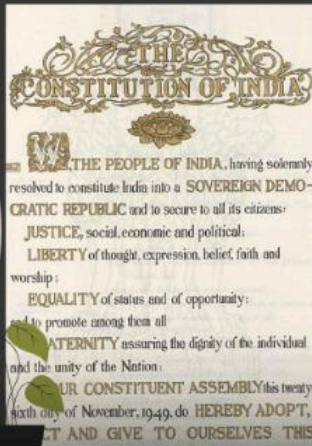




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# Constitutional & Non-Constitutional Bodies



**SAIMA KHAN**  
**AIR 165**  
**UPSC CSE 2023**

“

Success has three mantras. Hard work, self-belief and trust in your mentors. I would like to thank all the mentors for having faith in me and guiding me throughout. The disciplined and competitive environment at Educrat has helped me to crack Civil Services from Kolkata without going to Delhi.

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## LOCAL SELF GOVERNMENT- PANCHAYATI RAJ INSTITUTION

Local self-government (LSG) is a system where local people elect bodies to manage local affairs. It's a **democratic system** that aims to **empower local people** to have a say in issues that impact their daily lives.

### Significance of LSG

1. **Participatory Democracy:** Local self-governance **fosters citizen participation** in decision-making processes, ensuring that governance is more **inclusive and representative** of local needs and priorities.
2. **Citizen Participation:** It **fosters a sense of ownership and civic engagement** among residents, encouraging them to actively participate in decision-making processes.
3. **Accountability and Transparency:** Elected representatives at the local level are more accessible to the community, which enhances **accountability and transparency** in governance.
4. **Responsive Governance:** Local bodies can respond swiftly to issues and challenges specific to their area, leading to more **effective and efficient service delivery**.
5. **Improved Efficiency:** Local bodies often possess a deeper understanding of local needs and challenges, allowing for more efficient allocation of resources.
6. **Empowerment and Capacity Building:** Decentralization empowers local communities by building their capacity to manage **resources, plan development activities, and resolve conflicts**.
7. **Inclusiveness:** Local governance provides a platform for marginalized communities such as **SCs, STs, Women**, etc to have their voices heard and their needs addressed.



### Few notable Committees

1. **B.R. Mehta Committee:** It recommended **3 tier structure of Panchayats in 1957**. The recommendations were accepted by **NDC**. Although **NDC** did not agree for 3 tier structure only.
2. **Ashok Mehta Committee 1977:** It recommended **2 tier structures** for Panchayat namely **Mandal Panchayat** for group of villages and **Zila Parishad** for district level. It also reservation of seats for **SC/ST**.
3. **LM Singhvi Committee 1986:** It recommended constitutional states to the panchayats.



4. **Dilip Shingh Bhuria Committee 1994:** It recommended extension of Panchayats to the scheduled areas (schedule 5 of Constitution and Schedule 6). Based upon this recommendations Panchayats Extension to Scheduled Areas Act 1996 was passed by the Parliament.

### **73<sup>rd</sup> Constitutional Amendment Act of 1992**

1. The Act added **Part IX** to the Constitution, “The Panchayats” and also added the **Eleventh Schedule** which consists of the **29 functional items** of the panchayats.
2. Part IX of the Constitution contains **Article 243 to Article 243 O**.
3. The Amendment Act provides shape to **Article 40 of the Constitution, (DPSP)**, which directs the state to **organise the village panchayats** and provide them powers and authority so that they can function as self-government.
4. With the Act, **Panchayati Raj systems come under the purview of the justiciable part of the Constitution** and mandates states to adopt the system. Further, the election process in the Panchayati Raj institutions will be held independent of the state government’s will.
5. The Act has two parts: **compulsory and voluntary**. Compulsory provisions must be added to **state laws**, which includes the creation of the new Panchayati Raj systems. Voluntary provisions, on the other hand, is the **discretion of the state government**.
6. The Act is a very significant step in creating **democratic institutions at the grassroots level in the country**. The Act has transformed the **representative democracy into participatory democracy**.

### **Some Features of the Act:**

1. **Gram Sabha:** Gram Sabha is the **primary body of the Panchayati Raj system**. It is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature.
2. **Three-tier system:** The Act provides for the establishment of the three-tier system of Panchayati Raj in the states (village, intermediate and district level). States with a population of less than 20 lakhs may not constitute the intermediate level.



3. **Election of members and chairperson:** The members to all the levels of the Panchayati Raj are elected directly and the chairpersons to the intermediate and the district level are elected indirectly from the elected members and at the village level the Chairperson is elected as determined by the state government. The Chairperson of a Panchayat and other members of a Panchayat, whether or not elected directly from territorial constituencies in the Panchayat area, have the right to vote in Panchayat meetings.





**4. Reservation of seats:**

- a) **For SC and ST:** Reservation to be provided at all the three tiers in accordance with their population percentage.
- b) **For women:** Not less than **one-third** of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.
- c) The state legislatures are also given the provision to decide on the reservation of seats in any level of panchayat or office of chairperson in favour of backward classes.

**5. Duration of Panchayat:** The Act provides for a **five-year term of office** to all the levels of the panchayat. However, the panchayat can be dissolved before the completion of its term. But fresh elections to constitute the new panchayat shall be completed –

- a) before the **expiry of its five-year duration.**
- b) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

**6. State election commission:**

- a) The commission is responsible for **superintendence, direction and control of the preparation of electoral rolls** and conducting elections for the panchayat.
- b) The state legislature may make provisions with respect to all matters relating to elections to the panchayats.

**7. Powers and Functions:** The state legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions related to Gram Panchayat work with respect to:

- a. the preparation of plans for **economic development and social justice.**
- b. the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the **29 matters listed in the Eleventh Schedule.**

**8. Finances:** The state legislature may –

- a. Authorize a panchayat to **levy, collect and appropriate taxes, duties, tolls and fees.**
- b. Assign to a **panchayat taxes, duties, tolls and fees** levied and collected by the state government.
- c. Provide for making **grants-in-aid to the panchayats** from the consolidated fund of the state.
- d. Provide for the constitution of funds for crediting all money of the panchayats.

**9. Finance Commission:** The state finance commission reviews the financial position of the panchayats and provides recommendations for the necessary steps to be taken to supplement resources to the panchayat.

**10. Audit of Accounts:** State legislature may make provisions for the maintenance and audit of panchayat accounts.

**11. Application to Union Territories:** The President may direct the provisions of the Act to be applied on any union territory subject to exceptions and modifications he specifies.

**12. Exempted states and areas:** The Act does not apply to the states of **Nagaland, Meghalaya and Mizoram** and certain other areas. These areas include,

- a. The scheduled areas and the tribal areas in the states
- b. The **hill area of Manipur** for which a district council exists
- c. **Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.** However, Parliament can extend this part to these areas subject to the exception and modification it specifies. Thus, the PESA Act was enacted



### PESA Act of 1996

The provisions of **Part IX are not applicable to the Fifth Schedule areas**. The Parliament can extend this Part to such areas with modifications and exceptions as it may specify. Under these provisions, Parliament enacted Provisions of the Panchayats (Extension to the Scheduled Areas) Act, popularly known as PESA Act or the extension act.

#### **Objectives of the PESA Act:**

1. To extend the provisions of **Part IX to the scheduled areas**.
2. To provide self-rule for the tribal population.
3. To have **village governance with participatory democracy**.
4. To evolve **participatory governance** consistent with the traditional practices.
5. To preserve and safeguard traditions and customs of tribal population.
6. To empower panchayats with powers conducive to tribal requirements.
7. To prevent panchayats at a higher level from assuming powers and authority of panchayats at a lower level.

### Issues with Local Self-Government in India

The major issues related to the Local Self-Government in India are as follows:

1. **Inadequate Financial Resource:** Limited powers of levying taxes and very few grants from the state mean that the local bodies have inadequate finances. This restricts their abilities to undertake development projects and provide essential services.
2. **Inadequate Devolution of Functions:** Most of the states have been **reluctant to devolve functions to the local bodies**.
3. **Excessive Control by Bureaucracy:** In some States, the local bodies have been placed in a position of subordination to the government offices. This hampers their ability to make and implement decisions.
4. **Tied Nature of Funds:** Over 90% of the funds that the local bodies handle are tied to some schemes. Insufficient untied funds demotivate them from meaningful planning processes.
5. **Functional Overlap:** There are functional overlaps with other government agencies such as **Block offices, Para-statal agencies**, etc. This creates confusion and conflicts.
6. **Capacity Constraints:** Local bodies often face a **shortage of trained personnel and resources**, hindering their effective functioning.
  - a. Also, most of the ULB members are either illiterate or semi-literate and know little about their roles and responsibilities. This further hampers their effective functioning.
7. **Political Interference:** Excessive interference by higher levels of government can undermine the autonomy of local self-governing bodies.
8. **Elections are not held regularly** and state Governments postpone the elections on various grounds like **monsoon, drought, disturb law and order, ongoing budget session of state assembly**. Violence is still a norm in Panchayat elections which often continues even after elections.
9. Mahatma Gandhi observed that real freedom was not about freedom from British, **real freedom is only when our villages are transformed into self-sufficient and independent republics** i.e. there must be complete decentralisation of powers to people at lowest levels. It was believed that Gram Sabhas would help in realising this dream of Gandhi but unfortunately it failed because of following reasons



- a. **Size of Gram Sabha** – Initial assumption when **73rd amendment was passed was that Gram Sabha size would be 1500 to 2000 people**. Gram Sabha would be able to meet and discuss the problems and take decisions. With increase in population size, there are Gram Sabhas with strength of 25000 people. This makes it impractical for Gram Sabha to hold discussions.
- b. Not active and large participation of villagers because recommendations of Gram Sabha are not binding on Panchayats. An average villager who is most likely a daily wage earner cannot afford to attend Gram Sabha meeting at the cost of his livelihood.
- c. Villages have a **conservative social environment** because of which participation of women in Gram Sabha meetings is poor.
- d. Meeting of Gram Sabha are not held regularly
- e. **Meetings of Gram Sabha are often held in secrecy**. Efforts are not made to inform all the stake holders regarding the meetings of Gram Sabha. Mostly, relatives and friends of Panchayat members attend Gram Sabha meetings and take decisions. It has resulted in massive level of corruption.

### **Way Forward:**

**ARC II made the following recommendations for the Panchayats:**

1. The state government shall amend their law for devolution of 29 functions to Panchayats as per 11<sup>th</sup> schedule
2. There is a **need for capacity building or training for the panchayat members** to make them aware about their role and functions including women members and other reserved community members.
3. **Audit committee shall be constituted by the state government** at district level to exercise financial control and ensure transparency in the working of Panchayats.
4. There shall be activity mapping in terms of **planning budgeting and execution of Panchayat functions** by 3 levels of panchayat.
5. The capacity of Panchayat should be improved for taxation by taking in to consideration **4 dimensions**:
  - a. Potential for taxation
  - b. Fixation of realistic rate of taxes
  - c. Widening of tax base
  - d. Improvement in tax collection (tax on agri income above a specific limit)
6. Involve NGOs to improve social audit

### **Other recommendations that you can make:**

1. Mandatory for **Gram Sabha to meet atleast three times in a year** and the meetings should be held on public holidays like **15th august, 2nd oct, 26th Jan**.
2. Wherever villages are big in size, ward Sabhas should be organised consisting of not more than 1500 people. Separate mahila Sabhas should be organised to encourage women participation
3. Meetings of Gram Sabha should be **widely publicised**.
4. Mandatory for Gram Panchayats to implement decisions on certain matters only after approval by Gram Sabha. This will prevent Panchayats from taking unilateral decisions without approval of Gram Sabha
5. **Capacity building of Panchayat members** by training or distance learning programmes.
6. Recommendations of **states Finance Commission** to be binding on states.
7. **State budgets must have a separate window for LSG** so that LSG receive funding within specific time period.



8. Chief Ministers conference suggested that devolution index must be the necessary condition for the release of grants from central Government to states. Principle of subsidiarity should be followed and those functions which can be performed best at lower level, should be performed at lowest level.
9. Number of centrally sponsored schemes should be reduced if not at least the Panchayats should be given the freedom to implement these schemes.
10. A separate local body service like that of central civil services and state civil services.
11. Every Panchayat should have a separate building, staff and internet connection.
12. **Sensitivity training for bureaucrats** so as to bring a positive attitude in them towards local bodies.

**Conclusion:** As a result of these constitutional steps taken by the union and state governments, **India has moved towards what has been described as ‘multi-level federalism’**, and more significantly, it has widened the democratic base of the Indian polity. Before the amendments, the Indian democratic structure through elected representatives was restricted to the two houses of Parliament, state assemblies and certain union territories. The system has brought governance and issue redressal to the grassroot levels in the country but there are other issues too. These issues, if addressed, will go a long way in creating an environment where some of the basic human rights are respected.

#### Some success stories from Panchayats across India.

**Sons Panchayat:** The leader of this panchayat formed a co-operative of fruit and vegetable growers. The co-operative provided seeds, fertilizers, and marketing support to the farmers.

**Maligaon Gram Panchayat:** This panchayat installed a **10 KW rooftop off-grid hybrid solar panel** system. Solar panels are eco-friendly and can help combat climate change.

**Kanjikuzhy panchayat:** The panchayat has become a national model for organic farming. Every household in the panchayat grows their own vegetables, including beans, lady's finger, cabbage, green chili, and bitter gourd. The panchayat also provides farmers with technical and other support, and distributes vegetable seedlings to households.

**Q.1. Assess the importance of the Panchayat system in India as a part of local government. Apart from government grants, what sources the Panchayats can look out for financing development projects? (250 words, 15 marks) 2018**

**Q.2. In absence of well-educated and organised local level government system, ‘Panchayats’ and ‘Samitis’ have remained mainly political institutions and not effective instruments of governance. Critically discuss. (2015)**





## LOCAL SELF GOVERNMENT- MUNICIPALITIES/URBAN LOCAL BODIES

**Urban Local Bodies (ULB)**, also known as **Municipalities**, refer to the **System of ‘Urban Local Self-Governance’** in India i.e. a system of governance of Urban Areas through the representatives elected by the people.

- The 74th Amendment Act has added a new **Part IX-A** to the Constitution of India.
- This part is entitled as **‘The Municipalities’** and consists of provisions from Articles **243-P to 243-ZG**.
- Additionally, the act also added a new **Twelfth Schedule** to the Constitution. This schedule contains **18 functional items of municipalities**.
- The Act has brought Municipalities under the purview of the justiciable part of the Constitution.
- In other words, state governments are under constitutional obligation to adopt the new system of municipalities in accordance with the provisions of the act [**Article 243 Q**].
- The act aims at **revitalising and strengthening the urban governments** so that they function effectively as units of local government.

### Historical Background

- ✓ In **1989**, the Rajiv Gandhi government introduced the **65th Constitutional Amendment Bill (Nagarpalika bill) in the Lok Sabha**. The bill aimed at strengthening and revamping the municipal bodies by conferring constitutional status on them.
- ✓ Although the bill was passed in the Lok Sabha, it was defeated in the Rajya Sabha in October 1989 and, hence, lapsed.
- ✓ The National Front Government under **V P Singh introduced the revised Nagarpalika Bill** in the Lok Sabha again in **September 1990**. However, the bill was not passed and finally lapsed due to the dissolution of the Lok Sabha.
- ✓ P V Narasimha Rao’s Government also introduced the modified Municipalities Bill in the Lok Sabha in September 1991. It finally emerged as the **74th Constitutional Amendment Act of 1992 and came into force on 1 June 1993**.

### Features of 74th Amendment Act, 1992

1. The Act provides for the constitution of 3 types of municipalities, depending upon the size and area in every state.
  - ✓ **Nagar Panchayat** (for an area in transition from rural to the urban area);
  - ✓ **Municipal Council** for the smaller urban area; and
  - ✓ **Municipal Corporation** for a larger urban area.
2. **Composition of Municipalities**
  - a. The **seats shall be filled by direct elections**. For this purpose, each municipal area shall be divided into territorial constituencies to be known as **wards**.
  - b. The state legislature may provide the manner of election of the chairperson of a municipality.
  - c. It may also provide for the **representation of the following persons in a municipality**.
  - d. Persons having special knowledge and experience in municipal administration without the right to vote in the meetings of the municipality.
  - e. The members of the Lok Sabha and the state legislative assembly representing constituencies that comprise wholly or partly the municipal area.

- f. The members of the Rajya Sabha and the State Legislative Council registered as electors within the municipal area.
- g. The chairpersons of committees (other than ward committees).
- 3. Constitution of Wards Committees:** This provides for the constitution of Ward Committees in all municipalities with a population of **3 lakhs or more**.
- 4. Reservation of seats**
- a. The Act provides for the **reservation of seats for the scheduled castes and the scheduled tribes** in every municipality in the proportion of their population to the total population in the municipal area.
- b. Further, it provides for the reservation of **not less than one-third of the total number of seats for women** (including the number of seats reserved for women belonging to the SCs and the STs).
- c. The state legislature may provide for the manner of reservation of offices of chairpersons in the municipalities for **SCs, STs and women**.
- d. It may also make any provision for the reservation of seats in any Municipality or offices of chairpersons in municipalities in favour of backward classes.
- 5. Duration of Municipalities**
- a. The municipality has a fixed term of **5 years** from the date appointed for its first meeting.
- b. Elections to constitute a municipality are required to be completed before the expiration of the duration of the municipality.
- c. If the municipality is dissolved before the expiry of 5 years, the elections for constituting a new municipality are required to be completed within a period of 6 months from the date of its dissolution.
- 6. Powers and Functions of the Municipalities**
- a. All municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government.
- b. The State Legislature may, by law, specify what powers and responsibilities would be given to the municipalities in respect of preparation of plans for **economic development and social justice** and for implementation of schemes as may be entrusted to them.
- c. An illustrative list of functions that may be entrusted to the municipalities has been incorporated as the **Twelfth Schedule of the Constitution**.
- 7. Finances of Municipalities:** It has been left to the Legislature of a State to specify by law matters relating to imposition of taxes. Such law may specify:
- a. Taxes, duties, fees, etc. which could be levied and collected by the Municipalities, as per the procedure to be laid down in the State law.
- b. Taxes, duties, fees, etc. which would be levied and collected by the State Government and a share passed on to the Municipalities.
- c. Grant-in-aid that would be given to the Municipalities from the State.
- d. Constitution of funds for crediting and withdrawal of money by the Municipality.
- 8. Finance Commission:** The Finance Commission, constituted under **Article 243-I to review the financial positions of Panchayati Raj Institutions**, shall also review the financial position of the municipalities and will make recommendations to the Governor.
- 9. Elections to Municipalities:** The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the panchayats and municipalities shall be vested in the **State Election Commissions**.
- 10. Audit and Accounts:** The maintenance of the accounts of the municipalities and other audits shall be done in accordance with the provisions in the State law. The State Legislatures will be free to make appropriate provisions in this regard, depending upon the local needs and institutional framework available for this purpose.



11. **Committee for District Planning:** Every state shall constitute, at the district level, a district planning committee to consolidate the plans prepared by panchayats and municipalities in the district, and to prepare a draft development plan for the district as a whole.
  - ✓ Planning and allocation of resources at the district level for the Panchayati Raj institutions are normally to be done by the Zila Parishad.
12. **Metropolitan Planning Committees:** Every metropolitan area shall have a metropolitan planning committee to prepare a draft development plan.
13. **Bar to Interference by Courts in Electoral Matters:** The act bars the interference by courts in the electoral matters of municipalities.
  - a. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.
  - b. It further lays down that no election to any municipality is to be questioned except by an election petition presented to such authority and in such a manner as provided by the state legislature.

