

# Indian Polity and Governance – Indian Polity –Constitution, Political System

## Chapter 8

### Short Answers

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This chapter contains:

- Gram Nyayalayas In India
- Electoral Reforms in India
- Supreme Court on Cryptocurrency
- Important Amendments In Indian Constitution
- Important Committees And Commissions In India
- All-India Judicial Services (AIJS)
- 22ND LAW COMMISSION OF INDIA
- THE FEMINISATION OF INDIAN POLITICS
- NATIONAL INVESTIGATION AGENCY (NIA)
- Electronic Voting Machine (Evm)

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# 1 GRAM NYAYALAYAS IN INDIA: COMPOSITION; SIGNIFICANCE; ISSUES; WAY FORWARD; CONCLUSION

## 1.1 About Gram Nyayalayas:

- **Gram Nyayalayas or village courts** are established under **the Gram Nyayalayas Act, 2008 as the lowest tier of the judiciary for rural areas.**
- This Act came into force on **2 October 2009.**
- They are aimed at providing inexpensive justice to people in rural areas at their doorsteps and for speedy and easy access to the justice system in the rural areas of India.
- It is a mobile court and exercises the powers of both Criminal and Civil Courts. It means that it can try criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the Gram Nyayalaya Act. The scope of those cases can be amended by both the Central and the State Governments, as per their respective legislative competence.
- The seat of the Gram Nyayalaya will be located at the headquarters of the intermediate Panchayat i.e. Panchayat Samiti. But they will go to villages, work there and dispose of the cases there itself.
- They can follow special procedures in civil matters, in a manner it deems just and reasonable in the interest of justice.
- **The appeal in criminal cases and civil cases shall** lie to the Court of Session and District Court respectively. These appeals shall be heard and disposed of within a period of six months from the date of filing of such appeal.
- The orders and verdicts passed by the Gram Nyayalaya are deemed to be a decree.
- They shall **be guided by the principles of natural justice** and subject to any rule made by the High Court. They are not bound by the Indian Evidence Act, 1872. They allow for conciliation of the dispute and settlement of the same in the first instance.
- Their jurisdiction over an area specified by State Government in consultation with the respective High Court.
- They have both **civil and criminal jurisdiction over the offences for example:**
  - Offences not punishable with death
  - imprisonment for life or imprisonment for a term exceeding two years.
  - Theft as well as receiving or retaining stolen property, where the value of the property stolen does not exceed rupees twenty thousand

- Offences related to central acts such as payment of wages, minimum wages, protection of civil rights, Bonded labour, Protection of Women from Domestic Violence Act etc.
- Offences under states acts are notified by each state government.
- Civil and Property suits for example use of common pasture, farms, water channels, right to draw water from a well or tube well etc.

## 1.2 Composition:

- **Nyayadhikari presides** the Gram Nyayalayas. He will have the same power, enjoy the same salary and benefits of a **Judicial Magistrate of First Class**. He is to be **appointed by the State Government in consultation with the respective High Court** (Note: In regular civil/judicial courts, the High Court itself makes appointments).

## 1.3 Significance:

- They are important to reduce arrears and pendency of cases. It is a part of the judicial reforms. It is estimated that Gram Nyayalayas can reduce around 50% of the pendency of cases in subordinate courts. They can take care of the new litigations which will be disposed of within six months.

## 1.4 Issues:

- **Less number of courts:** So far only 11 states have taken steps to notify Gram Nyayalayas. Only 208 'Gram Nyayalayas' are functioning in the country as against 5000 by Gram Nyayalaya act 2008 and **2,500 estimated to be required by the 12th five-year plan**.
- The problem of **concurrent jurisdiction of regular courts:** The majority of states have now set up regular courts at the Taluk level, thus reducing the demand for gram Nyayalayas.
- **Shortage of human resources:** The progress is affected by the non-availability of judicial officers to function as Gram Nyayadhikaries, Non-availability of notaries, stamp vendors etc.
- **Funds:** The slow pace of utilisation of funds under the Scheme is mainly due to the lack of proposals from the States for setting up of Gram Nyayalayas, lukewarm response of the Bar. There is also the reluctance of police officials and other State functionaries to invoke jurisdiction of Gram Nyayalayas.
- **Reduction of Pendency:** one among the objectives of the Act was to scale back pendency and burden on lower courts within the district but it's revealed that even this has not been fulfilled. the amount of cases disposed of by Gram Nyayalayas is minuscule.
- **Functioning:** they have been established on a part-time basis (weekly once or twice) and aren't added to the prevailing courts. They are grappling with systemic defects, lack of practice of recording case data and status, lack of political will etc.
- **Lack of awareness:** Many of the stakeholders including the litigants, lawyers, police officers and others are not even aware of the existence of Gram Nyayalayas in the district court premises. There are no conferences or seminars organized for creating awareness about this institution.

- **Ambiguity in the jurisdiction:** Due to the existence of alternative forums such as labour courts, family courts, etc., there is ambiguity and confusion regarding the specific jurisdiction of Gram Nyayalayas,

### 1.5 Way Forward:

- **Training of Gram Nyayadhikari:** Aside from the legal and procedural requirements of Gram Nyayalayas, training can also include the local language of the community amongst whom they are posted.
- **Infrastructure and Security:** Separate building for the functioning of the Gram Nyayalaya need to be constructed. The provision also has to be made for providing adequate security to them.
- **Establishment of permanent Gram Nyayalayas:** they'll be established in every Panchayats at an intermediate level or group of contiguous Panchayats depending upon the number of disputes that normally arise from that area.
- **Creation of awareness among various stakeholders** through workshops, Advertisements, Seminars, etc.
- **Creation of a regular cadre of Gram Nyayadhikari** so that vacancy issues can be tackled.
- **The Jurisdiction of the Gram Nyayalayas may be redefined** in order to remove the ambiguities regarding the jurisdiction of Gram Nyayalayas, and the Act amended.

### 1.6 Conclusion:

Despite these shortcomings, the institution of Gram Nyayalayas has been a positive step. Above everything else they need concrete, well planned and continuous efforts to make them work. The success of these institutions should not only be measured by the number of courts established in different states, but also in terms of reaching out to deprived sections of the society and its role in the overall reduction in the pendency of cases.

### **POST-RETIREMENT APPOINTMENT OF JUDGES: FACTS; ARGUMENTS IN FAVOUR; ARGUMENTS AGAINST; LAW COMMISSION REPORT; INTERNATIONAL PRACTICE; WAY FORWARD**

Controversies around the appointment of judges post-retirement have been a recurring one. Recently, the president nominated former Chief Justice of India to the Rajya Sabha.

Ranjan Gogoi became the first former chief justice of India to be nominated as Rajya Sabha member. However, it is not the first time; judges Post-retirement are given a post in tribunals, commission, and in central Government. People from various part of the country, colleagues criticizing the nomination and alleging the appointment is a quid pro quo.

### **Facts regarding judges accepting post-retirement jobs:**

- A Vidhi centre for Legal policy's study shows that almost 70 out of 100 Supreme Court retired judges have taken up some or other assignments
- After independence, there have been 44 Chief Justices of India who have accepted post-retirement jobs.
- The central Government gave about 36 percent of the appointments. The jobs mainly to tribunals, commissions, ad hoc committees, and government positions like that of Lokayukta.
- In some cases, judges have been appointed even four months ahead of retirement.
- Time and again, post-retirement jobs come into the limelight.

### **Arguments in Favour:**

- The experience and insights that competent and honest judges learn during their period of service cannot waste after retirement.
- Unlike abroad, higher judiciary judge in India retires at a comparatively young age and is capable of many more years of productive work.
- Most of the posts have a statutory requirement to appoint former judges. For example the National Human Right Commission(NHRC).

