

APPROACH – ANSWER: G. S. MAINS MOCK TEST - 2063 (2023)

Answer all the questions in NOT MORE THAN 200 WORDS each. Content of the answers is more important than its length. All questions carry equal marks. *12.5X20=250*

1. *Explain the importance of a Constitution in the context of a democratic country like India.*

Approach:

- Give a brief introduction about the Constitution.
- Write about the importance of the Constitution along with examples from India.
- Conclude accordingly.

Answer:

The Constitution of a country is the supreme law that determines the relationship between the people and government in a territory and also the relationship among people living in that territory. All countries that have Constitutions are not necessarily democratic. But all countries that are democratic will usually have a Constitution; for example: U.S.A, France, India and South Africa.

Importance of Constitution in democratic country like India:

- **Lays down the structure and functions of the organs of the state:** A Constitution usually specifies how the state and its various organs will be constituted, who will have power to take which decision.
 - For example, Articles 79 to 122 in Part V of the Indian Constitution; Articles 1, 2, and 3 of the US Constitution.
- **Act as a beacon to the elected government:** To guide what the elected government should aim to do and devise the policies accordingly.
 - For example, Directive Principles of State Policy.
- **Rule of Law:** It lays down limits on the power of the government and specifies the rights of the citizens.
 - For example, Article 13 of the Indian Constitution declares any law, which takes away or abridges the Fundamental Rights of citizens as void under certain circumstances.
 - Fundamental Rights under Articles 12-35 of part III of Indian constitution
- **Protection of Minorities:** The Constitution in a democracy usually provides safeguards for the rights of minorities.
 - For example, Articles 29 and 30 of the Indian Constitution.
- **It may lay down certain duties of citizens:** A Constitution may lay down not only rights but also certain duties for citizens to help promote a spirit of patriotism and uphold the unity of the country.
 - Article 51(A) of the Indian Constitution lays down the duty of citizens individually and collectively to strive towards excellence in all spheres.
- **Checks and balances:** A Constitution ensures checks and balances among the different organs of the state.
 - For instance, under the Indian Constitution, the Judiciary has the power to exercise judicial review over legislative and executive actions.

Thus, a Constitution is necessary to ensure that the democratic principle of equality is not compromised, and also for social and economic progress of a country.

2. **Bring out the differences between 'coming together federations' and 'holding together federations' with examples.**

Approach:

- Write a brief introduction about federalism.
- Mention the differences between both the types of federations – ‘coming together’ and ‘holding together’.
- Conclude accordingly.

Answer:

Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country by the Constitution itself. However, all the federations across the world are not the same and they can be broadly categorised into “**coming together**’ federation and ‘**holding together**’ federation.

Differences between ‘coming together’ and ‘holding together’ federations:

Attributes	Coming together federation	Holding together federation
Formation	Independent states coming together on their own to form a bigger unit, so that by pooling sovereignty and retaining identity they can increase their security. Example: USA, Switzerland and Australia.	A large country decides to divide its power between the constituent States and the national government. Example: India, Spain and Belgium.
Distribution of powers across states	All the constituent states usually have equal powers. Example: 50 states in USA have equal powers.	Very often different constituent units of the federation have unequal powers though some units are granted special powers. Example: Schedules V and VI of the Indian Constitution.
Distribution of power across states and federal government	Usually, states are as strong as the federal government.	Centralised tendency i.e., vesting more powers in the centre vis-à-vis the states. Example: Schedule VII of the Indian Constitution, which leans towards the Centre.
States power to secede	States may secede from the union under certain very specific circumstances.	The union is indestructible i.e., states have no right to secede from the union. It is also known as ‘ Indestructible union with destructible state ’. Example: India.

3. **Compare the powers of the Lok Sabha with that of the Rajya Sabha.**

Approach:

- Briefly mention the composition of the Parliament.
- Highlight the similarities in the powers of Lok Sabha and Rajya Sabha.
- Mention the special powers of the Rajya Sabha.
- Conclude accordingly.

Answer:

Under the Constitution, the Parliament of India consists of three parts viz., **the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha)**. The Rajya Sabha is the Upper House and the Lok Sabha is the Lower House. The former represents the states of the Indian Union, while the latter represents the people of India as a whole.

Both houses share similar powers and responsibilities with respect to passing of ordinary bills, constitution amendment, impeachment of the President, removal of Judges of the High Courts and the Supreme Court etc.

However, there are certain special powers accorded to the Lok Sabha:

- **Collective Responsibility:** The Rajya Sabha cannot remove the Council of Ministers by passing a no-confidence motion. This is because the Council of Ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticise the policies and activities of the government.
- **With regard to Money Bill:** A Money Bill can be introduced **only in the Lok Sabha** and not in the Rajya Sabha. The Rajya Sabha **cannot amend or reject a Money Bill**. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
- **With regard to financial bill:** A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
- **Powers of the Speaker:** The Speaker of Lok Sabha presides over the joint sitting of both the Houses. The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
- **Voting powers:** Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha). A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.