### **Issues of ULB:**

1. **Limited financial resources:** Due to the limited revenue-raising powers of ULBs, as well as the low levels of tax collection and revenue generation in many urban areas.
2. **Lack of autonomy:** Limited autonomy of ULBs in decision-making and their dependence on the state governments for financial and administrative support can hinder their ability to respond effectively to the needs and demands of their citizens.
3. **Parallel Bodies:** In some states, there is some **ambiguity of the functional domain of ULBs and parastatal bodies**, making municipal governance further remote and inaccessible for the citizens.
4. **Limited human resources:** ULBs in India often suffer from a **shortage of skilled and qualified personnel**, which can affect their ability to effectively carry out their duties and functions.
5. **Poor infrastructure:** Many ULBs in India face a **shortage of infrastructure**, such as roads, water supply, and sewage systems, which can limit their ability to provide basic services to their citizens.
6. **Political interference:** ULBs in India are often **subject to political interference**, which can affect their independence and neutrality in decision-making.
7. **Limited public participation:** ULBs in India often face a **lack of public participation in decision-making processes**, which can hinder their effectiveness and accountability.
8. **Lack of capacity:** Many ULBs in India lack the capacity to effectively plan, implement and monitor development projects and programs. This can lead to inefficiencies and waste of resources.
9. It was expected that **DPC will become a symbol of decentralised planning at cutting edge level but the actual performance is far from satisfactory**. Not all states have established DPCs and that too not in all districts. In some states, DCs are the heads of DPCs
10. **A problem of urban planning in India is sectoral planning** i.e. planning for specific sectors like transportation, slum, water, planning for land use (spatial planning). It was expected that after 74th amendment, planning will be integrated and not just sectoral however this has not happened and urban planning remains spatial. It cannot be called a developmental plan.

### **Way Forward:**

1. **Decentralization of powers:** Urban local bodies should be given **greater autonomy and decision-making powers** so that they can effectively address the needs of their citizens. This can include powers related to planning, financing, and delivering services.



2. **Improved financial management:** Urban local bodies should be provided with adequate resources and financial support to deliver essential services to their citizens. This could include grants, loans, and other forms of financial assistance.
3. **Capacity building:** Urban local bodies should be supported in building the necessary skills and knowledge to manage their affairs effectively. This could include **training in financial management, planning, and service delivery.**
4. **Improved transparency and accountability:** Urban local bodies should be made more accountable to their citizens through transparency measures such as **open data initiatives and citizen engagement platforms.**
5. **Enhanced collaboration:** Urban local bodies should work closely with other levels of government, as well as with civil society and the private sector, to effectively address the challenges facing their communities.
6. **Enhanced public participation:** Engaging citizens in the decision-making process can help to ensure that ULBs are responsive to the needs and priorities of their communities. This can be achieved through the use of **citizen advisory boards, town hall meetings, and other mechanisms for public input.**
7. **Improved infrastructure and services:** Investments in public transportation, water and sanitation, infrastructure and other essential services by providing ULBs with the resources and support can help to address some of the challenges faced by citizens and make urban areas more livable and attractive.

### **Examples of successful urban local bodies (ULBs) in India**

1. **Ahmedabad Municipal Corporation:** The Ahmedabad Municipal Corporation (AMC) has implemented several innovative initiatives to **improve the quality of life for its citizens, including the Ahmedabad Janmarg Limited (AJL),** a public-private partnership that operates a network of bus rapid transit corridors.
2. **Pune Municipal Corporation:** The Pune Municipal Corporation (PMC) has been recognized for its **effective waste management practices,** including the implementation of a **door-to-door waste collection system** and the **establishment of a waste segregation and processing facility.**
3. **Surat Municipal Corporation:** The Surat Municipal Corporation (SMC) has implemented various initiatives with the use of technology to track the progress of infrastructure projects and the establishment of a centralized control room to manage emergencies. The SMC has also developed a network of **pedestrian-friendly streets and the establishment of a number of public parks.**
4. **Ambikapur:** The city became landfill free through the **solid liquid resource management (SLRM) model.** The SLRM model also created livelihood opportunities for 623 members of self-help groups.

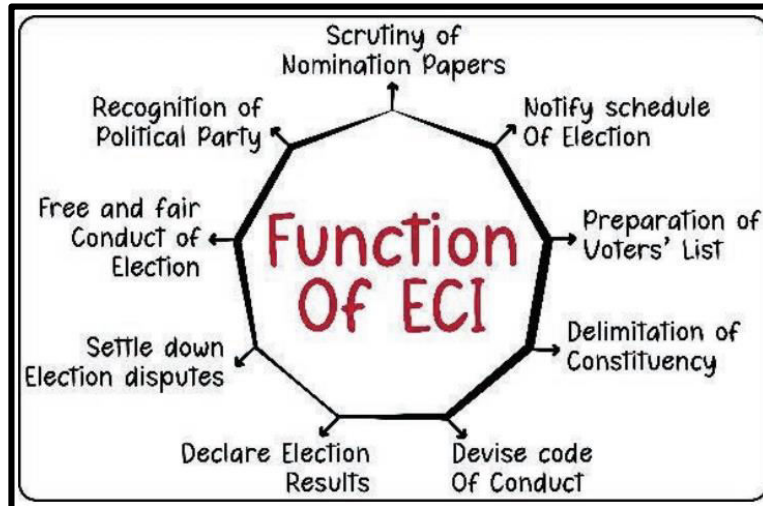




## Election Commission of India (Article- 324 to 329)

**Key words-** Permanent, Independent, Constitutional, all India body

**Functions-** superintendence, direction and control of elections to parliament, state legislatures, the office of president of India and the office of vicepresident of India



**Composition:**

CEC and such number of election commissioners President may fix from time to time (Currently CEC + 2EC)

**Appointment Authority-** President

**Term at office-** 6 years or until they attain the age of 65 years, whichever is earlier

**Conditions of service and tenure of office-** shall be determined by the president. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India.

**Features of Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023**

1. The CEC and ECs will be appointed by the President upon the recommendation of a Selection Committee consisting of PM, a Union Cabinet Minister, and the Leader of Opposition/leader of the largest opposition party in Lok Sabha.
2. A Search Committee headed by the Cabinet Secretary will propose a panel of names to the Selection Committee
3. The salary and conditions of service of the CEC and ECs will be equivalent to that of the Supreme Court Judge
4. Bill safeguards CEC and ECs from legal proceedings related to actions taken during their tenure, provided such actions were carried out in the discharge of official duties

**Decision-** Taken by Majority consensus

**Security of Tenure-** CEC can't be removed from his office except in same manner and on the same grounds as a judge of the Supreme Court (resolution passed by a special majority in both the houses of Parliament, either on the ground of proved misbehaviour or incapacity.)

- Service Condition of CEC cant be varied to his disadvantage

**Issues of ECI-**



1. No prescribed qualification in constitution
2. The Constitution has not specified the term of the members
3. Potential for post-retirement appointments
4. Accountability and transparency (Alleged partisan role)
5. Expenditures are not charged on constitution
6. Inadequate enforcement powers
7. Security of tenure for CEC only. CEC is first among the equals
8. Conflict of constitutional and legal power (Article 324 vs RPA 1951)
9. Inadequate capacity- depends on centre and state forces and personnel
10. Unable to curb malpractices (Muscle power and election)
11. Credibility and current issues (7 phase election for a single state)
12. Politicization and spoils system in appointment

**Way Forward:**

1. 2nd ARC: Establish a collegium headed by the PM, Speaker of the Lok Sabha, Leader of the Opposition, Law Minister, and Dy Chairman of the Rajya Sabha, for transparent appointment of Chief Election Commissioner and Election Commissioners.
2. Protect all the ECs under security of tenure and treat them as equals
3. Charged Expenditure
4. Minimum 2 years Cooling off period post retirement/tenure
5. Model code of conduct shall be legal binding on political parties
6. Empower ECI to take decisions (including deregistration of parties)

**One Nation One Election**

IN FAVOUR OF SIMULTANEOUS ELECTIONS	AGAINST SIMULTANEOUS ELECTIONS
<ul style="list-style-type: none"> <li>• <b>Expenditure:</b> Lack of expenditure caps leads to high spending in elections.</li> <li>• <b>Policy Paralysis:</b> Frequent application of the Model Code of Conduct disrupting government functions and civic life.</li> <li>• <b>Resource Savings:</b> Potential benefits of utilizing the same voter and booth for both elections.</li> <li>• <b>Social Harmony:</b> Escalation of communalism and casteism during election periods.</li> <li>• <b>Sustainable Development:</b> Focus on short-term reforms due to the frequency of elections.</li> <li>• <b>Global Experiences:</b> Implementation of simultaneous elections in countries like South Africa and Sweden.</li> <li>• <b>Invisible Socio-Economic Costs:</b> Undetermined impact on education, welfare schemes, and resource allocation during election duties.</li> <li>• <b>Engagement of Security Forces:</b> Diversion of armed police forces from other internal security responsibilities.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Practical difficulties:</b> Resistance from political parties due to adjustments in assembly terms.</li> <li>• <b>Constitutional hurdles:</b> Lack of fixed tenures for Lok Sabha and state assemblies.</li> <li>• <b>Anti-federalism:</b> Influence of national issues on state elections and vice versa.</li> <li>• <b>Reduces accountability:</b> Frequent elections keep politicians connected with voters.</li> <li>• <b>Grassroots economy:</b> Job creation and economic boost during elections.</li> <li>• <b>False arguments related to MCC:</b> Misconceptions about restrictions on new schemes.</li> <li>• <b>Against multiparty democracy:</b> Blurred distinction between state and national elections.</li> <li>• <b>Inconsistent with Westminster democracy and federalism:</b> Impact on the dissolution of governments and political shifts.</li> <li>• <b>The disadvantage to regional parties:</b> Dominance of national parties and disadvantage for regional parties.</li> <li>• <b>Alternative reforms:</b> Expenditure caps, state funding, shorter poll durations, and enhanced security measures.</li> </ul>

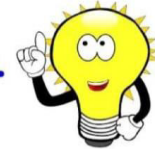


### Logistical challenges for Election Commission

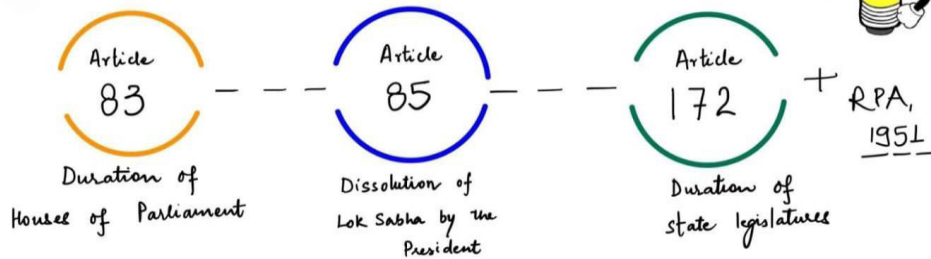
Higher No of VVPAT s & EVM's + Additional Polling staff + EVM storage + Tremendous One-time Expenditure



### HOW TO IMPLEMENT SIMULTANEOUS ELECTIONS



Need to Amend



The concept of simultaneous elections is **not new to the country.**

01

Post adoption of the Constitution of India, the **First General Elections** to the **Lok Sabha** and all State Legislative Assemblies were held **simultaneously in 1951-52**. This practice continued in three subsequent General Elections held in **1957, 1962 and 1967**.

02

However, due to **premature dissolution of State Legislative Assemblies** in 1968 and 1969, the cycle of synchronized elections got disrupted. In 1970, the Lok Sabha itself was dissolved prematurely and fresh elections were held in 1971.

03

**Thus, since 1967 elections**, the practice of simultaneous elections to the Lok Sabha and the State Assemblies could not be maintained and the elections have still **not been realigned.**

04



**\*Other Info**

Delimitation- Retired SC Judge+CEC+SEC

**Prelims Previous Year Question**

**Q.1 Consider the following statements: (2017)**

1. The Election Commission of India is a five-member body.
2. Union Ministry of Home Affairs decides the election schedule for the conduct of both general elections and bye-elections.
3. Election Commission resolves the disputes relating to splits/mergers of recognised political parties.

**Which of the statements given above is/are correct?**

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

**Mains Previous Year Question**

1. In the light of recent controversy regarding the use of Electronic Voting Machines (EVM), what are the challenges before the Election Commission of India to ensure the trustworthiness of elections in India? **(2018)**
2. Simultaneous election to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people' Discuss. **(2017)**
3. To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? **(2016)**





## **Union Public Service Commission (Article 315-323)**

**Key words-** independent constitutional body, Watchdog of merit

**Functions-** Following are the functions of UPSC

1. Watchdog of merit system.
2. Assists the states in framing and operating schemes of joint recruitment for any services
3. Serves needs of a state: On Governor's request and with the President's approval.
4. Consulted for the following matters of personnel management:
  - a. Methods of recruitment, promotion, and transfer to civil service and for civil posts.
  - b. All disciplinary matters affecting a person serving under the Government of India in a civil capacity.
  - c. Reimbursement claims of legal expenses incurred by a civil servant in defending legal proceedings instituted against him in respect of acts done in the execution of his duties.
  - d. Temporary appointments exceeding 1 year and on regularisation of appointments. To grant an extension of service and reemployment of certain retired civil servants.

**Composition & Qualification:** The UPSC consists of a chairman and other members **appointed by the president of India.**

- Strength of the Commission is a matter of discretion of the president. (Usually 9-11 members including chairman).
- No qualifications are prescribed for the Commission's membership except that **one-half** of the members of the Commission should be such persons who have **held office for at least ten years either under the Government of India or under the government of a state**

**Term at office-** 6 years or until they attain the age of 65 years, whichever is earlier

**Conditions of service and tenure of office-** The Constitution also authorises the president to determine the conditions of service of the chairman and other members of the Commission.

The President can remove the chairman or any other member of UPSC from the office under the following circumstances:

- a) If he is adjudged an insolvent (that is, has gone bankrupt)
- b) If he engages, during his term of office, in any paid employment outside the duties of his office; or
- c) If he is, in the opinion of the president, unfit to continue in office by reason of infirmity of mind or body.
- d) In addition to these, the president can also remove the chairman or any other member of UPSC for misbehaviour. (However, in this case the final decision is subjected to inquiry of Supreme court).

**Security of Tenure-** The chairman or a member of the UPSC can be removed from office by the president only in the manner and on the grounds mentioned in the Constitution. Therefore, they enjoy security of tenure.

- The conditions of service of the chairman or a member, though determined by the president, cannot be varied to his disadvantage after his appointment.

**Limitations/Issues of UPSC-**

1. Non-binding provisions
2. Selection by the UPSC does not confer any right to the post upon the candidate.
3. UPSC is not consulted on the following matters:



- a. Making reservations for any backward class in appointments.
  - b. Consider the claims of SC/ST in making appointments to services and posts.
  - c. For Selections for chairmanship or membership of commissions or tribunals, posts of the highest diplomatic nature, and the bulk of group C and group D services.
  - d. For a temporary appointment, if a person isn't likely to hold the post for more than a year.
  - e. Classification of services, pay and service conditions, cadre management, training, etc.
4. Credibility crisis- Recent controversy with an IAS officer from Maharashtra

\*Provisions of State Public Service commission are almost similar except that they are appointed by governor and acts for specific states. Members of SPSC can be removed by President Only.

UPSC	SPSC
<ul style="list-style-type: none"> <li>• <b>Composition:</b> consists of a chairman and other members appointed by the president of India.</li> <li>• <b>Strength:</b> Discretion of the President. Usually 9 to 11.</li> <li>• <b>No qualifications</b> are prescribed for membership except 50% of members should have held office for at least ten years under the Government of India or the state government.</li> <li>• <b>Term:</b> six years/ 65 years of age; whichever earlier reached.</li> <li>• <b>Removal:</b> By President on the ground of adjudging an insolvent, paid employment outside the duties, unfit due to infirmity of mind or body. For misbehaviour - By the President on the inquiry of the supreme court.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Composition:</b> consists of a chairman and other members appointed by the Governor of state.</li> <li>• <b>Strength:</b> Discretion of the Governor of the respective State.</li> <li>• <b>No qualifications</b> are prescribed for membership except 50%of members should have held office for at least ten years under the Government of India or the state government.</li> <li>• <b>Term:</b> Six years/62 years of age; whichever is reached earlier.</li> <li>• <b>Removal:</b> President can remove the members and chairman on the same grounds and in the same manner as he can remove a chairman or a member of the UPSC.</li> </ul>

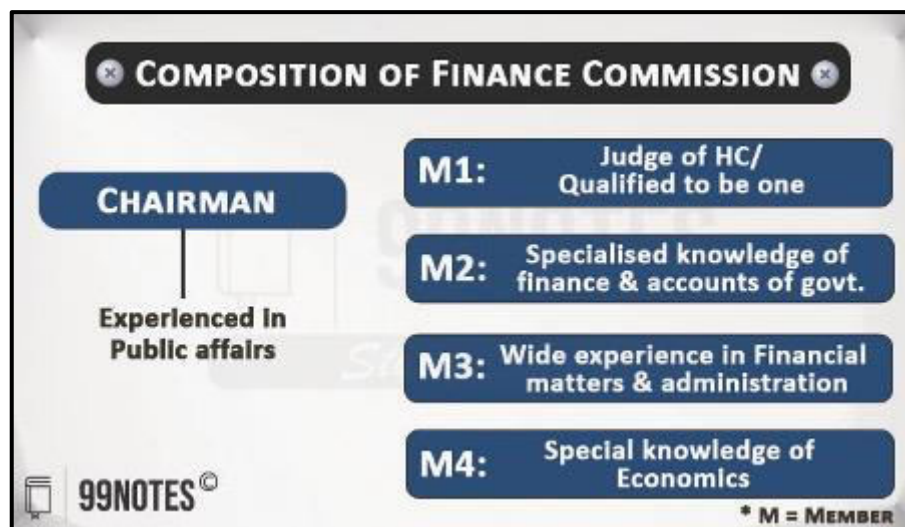


## FINANCE COMMISSION (ARTICLE 280)

**Keywords-** Balancing wheel of fiscal Federalism, Quasi judicial body, Non permanent body

**Composition-** Chairman+4 members

**Qualification of Members-** Constitution authorises the Parliament to determine the qualifications of members of the commission and the manner in which they should be selected.



**Functions:** The Finance Commission makes recommendations on:

1. The **distribution of the net proceeds of taxes** to be shared between the Centre and the states, and the allocation between the states of the respective shares of such proceeds.
2. The principles that should govern the **grants-in-aid to the states by the Centre** (i.e., out of the consolidated fund of India).
3. The measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the state finance commission.
4. Any other matter referred to it by the president in the interests of sound finance.

**Some Recommendations of 15<sup>th</sup> FC:**

1. It has recommended maintaining the **vertical devolution at 41%** - the same as in its interim report for 2020-21 (**government accepted**)
2. For horizontal devolution, it has suggested 12.5% weightage to demographic performance, 45% to income, 15% each to population and area, 10% to forest and ecology and 2.5% to tax and fiscal efforts.
3. It has recommended post-devolution revenue deficit grants amounting to about Rs. 3 trillion over the five-year period ending FY26.
4. Along with grants for municipal services and local government bodies, it **includes performance-based grants for incubation of new cities** and health grants to local governments.
5. 34% of the gross revenue shall be allocated to central government to manage its expenses.



**Issues with FC:**

1. Current devolution recommendations are on the basis of 2011 census which means absence of current ground realities.
2. It is difficult for the FC to balance all the demands of centre, states and LSGs.
3. Recommendations in case of revenue deficit creates imbalances of finances.
4. States with strong financial fundamentals have alleged that horizontal devolution does not penalize poor performing states. There is no incentive for better management because centre will ultimately rescue the poor performer with larger share than contribution.
5. Share of Cess and surcharges in total revenue share has doubled to 20.2% in FY20 from 10.4% in FY12. FC has not recommended centre to share Cess and Surcharge.
6. No control on implementation of recommendations as they are non binding.
7. They are unable to inculcate fiscal prudence. Freebies are hurting financial balances of the states (Punjab debt to GDP is 49%).
8. Appointment of the members are on centre hence the '**federalism**' of fiscal federalism is missing in real terms.

**Way Forward**

1. Census is essential for making recommendations based on ground realities to meet demands.
2. Recommendations of FC should be made binding except for some exigencies.
3. Reliance of cess and surcharge needs to be reduced or certain percentage cess and surcharges should be shared with states.
4. Performance budgeting and outcome budgeting should govern horizontal devolution so that states get incentives for better performance.