### **Arguments against:**

- The immediate appointments show that the Government made decisions regarding judges' post-retirement assignments even before retirement.
- Immediate post-retirement appointments of the judges create doubts about their judgments, irrespective of their merits.
- It creates a conflict of interest.
- Justice Krishna Iyer's observation demonstrates the prospect of post-retirement employment can damage judicial independence. He said, "Judicial afternoons and evenings are sensitive phases. The incumbent being bothered about post-retiral prospects. The executive plays upon this weakness to bend the integrity or buy the partiality of the elderly brethren
- Judiciary and executive should watch each other rather than mutual admirers.
- It reduces public faith in judicial independence.
- In the recent 'master of roster case,' the Supreme Court reiterated that public confidence was the greatest asset of the judiciary

## 1.7 Law Commission Report

- First Law Commission headed by MC Setalvad, recommended that judges of the higher judiciary must not accept any government job post-retirement.
- Such judges should not forget that their conduct after retirement was crucial to preserve people's trust in the judiciary

### International practice:

**United States:** No Supreme Court judge retires lifelong. It is done to prevent conflict of interest

**United Kingdom:** Supreme Court Judges retire at the age of 70. No law stopping judges from taking post-retirement jobs but no judge has taken such a post.

### Way forward:

- The judiciary needs a mechanism to regulate post-retirement government appointments
- The Tribunals should not be a haven for retired persons.
- The appointment process should not result in decisions being influenced when the Government itself is a party in the case and appointment authority at the same time.
- Former Chief Justice R M Lodha, says that judges should not take post-retirement government posts for at least two years of demitting office. This is necessary to prevent conflict of interest.
- An amendment to the Constitution can be done by incorporating a provision similar to Articles 148 or 319.
- A special law may also be passed by Parliament prohibiting retired judges from taking up an appointment for two years.
- There could be an increase in retirement age

### Points to Remember:

**Quid Pro Quo:** Quid pro quo is a Latin phrase that literally means "something for something" or "this for that." This phrase is used to signify an exchange of goods, services, favours or any other kind of value

### Constitutional provision related to it

Article 80(3): President nominates 12 members to the Rajya Sabha, and they shall consist of persons having special knowledge or practical experience in respect of literature, science, art, and social service.

The former chief justice of India was appointed **under the social service category.**

Other articles related to post-retirement jobs by the judiciary are

- Article 124 states that "no one who has held office as a Supreme Court judge shall plead in any court or before any authority within the territory of India."
- Article 220 bars High Court judges from pleading before any court, tribunals in India except the Supreme Court and the other High Courts.

## 2 Electoral Reforms in India: Meaning, Needs and Steps taken

Electoral reforms mean the development and change in the election process in India. The objective of the electoral reform is to facilitate free and fair elections, clean politics, and ideal members of a legislative house. It helps in making Indian democracy a real democracy in the letter as well as in spirit. Article 324-329 of the Indian constitution deals with elections and electoral system.

### The need for electoral reforms

- The **Goswami Committee** on Electoral reform in 1990, observed the crippling effect of money and muscle power in elections.
- The **N. Vohra committee**, which submitted its report in October 1993, studied the problem of criminalization of politics and the nexus among politicians, bureaucrats, and criminals in India. According to the committee CBI, IB had unanimously expressed their opinion that the criminal network is virtually running a parallel government.
- The **Law Commission** has said that in the last ten years since 2004, 18% of the candidates contesting national and state assembly elections had one or more criminal cases against them.
- In the 18<sup>th</sup> report presented by a parliamentary committee to the Rajya Sabha in March 2007 said that there should not be a person from criminal background
- The report said, "Criminalization of politics is the bane of society and negation of democracy."

### Major Challenges in the Indian electoral system:

- **Money Power:** Election is an expensive affair in every democratic polity. Money power plays a destructive role in our electoral system affecting the working of periodic elections seriously
- **Muscle Power:** Criminalisation of politics and politicization of criminals are like two sides of the same coin and mainly responsible for the muscle power in the election
- **Misuse of Government Machinery:** It generally complains that the government in power often misuse official machinery to further the election prospects of its part candidates.



- **Criminalisation of Politics and Politicisation of Criminal:** Nexus between the two groups of Politician and Criminals ensure each others survival in Indian Democracy. Criminals using money and muscle powers to enter politics and further ensures that the cases against them are not proceeded with. Political parties also field such candidates with a criminal background as they ensure a seat for the Party.
- **Freebies in the election:** Free liquor or some goods to voters are acts of enticing voters
- **Paid News and Fake news:** Paid news is published as a news item in the form of advertisement. Social media also transmit fake news

## 2.1 Steps Taken by the government

- **Electoral bonds:**
  - Electoral bonds are like a promissory note that can be bought by an Indian citizen or company incorporated in India from select branches of State bank of India.
  - It was introduced with the Finance Bill (2017).
  - On January 29, 2018, the government of India introduced the Electoral Bond Scheme 2018.
- **Introduction of VVPATs:**
  - It is a method of providing feedback to voters using a ballot less voting system.
  - It is an independent printer system attached with Electronic voting machine that allows the voters to verify that their votes are cast to the person they want to give
  - VVPAT generates a paper slip every time when a voter casts his vote, recording the party to whom the vote was made
  - The voters verified paper audit slip is kept in a sealed cover
- **Guidelines for social media during the election:** Voluntary Codes for ethics is given by election commission for the fair and free election
- **Lowering of voting Age:** The 61<sup>st</sup> constitutional amendment act reduced the minimum age for voting from 21 years to 18 years
- **Introduction of Electronic Voting Machines:**
  - EVMs were introduced in the year 1998 during the state elections of Delhi, Madhya Pradesh, and Rajasthan.
  - EVMs are used widely now because they are fool-proof, efficient, and a better option in terms of the environment.
- **Restriction on candidates from contesting in more than two constituencies**
  - It shall lead to disqualification of the person for six years from contesting to the Parliament and State legislatures when a person violates the National Honors Act, 1971

- **Increasing the number of proposers and the security deposit:** The no of electors required to sign as proposers in the nomination papers for election to the Rajya Sabha and the State Legislative Councils has been increased to 10% of the electors of the constituency or ten such electors
  - It helped in reducing the non-serious candidates in the election.
- It is restricted by law to go to the polling booth bearing arms. Taking arms to the polling booth is punishable by imprisonment for up to 2 years
- **Prohibition on the sale of liquor:** Liquor or other intoxicants shall not be sold at any shop, eating place, or any other place within the polling area during forty-eight hours. Forty eight hours ending with the hour fixed for the conclusion of poll
- **The ceiling on election expenditure:** For the Lok Sabha election, a candidate can spend nearly 50-70 lakh, and Rs 20-28 lakh for an assembly election.
- The government decided to observe January 25 as 'National Voters Day' to mark the EC's founding day.
- Voting through the postal ballot is another reform taken up by the Government.
- Political parties need to report any contribution above Rs 20000 to the Election Commission for claiming income tax benefit.
- Declaration of criminal record, assets, etc. by the candidates is required, and declaring false information in the affidavit is now an electoral offence punishable with imprisonment up to 6 months or fine or both.

### Way Forward

- **Audit of the party expenditure:** It should be conducted regularly.
- Awareness campaign to educate the voters in villages or colleges for the first time voters.
- **Self-regulation by the political parties:** Political parties voluntarily took money in the electronic form and bring transparency in their approach.
- **Neutrality by Mass media:** Mass media should play a non-partisan role in the election. It acts as a safeguard of democracy.
- Regulation by the social media companies on the **fake news** especially during the election time.

## 3 SUPREME COURT ON CRYPTOCURRENCY UPSC: JUDGEMENT, ORDER, & EFFECT

Recently the **Supreme Court** has **struck down a ban by the Reserve Bank of India (RBI)** on banks and financial institutions from dealing with **cryptocurrency** holders and exchanges. In 2018, the

RBI had banned various banks from dealing with virtual currency exchanges and individual holders on the grounds that these currencies had no underlying fiat (a formal authorization).

After the circular of RBI in 2018 which ban crypto-currency, The **Internet and Mobile Association of India (IAMAI)** had challenged the RBI's powers to bar banks and financial institutions from dealing in such **digital currencies**.

