 233), judges of High Court (Article 216 and 217) and Supreme Court (Article 124). However, the method and manner of appointments in higher judiciary has always generated controversy due to overlapping nature of legislature, executive and Judiciary as envisaged in the Constitution of India. *This has led to many vacancies in various High Courts across India.*
- Amid the continuing tussle between the government and the judiciary over the contentious clause in the Memorandum of Procedure (MoP) on appointment of judges, the number of vacancies of High Court judges has grown to 470 out of the sanctioned strength of 1079 and this has led to an *increase in backlog of cases impacting speedy trials.*
- Judiciary is a common topic for asking questions. Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

- Q. The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its (#Pre-2014)
- advisory jurisdiction
 - appellate jurisdiction
 - original jurisdiction
 - writ jurisdiction
- Q. The power to increase the number of judges in the Supreme Court of India is vested in (#Pre-2014)
- President of India
 - Parliament
 - Chief Justice of India
 - the Law Commission
- Q. The Government of India Act of 1919 clearly defined (#Pre-2015)
- the separation of power between the judiciary and the legislature
 - the jurisdiction of the central and provincial governments
 - the powers of the Secretary of State for India and the Viceroy
 - None of the above

What is the current context?

- In a five-bench judgment, Supreme Court declared **National Judicial Appointment Commission (NJAC)** as unconstitutional which was filed by Advocates on Record Association. Supreme Court also rejected the prayer for

reference to a larger Bench and for reconsideration of the Second and Third Judges cases. The decision of Supreme Court hence has revived the **Collegium System** as of now.

Core: Points to focus

- **Issue of Fundamental Rights:** Supreme Court of India has interpreted speedy trial and justice as fundamental right under Article 21 of the Indian Constitution.
- **Article 32** of Indian Constitution provides constitutional remedies in case of violation of basic fundamental rights. Denial of speedy trial can be challenged under this article.
- Refer Article 32 including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari
- Refer appointment of judges, including that of district judge (Article 233), judges of High Court (Article 216 and 217) and Supreme Court (Article 124).

Concepts: Points to focus

- **NJAC:** NJAC Bill, 2014 was passed by Government of India to change the procedure of judicial appointments and transfer of judges of High Courts and Supreme Court of India.
 - a) NJAC, 2014 proposed to establish a National Judicial Appointment Commission which would have replaced the existing collegium system.
 - b) The procedure for appointment and transfer of judges are provided in the Indian Constitution but no such provision for a National Judicial Commission existed. Hence there was a need for a constitutional amendment to insert NJAC within constitutional boundaries.
 - c) Thus, through the Constitution (One Hundred and Twenty-First Amendment) Bill, 2014, Article 124A, 124B, 124C and 224A was added in the Indian Constitution to establish National Judicial Appointment Commission for appointment and transfer of judges of Supreme Court and respective High Courts.
 - d) In a five-bench judgment, Supreme Court declared NJAC as unconstitutional which was filed by Advocates on Record Association. Supreme Court held that the clauses in the amendments were inadequate to preserve the primacy of the judiciary and the inclusion of Law Minister in NJAC was infringement of both the independence of judiciary and the doctrine of separation of powers which are basic features of Indian constitution. The Court asserted that the better functioning of the judiciary shall not be secured at the expense of its independence.
 - e) Under NJAC act, the executive sought to bring two "eminent persons" into the voting process with veto powers. As per the Court, this gave immense powers to these eminent people whose appointment was through the executive.
 - f) The selection panel with CJI, Prime Minister and Leader of Opposition as members had given major role to political class which would further reduce role of judiciary in appointment process.
 - g) Hence, the judiciary with an unprecedented decision, declared 121st constitutional amendment as unconstitutional citing interference of executive and diluting the provision of separation of judiciary from the executive. *The decision of Supreme Court hence has revived the Collegium System as of now.*
- **The Collegium System** is one where the CJI and a forum of four senior-most judges of the Supreme Court recommends appointment and transfer of judges of higher judiciary.
- The collegium system evolved through three different judgments which are collectively known as the Three Judges Cases.

- **1st Judges Case-** In 1982, Supreme Court in S.P Gupta vs. Union of India heard a Public Interest Litigation (PIL) regarding appointment of judges of High Court and Supreme Court. The main question before the court was as to whose opinion amongst various participants should have primacy in the process of selection of judges.
- Supreme Court held that opinions of Chief Justice of India (CJI) and Chief Justice of respective High Courts were merely “consultative” and the power of appointment resides solely and exclusively with the Central Government.
- Central government “could” override the opinions given by the Judges. Thus, the opinion of Chief Justice of India did not have primacy and his opinion was made inconsequential in matters of appointment of High Court Judges under Article 217(1).

- **2nd Judges Case-** In 1993, a PIL was filed as a writ petition in S.C. Advocates on Record Association v. Union of India in Supreme Court by Lawyers Association. The petition was considered by a bench of nine judges.
 - a) The Court considered the question of “primacy of opinion of CJI in regard to appointment of Supreme Court Judges”. The Court said that the question had to be considered in the context of achieving constitutional purpose of selecting the best so as to ensure the independence of judiciary and thereby preserving democracy.
 - b) Referring to “consultative process” as envisaged in Article 124(2), Court emphasized that government does not enjoy primacy or absolute discretion in matters of appointment of Supreme Court judges. Court said that provision for consultation with Chief Justice was introduced as CJI is best equipped to know and assess the worth and suitability of a candidate and it was also necessary to eliminate political influence.
 - c) Thus, selection should be made as a result of “participatory consultative process” where Executive has the power to act as a mere check on the exercise of power by CJI to achieve constitutional purpose. So, the Supreme Court reduced the role of executive in appointment process so as to reduce political influence. Initiation of the proposal for appointment of a Supreme Court Judge must be by the Chief Justice.

- **3rd Judges Case-** The ruling of Supreme Court in Advocates on Record case was further elaborated and articulated by another nine Judge Bench In Re: Presidential Reference in 1999. Supreme Court on a reference made by the President under Article 143 has laid down the following proposition with respect to appointment of Supreme Court judges.
 - a) In making his/her recommendation, CJI shall consult four senior most Judges of Supreme Court. Thus, the collegium to make recommendation for appointment shall consist of CJI and four senior most judges.
 - b) The opinion of all members of collegium with respect to recommendation shall be in writing.
 - c) The views of the senior-most Supreme Court Judge who hails from the High Court from where the person recommended comes, must be obtained in writing for collegium’s consideration.
 - d) If majority of the collegium is against the appointment of a particular person, that person shall not be appointed. Even if two of the judges have reservation against appointment of a particular Judge, CJI would not press for such appointment.
 - e) A High Court Judge of outstanding merit can be appointed as Supreme Court Judge regardless of his standing in the seniority list based on outstanding merit and such shall be recorded.

- **Memorandum of Procedure (MoP) on appointment of judges**
 - a) The proposal for appointment of a Judge of a High Court shall be initiated by the Chief Justice of the High Court. However, if the Chief Minister desires to recommend the name of any person he should forward the same to the Chief Justice for his consideration.