**PYQ**

**1. With reference to the Finance Commission of India, which of the following statements is correct? (2011)**

- (a) It encourages the inflow of foreign capital for infrastructure development
- (b) It facilitates the proper distribution of finances among the Public Sector Undertakings
- (c) It ensures transparency in financial administration
- (d) None of the statements (a), (b) and (c) given above is correct in this context





## **GOODS AND SERVICES TAX COUNCIL (ARTICLE 279-A)**

Established by **101st Amendment Act of 2016**

Article 279A empowered the President to constitute a GST Council by an order. Accordingly, the President issued the order in 2016 and constituted the Council.

**Composition:** The Council is a joint forum of the centre and the states and consists

- A. The Union Finance Minister as the Chairperson
- B. The Union Minister of State in-charge of Revenue or Finance
- C. The Minister in-charge of Finance or Taxation or any other Minister nominated by each state government

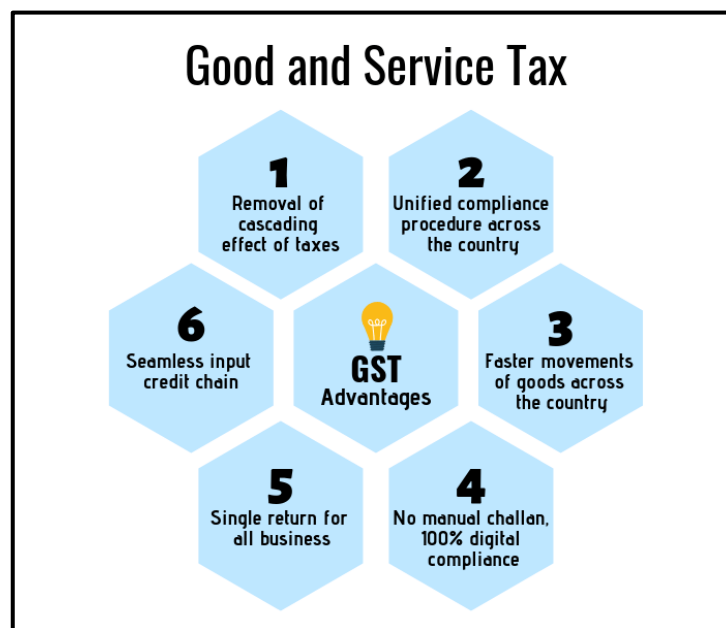
\*The members of the Council from the states have to choose one amongst themselves to be the Vice-Chairperson of the Council. They can also decide his term.

Quorum: One-half of the total number of members of the Council

**Voting Weightage:** The vote of the central government & states governments shall have a weightage of one-third and two-third of the total votes cast in that meeting.

**Functions:** The Council is required to make recommendations to the centre and the states on the following matters:

- a) The taxes, cesses and surcharges levied by the centre, the states and the local bodies that would get merged in GST.
- b) The goods and services that may be subjected to GST or exempted from GST.
- c) Model GST Laws, principles of levy, apportionment of GST levied on supplies in the course of inter-state trade or commerce and the principles that govern the place of supply. Etc.





### Challenges of GST Regime:

1. **Complexity and Compliance Burden:** GST in India has a complex structure with multiple tax slabs, leading to increased compliance requirements.
2. **Technology and Infrastructure Readiness:** The successful implementation of GST relies heavily on robust technological infrastructure. Issues such as lack of technological readiness among businesses, and disparities in technology adoption can hinder the seamless functioning of the GST network.
3. **Input Tax Credit (ITC) Verification:** The government authorities have recently identified and busted more than 29,000 bogus firms involved in evading GST dues.
4. **Multiple Registrations Across States:** Businesses operating in multiple states must register separately in each state for GST compliance.

### Way Forward:

1. **Simplify and Rationalize Tax Structure:** Simplifying the GST tax structure by **reducing the number of tax slabs**.
  - A more straightforward and uniform tax system would ease compliance for businesses and promote a clearer understanding of tax obligations.
2. **Streamline Compliance Procedures:** Work towards simplifying and streamlining compliance procedures to reduce the administrative burden on businesses. This could involve **harmonizing return filing processes, ensuring timely refunds, and implementing user-friendly interfaces for tax filings**.
3. **Focus on Anti-Evasion Measures:** Strengthen measures to **curb tax evasion, especially through fake invoices** and fraudulent activities.
  - Utilizing **advanced data analytics and technology** to identify suspicious transactions, and implement stringent penalties for non-compliance to deter fraudulent practices.



## **National Commission for Scheduled Castes (SCs)/Schedule Tribes/Backward classes (Article 338/338A/338B)**

**NCST- 89th Constitutional Amendment Act** of 2003.

**NCBC- 102nd Amendment Act of 2018**

**Keywords-** Constitutional, Watchdog of rights of SC/ST/BC

**Composition:** Chairman + Vice chairman + 3 members

**Appointed by:** President.

**Conditions of Service and tenure of office:** Determined by President

**Functions:** Investigate and monitor all matters concerning constitutional and other legal safeguards

- Inquire into specific complaints with respect to the deprivation of rights
- Participate and advise on the planning aspect wrt socio-economic development and evaluate the progress under the Union or a state.
- Send Annual reports to the president (also forwards to the governors of respective states)
- Recommend measures to the Union and the states for the effective implementation of safeguards and measures for the protection, welfare, and socio-economic development of these sections.

### **Limitations:**

1. Non Binding recommendations
2. Has not served the purpose (Cases of crimes against SC increased by 13% and 14% for STs)
3. Less sensitive (Lop sided towards the elites of SC/ST/BC, Does not use the suo moto powers)
4. Delays in investigation and tends to confirm government in power
5. Parliament does not discuss the reports
6. Spoils system of appointment & limitation of staff and capacity
7. Irregularity in reporting (sometimes lag of 2 years)

### **Way Forward:**

1. Compulsorily includes experts and females to ensure gender sensitivity.
2. Capacity building and sensitization
3. Ease to register a complaint (Online)
4. Make recommendation binding in some cases
5. President should be empowered to fix a period for the discussion of the Report in Parliament.

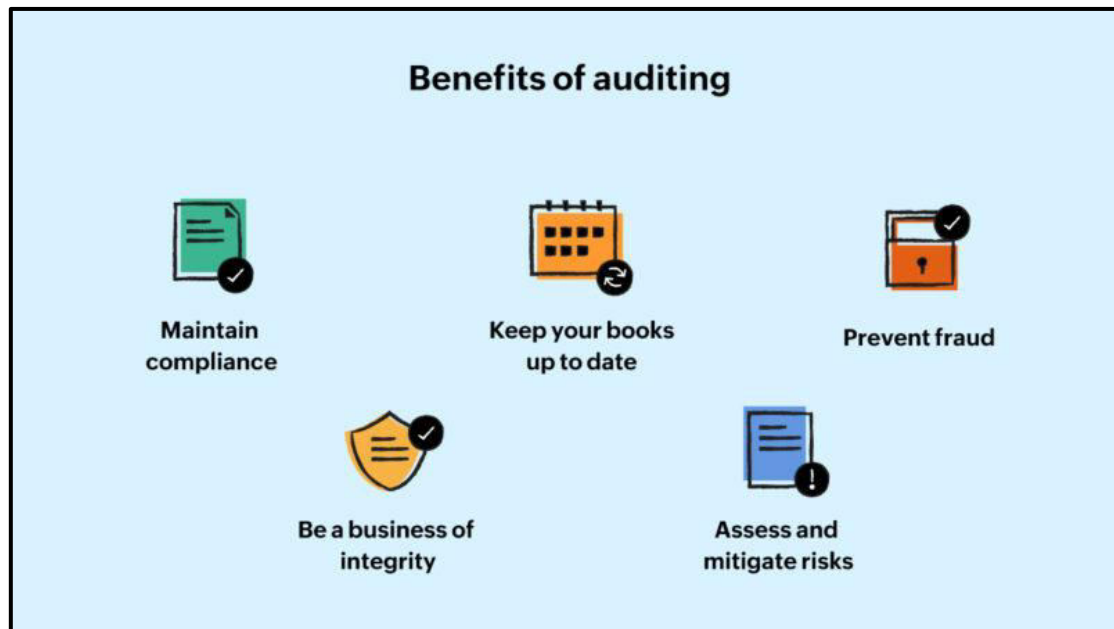


POSITIVES OF GRANTING CONSTITUTIONAL STATUS TO NCBC	CONCERNS THAT REMAIN
<ul style="list-style-type: none"><li>• <b>Giving more teeth:</b> Constitutional status increases the stature of NCBC as a constitutional body will be better placed to ensure the welfare of BCs.</li><li>• <b>Greater objectivity:</b> Article 342A makes it mandatory to take the Parliament's concurrence for adding or deleting any community in the backward list.</li><li>• The misuse of creamy criteria by certain sections will be reduced.</li><li>• <b>Annual report:</b> The constitution obliges central and state governments to provide valid reasons for not acting on the report of the committee.</li><li>• <b>Grievance redressal:</b> NCBC will have an exclusive function with all power of civil courts; enabling it to ensure justice for backward classes.</li><li>• <b>Wider responsibility:</b> NCBC with an additional scope can look beyond reservation, to ensure holistic development and advancement.</li></ul>	<ul style="list-style-type: none"><li>• <b>Non-binding recommendation:</b> This may lead to reduced priority towards the report of NCBC and its budget allocations.</li><li>• <b>No power to define:</b> NCBC has no authority to define "backwardness". Hence, it cannot address the demands of various castes to be included as BCs.</li><li>• <b>Composition:</b> No exclusive provision for the appointment of experts in the body and leaves it to the discretion of the executive without any mention of qualification.</li><li>• <b>Revision of BC list:</b> Article 338B (5) is silent on the periodic revision of the BC list and the role played by NCBC.</li><li>• <b>Multi-dimensional challenges:</b> Mere constitutional status can't solve diverse issues like skewed representation and cornering of benefits by few BC castes, etc.</li><li>• <b>No link with Art 340:</b> Article 340 ensures the welfare and protection of BCs have not been linked with Article 338B.</li></ul>



## The Comptroller and Auditor General of India (CAG) (Article 148-151)

“The most important officer under Constitution of India”- B.R. Ambedkar



CAG is the **head** of the Indian Audit and Accounts Department.

**Keywords:** Constitutional, Permanent, Watchdog of government accounts

**Appointment:** By President

**Tenure:** Security of tenure: 65 years or 6 years whichever is earlier.

**Independence of the Office:** Removal by the President under the same procedure as a supreme court judge can be removed.

- **Post-retirement office:** Not eligible for further office under both Central or State Government.
- **Salary and other service conditions:** Determined by the Parliament and the same cannot be altered to the disadvantage of the CAG after his/her appointment.

**Functions:** He audits the accounts related to all expenditure from the Consolidated Fund of India (states and UTs with legislature).

- He audits all expenditure from the Contingency Fund of India (and states) and the Public Account of India (and states).
- He audits the receipts and expenditure of (a) All bodies and authorities substantially financed from the Central or state revenues; (b) Government companies; and (c) Other corporations and bodies, when so required by related laws.
- He acts as a guide, friend and philosopher of the Public Accounts Committee of the Parliament.
- He submits his audit reports relating to the accounts of the Centre to President (to governor for the states) etc.





\* The Constitution of India visualises the CAG to be Comptroller as well as Auditor General. However, in practice, the CAG is fulfilling the role of an Auditor-General only and not that of a Comptroller.

**DIFFERENCE IN ROLE OF CAG**

IN INDIA	IN BRITAIN
<ul style="list-style-type: none"> <li>India's CAG is "Auditor General" only in name as it only performs an auditing role.</li> <li>The audit is done only after the expenditure is made. I.e. only an Ex-post facto audit is done.</li> <li>CAG is not a member of the Parliament.</li> </ul>	<ul style="list-style-type: none"> <li>CAG performs the role of both; auditor and comptroller.</li> <li>No money can be withdrawn by the public exchequer without CAG's approval.</li> <li>CAG is a member of the House of Commons.</li> </ul>

**Issues/Limitations/Challenges of the office of CAG**

1. The appointment of CAG is the complete discretion of the executive
2. Spoils system and a compromised institution (Partisan, No criteria for selection)
3. He is auditor general and not comptroller
4. Shortage of manpower and increment in responsibility results in very few accounts actually being audited annually.
5. Lack of economic expertise & knowledge of administration (delays)
6. Executive does not punish the officials indicted by CAG.
7. Exceptions of perview (Secret Services Expenditure)

**Prelims PYQ:**

**1. In India, other than ensuring that public funds are used efficiently and for intended purpose, what is the importance of the office of the Comptroller and Auditor General (CAG)?**

1. CAG exercises exchequer control on behalf of the Parliament when the President of India declares national emergency/financial emergency.
2. CAG reports on the execution of projects or programmes by the ministries are discussed by the Public Accounts Committee.
3. Information from CAG reports can be used by investigating agencies to press charges against those who have violated the law while managing public finances.
4. While dealing with the audit and accounting of government companies, CAG has certain judicial powers for prosecuting those who violate the law.

**Which of the statements given above is/are correct?**

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

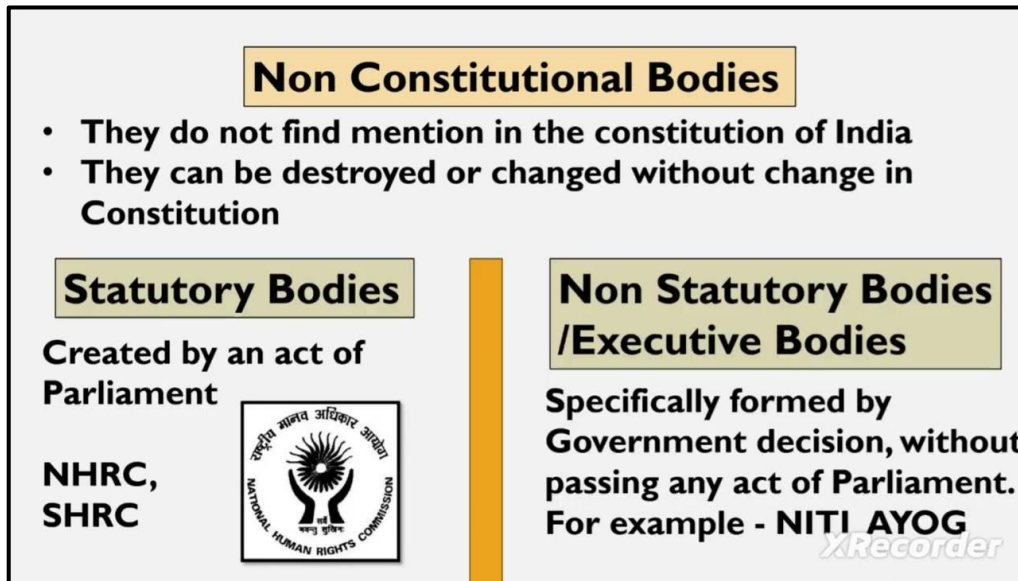


**Mains PYQ**

- 1. "The Comptroller and Auditor General (CAG) has a very vital role to play." Explain how this is reflected in the method and terms of his appointment as well as the range of powers he can exercise. (2018)**
- 2. Exercise of CAG's powers in relation to the accounts of the Union and the States is derived from Article 149 of the Indian Constitution. Discuss whether an audit of the Government's Policy implementation could amount to overstepping its own (CAG) jurisdiction. (2016)**



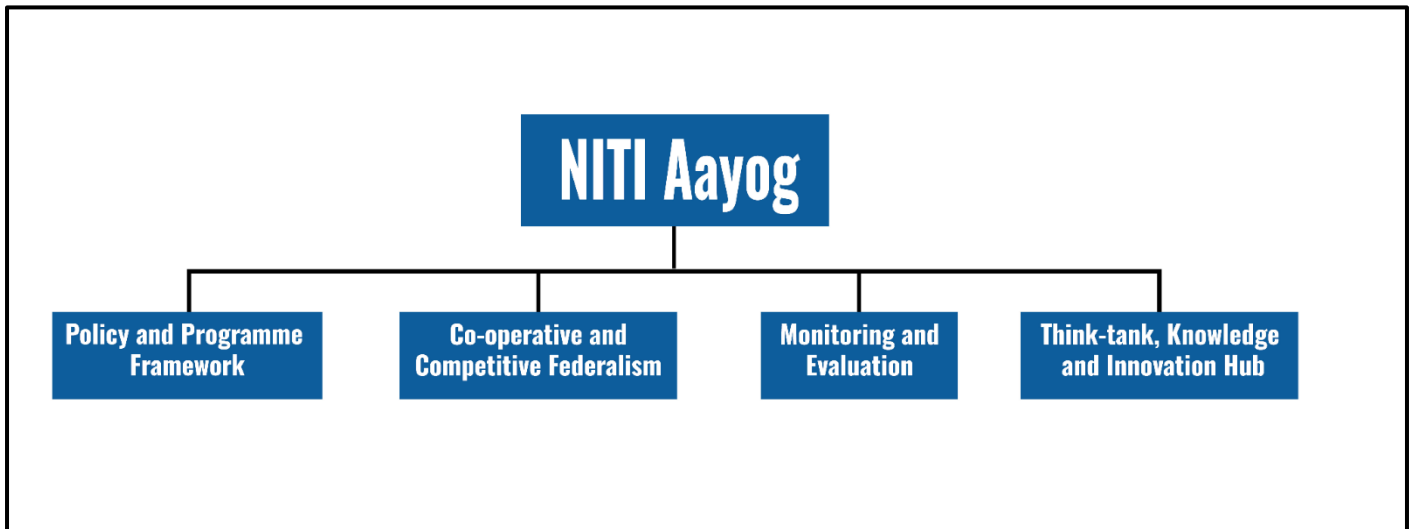
## **NITI AAYOG**



NA was created by an executive resolution. It has **replaced Planning Commission**.

**Keywords-** Policy Think tank

**Foundations of NA:** It was based on the following rationale:



### **Composition:**

1. **Chairperson:** The Prime Minister of India
2. **Governing Council:** It comprises the Chief Ministers of all the States, Chief Ministers of Union Territories with Legislatures (i.e., Delhi, Puducherry and Jammu and Kashmir) and Lt. Governors of other Union Territories.
3. **Regional Councils:** These are formed to address specific issues and contingencies
4. **Special Invitees:** Experts, specialists and practitioners with
5. Relevant domain knowledge as special invitees nominated by the Prime Minister.