#### **About Crypto currencies:**

- There is **no globally accepted definition** of virtual currency. Few agencies have called it a method of exchange of value, while others have labeled it a goods item, product or commodity.
- The founder of bitcoin and the underlying technology called blockchain, Satoshi Nakamoto has defined bitcoins as a **new electronic cash system that's entirely peer-to-peer with no trusted third party**.
- This means that **all users** of currencies will be able to **keep track of the transactions** taking place.
- **Virtual currency** is an **umbrella term for all kind of non-fiat currency traded online**. They are mostly created, distributed and accepted in local virtual networks.
- On the other hand, **Cryptocurrencies have an extra layer of security, in the form of encryption algorithms**.
- Most cryptocurrencies now **operate on blockchain technology** which allows everyone on the network to keep track of the transactions which are occurring globally.

#### **Reason for the ban by RBI:**

- Lack of any underlying fiat.
- Excessive volatility in their value.
- Lack of information on their design, use and operation.
- They may seriously disrupt the business models of commercial banks.
- The anonymous nature of cryptocurrency which goes against global money-laundering rules.
- Risks and concerns associated with virtual currencies regarding data security and consumer protection.
- It can impact on the effectiveness of the monetary policy.

### **Internet and Mobile Association of India (IAMAI) arguments against the ban:**

- **RBI action was outside its purview** as a non-fiat currency is not a currency as such.
- There were **no studies conducted** either by the RBI or by the central government.
- The **ban was solely made on moral grounds** and RBI should have adopted a wait-and-watch approach as taken by other regulators like Securities and Exchange Board of India (SEBI).

### **Supreme Court's judgment on Crypto currency:**

- The Court said that **till date RBI has not come out with a stand that any of the entities** regulated by it, **have suffered any loss** or adversely effected due to Virtual Currency exchanges.
- Hence, the **RBI circular is “disproportionate”** as it is **short on the following five-prong test to check proportionality**
  - The direct and immediate impact upon fundamental rights.
  - The larger public interest should be ensured.
  - The necessity to restrict citizens' freedom.
  - Inherent harmful nature of the act prohibited
  - Possibility of achieving the same objective by imposing a less drastic restraint.
- The court also states that RBI did **not consider the availability of alternatives** before issuing the circular.
- The court said that **RBI could not be blamed for not adopting a “light-touch” approach** as adopted by other countries, as there could be no comparison with other countries such as the US, the UK, Japan, or Singapore were developed economies.
- Further, the court also pointed out the **Centre's failure to introduce an official digital Currency** despite two draft Bills.

### **Effects of Supreme Court judgement on Crypto currency:**

- It will **help in the incorporation of block chain technology.**
- Crypto currencies can act as **Alternative Investments** so as to hedge global volatility in the Finance market.
- It can be a crucial part of the **Industrial revolution 4.0.**
- It is also estimated that block chain will **generate \$3.1 trillion in new business value by 2030** and allowing crypto currency will enable India to be part of this.
- **For India to become a world power, embracing emerging technologies** like crypto currency and block chain **is a must.**

### Status of Virtual Currencies in the world:

- Organizations across the globe have issued the warning while dealing with virtual currencies.
- A blanket ban of any sort could potentially push the entire system underground which in turn would mean that there will be no regulation.
- **Countries such as China, Russia, and Vietnam** have placed a **complete prohibition** on using cryptocurrency.
- Whereas **countries like the US, UK, Canda, Singapore, and Australia** have **accepted** the use of Virtual Currency in some form or the other.

### Future Outlook:

- The **relief** for virtual currency investors and businesses **may be only temporary** as the Centre **govt.in** a draft law has proposed to ban all crypto currencies except a state-issued one.
- The **Centre may** introduce the bill to permanently **ban the crypto currencies** and to set up the basic infrastructure required **to issue state-owned crypto currency** and the digital rupee.
- But rather than imposing a blanket ban, the Govt. should **set up a new expert regulatory body** with capability in technology, economics and finance to deal with all aspect regarding crypto currency.
- RBI may come up with **a new framework or regulation** that deals with the reality of these technological advancements.
- The govt should also **designate virtual currency intermediaries** as reporting entities **under** the Prevention of Money Laundering Act (**PMLA**).
- A vibrant crypto currency segment could add more value to India's financial sector. Thus, in the era of growing technological innovation in the financial sector, it is critical to **strengthen the regulatory frameworks of India**.

## 4 IMPORTANT AMENDMENTS IN INDIAN CONSTITUTION

India's constitution is neither rigid nor flexible. Parliament is empowered to amend the Indian Constitution under Article 368, subjected to 'Basic structure of Constitution'. It is done in three ways:

1. By simple majority
2. By special majority
3. By special majority with ratification by half of the states.

## **Important Amendments in the Indian Constitution**

### **First Constitutional Amendment Act, 1951**

- Added Ninth schedule to protect land reforms and other laws from the scrutiny of Judicial review.
- Insertion of new Article 31A and Article 31 B.
- Amended Article 19 by adding three more ground of reasonable restriction on freedom of speech and expression.

### **Seventh Constitutional Amendment Act, 1956**

- State reorganization on a linguistic basis. Abolished classification of states into four categories and reorganized them into 14 states and 6 UTs.
- Appointment of a Governor for two or more states.
- Establishment of common High Court for two or more states, extended jurisdiction of the High Court to union territories. Appointment of additional and acting judges of High Court.
- Insertion of new Article 350 A (instruction in mother-tongue at primary education to children belonging to linguistic minority) and 350B (Special Officer for linguistic minorities is provided) in part XVII.

### **Eighth Constitutional Amendment Act, 1960**

- Extended reservation of seats for the SCs and STs and special representation for Anglo-Indians in the Lok Sabha and state legislature.

### **Twenty-Fourth Constitutional Amendment Act, 1971**

- Amended Article 368 and Article 13, affirming the power of Parliament to amend any part of the Constitution including fundamental rights.
- When an amendment to the Constitution adopted by both Houses of Parliament is submitted to the President for his approval, he is obliged to give his consent.

### **Twenty-Fifth Constitutional Amendment Act, 1971**

- Curtailment of the fundamental right to property.
- Insertion of new Article 31 C, which provides that if any law is passed in order to give result to the DPSP contained in 39(b) and (c), that law will not be considered to be void on the ground that it removes or reduces any of the rights under Article 14, 19 or 31 and will not be challenged on the ground that it doesn't give effect to those principles.

### **Twenty-Sixth Constitutional Amendment Act, 1971**

- Insertion of Article 363 A giving effect to the abolishment of Privy purse paid to former rulers

of princely states.

### **Forty-Second Constitutional Amendment Act, 1976**

- Amendment in Preamble by addition of three words- 'Socialist', 'Secular' and 'Integrity'.
- Addition of new Part IVA (Article 51 A) for fundamental duties.
- Insertion of new Article 31 D for saving laws in respect of anti-national activities, taking precedence over fundamental rights.
- Insertion of new Article 32 A for Constitutional validity of State laws not to be considered in proceedings under Article 32. Also added Article 226 A for Constitutional validity of Central laws not to be considered in proceedings under Article 226.
- Insertion of three new Articles regarding DPSP.
  - (i) Article 39 A: Free legal aid and Equal justice
  - (ii) Article 43 A: Participation of workers in the management of industries and
  - (ii) Article 48 A: Protection and improvement of environment and safeguarding of forests and wildlife.
- Curtailment of power of Supreme Court and High Court with respect to judicial review and writ jurisdiction.
- Made Constitutional amendment beyond judicial review.
- The tenure (period) of Lok Sabha and State Legislative assemblies raised to 6 years by amending Article 83 and Article 172.
- Frozen seats in Lok Sabha and State
- Parliament is empowered to decide the powers, privileges and immunities of the members and the committees of each House of Parliament and State Legislature by amending Article 105 and Article 194.
- Added new Part XIV regarding administrative tribunal and tribunal for other matters under Article 323 A and 323 B.
- Addition of new Article 257 A for assistance to States by the deployment of armed forces or other forces of the Union.
- Creation of All India Judicial Services under Article 236.
- Facilitated a Proclamation of emergency in operation in any part of the territory of India.
- Made President bound by the advice of Council of Ministers by amending Article 74.
- Amendment in Seventh Schedule by shifting five subjects from the state list to the concurrent list  
These are: (a) education, (b) forests, (c) protection of wild animals and birds, (d) weights and measures (e) administration of justice.