- b) The Governor as advised by the Chief Minister should forward his recommendation along with the entire set of papers to the Union Minister of Law, Justice and Company Affairs as early as possible but not later than six weeks from the date of receipt of the proposal from the Chief Justice of the High Court.
- c) If the comments are not received within the said time frame, it should be presumed by the Union Minister of Law, Justice and Company Affairs that the Governor (i.e. Chief Minister) has nothing to add to the proposal and proceed accordingly.
- d) The Union Minister of Law, Justice and Company Affairs would consider the recommendations in the light of such other reports as may be available to the Government in respect of the names under consideration. The complete material would then be forwarded to the Chief Justice of India for his advice.
- e) The Chief Justice of India would, in consultation with the two senior most Judges of the Supreme Court, form his opinion in regard to a person to be recommended for appointment to the High Court. The Chief Justice of India and the collegium of two Judges of the Supreme Court would take into account the views of the Chief Justice of the High Court and of those Judges of the High Court who have been consulted by the Chief Justice as well as views of those Judges in the Supreme Court who are conversant with the affairs of that High Court.
- f) After their consultations, the Chief Justice of India will in course of 4 weeks send his recommendation to the Union Minister of Law, Justice and Company Affairs.
- g) The Union Minister of Law, Justice and Company Affairs would then put up as early as possible, preferably, within 3 weeks, the recommendation or the Chief Justice of India to the Prime Minister who will advise the President in the matter of appointment

Practice Questions

- Q30. Which of the following statements with regard to Constitution (One Hundred and Twenty-First Amendment) Bill is correct?
- a) It relates to judicial appointments
 - b) It relates to executive appointments
 - c) It relates to police reforms
 - d) It relates to tax reforms
- Q31. The judge of a High Court is appointed by?
- a) the Chief Justice of India
 - b) the Chief Justice of the High Court concerned
 - c) the President of India
 - d) the Governor of the concerned State
- Q32. Which of the following statements with regard to Judges is/are incorrect?
- 1. The Judge of a Supreme Court is appointed by the Chief Justice of India in consultation with the President
 - 2. The Judge of a High Court is appointed by the Governor of the state in consultation with Chief Justice of the High Court
- a) 1 only
 - b) 2 only
 - c) Both 1 and 2

- d) None of the above

11. CHRI REVEALS POOR STATE OF JAILS

#Welfare

Why is this topic important for the exam?

- The administration of prisons in India is reeling under colonial hangover as prisons are still administered through the archaic, The Prisons Act, 1894.
- The reforms in prisons are long overdue and there had been various committees in the past that suggested broad reforms.
- Lakhs of undertrials are languishing in jails due to delay in trial and thus it is violative of fundamental rights and human rights.
- The prominent suggestions were given by Mulla Committee on Prison Reforms.

What is the current context?

- A recent report by the National Crime Records Bureau (NCRB) revealed that the country's 1,401 jails hold 4,19,623 prisoners against the capacity of 3,66,781 revealing the poor state of prisons in India. This revelation was followed by a State-by-State analysis of the Prison Reform Programme (PRP) by the Commonwealth Human Rights Initiative (CHRI). National Human Rights Commission (NHRC) has taken a strong stand against this.

Core:Points to focus

- **Article 21** of the Constitution requires a life of dignity for all persons, little appears to have changed on the ground as far as prisoners are concerned.
- Prison is a State subject under Entry 4 of List II-State List of the Seventh Schedule to the Constitution of India. The management and administration of Prisons hence falls exclusively in the domain of the respective state governments.
- The administration and management of prisons is governed by The Prisons Act, 1894 and the Prison Manuals of the respective State Governments.
- **Section 436A** of the Criminal Procedure Code, 1973 (CrPC) directs all States to release undertrials in prison.
- This section states that if an under trial has been in jail for more than half of the maximum punishment for the crime he is charged with, he should be released on personal bond without bail.
- This section keeps aside the prisoners who may attract life term or capital punishment.
- **NCRB**
 - a) The National Crime Records Bureau (NCRB) is an Indian government agency responsible for collecting and analysing crime data as defined by the Indian Penal Code (IPC).
 - b) NCRB is headquartered in New Delhi and is part of the Ministry of Home Affairs (MHA), Government of India.
 - c) The current Director of NCRB is Radha Krishna Kini A (IPS)

- **NHRC**

- a) The National Human Rights Commission(NHRC) of India is an autonomous public body constituted in 1993 under the Protection of Human Rights Ordinance. It was given a statutory basis by The Protection of Human Rights Act, 1993 (TPHRA).
- b) The NHRC is the national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".
- c) The NHRC consists of:
 - A Chairperson, retired Chief Justice of India
 - One Member who is, or has been, a Judge of the Supreme Court of India
 - One Member who is, or has been, the Chief Justice of a High Court
 - Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights
 - In addition, the Chairpersons of four National Commissions of (1.Minorities 2.SC and ST 3.Women) serve as ex officio members.
 - Chairperson: The current chairperson of the NHRC is Ex-CJI, Shri H.L. Dattu.

Concepts:Points to focus

- The Ministry of Home Affairs has recently approved a *New Prison Manual 2016*, which aims at uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners across India.
- The new manual has given special attention on access to **free legal services(Article 39A of the Indian Constitution)**, the needs of women prisoners, rights of prisoners sentenced to death, modernization and computerization of prisons, provisions for children of women prisoners, inspection of prisons, etc.
- Guidelines includes *Under-trial Review Committee* to be set up in each district, earliest release of under trials as per the provision of law, empanelling competent lawyers for the under trials, improvement in the living conditions of jails specially for women, Management Information System (MIS) to be in place in all jails and annual review of the implementation of the Model Prison Manual 2016.

Practice Questions

Q33. The access to free legal service has been enshrined in

- a) Article 38
- b) Article 38A
- c) Article 39A
- d) Article 39(d)

Q34. Which of the following Acts constitutes the National Human Rights Commission of India (NHRC)?

- a) National Human Rights Commission of India Act, 1993
- b) Indian Human Rights Act, 1995
- c) Indian Civil Rights Act, 1968
- d) The Protection of Human Rights Act, 1993

Q35. Who shall appoint the Chairperson and Members of National Human Rights Commission (NHRC) in India?

- a) The Prime Minister
- b) The President
- c) The Chief Justice of India
- d) The Speaker of Lok Sabha

Q36. Which of the following shall be deemed members of National Human Rights Commission (NHRC)?

- I. The chairperson of the National Commission for Minorities
 - II. The chairperson of National Commission for the Scheduled Castes
 - III. The chairperson of National Commission for the Scheduled Tribes
 - IV. The chairperson of National Commission for Women
- a) I, II and III
 - b) II, III and IV
 - c) I, III and IV
 - d) I, II, III and IV

THEME 4

CENTRE-STATE RELATIONS

12. DEMAND FOR SPECIAL CATEGORY STATUS BY ANDHRA PRADESH

#Centre-State relations

Why is this topic important for the exam?