Similarly, the Rajya Sabha also enjoys some special powers that are not given to the Lok Sabha.

- **Legislating on a subject in State List:** Only the Rajya Sabha can authorize the Parliament to make a law on a subject enumerated in the State List.
- **Creation of All India Services:** It is the Rajya Sabha which can authorize the Parliament to create new All-India Services common to both the Centre and states.
- **Removal of the Vice-President:** The Rajya Sabha alone can initiate a motion for the removal of the Vice-President.

The Rajya Sabha was envisaged as a revising chamber and a protection against majority government. Thus, both the houses play a critical role in the maintenance of the federal equilibrium in the country.

4. ***What do you understand by judicial activism and overreach? Also discuss the associated concerns.***

Approach:

- Introduce briefly by explaining the concepts of judicial activism and judicial overreach.
- Differentiate between judicial activism and judicial overreach.
- Mention the concerns associated with judicial overreach.
- Conclude accordingly.

Answer:

Judicial activism is a judicial philosophy that motivates the judiciary to depart from the traditional precedents in favour of progressive and new social policies. It is manifested when the Supreme Court or High Court compels the authorities to act and sometimes also directs the government, government policies and the administration. Instances of judicial activism include directing the Centre to create new policy to handle drought, directing the Centre to set up a bad loans panel.

Judicial Overreach refers to an extreme form of judicial activism where arbitrary and unreasonable interventions are made by the judiciary into the domain of the legislature or executive. This is a situation where the court encroaches upon the role of the legislature by making laws. For example, some have argued that the court's decision on closing the issuing of licenses for new liquor shops in and around highways, was a case of judicial overreach.

Reasons for judicial activism as well as judicial overreach in a democracy like India can be attributed to various factors like asymmetry of power, Public Interest Litigations, lackadaisical

approach of other organs and various other factors like growing consciousness of people for their rights, globalization, active media and civil society organizations, concerns for the environment among others.

While the higher courts have done a tremendous amount of good for the public through judicial activism; however, in many cases, the judiciary has used excess powers, which transcend the normal bounds of judicial activism. Such judicial overreach has given rise to the following concerns:

- **Undermining the doctrine of the separation of powers:** The power vested in the Supreme Court through Article 142 of the Constitution is extraordinary. Frequent use of this power may be considered as a violation of the doctrine of the separation of powers.
- **Oversight of the challenges faced by legislature and executive:** Sometimes the judiciary passes the order without keeping in mind fund, function, framework, and functionary (4 F) that limit the work of the legislature and the executive. For example, cancelling of coal blocks allocations and spectrum allocations led to the poor health of the financial institutions of the country.
- **Lack of accountability towards people:** Judiciary as an institution is not accountable to the people in the same way as the legislature and the executive are. Further, the judiciary also has the power to punish for 'contempt of court.' This way the judiciary may evade public criticism for many of its actions.
- **Threat to the credibility of the judiciary:** Frequent transgressions in the domains of the legislature and the executive may diminish the image of the judiciary.

The Supreme Court has often highlighted the importance of **judicial restraint**. The judiciary must, therefore, exercise self-restraint and eschew the temptation to act as a super-legislature. Judicial activism is appropriate when it is in the domain of legitimate judicial review. However, it should not be a norm nor should it result in judicial overreach.

5. What do you understand by rule of law? Explain how this idea is reflected in the Constitution of India.

Approach:

- Introduce briefly by explaining the concept of the rule of law.
- Mention the principles associated with the rule of law.
- Discuss the provisions of the Constitution where this idea is reflected.
- Conclude accordingly.

Answer:

According to A.V. Dicey, the rule of law means the absolute supremacy or predominance of the regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness and discretion on the part of the executive. Constitutionalism or limited government is the essence of Rule of Law. Only a State that is governed by law and imbibes the ideals of justice and equity can be said to have the "Rule of Law".

A.V. Dicey's Rule of Law: According to Prof. Dicey, Rule of law contains three principles:

- **Supremacy of Law:** No man is punishable except for a distinct breach of law. It includes protection from arbitrary arrest and the opportunity to defend oneself.
- **Equality before Law:** It means that all persons are equal before law, irrespective of their position or rank.
- **Predominance of Legal Spirit:** Constitution is the result of rights of Individuals as defined and enforced by Courts of Law.

This idea of rule of law is reflected in following provisions of the Indian Constitution:

- Article 13(1) states that any law that is made by the legislature has to be made in conformity with the Constitution failing which it will be declared invalid. Similarly, Article 14 of the Constitution lays down the principle of equality before law and equal protection of laws.

