

### REGULATING ACT, 1773

- Significance-
  1. recognized political and administrative function of EIC
  2. Foundation of Central admini in india
- Features
  1. GoB>>>GGoB (Warren hasting)
  2. **Executive council-4**
  3. Subordination of G of Bombay and Madras to GGB
  4. SC @calcutta
  5. prohibited servants from trading with natives
  6. Strengthen British govt control by requiring CoD to report revenue, civil, military Affairs

### AMENDING ACT, 1781

- Features
  1. Exempted **GG** and **Council**, Servants of company from jurisdiction of SC for acts done in official capacity
  2. Excluded Revenue matters from jurisdiction of SC
  3. Appeals from Provincial courts could be taken to **GG-in-Council**, Not to SC
  4. **GG** to frame regulations for Provincial Courts and Councils

### PITTS INDIA ACT, 1784 (aka East India Company Act, 1784)

- Significance-
  1. 'British possessions in India'
  2. British govt given supreme control over comp affairs and admini in india
- Features
  1. Distinction of commercial and political function of comp
  2. DUAL GOVT >>creation of BoC (6 members- head:SoS)- to manage political affairs
  3. BoC empowered to supervise and direct ALL operations of civil, military and revenue Govt

### ACT OF 1786

- Features
  1. GG given power to override council in special cases
  2. Lord Cornwallis became **Commander-in-chief** along with GG

### CHARTER ACT, 1793

1. Royal approval to appoint GG, G, Commander-in-chief
2. Senior officials of Comp>> Can NOT leave India w/o permission
3. EIC>> empowered to give licenses for trade in India
4. Revenue admini separated from Judiciary function

5. Home govt- to be **paid from Indian revenues**
6. Commander-in-chief **not** to be member of GG council unless so appointed

### CHARTER ACT, 1813

- Significance- **Constitutional position** of british territory in India defined explicitly for **first time**
- Features
  1. Ended monopoly Except for Tea and Opium trade with China
  2. Permitted Christian Missionaries to propogate English and preach religion
  3. Education: 1 Lakh rupee
  4. Regulations made by B, M, C was to laid before British Parliament

### CHARTER ACT,1833 (aka Saint Helena Act, 1833)

- Significance-
  1. Final step of Centralization
- Features-
  1. GGB>>>>GGI (William Bentick)
  2. GGI – ALL civil and military power, authority over entire british territory, Exclusive legislative power for entire terretory
  3. G of Bombay and Madras- *chall hattttt* - deprived of legislative powers
  4. EIC- Ended activities as commercial body (ended monopoly)>> PURELY administrative body
  5. ATTEMPT to intro OPEN COMPETITION, but failed as CoD resisted
  6. Indian laws- to be codified and consolidated
  7. take steps to abolish **slavery**
  8. **Law member added to GG council**

### CHARTER ACT,1853

- Significance
  1. last of series of charter act
  2. significant constitutional landmark
- Features
  1. Separated Legislative and Executive function of GGI's council
  2. INDIAN LEGISLATIVE COUNCIL- mini-parliament
  3. Introduced OPEN COMPETITION in civil services (convenated posts open for Indians)
  4. LOCAL REPRESENTATION in ILC i.e. Provincial legislature nominated 4 members (Bombay, madras, Bengal, Agra) to ILC

### GOVERNMENT OF INDIA ACT,1858

- Significance

1. Abolished EIC
2. Transfer of power
- Features
  1. Direct crown rule- appoint GGI and G of presidencies
  2. GGI>>> VICEROY- crown representative (Lord Canning)
  3. ended DUAL GOVT of pitt's act, Abolished BoC and CoD
  4. Created SoS- complete authority and control over Indian administration, ultimate responsibility to british parliament, creation of ICS under SoS
  5. Council of India (CoI)- Advisory body headed by SoS
  6. SoS-in-Council as complete corporate- Capable of suing and being sued in India and England

### INDIAN COUNCILS ACT, 1861

- Significance-
  1. felt need of necessity of coop of Indians in administration
- Features-
  1. Beginning of REPRESENTATIVE INSTITUTION- Nomination of INDIANS in ILC
  2. initiated process of DECENTRALISATION- restored legislative powers of Bombay and Madras (taken in charter act,1833), But LC of Calcutta had power to pass laws for British India as a whole
  3. PORTFOLIO system- member of VR's council made in charge of one or more dept (thus transformed India's Executive council>>>Cabinet run portfolio system)
  4. ORDINANCES- without concurrence of ILC- life:6 months

### INDIAN COUNCILS ACT, 1892

- Significance-
  1. element of Indirect Election- though word ELECTION not used in act
- Features-
  1. increased non-official members in ILC and Provincial legis. councils
  2. Council- discuss BUDGET, Ask question to executive (but no supplementary Que)
  3. Nomination of some non-official member in: (PRINCIPLE OF REPRESENTATION)
    - A. ILC- by VR on recomm of provincial LC
    - B. Provincial LC- by Gov on recomm of district board, municip, uni, trade asso, zamindar, chambers

### MORLEY MINTO REFORMS,1909

- Features- Introduced very INDIRECT ELECTION
  1. Non-official majority in PROVINCE (NOT IN CENTRE)

2. Legislative council reforms- Increased size, ask supplementary que, move resolution on budget
3. Indians in **EXECUTIVE council of BOTH**- VR (S.P. Sinha) and GOV
4. SEPRATE ELECTORATE- Muslims, Chamber of commerce, universities, zamindars

### GOVERNMENT OF INDIA ACT, 1919 (MONTFORD REFORMS)

- Significant
  1. British govt cleared objective of introduction of RESPONSIBLE GOVT (in separate preamble) + Principle of **DIRECT ELECTION**
- Features-
  1. Centre and Province:
    - A. Demarcation and separating of Central and Provincial subjects
    - B. Separation of **BUDGET** (Central Budget – votable(25%) and Non-votable(75%))  
(provincial budget- **Fully votable**, thus can be rejected, but G could restore)

NOTE- Provinces= responsible govt, Centre= NO responsible: GG retained full control over reserved subjects of PROVINCE

  2. PROVINCES-
    - I. DYARCHY
      - A. Transferred subjects- administered by Governor with aid and advice of ministers responsible for LC (Agri, Local govt, Health, Education)
      - B. Reserved subjects- by Gov and his Executive council w/o responsibility to LC
  3. BICAMERALISM @ **Centre**- ILC >>> Council of state(Only **MALE**)and Legislative assembly- both houses having MAJORITY OF **DIRECTLY ELECTED** members
  4. VR's EXECUTIVE council- **3/6** indians
  5. Separate electorates- Sikh, Christians, Anglo, Europeans
  4. Limited Franchise (on basis of certain minimum Tax base)
  5. Public Service Commission (PSC)- CPSC in 1926
  6. High commissioner for India in London- transferred some function of SoS

### SIMON COMMISSION

1. Abolition of dyarchy
2. Extend Responsible Govt in Provinces
3. Federation of India
4. Continue communal electorate

### GOVERNMENT OF INDIA ACT, 1935

- Significance-
  1. Completely responsible Govt
- Features-
  1. All India Federation
  2. Division of power- Federal list, Provincial list, Concurrent list

Residuary power- VR

3. DYARCHY- Abolished @ provinces, introduced @Centre
4. Provincial Autonomy- autonomous administration, responsible govt (Gov to act on aid and advice of responsible ministers- authority directly derived from Crown)
5. Bicameralism @ PROVINCES- 6/11 provinces
6. Separate electorate – depressed class, woman, labours
7. Abolished CoI
8. RBI
9. FPSC, PPSC, JPSC
10. Federal court
11. extended franchise- 10%

### INDIAN INDEPENDENCE ACT, 1947

- Features
  1. Abolished office of VR- created GG for each dominion- appointed by king on advice of dominion cabinet
  2. Abolished office of SoS- transferred subject to SoS for Commonwealth
  3. FULLY SOVEREIGN CONSTI ASSEMBLY- can repeal any act of british Parliament
  4. Lapse of paramountcy over princely states and treaty relation with tribal area
  5. Monarch- can't veto bills, but **GG can**
  6. GGI and G of provinces- CONSTITUTIONAL HEADS- act on A&a of CoM in ALL Matters
  7. Discontinued appointment of civil services by SoS
  8. Administration in provinces to be run under provisions of **GoI Act, 1935**

### UNION AND IT'S TERRITORIES

- Article 2- Admission of external state in india
- Article 3- Internal readjustment to form new state (18<sup>th</sup> CAA- also **UTs**)
- Article 3: 2 conditions for alteration of boundaries-
  1. Bill in Parliament ONLY on **prior recomm of President**
  2. Prez to refer bill to State Legislature to express views within specified period (NOT for UT)
- Article 4- **ANY bill** in Art 2 & 3 is **NOT** amendment under Article 368
- Berubari Union case, 1960- Art 3 **NOT** cover Cession of territory to foreign country>> thus requires Constitutional amendment under Article 368
  - But, if settlement of boundary dispute>>No need of amend>>executive action

## CITIZENSHIP

- Consti- only identifies persons who become citizens @its commencement>> Not deals with problem of Acquisition or loss of citizenship after its commencement
- Citizens according to constitution (Upto 26 Jan, 1950 becoz after that>>decided by Citizenship act, 1955)

Article 5	Person having domicile in India and fulfilling any of 3 conditions: 1.Born 2.Either of Parents born 3.ordinarily resident since 5 yrs
Article 6	Migrant (pak>>Ind)+ either of parents OR grandparents born in undivided india + any of two conditions: 1.Before 19 July,1948 and resident since 2.After 19 July,1948- registered and resident for 6 months
Article 7	Migrant (Ind>>pak) after 1 March 1947 but later returned and resident for 6 months
Article 8	Overseas india>> born or either of parents or grandparents born in undivided india + commonly residing out of India + registered

- Article 9- No person as citizen if voluntarily acquired citizenship of any foreign states
- Article 11- Parliament>>power to make laws for citi

### Citizenship Act, 1955

- Originally also provided for commonwealth citizenship, but repealed @2003
- Prescribes 5 ways to acquire citi

#### 1. Birth

26 Jan 1950-1 <sup>st</sup> July, 1987	1 <sup>st</sup> July, 1987-3 <sup>rd</sup> Dec 2004	after 3 <sup>rd</sup> Dec
irresp. of parent nationality	either parent indian	BOTH or one not IM

#### 2. Descent- Born outside, but:

26 <sup>th</sup> Jan 1950-10 <sup>th</sup> Dec,1992	10 <sup>th</sup> dec- 3 <sup>rd</sup> Dec,2004	after 3 <sup>rd</sup> Dec
Father= Indian citizen	Either parent	Birth registered within 1 yr

#### 3. Registration- But NOT for illegal migrant

- PoIO who is ordinary resident from past **7 years**
- Person married to **citizen** of India + ordinarily resident from **7 years**

4. Naturalisation- But NOT for illegal migrant, Govt may waive all or any condn

- If person resided in India or been in Service of GoI throughout period of immediate **12 months**
- **During 14 years** preceding said 12 months>> if person resided in India or been in Service of GoI for period not less than **11 yrs**
- If adequate knowledge of language specified in **8<sup>th</sup> Schedule**

➤ Special provision for Assam accords: Section 6A of CA,1955

Before 1 <sup>st</sup> Jan,1966	1 <sup>st</sup> Jan,1966- 25 <sup>th</sup> March,1971	After 25 <sup>th</sup> March,1971
PoIO + Ordinary resident since migration	PoIO + Ordinary resident + Registration	Deport

5. Incorporation of territory- Available for GoI, NOT with individuals

NRI- defined under Sec 6 of **Income Tax Act, 1961** (**less than 182 days** resident in financial year or less than 365 days in consecutive spread over 4 years )

- **Enemy alien**- citizen of state at war with India + **Indian citizen** who trades or reside in such state

## LOSS OF CITIZENSHIP

1. Renunciation
2. Termination – when acquires citizenship of another country
3. Deprivation-
  - Obtain citizenship by fraud or disloyalty to constitution
  - Unlawfully traded or communicated with enemy during war
  - If within **5 years** of naturalization or registration>> imprisoned in **any country** for **2 years**
  - Ordinarily residing out of India for **7 years** continuously (**except** student or service of GoI or registered annually @ Indian consulate to retain citizenship)

## FUNDAMENTAL RIGHTS

Philosophy of consti- FR + DPSP + Preamble

- **Affects** balance betn: Parliamentary sovereignty and judicial supremacy
- Rights available against state's action>>>violated by private individuals>>>No constitutional remedy but a Legal remedy
- A13: Constitutional amendment under A368 **NOT** a law (24<sup>th</sup> AA)