- Extended one-time duration of President's rule from six months to one year.

#### **Forty-Fourth Constitutional Amendment Act, 1978**

- Substituted term 'Armed rebellion' with earlier 'Internal disturbance' in case of national emergency.
- President can proclaim emergency only on the basis of written advice tendered by the cabinet.
- Removal of right to property from the list of fundamental right and recognized as a mere legal right.
- Provided that during national emergency fundamental right guaranteed under Article 20 and Article 21 cannot be suspended.
- Restored the original term of Lok Sabha and State Legislative assembly to five years.
- Restored the power of Election Commission in deciding matters related to election dispute of President, Vice-President, Prime Minister and Speaker of Lok Sabha.
- Guaranteed right of the media to report the proceedings in Parliament and the State Legislatures freely and without censorship.
- Set some procedural safeguards with respect to a national emergency and President's rule.
- Restored the powers of Supreme Court and High Court taken away in earlier amendments.
- In the case of issuing ordinances, the amendment did away with the provision that made the satisfaction of the President or Governor as final justification.
- President can now send back the advice of cabinet for reconsideration. Reconsidered advice, however, is binding on the President.

#### **Sixty-First Constitutional Amendment Act, 1988**

- Proposed to reduce the voting age from 21 years to 18 years for Lok Sabha and State legislative assembly election.

#### **Sixty-Ninth Constitutional Amendment Act, 1991**

- Granted the National Capital a special status among the Union territories to ensure stability and permanence. Amendment also provided with a Legislative Assembly and a Council of Ministers for Delhi.

#### **Seventy-Third Constitutional Amendment Act, 1992**

- Added new Part IX that gave Constitutional status to the Panchayati Raj Institution. Inserted new Eleventh schedule having 29 functions of Panchayat.



### **Seventy-Fourth Constitutional Amendment Act, 1992**

- Granted Constitutional status to Urban Local Bodies. Added 'The Municipalities' as new Part XI-A in the Constitution. Inserted Twelfth schedule having 18 functions of the municipality.

### **Eighty-Fourth Constitutional Amendment Act, 2002**

- Readjustment and rationalization of territorial constituencies, without altering the number of seats allotted in the Lok Sabha and State Legislative assemblies to be fixed on the basis of 1991 census till 2026.

### **Eighty-sixth Constitutional Amendment Act, 2002**

- Inserted new Article 21-A in the Constitution which provided for free and compulsory education to all children of the age of 6 to 14 years.
- Inserted Article 51-A as a fundamental duty which provided for the education of a child between the age of 6 and 14 years.
- Changes in the DPSP Article 45 which provided free and compulsory education for all children up to the age of 14 years.

### **Eighty-Seventh Constitutional Amendment Act, 2003**

- Readjustment and rationalization of territorial constituencies in the states to be fixed as per 2001 census instead of earlier 1991 census.

### **Eighty-Ninth Constitutional Amendment Act, 2003**

- Creation of two separate bodies out of combined body namely 'National Commission for Scheduled Castes' under Article 338 and 'National Commission for Scheduled Tribes' under Article 338-A.

### **Ninety-First Constitutional Amendment Act, 2003**

- Inserted new clause Article 75 (1A): provides that the total number of ministers, including the PM, in the COM shall not exceed 15% of the total number of members of LS.  
PM- Prime Minister COM- Council of Ministers LS- Lok Sabha
- Inserted fresh clause Article 75 (1B): Provides that a member of either House of Parliament belonging to any political party that is disqualified on grounds of defection from being a member of that House shall also be disqualified from being a Minister.
- New clause Article 164(1A): Provides that the total number of ministers, including the CM, in

the COM shall not exceed 15% of the total number of members of the State Legislative Assembly.

CM- Chief Minister COM- Council of Ministers

- Inserted new clause Article 164 (1B) which says, a member of Legislative assembly of the State or either House of State Legislature belonging to any political party who is disqualified on the ground of defection for being a member of that House shall also be disqualified to be appointed as a minister.
- Removal of the provision in Tenth Schedule pertaining to an exemption from disqualification in case of the split by one-third members of the legislature party.

### **Ninety-Seventh Constitutional Amendment Act, 2011**

- It gave Constitutional protection to Co-operative societies by making the following changes.
- Right to form Co-operative society as a fundamental right under Article 19.
- Insertion of the new Directive Principle of State Policy under Article 43-B for promotion of Co-operative societies.
- Added new Part IX B under the Constitution as 'The Co-operative societies' under Article 243-ZH to 243-ZT.

### **Ninety-Ninth Constitutional Amendment Act, 2014**

- Insertion of new Article 124-A which provided for the establishment of the National Judicial Appointments Commission (NJAC) for the appointment and transfer of judges of the higher judiciary. However, it was later struck down by apex court and held as unconstitutional and void.

### **Hundredth Constitutional Amendment Act, 2015**

- This amendment gave effect to the acquisition of territories by India and transfer of certain territories to Bangladesh in pursuance of the Land Boundary Agreement and its protocol entered into between the Governments of India and Bangladesh.

### **Hundred and First Constitutional Amendment Act, 2016**

- Insertion of new Article 246-A, 269-A and 279-A for enrollment of Goods and Service Tax (GST) that made changes in Seventh Schedule and course of inter-state trade and commerce.

### **Hundred and Second Constitutional Amendment Act, 2018**

- It provided for the establishment of National Commission for Backward Classes (NCBC) as a

Constitutional body under Article 338-B of the Constitution. It is vested with the responsibility of considering inclusion and exclusion of communities in the list of backward communities for reservation in jobs.

**Hundred and Third Constitutional Amendment Act, 2019**

- In relation to the current reservation, the reservation of up to 10% for "economically weaker segments" in academic organizations and government jobs has been made.
- It gives effect to the mandate of the Directive Principle of State Policy under Article 46.
- It added new provisions under Article 15 (6) and Article 16 (6) to permit the government to ensure the advancement of "economically weaker segments."

**5 IMPORTANT COMMITTEES AND COMMISSIONS IN INDIA**

There are various committees and commissions formed in India at different instances for different purposes. Their recommendations over time have led to varied reforms in Indian society. Hence, they are very crucial for the UPSC Exam.

This article provides a list of various committees and commissions along with their purposes/Objectives (why they were formed/which field they worked in) so that aspirants can have a ready list with which revision can be done.

Committees and commissions are formed for studying a problem/issues and then putting forth recommendations to resolve those issue. The govt can either accept or reject the findings/recommendations of the committee/ commission:

<b>Committee/Commission</b>	<b>Head</b>	<b>Objective</b>
Justice Mukandakam Sharma Committee	Justice Mukandakam Sharma	The aim is to review the draft of the National Code for Good Governance in sports.
General Shekatkar Committee	General Shekatkar	Committee of Experts on rebalancing defence expenditure.
Naresh Chandra Committee	Naresh Chandra	Report on the Taskforce on National security
Prakash Committee(1994)	Tandon Prakash Tandon	Unification of existing railway service
Rajat Bhargav Committee	Rajat Bhargav Committee	Panel on petrochemical investment
H R Khan Committee	H R Khan Committee	Code for responsible lending in Micro Credit
Tapan Ray Committee	Tapan Ray	It will review the regulatory guidelines and supervisory framework of Core Investment

Harsh Vardhan Committee	Harsh Vardhan	Companies (CIC)
Monetary Policy Committee/Shaktikanta Das Committee	Shaktikanta Das	It will examine the existing state of mortgage securitization in India and Development of Housing Finance Securitization
High-level Committee/Nandan Nilekani Committee	Nandan Nilekani	It will accelerate the GDP growth of the country
High-level and Bezbaruah Committee	M.P. Bezbaruah	It will suggest measure to strengthen the safety and security of digital payments in the country
Expert Committee/UK Sinha Committee	UK Sinha	It will review the implementation of clause 6 of the Assam Accord
National Implementation Committee/Rajnath Singh Committee	Rajnath Singh	It will look into the various challenges faced by MSMEs
Rajiv Kumar Committee	Rajiv Kumar	It will look into the multiple challenges faced by MSMEs
Injeti Srinivas High-Level committee	Injeti Srinivas	It will look at selling as many as 149 small and gas fields of state-owned Oil and Natural Gas Corporation (ONGC) and Oil India Ltd (OIL) to private and foreign companies to boost domestic output.
Ethics Committee /Lal Krishna Advani	Lal Krishna Advani	It will review the existing framework and guide, and formulate a roadmap for a coherent policy on Corporate Social Responsibility(CSR)
Bhaskar Ramamurthy Committee	Bhaskar Ramamurthy	It is a Committee of Lok Sabha which examines complaints related to any unethical conduct by members of Lower House of Parliament
B Sesikeran Committee	B Sesikeran	It will suggest changes to JEE(Advanced)in the wake of an inadequate number of candidates qualifying the entrance test.
High-level Empowered Committee	Cabinet Secretary	To review food labelling standards
		It will suggest measures to address issues of Stressed Thermal Power Projects.