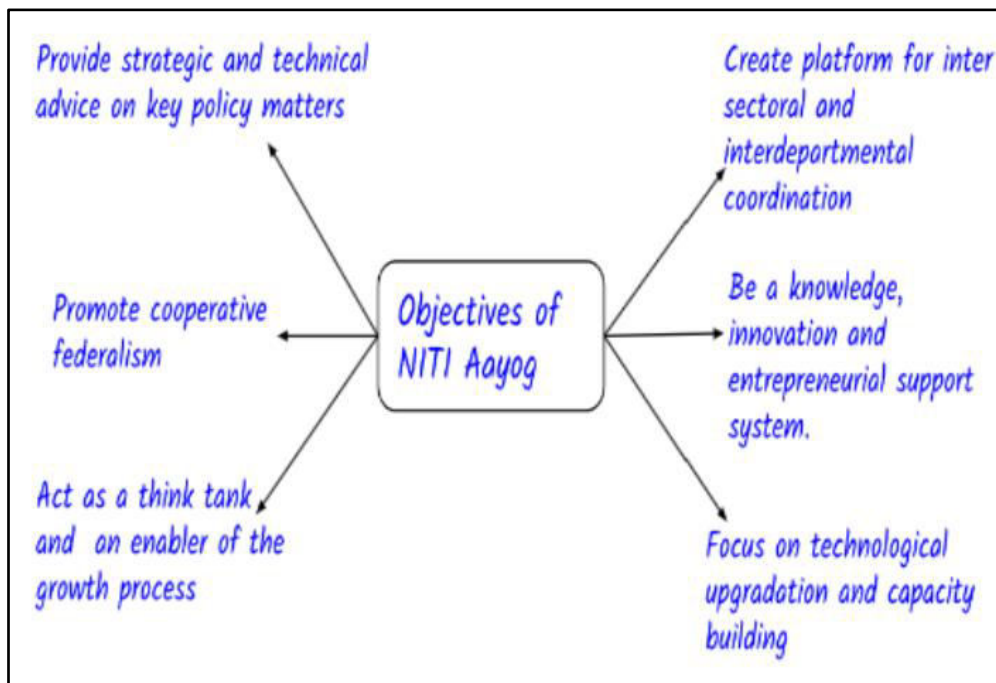
**Full-time Organisational Framework:** It comprises, in addition to the Prime Minister as the Chairperson

- (i) **Vice-Chairperson:** He is appointed by the Prime Minister. (rank of a Cabinet Minister).
- (ii) **Members:** Full-time (rank of a Minister of State).
- (iii) **Part-time Members:** Maximum of 2, from leading universities, research organisations and other relevant institutions in an ex-officio capacity. Part-time members would be on a rotation.
- (iv) **Ex-Officio Members:** Maximum of 4 members of the Union Council of Ministers to be nominated by the Prime Minister.
- (v) **Chief Executive Officer:** He is appointed by the Prime Minister for a fixed tenure, in the rank of Secretary to the Government of India.
- (vi) **Secretariat:** As deemed necessary

### **SPECIALISED WINGS:**

- Research Wing
- Consultancy Wing
- Team India Wing

**GUIDING PRINCIPLES:-** Antyodaya, Inclusion, Village, Demographic Dividend, Peoples Participation, Governance & Sustainability



### **Success of NITIAYOG so far**

- It has **increased the involvement of the states in the planning process.** Ex: Hosted three sub-group of chief ministers on revamping centrally sponsored schemes, Swachh Bharat and Skill Development



- NITI AAYOG has been at the forefront in **conceptualizing initiatives to contribute to the growth of the country**. **Ex:** Roadmap for digital payment, Aspirational district programme, monitoring implementation of sustainable development goals (SDG) etc
- It is fostering a sense of **cooperative as well as competitive federalism** amongst the states. **Ex:** Releasing ranking on various development parameters (Health Index)
- The **Atal Innovation Mission**, which is established under NITI Aayog, has done admirable work in improving the innovation ecosystem in India.

### **Issues associated with NITI AAYOG**

- NITI Aayog has no role in influencing private or public investment (Only a indicative planning body).
- No power to grant discretionary funds for transformation.
- Inequality has continued to grow in the Indian society and the effect of NITI AAYOG in combating this has been subpar.
- Politicization of the organization in recent times
- Solutions to solve structure issues in the country are still not forthcoming
- NITI AAYOG has been transformed into a glorified recommendatory body which lacks the requisite power to bring positive change in the government's actions
- Inadequate resources to the new planning body

### **Way forward**

- Equipping the planning body with requisite powers so that it can effect change
- **Allocation of adequate resources**
- NITI AAYOG could be made legally accountable to the legislature for its inability to meet the targets. This would bring in more accountability
- Ensure the planning body remains a non-partisan institution

The setting up of NITI AAYOG has brought positive results. However, there is a need to ensure sufficient changes are brought in the planning body to ensure it can meet its objectives





## Differences between Planning Commission and Niti Aayog

Criteria	Planning commission	Niti aayog
<b>Set up as</b>	Non-Statutory body	Non-Statutory Body
<b>Nature of Planning</b>	Imperative Planning Five year plans	Indicative Planning 15-year Vision; 7 year Strategy; 3 Year Action Agenda
<b>More suited to?</b>	Pre-1991 Era	Post-1991 Era
<b>Power to allocate finances?</b>	Yes.	No.
<b>Nature of Role played by Government</b>	Planner, Financer and Implemented for example. Government plans construction of Highways (Planner), allocates money (Financer) and NHAI builds Highways (Implemented)	Coordinator, Enabler and Facilitator For example, Government plans construction of Highways and then creates conducive ecosystem so that Private sector finances and builds highways.

<b>Role of Private Sector</b>	Limited	Enhanced role
<b>Role of States</b>	Limited to Approval of Five Year Plans	Participative planning and hence promotes cooperative Federalism
<b>Acts as Think Tank?</b>	No	Yes. Carries out critical review of Government schemes/Polictes/Initiatives and tracks progress through indicators such as SDG India Index, Health Index etc.
<b>Role Vis-a-vis Ministries</b>	Top-down model	Collaborative and cooperative approach. For example, Aspirational Districts programme implemented by NITI Aayog ensures convergence of schemes implemented by different ministries.



**Miscellaneous:**

**Indexes released by NITI Aayog:** SDG Index, Innovation Index, State Health Index, School Education Quality Education & Agri Transformation Index

**PRELIMS PYQ**

**1. The Government of India has established NITI Aayog to replace the**

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



## NATIONAL HUMAN RIGHTS COMMISSION/STATE HUMAN RIGHTS COMMISSION

NHRC was **established in 1993** under a legislation enacted by the Parliament, namely, the **Protection of Human Rights Act, 1993**. The Act also provides for the creation of State Human Rights Commission at the state level.

**Jurisdiction: NHRC-** all 3 list of 7 schedule and all over India. **SHRC-** respective states and state and concurrent list.

However, if any such case is already being inquired into by the National Human Rights Commission or any other Statutory Commission, then the State Human Rights Commission does not inquire into that case.



### Objectives:

- To strengthen the **institutional arrangements** through which human rights issues could be
- To look into **allegations of excesses**, independently of the government and
- To complement and strengthen the efforts that have already been made in this direction.

### Composition:

- **Chairman** (A person who has been Chief Justice of India or a Judge of the Supreme Court),
- **5 Members** (One Member who is or has been a Judge of the Supreme Court, One Member who is or has been the Chief Justice of a High Court, 3 Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights).  
**Note: Of the three members, at least one will be a woman.**
- **7 Deemed /Ex officio Members: Chairperson or chief commissioner of the** NCBC, NCSC, NCST, NCPCR, NCW, National Commission for Minorities and Chief Commissioner of PwD.
- **SHRC- Chairman (retired Chief Justice or a Judge of a High Court) + 2 members** (a serving or retired judge of a High Court or a District Judge in the state with a minimum of seven years experience as District Judge and a person having knowledge or practical experience with respect to human rights)

**Appointment: By President (NHRC), By Governor (SHRC)**

**Removal: By President (Both)**

**Selection Committee:** A Selection Committee will recommend the candidates to the President. The Selection Committee includes: **PM (Chairman)**, Speaker of LS, Union Home Minister, Deputy Chairman of Rajya Sabha & Leaders of the Opposition in both Houses of the Parliament.



**SHRC- committee consisting of the chief minister as its head**, the speaker of SLA, the state home minister and the leader of the opposition in the SLA. In the case of a state having SLC, the chairman of the SLC and the leader of the opposition in the SLC would also be the members of the committee.

**Tenure: 70 years or 3 years in position. Not eligible for further appointment under central or state government (Same for NHRC & SHRC).**

### **Functions of the Commission:**

1. **Watchdog of human rights in the country**, that is, the rights relating to **life, liberty, equality** and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India.
2. **To inquire into any violation of human rights or negligence** in the prevention of such violation by a public servant, either suo motu or on a petition presented to it or on an order of a court.
3. **To intervene in any proceeding involving allegation of violation of human rights** pending before a court.
4. **To visit jails and detention places** to study the living conditions of inmates and make recommendation thereon.
5. **To review the constitutional and other legal safeguards** for the protection of human rights and recommend measures for their effective implementation.
6. **To review the factors including acts of terrorism that inhibit the enjoyment of human rights** and recommend remedial measures.
7. **To study treaties and other international instruments on human rights** and make recommendations for their effective implementation.
8. To undertake and **promote research in the field of human rights**.
9. To spread **human rights literacy among the people and promote awareness of the safeguards** available for the protection of these rights.
10. To **encourage the efforts of nongovernmental organisations (NGOs)** working in the field of human rights.
11. To undertake such other functions as it may consider necessary for the promotion of human rights.

### **Challenges:**

1. **Absence of investigation mechanism:** It is dependent on Central and concerned State Governments for investigation of the human right violation cases.
2. **Non-binding orders:** NHRC has no power to enforce its decisions. The government often out rightly rejects the recommendation of NHRC.
3. **Lack of Infrastructure:** Despite a 1450% increase in cases between 1995-2005, its strength has been reduced by 16%. This limits cases handled by NHRC.
4. **Pendency and delays:** It is **over-burdened** with cases that have resulted in more than 10000 cases pending with it.
5. **Staff-related issue:** A maximum of its staff is on deputation. Many times investigating officers belong to the accused service which results in a conflict of interest.



6. **The U.N.-recognised Global Alliance of National Human Rights Institutions (GANHRI) deferred the accreditation of National Human Rights Commission, India (NHRC-India) citing objections like:**
  - a. Political interference in appointments.
  - b. Involving the police in probes into human rights violations.
  - c. Poor cooperation with civil society.
  - d. Lack of diversity in staff and leadership.
  - e. Insufficient action to protect marginalized groups.
7. **Limitations to handle cases:**
  - a. NHRC can't investigate complaints registered after one year of the incident.
  - b. The **exclusion of Armed forces and paramilitary forces** from its ambit.
  - c. NHRC takes cases solely on media reports and not through its on-field work.
  - d. It **cannot challenge the personal laws:** Supreme Court impleads NHRC, NCW in Muslim personal law case.
8. **Remarks by Soli Sorabjee:** "India's teasing illusion due to its incapacity to render any practical relief to the aggrieved party".
9. **Remarks by Supreme court:** It is a "toothless tiger".
10. **Lack of coordination between NHRC and SHRC.** Recently members of NHRC and members of SHRC of West Bengal got involved in an altercation in front of media over a case.

### Way Forward:

1. **Enforceable Powers:** Decisions of NHRC should be made enforceable.
2. **Commission's composition:** Greater representation to civil society, human rights activists, etc. Instead of ex- bureaucrats. This will ensure the independent functioning of the body.
3. **Ahmadi commission recommendations:** Remove one-year ceiling to take cases by NHRC. Also, the term of the Armed force shall not include paramilitary forces.
4. **Independent staff:** And dedicated investigating team to ensure timely disposal of cases.
5. **Coordination mechanism:** Need to establish coordination mechanism between NHRC and SHRC.
6. **Diversify the role of NHRC:** Towards new emerging concerns like rights of LGBT, industries and human rights, environmental impact on human rights, etc.

#### **PROTECTION OF HUMAN RIGHTS (AMENDMENTS) ACT, 2019**

- **Composition:**
  - Judge of SC can also be appointed as chairman.
  - Increased the number of people with human rights knowledge to three with at least one woman.
  - Chairpersons of the NCBC, the National Commission for the Protection of Child Rights, and the Chief Commissioner for Persons with Disabilities have been included as ex-officio members.
- **Term of office:** Reduced office term to 3 years from 5 years.
- **Union territories:** Central government can confer functions related to human rights cases of UT on nearby SHRC.
- **Significance:**
  - Effective compliance with the Paris Principles i.e. autonomy, independence, and pluralism to effectively protect and promote human rights.
  - Facilitated increased representations to civil society.
  - Increased accessibility to human rights courts to citizens of Union territories.
  - A reduced age limit will ensure the timely filing of vacancies.

#### **Recent News:**

Recently, the National Human Rights Commission (NHRC) has called for an action taken report from the Odisha government regarding the Balasore train accident. The Sub-Committee on Accreditation (SCA) of GANHRI is evaluating the NHRC's accreditation status, which will decide if it retains its "A status" for participation in UN human rights bodies.





**PYQs**

**1. Consider the following: (2011)**

1. Right to education.
2. Right to equal access to public service.
3. Right to food.

**Which of the above is/are Human Right/Human Rights under “Universal Declaration of Human Rights”?**

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

**2. Other than the Fundamental Rights, which of the following parts of the Constitution of India reflect/reflects the principles and provisions of the Universal Declaration of Human Rights (1948)? (2020)**

1. Preamble
2. Directive Principles of State Policy
3. Fundamental Duties

**Select the correct answer using the code given below:**

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



## NATIONAL COMMISSION FOR WOMEN

NCW is a statutory body established in 1992 under **National Commission for Women Act, 1990**.

It is an autonomous body. **Ministry of Women and Child Development** is the nodal agency for NCW.

Has **power of a civil court**.

**Composition: Chairperson + 5 members + a member-secretary.**

**Terms and Service Condition: By Government**

**Term: 3 years of service or 65 years. 2 terms only.**

### Objectives:

1. To review the **constitutional and legal safeguards** for women
2. To recommend **remedial legislative measures**
3. To facilitate the **redressal of grievances**
4. To advise the government on all policy matters affecting women

### Functions:

1. To investigate and examine all matters relating to the **safeguards provided for women under the Constitution and other laws**.
2. To present to the Central Government annually and at such other times as it may deem fit, reports upon the working of those safeguards.
3. To make recommendations for the **effective implementation of those safeguards**.
4. To take up the cases of violation of the provisions of the Constitution and other laws relating to women.
5. To look into complaints and take suo moto notice.
6. To undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres.
7. To participate and advice on the planning process of socio-economic development of women.
8. To evaluate the progress of the development of women under the Union and any states.
9. To fund litigation involving issues affecting a large body of women.
10. To look into any other matter referred to it by the Central Government

### Achievements:

1. The NCW has helped strengthen the implementation of laws pertaining to women's rights, such as the **Domestic Violence Act 2005 and the Dowry Prohibition Act 1961**.
2. It has monitored and ensured the implementation of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.
3. It has prepared Gender Profiles to assess the status of women and their empowerment in all the states and Union Territories except Lakshadweep.



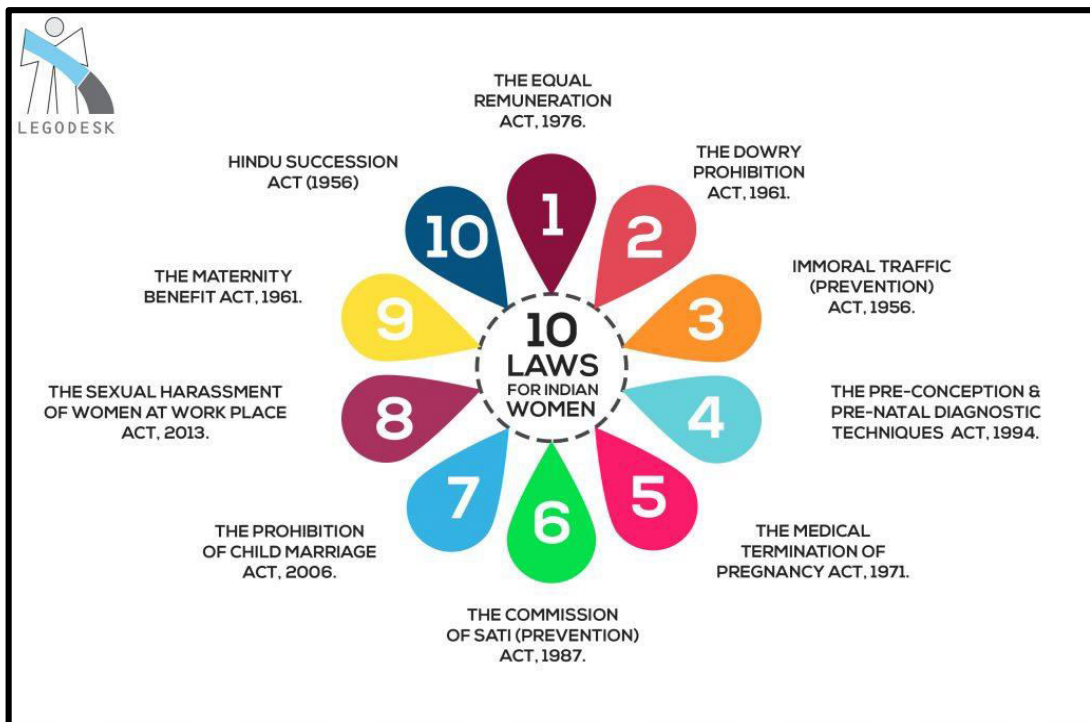
4. It has taken up the issue of child marriage, sponsored legal awareness programmes, **Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860** and the National Commission for Women Act, 1990 to make them more stringent and effective.
5. It has organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaigns against female foeticide, violence against women etc. in order to generate awareness in the society against these social evils.
6. It has regularly published a monthly newsletter called “**Rashtra Mahila**” in both Hindi and English.

### **Controversies:**

1. Women's commissions often face **financial constraints**, relying heavily on government funding
2. Being nominated by the ruling government, women's commissions may face pressure to avoid cases that could potentially reflect negatively on the government or its allies.
3. Many women, especially in rural and remote areas, are unaware of the existence and role of women's commissions.
4. **Manipur Incident Response:** The NCW's response in Manipur case has been criticized for not acting swiftly and proactively.
5. **Mangalore Pub Attack Response:** In 2009, when a group of women was assaulted in a pub in Mangalore, the NCW's response was criticized as **insensitive and victim-blaming**.
6. The commission's member blamed the victims for not protecting themselves and questioned their reluctance to come forward.
7. **Handling of Sexual Harassment Allegations:** The NCW's response to sexual harassment allegations against a former Chief Justice of India in 2019 raised concerns about its proactiveness and willingness to safeguard women's rights.

### **Way Forward:**

1. Adopt a **merit-based and transparent process** for appointing chairpersons and members of women's commissions. Involving representatives from various stakeholders, including the Opposition, judiciary, and civil society organizations, can help ensure impartiality.
2. Conduct regular **social audits** of women's commissions by external agencies to assess their **performance, utilization of funds, and impact**.
3. Encourage commission members and staff to conduct more field visits, interact with women in different regions, and understand their unique challenges and needs.
4. **Promote greater awareness of women's commissions among women**, particularly in remote areas, through various channels such as helplines, online platforms, and mobile outreach.
5. Provide training to commission members and staff to develop empathy and sensitivity towards women in distress. This will help create a supportive and victim-centered approach in dealing with cases.



### PARIVARIK MAHILA LOK ADALAT

- The Commission supplements the efforts of the **District Legal Service Authority** for redressal and speedy disposal of the matters related to marriage and family affairs pending in various courts.
- The **Parivarik Mahila Lok Adalat functions on the model of the Lok Adalat.**
- The Commission provides financial assistance to NGOs or State Women Commissions or State Legal Service Authority to organise the Parivarik Mahila Lok Adalat.

#### Objectives:

1. To provide **speedy and cost-free dispensation of justice** to women
2. To generate awareness among the public regarding conciliatory mode of dispute settlement
3. To gear up the **process of organising the Lok Adalats** and to encourage the public to settle their disputes outside the formal setup.
4. To empower public especially women to participate in justice delivery mechanism.



## NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

NCPCR was set up in 2007 under a legislation enacted by the Parliament, namely the **Commission for Protection of Child Rights Act, 2005**.



### Objectives:

- To **take cognizance and redress matters** pertaining to violation of the rights of the child.
- To ensure that all **laws, policies, programmes and administrative mechanisms are in consonance with the child rights** perspective as enshrined in the Constitution of India as well as the United Nations convention on the Rights of the Child.

**Composition:** The Commission is a multi-member body consisting of a **Chairperson and six members**. Out of the six members, **at least two should be women**. (The Chairperson should be a person of eminence who has done outstanding work for promoting the welfare of children).

**Appointment:** By central Government.

**Committee for Appointment:** Chairperson is appointed on the recommendation of a three-member selection committee constituted by the Central Government under the Chairmanship of the minister-in-charge of the Ministry or the Department of Women and Child Development."

**Term in office:** **3 years**. Age for Chairperson **Max 65 years** and for other members it is **60 years**.

### Functions of NCPCR:

1. To examine and review the safeguards provided by the laws.
2. To present to the Central Government, annually and at such other intervals as it may deem fit, reports upon the working of those safeguards.
3. To present to the Central Government, annually and at such other intervals as it may deem fit, reports upon the working of those safeguards





4. To look into matters relating to children in need of special care including children in **distress, marginalised children, children in conflict with the law, juveniles**, children without family and children of prisoners and recommend remedial measures.
5. To **study treaties and other international instruments** and undertake periodical review of existing policies, programmes and other activities.
6. To **undertake and promote research** in the field of child rights.
7. To **spread child rights literacy** among various sections of the society and promote awareness of the safeguards available.
8. To **inspect any juvenile custodial home** or any other place of residence or institution (under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation) where children are detained or lodged for the purpose of **treatment, reformation or protection** and take up with these authorities for remedial action.
9. To inquire in to complaints and take suo-moto notice of matters
10. To perform such other functions as it may consider necessary for the promotion of child rights.