- SC in KB case: challenged for abridging Basic structure
- Criteria for body as State under A13 as per SC:
  1. State is chief Funding source
  2. deep and pervasive state control
  3. imp public function & closely related to govt function
  4. if dept of govt is transferred to body
  5. enjoys MONOPOLY status protected by state
- Only to citizens: 15, 16, 19, 29, 30
- Rights against **individuals**: Art **15(2), 17, 23, 24**
- Article 16: No citizen shall be discriminated or ineligible for employ under state on grounds of only religion, race, caste, sex, place of birth, **descent, residence**.
- **77<sup>th</sup>** AA, 1995- reservation in promotions
- **81<sup>st</sup>** AA, 2000- ended 50% ceiling on backlog vacancies
- **85<sup>th</sup>** AA, 2001- consequential seniority
- **Article 14-** Equality before law and Equal protection of law
  - **Equality before law-**
    - Absence of any specialized privileges
    - Equal subjection of all persons to ordinary law of land
    - No person is above the law
  - **Equal Protection of Law-**
    - Equal treatment under equal circumstances, both in privileges conferred and liability imposed by the laws
    - Similar application of same law to similarly situated persons
    - Like should be treated alike without any discrimination
- Article 18- 1. **Prohibits** citizen from accepting any title from foreign state
 

2. *Balaji Raghavan VS UoI, 1996*: Sc upheld validity of national awards: ‘theory of equality does NOT mandate that merit should not be recognized + A18- only hereditary titles + BUT not to use as suffixes or prefixes
- Article 19- ONLY against state + NOT to foreigners or **legal persons**

Art 19 (a)	Speech and expression	SS MCD FPI (Sovereignty and integrity of India, <b>Security</b> of state, <b>Morality</b> or decency, <b>Contempt</b> of court, <b>Defamation</b> , <b>Friendly</b> reln with foreign states, <b>Public</b> order, <b>Incitement</b> to offenc)	Art 19(2)
Art 19 (b)	Assemble peacefully w/o arms	S P	Art 19 (3)

Art 19 (c)	Association, union, coop	S P M	Art 19 (4)
Art 19 (d)	Move freely throught territory	IoGP, IoST (prostitution + AIDS)	Art 19 (5)
Art 19 (e)	Reside and settle	IoGP, IoST	Art 19 (5)
Art 19 (g)	Occupation, trade, Buz	IoGP	Art 19 (6)

- NOTE- Art 19(a): Rt Propagate one's own views + **Views of others**
- NOTE- Art 19(d): Only freedom of INTERNAL migration (EXTERNAL=A21)
- Art 19(b): **Sec 144 of CrPC- magistrate** can restrain assembly, meetings if risk of obstruction, danger to human life, health or safety, disturbance to public tranquility, riot  
**Sec 141 of IPC:** assembly of **5 or more** persons if- forcibly occupy property, commit mischief, resist execution of any law
- Art 19(6): covers ALL means of one's livelihood (Except- State monopoly, immoral and dangerous professions)
- **44<sup>th</sup> CAA-** abolished RtProperty (thus not by Indira, but by Janata govt)
- Art 19 includes: **RTI, Right Not to listen, Right to silent**
- Art 20:
  1. No *ex-post-facto* law: Exceptions-
    1. Only criminal laws, NOT civil laws
    2. Only Conviction, NOT **Trial**
    3. NO immunity in **preventive detention** under this
  2. No double jeopardy (**prosecution + Punishment**)- only in proceeding before court of law or judicial tribunal, **not** in proceedings before Departmental or admini. authorities
  3. No Self-incrimination- Exception:
    1. Only criminal laws, NOT civil laws
    2. Compulsory production of material objects
    3. Thumb impression, specimen signature, blood specimens
    4. Compulsory exhibition of body
- Art 22: Two parts-

1. Cases of ordinary laws- Rt informed of grounds of arrest, consult & defended by legal practitioner, produce before magistrate in 24 hrs, release after 24 hours

#### EXCEPTIONS:

1. Only against criminal or quasi-criminal cases, **NOT** cover arrest under orders of court, civil arrest, not paying Income Tax, Deportation of alien
  2. NOT to **enemy alien** or **preventive detention**
2. Preventive detention laws- Available to BOTH citizens and aliens- grounds of detention (though facts of public int not be disclosed), opportunity of representation
- detention beyond 3 months>>approval by Comm of 3 Persons who are or qualified to be Judge of HC
  - **Parliament**- can prescribe cases where Person can be detained for more than 3 months **w/o approval of Advisory Board**
  - **Deepak Bajaj VS SoMH**- “Habeas Corpus is great privilege to citizens”>> thus applicable to Preventive detention

Legislative power wrt preventive detention:

Authority of Parliament	Parliament + <b>state legislature</b>
Defence, Foreign affairs, Security of India	Security of state, maintenance of public order, maintenance of essential supplies and services

- Art 23: *Surjit Roy VS SoRJ, 1983*: Prisoners entitled to get fair wages of their work
  - Exceptions to Art 23:
    1. State imposing compulsory services for public purposes w/o entitlement
    - But while imposing such, state will not discriminate on **Religion, Race, caste, class**
- Art 24: Child Labour (Prohibition and Regulation) Act, 1986- prohibit chil employ in certain occupations
  - Amendment in 2016: renamed orginal act- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986:
    1. Prohibited employ of children in ALL occupations
    2. Employ of adolescent (14-18yrs) in certain hazardous occu
- Art 25: Conscience, Profess, Practice, Propagate
  - covers not only **beliefs**, but also **rituals**
  - Exceptions:

1. Public order, morality, health
2. Art 25 (2)(a)-State can regulate **Secular activities**
3. Art 25 (2)(b)-Throw open Hindu religious insti to **all sections and classes Hindus**

- Art 26: 1. Estd and maintain insti for religious and charitable purpose
  2. manage own affairs
  3. **movable or immovable property**
  4. administer propert
- Art 27: 1. Taxes cannot be used to promote any particular religion, but maintenance of ALL religions
  2. Prohibits levy of taxes, NOT fee
- Art 29: Any section of citi having distinct lng, script or culture have right to conserve the same + **no citizen** can be denied admission into **any** edu insti maintained by state or receiving aid out of state fund on grounds of **Religion, Race, Caste, Language**
  - Both **religious** as well as **linguistic minority**
  - SC: not restricted to minorities only, as 'sections of citizens'
- Art 30: Right to **estd and Administer** edu insti + state will **not** discriminate while granting aid
  - **Only** to religious and linguistic minorities
- Art 32:
  1. Right to move to SC shall **NOT** suspend **except provided by CONSTITUTION** (not parliament), thus consti provides: President can suspend **enforcement** of FR during National emergency(**Art 359**)
  2. Violation of FR= *sine quo non* for Art 32- thus can NOT be evoked to determine constitutionality of executive order or legislation UNLESS directly infringe FR
- Writs

WRIT	Issued to	NOT issued to	FOR
Habeas Corpus	Public authority +Pvt individuals	1. Lawful detention 2. proceeding of contempt of court or legislature 3. Detention is by competent court 4. Detention <b>outside jurisdiction</b> of court	

Mandamus	ANY public body, inferior court, tribunal or <b>govt</b>	1.pvt individuals 2.Enforce dept instructions not having statutory force 3. <b>Contractual obligation</b> 4. president or gov 5. <b>CJ of HC</b>	
Prohibition	Judicial or Quasi judicial authority+ <b>body exercising legal authorit</b>	Admini authority, legislative bodies, pvt indi	1. directs Inactivity 2. Lack or Excess of jurisdiction
Certiorari	Judicial + Quasi-judicial + 1991: admini authorities <b>affecting rights</b> + body exercising legal authority	Admini authority, legislative bodies, pvt indi	1. transfer pending cases 2. squash order 3. If excess or lack or juri or Error of law 4. preventive + curative
Quo Warranto	<b>Only</b> for public office created by <b>statute</b> or <b>constitution</b>	1. <b>ministerial</b> or pvt offices	1. legality of person's claim to office

NOTE- Writ against Private individuals- ONLY **Habeas Corpus**

- Art 33: Parliament to restrict or abrogate FR of 'members of Armed/etc forces'
  1. Only by Parliament
  2. 'members of armed forces'- **includes non combatants**
  3. **Parliament** by law can **EXCLUDE** court martials from **WRIT** jurisdiction
- Art 34: Martial law, clause of indemnity to govt servants
  1. Act of indemnity- can NOT be challenged in court on ground of FR
  2. Martial law= Suspends Govt + Ordinary law court
  3. SC: Declaration of ML does NOT *ipso facto* results in suspension of Habeas Corpus
- Art 35: Power of Parliament to make laws giving effect to certain FR

- can also includes **some matters falling within state list**

#### Right to property

- As legal right>> thus protection only against executive action, Not against legislative + NO guaranteed right to compensation
- Two cases for compensation:
  1. Art 30- minority educational insti (44<sup>th</sup> CAA, 1978)
  2. Art 31A- Land of person under his **personal cultivation** within statutory ceiling limits (17<sup>th</sup> CAA, 1964)

#### EXCEPTIONS TO FUNDAMENTAL RIGHTS

##### 1.Article 31A-

- 5 categories of law- immunized from Article **14** and **19**
- NOT immunize state laws unless received **assent of president**

##### 2.Article 31B-

- ANY law included in 9<sup>th</sup> schedule- immunized (thus 31B wider than 31A)
- *I.R. Coelho case, 2007*- after 24 april, 1973>>open to challenge if violate **14,15,19,21**

##### 3.Article 31C- 25<sup>th</sup> CAA

- Laws implementing Art 39 (b) and (c) not void even if violates Art 14 and 19

#### **DIRECTIVE PRINCIPLES OF STATE POLICY**

Q 57.A

Constitution Amendment	Directive Principles added/changed
42nd, 1976	<ul style="list-style-type: none"> <li>To secure opportunities for healthy development of children (Article 39)</li> <li>To promote equal justice and to provide free legal aid to the poor (Article 39 A)</li> <li>To take steps to secure the participation of workers in the management of industries (Article 43 A)</li> <li>To secure opportunities for healthy development of children (Article 39) To protect and improve the environment and to safeguard forests and wild life (Article 48 A).</li> </ul>
44th, 1978	<ul style="list-style-type: none"> <li>The State shall, in particular, <b>strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities</b>, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations (Article 38(2))</li> </ul>
97th, 2011	<ul style="list-style-type: none"> <li>The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies. (Article 43-B)</li> </ul>
86th, 2002	<ul style="list-style-type: none"> <li>The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years. (The subject of article 45 changed)</li> </ul>

DPSP Outside Part IV: Art 335 (SC/ST claims to services) + Art 350A (instruction in mother tongue) + Art 351 (Dev of Hindi Languages)

### FUNDAMENTAL DUTIES

- Both FD and DPSP- help courts in examining Constitutional validity of law
- FD- enforceable by law

### AMENDMENT OF CONSTITUTION

- A368- **ONLY 2 types** of Majority mentioned, Simple majority type Amendments are NOT considered amendment for purpose of A368
- Thus CAA: **Must** be passed by **Special majority** (50% of total members + 2/3<sup>rd</sup> of pre)
  - NOTE- though each clause or schedule of bill are put to vote separately and by Special majority, the amendments to such clauses or schedule of CAB shall be passed by **Simple Majority** just like ordinary bills
- In **either** house + either minister or **private member** + **NO** prior sanction of prez
- 24<sup>th</sup> CAA: Prez must** give his assent (**NO** withholding or reconsideration)
- 42<sup>nd</sup> law- distinction betn state and union laws for challenging their constitutionality (HC can Not strike Union laws, SC not State laws) + NO Judicial Review on CAA

Types of amendments

SIMPLE MAJORITY	SPECIAL MAJORITY	CONSENT OF STATES
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2 <sup>nd</sup> , 5 <sup>th</sup> , 6 <sup>th</sup> Schedule	Fundamental rights	Election of President
Citizenship	DPSP	SC and HC
Election to parliament and state legislature	All remaining	Legislative and Executive powers of union and states
Parliamentary privileges		7 <sup>th</sup> schedule
No. of judges in SC		A 368
Salaries and allowances of MPs		Representation of states in Parliament
New states, LC, alteration		
<b>Delimitation of constituency</b>		
<b>Conferment of more jurisdiction to SC</b>		