Sub-Committee/Dr. Nilima Kshrisagar Committee	Dr Nilima Kshrisagar	It will evaluate 324 irrational FDCs in three months
Group of Minister(GOM)and High-Level Committee/Rajiv Gauba	Rajiv Gauba	It will deliberate and make a recommendation for a separate penal provision on incidents of mob violence
13-member Committee/Ravinder Dholakia Committee	H Ravinder H Dholakia.	It will review Sub-National Accounts to upgrade the norms for the computation of economic data.
Sunil Mehta Committee	Sunil Mehta	It will examine setting up of Asset Reconstruction /Management Company for faster resolution of stressed assets of PSB
Minorities Commission and S.C., S.T. Commission	Mohammed Qamaruddin	For Minorities and S.C., S.T.
14-member panel/Umesh Sinha Committee	Umesh Sinha	It will study the use of social media and other digital platforms in the voting and give suggestions on how to adapt the Model Code of Conduct to these changes.  The panel will revisit "Schedule VII of Companies Act, 2013, based on references received from stakeholders, including ministries and department of centre and states, members of Parliament, member of state legislatures and civil societies".
Manmohan Juneja Committee	Manmohan Juneja	
Defense Planning Committee(DCP)/Ajit Doval Committee	Ajit Doval	It will suggest measures to reform the process of higher defence planning and national security strategy.
Injeti Srinivas Committee	Injeti Srinivas	It will suggest improvements in the National Sports Development Code and functioning of Sports Federations
Negotiation Committee	A representative from Water Resources, River Development, and Rejuvenation Ganga	On Mahanadi & its Tributaries
Timothy Gonsalves Committee	Timothy Gonsalves	The committee suggested creating 20% reservation seats for the girl students in IITs
Vinod Rai Committee	Vinod Rai	To manage the Indian cricket board

N.S Kang Committee	N.S Kang	It will frame uniform rules for the states to avoid delay in the fast implementation and reduce hindrance of the Rights of Person with Disabilities (RPD) Act in the country
N.K. Singh Committee	N.K. Singh	It will review the Fiscal Responsibility and Budget Management(FRBM)
Amitabh Chaudhry Committee	Amitabh Chaudhry	To analysis the existing framework of IRDA-linked and non-linked insurance product regulation
Afzal Amanullah Committee	Afzal Amanullah	It suggests ways to improve India's Haj policy. It also looks into the issue of subsidy to the pilgrimage.
H. R. Nagendra Committee	H. R. Nagendra	The objective is to prepare a Yoga Protocol for Diabetes Control
Dr Pritam Singh Committee	Dr. Pritam Singh	The aim is to study the setting up of a Defence procurement organization
Meena Committee	Hemchandra Meena Hemchandra	It reviews the threats inherent in the existing and emerging technology also consider the adoption of various security standards and protocols, interface.
Partha Committee	Mukhopadhyay Partha Mukhopadhyay	It suggests the necessary legal and policy framework protecting the interests of the migrants in the country.
Arvind Panagariya Committee	Arvind Panagariya	It will examine the working of the regulatory bodies Central Council of Indian Medicine (CCIM) and Central Council of Homeopathy(CCH)
AK Bajaj Committee	AK Bajaj	It will address issues related to the management of the waters of Krishna River between warring Andhra Pradesh and Telangana.
Lt. Gen. D.B. Shekatkar Committee	Lt. Gen. D. B. Shekatkar	It will Reform the military and improve financial management.
Justice Shri Girdhar Malviya Committee	Justice Shri Girdhar Malviya	To prepare draft Ganga Act
Kewal Kumar Sharma	Kewal Kumar Sharma	To review the recommendations made by the

Committee		University Grants Commission (UGC) panel on implementation of the 7 <sup>th</sup> pay commission in educational institutions
Mr Ashok Dalwai Committee	Mr Ashok Dalwai	To establish a regulated wholesale agri-market at a distance of every 80 km
Dr R B Barman Committee	Dr R B Barman (Chairman of the national statistical Commission)	The objective is to lay down technical standards for the performance of core services and other services
Arvind Panagariya Committee	Arvind Panagariya	To compute timely data on the employment situation in the country
Madhav Chitale Committee	Madhav Chitale	The objective is to recommend measures for de-siltation of river Ganga
Smt. Rina Mitra Committee	Smt. Rina Mitra (Special secretary (internal security) in the ministry of Home affairs.)	It examines the rules which allow free movement of Indians and Myanmar Citizen.
Krishnaswamy Committee	Kasturirangan Krishnaswamy Kasturirangan	To draft the national education
Uday Kotak Committee	Uday Kotak	It will suggest improvement in the standards of corporate governance of listed companies
Pradeep Kumar Committee	Pradeep Kumar	It will look at the stressed assets of the banking sector
CK Khanna Committee	CK Khanna	The objective is to support staff of the Indian team and then decide in the contracts that will hand over to the coaches
Pradeep Kumar Sinha Committee	Pradeep Kumar Sinha	To select the national anti-profiteering authority
Usha Nath Banerjee Committee	Usha Nath Banerjee	Deal with the players' transfer dispute.'
Justice B N Srikrishna Committee	Justice B.N. Srikrishna	It is an expert committee to study various issues relating to data protection.
Renuka Committee	Chowdhury Renuka Chowdhury	According to the committee, Genetically modified(G.M.) crop should be introduced only after biosafety, socio-economics evaluation

## 6 ALL-INDIA JUDICIAL SERVICES (AIJS)

It means creating a centralized cadre of District Judges recruited by the centre through an All-India examination similarly along the lines of all India services. Currently, district judges and the subordinate Judiciary are appointed by the examination conducted by the state government.

### Background of All India Judicial Service in India:

- The All India Judicial Service proposal was first initiated in the Chief Justice Conference in 1961.
- The 14<sup>th</sup> law commission mooted the idea of creating an All-Indian Judicial Service in 1958.
- Jagannath Shetty commission also recommended the All India Judicial Service
- In 1976, after the recommendation of the Swaran Singh committee, Article 312 of the constitution was amended by the 42<sup>nd</sup> constitutional amendment act, 1976, to include an all-India judicial service.
- The UPA government in 2012 drafted a bill for All India Judicial Service, but it was done away with after opposition from the high court chief justices.

### The need of All India Judicial Service:

- It would help in filling the vacancies in the approximately 5,000 jobs across the district and subordinate court.
- It is the need of the hour to increase the case clearing ratio in the subordinate and district courts by increasing the number of judges
- It helps in enriching the quality of justice. As the judicial academies give proper training and high courts provide the freedom with the identified parameters to innovate. So district judges' efficiency will increase, and this would reduce appeals arising from their decision.
- It will help in addressing the lacunas of the state mechanism. The present appointing system is often criticized for the delay, inefficiencies. Even in some cases, limited selections are challenged in litigations, but the whole recruitment will stall.
- It will attract the best talent from across the country to join the district and Subordinate Judiciary.
- A unified judiciary with the uniform laws and an all-India judiciary helps to institutionalize the idea of co-operative federalism.
- It would help in establishing cordial relations between the Lawyers and judge relation.