- States that come under special category status get preferential treatment in getting Central funds assistance.
- For instance, Normal Central Assistance (NCA), the main assistance for state plans, is split to favour special category states. The nature of the assistance varies for special category states.
- NCA is split into 90% grants and 10% loans for Special Category States while the ratio between grants and loans is 30:70 for other states.
- Centre-State relations is again a common area for asking questions. Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. Which of the following are associated with 'Planning' in India? (#Pre 2014)

1. The Finance Commission
2. The National Development Council
3. The Union Ministry of Rural Development
4. The Union Ministry of Urban Development
5. The Parliament

Select the correct answer using the code given below.

- (a) 1, 2 and 5 only
- (b) 1, 3 and 4 only
- (c) 2 and 5 only
- (d) 1, 2, 3, 4 and 5

Q. The Government of India has established NITI Aayog to replace the (#Pre 2015)

- (a) Human Rights Commission
- (b) Finance Commission
- (c) Law Commission
- (d) Planning Commission

Q. The Parliament of India acquires the power to legislate on any item in the State List in the national interest if a resolution to that effect is passed by the (#Pre 2016)

- (a) Lok Sabha by a simple majority of its total membership
- (b) Lok Sabha by a majority of not less than two-thirds of its total membership
- (c) Rajya Sabha by a simple majority of its total membership
- (d) Rajya Sabha by a majority of not less than two-thirds of its members present and voting

- Q. Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Centre, a feature that militates against the concept of strong federalism. Discuss. (#Main 2014)
- Q. The concept of cooperative federalism has been increasingly emphasized in recent years. Highlight the drawbacks in the existing structure and the extent to which cooperative federalism would answer the shortcomings. (#Main 2015)
- Q. What is the basis of regionalism? Is it that unequal distribution of benefits of development on regional basis eventually promotes regionalism? Substantiate your answer. (#Main 2016)
- Q. Co-operative federalism: Myth or Reality. (#Main 2016)

What is the current context?

- The separation of State of Telangana from Andhra Pradesh has led to the demand of Special Category Status by Andhra Pradesh.
- The demand for special status for Andhra Pradesh has led to State-wide protests and heated debates in Parliament. The Centre has yet not accepted the demand for a special status.

Core and Concepts:Points to focus

- **Financial Governance:Finance Commission**
 - a) Under Article 280 of the Indian Constitution, the President by order may constitute a Finance Commission every five years, or earlier which shall comprise of a Chairman and four other members to be appointed by the President.
 - b) It came into existence in 1951. The chairperson of first finance commission was K.C. Neogy
 - c) Its primary job is to recommend measures and methods on how revenues need to be distributed between the Centre and states. Besides suggesting the mechanism to share tax revenues, the Commission also lays down the principles for giving out grant-in-aid to states and other local bodies.
 - d) The President shall cause every recommendation made by the Finance Commission to be laid before each House of Parliament together with an explanatory memorandum as to the action taken thereon.
- **Special Category Status (SCS)**
 - a) The concept of a SCS was first introduced in 1969 after the recommendations of the 5th Finance Commission. The Constitution does not include any special provision for a Special Category Status (SCS) State.
 - b) However, certain states were historically disadvantaged in contrast to others due its physical terrain and low productivity and revenue opportunity hence Central plan assistance to SCS States have been granted in the past by the erstwhile National Development Council (NDC).
 - c) The NDC granted this status based on a number of features of the States which included: hilly and difficult terrain, low population density or the presence of sizeable tribal population, strategic location along international borders, economic and infrastructural backwardness and non-viable nature of State finances.
 - d) Initially, three states namely *Assam, Nagaland and Jammu & Kashmir* were granted special status. This status was extended to eight more states which are *Arunachal Pradesh, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Tripura and Uttarakhand*.
 - e) Recently, Fourteenth Finance Commission headed by Dr. Y.V. Reddy has abolished the concept of special category status as it has increased states' share of central taxes from 32% to 42%.

Practice Questions

Q37. Which of the following statements is/are correct?

1. The President shall at the expiration of every fifth year or at such earlier time by order, constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.
2. The provisions for Finance Commission is given under Article 262 of the Indian Constitution.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

Q38. Which of the following best describe the efforts of Finance Commission?

1. To recommend distribution of the net proceeds of taxes between Union and the States
2. To recommend principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India
3. To recommend measures needed to augment the Consolidated Fund of a State to supplement the resources of Panchayats and Municipalities in the State
4. To recommend financing of Disaster Management with reference to the National Calamity Contingency Fund and the Calamity Relief Fund and the funds envisaged in the Disaster Management Act, 2005

- a) 1,2 and 4
- b) 1,2 and 3
- c) 1, 3 and 4
- d) 1, 2, 3 and 4

Q39. Which of the following statements is/are correct?

1. The fourteenth finance commission has increased states' share of central taxes from 32% to 42%.
2. The fourteenth finance commission has emphasised on special category status to states.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

THEME 5

GOVT. POLICIES AND DEVELOPMENT PROCESSES

13. SINGUR LAND ISSUE

#Government development policies

Why is this topic important for the exam?

- Land acquisition in India is a burning issue and has often led to conflicts.
- India is a fast-growing economy and there is lots of pressure on the diversion of land for industrial purposes.
- This brings into picture the issue of just and wilful land acquisition along with payment of decent compensation and rehabilitation of displaced communities.
- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. The right to fair compensation and transparency land acquisition, rehabilitation and resettlement act, 2013 has come into effect from 1 January 2014. What implication would it have on industrialization and agriculture in India? (#Main - 2013)

What is the current context?

- The Supreme Court in a major ruling directed the West Bengal Government to return to the owners all the land acquired by the West Bengal Industrial Development Corporation for TATA Nano project in the garb of public purpose at Singur in Hooghly district.
- The Supreme Court held that under the Land Acquisition (1894) Act, the Collector in exercising quasi-judicial powers did not award just and reasonable compensation to the landowners/cultivators.

Core:Points to focus

- **Directive Principles of State Policy**
 - a) **Principles of Policy:**Article 39 says that while framing policies, state would strive to provide adequate means of livelihood, resource distribution, safety of citizens and healthy development of children.
 - b) **Article 46** says that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.
- **The Land Acquisition Act, 1894**
 - a) It is a British era law that governed the process of land acquisition in India until 2013. It allowed the acquisition of land for some 'public purpose' by a government agency from individual landowners after paying a government-determined compensation to cover losses incurred by landowners from surrendering their land to the agency.
 - b) The British had never defined the words "public purpose" in a straightforward manner, which meant that in theory as well as in practice, a government could acquire land for any purpose they wanted, and term their

purpose "public purpose". Now a new Act, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, replaced this law.