## BASIC STRUCTURE OF CONSTI- 20 points

### CENTRE-STATE RELATIONS

- NOTE- Consti has provided division of Executive, Legislative, Administrative powers, BUT NOT **judicial** powers as integrated judiciary

Legislative Powers- NOTE- distri of LP betn c & s is **RIGID**

- Territorial extent of legislation
  - Exceptions on Planery powers of Parliament:
    - Prez>>4 UTs>> peace and GG>> may repeal and amend any act of parliament
    - Scheduled Areas: **Governor** may direct if Act of parliament/State is applicable
    - Tribal Areas: A. Act of Parliament: Gov>> Assam Prez>>Me, Tri, Mi  
B. Act of State: respective Governors
- Distribution of legislative subjects  
(U: 100 (97), S: 61 (66), C: 52 (47) )
- Parliamentary legislation in state field- 5 Extraordinary situation
  - When RS passes resolution (Special Majority: 2/3<sup>rd</sup>)- Such resolution: have to renew every **1 year** (if ceased, then law= ineffective after 6 months of such ceasing) + does NOT restrict power of state to legislate on same subject
  - President rule- such laws remains **active** even after prez rule, thus not co-terminus with Prez rule
  - When States Makes Request: **Surrender of power>> Parlia alone** will legislate
- Centre control over state legislation- Assent of prez, Previous sanctions, A360

## Administrative Powers

1. Distribution of executive power- Concurrent list- **states** have executive power
2. Obligation of states and Centre (A256-comply parlia law      A257- don't prejudice)
3. Centre's direction to states- A257  
A.Means of commu    B. Railway    C. instruction in mother tongue    D. **schemes for welfare of STs**
4. Mutual Delegation of power- either by agreement or by legislation
5. Coop betn Centre and state- A262, 263, full faith and credit clause, A307- parliam may appoint authority for inter-state freedom of T,C and I
6. All India Services
7. Public service Commissions
8. Relations during emergency- A352, A356, A360
9. Integrated judicial system
10. Other provisions: A355, Governor appointment, SEC

## Financial Relations

- Taxation on Concurrent subjects: **BOTH** Centre and state (thus NOT exclusive)
- Grant-in-Aids to states
  1. Statutory grants A275- empowers **Parliament** to make grants to states who are in need of financial assistance + also for welfare of STs, given on recomb of FC
  2. Discretionary grants A282-By BOTH **Centre and states** for **any public purpose** even **beyond their legislative competence**
- Note- Diff Between Cess and Surcharge:
  - Cess: **Art 270** + Can be levied by both Centre and States + go in CFI + levied by **parliament**
  - Surcharge: **Art 271** + **only by Centre** + go in CFI + levied by **parliament**
- Following bills need recommendation of President (to protect interest of states)
  1. Bill imposing or varies any tax or duty in which states are concerned
  2. Bill varies meaning of 'Agriculture Income'
  3. Bill which affects principle on which moneys are or may be distributed to states
  4. Bill which imposes any surcharge on any specific tax or duty for purpose of Centre
- Borrowing by Centre: on security of CFI or any other, but both within **limits** prescribed by **parliament**  
Borrowing by State: -----ll-----, but within **limits** prescribed by **state legislature**  
Central>> giving loans to state or giving guarantee on loans of state>> **charged on CFI**
- Intergovernmental Tax Immunities:
  1. Exemption of Central property from state taxation:
    - ALL property of Centre exempted from ALL taxes imposed by any authority
    - Corporations or Comp of Centre- NOT exempted
  2. Exemption of state property from Central
    - Property and income of state EXEMPT from Central taxation
    - But Centre can tax **Commercial operations** of state if parliament provided

- state Corporations + property of Local authority- NOT exempt from Central tax

## INTER-STATE RELATIONS

### Inter-State Water Dispute

- Under A262: parliament enacted: 1.River Boards Act, 1956 2.ISWD Act, 1956
- Under both acts- **Central Govt** (Not parliament) estd Board/Tribunal + decision of tribunals: final and binding (Note- River boards- on **request of states concerned**)
- Till now, 8 ISWDT

### Inter-State Council

- **President**, under A263>>**if satisfied**>>public interest will be served by its establishment>> thus **not permanent** constitutional body
  - Formed by **Presidential Order**
- Duties: as per A263
  1. Inter-state disputes
  2. Centre-State common interest
  3. better coord of policy and action
- Such function of council>>**Complementary to SC's jurisdiction under A131**>>thus council can deal with controversy whether **Legal or Non-legal**
- Estd in 1990 on recomm of **Sarkaria Commission** by **Presidential Orders**
- Composition of interstate council-
  1. PM
  2. CMs
  3. Administrators of UTs not having Assemblies
  4. Governors of state under Prez rule
  5. Six cabinet ministers (including Home ministers) nominated by PM
    - NOTE- ISC have Function (2) and (3) mentioned above, but NOT inter-state dispute
    - Meeting- **Thrice/year**
    - Standing Committee- chair- **MoHA** members: 5 UM + 9 CM

### North Eastern Council:

- Statutory: **NEC Act, 1971**
- **Sikkim**- added in **2002**
- Chair: **Home Minister** Vice chair: MoS for MoDoNER
- Members: **Governors + CMs** of all 8 NE states + 3 members nominated by Prez

### Public Acts, Records, and Judicial Proceeding

- Article 261: 'full faith and credit' clause
  1. 'public acts'= Legislative + Executive
  2. Records= any record made by public servant
  3. Order of **Civil court**- capable of execution **anywhere within India** (ONLY **civil judgements**, Not criminal)

## Inter-State trade and Commerce

Article 301	Freedom of Trade, Commerce and Intercourse within territory of India
Article 302	<b>Parliament</b> can impose restriction in public interest w/o discrimination between states EXCEPT case of <b>scarcity of goods</b> in any parts of country (thus discrimination allowed in this case)
Article 303	<b>State legislature</b> can impose reasonable restrictions in PI only on <b>Previous sanctions of PRESIDENT</b>
Article 304	Retaliation of taxes by state
Article 305	<b>Nationalisation</b> clause- <b>Parliament</b> OR <b>state legislature</b> can make law for monopoly
Article 307	<b>Parliament</b> can appoint AUTHORITY for freedom of T, C, I

## Zonal Council

- STATUTORY – SRA, 1956
- NO fixed timeframe- **Meet at such time as chairman may decide**
- Members
  1. Home minister- Chair
  2. All CMs in zone+admini of UTs
  3. **Two** other ministers from each state

Members that can be associated- person nominated by NITI + state Chief secretary + dev commissioner of each state

## EMERGENCY PROVISIONS

PARAMETER	NATIONAL EMERGENCY	PRESIDENT RULE	FINANCIAL EMERGENCY
Article	A352 (Consti calls this emergency as "Proclamation of emergency")	A356 (due to duty imposed by A 355 on Centre)	A360
Approval by Parliament	1 Month	2 months	2 months
	Special Majority (50%+2/3 <sup>rd</sup> )	Simple Majority	Simple majority
Extension	Indefinite+ 6 Month approval ( <b>Special Majority</b> )	3 years max + 6 months approval <b>44<sup>th</sup> CAA: 2 condn</b> 1. NE must be operational in whole country or in whole or part of state 2. ECI must certify	Continues indefinitely
Revocation	1. Prez w/o parliament 2. <b>LS</b> with simple majority (1/10 <sup>th</sup> member to give notice to Speaker)	By President by another proclamation ( <b>No role of parliament</b> ) - <b>SC</b> and <b>HC</b> and also <b>squash</b> it as unconstitutional	By President by another proclamation

	or prez if house not in session>>then vote) NOTE- <b>Only LS</b>		
Effects	1. UNITARY executive and legislative powers (though power of state not gone, but Centre/parlia-override) 2. Prez- <b>ordinance</b> on <b>state subject also</b> 3. <b>42<sup>nd</sup> CAA</b> - applicable to <b>all</b> states, not only to state under NE	1. Prez can take up: powers of state govt + Governor + any other <b>executive</b> authority 2. Prez can declare: Power of SL are to be exercised by Parliament 3. He can suspend Consti. Provisions 4. Parliament can delegate prez or any other authority power to make laws for state 5. Prez can authorize expenditure from SCF if <b>parliament</b> is NOT in session 6. laws remain <b>operative</b>	1. <b>Executive authority</b> of Centre extends to: A.direct state to observe canons of financial propriety B.dirn of prez 2. diren of Centre: A. Reduction in S&A of all or any class in state B. reserve ALL money bills+ other financial bills AFTER passed by state legislature 3. Dirn of Prez: A. reduction in S&A of judges of SC &HC. B. Reduction in S&A of all or any class in Union
Life of LS and SA	One year at a time (By <b>Law of parliament</b> , not by prez)	Suspended or Dissolved ( <b>S.R.Bommai</b> -only after parlia approves proclamation of PR)	
FR	Art 358- A19 automatic suspended (44 <sup>th</sup> CA-only in NE on Ext Agrresion) Art 359-Enforcement of rights other than A20 and 21 suspended (those mention in prez order)	No effect  NOTE- Prez Rule is imposed on <b>two</b> grounds: 1. <b>Art 356</b> : prez satisfied that state m/c cannot run as per consti 2. <b>Art 365</b> : failure to comply Centre's order	

Proper and Improper use of Article 356

PROPER	IMPROPER
1.Hung Assembly	1.No chance to ministry to prove majority on floor of house
2.No party willing to form govt	2. Internal disturbance
3.Govt disregarded Constitutional direction of Central govt	3. Allegations of maladministration and corruption
4.Internal subversion- govt deliberate acting against constitution	4. No prior warning to state govt to rectify itself (except in case of extreme urgency)
5.Physical breakdown- govt refuses to discharge constitutional function	

6. Anti secular politics

## PRESIDENT

	PRESIDENT	GOVERNOR
Election & Impeachment	<p>Election- Consti provides <b>Uniformity</b> and <b>Parity</b> between states as a whole and Union</p> <ul style="list-style-type: none"> <li>➤ Impeachment: quasi-judicial process</li> <li>1. <b>either</b> house + charges signed by <b>1/4<sup>th</sup></b> members of house&gt;&gt;14 day notice to prez&gt;&gt; resolution pass by <b>2/3<sup>rd</sup> majority of Total strength</b>&gt;&gt;other house&gt;&gt;committee</li> <li>&gt;&gt;Prez has right to appear before comm thr <b>his own legal expert or Attorney general</b></li> </ul> <p>NOTE- Consti <b>has</b> laid down procedure for prez's impeachment</p>	<p>1. Appointment- <b>Hand and Seal</b></p> <p>2. 7<sup>th</sup> CAA- for two or more states</p> <p>3. <b>Consti criteria- Indian + 35 yrs</b></p> <p>4. MLA <b>can</b> be appointed as Gov</p> <p>5. <i>Surya Narayan case, 1983-</i></p> <p>Removal&gt;&gt;Pleasure of prez&gt;&gt;<b>NOT</b> justiciable&gt;&gt;NO security of tenure</p> <p>NOTE- Office of Gov= <b>not</b> subordinate or under control of Central govt</p>
Legislative powers	1. decides question of disqualification of MPs consulting ECI ( <b>BINDING</b> )	1. decides question of disqualification of MLAs consulting ECI (NOT SEC)( <b>BIND</b> )
Financial powers	1. <b>NO demand for grant</b> can be made except on his recommendation	1. <b>NO demand for grant</b> can be made except on his recommendation
Military power	Declare war or conclude peace subjected to <b>parliament approval</b>	
Veto	<p>NOTE- Veto=withholding assent</p> <p>1. PEPSU appropriation bill</p> <p>2. S,A and P of MPs (amend) Bill</p> <p>24<sup>th</sup> CAA- NO veto on <b>CAA</b></p>	
Ordinance power	<p>1. NOT parallel to power of legislature</p> <p>2. Only on his <b>satisfaction</b> that he need to take immediate action (<i>Cooper case 1970-</i> can be questioned on malafide)</p> <p>3. <b>co-extensive</b> except for time duration with parli law making powers (thus cannot abridge FR + can be retrospective + BUT NO CAA)</p> <p>4. <b>Rule 12 of business and transaction rules-</b> PM can seek repromulgation of ordinance by prez <b>Prior</b> to cabinet clearance</p> <p>5. <b>Rules of LS-</b> bill seeking to replace ordinance&gt;&gt;statement explaining circumstances that necessitated ordi.</p> <p>6. NOTE- <b>NO</b> case gone in SC for President ordinance making power</p> <p>7. Disapproval of ordinance-<b>BOTH houses</b></p>	<p>Recomm of Prez required in <b>3</b> cases:</p> <p>1. If same bill would have required sanctions of prez</p> <p>2. Gov have deemed it necessary to reserve bill for sanction of prez</p> <p>3. If such act would have been invalidated w/o prez assent</p>