- It would help in establishing the transparent and efficient method of recruitment and helps in restoring public faith in Judiciary

#### Issues:

- **Language barrier:** - Upto the district court and session judge, the proceedings are conducted, and the judgments are written in the local language.
- The judges appointed through the All India Judicial service are not familiar with the language and the customs of the state and deciding such cases may affect the legitimacy of the judicial system in the eyes of the local population
- It will reduce the efficiency of the legal system.
- According to civil procedure code 1908 and code of criminal procedure, 1973, the proceedings of civil and criminal courts are to be conducted in a language prescribed by the state government.
- Even some high courts have a special exemption to conduct their proceedings in Hindi
- Some people argue that the creation of All India Judicial service will disturb the federal structure.
- **Independence of Judiciary:** Currently, the autonomy of the district judge is guaranteed by the fact that the High court plays a significant role in the appointment, transfer, and removal of district judges.
- With the setting up of All India Judicial Service, this control would be weakened and thereby hampering the independence of Judiciary
- Many people are also apprehending that it will reduce the promotional avenues of the members of the subordinate state judicial service.
- As per now, many of the communities who currently benefit from the state quotas may oppose the formation of All-India Judicial service.
- A national exam may close down the doors from fewer privileged backgrounds from being able to enter the Judicial service
- A national exam may not end up taking into account the local laws, practices, and customs which vary from states to states
- Doing so it may increase the costs of training of judges selected through the mechanism
- It may trigger the conflicts between the centre and states
- Among all high courts, nine high courts are against the proposal and hence disapproving of the plan.

### Way forward:

- There is a need to ensure that the appointment should be made transparently, without any interference from the central government and the state government.
- The report of 116th Law commission recommends the formation of the National judicial service commission consisting of retiring and sitting judges of the supreme court, members of the bar and legal academies. Such steps should be taken
- All decisions should be made with the concurrence of the state and the high court to avoid the conflict and to maintain the federal structure of the country.
- Training can be imparted, or cadre may be distributed to improve efficiency.
- The state government must investigate the reasons and the cause of the large vacancies in the poorly performing state

### Facts for prelims:

- Article 312 authorizes the parliament to create new all-India services based on a Rajya Sabha resolution to that effect declaring that it is necessary to do so in the national interest
- Such resolution in the Rajya sabha should be passed with the 2/3<sup>rd</sup> of the members present and voting.
- The extraordinary power is given to Rajya sabha to protect the interest of states in the Indian federal system.
- The Governor makes the appointment, posting, and the promotion of district judges of the state.
- He does so after consulting the high court of the state.
- Sardar Vallabh Bhai Patel was the chief protagonist of all India service in the constitution assembly and known as the father of all India service.
- The Governor, with the previous consent of the president, can authorize the use of Hindi or any other regional language of the state, in proceedings of the high court.

## 7 22ND LAW COMMISSION OF INDIA

**Context:** The Union Cabinet has approved for Twenty-second Law Commission of India for a period of 3 years.

### About Law Commission of India:

- Law Commission of India is neither a constitutional body nor a statutory body, it is an executive body established by an order of the Government of India. Its major function is to work for **legal reforms**.
- The Commission is established for a fixed tenure and acts as an **advisory body** to the **Ministry of Law and Justice**.

- Its membership primarily comprises of the legal experts.

#### **Functions of Law Commission:**

- Identify laws which are no longer needed or relevant and can be immediately repealed.
- It examines the existing laws in the light of Directive Principles of State Policy and suggests ways of improvement and reform.
- It also suggests such legislation as might be necessary to implement the Directive Principles and to attain the objectives set out in the Preamble of the Constitution.
- It considers and conveys to the Government of India its views on any subject relating to law and judicial administration which may be specifically referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs).
- Take all such measures as may be necessary to harness law and the legal process in the service of the poor.
- Consider the requests for providing research to any foreign countries as may be referred to it by the Government through the Ministry of Law and Justice (Department of Legal Affairs).

#### **Background of Law Commission:**

- Law Commissions in India have a pre-independence origin. The first Law Commission was formed in the **year 1834** as a result of the **Charter Act, 1833** with the chairman being **TB Macaulay**.
- The first commission's recommendations resulted in codification of the penal code and the Criminal Procedure Code.
- Three other law commissions were constituted before independence by the British government. All four pre-independent law commissions have contributed to the statute books immensely.
- **After Independence, law commission was first formed in 1955 under the chairmanship of the then Attorney-General of India, M. C. Setalvad.**
- The commission is reconstituted every three years and so far, 277 reports have been submitted to the government.
- The various Law Commission have been able to make an important contribution towards the progressive development and codification of Law of the country.
- The 22nd Law Commission will be constituted for a **period of three years** from the date of publication of its Order in the Official Gazette.

**Members of Law Commission:**

1. A full-time Chairperson.
2. Four full-time Members (including Member-Secretary)
3. Secretary, Department of Legal Affairs as ex-officio Member
4. Secretary, Legislative Department as ex officio Member; and
5. Not more than five part-time Members.

**Benefits**

- The Government will have the benefit of recommendations from a specialised body on different aspects of law which are entrusted to the Commission for its study and recommendations, as per its terms of reference.
- The Law Commission shall, on a reference made to it by the Central Government or suo-motu, undertake research in law and review of existing laws in India for making reforms therein and enacting new legislations.
- It shall also undertake studies and research for bringing reforms in the justice delivery systems for elimination of delay in procedures, speedy disposal of cases, reduction in the cost of litigation etc.

**Note:**

- The 21<sup>st</sup> Law Commission was constituted under Justice B.S. Chauhan (retd.).
- He had submitted reports and working papers on key issues such as simultaneous elections to the Lok Sabha and the Assemblies and uniform civil code.

**8 THE FEMINISATION OF INDIAN POLITICS**

The feminisation of Indian politics means the increase in women's participation in the politics of the country. The word Political Participation has deep meaning. It not only means the Right to vote but also includes the involvement of women in the decision-making process, power-sharing, running political parties, holding political offices, and policymaking at all levels of governance of the state.

To understand the political participation of women, we need to divide the political involvement of women in three-level:

- Political participation of women at the national level(Basically in the Lok Sabha, Rajya Sabha, National political parties, or any other ways by which women further their political interest).
- Political participation of women at the state level politics(In the legislative assembly or any state-level politics).
- Political participation of women at the local level in the panchayat and the municipalities.

### **Constitutional Provisions:**

- Constitution has provided equal opportunities for both men and women in all the spheres including the political area with article 14, article 15, and article 16 of the constitution
- Moreover, Article 325 and 326 guarantees political equality, equal Right to participate in political activities, and the Right to vote, respectively.
- Apart from this, the 73<sup>rd</sup> Constitutional amendment has added article 243(D)(3), which provides reservation to the women.
- It provides reservation to women not less than 1/3<sup>rd</sup> of the total number of seats to be filled by direct elections of the panchayat.
- Due to this, more than 10 lakh women entered the local level politics of the country.
- However, no such reservation is provided at the national level as well as the state level. and hence only 78 women elected to the parliament in the recent Lok Sabha election
- Similarly, in state-level politics, the participation of women is less.

### **Need of women in Indian politics:**

- Increasing the women in Indian politics will help in better representation of women's and children's concerns in policymaking.
- Women legislators in India gave a better performance in their constituencies by approx 1.8% per year more than male legislators.
- Even in terms of corruption, efficiency, and motivation, women show better results.
- Male legislators are almost three times as likely as the female legislature to have criminal charges pending against them when they contest the election,
- Even in terms of assets accumulation in office, women do this 10% point lower than men.
- Since economic infrastructure is valuable input, Women politicians are more likely to complete the project. It is based on the performance of MLA in the implementation of Pradhan Mantri Gram Sadak Yojana.
- Despite so many favourable points for women, women make up 14% of the Lok Sabha and 11% of the Rajya sabha.
- Women constitute only 9% of State assembly members and only 5% of the state Council members.