- **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013 (also Land Acquisition Act, 2013).**
- It is an Act that regulates land acquisition and lays down the procedure and rules for granting compensation, rehabilitation and resettlement to the affected persons in India.
- a. The Act has provisions to provide fair compensation to those whose land is taken away, brings transparency to the process of acquisition of land to set up factories or buildings, infrastructural projects and assures rehabilitation of those affected.
- b. The Act establishes regulations for land acquisition as a part of India's massive industrialisation drive driven by public-private partnership.
- c. The Act sets out the categories of projects that would fall under public purpose, and allows acquisition for private companies' subject to provisions related to consent, compensation and rehabilitation.

- **Property rights**

Right to property was a fundamental right under **Article 19(1)(f)** which guaranteed to Indian citizens a right to acquire, hold and dispose of property. Article 19(5) however permitted the state to impose by law reasonable restrictions on this right in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

Article 19(1)(f) and some provisions of Article 19(5) has been repealed by the **Constitution (Forty-fourth Amendment) Act, 1979**. Instead by the very same amendment, **Article 300A** was introduced in the Constitution.

As per Article 300A, no person shall be deprived of his property save by authority of law. Hence, after the Constitution Forty-fourth Amendment, Right to Property ceased to be a fundamental right but still continues as a constitutional right.

The major difference between a fundamental right and a constitutional right is that in cases of violation of fundamental rights one can directly approach the Supreme Court by filing a writ under **Article 32** of the constitution, and this right to approach the Supreme Court for violation of fundamental rights is a fundamental right in itself, in the form of Article 32 of the constitution. This right to directly move Supreme Court for violation of your rights is not available for constitutional rights.

Practice Questions

Q40. Which of the following amendments removed Right to Property as Fundamental Right?

- a) 42nd Amendment
- b) 44th Amendment
- c) 51st Amendment
- d) 57th Amendment

Q41. Which of the following statements is/are correct?

- 1. The Land Acquisition Act, 1894 allowed the acquisition of land for some 'public purpose' by a government.
- 2. The Land Acquisition Act, 2013 has adopted same procedures of 'public purpose' as mentioned in 1894 Act.

Choose the correct code

- a) 1 only

- b) 2 only
- c) Both 1 and 2
- d) None of the above

14. COMPETITIVE BIDDING THROUGH SWISS CHALLENGE METHOD

#Government development policies

Why is this topic important for the exam?

- Requirement of faster and quality infrastructure development is becoming more and more important to sustain and improve growth and holistic development in the country.
- This requires targeted feasibility studies, and faster approvals, thus impacting 'Ease of doing business' ranking.
- This approach should also be visible across the country rather than skewed in few states or growth areas only. So, this requires a better method for project development.

What is the current context?

- The Centre plans to introduce competitive bidding among states for infrastructure projects, hospitals, educational institutions and for hosting national events on the basis of Swiss Challenge Method.
- Depending on the issue, states would have to compete over ease of providing land, extent of fiscal concessions, connectivity, provision of utilities, speedy statutory clearances, and quantum of employment to be generated.

Core and Concepts: Points to focus

- **Swiss Challenge Method**
 - a) Swiss challenge method is a new process of awarding contracts to the most competent bidder for projects.
 - b) Any person with credentials can submit a development proposal to the government.
 - c) That proposal will be made online and other persons/parties can give suggestions to improve and beat that proposal.
 - d) If a third party's bid is more efficient, the first bidder will be asked to resubmit a fresh bid.
 - e) If the first bidder comes up with a better proposal, it gets the project, and if it fails, the one with the more efficient bid wins the project.
- **Swiss Challenge method not approved by a government committee**
 - a) The Dr. V. Kelkar Committee on Revisiting & Revitalising the PPP model of Infrastructure Development has suggested in one of its recommendations that unsolicited Proposals ("Swiss Challenge") may be actively discouraged.
 - b) Because proposals through Swiss Challenge Method has the potential to bring information asymmetries into the procurement process and may result in lack of transparency and fair and equal treatment of potential bidders in the procurement process. However, the government has yet not accepted the said report.

Practice Questions

Q42. The Swiss Challenge Method is related to

- a) Awarding of development contracts
- b) Global warming
- c) Disaster Management
- d) Financial Management

15. RIGHT TO SAFE WATER

#Parliament (conduct of business)

Why is this topic important for the exam?

- Water is the common heritage of the people of India and is essential for the sustenance of life in all its forms.
- Water is an integral part of the ecological system, sustaining and being sustained by it and is a basic requirement for livelihoods.
- Water is a necessary input for economic activity such as agriculture, industry and commerce and a means of transportation, recreation and an inseparable part of a people's landscape, society, history and culture.
- Recently, the scarcity of water has increased due to various environmental and other reasons and has resulted in conflicts over surface and ground water becoming more common by the day. Hence it becomes imperative on the part of the state to not only preserve water but also ensure its availability for equitable use by all.
- Hence, the government has for the first time enacted draft legislations on right to safe drinking water and use of ground water, as water is becoming a scarce commodity in India and many states are reeling under the loss of underground water table due to deficient monsoon.

What is the current context?

Following are the two-draft legislations being enacted by the Ministry of Water Resources:

- *National Water Framework Bill, 2016 and*
- *Model Bill for the Conservation, Protection, Regulation and Management of Groundwater, 2016.*

These proposed laws on water promises to give every person the right to a minimum amount of "safe water", while making the state "obliged" to "protect" and conserve water.

Core:Points to focus

- **Issue of Fundamental Rights:** Supreme Court of India has recognised the fundamental right to water as integral to the right to life and has further specified variously the corresponding duties of the state protected under Right to Life guaranteed under Article 21 of the Indian Constitution.
- **Article 15** of Indian Constitution has been taken care of as there is no discrimination envisaged by the government on the right to safe drinking water.
- **Directive to State:** In addition to Article 21, Article 39 (b) of the Directive Principles of State Policy recognizes the principle of equal access to the material resources of the community.
- **Article 39 (b)** mandates that 'the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community is so distributed as best to subserve the common good.

Hence, it becomes the duty of state to provide an overarching national legal framework with principles for protection, conservation, regulation and management of water.

- Other areas to be revised (also covered earlier in this module): Bill passing process, Types of Bills, Passing of a Bill, Joint session of Parliament