Pardoning power	<b>1.Executive power</b> 2.Offences of: 1. Union law 2. Court martial 3.Death sentence (Thus <b>NO mention of State law</b> ) 3. NO <b>Judicial review</b> except arbitrary, irrational, mala fide, discriminatory	1. Only State Laws + NO court martial + NO pardon of death sentence
Discretions	NO consti discretion, but Situational 1.Appoint PM when no majority/ sudden death with no obvious successor 2.Dismiss CoM when cannot prove M 3. <b>Dissolution of LS</b> if CoM lost M	NOTE- 42 <sup>nd</sup> CAA: made advice of CoM binding on Prez, <b>BUT no such for Gov</b> <ul style="list-style-type: none"> <li>Constitutional Discretion</li> </ul> 1. A201 2. Recomm prez rule 3. Admini of UTs 4. Determine amt payable <b>By</b> govt of Assam, Megha, Tri, Mizo to ADC as royalty 5. seek info from CMs on admini and legis matters <ul style="list-style-type: none"> <li>Certain responsibilities</li> </ul> 1. As per <b>Directions of prez</b> + consult CoM (But act in discretion) for Art 371 (A-I)

President Articles: **P** **E** **T** **Q** **O**  
 52 54 56 58 60

#### Pardoning Power

Pardon	Remove <b>BOTH</b> sentence and conviction
Commutation	Substitution to <b>Lighter form</b>
Remission	<b>Reducing period</b> w/o changing character
Respite	Lesser sentence due to <b>Special fact</b>
Reprieve	<b>Stay for temporary period</b>

- **Mercy petition-** filed under Art 72 with President
  - Can be filed with **BOTH** Prez and Governor
  - **Ranga Billa case-** Matter of discretion of authority to which it has filed, **not** as matter of right of applicant
  - A convict who is under the sentence of death is allowed to file a mercy petition within a specific period of **seven days** after the date on which the Superintendent of Jail informs him about the rejection of the appeal or special leave to appeal by the Supreme Court

#### Bills reserved by Governor for Prez consideration

- Obligatory- If endangered position of HC
- Additional-

1. *Ultra vires*
2. Opposed to DPSPs
3. Against Larger int of country
4. Grave National Impo
5. Compulsory acquisition of property under Art 31A

### VICE-PRESIDENT

- Dual Role: 1.As **Vice President**>>> Part of **Union Executive** 2.As **Chairman** of RS>> Part of Parliament (Thus as VP>. He is **not** part of parliament)
- Formal Impeachment **NOT** required for removal>> Resolution passed by RS (Absolute majority- Majority of All the then members of house) + Agreed by Lok Sabha
- **NO** grounds mentioned for his removal in constitution, But **prescribed procedure** in Art 67(2)
- Maximum period for which he can be prez= **6 months**
- Constitution **silent** on who performs VP's Duty>>if vacancy occurs in office
- Original consti>>election @ **JOINT SITTING** >>removed by 11<sup>th</sup> CAA, 1961
- Bye election (if seat becomes vacant)>> **AS SOON AS** possible (NOT 6 months)

### PRIME MINISTER

- Art 75- says only that PM is appointed by Prez
- Thus, appointing leader of majority party is **NOT mentioned** in constitution >>convention of parliamentary system
- Also, person NOT member *wala provision*- **SC in H.D.Deve Gowda Case (1997)**(NOT consti)
- Does not require to prove majority before swearing: **Delhi HC** in 1980
- (ADD committee headed by PM *wala screenshot*)
- Advices Prez on **Summoning and Proroguing** of sessions of parliament

### COUNCIL OF MINISTER

- Principles of Parliamentary system- **NOT** detailed in constitution
- Art 88- Minister take part in- either house, any committee of which he is member>> But NOT entitled to **Vote** (vote in proceeding of house of which he is member)
- CoM- Does not meet as a body to transact business>>thus **NO collective function**  
Cabinet- collective function
- CoM- Constitutional body      Cabinet- based on **convention of parliamentary govt**
- **Principle of Individual responsibility of minister**- Article 75(2): Ministers individually responsible to **President** as they are removed by '**Pleasure of President**'
- NOTE- In constitution: **NO** provision for '**legal responsibility**', but provision for '**individual responsibility**'
  - Though Constitution does **not** guarantee any immunity to ministers for their official acts, but as they are not required to sign the act, they **cannot** be held liable in courts for official acts

- Note: though 91<sup>st</sup> CAA: **15%** of total strength of LS>> but actual size determined by **PM**

## CABINET COMMITTEES

- Extra-Constitutional**- Not in constitution, But in **Transaction of Business Rules**
- Set up by- **Prime Minister** (Not speaker)
- Usually cabinet ministers, But also have non cabinet ministers
- Membership: from **3** to **8**
- CCoPolitical Affairs**- all policy matters pertaining Domestic **and** foreign affairs
- Appointments Committee**-
  - Only **PM + HM**
  - extension of tenure, transfer of AIS officers, decides cases of disagreement betn ministry and UPSC, All higher appointments like secretariat, Public enterprise, Banks
- PM **not** part- CCoAccommodation and CCoParliamentary Affairs

## PARLIAMENT

	LOK SABHA	RAJYA SABHA
Represent	People as a whole	States + <b>UTs</b>
Maximum strength	552= 530+20+2 545= 530+13+2	250= 238 +12 245= 229 + 4 +12
Representation of States		Elected by <b>Elected Members</b> of State <b>Assembly</b> (NOT State Legialture as it includes State Council Also+ SC have Elected members>>But NOT participate in RS election)
NOTE- Representation in LS: <b>Territorial representation</b> RS: <b>Proportional representation</b>		
Repre of UTs	UT(Direct Election to House of People) Act, 1965	Indirectly elected by <b>special electoral college</b> (only Delhi & <b>Puducherry</b> have representation in RS)

Term of RS- decided by **RPA, 1951** (NOT Constitution)- also empowered **President** to curtail term of members of **first RS** + make **order of retirement** of members of RS

Allocation of seat in Lok sabha: Ratio of popu (**NOT** applicable to state with popu<**6 million**)

Note- **Open Ballot** is in RS elections **only**

- Dissolution of LS by President- **Can NOT** be challenged + **irrevocable**
- Qualifications**

CONSTITUTION	RPA, 1951
1. citizen 2. Oath 3. Age- RS=30 LS=25 4. as parliament prescribes	1. Registered as <b>elector for parliamentary constituency</b> (applies to both) 2. SC/ST- if want to contest reserved seat for them

- Disqualifications**

CONSTITUTION	RPA, 1951
1. Office of profit 2. <b>U</b> nsound mind 3. <b>U</b> ndischarged Insolvent 4. Given up citizenship 5. As law of parlia 6. Defection	1. Electoral offences 2. 2 yr imprison 3. Election expenses 4. interest in govt contract 5. Director of comp-25% share of govt 6. dismissed from govt for corruption/disloyal 7. promoting enmity 8. punish-social crimes

NOTE- **Constitution**- bars holder of OoP from membership of house(but given exemption to **ministers**) **parliament**- can declare exemptions (any office not deemed for disqualification)

- **Parliament (Prevention of Disqualification Act), 1959**: Exemptions from OoP
- OoP- **neither** defined in Consti **Nor** in RPA,
- SC in **Pradyut Bordoloi vs Swapan Roy (2001)**: 5 condn:
  - Appointment by govt?
  - Removal by govt?
  - Remuneration?
  - Performs function for govt?
  - Does govt exercise any control over functions?
- In **Jaya Bacchan VS UoI**: **Defined** OoP as “an office which is **capable** of yielding a profit or pecuniary gain”>> thus ‘**potential**’ of profit is deciding factor

• **Dual Membership**

COMBINATION	BECOMES VACANT
1. LS + RS	RS
2. 2 seats in house	Both
3. Parliament + state legislature	Parliament

NOTE- Sec 33(7) RPA: candidate can contest max **2 seats** in **parliamentary (LS + RS)**, **State Assembly, Biennial Council, Bye-election**

- RS>>>Bye-election>>**Remainder Period**
- Disqualified person elected to parliament>>> Consti has no provision>> dealt under RPA, 1951>>> **High Court** decides
- NO provision for **pension** for MPs in Consti

MAJORITY REQUIRED	ELECTION	REMOVAL
Speaker	Simple Majority	Absolute Majority (of total members)
Depty-Speaker		Absolute Majority (of total members)
Chairman		Absolute Majority (of total members)
Depty-Chairman		

**SPEAKER** (NOTE- office of speaker and chairman- **GoI Act, 1919**)

- Date of election- **President**
- His conduct cannot be discussed in parliament **EXCEPT** on **substantive motion**
- Resignation>> **DEPUTY SPEAKER** (NOT Prez)
- Removal motion- Support of 50 members + 14 day advance notice
- **Security of Tenure**- removed only by **Absolute Majority**

#### DEPUTY SPEAKER

- Date of election- **Speaker**
- NOT subordinate to speaker>> responsible directly to house
- **11<sup>th</sup> LS**- DS=opposition party
- Special Privilege: if member of committee>> then automatically becomes **Chairman**

Panel of chairperson of LS- NOT in consti, but in **Rules of Lok Sabha**- nominated by speaker (NOT Prez)

Speaker *Pro tem*- President gives him a **oath**

#### CHAIRMAN OF RS

- Though NOT member of house>>>but can cast **casting vote only** (otherwise no vote)

#### DEPUTY CHAIRMAN OF RS

- When office falls vacant>> **RS elects** new member (Prez do not appoint)

NOTE- **No appeal** lies to chairman against any ruling given by Deputy chair or any other member presiding over house in absence of chairman: as decision given **from** the chair settles the matter.

But Deputy chairman may reserve some matters for chairman's consideration if involves **application of precedent or study**

#### LEADER OF OPPOSITION

- Statutory in 1977
- Salary, allowances and other facilities **equivalent to Cabinet ministers**
- Rajya sabha- when **two** parties have **same numerical strength**>> then **chairman**, having regards to status of such parties, appoints **anyone of them** as LoO>> **final and Conclusive**

Suspension of Member from House for disrupting proceeding:

	LOKSABHA	RAJYASABHA
Suspension	Speaker	House (NO right to chairman)
Revocation of suspension	House by motion (NOT speaker)	House

#### SECRETARIAT OF PARLIAMENT

- **Constitutional Body** under **Article 98**
- **Separate secretariat** for LS and RS

## SESSIONS IN PARLIAMENT

### Adjournment and Prorogation

- **Both A and P>>>terminates sitting** of house      Proro>> also terminates **Session**
- NOTE- After Prorogation- Bills: does **NOT** lapse      Notices: **Lapse**
- **PM** advises President on summoning and Proroguing

BILL LAPSE	BILL DO NOT LAPSE
1. Bill in LS (originated or transmitted by RS)	1. If prez notified intention for <b>joint sitting</b>
2. Bill passed by LS, pending in RS	2. Bill pending in RS, not passed by LS
	3. Pending for assent of president
All Notices (Other than those for introducing bills)	4. Returned by President for reconsideration
	5. All pending assurances before <b>Committee of Govt Assurances</b>
	6. impeachment motion

### Quorum

- Quorum= Elected + Nominated + **presiding officer**

### Language in Parliament

- Constitution- Hindi and English (**Not** Vernaculars)
- But, presiding officer>>can permit mother tongue

## DEVICES OF PARLIAMENTARY PROCEEDINGS

	Question to	Moved by	Mention in	Description
Question Hour	Minister + private member		Rules of procedure	1. Starred- Oral + supplementary que 2. Unstarred- Written + No supple que 3. Short notice que- oral + supple <b>only if</b> speaker permit
Zero Hour			NO	1. Indian innovation since <b>1962</b> 2. que w/o prior notice
Motions		<b>Minister</b> or Member	<b>MoGPI + consent of presiding officer</b>	1. Substantive motion- self contained motion, very imp matter like impeachment