### **Reason for less entry of women in Indian politics**

- Low status in society: Women are treated as a second class citizen, and patriarchal society often think that women are only for domestic responsibilities

- The restraining cultural norms
- Poor economic status: Women often face the problem of finance for their participation in the election
- Lesser exposure to education Women are often considered as a liability in some parts of the country and deprived of fundamental rights such as education
- The unhealthy political environment: For instance In this recent #me too movement, a journalist Priya Ramani accused Union Minister of state of external affairs, MJ Akbar of sexual harassment.
- Lack of leadership training: Women's participation is often limited at the low level in the political party, and no leadership training is provided to them.
- Lack of political will: Political parties in India tend not to follow provisions in their constitutions reserving seats for women in different committees
- On the reserved seats, at the local level, political leaders take positions in the name of their wife, and after winning elections, actual power is used by their male counterparts instead of women. (Concept of sarpanch pati raj)

#### **The situation in other countries**

- India ranked 148 in terms of representation of women in executive government and parliament as per the Women in Politics report, 2017 published by Inter-parliamentary union and UN women
- Rwanda has the maximum participation of women in the parliament, where women have won 61.3% of seats in the lower house.
- Only three countries namely Rwanda, Cuba, and Bolivia have more than 50% participation
- Globally, there are 27 countries in which women have less than 10% of parliamentarians in the single or lower house. Three states have no women at all in the parliament
- Nordic countries have 42.5%, Americas, 30.6%, Europe excluding Nordic countries 28.6%
- Sub-Saharan Africa has 23.9%, Asia 19.8%, Pacific 16.3%, and Arab states have 19 percent participation

#### **How to enhance such participation**

- Political mentoring: Mentoring and training skill programs prepare women for political work and strengthen their political skills.
- Building women's platform, networks, and pools of potential candidates for their developments
- Training women to raise funds and establish funds raise systems to decrease the obstacle of financial disadvantage.

- Provide opportunities to strengthen elected women's influence and leadership, such as conducting orientation for the newly elected women, networking opportunities, governance skill training.
- Political parties should identify potential women candidates and support them.
- Political parties need to create a conducive and safe environment for women in the political party.
- Political parties create Internal complaints committees and other grievance redressal method so that, women feel safe and have a mechanism for complete redressal of their complaints
- Parliament itself pass women reservation legislation. There are various advantage of women reservation
  - Issues related to women will get much more priority in the parliament and can be resolved easily
  - It can also help in making the atmosphere of the parliament and state assemblies more conducive for debates and discussions
  - Panchayati Raj is a positive example of reservation in the country
- Behaviour change of the society by street plays, natakas or counselling with the cases of women leaders
- Promoting education among women so that women get a fair chance.
- Organizing women youth parliament, which provides a platform for women to develop skills for political participation.
- States such as Andhra Pradesh, Bihar, and 14 others have implemented a 50% reservation of the women in the Panchayati Raj Institutions. Rest states should follow
- The central government, with the consent of the state government, should introduce a constitution amendment bill for the 50% reservation for women in the whole country.

## Conclusion

SDG goal 5 has a target " Ensure women's full and active participation and equal opportunities for leadership at all levels of decision making in political, economic, and public life. That needs to be achieved with the collective efforts of the international community(SDG goal 17- Partnership for the goals.)

## **9 NATIONAL INVESTIGATION AGENCY (NIA) Functions; Vision; Jurisdiction; National Investigating Agency (Amendment) Act, 2019**

National Investigation Agency was constituted under the provisions of the National Investigation Agency Act, 2008 (NIA Act) in the year 2009. It was established after the 2008 Mumbai terror

attacks, popularly known as attacks of 26/11. This attack alarmed the government to have a special and separate agency to deal with the terror-related crimes in the country. National Investigation Agency works as a central counter-terrorism law enforcement agency in the country. NIA's headquarter is situated in New Delhi, with branch offices at Hyderabad, Kolkata, Guwahati, Mumbai, Lucknow, Kochi, Jammu and Raipur.

The National Investigation Agency is headed by a Director-General. He is appointed by the central government. His powers are similar to the powers exercised by a Director-General of Police in respect of the police force in a state. NIA also has a separate cell known as TFFC cell dealing with the matter of fake currency notes and issues of terror funding. National Investigation Agency works under the control of the Ministry of Home Affairs, Government of India. The state government provide all assistance and cooperation to the NIA for investigation of the offences specified under the NIA Act.

### **Reasons for introducing NIA Bill by Government:**

1. Past few years have seen many attacks apart from attacks on borders and in Naxalite areas. India has been a victim of terrorist attacks and bomb blasts in hinterlands as well as major cities.
2. Many of these incidents have complex linkage both with inter-state and international linkages. These include incidents of smuggling of arms and drugs, circulation of fake Indian currencies and infiltrations from across the borders, etc.
3. Therefore the Government felt the need for establishing an agency at the central level for the investigation of offences related to terrorism and certain other acts which have ramification for the Nation as a whole.
4. Several committees and the Second Administrative Reform Commission have also made recommendations for this.
5. The Government keeping in mind the interest involves had proposed to enact a legislation to make provisions for the establishment of an NIA. These provisions are to be incorporated in the National Investigation Agency Bill, 2008.

### **Functions:**

- The NIA under the National Investigation Agency Act is mandated to investigate and prosecute offences mentioned under the act. As per its mandate, the NIA collects, collates and analyses counter-terrorism based investigations. It also shares information with sister investigation, intelligence and law enforcement units both at the level of the centre and the State.
- NIA investigate and prosecute offences in respect of the acts specified in the schedule of the National Investigation Agency Act. These include offences affecting Sovereignty, Unity and Integrity of India and Security of State etc.



- It also functions as a body which provides assistance to and seeks assistance from other intelligence and investigation agencies.
- It has the power to take other such measures which may be necessary for speedy and effective implementation of the provision of the NIA Act.

**Vision:**

1. It aims to be a professional investigation agency matching the best international standards.
2. It aims to create deterrence for existing and potential terrorist groups in the country.
3. It aims to set some standards of excellence in counter-terrorism and other National security-related questions, by the way of creating a highly trained and partnership-oriented workforce.
4. It also aims to create a repository of all terrorist-related information.

**Jurisdiction:**

It involves concurrent powers along with other investigating agencies to investigate and prosecute the offences affecting the Sovereignty, Security and integrity of India, the security of the state , friendly relations with foreign states and offences under various acts enacted to implement international treaties.

NIA is empowered to investigate terror attacks, bomb blasts, hijacking, attacks on nuclear installations and use of weapons of mass destruction. With the NIA (Amendment) Act,2019 the jurisdiction of NIA has increased.

**Mission of NIA as established by the National Investigation Agency Act is as follows:**

- Use of latest technology and scientific methods for accurate and minute investigation of the offences. To set up standards so that all case entrusted with the NIA are detected surely.
- To ensure speedy and fair trials.
- To create a professional workforce with regular training in best practices around the world.
- To create a professional and result oriented organisation, upholding the Constitution of India and laws of the land, giving prime importance to universal human rights and dignity of the individual.
- Building a vast database of information regarding individual terrorists and terrorist organisations, In order to share it with state and other investigating agencies.
- Displaying scientific temper while performing the duties assigned to them under the act.

- Maintaining cordial relations with the government of states and union territories.
- Studying and analysing laws related to terrorism in other countries and as well as evaluating the laws in India.
- Winning the confidence of the citizens of India by the way of selfless and fearless working.

#### **National Investigating Agency (Amendment) Act, 2019:**

1. It provides that Officers of the NIA shall have similar powers, privileges and liabilities as being exercised by the police officers in connection with the investigation of offences not only in India but outside India also.
2. It is also empowered to probe the offences relating to human trafficking, counterfeit currency, cyber terrorism, manufacturing and sale of prohibited arms and explosive substances.
3. It enhances the provision of the Act to persons who commit a scheduled offence beyond India against any Citizen of India or affecting the interest of India.
4. It empowers the central government, to direct the NIA to register the case with respect to a scheduled offence committed outside India.
5. It provides for the central as well as state government to designate Session Courts as Special courts for conducting the trial of offences under the NIA Act.