Concepts: Points to focus

- **National Water Policy:** National Water Policy is formulated by the Ministry of Water Resources of the Government of India to govern the planning and development of water resources and their optimum utilization. The first National Water Policy was adopted in September, 1987. It was reviewed and updated in 2002 and later in 2012. The salient features of the NWP 2012 are:
 - a) Emphasis on the need for a **national water framework law**, comprehensive legislation for optimum development of inter-State rivers and river valleys, amendment of Irrigation Acts, etc.
 - b) Water, after meeting the pre-emptive needs for safe drinking water and sanitation, achieving food security, supporting poor people dependent on agriculture for their livelihood and high priority allocation for minimum eco-system needs, be treated as economic good so as to promote its conservation and efficient use.
 - c) **Ecological needs of the river** should be determined by recognizing that river flows are characterized by low or no flows, small floods, large floods and flow variability and should accommodate development needs. A portion of river flows should be kept aside to meet ecological needs ensuring that the proportional low and high flow releases correspond in time closely to the natural flow regime.
 - d) **Adaptation strategies** in view of climate change for designing and management of water resources structures and review of acceptability criteria has been emphasized.
 - e) A system to evolve benchmarks for water uses for different purposes, i.e., **water footprints, and water auditing** be developed to ensure efficient use of water. Project financing has been suggested as a tool to incentivize efficient & economic use of water.
 - f) Setting up of **Water Regulatory Authority** has been recommended. Incentivisation of recycle and re-use has been recommended.
 - g) **Water Users Associations** should be given statutory powers to collect and retain a portion of water charges, manage the volumetric quantum of water allotted to them and maintain the distribution system in their jurisdiction.
 - h) **Removal of large disparity in stipulations** for water supply in urban areas and in rural areas has been recommended.
 - i) Water resources projects and services should be managed with **community participation**. Wherever the State Governments or local governing bodies so decide, the private sector can be encouraged to become a service provider in public private partnership model to meet agreed terms of service delivery, including penalties for failure.
 - j) Adequate grants to the States to update technology, design practices, planning and management practices, preparation of **annual water balances and accounts** for the site and basin, preparation of **hydrologic balances** for water systems, and benchmarking and performance evaluation.
- **Justice T. S. Doabia committee:** The Ministry of Water Resources also constituted another Committee under the Chairmanship of Justice T. S. Doabia to study the activities that are required for optimum development of river basin and changes required in the existing River Board Act, 1956 for achievement of the same.
- **Dr. Mihir Shah Committee:** This committee was constituted to examine the provisions of the draft National Water Framework Law and draft River Basin Management Bill and suggest changes/ modifications therein taking into

account the emerging challenges in the water sector, reuse of waste water after treatment, the likely impact of climate change on water resources, importance of river restoration/rejuvenation, water contamination issues etc.

- *National Water Framework Bill* is a right based legislation where every person will have a right to sufficient quantity of safe water for life within easy reach of the household regardless of caste, creed, religion, community, class, gender, age, disability, economic status, land ownership and place of residence.

Practice Questions

- Q43. Which of the following articles of the Indian Constitution prohibits discrimination on the use of wells, tanks, bathing ghats?
- Article 15
 - Article 16
 - Article 17
 - Article 18
- Q44. Which of the following articles of the Indian Constitution directs the state that the ownership and control of the material resources of the community are so distributed to serve the common good?
- Article 39A
 - Article 39(b)
 - Article 40
 - Article 44
- Q45. Which of the following statements is/are correct?
- Water is primarily mentioned in State List.
 - It is subject to provisions in the Union List which enables the Union to deal with inter-State rivers if Parliament legislates for the purpose.
- 1 only
 - 2 only
 - Both 1 and 2
 - None of the above

16. CAUVERY WATER DISPUTE

#Government policies and interventions for development

Why is this topic important for the exam?

- Cauvery water dispute is a very long standing water sharing issue between Karnataka and Tamil Nadu.
- It became more pressing due to two consecutive years of poor monsoon and thus it led to increased demand on the water of River Cauvery.
- Water sharing disputes are becoming more pressing in India because of irregular monsoons, poor water management leading to water scarcity.

- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. Present an account of the Indus Water Treaty and examine its ecological, economic and political implications in the context of changing bilateral relations. (#Main-2016)

Q. Water disputes between states in Federal India. (#Main-2016)

What is the current context?

- The Supreme Court has directed the Centre to constitute a Cauvery Management Board and by this it created space for the water-sharing dispute to be handled in a scientific and responsible manner by a legally constituted technical body.
- The board, assisted by a regulation committee, is the mechanism prescribed by the Tribunal in its final order for implementing its award.
- It will be a technical body consisting of irrigation engineers and agronomists, and will have independent members as well as representatives of the basin States. It can formulate the manner in which water should be shared in a season of distress.

Core: Points to focus

- Water is included in the state list of the Constitution. It can be subject to the Centre's arbitration if, and only if, it involves a clear case of conflict or dispute.
- The **Interstate River Water Disputes Act, 1956 (IRWD Act)** is an Act of the Parliament of India enacted under Article 262 of Constitution of India on the eve of reorganization of states on linguistic basis to resolve the water disputes that would arise in the use, control and distribution of an interstate river or river valley.
- Thus, Article 262 of the Indian Constitution provides a role for the Central government in adjudicating conflicts surrounding inter-state rivers that arise among the state/regional governments.
- Whenever the riparian states are not able to reach amicable agreements on their own in sharing of an interstate river waters, **section 4 of IRWD Act** provides dispute resolution process in the form of Tribunal.
- When the tribunal final verdict is issued, based on the deliberations on the draft verdict accepted by the central government and notified in the official gazette, the verdict becomes law and binding on the states for implementation.
- In 1990, the Cauvery Water Tribunal (CWT) came up under the Inter-State Water Dispute Act (ISWD) to resolve the issue of Cauvery.
- Cauvery river originates from Talakaveri, Kodagu in Karnataka. Flowing through south and east Karnataka, the river enters Tamil Nadu and enters into the Bay of Bengal through two principal mouths in Poompuhar, Tamil Nadu. The river has basin area in Tamil Nadu, Karnataka, Kerala and Puducherry.
- **Important tributaries of Cauvery:** the Shimsha, the Hemavati River, Honnuhole River, Lakshmana Tirtha River, Kabini River, Bhavani River, the Lokapavani River, the Noyyal River, Amaravati River.
- **Dams built across Cauvery River:** Amaravathi dam, Kabani dam, Krishnarajasagar dam, Mettur dam, Upper anicut dam.

Concepts: Points to focus

- The major conflict over sharing river water is between Tamil Nadu and Karnataka and it goes back to British era, when the erstwhile Madras Presidency and the then Mysore state (Karnataka) signed an agreement on the

sharing of the river's waters in 1924. The agreement was to be valid for 50 years and then it would be subject to a review.

- However, after Independence, both states expressed their objections to the British-era agreement and the issue was taken up over several rounds of talks.
- The Cauvery issue blew up because of the increase in demand for its water. The rise in demand was primarily due to three reasons.
 - a) First, the expansion of cities such as Bengaluru and Mysuru.
 - b) Second, the drying up of other water sources, including groundwater, in these regions due to excessive exploitation and contamination.
 - c) Third, the growth of water-intensive but not necessarily water-efficient crops over the years. The Cauvery Tribunal has in its report advised against the cultivation of water-intensive crops, especially in rainfall-deficit years.
- Water sharing disputes across the country (and even beyond) are only going to escalate with increasing demand and increasing pollution and losses reducing the available water. Climate change is likely to worsen the situation as monsoon patterns change, water demand goes up with the increase in temperatures, glaciers melt and sea levels rise.
- The ongoing Cauvery water dispute has once again put the focus on inter-State river water-sharing disputes in India. Some of the water disputes that are ongoing now include
 - a) the Mahadayi water dispute among Goa, Karnataka and Maharashtra;
 - b) the Vansadhara water dispute between Odisha and Andhra Pradesh;
 - c) the Krishna water dispute involving Maharashtra, Karnataka, Telangana and Andhra Pradesh; the Cauvery water dispute; and
 - d) the Ravi Beas dispute involving Punjab, Haryana, Rajasthan and Himachal Pradesh.