			2. Substitute motion- to substitute original motion (thus depend on original motion + amendments to substitute motion are NOT permissible) 3. Subsidiary motion- itself no meaning w/o reference to original motion A. Ancillary- used as regular way of proceedi B. Superseding- to supersede issue in debate C. Amendment- modify/substitute only part	
Closure Motion		Member	To cut short debate 1. simple closure- sufficient discussion 2. Closure by compartments- clauses grouped in parts 3. Kangaroo- debate only on imp clauses 4. Guillotine- undiscussed + discussed clauses>> put to vote	
Privilege motion		Member	1. to censure <b>Minister</b> for breach of privilege of house by wrong/withholding/distorted facts 2. Moved by MP <b>against any MP</b> (not necessarily minister) who are guilty for <b>breach of privilege</b> 3. <b>Rules 222 in LS</b> <b>Rules 187 in RS</b> 4. Speaker (or Chair): may decide on <b>own discretion</b> or <b>refer to privilege committee</b> 5. rules put condition: incident should be <b>recent</b> + need intervention of house	
Calling Attention Motion		Member	Rules of procedure	1. Indian inno, 1954 2. call attention of minister on MoUPI 3. seek authoritative statement
Adjournment motion			1. Extraordinary device>> <b>50 members</b> 2. Draw attention of House to <b>definite</b> MoUPI 3. <b>Only LS</b> >>as involves censure against govt 4. Restrictions: 1. matter: definite, factual, Urgent and PI 2. only one matter + be specific (not general) 3. No que of privilege + NO matter which is already discussed 4. Not rise que that can be raised thr distict motion	
No-Confidence Motion	Against CoM		1. 50 member+ Only LS 2. Need <b>NOT</b> state reason for adaption 3. <b>Not in consti</b> , but procedure in <b>Rule 198</b> of the <b>Rules of Procedure and conduct of Lok Sabha</b> 4. Speaker allocate date <b>within 10 days</b> of date of acceptance	

Censure Motion	Against minister or GoM or CoM		1. govt need <b>not</b> resign 2. speakers <b>permission NOT required</b> (Unlike No confidence motion)
Motion of thanks			1. 1 <sup>st</sup> session after General election or every New fiscal year 2. <b>MUST</b> be passed
Dilatory Motion		Member	1. motion for adjournment of debate on bill/motion/resolution OR motion to delay the progress of business under consideration of House
Point of Order		Member	1. When proceeding do NOT follow normal rules of procedure 2. raise questions that is within cognizance of speaker 3. Usually by opposition member
Half-an-hour			1. Matter of sufficient PI 2. No formal voting or motion
Special Mention			1. RAJYA SABHA 2. equivalent- 'Notice Under Rule 377'
Resolutions			1. ALL resolution- <b>substantive motions</b> 2. ALL resolution- <b>VOTE</b> 3. discussion- <b>strictly</b> relevant to and within scope of resolution

## MONEY BILL AND FINANCIAL BILLS

- Money bill:
  1. IARAR of tax
  2. Regulation of borrowing by Union
  3. Custody of CFI + Contingency fund (payment into or withdrawal from)
  4. Appropriation: from CFI
  5. Declaration: 'charged on'
  6. Receipt of money on CFI or Public Account or custody or issue of such money or **audit of accounts of Union or state**
- Financial Bill I- Not only **any or all** matters mentioned in A110, But also other matters of general legislation (**only** in LS + on **recomm of Prez** + Amend **other than** reduction /abolition of tax: requires **recomm of Prez**)
- Financial Bill II- expenditure **from** CFI, but does **not** include any matters mentioned in A110 (both houses **cannot** consider bill unless **prez** recomm to consider)
- NOTE- SC in 2018: **Judicial Review Applicable** on money bill

JOINT SITTING- Notified by Prez in either 2 ways:

1. By **Message to Houses** if they are in session
2. By **Public Notification** if houses NOT in session

## BUGET IN PARLIAMENT

Some interesting **Constitutional provisions**

- Budget: shall **distinguish** expenditure on **revenue account** from other expenditure
- Expenditure **charged on** – Cannot voted, but **can be discussed**

Charged on Expenditure

- (other points) + **Debt charges** for which govt is liable, including interest, sinking fund charge and redemption charges and other expenditures relating to raising loans and services + Any sum required to satisfy **any judgement, decree or award** of any court or tribunal

NOTE- only salaries and allowances of chairman, speaker, depty>> **NOT pension**

Demand for grants

- Form in which **estimates of expenditure** from CFI are submitted for vote by LS
- Includes provision for:
  1. Revenue + Capital **expenditure**
  2. **Grants and loans** & advances **to states** and UTs
- Generally 1 DfG/Ministry, But large ministry may have more

Appropriation Bill- Type of money bill

- A114- No money shall be withdrawn without appropriation made by law
- Authorizes appropriation out of CFI for **votable as well as non votable** part
  1. **Grants voted by LS**
  2. **charged on exp**
- **NO amendments**

Finance Bill- type of money bill

- To give effect to financial proposals of GoI for following year
- Legalizes income side of budget, includes:
  1. Levy of new taxes
  2. Modification of existing tax structure
  3. Continence of existing tax structure beyond approved period by parliament
- **Amendments**- **CAN** be moved (But **only in LS** as money bill)
- Provisional Collection of Taxes Act, 1931- FB must be enacted within 75 days
- To be returned by RS **within 14 days**

Grants

Supplementary Grant	Insufficient
Additional Grant	New service not mentioned in budget
Excess Grant	Excess spending 1. voted by LS after financial year 2. Before voting>>>MUST be approved by <b>PAC</b>
Vote of credit	Unexpected expenditure>>>'Blank cheque'
Exceptional Grant	Special purpose
Token Grant	Reappropriation

## FUNDS

- Consolidated Fund(Art 266): All revenues received by govt + All loans raised by govt (T bill, WMA) + All money received by govt in repayment of loans
- Public Account(Art 266): All other public money received by or on behalf of GoI
- Contingency Fund(Art 267): constitution empowered **parliament** to estd Conti FI>> thus estd by **ACT** : 'Cont FI Act, 1950' + **amount**- determined by **law**

## STATE LEGISLATURE

- NO** uniformity
- Composition of Assembly**- Max: 500 Min: **60**
  - Aruna, Goa, Sikkim- 30 Mizo & Naga- 40 & 46
  - Some members in Mizo and Naga- indirectly elected
- Composition of Legislative Council**

Indirectly Elected	1/3 <sup>rd</sup>	Local bodies
	1/3 <sup>rd</sup>	By Members of L Assembly among persons who are <b>NOT</b> members
	1/12 <sup>th</sup>	Graduates of 3 years standing
	1/12 <sup>th</sup>	Teachers (not lower than secondary) of 3 years standing
Nominated	1/6 <sup>th</sup>	Literature, Science, Art, Coop movm, social service

- Governor's Nomination- **can NOT** challenge in court
    - For Nomination, person **must** be **resident in concerned state**
  - Composition of LC- **Tentative>> Parliament** authorized to modify and replace
- New Legislative Council- Constitution fixed size: Max- 1/3<sup>rd</sup> Min: **40**  
Actual size: fixed by **parliament**
  - State- Special Majority (**50% of strength** + 2/3<sup>rd</sup> of present and voting)
  - Parlia- Simple Majority
  - Article 4 says- Not as amendment under A368
- Double membership- If elected to both houses, his seat becomes vacant **as per law made by state legislature**

- **Chairman of council-** ELECTED
- **Quorum-** 10 members or 1/10<sup>th</sup> whichever is greater
- **Assent of prez-** when prez returns bill for reconsideration>>>SL have to consider it **within 6 months**

#### Equal power to Legislative Councils-

- Passing **Ordinances of Governor**
- Considering reports of SFC, SPSC, CAG
- Enlarge jurisdiction of **SPSC**

#### Dissolution of State Assembly by Governor in **HUNG ASSEMBLY**:

- **SR Bommai** case: Discretion of gov does **not** apply to hung assembly + matter to be decided on floor of house within 48 hrs (extendable upto 15 days)>> thus matter should be decided by legislature and Gov's discretion must be only triggering point
- **Rameshwar Prasad** Case: Gov can **not** shut Postpoll alliance altogether as means of forming govt + mere suspicion of **horse trading** should **not** be reason for dissolution

#### Parliamentary Privileges

Collective Privileges	Individual privileges
1. Right to publish reports, debates and prohibit others from publishing the same ( <b>44<sup>th</sup> CAA</b> -freedom to press to publish true reporting)	1. no arrest during session + 40 days before or after the session in <b>civil cases</b>
2. Secret sitting	2. <b>Art 105</b> - Freedom of speech in parliament
3. Rules for own procedure and conduct	3. exempt from jury service when parlia in session
4. Punish breach of privilege	
5. receive immediate info on arrest of member	
6. courts prohibited from inquiring in proceeding	

- SC: in case of conflict betn Parlia privileges and FR of citizens, **Privileges** will prevail

#### UNION, STATE AND CONCURRENT LIST

UNION LIST	STATE LIST	CONCURRENT LIST
1. Citizenship ( <b>17</b> )	1. <b>Local govt</b>	1. <b>Criminal law</b> (ALL matters in <b>IPC</b> )
2. Census ( <b>69</b> )	2. Agriculture, including agri education	2. <b>Criminal Procedure</b> (ALL matters in <b>CrPC</b> )
3. Corporation tax	3. Taxes on agri income	3. Contracts
4. CBI	4. Public health and sanitation	4. <b>Insolvency &amp; Bankruptcy</b>
5. Shipping and navigation on <b>National and Inland</b> waterways	5. <b>Communications- Roads, Bridges</b>	5.
6. Maritime shipping and navigation	6. Industries	6. Prevention of cruelty to animals

7. Inter-state trade and commerce	7. Water, water supply, irrigation and canals	7. Protection to wild animals and birds
8. Insurance	8. Elections to state legislature	8. Forest
9. Regulation of labor and <b>safety in mines</b> and oil fields	9. <b>Regulation of Mines and mineral development</b>	9. Social security and social insurance; Employ-Unemploy
10. Regulation and <b>development of interstate rivers</b>		
11. <b>Organisation of HC</b>		11. ports other than major
12. Inter-state migration and Inter state quarantine (81)		12. Electricity
13. <b>Standards in insti for Higher Edu</b> or research or scientific and technical		10. <b>Education</b>

### PARLIAMENTARY COMMITTEE

- Constitution **mentions** this committees but no elaborative provisions>> dealt in RoH
- Consultative committees are **NOT** PC
- Chairmen of all PC of **LS**: by **Speaker**
- **Committes: Ad Hoc and Standing Committees (FDI ScDH)**
  - **Ad Hoc** comm- divided as 1. Inquiry Comm 2. Advisory Comm

1. Financial Committee	1. Public Accounts Committee
	2. Estimates Committee
	3. Committee on Public Undertakings
2. Dept Standing Committee	
3. Committ On Enquire	1. Petitions
	2. Privileges
	3. Ethics
4. Committee To Scrutinise & Control	1. Govt Assurance
	2. Subordinate Legislation
	3. Welfare of SC/ST
	4. Empowerment of Woman
	5. Paper laid on the table
	6. Joint committee on office of profit

### COMMITTEES

	FINANCIAL COMMITTEES			DSC
	Public Accounts Committee	Estimates Committee	Committee on Public Undertakings	Dept Standing Committees

Origin	1921 (Under <b>GoI Act 1919</b> )	1. 1921 (Standing Financial Committee) 2. 1950- John Mathai	1964 (Krishna Menon Comm)	1993 (recomm of <b>Rules Comm</b> )
				<b>8-RS 16-LS</b>
Strength	22 (15+7)	30	22 (15+7)	31 (21+10) <b>NOMINATED</b>
Rajya sabha members?	YES	<b>NO</b>	YES	YES
Chairman (appointed by speaker, NOT elected)	1967- Opposition	Ruling party	Only from LOK SABHA	<b>Appointed</b> by Speaker or Chairman (if comm under RS)
Miscellaneous	Examine 1. State corp, manf projects 2. Autonomous and semi auto bodies 3. Excess grants  NOTE- PAC estd under <b>Rule 308 of Rules of Procedure and Conduct of Business of LS</b>	1. NOT necessary on comm to examine entire estimates of any one year 2. Any change in preparation of budget estimates- requires EC's approval 3. <b>continuous economy comm</b> 4. DfG can be voted even if committee not made report		1. Considers DfG <b>BEFORE discussed</b> and voted in LS (NOT before introduction in house) 2. Bill <b>after</b> referred by house  Under RS- Home, Health, HRD, Industry, Commerce, Transport, S&T and Envi, Personnel and Law and justice

NOTE- Tenure of **each** standing committee= **one year**

Other Committees:

<b>Committee to Inquiry</b>		
Committee on Petition	LS Comm- 15 RS Comm- 10	1. examine petition on bills and MoGPI 2. <b>Entertains representation from individuals</b> and associations on matters in <b>Union list</b>
Committee on Privileges	LS Comm-15 RS Comm-10	1. <b>Semi judicial</b> - examines <b>Breach of Privileg</b>
Ethics Committee ( <b>RS-1997 LS-2000</b> )		1. Enforces Code of Conduct for MPs + maintain discipline and decorum of house

		2. <b>Suo motu</b> investigation
<b>Committee to Scrutinise and Control</b>		
Comm on Govt Assurances (1953)	LS Comm- 15 RS Comm- 10	1. examines extent to which promises given by ministers on floor of house are carried out 2. NOTE- Assurances <b>must</b> be fulfilled within <b>3 months</b> (Extention approved by Comm)
Comm on Subordinate Legislation (1953)		1. Examines powers of Executive wrt make rules, regulations, bye laws
Comm on Paper laid down on Table (1975)		1. examines all papers laid down on table of House <b>by minister</b> whether they comply with consti or Act 2. does <b>not</b> examines statutory notifications and orders (that comes under CoSL)
Comm on Welfare of <b>SC/ST</b>	<b>Single Comm.</b> LS- 20 RS- 10	1. considers <b>reports of NCSC + NCST</b> 2. all matters of welfare of SC/ST
Comm on Empowerment of <b>Woman</b>	<b>Single Comm.</b> LS- 20 RS- 10	1. considers reports <b>NCoWoman</b> 2. steps by GoI to safeguard dignity, status, equality
<b>Joint Comm on Office of Profit</b>	<b>Single Comm.</b> LS- 10 RS- 5	1. examines composition and character of <b>committees and other bodies</b> constituted by <b>Union, state or UT govt</b> and determine whether such offices are OoP for disqualification from membership of house
<b>Committees Relating to Day to Day Business of House</b>		
Comm on Private members bill	<b>Not in RS</b> LS- 15 ( <b>Depty Speaker=chair</b> )	1. classifies bill and allocates time for discussion 2. RS- by Business Advisory Comm
Comm on Absence of members	<b>Not in RS</b> (dealt by House itself)	
<b>House Keeping Committee</b>		
Joint Comm on Salaries and Allowances of Members	<b>15 (10 + 5)</b>	1. To form rules under S&A of MP Act, 1954 2. Chairman- <b>elected</b> by members of comm 3. Report- <b>NOT</b> to house, but to <b>Speaker</b> and <b>Chairman</b> who confirms and approves the rules

#### Consultative Committee

- Attached to dept/ ministries of govt, Meet during **OR** off session period
- Minister= Chairman + member
- Constituted by **MoParliamentary Affairs** + Membership= Volntary
- Dissolved with dissolution of LS

- **Informal Consultative Comm-** MPs falling in Railway zones>>only during session

### JUDICIAL SYSTEM

	SUPREME COURT	HIGH COURT
No of judges	Parliament by law	President’s Discretion
		Common HC- By Parliament
Tenure of Judges	1. 65 Years 2. Any question of age- Parliament	1. 62 years 2. Any question of age- President (consult CJI)
	NOTE- ANY judge- resignation to President (Not CJI)	
NOTE- Constitution NOT fixed TENURE of judges (i.e. 5 yrs, 6 yrs etc), BUT Has fixed Retirement age for Judges (62 yrs/65 yrs)>> If any change to make>> then CAA with consent of Half of state legislature		
Qualification	1.HC J- 5 yrs 2.HC advocate- 10 yrs	1.judicial office-10 yrs 2.HC advo-10 y
		For appointment- Collegium of CJI + 2 seniormost
Salaries and Allowances	1.Can not be changed EXCEPT for Financial Emergency 2. S, A, P- Charged on CFI	1.Can not be changed EXCEPT for Financial Emergency 2. S & A- CFoState P- CFI
Additional and Acting judge	1. NO additional Judge 2. Acting judge as CJI- (by Prez) I. if CJI vacant II. temporarily absent III. unable to perform 3. Ad hoc judge- Lack of Quorum>> appoint Judge of HC for temporary period - By CJI After consulting CJ of HC + Consent of Prez 4. Retired Judge- By CJI with Prez consent	1. Additional- Max 2 yrs- (By Prez) I. temporary increase in business of HC II. arrears in work of HC 2. Acting- (by Prez) when judge (Other than CJ of HC) is: I. absence or otherwise II. appointed as temporary CJ of HC 3. Retired Judge- by CJ of HC with Prez consent
Seat	CJI (Not prez) can declare other seat with approval of President	
Jurisdiction	changed (not curtailed) by Parliament	changed (not curtailed) by both Parliament and State Legislature
Territorial jurisdiction		Co-terminus with territory of states
Transfer of Judges		Art 222(1): By President after consult with CJI 1. 1977-SC: only as exceptional measure in public interest 2. Third Judge case, 1998- CJI should consult 4 seniormost + CJ of two HC (NOTE-CJ of HC are consulted by CJI, NOT by President) 3. Conditions for transfer: A. not as punitive measure B. For “public interest” and “better administration of

		justice” C. Concurrence of CJI after effective consultation
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Jurisdiction of Court

	SC	HC
Original	1.c VS s 2.c&s VS s 3.s VS s ( <b>NOT</b> extends to- ISWD, FC, Commercial dispute of c&s, recovery of damages by s against c , <b>preconsti treaty</b> ) • Conditions: 1.Must involve question on which extent of <b>Legal rights</b> depend (thus excludes suits of political nature) 2.Not entertain pvt citizen	1. Matters of admiralty, will, law, m'age, divorce, <b>company laws</b> , contempt of court 2. Elections of MPs and MLAs 3. Revenue matters 4. <b>transferred cases</b> involving interpretation of constitution 5. B, M, C, D- <b>civil</b> cases of high value 6. <b>Enforcement of FR</b>
Writ	Only FR	1.FR +ordinary legal right- <b>even outside</b> its territorial jurisdiction if cause arise <b>within</b> its jurisdiction
Appellate	1.Constitutional (A132) - HC certify>>require consti interpretation 2. Civil (A133) - HC certify>>1.que of legal impo 2.que needs to be decided by SC 3. Criminal (A134) -HC reverse acquittal>>death or LI/10 yrs -HC>>case of subord court>>death/LI/10 4. Special Leave (A136) - From any court or tribu ( <b>except Military</b> ) NOTE- Art 134(A)- <b>Parliament</b> by law confer power to <b>SC</b> to <b>hear criminal appeals</b> from <b>HC</b> judgements	<b>Wider than original jurisdiction</b> (As BOTH civil & criminal) <b>I. Civil:</b> 1. First appeals on que of Law and Fact 2. Second appeals on <b>law only</b> 3. B, M, C- intra-court appeals from single judge case 4. Administrative and other tribunals  <b>II. Criminal:</b> 1. sentence of 7 yrs or more by sessions or additional sessions court + confirmation of death penalty 2. in some cases of CrPC- appeals from Asst session judge, magistrates
Advisory(SC)/ Supervisory(HC)	By prez 1. que of <b>law or fact</b> of public impo (SC may refuse to tender opinion) 2. pre-consti treaty, agreement (MUST tender advice)	<b>Supervisory Jurisdiction-</b> Very broad: 1. ALL courts &tribunals (ext military) 2. administrative + judicial superintend. 3. revisional jurisdiction 4. <b>SUO MOTU</b>
Court of Record	1. Judgement- cannot be questioned before <b>ANY</b> court 2. Punish contempt for <b>ALL</b> courts	1. Judgements- Cannot be questioned before <b>subordinate courts</b> 2. Punish contempt- Own + Subordinate courts(as they Can NOT punish CoC) 3. Review own judgement- <b>unlike SC</b> , this is <b>NOT</b> given to HC by Consti
Judicial Review	Both LL and EO of <b>Central and state</b>	Both LL and EO of <b>Central and state</b>
NOTE- <b>Constitution</b> itself confers power of <b>Judicial Review</b> to SC and HC (though <b>not</b> mentioned word JR)		
Other powers	1. election of President and Vice president	

	2. UPSC chair/member inquiry- <b>binding</b> opinion 3. withdraw pending cases of HC and dispose with itself + transfer of cases 4. Judicial Superintendence 5. ultimate interpreter of constitution	
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### REVIEW JURISDICTION OF SC

- Art 137: power to SC to review own judgement, subject to any law made by **Parliament**
- Grounds: 1. New matter of evidence 2. Error or mistake on face of record
- **SC rules 1966**: 1. To file within **30 days** of judgement 2. Circulated **w/o oral arguments** to **SAME BENCH** which gave verdict
- **Discretionary** right of court
- **No review Jurisdiction to HC**

IMPEACHMENT OF JUDGES: **Judges Enquiry Act, 1968**: regulates the procedure for impeachment

- Signed by **100 members** (LS) or **50 members** (RS)
- If speaker admits >> then committee: 1. **CJ or J of SC** 2. **CJ of HC** 3. **Distinguished Jurist**

### SUBORDINATE COURTS

- **Appointment, posting and promotion-**
  1. District Judge- by **Governor** in consultation with **HC** (thus NO role of SPSC)
  2. Other judges- by Governor with consulting **SPSC** and HC
- **Control over Sub-ordinate courts-**
  1. control over District court and other subordinate court including posting, promotion of persons (**Not Appointment**) in judicial service holding post **inferior to post of district court judge** is vested in **HIGH COURT**
- **Organisation of SubC-** NOT uniform



CIVIL SIDE	CRIMINAL SIDE
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<b>DISTRICT JUDGE-</b> 1. original and appellate jurisdiction in <b>Both</b> Civil and Criminal 2. <b>BOTH</b> judicial and administrative power- Supervisory power over ALL subC in district 3. Qualification- 1. Advocate OR pleader- <b>7 yr</b> 2. Not already in service of c or s 3. Recommended by <b>High court</b>	
<b>Subordinate Judge-</b> 1. Unlimited pecuniary jurisdiction over CIVIL suits 2. may be given powers of assistant sessions judge- thus <b>can</b> be both civil and criminal	<b>Chief Judicial Magistrate-</b> criminal case with max punish 7 yrs (NOT death sentence)
<b>Munsiff's court-</b> small pecuniary civil case	<b>Judicial magistrate-</b> sentence upto 3 yrs

LOK ADALAT	1. <b>Legal Services Authority Act, 1987</b> 2. Cases pending in courts or at pre-litigation stage - organized by SLA, DLSA, TSLA, SCLSA 2. Chair- <b>Judicial officer</b> Members- Lawyers and Social workers 3. <b>NO</b> jurisdiction over Non-compoundable offence 4. Pre-litigation can be taken on receipt of <b>ANY ONE</b> party in dispute 5. Same power of <b>civil court</b> under CrPC + power to specify own procedure 6. Award >> <b>Final and binding</b> >> NO appeal in ANY court 7. <b>No</b> strict applicability of CrPC and Evidence act 8. Major drawback >> based on <b>compromise</b> >> No merit award
PERMANENT LOK ADALAT	1. LSA Act, 1987 >> amended in 2002 2. Compulsory pre-litigation mechanism for <b>Public utility</b> services 3. Chair- <b>s or r District or higher judge</b> members- 2 (exp in PUS) 4. Jurisdiction- <b>upto 10 lakh</b> , but <b>Central govt</b> can increase 5. <b>NO</b> jurisdiction over Non-compoundable offence 6. settlement >> if not >> pass award on merit >> <b>final and binding</b>
FAMILY COURTS	1. Family Courts act, 1984 2. By <b>State Govt</b> consulting HC 3. Dispute NOT be entitled to be represented by legal practitioner, but help of <i>amicus curiae</i> can be taken 4. <b>Right to appeal</b> >> <b>HC</b> 5. Mandatory for state to set up in <b>every town</b> with popu > 1 million 6. <b>Qualification</b> for Judge of FC: <b>Central govt</b> after consulting <b>CJI</b>
GRAM NYAYALAYA	1. GN Act, 2008 No fees 2. GN = Court of Judicial Magistrate of 1 <sup>st</sup> class (Nyayadhikari) >> <b>appointed by State govt</b> (thus chair = <b>strictly</b> judicial officer) consulting <b>High Court</b> 3. estd for every <b>panchayat</b> at <b>intermediate level</b> >> thus, Seat of GN: <b>HQ of intermediate panchayat</b>