## **10 ELECTRONIC VOTING MACHINE (EVM) CONTROVERSY**

**Context:** The allegations of malfunctioning of Electronic Voting Machines (EVMs) by the opposition parties in the multiple State Elections as well as the two General Elections of 2014 and 2019 have raised questions over the credibility of the machines. The alleged tampering has the potential to wreak havoc in the democratic setup of the country. However, the Election Commission on multiple occasions has rejected these allegations and reassured the electorate against any such mischief regarding the EVMs.

### **EVM Technology**

- EVMs are simple and **isolated** machines which provide the voter with a button of every choice corresponding to the candidate. It is linked by a cable to an electronic ballot box.
- EVMs are powered by a 6-volt single alkaline battery and thus can be used in remote areas with no electricity as well.
- EVMs are **not connected internally or externally to any internet** or any communication device which makes it difficult to hack from remote operations.

## **EVMs in India**

Globally only about 25 countries have tested or are using the EVM technology in their electoral process. The EVMs in countries like the **USA** are connected to a server and operated using the Internet. This makes it prone to hacking and manipulation (as alleged Russian role in US Presidential Elections). Similarly, in **Germany**, the EVMs were found with several issues as they were imported from a private company from the Netherlands and held unconstitutional by their courts on various accounts. **Brazil** and **Venezuela** have been using their model of EVMs successfully.

India has successfully incorporated the EVMs into its electoral process with the aim to reduce problems associated with ballot paper voting and create a clean voting environment. The Election Commission mooted the idea of EVM in 1977. M B Haneefa invented the first model of the Indian voting machine in 1980 which was used in 1981 by-election in Kerala. In 1989, EVMs were commissioned by Election Commission of India in collaboration with Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL).

Parliament amended the law in 1988 and a new section 61A was added to Representation of the People Act (RPA), 1951 which empowered the Commission to use voting machines. The Central Government appointed the Electoral Reforms Committee in January 1990 consisting of a representative of several recognized National and State Parties.

The Electoral Reforms Committee further constituted a technical Expert Committee for the evaluation of the EVMs. The Committee concluded that the EVM is a secure system. Thus, the expert committee recommended the use of electronic voting machines without further loss of time in April 1990. Since 2000, EVMs have been used in over 100 State Assembly Elections and 4 Lok Sabha elections held in 2004, 2009, 2014 and 2019.

## **From Ballot to Machine**

- Booth capturing or Ballot Box capturing was rampant in many places where the power politics came into play with the use of local goons.
- Forcibly casting false votes by party workers.
- A high proportion of invalid votes such as improper stamping on the ballots.
- Huge time and operational cost of the paper ballot system.

Studies show that EVMs have considerably reduced electoral fraud and made rigging nearly impossible.

## Should India Switch to Paper Ballots Again?

Since their debut, these machines have been targeted by all the political parties especially the losing side. The allegations that EVMs can tamper easily where the vote of one political party or candidate can be transferred to another. Or, that no matter the choice of the voter, the vote will be cast to a particular party or candidate. Technical glitches such as sudden stopping of the machine have been alleged as mischief by some parties.

**Transparency, Verifiability and Secrecy** of the voting process are the pillars of **free and fair elections** in a democratic setup. These are ensured by the paper ballots where the voter can confirm her casted vote and that too in secrecy. These very pillars are said to be shaken by the malfunctioning EVMs.

The doubt over the transparency and integrity of EVMs has been raised in technologically advanced countries as well. These include Germany, USA and Italy among many others and some have even held the use of EVMs as unconstitutional and therefore banned them in their countries.

Election Commission of India, however, swear by the un-hackability of the EVMs and had even thrown an open challenge to all political parties and other professionals to tamper the machine.

## The EVM Test

- EVMs are carefully selected and secured by the Election Commission to ensure that the machines record the actual vote. The testing of the EVMs is done in the presence of all political party representatives. Faulty machines are removed. The EVMs are then sent to different constituencies randomly such as to foil any rigging possibility.
- As a **dry run**, the EVMs are then retested in the presence of party representatives after which they sign a certificate of satisfaction. Before being finally delivered to polling booths, EVMs have sealed with a unique security number again in the presence of all the party representatives.
- After the elections, the EVMs are immediately despatched to the custody of the Returning Officer which may be SDM or DC (or any other who has been accorded magistracy powers).
- Now, the Election Commission has assured that in future VVPAT would be provided with the EVMs so the voter can see the vote she casts.

## Is EVM Tampering Possible?

- The EVMs are electronically designed in such a way as to prevent any manipulation. The software in the machines is burnt into a One Time Programmable (OTP) chip so that it cannot tamper.

- This software is developed indigenously by BEL and ECIL engineers independently. No private contracts are given to design the software.
- The testing and evaluation of the software are done by independent testing groups only.
- The code is burnt into the microcontrollers. The code is kept secret and not given to anyone outside the designer engineers group in the PSU.
- The software code is designed as per the requirements of the voting process. The software allows a voter to cast the vote only once. The vote can be recorded by an elector from the ballot unit only after the Presiding Officer enables the ballot on the Control Unit. The machine does not receive any signal from outside at any time. The next vote can be recorded only after the Presiding Officer enables the ballot on the Control Unit. In between, the machine becomes dead to any signal from outside (except the Control Unit.)
- The EVM samples are regularly checked by the Quality Assurance Group within the PSUs.
- In 2006, The Technical Evaluation Committee had concluded that any tampering of Control Unit by coded signals by wireless or Bluetooth/WiFi or any remote location is not possible as the Control Unit does not have a high-frequency receiver and data decoder. The Control Unit accepts an only special encrypted data from Ballot Unit.
- Data from any outside source is not accepted by the Control Unit.

This system makes the EVM effectively hack-proof. However, the allegations and claims continue. Therefore, the Election Commission of India has proposed the use of **Voter Verifiable Paper Audit Trail (VVPAT)** with the EVMs.

### **How will VVPAT help?**

It is claimed that the **EVMs are neither transparent and nor verifiable**. That is, once the vote had been cast, the voter cannot see her vote being recorded and cannot verify that the vote had been recorded correctly. The EVM record only the total number of votes. It is alleged that by tampering the machines, it is possible to game the system where the vote cast would be different than the vote recorded.

In its response, the **Voter Verifiable Paper Audit Trail (VVPAT)** was introduced by the Election Commission of India. It is an attached printer with the EVM that provides a paper trail for voters which she has 7 seconds to see. The paper with the **poll symbol** and **name of candidate** then drops into the box. This helps in verification of the vote cast.

VVPAT machines can be accessed only by polling officers.

*However, VVPAT resolves only the verification part of the voting. The counting part of the votes is still opaque.* The counting and verification of all the VVPAT will be a logistical challenge as well.

The secrecy of the voting process might also be compromised. With VVPAT papers, there is a *risk of capturing voting patterns* in a particular constituency. It would render the marginalised communities vulnerable. A totaliser machine was proposed to address this issue. The totaliser

machine mixes the votes from 14 booths and counts them together to protect the voters by maintaining their secrecy.

### **Malfunctioning VVPATs**

The VVPATs have reportedly malfunctioned in several Lok Sabha and State Assembly constituencies. The malfunction was blamed on excessive hot weather and exposure to light which damaged the sensors of the machine. The excuse of the inexperience of the staff with the VVPAT machines is also provided.

VVPAT machines are still not ubiquitous and their procurement has been delayed due to delay in sanctioning of funds from the Union Government.

### **Way Forward.**

EVMs are the key to elections in India. Free and fair elections are Sine qua non for a functional democracy. Any aspersions cast on the election process must be immediately quelled to maintain the confidence of the citizens upon the system of the state. In this regard, the best manner of the voting process is to be decided upon by all the stakeholders which include all political parties, Election Commission, and the people.

Some measures concerning the EVMs which will strengthen their use in elections in India and create a malign free election environment are:

- Frequent public hackathons of the EVM machines to build people's faith in the machines.
- Immediate correction of any malfunctioning when found.
- VVPAT to be attached with every EVM in the polling booth as soon as possible.

Improve the EVM and VVPAT technology to work in extreme temperatures to prevent any misbehaving.