Practice Questions

Q46. The famous Cauvery water dispute involves which of the following two states?

- a) Karnataka and Maharashtra
- b) Karnataka and Kerala
- c) Kerala and Tamil Nadu
- d) Karnataka and Tamil Nadu

Q47. Which of the following statements is/are correct?

1. Article 262 of the Indian Constitution provides a role for the Central government in adjudicating conflicts surrounding inter-state rivers.
2. The Interstate River Water Disputes Act, 1956 (IRWD Act) is an Act of the Parliament of India enacted under Article 262 of Constitution of India on the eve of reorganization of states on linguistic basis to resolve the water disputes.

Choose the correct code

- a) 1 only
- b) 2 only

- c) Both 1 and 2
- d) None of the above

Q48. Which of the following is not a tributary of River Cauvery?

- 1. Shimsha
 - 2. Hemavati
 - 3. Lakshmana Tirtha
 - 4. Kabini River
- a) 1 only
 - b) 2 only
 - c) 3 and 4 only
 - d) None of the Above

Q49. Which of the following dams are built across River Cauvery?

- 1. Amaravathi dam
 - 2. Kabani dam
 - 3. Krishnarajasagar dam
 - 4. Mettur dam
- a) 1 and 3
 - b) 2 and 4
 - c) 1 and 4
 - d) 1, 2, 3 and 4

17. SUPREME COURT VIEW ON SUTLEJ YAMUNA CANAL (SYL)

#Government policies and interventions for development

Why is this topic important for the exam?

- The construction of Sutlej Yamuna link canal is a bone of contention between Punjab and Haryana.
- It became more pressing due to two consecutive years of poor monsoon and thus it led to increased demand on the water sharing.
- Water sharing disputes are becoming more pressing in India because of irregular monsoons, poor water management leading to water scarcity.

What is the current context?

- Five Judge Constitutional Bench of Supreme Court ruled that Punjab had no right to unilaterally terminate water-sharing agreements with neighbouring states and declared "Punjab Termination of Agreement Act, 2004" as unconstitutional.
- The matter was raised as a Presidential Reference under **Article 143** of the Indian Constitution.

Core:Points to focus

• **Sutlej Yamuna Link**

- a) The Sutlej Yamuna Link Canal (SYL) is a proposed 214-kilometer-long canal to connect river Sutlej and Yamuna along the states of Punjab and Haryana.
- b) Sutlej river originates near Lake Rakshastal in Tibet then enters India at Shipki La pass in Himachal Pradesh and flows south west through Punjab before entering Pakistan.
- c) Whereas river Yamuna originates from Yamunotri glacier of lower Himalayas in Uttarakhand. It initially flows south and then take left turn towards south east before meeting river Ganga at Allahabad.

Concepts:Points to focus

- The entire issue erupted with the partition of India in 1947 which also resulted in partition of Punjab by the recommendation of *Radcliffe Commission*. The issue of separation of riparian and non-riparian states came to the core as major rivers flowed to the then created Pakistan.
- The dispute between Indian and Pakistan was settled through the *Indus Water Treaty, 1960*. However, the disputes between the Indian states still remained.
- In January 1955, the states of Punjab, PEPSU- (*State of Punjab, Patiala and East Punjab States Union*), Rajasthan and Jammu & Kashmir came to an agreement regarding the distribution of water from the rivers Sutlej, Ravi and Beas.
- The dispute over sharing of river water emerged after re-organisation of states in 1966 when PEPSU was added to Punjab and a separate state was carved out from Punjab namely Haryana.

Practice Questions

Q50. The Sutlej Yamuna Link Canal (SYL) is a proposed 214-kilometer-long canal to connect river Sutlej and Yamuna between

- a) Punjab and Himachal Pradesh
- b) Punjab and Haryana
- c) Haryana and Rajasthan
- d) Rajasthan and Punjab

Q51. River Sutlej originates near Lake Rakshastal in Tibet then enters India at Shipki La pass in

- a) Himachal Pradesh
- b) Jammu and Kashmir
- c) Uttarakhand
- d) Uttar Pradesh

18. CENSUS DATA ON LITERACY

#Issues relating to development and management of social sector/services

Why is this topic important for the exam?

- The Indian Census is the most credible source of information on Demography, Economic Activity, Literacy and Education, Housing & Household Amenities, Urbanisation, Fertility and Mortality, Scheduled Castes and Scheduled Tribes, Language, Religion, Migration, Disability and many other socio-cultural and demographic data since 1872.

What is the current context?

Findings on literacy figures according to Census 2011.

- Descending order of Literacy is** (*literacy rate for those above 7 years of age; the Census data has taken those between 0 and 6 years as illiterate*)
Jains (86.73%) > Christians (74.34%) > Buddhists (71.83%) > Sikhs (67.51%) > Hindus (63.6%) > Muslims (57.28%)
- Descending order of Graduates**
Jains (25.65%) > Christians (8.85%) > Sikhs (6.40%) > Buddhists (6.18%) > Hindus (5.98%) > Muslims (2.76%)

Core:Points to focus

- Indian census is conducted every ten years beginning from **1872** when the first census was conducted.
- The first complete census was taken in the year **1881**. The Viceroy was **Lord Ripon**.
- The Census Organisation was set up on an ad-hoc basis for each Census till the 1951 Census.
- The Census Act, 1948 was then enacted to provide for the scheme of conducting population census with duties and responsibilities of census officers.
- The Government of India initiated steps for developing systematic collection of statistics on the size of population, its growth, etc. and established an organisation in the Ministry of Home Affairs under Registrar General and ex-Officio Census Commissioner in May, 1949.
- So now, the responsibility of conducting the decennial Census rests with the Office of the Registrar General and Census Commissioner, India under Ministry of Home Affairs, Government of India.
- The literacy rate was 18% in 1951. In 2011, it was 74%.

Concepts: Points to focus

- The Census 2011 was the 15th National Census of the Country and is the only source of primary data in villages, towns and at ward levels. It provides valuable information for planning and formulation of various policies for Central and respective State Governments. Data collected from the census is also used for *Delimitation process* and for reservation in constituencies for the conduct of elections for Panchayat, State Assemblies and Parliament.
- Delimitation of Constituencies:** Under **Article 82** of the Constitution, the Parliament by law enacts a Delimitation Act after every census. After coming into force commencement of the Act, the Central Government constitutes a Delimitation Commission. This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act. The present delimitation of constituencies has been done on the basis of 2001 census figures under the provisions of Delimitation Act, 2002.