### **Other Assigned Functions:**

#### **1. The Right of Children to Free and Compulsory Education (RTE) Act, 2009**

**Constitutional Background:** Originally Part IV of Indian Constitution, **Article 45 and Article 39 (f) of DPSP**, had a provision for state funded as well as equitable and accessible education.

- **The 86<sup>th</sup> amendment to the constitution of India in 2002**, provided **Right to Education as a fundamental right in part-III** of the Constitution.
- The same amendment inserted **Article 21A** which made Right to Education a fundamental right for children between **6-14 years**.
- The 86th amendment provided for a **follow-up legislation** for Right to Education Bill 2008 and finally **Right to Education Act 2009**.

#### **Feature of Right to Education (RTE) Act, 2009**

- The RTE Act aims to provide **primary education to all children aged 6 to 14 years**.
- It enforces Education as a **Fundamental Right (Article 21)**.
- The act mandates **25% reservation for disadvantaged sections** of the society where disadvantaged groups include: SCs and STs, Socially Backward Class, Differently abled.
- It also makes provisions for a non-admitted child to be admitted to an **age appropriate class**.
- It also states that **sharing of financial** and other responsibilities between the **Central and State Governments**.
- **It lays down the norms and standards related to:**
  - Pupil Teacher Ratios (PTRs)
  - Buildings and infrastructure
  - School-working days
  - Teacher-working hours.
- It had a clause for **“No Detention Policy”** which has been **removed under The Right of Children to Free and Compulsory Education (Amendment) Act, 2019**.
- It also provides for prohibition of **deployment of teachers for non-educational work**, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.
- It provides for the appointment of teachers with the requisite entry and academic qualifications.

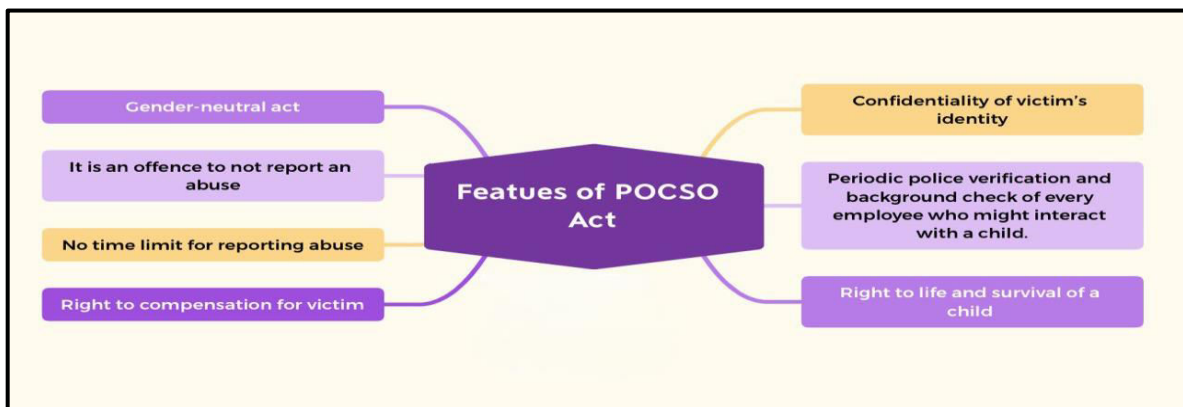


## 2. The Juvenile Justice (Care and Protection) Act, 2015

### Highlights of Juvenile Justice Act, 2015

- It replaced the **Juvenile Delinquency Law and the Juvenile Justice (Care and Protection of Children Act) 2000**.
- The Act **offered provisions to allow trials of juveniles in the age group of 16-18 years** as an adult who were found to be in conflict with the law, especially heinous crimes.
- The Act also **offered provisions regarding adoption**. The Act replaced the **Hindu Adoptions and Maintenance Act (1956)** and Guardians of the ward Act (1890) with more universally accessible adoption law.
- The Act enabled smooth functioning of **adoption procedures for orphans, surrendered, and abandoned children** while making the **Central Adoption Resource Authority (CARA)** the statutory body for adoption-related matters.
- **Child Care Institutions (CCI)**: All Child Care Institutions, whether run by the State Government or by voluntary or non-governmental organisations are to be mandatorily registered under the Act within 6 months from the date of commencement of the Act.

## 3. The Protection of Children from the Sexual Offence. (POCSO) Act, 2012



### Here are some of the initiatives taken by NCPCR to carry out its mandate:

**Protection of Children from Sexual Offences (POCSO) e-Box:** It is an **online complaint box for reporting child sexual abuse**. It is an NCPCR initiative to help children report such crimes directly to the Commission. The online complaint management system enables easy reporting and timely action against the offenders under the POCSO Act, 2012.

**Samvardhan:** The Commission initiated an exercise of vulnerability mapping through the programme Samvardhan to Combat Child Trafficking along with other existing mechanisms.

**MASI App:** The Commission has developed an application "MASI"- **Monitoring App for Seamless Inspection for real-time monitoring of Child Care Institutions (CCIs)** across the country.

**GHAR – GO:** NCPCR has developed and launched a portal, namely **GHAR - GO Home and Re-Unite (Portal for Restoration and Repatriation of Child)**. The GHAR portal has been developed to digitally monitor and track the restoration and repatriation of children.



### **Challenges:**

1. **Limited capacity to enforce recommendations:** While NCPCR can make recommendations to government agencies and other organizations, it may have limited capacity to ensure that these recommendations are implemented.
2. **Limited resources:** NCPCR has limited **financial and human resources**, which can hinder its ability to effectively carry out its functions and mandate.
3. **Lack of time frame for enquiries and investigations:** There is no set time frame for the completion of enquiries or investigations conducted by the NCPCR.
4. **Limited capacity to address all issues:** Given the wide range of issues affecting children in India, NCPCR may not have the resources or capacity to address all of these issues effectively.

### **Way Forward:**

1. **Increase funding:** NCPCR should be provided with more financial resources to enable it to carry out its functions and mandate effectively.
2. **Strengthen legal powers:** NCPCR should be granted more legal powers, such as the **power to issue binding orders and impose fines**, to enable it to take more effective action in cases of violations of child rights.
3. **Raise awareness:** NCPCR should work to increase awareness of its existence and the services it provides, particularly among disadvantaged and marginalized communities.
4. **Enhance capacity to enforce recommendations:** NCPCR should be given more authority to ensure that its recommendations are implemented by government agencies and other organizations.
5. **Empower children:** NCPCR should prioritize the participation and empowerment of children in its work and decision-making processes.

### **CHILDREN'S COURTS**

The **Commissions for Protection of Child Rights Act (2005)** also provides for the **establishment of Children's Courts for the speedy trial of offences** against children or of violation of child rights. Thus, the state government may specify at least a court in the state or specify for each district a Court of Session to be a Children's Court. **These courts can be 'set up by the state government only with the concurrence of the Chief Justice of the High Court of that state.** For every Children's Court, the state government specifies a public prosecutor or appoints an advocate (who has practiced for seven years) as a special public prosecutor for the purpose of conducting cases in that court



## NATIONAL COMMISSION FOR MINORITIES

With the enactment of the National Commission for Minorities Act, 1992, the **Minorities Commission** became a **statutory body** and was renamed the **National Commission for Minorities**.

The Act does not define the term 'minority', but enables the Central Government to notify 'minorities' for the purposes of the Act. Accordingly, the Centre in 1993 notified five religious communities, viz. **Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis)** as **minority communities**. In **2014**, the **Jain community** was added to this list.

**Composition: Chairperson + VC + 5 members** (five members including the Chairperson should be from amongst the minority communities).

**Term: 3 years in office**

**NCM has power of a civil court.**

### Functions:

1. To evaluate the **progress of the development of minorities** under the Union and States.
2. To monitor the working of the **safeguards for minorities** provided in the constitution and laws enacted.
3. To make recommendations for the effective implementation of safeguards for the protection of the interests of minorities
4. To look into specific complaints regarding **deprivation of rights and safeguards of minorities** and take up such matters with the appropriate authorities.
5. To cause studies to be undertaken into the problems arising out of any discrimination against minorities and recommend measures
6. To conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities
7. To suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments
8. To make **periodical or special reports to the Central Government** on any matter pertaining to minorities and in particular the difficulties confronted by them.
9. To look into any other matter referred to it by the Central Government.

### Challenges:

1. **Human resource deficiency:** The composition of NCM over the years shows inconsistencies in the staffing and appointments of key officials in the Commission.
2. **Limited role of state-level minority commissions:** There is a **lack of case processing capacity** due to the lack of integration of Minority Commissions in the states with the National Minorities Commission.
3. **Underutilization of technology:** While the Commission utilizes a complaint monitoring system, it is still a rather basic software that does not by itself facilitate an end-to-end complaint handling mechanism.
4. **Financial planning & expenditure-related challenges:** Only a small proportion of the allocated budget of the Commission is spent in research activities. Due to **financial constraints and the non-allocation of funds for research on minority-related issues**, there is an obstruction in the achievement of the mandate of the Commission.



- 5. Legal and constitutional authority-related challenges:** NCM hasn't been provided with any real power in terms of its legal capacity to carry out its constitutional mandate. The **decision of the Commission can be overturned by the District and High courts.**

### **Way Forward:**

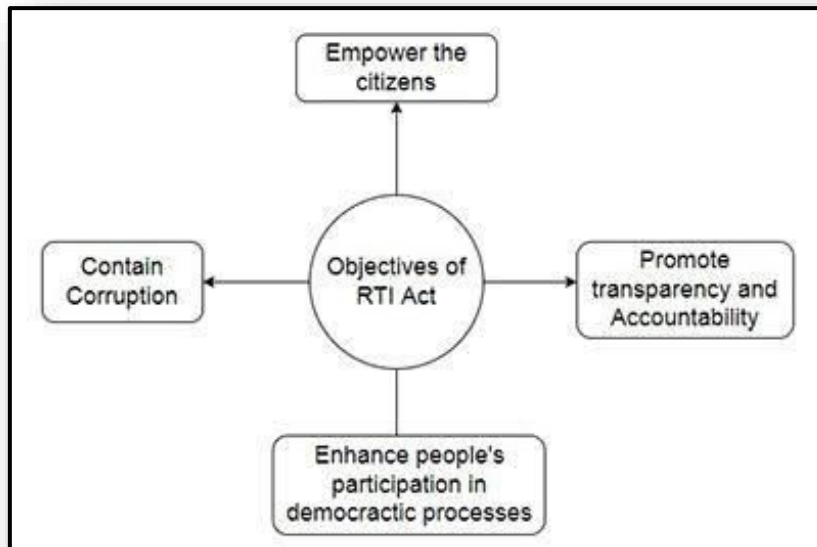
- 1. Outcome-based performance measurement:** NCM should evaluate the performance of its members based on **specific performance criteria to ensure accountability.**
- 2. Setting baseline targets to keep pendency in check:** To reduce the pendency of cases at the organizational level, the Commission should set certain baseline targets related to the pendency rates.
- 3. Feedback mechanisms:** NCM should develop a **Stakeholder Satisfaction Survey** for parties to anonymously provide feedback regarding how their appeal was processed, irrespective of the decision made.
- 4. Technological upgrades for efficiency:** The Commission may **invest in an “e-hearing” mechanism** that connects appellants from their home districts to the Commission through audio-visual conferencing for appearing in hearings.
- 5. Expanding the role of State Minorities Commissions:** The strengthening of the State Commissions and setting up new state-level commissions can help in reducing the pendency rates and increasing the effectiveness of the Commission.





## CENTRAL AND STATE INFORMATION COMMISSION

**Established by Right to Information Act 2005.**



### Key Provisions of the RTI Act,2005:

- **Sec. 4 of the Act** imposes an obligation on **public authorities** to maintain its records duly catalogued and indexed in a manner and form which facilitates the right to information under the Act.
- **Sec. 6 of the Act** entitles a person desirous of obtaining any information under the Act, to make a request in writing to the **Central or State Public Information Officer** specifying the particulars of the information sought by him.
- **Sec. 7 of the Act** requires the Public Information Officer to either provide the information or reject the request for any of the reasons specified in **Secs. 8 and 9 within 30 days of receipt of the request**. Under
- **Sec. 19**, if a person does not receive a decision within 30 days or is aggrieved by a decision of the Public Information Officer, he may **prefer an appeal to an Officer who is senior in rank to the Public Information Officer** in that Public Authority.
- Exemptions under the Act the information sought must not be related to **defence, national security, or personal details**.
- Disclosure Obligations: Public authorities must disclose information related to their organization, functions, decision-making processes, and public schemes.
- **Whistleblower Protection**: It includes provisions for whistleblower protection to encourage whistleblowing and safeguard those who expose **corruption or wrongdoing**.

**Composition:** Chief Information Commissioner and not more than **ten Information Commissioners**.

**Appointment:** By **President (CIC)**. By **Governor (SIC)**



**Selection Committee:** CIC- Prime Minister as **Chairperson, the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.**

**SIC-** Chief Minister as Chairperson, the Leader of Opposition in the Legislative Assembly and a State Cabinet Minister nominated by the Chief Minister.

**Safeguards-** They should be persons of eminence in public life with wide knowledge and experience **in law, science and technology, social service, management, journalism,** mass media or administration and governance.

- They should not be a MP or MLA
- They should not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

**Removal-** By President in case of CIC and Governor in case of SIC

### **Functions:**

1. It is the duty of the Commission to receive and inquire into a complaint from any person.
2. The Commission can order inquiry into any matter if there are reasonable grounds (**suo-moto power**).
3. While inquiring, the Commission has the **powers of a civil court.**
4. During the inquiry of a complaint, the Commission may examine any record which is under the control of the public authority and no such record may be withheld from it on any grounds.
5. The Commission has the power to **secure compliance of its decisions from the public authority.**
6. The **Commission submits an annual report to the Central Government on the implementation of the provisions of this Act.** The Central Government places this report before each House of Parliament.
7. When a public authority does not conform to the provisions of this Act, the Commission may recommend (to the authority) steps which ought to be taken for promoting such conformity.

### **Issues and Challenges:**

1. **RTI Dysfunctional:** Due to exceptions, the Information Commissions have remained dysfunctional. Satark Nagrik Sangathan in its recent study of State Information Commissions' performances found that **four out of 29 are defunct and at least three are still headless.**
2. **Vacancies in Information Commissions:** **In 10 commissions, the waiting time for hearing after filing an appeal is over a year.**
3. **Nineteen of the 29 Commissions have not cared to file their annual report,** mandatory under the Act.
4. **Lack of Diversity in Appointments:** Despite RTI Act requirements, **84% of Central Information Commissioners (CICs) come from bureaucratic backgrounds,** undermining diversity and expertise.
5. **Casual approach of officers in dealing with RTI queries:** The PIOs frequently miss the 30-day timeline and often give incomplete information as a reply to the RTI.
6. **Penalty Reluctance:** Despite the RTI Act allowing penalties up to Rs 25,000, they were imposed in only **3.8% of cases,** signaling a reluctance to enforce compliance.
7. **Lack of Valid Rejections:** **40% of RTI rejections lacked valid reasons, including 90% from the Prime Minister's Office,** undermining transparency.
8. **Denial of Information:** **Section 8(1)(j)** was frequently invoked for denial, impacting public interest and transparency. E.g., The Agriculture Ministry denied an RTI request on pre-legislative consultations regarding farm reform laws, citing sub-judice status, limiting transparency



9. **Resistance by Political Parties:** Political parties resisted RTI scrutiny, ignoring legal judgments. CIC's 2013 attempt to subject political parties to RTI met with defiance, undermining CIC's authority and fostering distrust.
10. **Official Secrets act is contradictory to the notion of right to information.**

### **Way Forward:**

1. **Recommendation Implementation:** Implement suggestions from the report card on the Performance of Information Commissions in India by **Satark Nagrik Sangathan (SNS) and the Centre for Equity Studies (CES)**. This includes addressing issues such as defunct commissions and vacancies.
2. **Timely Response Mechanism:** Establish mechanisms for **prompt and comprehensive responses to RTI requests within statutory time limits**. The pendency of cases under the CIC has been rising, with three lakh twenty-one thousand appeals pending before various Commissions as of June 30, 2023.
3. **Transparency and Online Access:** Ensure transparency on information commission websites, with details on **appeals, complaints, pending cases, and orders**. Collaborate with governments to develop online portals for filing RTI applications, enhancing accessibility.
4. **Balancing with Privacy Rights:** Balance the right to information with privacy rights **under Article 21 of the Constitution**. This includes addressing concerns related to exemptions from sharing information and privacy infringements.
5. **Committee Formation and Code of Conduct:** Establish a committee led by the Minister of Personnel to address RTI issues and enhance transparency. Develop a code of conduct for Central and State.
6. **Revitalizing Defunct Commissions:** Fill vacancies in defunct state commissions to revive their functionality. This includes addressing issues such as vacant PIO posts and commissions functioning without a chief information commissioner.
7. **Maintaining Autonomy and Performance Audit:** Uphold press freedom and democratic institutions while punishing errant officials and preserving information commission autonomy. Conduct performance audits of RTI implementation, as recommended by the Comptroller and Auditor General.
8. **Awareness, Education, and Vernacular Language Accessibility:** Raise public awareness and provide comprehensive training to government officials on information laws. Ensure information related to the RTI Act is available in local languages to enhance accessibility.

The **Right to Information Act of 2005 is an instrument that effectively combats corruption** and ensures the accountability of various government bodies, agencies, and departments to the public. By doing so, it serves as a **safeguard against arbitrary state action, thus epitomizing the essence of responsible democracy**. Collaboration among the RTI activists, civil society organisations, and government agencies is essential for monitoring the implementation of the RTI Act and addressing emerging challenges.



## CENTRAL VIGILANCE COMMISSION

The Central Vigilance Commission (CVC) is the main agency for **preventing corruption in the Central government**. It was **established in 1964** by an executive resolution of the Central government. Its establishment was recommended by the **Santhanam Committee on Prevention of Corruption**.

Thus, originally the CVC was neither a constitutional body nor a statutory body. Later, it was **conferred statutory status by the Central Vigilance Commission Act, 2003 (CVC Act, 2003)**.

The CVC has been designated as the agency to receive and act on complaints or disclosure on any allegation of corruption or misuse of office from whistle blowers under the "**Public Interest Disclosure and Protection of Informers' Resolution**" (PIDPI), 2004, which is popularly known as "**Whistle Blowers**" Resolution.

The CVC is also empowered as the **only designated agency to take action against complainants making motivated or vexatious complaints**.

The CVC is conceived to be the **apex vigilance institution**, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organisations in planning, executing, reviewing and reforming their vigilance work.

**Composition:** Central Vigilance Commissioner (chairperson) and not more than two VCs.

**Appointment:** They are appointed by the President

**Selection Committee:** 3 member committee consisting of the **PM** as its head, the **Union minister of home affairs** and the **Leader of the Opposition** in the Lok Sabha.

**Functions:** The functions of the CVC are:

1. To inquire or cause an inquiry or investigation to be conducted on a reference made by the Central government wherein it is alleged that a public servant being an employee of the Central government or its authorities has committed an offence under the **Prevention of Corruption Act, 1988**.
2. To inquire or cause an inquiry or investigation to be conducted into any complaint against any official belonging to the below mentioned category of officials wherein it is alleged that he / she has committed an offence under the Prevention of Corruption Act, 1988:
  - a) Members of all-India services serving in the **Union and Group 'A' officers of the Central government**; and
  - b) Specified level of officers of the authorities of the Central government.
3. To exercise superintendence over the functioning of the **Delhi Special Police Establishment (CBI)** insofar as it relates to the investigation of offences under the Prevention of Corruption Act, 1988.
4. To tender advice to the Central government and its authorities on such matters as are referred to it by them.  
Etc.