	<p>4. <b>Mobile court</b></p> <p>5. <b>BOTH</b> civil and criminal cases (summary procedure in crimi)</p> <p>6. Try cases in Sch I and II of act&gt;&gt;can be amended by <b>BOTH Central and state govt</b></p> <p>7. NOT bound by Evidence act,1872&gt;&gt;<b>Natural Justice</b> + Any rule made by <b>High Court</b></p> <p>8. <b>Appeal&gt;&gt;District court</b> (Sessions and District)&gt;&gt;hear in <b>6 months</b> (Thus decisions of GN <b>not binding</b>)</p> <p>9. Plea bargaining- accused agrees to plead guilty in exchange of more lenient sentence</p>
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- Compoundable and Non-compoundable offence- **Sec 320 of CrPC**
  - Compoundable- where complainant enter into 'bonafide' compromise and agrees to have charges dropped against the accused>>admit before court>>same effect as if accused has acquitted of charges
  - Non Compoundable- Can NOT be compounded as offence is so grave and criminal>>generally 'state' is complainant here>>thus no question of compromise

### SPECIAL STATUS TO J&K

- Article 370: Makes Art 1 and Art 370 itself applicable to state + authorizes president to extend other articles to state
- Provisions in Art 370: '*Temporary Provisions*'
  - Power of parliament to make laws is limits to:
    - Matter in Union and concurrent list on subjects mentioned in IoA(under 4 heads- Ext affairs, defence, commu, ancillary matters). These matters to be declared by prez in consult with state govt>>thus, on these matters, parliament does **NOT** requires **concurrence of state**
    - Such other matters in U and C list specified by Prez with **Concurrence of state govt**
  - other (NOT any)** provisions of constitution- with exceptions and modifications determined by President with **concurrence of state govt**
  - President- can declare art 370 cease to operate **ONLY** on recomb of CA of state
- Things **NOT** applicable under Prez Order of 1954 (amended from time to time):
  - Area-alteration of boundary, name (CoL=Consent of State Legi)
  - Part IV, IV A and VI
  - Residuary power to state (some exceptions)
  - Preventive detention laws
  - Emergency on **Internal Disturbance** (CoSG) (NOTE- 'Internal Disturbance **still** valid for J&K)
  - Financial emergency
  - Prez can NOT suspend consti of state on failure to comply his directions
  - 5<sup>th</sup> and 6<sup>th</sup> Schedule

With some Modifications

1. Part III (RtProperty- still guaranteed in state)
2. Part II- Denial of citizenship to migrants from pak>>>**NOT** applicable in state
3. President rule- on failure of consti machinery under **state constitution**
4. International treaty affecting state- on COL
5. Amendment- extended by prez order
6. HC- Art 226 only for FR

### SPECIAL PROVISIONS TO SOME OTHER STATES

Note- original constitution did **not** made any of these provisions>>> added by **amendments**

MaGU	Na	Ass	Ma	An	Si	Mi	Aruna	Goa	KR
371	A	B	C	D&E	F	G	H	I	J

### PANCHAYATI RAJ

Definations given under 73<sup>rd</sup> and 74<sup>th</sup> CAA:

1. Panchayat- institute of **self govt** for **rural** area
2. Village- Village specified by **governor** by public notification (includes group of villages)
3. Intermediate level- level betn village and district level specified by **governor** by public notification
4. Transitional Area: specified by **governor** based on **Popu, Density of popu, Revenue generated for local administration, % of employ in non agri activities**
5. Metropolitan Area: with popu **more than 10 lakh** + one or more district consisting **two or more municipalities or panchayats**

Commissions: **B A G L T G**

Balwant Rai Mehta, 1957	Ashok M. 1977	GVK Rao 1985	L.M.Singhavi 1986	Thungton 1988	Gadgil 1988
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Balwant Rai Mehta, 1957	On Community Dev Program and National Extension service	1. Three tier- direct+indirect ele 2. Executive- Panchayat Samiti 3. Collector- chair of ZP
Ashok Mehta Comm, 1977	On PRI	1. Two tier- ZP + mandal pancha. 2. district- 1 <sup>st</sup> point of deCentral. 3. Executive- Zila Parishad 4. Political parties 5. Consti status + reserve>SC/ST

GVK Rao Comm, 1985	On review of existing admini arrangement for rural dev and poverty allevation program	1. District- unit of planning- ZP=pivotal body 2. District Dev Comm- CEO of ZP
LM Singhavi Comm 1986	Revitalisation of PRI for democracy and Development	1. Consti recognition 2. impo of Gram Sabha
Thungton Comm 1988	Political and Administrative structure in district for plannin	1. Consti recog, + SFC 2. Three tier, ZP- pivot 3. Reservation for woman
Gadgil Comm 1988	On how best PRI could be made effective	

- NOTE- though 73<sup>rd</sup> aa>>brought uniformity>>but states with popu<20lkh>> may NOT constitute panchayat @intermediate level
- State can make provisions wrt **ALL** matters of elections to panchayats
- Disqualfn: 1.Under any law being in force for purpose of election to legislature of state OR any law made by state  
2. Questions of disqualn: refer to such authority as state **legislature** determines
- Bar on interference of courts: Election petition>> to such authority determined by State **Legislature**
- Reservation in PRI
  - Seats and Chairpersons:
    - Reservation for SC/ST@ ALL 3 levels in proportion of popu to total popu in panchayat area
    - For SC/ST Women (1/3<sup>rd</sup> of above seat)
    - 1/3<sup>rd</sup> seats for women (including SC/ST women) @ ALL 3 levels
- Audit of Accounts- as per provisions made of STATE LEGISLATURE
- Application to **UTs**- as directed by **PRESIDENT** (thus applicable to all except Delhi)
- Exempted areas: 1.J&K 2. Nagaland, Meghalaya, Mizoram 3. Schedule 5 and 6 areas  
4.Hill area of Manipur 5. Delhi
- Exempt from reservation provision for SCs- **Arunachal Pradesh**
- Exempt from Panchayats @ district level- Darjeeling district of WB
- Compulsory and Voluntary provisions:

COMPULSORY	VOLUNTARY
1. 3 tier structure	1. Giving representation to MPs and MLAs (Both Houses)
2. Direct elections to ALL seats at ALL levels	2. Granting power and authority to panchayats (A40)
3. Indirect election for chairman @ intermediate and district level	3. Devolution of powers and responsibilities

	4. Method of Election of <b>Chairperson</b> @ panchayat level
	5. Granting financial powers

- PESA act, 1996
  1. ONLY to 5<sup>th</sup> schedule areas, NOT applicable to 6<sup>th</sup> schedule
  2. Reservation-
    - A. For any community- in proportion to popu
    - B. BUT, reservation for STs= atleast **half** of total no. of seats
    - C. **ALL chairpersons @ ALL levels**>> reserved for STs
  3. **State GOVT** (NOT Gov):may nominate unrepresented tribes @intermediate and district levels (**NOT** at panchayat levels) + not exceed 1/10<sup>th</sup> of total elected members
  4. Powers:
    - A. Consultation of Gram Sabha for-
      1. Aquisition of land
      2. Granting license or mining lease for minor minerals
      3. Its recomm for grant of concession for exploitation of minor minerals by auction
    - B. Powers to Gram Sabha-
      1. Enforce prohibition
      2. Ownership of MFP
      3. prevent land alienation
      4. control over village market and money lending

Panchayat Secretary:

- In-charge of office of panchayat + under direct supervision of Sarpanch
- Preparation of budget + Annual report + keep all records + allot duties to staff
- Maintain Grant-in-aid register
- Inspect Worksites for assessing progress

## MUNICIPALITIES

- Dealt by 3 ministries: 1.MoUD 2.MoDefence (for CB) 3.MoHA (**for UTs**)

74<sup>th</sup> Amendment Act, 1992

- **Three** (not 8) types of Municipalities: 1.*Nagar panchayat*(for transitional areas) 2.*Municipal Council* (smaller **urban** areas) 3.*Municipal Corporation* (larger urban area)
- ALL members>>**directly elected** >> for this, municip area divided into **wards**
- **Wards Committee**- in territorial areas of Municip with popu>**3 lakh**
- Manner of election of chairperson: as determined by **State Legislature**
- STATE LEGISLATURE may provide representation for:

1. Persons with special knowledge about municip admini (w/o RtVote)
  2. LS or SA members
  3. RS or LC members registered as VOTERS within municip areas
  4. Chairpersons of committees (other than ward committees)
- Reservation for SEATS: for SC/ST (**as per proportion**) + 1/3<sup>rd</sup> for woman
  - Reservation for Chairperson: as **State Legislature** may determine
  - Finances: assigned by **state legislature**
  - Exempted areas: 5<sup>th</sup> and 6<sup>th</sup> schedule, Darjeeling Gorkha Hill Council of WB
  - Art 243 ZD: **District Planning committee**- to consolidate plans prepared by panchayats and municipalities, to prepare draft development plan for district
    1. 4/5<sup>th</sup> of members>>>elected by **elected members** of panchayats and municips
    2. Rest all conditions (like ele of chair, composition of DPC, function)- by **State Legi.**
  - Art 243 ZE: **Metropolitan Planning committee**- to prepare draft development plan
    1. 2/3<sup>rd</sup> of members>>>elected by: elected members of municips + **chairpersons** of panchayats in metropolitan areas among themselves

Types of Urban Govt in India- 8 (see chart)

Central Council of Local Govt

- Estd under Art 263 in 1954 by order of president
- Till 1958: dealt with both urban and rural LB, from 1958: URBAN ONLY
- Chair: MoUD members: ministers of LSG of states

NOTE- 1. **NO ULB in Arunachal Pradesh**

2. **11<sup>th</sup> Schedule:** added by **73<sup>rd</sup> CAA**      **12<sup>th</sup> Schedule:** added by **74<sup>th</sup> CAA**

### UNION TERRITORIES

Evolution: 1874-scheduled districts>>>chief commissioner provinces>>>Part 'C' and Part 'D' states>>>1956-7<sup>th</sup> amend- Union territories

- **NO** uniformity in administrative system of UTs
- Parliament- **SUPREME RIGHT** to make laws wrt UTs (even if have LA)>> But if UT law received prez assent>> prevail>> but parlia can override
- President- regulations for : A&N, D&NH, D&D, Laksh  
Also for Puducherry- **BUT** only when assembly is **suspended or dissolved**  
These regulations: can repeal or amend ANY act of parliament
- Constitution- **NO** provisions for **AQUIRED TERRITORIES**, but provisions of UTs applied here
- **MoHA**- Nodal ministry for admini of UTs
- **HMAC**(Home Minister's Advisory Committee)- Chair- HM
- **AAC**(Administrator's Advisory Committee)- Chair- Respective administrator :  
Members- MPs, Members of local bodies

69<sup>th</sup> CAA, 1991

- CM- appointed by PREZ
- Lt. Governor>>ORDINANCES>>>only on prior permission of Prez (For Promulgation **And Withdrawl**)
- But he **cannot** promulgate ordinances if assembly is dissolved or suspended
- **Article 293AB**- President can impose his rule in Delhi if failure of consti machinery (thus resembles Article 356)
- Lt governor powers wrt Delhi assembly:
  1. Summon, Prorogue or Dissolve Assembly
  2. Address assembly in first meet after election + first session of every year

**70<sup>th</sup> CAA**- Provides inclusion of elected members of Delhi Assembly in **prez election**

### SCHEDULED AND TRIBAL AREAS

Scheduled Areas (5<sup>th</sup> schedule)

- **Declaration of Sch Areas**(+alter boundaries): **President** in consult with gov
- **Executive power of state**: extends to SchA. + Gov to submit report to prez + Centre can give direction to states
- **TRIBAL ADVISORY COUNCIL**: 20 members-3/4<sup>th</sup> should be MLA from S.Assembly  
NOTE- TAC can be estd in states with NO SchA if President directs so.
- **Law applicability**:
  - **Governor**: make regulations for Peace and GG after consulting **TAC** + regulation may repeal or amend act of parliament or State legi, But All such regulations requires **ASSENT of President** + regulation may restrict transfer of land by or among members of STs, Regulate Business of Money lending

Tribal Areas (6<sup>th</sup> Schedule)

- **Autonomous Districts**- NOT fall outside Exe authority of State, but administered **directly by Governor**
- **Mana of areas- Governor**- increase or decrease area (NOT prez-be careful)
- **District and Regional councils**: DC-30 members- 4 nominated, 26 elected (for 5 years)
  - Each autonomous region- has separate RC
  - Both DC and RC- make laws (but requires ASSENT of Governor)
  - DC- regulation for: schools, markets, moneylending, trading by non tribals- But requires ASSENT of Gov
  - DC and RC- Asses and **collect** land revenue + **impose** some taxes
  - Can constitute **court of trials** for disputes between Tribes (Jurisdiction of HC over such cases: **Specified by Governor**)
- **Law applicability**- Parlia and state laws: do **NOT** apply