- For **The Delimitation Act, 2002**, the Constitution (Eighty-fourth Amendment) Act, 2001 and The Constitution (Eighty-seventh Amendment) Act, 2003 have amended **Article 81** (Composition of the House of the People), **Article 82** (Readjustment after each census), **Article 170** (Composition of the Legislative Assemblies), **Article 330** (Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People) and **Article 332** (Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States) of the Constitution of India.
- The cumulative effect of these amendments to the Constitution is that:
- The total number of existing seats as allocated to various States in the House of the People on the basis of 1971 census shall remain unaltered till the first census to be taken after the year 2026.
- The total number of existing seats in the Legislative Assemblies of all States as fixed on the basis of 1971 census shall also remain unaltered till the first census to be taken after the year 2026.
- The number of seats to be reserved for the Scheduled Castes (SCs) and Scheduled Tribes (STs) in the House of the People and State Legislative Assemblies shall be re-worked out on the basis of 2001 census
- Each State shall be re-delimited into territorial parliamentary and assembly constituencies on the basis of 2001 census and the extent of such constituencies as delimited now shall remain frozen till the first census to be taken after the year 2026.
- The Delimitation Commission chairperson was Mr. Justice Kuldip Singh (former Judge of the Supreme Court of India) and worked along with Shri B.B. Tandon, former Election Commissioner of India, and the State Election Commissioner of the State concerned as defined in the explanation to Section 3 of the said Act.
- Thus, the present Constituencies carved out on the basis of 2001 census shall continue to be in operation till the first census after 2026.

Practice Questions

Q52. Which of the following statements is/are correct?

1. The first complete census was conducted in the year 1881.
2. The viceroy in 1881 was Lord Lytton.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) Neither 1 nor 2

Q53. Which of the following statements is/are correct?

1. As per Census 2011, the largest number of graduates are among Christians in India.
2. As per Census 2011, the largest number of literates are among Jains in India.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2

d) Neither 1 nor 2

Q54. Which of the following statements is/are correct?

1. Under Article 82 of the Constitution, the Parliament by law enacts a Delimitation Act after every census.
2. The Constitution of India was specifically amended in 2002 not to have delimitation of constituencies till the first census after 2026.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) Neither 1 nor 2

19. REGULATION OF DONATIONS BY FOREIGN NGOS

Development process (Role of NGOs)

Why is this topic important for the exam?

- Donations by foreign NGOs and companies were under the watch of Indian agencies and licences of many NGOs involved in getting foreign donations have been cancelled.
- In all, there are many foreign donors under the government's scanner right now. Additionally, the Foreign Contribution Regulation Act (FCRA) licenses of around 10,000 NGOs have been cancelled.
- The government suspects that foreign funds are being used by NGOs for lobbying against government projects and schemes.
- Importance given by UPSC is reflected in the nature of questions asked in previous years, for e.g.

Q. Examine critically the recent changes in the rules governing foreign funding of NGOs under the Foreign Contribution (Regulation) Act (FCRA), 1976. (#Main - 2015)

What is the current context?

- The Centre has allowed U.S.-based NGO, Compassion International, to disburse funds to ten NGOs in India, months after it was put on the government's watch list after security agencies reported that it was funding Indian NGOs involved in religious conversions.

Core and Concepts: Points to focus

- **Foreign Contribution Regulation Act, 2010**
- a) FCRA regulates the foreign contribution (money donation) and foreign hospitality (e.g. free airplane tickets and hotel lodging during foreign visits) given to various NGOs, institutes, judges, journalists, public servants etc.
- b) It is also to check that foreigners are not affecting India's electoral politics, public servants, judges, journalists, NGOs etc. for wrong purposes. If someone violates the FCRA act, he/she can be sent to jail for up to 5 years.
- **Who can receive foreign contribution?** A person or an organisation having a definite cultural, economic, educational, religious or social programme can receive foreign contribution after it obtains the prior permission of the Central Government, or gets itself registered with the Central Government.

- **Who cannot receive foreign contribution?** Following category of people cannot receive foreign contribution as defined in Section 3 of FCRA, 2010
 - a) a candidate for election
 - b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper
 - c) Judge, government servant or employee of any Corporation or any other body controlled or owned by the Government
 - d) member of any legislature
 - e) political party or office bearer thereof
 - f) organization of a political nature as defined by the Act
 - g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in the Information Technology Act, 2000 or any other mode of mass communication;
 - h) correspondent or columnist, cartoonist, editor, owner of the association or company who are prohibited by the government
 - i) Individuals or associations who have been prohibited from receiving foreign contribution.
- Contributions made by a citizen of India living in another country (i.e., Non-Resident Indian), from his personal savings, through the normal banking channels is not treated as foreign contribution. However, while accepting any donations from such NRI, his passport details must be obtained to ascertain that he/she is an Indian passport holder.
- Donation from an Indian who has acquired foreign citizenship will be treated as foreign contribution. This will also apply to PIO / OCI cardholders. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship.
- **New amendments to FCRA, 2010**
 - a) According to the changes, NGOs and organisations that receive foreign donations will now have to share personal details, bank account details and bio-data of their trustees with the government.
 - b) The government has taken steps to "clearly define" provisions under the law that require "prior approval" for associations to receive foreign funding.
 - c) According to the amended rules, any foreigner associated with an NGO, who is visiting India, will have to furnish his/her details with the Foreigners Regional Registration Office (FRRO), spelling out the purpose as well as the dates of the visits.
 - d) The NGOs will have to list all their activities and declarations on a website, and register themselves under one of the nine Indian Acts: *Societies Registration Act, 1860, Indian Trust Act, 1882, Section 25 of the Companies Act, 1956, Religion Endowments Act, 1863, Charitable and Religious Trust Act, 1920, Mussalman Wakf Act, 1973, Wakf Act, 1954, Public Wakfs Act, 1959 and Section 12 A of IT Act.*

Practice Questions

- Q55. Who among the following is not debarred from receiving foreign funds under FCRA, 2010?
- a) A political party
 - b) A member of any legislature
 - c) A correspondent of a registered newspaper
 - d) An NGO

Q56. Which of the following statements is/are correct?

1. The contributions made by a citizen of India living in another country i.e. Non-Resident Indian, from his personal savings, through the normal banking channels will not be treated as foreign contribution.
2. The contributions made by an Indian who has acquired foreign citizenship will be treated as foreign contribution.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

20. PRADHAN MANTRI KAUSHAL VIKASYOJANA (PMKVY)

Welfare schemes

Why is this topic important for the exam?

- India is a country of rich demographic dividend but it is facing a huge problem of jobless growth.
- The skilled labour force is roughly 2% in India against the global average of 45%. This puts more emphasis of faster and quality skill development of our labour force for utilizing our demographic advantage and to record balanced economic growth impacting all the major sectors.
- This brings into picture a targeted skill development program.

What is the current context?

- In a bid to revitalise the government's skilling initiative of Pradhan Mantri Kaushal VikasYojana (PMKVY), the Centre has decided to make changes in the scheme to improve training and ensure better placement for the beneficiaries, thus trying to make it more efficient.