### Issues related to Central Vigilance Commission

1. **Lack of adequate autonomy and independence** – Despite being conferred statutory status, the CVC still lacks **complete autonomy and independence from the executive**, which can undermine its effectiveness.
2. **Limited jurisdiction** – The CVC's jurisdiction is limited to the central government organizations, while it has no oversight over state-level institutions, which can create gaps in its anti-corruption efforts.
3. **Shortage of resources** – The CVC often faces a shortage of resources, including **manpower and funding**, which can hinder its ability to carry out its responsibilities effectively.



4. **Delay in decision-making** – The CVC sometimes faces delays in decision-making on complaints and investigations, which can undermine its responsiveness and impact.
5. **Lack of enforcement powers** – The CVC **lacks direct enforcement powers**, which can limit its ability to take concrete actions against corrupt practices and hold individuals accountable.
6. **Perception of political interference** – There are concerns about potential **political interference** in the CVC's functioning, which can raise questions about its impartiality and credibility.

### **Way Forward**

1. **Enhance Autonomy** – To grant the CVC greater independence from government control to ensure impartiality and effectiveness in its operations.
2. **Increase Resources** – To **allocate additional funding and staffing** to the CVC to enhance its capacity to handle complaints and conduct thorough investigations.
3. **Broaden Investigative Powers** – To empower the CVC to independently initiate inquiries and register criminal cases against all levels of officials implicated in corruption allegations.
4. **Ensure Transparent Appointments** – To implement **transparent and independent processes** for appointing CVC officials to uphold integrity and public confidence in the institution.
5. **Foster Collaboration** – To strengthen coordination and collaboration between the CVC and law enforcement agencies to facilitate timely and effective action against corruption.
6. **Promote Public Awareness** – To conduct awareness campaigns to educate the public about the role and functions of the CVC and encourage citizen engagement in reporting corruption cases.

### **WHISTLE BLOWERS PROTECTION ACT (2014)**

**The salient features of the Whistle Blowers Protection Act (2014) are as follows**

1. The Act provides a mechanism for protecting the identity of whistle blowers (a term given to people who expose corruption). People who expose corruption in Government or irregularities by public functionaries can now be **free of any fear of victimization**.
2. The Act also provides for a system to encourage people to disclose information about corruption or the **wilful misuse of power by public servants**, including ministers.
3. As per the Act, a person can make a public interest disclosure on corruption before a competent authority - which is at present the Central Vigilance Commission (CVC). The government, by notification, can appoint any other body also for receiving such complaints about corruption.
4. The Act, however, lays down punishment of up to two years in prison and a fine of up to INR 30000 for false or frivolous complaints.
5. The Act says that every disclosure shall be made in **good faith** and the person making the disclosure shall provide a personal declaration stating that he/she reasonably believes that the information disclosed by him/her and the allegation contained therein is substantially true.
6. Disclosures can be made in **writing or by email message** in accordance with the procedure as may be prescribed and contain full particulars and be accompanied by supporting documents, or other material.
7. However, no action shall be taken on a disclosure if it does not indicate the identity of the complainant or public servant or if "the identity of the complainant or public servant is found to be incorrect."
8. The Act is **not applicable to the Special Protection Group**.





## CENTRAL BUREAU OF INVESTIGATION

Established in **1963** by the Government of India on the recommendations of **Santhanam Committee on Prevention of Corruption (1962-1964)** in order to investigate serious crimes related to defense, corruption, fraud, and black-marketing.

Derives powers from the **Delhi Special Police Establishment (DSPE) Act 1946**.

**Provides assistance to the Central Vigilance Commission, Lokpal, and coordinates investigations for Interpol member countries.**

**Mission :** To **uphold the Constitution of India** and law of the land through **in-depth investigation and successful prosecution of offences**; to provide leadership and direction to police forces and to act as the nodal agency for enhancing inter-state and international cooperation in law enforcement.

**Composition:** The CBI is **headed by a Director**. He/she is assisted by special director(s) and additional director(s). Additionally, it has a number of joint directors, deputy inspector-generals, superintendents of police and all other usual ranks of police personnel as well as forensic scientists and law officers.

The **Lokpal and Lokayuktas Act (2013)** amended the Delhi Special Police Establishment Act (1946) and made the following changes with respect to the composition of the CBI:

1. The Central Government shall appoint the Director of CBI on the recommendation of a **three-member committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and the Chief Justice of India** or Judge of the Supreme Court nominated by him/her.
2. There shall be a Directorate of prosecution headed by a Director for conducting the prosecution of cases under the Lokpal and Lokayukta Act, 2013. The Director of Prosecution shall function under the overall supervision and control of the Director of CBI. He/she shall be appointed by the Central Government on the recommendation of the Central Vigilance Commission.
3. The **Central Government shall appoint officers of the rank of SP and above in the CBI** on the recommendation of a committee consisting of the Central Vigilance Commissioner as Chairperson, the Vigilance Commissioners, the Secretary of the Home Ministry and the Secretary of the Department of Personnel.

### Challenges faced by CBI:

#### **1. Political Interference:**

- a. Dubbed a "**caged parrot**" by the Supreme Court due to **excessive political meddling**.
- b. Often used by administrations to suppress misdeeds and control opposition.

#### **2. Operational Challenges:**

- a. **Delayed investigations**, exemplified by prolonged inquiries such as **the Jain hawala diaries case**.
- b. Loss of credibility due to mishandling of high-profile cases like **Bofors and Hawala scandals**.

#### **3. Accountability and Resources:**

- a. **Exempted from Right to Information Act**, lacking public accountability.
- b. Acute **shortage of personnel** and limited financial resources hamper effectiveness.

#### **4. Limited Powers and Access:**

- a. Investigative powers subject to state government agreement, restricting jurisdiction.
- b. Need prior authorization from Central Government to probe officials at high levels.





### Measures needed for Reform:

1. **Autonomy and Statutory Standing:**
  - a. Separate CBI from government control to ensure independence.
  - b. Provide statutory standing similar to other institutions like **Comptroller and Auditor General**.
2. **Enhanced Resources and Infrastructure:**
  - a. Increase financial resources and administrative empowerment with accountability.
  - b. Invest in better infrastructure facilities to **improve efficiency**.
3. **Legal Reforms:**
  - a. Replace DSPE Act with a dedicated statute, enhancing operational clarity.
  - b. Introduce new legislation to regulate CBI's operations, as recommended by the Second Administrative Reforms Commission.

#### **Withdrawal of General Consent by States: Understanding the Story**

- **Legal Framework:**
  - **Section 6** of the **Delhi Special Police Establishment Act, 1946**, mandates State consent for CBI investigations outside Union Territories.
  - **Entry 80** of the **Union List** allows extension of police powers with State permission.
- **Types of Consent:**
  - **General Consent:** Enables CBI to probe cases without seeking fresh permission for each investigation.
  - **Specific Consent:** Required when general consent is withdrawn, hindering seamless investigations.
- **State Actions:**
  - **Mizoram** became the first state to withdraw general consent in **2015**, followed by **Maharashtra, Punjab, Rajasthan, West Bengal, Jharkhand, Chhattisgarh, Kerala, and Mizoram**.
  - Allegations of the central government using CBI for **political targeting** prompted the withdrawals, primarily in **opposition-ruled states**.
- **Impact of Withdrawal:**
  - CBI loses power to register fresh cases involving central government officials or private individuals without state consent.
  - Officers lose police powers upon entering the state, hindering investigations.
- **Impact on Pending Investigations:**
  - Withdrawal doesn't affect ongoing investigations or cases in other states leading into the territory of the withdrawing state.
  - High Courts retain authority to order CBI investigations irrespective of consent status.
- **Legal Precedents:**
  - In **Kazi Lendhup Dorji v. CBI (1994)**, withdrawal didn't affect pending investigations.
  - Calcutta HC's ruling in **Vinay Mishra vs. CBI** emphasized equal treatment in corruption cases regardless of consent status.

### **CBI VS. STATE POLICE**

The role of the Delhi Special Police Establishment (a division of CBI) is supplementary to that of the state police forces. Along with state police forces, the **Delhi Special Police Establishment (DSPE) enjoys he concurrent powers of investigation and prosecution for offences under the Delhi Special Police Establishment Act, 1946**. However, to avoid duplication and overlapping of cases between these two agencies, the following administrative arrangements have been made:

- i. The DSPE shall take up such cases which are essentially and substantially concerned with the Central Government's affairs or employees, even if they also involve certain state government employees.
- ii. The state police force shall take up such cases which are substantially concerned with the state government's affairs or employees, even if they also involve certain Central Government employees.
- iii. The DSPE shall also take up cases against employees of public undertakings or statutory bodies established and financed by the Central Government.



## NATIONAL INVESTIGATING AGENCY

The National Investigation Agency (NIA) was constituted in **2009** under the provisions of the **National Investigation Agency Act, 2008 (NIA Act)**. It is the central **counter-terrorism law enforcement agency** in the country.

The NIA was established in the backdrop of the **2008 Mumbai terror attacks**, popularly known as the 26/11 incident.

**HQ:** New Delhi

**Head & Appointment:** The NIA is headed by a **Director-General**. He/she is appointed by the central government. His/her powers are similar to the powers exercisable by a Director-General of Police in respect of the police force in a state.

**Functions:** The NIA is the **Central Counter-Terrorism Law Enforcement Agency of India** mandated to investigate all the offences affecting the sovereignty, security and integrity of India. It includes:

1. Friendly relations with foreign states.
2. Against **atomic and nuclear facilities**.
3. Smuggling of **arms, drugs and fake Indian currency** and infiltration from across the borders.
4. The offences under the statutory laws enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations.

### Jurisdiction

1. The law under which the agency operates **extends to the whole of India** and also applies to Indian citizens outside the country.
2. Persons in the service of the government wherever they are posted.
3. Persons on ships and aircraft registered in India wherever they may be.
4. Persons who commit a scheduled offence beyond India against the Indian citizen or affecting the interest of India

### NIA (AMENDMENT) ACT, 2019

**The various features or provisions of the amendment are as follows:**

1. It applied the provisions of the NIA Act also to persons who commit a **scheduled offence beyond India** against Indian citizens or affecting the **interest of India**.
2. It provided that the officers of the NIA shall have the similar powers, duties, privies and liabilities being exercised by the police officers in connection with the investigation of offences, not only in India but also outside India.
3. It empowered the central government with respect to a scheduled offence committed outside India to direct the NJA to register the case and take up investigation as if such offence has taken place in India.
4. It provided that the central government and the state governments may designate **Special Courts** for conducting the **trial of offences** under the NIA Act.
5. It inserted certain **new offences** in the Schedule of the NIA Act.



## COOPERATIVE SOCIETIES



Cooperative Societies were made constitutional by **97<sup>th</sup> constitutional Amendment Act 2011**

**97<sup>th</sup> CAA: Made the following three changes in the constitution:**

1. It made the right to form co-operative societies a fundamental right (**Article 19**).
2. It included a new Directive Principle of State Policy on promotion of co-operative societies (**Article 43-B**).
3. It added a new Part **IX-B in the Constitution** which is entitled “The Co-operative Societies” (**Articles 243-ZH to 243-ZT**).

**Need for the 97<sup>th</sup> Amendment:**

1. The co-operative sector, over the years, has made significant contribution to various sectors of **national economy and has achieved voluminous growth**.
2. Some cooperatives has shown weaknesses in safeguarding the interests of the members and fulfilment of objects for which these institutions were organised. (delayed or postponed elections)
3. There was a need to initiate fundamental reforms to **revitalise these institutions in order to ensure their contribution in the economic development** of the country and to serve the interests of members and public at large and also to ensure their **autonomy, democratic functioning and professional management**.
4. A strong need has been felt for amending the Constitution so as to keep the co-operatives free from unnecessary outside interferences.



5. The Central Government was committed to ensure that the cooperative societies in the country function in a **democratic, professional, autonomous and economically sound manner.**

### **Various Provisions:**

1. The state legislature may make provisions for the co-operative societies based on the **principles of voluntary formation, democratic member control, member-economic participation** and autonomous functioning
2. The maximum number of directors of a co-operative society **shall not exceed twenty-one.**
3. The state legislature shall provide for the reservation of **one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women** on the board of every co-operative society having members from such a category of persons.
4. **Term:** 5 years from the date of election
5. The state legislature may make provisions for the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.
6. The accounts of every co-operative society shall be **audited within six months** of the close of the financial year
7. The state legislature may provide that the annual general body meeting of every co-operative society shall be convened within a period of six months of the close of the financial year
8. The provisions of this part shall apply to the Union territories. But, the President may direct that the provisions of this part shall not apply to any Union territory or part thereof as he may specify in the notification.

### **Multi-State Co-operative Societies (Amendment) Act, 2022:** It aims to **enhance regulation for multi-state cooperative societies.**

- Introduces the Co-operative Election Authority to oversee board elections in multi-state co-operative societies.
- Requires multi-state co-operative societies to obtain government permission before redeeming their shareholding.
- Calls for the establishment of a Co-operative Rehabilitation, Reconstruction, and Development Fund, funded by profitable multi-state co-operative societies, to revive struggling ones.
- Permits state co-operative societies to merge into existing multi-state co-operative societies, subject to state laws.

### **Some Success stories:**

**AMUL (Anand Milk Union Limited):** A dairy giant and a pioneer in **India's White Revolution**, AMUL is a federation of millions of milk producers in Gujarat. Its success **transformed India into the world's largest milk producer.**

**IFFCO (Indian Farmers Fertiliser Cooperative):** One of the world's largest fertiliser cooperatives, IFFCO plays a significant role in providing quality fertilisers and agricultural inputs to farmers across India.



### **Challenges faced by cooperatives:**

- 1. Governance & Management Issues:** Many cooperatives lack professional management structures, leading to inefficient operations and decision-making.
- 2. Political Interference:** Political interference in the functioning of cooperatives undermine their autonomy and impact their ability to serve members' interests effectively.
- 3. Capital and Resource Constraints:** Cooperatives often struggle to access sufficient capital for **expansion, modernization, and development** of new ventures.
- 4. Limited Infrastructure:** Lack of proper storage facilities, processing units, and market linkages hinder the growth and competitiveness of small cooperatives, particularly in rural areas.
- 5. Social and Cultural Factors:** Lack of awareness about the cooperative model and its benefits among potential members limits their participation.
- 6. Social Inequalities:** In some cases, social hierarchies and caste-based divisions create barriers for equitable participation and representation within cooperatives.

### **Way Forward:**

- 1. Infrastructure Development:** There is a need for greater investment in the development of infrastructure such as warehouses, cold storage facilities, and processing units to strengthen value chains and **enhance market access for cooperative products**.
2. Also, there is a need to promote the adoption of technology and digitalization to improve efficiency in cooperative operations and management.
- 3. Cooperatives as Innovation Hubs:** Shifting the perception of cooperatives away from merely traditional and rural, to hubs of **experimentation and innovation**.
- 4. Cooperative "Influencers":** Identifying and nurturing young, tech-savvy cooperative members to be advocates and thought leaders, changing the image of cooperatives through **social media and online platforms**.
- 5. Cooperative Acceleration Zones:** Designating specific geographic areas as cooperative acceleration zones where **regulations are temporarily relaxed** and incentives are given to encourage diverse cooperative experimentation with new business models.
- 6. Cooperative-led Tourism Initiatives:** Developing **cooperative-run eco-tourism** and community-based tourism initiatives in rural areas, allowing travelers to experience local culture, traditions, and livelihoods.
7. Empowering local communities to manage tourism activities collectively, generating income, preserving natural resources, and promoting sustainable development.





## ELECTION AND ASSOCIATED TOPICS

**Party Systems:** There are three kinds of party systems in the world, viz.,

- (i) **one party system** in which **only one ruling party exists and no opposition is permitted**, as for example, in the former communist countries like the USSR and other East European countries;
- (ii) **two-party system** in which **two major parties exist**, as for example, in **USA and Britain**; and
- (iii) **multi-party system** in which there are a number of political parties, as for example, in **France, Switzerland and Italy**.

**Recognition of Parties:** The Election Commission registers political parties for the purpose of elections and grants them recognition as national or state parties on the basis of their poll performance. The other parties are simply declared as registered unrecognised parties.

### Conditions for Recognition as a National Party:

1. If it secures **6% of valid votes polled in any 4 or more states** at a general election to the Lok Sabha or to the legislative assembly; and, in addition, it **wins 4 seats in the Lok Sabha** from any state or states; or
2. If it wins **2% of seats in the Lok Sabha** at a general election; and these candidates are elected from 3 states; or
3. If it is recognised as a **state party in 4 states**.

### Conditions for Recognition as a State Party:

1. If it secures **6% of the valid votes polled in the state at a general election to the legislative assembly of the state concerned**; and, in addition, it wins 2 seats in the assembly of the state concerned; or
2. If it secures **6% of the valid votes polled in the state at a general election to the Lok Sabha from the state concerned**; and, in addition, it wins 1 seat in the Lok Sabha from the state concerned; or
3. If it wins **3% of seats in the legislative assembly at a general election to the legislative assembly of the state concerned** or 3 seats in the assembly, whichever is more; or
4. If it wins 1 seat in the Lok Sabha for every 25 seats or any fraction thereof allotted to the state at a general election to the Lok Sabha from the state concerned; or
5. If it secures **8% of the total valid votes polled in the state at a General Election to the Lok**

### Benefits enjoyed by Recognized Political Parties

1. A recognised party (national or state) has the **right to certain privileges like allocation of the party symbols, provision of time for political broadcasts on the state-owned television and radio stations and access to electoral rolls**.
2. These parties are allowed to have **40 “star campaigners”** during the time of elections (the **registered-unrecognised parties are allowed to have 20 “star campaigners”**).
3. Every **national party is allotted a symbol exclusively reserved** for its use throughout the country. **Even in the states where it is not contesting elections**.
4. For a state party, the allotted symbol is exclusively reserved for its use in the state/s in which it is so recognised.





**How does the ECI decide who gets the symbol?**

1. It is decided as per the provisions of the **Symbols Order, 1968**. This rule applies to disputes in recognised national and state parties.
  - o Para 15 of the Symbols Order, 1968 empowers EC to decide on the claim of rival factions in case of split.
  - o EC decides on the issue after taking into account all the available facts and circumstances of the case and hearing their representatives.
2. **The decision of the Commission is binding** on all such rival sections or groups.
3. For splits in **registered but unrecognised parties**, the ECI usually advises the warring factions to resolve their differences internally or to approach the court.

**What criteria does ECI use to resolve a symbol dispute?**

- Generally, **the EC’s decision is based on three tests as outlined in the Sadiq Ali case. These tests include:**
  - o Test of Aims and Objects of the Party Constitution;
  - o Test of Party Constitution; and
  - o Test of Majority
- In almost all disputes decided by the EC so far, a clear majority of party delegates/office bearers, MPs and MLAs have supported one of the factions.
- Whenever the EC could not test the strength of rival groups based on support within the party organisation (because of disputes regarding the list of office bearers), **it fell back on testing the majority only among elected MPs and MLAs.**
- If both legislative win and organisational win are found indecisive, the ECI also freezes the symbol and asks both factions to choose a new symbol.

**Delimitation of Constituencies**

The word 'delimitation' literally means **the act or process of fixing limits or boundaries of territorial constituencies in a country or a Province having a legislative body**. The job of delimitation is assigned to a high-powered body. Such a body is known as Delimitation Commission or a Boundary Commission.

**Table 71.1** Delimitation Commissions constituted so far

Delimitation Commission	Established in	Established under the Act
First	1952	The Delimitation Commission Act, 1952
Second	1963	The Delimitation Commission Act, 1962
Third	1973	The Delimitation Act, 1972
Fourth	2002	The Delimitation Act, 2002



### Constitutional Provisions of Delimitation

**Article 81:** Every state and UT would be allotted seats in the Lok Sabha in such a manner that the ratio of population to seats should be as equal as possible across states.

**Article 82:** Delimitation of parliamentary constituencies after every census by established by the Gol under Delimitation Commission Act.