	State laws	Central laws
Assam	Governor	Governor
Megha, Tripura, Mizo	Governor	<b>President</b>

- **Dissolution-** Governor>>on report of **commission** appointed on matters related to admini

Difference Between Councils in 5<sup>th</sup> and 6<sup>th</sup> Schedule

5 <sup>th</sup> Schedule	6 <sup>th</sup> Schedule
1. Creation of <b>State Legislature</b>	1. Creation of <b>Constitution</b>
2. Only <b>Advisory</b> , that too on reference of Gov	2. Have actual powers
3. No financial powers	3. Financial powers + prepare <b>own budget</b>
4. No Funds from CFI	4. Funds also from CFI

## COOPERATIVE SOCIETIES

Provisions in Part IX-B

(NOTE- Cooperative societies: **STATE LIST**)

- Coop societies: provisions by **State legislature**
- No.& Term of directors: by state legislature (BUT **Max-21**, + reserve: **1-SC/ST, 2-woman**), Terms: 5 years
- Provision for co-option of persons: by state legislature (Max- 2)
- Elections: By such authority as **state legislature** determines (thus NOT directly SEC)
- Supersession and suspension of Board: NOT in coop where govt has **no** shareholdings, loan, assistance
- Audits and accounts: as **state legislature** determines + audit within 6 months of closure of Financial Year + audit report of **Apex CS**>>laid down before State legislature
- Returns: before such authority as **state GOVT** determines
- Application to Multistate coop: 1.SL>>>Parlia 2.SG>>>GoI

## OFFICIAL LANGUAGES

- Languages of Union:
  - Art 343: **Official lng= Hindi** written in Devnagari script
  - Official language commission: **B.G. Kher** commission, 1956
- Regional languages:
  - **State legislature** may adopt any one or more lng as official language (until that, **English** will be official language of state)>> choice **not** limited to 8<sup>th</sup> sch
  - **Art 347**: when **President** satisfied that substantial proportion of popu of state desires use of any lng spoken by them as official lng>>can be officially recognized in that state
- Languages of Judiciary:
  - Art 348: Until **parliament** provides>> **English** as lng in All proceeding of **SC** and **every HC** + all Bills, text, byelaws of Centre and **states**

- **Governor** : with **consent of Prez**>> can authorize use of **Hindi or any other official lng** in **Proceedings** of HC (But **Not** in Judgement s and orders>> this comes under **parliament**)
- **State legislature** >> Prescribe any lng in Bills, acts, byelaws
- **Special Directives:**
  - Art 350: Right to representation in any of lngs used in Union or State
  - Art 350 A: Every **State and Local authority**>>mother tongue at **primary** level for children of Linguistic minorities (**7<sup>th</sup> CAA: Prez** can issue direction for this )
  - Art 350 B: **Special Officer for Linguistic Minorities**
  - Art 351: duty of **Centre** to promote the spread of *Hindi* as Lingua Franca
- **Committee of Parliament on Official Language-**
  - Under **Official Language Act (1963)**
  - To review progress made in use of Hindi for official purpose of Union
  - Members: 30 (20LS + 10RS)
  - Chairman- elected by members (conventionally **Home Minister**)
  - **Secreatariat-** is subordinate office of Dept of Official Lng, **MoHome**
- **8<sup>th</sup> schedule Lnuanguages:** Dogri, Kashmiri, Manipuri, Nepali, Santhali, Sindhi, Maithili

## PUBLIC SERVICES

- AIS Act, 1951: **Central Govt** to make rules consulting states (service condn)
- Disciplinary action on AIS>> **Only** by Central govt
- Art 309: **Parliament** and **State legislature** to regulate recruitment and service condition for posts under them>> thus can pose ‘reasonable restriction’ on FR
- Art 310: **Pleasure of President** (For AIS, Central services, **defence** services)  
**Pleasure of Governor** (for Civil post under **state**)
- Art 311: Two restriction on ‘doctrine of pleasure’:
  1. Cannot be dismissed by authority subordinate to that by which he was appointed
  2. Cannot be dismissed w/o inquiry + reseanable opportunity to represent
    - NOTE- these **safeguards** only for C or S services, **NOT** to **defence personnel**
- **EXCEPTION** to above clause (2): 1.Conviction in criminal charge 2.Authority empowered to dismiss civil servant satisfied that not reasonably practicable to hold such enquiry 3.Prez or Gov satisfied>> ‘interest of security of state’
- Art 312: 1.New AIS by Resolution of RS (2/3<sup>rd</sup> of present and voting)
  2. Parliament to regulate service condn of AIS
  3. All India Judicial services>> Any law making this will not be amendment under A368 (42<sup>nd</sup> CAA)
- NOTE- Constitution confers personal immunity for CS for official contracts. But, if such contracts is not according to conditions laid down in consti, then he is held personally liable

## TRIBUNALS

- NOT in original consti, but added by **42<sup>nd</sup> amendment**>> Part XIV-A (On recommendations of **Swarn Singh Committee**)
- Art 323A: empowers **parliament** to estd administrative tribunals>> for Adjudication of disputes relating to recruitment and conditions of services of person in **Centre, state, public body, corporation**
  - Admini Tribunal Act, 1985: authorizes **Central GOVT** to estd CAT & SAT (NOTE- SAT by **Centre** only on request of state govt)
- CAT-
  1. original jurisdiction over AIS, Central civil service, **civilian** employee of **defence**  
EXEMPTION: 1.Defence forces      2.officers in Supreme Court  
                                3.Secretarial staff of **Parliament**
  2. Strength: 1 + 65 (both judicial and admini)
  3. Appointment: **president** (recomm by Committee of Sitting SC judge + concurrence of CJI + Approved by Appointments Committee)
  4. Term: 1. Chairman: 5 or **65 yrs**                      2.Members: 5 or **62 yrs**
  5. Guided by **NATURAL JUSTICE**>> thus not bound by CPC,1908
- SAT- Estd by **central Govt**,      Members: Appointment by **President** Consulting gov
- JAT- for two or more states
- Art 323B- By **both** Parlia and **state legislature**  
difference with CAT:
  1. Other matters: taxation, land reforms, industrial and labour, **Elections to parlia and SL**, Rent and tenancy rights, Food stuff
  2. By **BOTH** Centre as well as State
  3. Hierarchy of tribunals
- NOTE- **Finance Act, 2017**:
  - provides **Central Govt** to make rules to provide for qualifications, appointments, term, salaries and allowances, removal and other service conditions for chairman and members of tribunals
  - **Central Govt** has power to amend list of tribunals

## SPECIAL PROVISIONS FOR CERTAIN CLASSES

- Art 341 & 342 - **President** empowered to declare castes, tribes in each state and UTs can be treated as **SCs** and **STs** + BUT only **Parliament** can **modify** that list (NOT by prez)
- Backward Classes: Consti Not defined it uniformly-
  - **Article 15-** Socially and Educationally Backward citizens
  - **Article 16-** Backward classes of citizens
  - **Article 46-** Weaker sections of society
  - **Article 30-** Socially and Educationally Backward citizens
- **Article 334-** sunset clause for reservation of seats for SC/ST in **LS and SA**

## ELECTIONS

- Art 325: 1. **One** electoral roll for Parliament and State legislature  
2. No person ineligible for inclusion in electoral roll on grounds of Religion, race, caste, sex (BUT NOT place of birth)
- Art 326: 1. Adult Franchise  
2. Disqualification- **NUCCI** (Non-residence, Unsound mind, Crime, Corrupt, Illegal practice)
- Art 327: **Parliament**- may make provisions related to ALL matters relating elections for parliament **and state legislature**
- Art 328: **State legislature**-make provisions related to ALL matters relating elections for State legislature>> BUT only on those matters **which are NOT covered by parliament** >>thus Only Supplement
- Art 329: Delimitation>> cannot be challenged

#### Delimitation Commission of India:

- Origin: Art 82>> Parliament by Law enacts Delimitation Commission after evry census
- After Act enacted>> **CENTRAL GOVT** set up Delimitation Commission
- Members: 3
  1. Serving or retired judge of SC- Chairperson
  2. Chief Election Commissioner
  3. State Election Commisioner
- Main task-
  1. Determining Number and Boundaries of constituencies
  2. Identifying **reserved seats** for SC, ST (can **NOT** change representation of states)
- Orders laid down before **LS** and **State Assemblies**>> BUT **Modifications NOT permitted (Article 329)**
- Delimitation in J&K- done under **state constitution**
- 31<sup>st</sup> CAA: Delimitation **NOT** applied to states with popu less than **6 million**
- Until now, **4 commissions** appointed

#### Election Machinery

Authority	Work
Chief Electoral officer	1. Supervise election in that state/UT
District Election Officer	1. Election work @ district
Returning Officer	1. Election work @ Parliamentary constituency 2. Scrutinize Election <b>nominations</b> 3. Supervise <b>counting of votes + declare winner</b>
Electoral Registration Officer	1. Prepare Electoral roll for Constituency
Presiding officer	1. Appointed by <b>DEO</b> in states and <b>RO</b> in UTs 2. conduct election @ Poll

#### Observers

- General observers
- Expenditure observers: From **Central Govt services**
- Police observers: **IPS officer**
- Awareness observers: first time in 2014- 1. To observe efforts by election machinery to bridge gap between people participation and voter turnout  
2. Monitors **media related aspects of RPA, 1951**>> 'Paid News'
- Micro observers: From **Central Govt services/PSUs** in selected sensitive areas>> reports to general observers directly

### Star Campaigners

- persons who are nominated by parties **to campaign in a given set of constituencies.** (thus only in **specified constituencies**)
- **only registered Political parties** can have SC
  - **recognized Pol party- 40**
  - **Unrecognised (but registered) – 20**

### Postal Ballot

- Following person can cast vote thr Postal Ballot:
  1. **Sec 60 of RPA, 1951:**
    - Member of armed forces of **state** who are serving outside state
    - Person in service of GoI serving outside India
    - Spouse of such persons
  2. Person who is under **Preventive Detention**
  3. Member of Armed forces of **Union** and forces to whom Arms Act, 1950 is applicable (also can use **Proxy**)

### ELECTION LAWS

#### RPA, 1950

1. Allocation of seats in: A. Lok Sabha B. State Assembly C. State Councils (Thus NOT RS)
2. President>>power to delimit constituency after consulting ECI
3. Electoral rolls for LS, SA, SC  
Thus, RPA 1950>> does not contain provisions for actual conduct of Election

#### RPA, 1951

1. Qualification and Disqualification for MPs and MLAs
2. Notification of general election
3. Administrative machinery for conduct of election
4. Registration of political parties

5. Conduct of election
6. Disputes regarding election
7. Corrupt practices and electoral offences
8. Bye-elections
9. Term of RS members

NOTE- Election symbols are dealt in **Sec 29A of RPA**, also in **Election Symbols order, 1968**

### ANTI DEFECTION LAW

- **Article 351B-** A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for the duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier
- 52<sup>nd</sup> Amendment, 1985- applicable to both parliament and state legislature
- Exceptions:
  1. Merger of party if 2/3<sup>rd</sup> of **members of party** agreed to such merger
  2. Presiding officer>>>**voluntarily** gives up membership of party
- NOTE- Whenever question of disqualification of **speaker or chairman under 10<sup>th</sup> Sch**>>> Decision by **such member of the House as the House may elect**
- *Kihoto Hollonhan case, 1993*: Presiding officer = Tribunal >>thus JR if *mala fide* , *perversity*
- Rule making power>>Speaker>>if anyone breached this rules= 'Breach of privilege' of House
- NO **suo motu**>>Only on Complaint from MEMBER of house
- NO immediate and automatic effect>>> as inquiry + chance for member to submit explain + may be referred to Committee of privileges
- For FIRST time>>give CLEAR CUT constitutional recognition to existence of political parties
- Do NOT cover activities of member OUTSIDE legislature
- 91<sup>st</sup> amendment, 2003
  1. Disqualified member>>Bar to hold '**ANY remunerative political office**'
    - Constitution **defines remunerative office** term as under GoI or state govt where salary is paid out of public revenue OR under any body under GoI or state govt
    - But, exception is there for remuneration of **compensatory nature**