Core:Points to focus

- **Directive Principles of State Policy**
 - a) **Article 38** directs the state to secure a social order with economic, political and social justice for the promotion and welfare of the people.
 - b) **Article 38(2)** says that state shall strive to minimize the inequalities of income, status, facilities, opportunities etc.
 - c) **Principles of Policy:**Article 39 says that while framing policies, state would strive to provide adequate means of livelihood.
 - d) **Article 41** says that state shall (within its limits of economic capacity & development) will make effective provisions for securing right to work.

Concepts : Points to focus

- **Pradhan Mantri Kaushal VikasYojana (PMKVY)**
 - a) PMKVY is the flagship scheme of the Ministry of Skill Development & Entrepreneurship (MSDE). The objective of this Skill Certification Scheme is to enable a large number of Indian youth to take up industry-relevant skill training that will help them in securing a better livelihood.

- b) The PMKVY scheme imparts training based on industry-aligned National Occupational Standards through training providers and Sector Skill Councils.
 - c) Candidates are eligible for a monetary reward upon successful completion of their training and also clearing the assessment by an independent assessment agency appointed by the respective Sector Skill Council.
 - d) Moreover, the candidates also receive a government recognised certificate which helps them become gainfully employed. The skill training is compliant with the standards set by the National Skills Qualifications Framework (NSQF).
 - e) Besides these, individuals with prior learning experience or skills will also be assessed and certified under Recognition of Prior Learning (RPL) scheme, which is a subcomponent of the Pradhan Mantri Kaushal VikasYojana.
 - f) The RPL scheme, certifies the skills acquired by workers in the unorganised sectors through traditional, non-formal learning channels. The selling point of the RPL is the certification and monetary reward for those enlisting for the demand-driven scheme that aims to mobilise the youth to take up skill training and become employable.
- **National Skill Development Corporation (NSDC)**
 - a) NSDC was formed in 2008 with the approval of the Union Cabinet as a not for profit public company with an objective to increase the skill training capacity in the country.
 - b) NSDC is under the Ministry of Skill Development & Entrepreneurship. It aims to promote skill development by catalyzing creation of large, quality, for-profit vocational institutions.
 - c) NSDC has four-tiered decision making comprising of 1. National Skill Development Fund 2. The Board of Directors 3. Board Sub Committees 4. Executive Council.

Practice Questions

Q57. Which among the following articles mentions about making effective provisions for securing right to work?

- a) Article 38
- b) Article 39
- c) Article 40
- d) Article 41

Q58. Which of the following statements is/are correct?

1. National Skill Development Corporation (NSDC) is a for profit public company.
2. NSDC is under the Ministry of Skill Development & Entrepreneurship.

Choose the correct code

- a) 1 only
- b) 2 only
- c) Both 1 and 2
- d) None of the above

THEME 6

GOVERNANCE

21. SEVENTH PAY COMMISSION

#Governance

Why is this topic important for the exam?

- Pay Commissions are generally appointed after a gap of ten years to adjust the salary by revising of pay scale of government employees as per inflation in the economy.
- It is a form of financial governance and acts as a morale booster for the government employees.
- Raise in salary increases purchasing power and thus benefit production cycle by raising the demand in the economy.

What is the current context?

- The Union Cabinet chaired by the Prime Minister has recently approved the implementation of the recommendations of Seventh Central Pay Commission on pay and pensionary benefits.
- Seventh Pay Commission shall come into effect retrospectively from 1st January 2016.

Core: Points to focus

- The **First Pay Commission** chaired by Shri SrinivasaVaradacharia was constituted in 1946, and since then, every decade commission is setup by GOI to decide the wages of government employees.
- The seventh pay commission has been appointed by the Government of India under the **Ministry of Finance** to examine, review, evolve and recommend changes with respect to grade pay structure, allowances and pension for both civilian and defence personnel.
- The **chairperson** of the 7th commission was Justice Ashok Mathur.
- Personnel belonging to **civilian employees** includes: 1. Central Government Employees-industrial and non-industrial 2. Personnel belonging to the All India Services 3. Personnel of the Union Territories 4. Officers and Employees of Indian Audit and Accounts Department 4. Officers and employees of the Indian Audit and Accounts Department 5. Members of the regulatory bodies excluding Reserve Bank of India (RBI) set up under the acts of Parliament 6. Officers and employees of Supreme Court.

Concepts: Points to focus

- **Aykroyd formula:** The calculation of salary revision is done on the basis of Aykroyd formula which is need based minimum wage concept including calories intake of an adult individual. It was recommended in 1948 by Dr. Wallace Aykroyd, first director of the Department of Nutrition at Food and Agricultural Organisation (FAO).
- **Minimum Pay:** According to it and as per the seventh pay commission, the minimum pay in government is to be set at 18,000 per month at the lowest entry level and for a freshly recruited Class I officer, the starting salary to be Rs. 56,100 per month.

- **Maximum Pay:** The maximum pay has been set at Rs. 2,25,000/- per month for Apex scale and Rs. 2,50,000/- per month for Cabinet Secretary and others presently at the same pay level.
- **Pay Matrix:** The present system of pay bands and grade pay will be replaced by a new "Pay Matrix" designed by the Commission and the hierarchy of seniority of an employee will now be determined by the newly conceived Pay Matrix.
- **Performance related pay:** The Commission has recommended introduction of the Performance Related Pay (PRP) for all categories of Central Government employees based on reformed Annual Performance Appraisal Reports (APAR).

Practice Questions

Q59. Which of the following statements with regard to Seventh Pay Commission is/are correct?

1. The Seventh pay commission has been appointed under the Ministry of Personnel, Public Grievances and Pensions to examine, review, evolve and recommend changes with respect to grade pay structure, allowances and pension for civilian personnel only.
 2. The recommendations of the Commission are based on Aykroyd formula, which is need based minimum wage concept including calories intake of an adult individual.
- a) 1 only
b) 2 only
c) Both 1 and 2
d) None of the above

Q60. Which of the following statements with respect to Pay Commissions is/are correct?

1. The First Pay Commission appointed was appointed in the year 1948.
2. The Seventh Pay Commission was chaired by Justice Ashok Mathur.
3. The present system of pay bands and grade pay will be replaced by a new system called "Pay Matrix" designed by the Seventh Pay Commission.

Choose the correct code

- a) 1 and 2 only
b) 2 and 3 only
c) 1 and 3 only
d) None of the Above

Answers

Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10
B	D	A	C	C	D	D	B	C	B
Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
B	D	B	D	D	B	D	D	B	D
Q21	Q22	Q23	Q24	Q25	Q26	Q27	Q28	Q29	Q30
B	C	D	C	B	A	B	A	C	A
Q31	Q32	Q33	Q34	Q35	Q36	Q37	Q38	Q39	Q40
C	C	C	D	B	D	A	D	A	B
Q41	Q42	Q43	Q44	Q45	Q46	Q47	Q48	Q49	Q50
A	A	A	B	C	D	C	D	D	B
Q51	Q52	Q53	Q54	Q55	Q56	Q57	Q58	Q59	Q60
A	A	B	C	D	C	D	B	B	B