**Article 170:** States get divided into territorial constituencies as per Delimitation Act after every Census.

**84th Constitutional amendment act: Freezing of delimitation till 2026.**

**Reasons:** Family planning and population stabilization objective.

**Implications:** Violation of Article 81 due to unequal representation across constituencies.

- **Appointment:** The **Delimitation Commission in India is appointed by the President** and works in collaboration with the Election Commission of India (ECI).
- **Composition:** It comprises a **retired Supreme Court judge, the Chief Election Commissioner, and the respective State Election Commissioners.**
  - Additionally, the **Commission had ten associate members in respect of each state. Out of them, five were members of the Lok Sabha elected from that state and another five were members of the State Legislative Assembly.** Where the number of members of the Lok Sabha in a state was less than five, all such members were the associate members for that state. These associated members were nominated by the Speakers of the Lok Sabha and State Legislative Assemblies concerned. However, these associated members did not have the right to vote or to sign any order of the Commission.
- **Authority:** It is a high-powered body with its orders having the **force of law and cannot be challenged in court.**
- **Reporting:** The commission's orders are presented before the Lok Sabha and State legislative assemblies, but modifications are not permitted.

### Functions of Delimitation Commission:

1. **Boundary Determination:** Determines the boundaries and number of constituencies, ensuring population equality among them.
2. **Seat Allocation for SC/ST:** Decides on the allocation of seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in areas with significant SC/ST populations (as per Articles 330 and 332).
3. **Readjusting the representation of territorial constituencies:** **Readjust** the representation of territorial constituencies in the **Lok Sabha (House of People) and Legislative Assemblies** based on the latest population census statistics.
4. **Recommendations and Public Participation:** **Publishes** draft recommendations in the Gazette of India, state gazettes, and regional media. Conducts public hearings to consider public opinions, incorporating modifications as necessary.
5. **Majority Decision:** Adopts the majority decision in case of dissent among Commission members.



Significance of Delimitation commission	Challenges
<p><b>Supreme Authority:</b> The Delimitation Commission's decisions and instructions are final and unchallengeable by law or the courts.</p> <p><b>Responsible For Equitable Representation:</b> The commission sets constituency boundaries and numbers to ensure nearly equal population distribution. This ensures fair representation. It upholds the principle of <b>"One vote, one value"</b>.</p> <p><b>Fair Regional Distribution:</b> It ensures fair regional distribution to prevent one political party from outperforming others in an election.</p> <p><b>Identifying Reserved Seats:</b> The Delimitation Commission identifies seats that are reserved for Scheduled Castes (SC) and Scheduled Tribes (ST) in areas where these communities have a significant population. This ensures their adequate political representation.</p>	<p><b>Southern States' Concerns:</b> The southern states, with successful population control measures and higher per capita revenue generation, feared losing meaningful political representation compared to the northern states.</p> <p><b>Disenfranchisement and Economic Contributions:</b> Delimitation based solely on population would have politically disenfranchised economically developed southern states, while the central government continued to benefit from their economic contributions.</p> <p><b>Amendments and Postponement:</b> To address these concerns, the Constitution was amended during the Emergency rule in 1976, suspending delimitation until 2001. Subsequently, another amendment further postponed it until 2026, with the hope of achieving a uniform population growth rate by then.</p>

### Concerns Related to Delimitation

- Population Control Bias:** States promoting family planning risk having their seats reduced, while states with less emphasis on population control may gain more seats.

  - The northern states, which did not prioritise population control, are expected to benefit in the delimitation process due to their higher population growth.
- Outdated Seat Allocation:** Delimitation done in 2008 was based on the 2001 census, but the total number of seats remained unchanged since 1971, leading to a disparity between population growth and representation.
- Constitutional Seat Limits:** Because there are fewer seats available (550 for the Lok Sabha and 250 for the Rajya Sabha), fewer representatives can effectively represent larger populations.
- Unequal Representation:** Fixed seat allocation and population growth lead to unequal representation, impacting the voice and influence of growing populations.

  - Disparity in representation **between north and southern part of India** in the Lok Sabha due to population as a deciding factor.
  - Despite having **only 18% of the country's population**, the southern states **contribute 35% to the country's GDP**.
- Political issues/factors:** The scheduled delimitation and reallocation of seats may result in **not only a loss of seats for southern states** but also an increase in power for political parties with their base of support in the north. This could potentially lead to a shift of power toward the north and away from the south.

  - As order of delimitation commission can't be challenged oppositions have accused influence of executive on the DC in recent delimitation exercised carried out in J&K.

### Way Forward



- There is a **need to balance democratic representation with federal considerations**. Suggestions include capping the number of Lok Sabha seats while increasing the number of MLAs based on population, alongside empowering local bodies for grassroots democracy.

### Best Practices

**1. USA:** The number of **seats in the House of Representatives** (the equivalent of our Lok Sabha) has been **capped at 435 since 1913**.

The **population of the country has increased almost four times** from 9.4 crore in 1911 to an estimated 33.4 crore in 2023. The seats among the **States are redistributed after every Census through the 'method of equal proportion'**. This does not result in any significant gain or loss for any of the States.

**2. European Union (EU):** In the EU Parliament which consists of 720 members, the number of seats is **divided between 27 member countries** based on the **principle of 'degressive proportionality'**.

Under this principle, the ratio of population to the number of seats shall increase as the population increases.

For example, **Denmark** with a population of around 60 lakh has 15 seats (**average population of 4 lakh per member**) as against Germany with a population of 8.3 crore having 96 seats (**average population of 8.6 lakh per member**).

### Election Process in India

**1. The Constitution (Article 324) provides for an independent Election Commission in order to ensure free and fair elections in the country.** The power of superintendence, direction and conduct of elections to the Parliament, the state legislatures, the office of the President and the office of the Vice President is vested in the Commission.

**2. There is to be only one general electoral roll for every territorial constituency for election to the Parliament and the state legislatures.** Thus, the Constitution has abolished the system of communal representation and separate electorates which led to the partition of the country.

**3. No person is to be ineligible for inclusion in the electoral roll on grounds only of religion, race, caste, sex or any of them.** Further, no person can claim to be included in any special electoral roll for any constituency on grounds only of religion, race, caste or sex or any of them. Thus, the **Constitution has accorded equality to every citizen in the matter of electoral franchise.**

**4. The elections to the Lok Sabha and the state assemblies are to be on the basis of adult franchise.** Thus, every person who is a citizen of India and who is 18 years of age, is entitled to vote at the election provided he/she is not disqualified under the provisions of the Constitution or any law made by the Parliament or SLA on the grounds of **non-residence, unsound mind, crime or corrupt or illegal practise.**

**5. Parliament may make provision with respect to all matters relating to elections to the Parliament and the state legislatures including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing their due constitution.**

**6. The Constitution declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.**

**Machinery of Election:** ECI, Chief Electoral Officer, District Election Officer, Returning Officer, Presiding Officer, Observers.





ECI takes care of Time of Election, Schedule election, Oath Affirmation, Election Campaigns and MCC, Election Result.

### **Representation of the People Act, 1950**

1. Representation of the People Act, 1950, was enacted to provide for the **allocation of seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.**
2. The Act also sought to confer on the President the powers to delimit, after consultation with the Election Commission, the various constituencies for the purpose of elections to fill seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.
3. The Act further provided for the registration of electors for Parliamentary Constituencies and for the Assembly and Council Constituencies, and the qualifications and disqualifications for such registration.
4. **The Act also makes the following other provisions relating to the elections:**
  - a. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
  - b. Manner of filling seats in the Council of States to be filled by representatives of union territories.
  - c. Local authorities for purposes of elections to the State Legislative Councils.
  - d. Barring the jurisdiction of civil courts.

### **Representation of the People Act, 1951**

1. **Broadly speaking, this Act contains provisions relating to the following electoral matters:**
2. Qualifications and disqualifications for membership of Parliament and State Legislatures Notification of general elections
3. Administrative machinery for the conduct of elections
4. Registration of political parties
5. **Conduct of elections: The conduct of elections include the following matters:**
  - a. Nomination of candidates
  - b. Candidates and their agents
  - c. General procedure at elections
  - d. The poll
  - e. Counting of votes
  - f. Multiple elections
  - g. Publication of election results and nominations
  - h. Declaration of assets and liabilities
  - i. Election expenses
6. Free supply of certain material to candidates of recognised political parties
7. **Disputes regarding elections:** The provisions of the Act with respect to disputes regarding elections are related to the following matters:
  - a. Presentation of election petitions to High Court
  - b. Trial of election petitions
  - c. Withdrawal and abatement of election petitions
  - d. Appeals to Supreme Court
  - e. Costs and security for costs
8. Corrupt practices and electoral offences
9. Powers of Election Commission in connection with inquiries as to disqualifications of members.
10. Bye-elections and time limit for filling vacancies.
11. Miscellaneous provisions relating to elections.
12. Barring the jurisdiction of civil courts.



**Corrupt Practices and Election Offences**

**Corrupt Practices:** Section 123 of RPA, 1951 defines the corrupt practices like bribery, undue influence, inciting religious sentiments, booth capturing etc.

1. **Bribery:** Offering any form of gratification to voters or candidates.
2. **Undue Influence:** Interfering with free exercise of electoral rights.
3. **Appeal on Grounds:** Urging votes based on religion, race, caste, community, language, or using national symbols for electoral gain.
4. **Promoting Enmity:** Inciting hatred between different citizen groups.
5. **Sati:** Promoting or glorifying the practice of sati.
6. **False Statements:** Publishing false facts about a candidate’s character or conduct.
7. **Free Conveyance:** Providing free transport to voters (except candidate, family, agent).
8. **Excessive Expenditure:** Violating prescribed limits on election expenses.
9. **Government Assistance:** Receiving electoral assistance from certain government officials.
10. **Booth Capturing:** Seizing control of a polling booth.

**Electoral Offences:** Chapter III of Part VII of RPA, 1951 provides for the following electoral offences:

- **Before Election Day:** Promoting enmity between social groups, False affidavit penalties, Restrictions on public meetings, Limits on exit poll publication, Corporate offences, Disturbances at election meetings. Printing restrictions for campaign materials.
- **On Election Day:** Maintaining secrecy of voting, Impartiality of election officers, Prohibition of canvassing near polling stations, Penalties for disorderly conduct, Misconduct at polling stations, Violation of voting procedures, Illegal hiring of conveyances, Offences related to breach of duty, Government servants' election role restrictions, Prohibition of armed presence, Protection of ballot papers and Booth capturing.
- **General Rules:** Granting paid holidays on polling days, Prohibition of liquor sale/distribution on polling day.

**Significance and Challenges related to RPA**

Significance	Challenges
<ul style="list-style-type: none"> <li>• <b>Implementation of democracy:</b> The Act provides for the implementation of the provisions of the Constitution and ensures that democracy materializes in the country and fills voids such as the term of Rajya Sabha members etc.</li> <li>• <b>Ensuring equality:</b> The provisions of one electoral roll for Lok Sabha and assembly elections, prohibiting registration in more than one constituency ensures equality of citizens.</li> <li>• <b>Decriminalization:</b> The provisions regarding disqualification from membership of Parliament and State legislature ensure decriminalization of politics.</li> <li>• <b>Transparency:</b> The provisions regarding the declaration of assets and liabilities, right to information of electors etc. ensure transparency regarding the candidates in the elections.</li> <li>• <b>Free and fair elections:</b> The provisions regarding corrupt practices and electoral officers provide for the decriminalization of politics.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Ruling party advantage:</b> The RPAs do not contain clear provisions and guidelines on reducing the advantage to the ruling party in terms of misuse of official machinery and electoral funding. E.g. BJP has received around 95% of its funding through electoral bonds.</li> <li>• <b>Stopping criminal elements:</b> Even after provisions in RPAs around 43% of MPs in the present Lok Sabha have criminal cases pending against them.</li> <li>• <b>Social media:</b> Social media has blurred the silence period of election campaigning and also enables micro-level targeting of voters.</li> <li>• <b>Power to de-register parties:</b> ECI does not have the power to de-register political parties that do not contest elections and are merely for receiving funds.</li> <li>• <b>Bureaucratism of politics:</b> ECI does not have its own official machinery and has to depend on the government, which is not conducive to free and fair elections.</li> </ul>





**Determinants of voting Behaviour:** Caste, Religion, Region, Language, Personality, Money, Ethnicity or Race, Ideology, Personal Reasons, Others (Economic condition, manifesto, role of media, family background).

**Election Disputes:** To decide on election disputes, the **procedure begins with filing an election petition inquiring into the validity of the Parliamentary or local government elections' result.** The petition shall be filed in the respective High Court by any candidate, or an elector related to the election personally. Moreover, an election petition calling in question an **election shall be filed within 45 days from the results declaration date.**

The election of a particular candidate can be declared void if the High Court opines that the grounds on which the election of any returned candidate may be declared void include:

- Corrupt practices such as **bribery, undue influence, or impersonation**
- Illegal practices such as the **failure to maintain accounts of election expenses** or the use of prohibited items such as vehicles, arms, and intoxicants during the election campaign
- Non-compliance with the provisions of the Act or rules made thereunder
- Disqualification of the candidate under the Constitution or any other law in force at the time of the election
- Mistakes, if any, in the electoral roll or in the declaration of the result of the election.
- The aggrieved party against the decision of the Election Tribunal can appeal to the High Court within a period of 45 days from the date of the decision. **The decision of the High Court can be further challenged before the Supreme Court.**
- There has been any non-compliance with the provisions of the Constitution or RPA.

Certain remedies are available to the aggrieved parties against the order(s) of the High Court. **The aggrieved party can file an appeal to the Supreme Court within 30 days from the order of the High Court.**

### **Model Code of Conduct**

The MCC of ECI is a **set of guidelines issued to regulate political parties and candidates prior to elections.** The rules range from issues related to **speeches, polling day, polling booths, portfolios, the content of election manifestos, processions, and general conduct,** so that free and fair elections are conducted.

**Status of MCC: MCC does not have a statutory backing.** So, violation of many of its provisions does not attract any punitive action. Though Model Code does not have legal sanctity but several of its provisions have enabling laws contained in the **Indian Penal Code and the RPA, 1951.**

**Need for MCC: To ensure free and fair elections, the need of MCC is felt for the following reasons:**

1. **To provide a level playing field for all political parties,** keep the campaign fair and healthy, avoid clashes and conflicts between parties, and ensure peace and order.
2. To ensure that the **ruling party, either at the Centre or in the states, does not misuse its official position to gain an unfair advantage in an election.** Example, incumbent governments are barred from announcing new schemes and programmes after the MCC comes into force.
3. To prevent impersonation, bribing, and intimidation of voters.

**Note:** MCC has got the judicial recognition of the highest court of land. In the case of **Union of India v. Harbans Singh Jalal (1997),** the Supreme Court ruled that the MCC remains in force from the announcement of elections until the completion of the electoral process.



**Challenges in Implementation of Model Code of Conduct**

1. The EC has often been criticized for **alleged biases in enforcing the MCC**.
2. The MCC has been criticized for not adequately succeeding in **preventing hate speeches, fake news, use of money power, booth capturing, voter intimidation**, and violence during elections.
3. The MCC has been criticized for allegedly restricting the functioning of the government, implementation of development works, and welfare schemes for weeks
4. Emergence of new forms of electoral malpractices like **manipulation through media which is difficult to trace to specific political parties and candidates**.
5. There is a total void in our electoral rules as far as futuristic challenges such as the threat from AI are concerned.
6. Weakened capacity of the ECI to respond to violations of MCC in the form of weak or delayed response. • Use of third-party contracts for disseminating most of the election-related information to avoid legal responsibility.
7. Flouting the self-regulatory social media code evolved by the ECI.
8. Misuse of narrative by the ruling party over sensitive issues such as national security, disaster management etc., that the ECI observes, do not fall under the ambit of MCC.

**Should MCC be given Legal Status?**

The **Parliamentary Standing Committee on Law and Justice** recommended in its **2013 report** that **statutory status be accorded to the MCC**.

**Committee recommended to:**

**Integrating ECI Orders into RoPA:** It suggested incorporating ECI instructions/orders under Article 324 into the Representation of People Act, 1951, to avoid encroachment on the legislative power of Parliament.

**Statutory backing to MCC:** The committee recommended enacting a law to give statutory backing to the MCC, preventing any vacuum in the ECI's exercise of its plenary power (eg. punishing any party violating the rule) under Article 324 of the Constitution.

**Anti Defection Law**

The **52nd amendment 1985 to the Constitution** added the **Tenth Schedule** which laid down the process by which **legislators may be disqualified on grounds of defection**. The main intent of the law was to combat "the evil of political defections". **The Tenth Schedule contains the following provisions:**

<b>Members of Political Parties</b>	If he voluntarily gives up his membership of such political party
	Abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party.
<b>Independent Members</b>	If she/he joins any political party after such election.
<b>Nominated Members</b>	If he joins any political party after the expiry of six months from the date on which he takes his seat in the House.



**\*Note:** The provision of the Tenth Schedule pertaining to exemption from disqualification in case of split by one-third of members of the legislature party has been deleted by the 91st Amendment Act of 2003.

### Importance of Anti defection law:

1. It was introduced to **maintain rule of law, reduced political corruption, and bribery.**
2. **Increases faith:** Anti-defection ensures that candidates elected with party support and on the basis of party manifestos remain loyal to the party policies.
3. **Reduced horse-trading:** Anti-defection law was **brought to curb the power of money after election within the house.** The horse-trading and unstable government caused by money power and bribery was said to be rampant in the cross- voting
4. **Reduce money power:** It has succeeded in reducing the money power within house voting for passing legislation and the survival of the government.
5. **Ensure Stability:** Anti-defection Provides stability to the government by preventing shifts of party allegiance.
6. **Party Discipline:** Anti-defection promotes party discipline.

### Issues with Anti defection law:

1. **Affects the independence of the MPs:** It violates their freedom of speech and they can't take any independent stand over issue.
2. **Injustice to the Constituencies:** Those have elected them in the elections. Being the people's representatives they should be allowed to boldly air their grievances and speak up for their constituencies' requirements.
3. **Accountability vs efficiency:** Dr. BR Ambedkar while drafting favoured stability and accountability over efficiency thus adopting parliamentary form of government. The weakening of anti-defection law neither provides efficiency nor stability.
4. **Limited deliberations:** They have indeed reduced the quality of Parliamentary debates/deliberations. It could in the long run generate faulty legislation with various loopholes. It could also pave way for delegated legislation rendering Parliament ineffective in the long run.
5. **Misuse of law by the speaker:** False dissent by the speaker on MPAs as seen in the cases of Arunachal Pradesh and Uttarakhand.
6. **Role of MP's and MLA's are undermined:** The legislators are tasked with twin of acting as **agent of people and participate in important legislations.** But when they vote only on party lines it hinders the primary goals.
7. **No barrier for Wholesale Defection:** The law prohibits retail defection but not so effective in the case of Wholesale defection of legislatures.
8. **Issues with merger provisions:** The flaw seems to be that the exception is based on the number of members (if at least two-third of the members of the legislature party concerned have agreed) rather than the reason behind the defection.

### Way forward:

1. The Supreme Court has suggested that **Parliament should set up an independent tribunal headed by a retired judge of the higher judiciary to decide defection cases swiftly and impartially.**
2. Time line to be fixed for speakers to take the decision.
3. Decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the Election Commission.
4. Changes like barring the defectors or legislators who resign from their seat, from contesting election for a sufficient time.



5. The role of money can also be curbed by revisiting the provisions of electoral bond.

**Dinesh Goswami Committee Report:** Disqualification should be limited to cases where a member voluntarily gives up the membership of his political party.

The **issue of disqualification should be decided by the President/ Governor on the advice of the Election Commissioner.**

**Law Commission (170th Report, 1999):** Political parties should limit the issuance of whips to instances only when the government is in danger.

**Election Commission Constitution Review Commission (2002):** Decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the Election Commission.

**NCRWC:** The power of disqualification of the legislators on ground of defection should lie with Election commission and not speaker

**International Practice:** Article 46 of the Singapore Constitution says a member must vacate his seat if he resigns, or is expelled from his party. Article 48 states that Parliament decides on any question relating to the disqualification of a members.

### **Issues related to election in India**

1. **Criminalization of Politics:** Inability to effectively address the increased use of money and involvement of criminal elements in politics. **46% of the MPs in 18<sup>th</sup> LS has criminal charges against them.**
2. **Transparency challenges:** The Indian political funding system **lacks transparency, making it challenging to hold parties and candidates accountable.** Uncertainty surrounds the origins of donations, with many contributions made anonymously.
3. **Voter Manipulation:** Unchecked spending on voter gifts, cash for votes, etc., manipulates electoral outcomes through money power.
4. **Muscle Power and Politics** have a strong connection in Indian politics as muscle men help political parties in election.
5. **Divisive Politics** in line of religion, caste and community creates fraction and friction in the society.
6. **Allegation of Partisan Role:** Actions raising concerns over impartiality of ECI, such as giving clean chits for Model Code of Conduct (MCC) violations by high-profile individuals.
7. **Limited power under MCC** makes it inadequate to take care of evolving dynamics. E.g. Inability to check AI made contents.
8. **Erosion of Model Code of Conduct:** Instances of political parties and candidates violating the model code of conduct have been on the rise. The Election Commission faces the challenge of effectively enforcing ethical standards, ensuring a level playing field, and swiftly addressing violations.
9. Lack of awareness among voters.
10. Mass defection

### **Way Forward:**

Implementation of the Electoral Reforms suggested by the EC which are provided below will help in addressing the issue of electoral malpractices and conduction of free and fair elections-

1. **Lifetime Ban on contesting elections after conviction-** Election commission has endorsed the call for a lifetime ban which would 'champion the cause of decriminalization of politics'.



2. **False Declarations to be an offence-** Election Commission proposes that making false declarations concerning elections be an offence under RPA.
3. **Rules making under RPA to be conferred to the EC-** Rule-making authority under the **Representation of the People Act, 1950, and Representation of the People Act, 1951**, should be conferred on the Election Commission instead of the Central Government.
4. **Use of common Electoral Rolls-** There should be the use of common electoral rolls at elections conducted by the Election Commission and the State Election Commissions.
5. **Disqualification under anti-defection law-** The decisions relating to anti-defection matters should be rendered by the President or the Governor with the recommendation of the Election Commission.
6. **Explore setting up of National Electoral Fund-** The **idea of National Electoral Fund, put forth by former chief election commissioner T.S. Krishnamurthy, can be explored as an alternative to state funding of election.** This fund would allow contributions from all donors. The money will then go to the parties according to the results of the elections or any other principle that all parties would agree upon.
7. **One Candidate one Constituency-** The Representation of People's Act must be amended to provide that a person cannot contest from more than one constituency at a time.

### Regional Parties

#### **Reason behind the rise in regional parties:**

1. Cultural and ethnic differences
2. Regional Aspirations
3. Neglect/Underdevelopment of certain areas
4. Reorganisation of states on linguistic lines
5. Absence of strong opposition at centre
6. Centralising tendencies
7. Fractional Politics

#### **Significance of Regional Parties:**

1. They have provided **better governance and a stable government** at the regional level.
2. They have **posed a challenge to the one party dominant system** in the country
3. They have made a strong impact on the nature and course of centre-state relations.
4. They have made politics more competitive and popular participation in the political process more extensive at the grass roots
5. They provided a **check against the dictatorial tendencies of the central government.**
6. They have made a significant contribution for the successful functioning of parliamentary democracy
7. They have led to more focused development and reduced the imbalances

#### **Issues with Regional Parties**

1. They have given more importance to regional interests rather than national interests
2. They have encouraged **regionalism, casteism, linguism, communalism and tribalism** which have become hurdles to national integration
3. They are responsible for the **unresolution of the inter-state water disputes, inter-state border disputes** and other interstate issues.





4. They have also indulged in corruption, nepotism, favouritism and other forms of misutilisation of power in order to promote their self-interest.
5. They have **focused more on the populist schemes** and measures to expand and strengthen their electoral base. This has adversely affected the state economy and development.
6. They bring in regional factors in the decision-making and the policy-making by the coalition government at the centre. They force the central leadership to yield to their demands.

### Electoral Reforms

#### Electoral Reforms before 1996

- **Increase in the number of proposers:** In 1988, the number of proposers in nomination papers for elections to the Rajya Sabha and State Legislative Council was increased to 10 percent of the electors of the constituency or ten such electors, whichever is less.
- **Lowering of Voting Age:** The **61st Constitutional Amendment Act of 1988 reduced the voting age from 21 years to 18 years** for the Lok Sabha as well as the assembly elections to make youth a part of the political process.
- **Booth capturing:** In 1989, a provision was made for the adjournment of polls or countermanding elections in case of booth capturing.
- **Electronic Voting Machines (EVM):** First-time use of EVMs occurred in the general election in Kerala in May 1982. In **2004, in the General Election to the Lok Sabha, the EVMs were used in all 543 Parliamentary Constituencies in the country.**

#### Electoral Reforms of 1996

Some of the recommendations of the **Dinesh Goswami Committee (1990)** were implemented in 1996. They are:

- **Listing of names of candidates:** The candidates contesting elections are to be classified into **three categories for the purpose of listing their names. They are**
  - Candidates of recognized political parties
  - Candidates of registered-unrecognized political parties
  - Other (independent) candidates.
- **Disqualification under Prevention of Insults to the National Honour Act:** A person convicted for the offenses under the **Prevention of Insults to National Honour Act of 1971** is disqualified to contest in the elections to the Parliament and State Legislature for 6 years.
- **Number of proposers:** The nomination of a candidate in a Parliamentary or assembly constituency should be subscribed by 10 registered electors of the constituency as proposers if the candidate is not sponsored by a recognized political party.
- **Contestants restricted to two constituencies:** A candidate would not be eligible to contest from more than two Parliamentary/assembly constituencies and Rajya sabha/State legislative council.

#### Electoral Reforms after 1996

- **Presidential and Vice Presidential elections:** In 1997, the number of electors as proposers and seconders for contesting election to the office of the President was increased from 10 to 50 and to the office of the Vice President from 5 to 20.





- **Declaration of criminal antecedents, assets, etc., by candidates:** In 2003, the Election Commission issued an order directing every candidate to disclose the information on the matters of conviction, accusation, assets, and any liabilities.
- **Free supply of electoral rolls, etc:** According to a 2003 provision, the Government should supply, free of cost, copies of the electoral rolls and other prescribed material to the candidates of recognized political parties for the Lok Sabha and Assembly elections.
- **Parties entitled to accept contribution:** In 2003, the political parties had to report any contribution in excess of ₹20,000 to the Election Commission for making any claim to any income tax relief.
- **Allocation of time on electronic media:** Under a 2003 provision, the Election Commission should allocate equitable sharing of time to recognized political parties, based on past performance, on the cable television network and other electronic media.

### Electoral Reforms since 2010

- **Restrictions imposed on exit polls:** According to a **2009 provision, conducting exit polls and publishing results of exit polls would be prohibited** during the election to Lok Sabha and State Legislative Assemblies.
- **Time limit for submitting a case for disqualification:** In 2009, a three-month time limit was added within which the specified authority will have to submit the case of a person found guilty of corrupt practice to the President to determine the question of disqualification.
- **Increase in security deposit:** In 2009, the amount of security deposit to be paid by the candidates contesting elections to the Lok Sabha was increased from ₹10,000 to ₹25,000.
- **Appellate authority within the district:** In 2009, a provision was made for appointment of an appellate authority within the district against the orders of the Electoral Registration Officers, instead of the Chief Electoral Officer of the state.
- **Persons in jail or police custody can contest elections:** In 2013, Representation of the People Act, 1951 was amended to allow the persons in jail or police custody to contest elections.
- **Immediate disqualification of convicted MPs and MLAs:** Supreme Court, in **Lily Thomas case (2013)**, held that convicted MPs and MLAs will be immediately disqualified from holding membership of the House without being given three months' time for appeal, as was the case before.
- **Ceiling on cash donations lowered:** In the 2017 budget, the limit for anonymous cash donations by any individual to a political party has been lowered from ₹20,000 to ₹2,000.
- **Cap on corporate contributions lifted:** In the 2017 budget, the limit on corporate contributions from 7.5 percent of the net profit of a company's past three financial years has been removed.
- **Introduction of electoral bonds: Electoral Bonds, introduced in 2018**, are touted as an alternative to cash donations made to the political parties. It is **aimed at bringing clean money and substantial transparency into the system of political funding**.
- **Foreign funding allowed:** Receiving of foreign funds by the political parties has been allowed by amending Foreign Contribution (Regulation) Act, 2010.

### Reforms recommended by the Election Commission of India

- The Commission is of the view that the law should be amended to provide that a person **cannot contest from more than one constituency** at a time.
- Election commission endorsed the call for a **lifetime ban** in the apex court. It had argued that such a move would "champion the cause of **decriminalization of politics**".



- The Commission proposes that where any general election is due on the expiration of the term of the House, advertisements of achievements of the governments, either Central or State, in any manner, should be **prohibited for a period of six months** prior to the date of expiry of the term of the House.
- The Election Commission proposes an amendment to provide the same protection and safeguard in the matter of **removability of Election Commissioners** from office as is available to the Chief Election Commissioner.
- The decisions relating to **anti-defection matters** should be rendered by the President or the Governor with the recommendation of the Election Commission.
- There should be the use of **common electoral rolls** at elections conducted by the Election Commission and the State Election Commissions.
- Election Commission proposes that making **false declarations** concerning elections be an offense.
- **Rule-making authority** under the Representation of the People Act, 1950, and Representation of the People Act, 1951, should be conferred on the Election Commission instead of the Central Government.

### Coalition Government

It refers to a **political arrangement where multiple parties collaborate to form a government when no single party secures a clear majority in the legislature.**

#### Merits:

1. **Broader representation:** Coalitions often represent a wider range of interests and regions, potentially leading to more inclusive policies and programmes.
2. **Checks and balances:** Coalition partners can act as a check on each other, potentially reducing the risk of authoritarianism and hasty policy decisions.
3. **Consensus building:** Coalitions necessitate negotiation and compromise, potentially leading to more widely accepted policies.
4. **Role of Lok Sabha:** Coalition governments result in more vibrant and substantive debates in the Lok Sabha, increased accountability of government.
5. **Cooperative federalism:** Coalition governments have often included regional parties resulting in increased bargaining power of states and decentralized approach to governance.
6. A coalition government brings together different parties to make decisions that are balanced and satisfy interests of various stakeholders. **India's diverse cultures, languages, and groups make coalition governments more representative and reflective of popular opinion.**
7. **Equal focus on development of various regions:** Coalition politics strengthens India's federal system by being more attentive to regional needs than a single-party government.

#### Demerits:

1. **Political instability:** Divergent interests of coalition partners can lead to frequent disagreements and government instability. e.g., Fall of first NDA government in 1998 after just 13 months.
2. **Policy paralysis:** Decision-making can be slow due to the need for consensus among coalition partners. e.g., Withdrawal of support by Left parties from the UPA-I government over Indo-US nuclear deal in 2008.
3. **Myopic decision-making:** Frequent changes in coalition dynamics can result in hindering the implementation of long-term strategies. e.g., Frequent changes in the Human Resource Development Ministry during the 2004-2014 led to inconsistent policies in the education sector.
4. **Compromise on ideologies:** Political parties may have to dilute their core ideologies to maintain the coalition.



5. **Regionalism:** Regional parties in coalitions often leverage their position to push for state-specific benefits, allocation of resources to satisfy regional allies, etc.
6. **Foreign policy:** Coalition dynamics can influence foreign policy decisions, particularly regarding regional issues. e.g., Stalled decision on Teesta Water Agreement in 2011.

**Way Forward**

1. **Political stability:** Amend the Rules of Procedure of the Legislatures for adoption of a system of **constructive vote of no confidence**. (NCRWC)
  - a. **Constructive vote of no-confidence** means motion of no-confidence should be accompanied by a proposal of alternative Leader to be voted simultaneously.
  - b. **If one or more parties in a coalition realign midstream** with one or more parties outside coalition, then members of that party/ parties shall seek **fresh mandate from electorate**. (ARC-II)
2. **Election of Prime Ministers:** Provide for a mechanism for election of the Leader of Lok Sabha, along with the election of Speaker, under the Rules of Procedure who may be appointed as the Prime Minister. (NCRWC)
3. **Transparency in functioning of coalition:** Mandate regular **public reporting on the progress of Common Minimum Program implementation** and introduce '**coalition impact assessments**' for major policy decisions.
4. **Long-term policy strategies:** Use of **constitutional bodies like Inter-State Council** and **non-partisan bodies like NITI Aayog** in national policy formulation that transcends coalition politics.

**Miscellaneous topics**

**State Funding of Elections**

State funding of election implies that state gives funds to political parties or candidates for contesting elections. Its **main purpose is to make it less important for contestants to take money from powerful moneyed interests and thus creates a fair playing field for parties with less money.**

<b>Arguments in favour of state funding</b>	<b>Arguments against state funding</b>
<ul style="list-style-type: none"> <li>• <b>Transparency and Financial Restrictions:</b> State funding increases transparency inside the party and also in candidate finance, as certain restrictions can be put along with state funding.</li> <li>• <b>Limiting Influence of Wealthy Individuals and Mafias:</b> State funding can limit the influence of wealthy people and rich mafias on elections, thereby purifying the election process.</li> <li>• <b>Encouraging Internal Democracy and Representation:</b> Through state funding the demand for internal democracy in party, women representations, representations of weaker section can be encouraged.</li> <li>• <b>Weaken the dependency on Corporate and Individual Funding:</b> In India, with high level of poverty, ordinary citizens cannot be expected to contribute much to the political parties. Therefore, the parties depend upon funding by corporate and rich individuals, enhancing the possibility of <b>quid pro quo arrangement</b>. State funding of elections can weaken this arrangement.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Forced Support Regardless of Agreement:</b> Through state funding of elections, the taxpayers are forced to support even those political parties or candidates, whose view they do not subscribe to.</li> <li>• <b>Encouraging Status Quo:</b> State funding encourages the <b>status quo</b> that keeps the established party or candidate in power and makes it difficult for the new parties.</li> <li>• <b>Distance from Ordinary Citizens:</b> State funding increases the distance between political leaders and ordinary citizens as the parties do not depend on the citizens for mobilization of party funds.</li> <li>• <b>Risk of Parties Becoming Organs of the State:</b> Political parties tend to become organs of the state, rather than being parts of the civil society.</li> </ul>



### **Recommendations of Various Committees:**

- 1. Indrajit Gupta Committee (1988):** Endorsed state funding for elections and recommended it for national and state parties only. Short-term state funding should only be given in kind to national and state parties.
- 2. Law Commission of India (1999):** Desirable total state funding with prohibition on other funding sources. It also stressed on regulatory framework (for example, intra-party democracy, maintenance of accounts, etc.).
- 3. Second Administrative Reforms Commission (2nd ARC, 2008):** Recommended partial state funding to reduce illegitimate election expenses.
- 4. National Commission to Review the Working of the Constitution (2001):** Appropriate framework for regulation of political parties would need to be implemented before state funding is considered.

### **Freebies in Elections**

Freebies in elections refer to the distribution of goods and services by political parties to voters as inducements for electoral support. These include items ranging from laptops to household appliances, aimed at garnering votes. Originally intended to address social needs, freebies are now often criticized for being used to gain electoral advantages rather than genuinely improving welfare. Therefore, they are seen as tools for creating political patronage and reinforcing electoral support.

### **Issues with Freebies:**

- 1. Corruption and Voter Influence:** Freebies blur the line between legitimate welfare initiatives and electoral bribery by influencing voter decisions through material incentives. Further, they tend to divert people's attention from substantive policy debates and long-term governance issues.
- 2. Fiscal Burden on Governments:** Many state governments are grappling with fiscal constraints. The culture of distributing freebies further curtails their capacity to invest in genuine welfare programs. For example, Power subsidies account for 10% of the total budgetary allocation of Punjab for FY25.
- 3. Undue Electoral Advantage:** Freebies afford political parties, particularly those in power, an unfair advantage by promising selective distribution of private goods to specific voter segments. For example, pledges to provide bicycles for girls or laptops for college students illustrate this practice.
- 4. Environmental Consequences:** Free electricity subsidies for farmers in states like Punjab and Haryana have led to excessive groundwater extraction.
- 5. Further, the Election Commission of India's (ECI) lacks the authority to regulate or penalize the political parties promising freebies.** Moreover, political parties often omit details on funding sources for populist promises, failing to inform voters adequately about the financial implications.

### **Recommendations to overcome the Problem of Freebies**

#### **1. Regulatory Framework for Manifestos:**

- **Mandatory Submission:** Require all political parties to submit their manifestos to the Election Commission before the first phase of nominations, with non-compliance leading to disqualification from elections.





- **Judicial Oversight:** Establish a special judicial bench to scrutinize manifesto implementation, ensuring parties fulfill their promises or face electoral disqualification.

**2. Legal Obligations and Accountability:**

- **Legally Binding Manifestos:** Enforce manifestos as legally binding documents, ensuring clarity, achievability, and realistic promises.
- **Penalties for Non-Fulfillment:** Impose severe penalties, such as banning parties from contesting future elections, for failure to implement manifesto commitments.

**3. Data Integrity and Fiscal Responsibility:**

- **Reliable Data Sources:** Mandate political parties to base their manifesto promises on reliable government data and databases.
- **Fiscal Roadmaps:** Requiring the party manifestos to outline fiscal roadmaps for achieving proposed targets and their impact on public finances.

**4. Expanding Regulatory Scope:** Expanding legal definitions to include political parties under bribery statutes will ensure comprehensive accountability under electoral laws.

In **Subramaniam Balaji vs. State of Tamil Nadu (2013)**, although the Supreme Court held that the promises made in an election manifesto cannot be construed as a ‘corrupt practice’ under section 123 of the RPA, 1951, it **acknowledged that in reality distribution of free gifts by political parties does influence the electorate and “shakes the root of free and fair elections to a large degree”**. Thus, it directed the Election Commission to frame guidelines with consultation of political parties on its general conduct and election manifesto including Model code of Conduct (MCC) for the guidance of political parties and candidates.

**Social Media and Elections**

<b>Pros of Social Media in Elections</b>	<b>Cons of Social Media in Elections</b>
<ul style="list-style-type: none"> <li>• Helps in planning political rallies and manifestos digitally.</li> <li>• Provides real-time sentiment analysis through platforms like Twitter.</li> <li>• Influences public opinion and motivates voters.</li> <li>• Facilitates rapid dissemination of information and campaign updates.</li> <li>• Enables direct interaction between candidates and voters.</li> <li>• Encourages engagement and participation in political discourse.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be used to polarise voters.</li> <li>• Misrepresentation and spreading of misleading information.</li> <li>• Amplifies fake news and misinformation during election periods.</li> <li>• Requires significant financial resources for effective advertising.</li> <li>• Can create echo chambers and filter bubble.</li> <li>• Issues with privacy and data security.</li> </ul>





**Concerns associated with Social Media:**

- 1. Disinformation on Social Media:** Platforms' content moderation efforts are criticized for diverting attention from the broader problem of widespread disinformation amplification. There is a lack of consistent frameworks to combat misinformation.
- 2. Impact and Weaponization:** Misinformation on social media contributes to hate, polarization, vaccine hesitancy, and real-world violence in India
- 3. Digital Divide:** The digital divide negatively impacts the electoral process in the context of social media by creating unequal access to information and political engagement. Those without internet access or digital literacy are excluded from online political discourse, campaign information, and digital voting initiatives.
- 4. Anonymity and Accountability:** Anonymity on social media can protect freedom of expression but also facilitates the spread of false information without accountability

**PYQ**

**1. With reference to the Delimitation Commission consider the following statements: (PYQ 2012)**

1. The orders of the Delimitation Commission cannot be challenged in a Court of Law.
2. When the orders of the Delimitation Commission are laid before the Lok Sabha or State Legislative Assembly, they cannot effect any modification in the orders.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) either 1 nor 2

**2. How many Delimitation Commissions have been constituted by the Government of India till December 2023? (PYQ 2024)**

- (a) One
- (b) Two
- (c) Three
- (d) Four