- The Preamble to our Constitution incorporates the word justice, liberty and equality which are a clear indicator of just and fair system without any existent disparity between the masses irrespective of their stature in life.
- The right to life and personal liberty which is the basic human right is also guaranteed to every person by the Constitution.
- Rule of law is a **basic feature of the Constitution** which permeates the whole of the constitutional fabric and is an integral part of the constitutional structure.
- **Independence of the judiciary** has been ensured in order to uphold the principle of the rule of law. It is the judiciary which is entrusted with the task of keeping every organ of the state within the limits of the law and thereby making the rule of law meaningful and effective.
- Rule of law is ensured through **Constitutional Supremacy** as the legislative and the executive derive their authority from the constitution.
- Under Article 32 of the Indian Constitution, the Supreme Court has the power to issue writs in the nature of habeas corpus, mandamus, prohibition, quo warranto, and certiorari. The power of **judicial review** is also given to the Supreme Court so as to preserve the 'Rule of law'.

Supremacy of law is the spirit that drives the Constitution which is based on justice and equality and the Rule of Law establishes it. The Rule of Law has evolved and it is also linked with human rights. In India, the Rule of Law has been upheld by the judiciary in many instances which led to creation of new remedies for human rights violations. Also, repealing of archaic laws, safeguarding against misuse of laws, curbing criminalization of politics etc. can be actions in the right direction to uphold the Rule of Law.

6. Explain the concept of separation of powers. What are the provisions in the Indian Constitution, which reflect separation of powers?

Approach:

- Define separation of powers and discuss the concept.
- Mention the constitutional provisions, which help in establishing the separation of powers in India.
- Conclude accordingly.

Answer:

The term "**trias politica**" or "**separation of powers**" was coined by the French social and political reformer, Montesquieu. The doctrine asserts that the political authority of the state should be divided into legislative, executive and judicial powers, and to most effectively promote liberty, these three powers must be separate and act independently.

The theory of separation of powers has three essential elements:

- The same person should not form part of more than one of the three organs of the state.
- One organ should not interfere with any other organ of the state.
- One organ should not exercise the functions assigned to any other organ.

The separation of powers reduces conflict of interests between different organs of the state, which would reduce corruption, nepotism etc. in administration and governance.

While separation of powers is key to the workings of modern governments, no democratic system exists with an absolute separation of powers. Governmental powers and responsibilities intentionally overlap as they are too complex and interrelated to be neatly compartmentalized. As a result, there is an inherent measure of competition and conflict among the branches of government.

In India, there are no separate provisions regarding the Doctrine of Separation of Powers in the constitution. But, following provisions reflect its status:

- **Article 50:** It puts an obligation over the State to **separate the judiciary from the executive**. But, since this falls under the Directive Principles of State Policy, it is not enforceable.
- **Articles 53 and 154:** These provide that the executive power of the Union and the State shall be vested with the President and the Governor respectively and they **enjoy immunity from civil and criminal liability**.

- **Articles 121 and 211:** These provide that the **legislatures cannot discuss the conduct of a judge of the Supreme Court or High Court**. They can do so only in case of impeachment.
- **Article 361:** The President and Governors enjoy immunity from court proceedings. They shall not be answerable to any court for the exercise and performance of the powers and duties of their office.

The separation of powers has been considered an essential element of the Indian Constitution in the Golaknath Case. Later, in Kesavananda Bharati Case, it was added as the 'Basic Structure' of Indian Constitution and was later affirmed in Indira Gandhi vs. Raj Narain and in the I. R. Coelho case.

However, functional overlap does occur in India, since the executive is a part of the legislature and is also involved in judicial appointments. The legislature also exercises judicial powers in case of breach of privileges and impeachment. Further, the judiciary has power to declare void the laws passed by legislature and actions taken by the executive if they violate any provision of the constitution.

7. *Discuss the veto powers of the President of India.*

Approach:

- Briefly explain the concept of veto power of the President of India.
- Discuss the various veto powers in this context.
- Conclude accordingly.

Answer:

For a bill to become an Act, it requires the assent of the President. It is up to the President to either reject the bill, return the bill or withhold his/her assent to the bill. The choice of the President over the bill is called the veto power. Veto Power of the President of India is guided by **Article 111 of the Indian Constitution**.

Following are the veto powers available to the President:

- **Absolute Veto:** The power of the President to withhold the assent to the bill. In this case, the bill passed by the Parliament lapses and does not become an Act. The President uses his absolute veto in the following two cases:
 - When the bill passed by the Parliament is a **Private Member Bill**.
 - **When the cabinet resigns before the President could give his assent** to the bill. The new cabinet may advise the President to not give his assent to the bill passed by the old cabinet. For instance, in 1954, absolute veto was exercised against **PEPSU Appropriation Bill**. Also, in 1991, it was used in the **Salary, Amendments and Pension of Members of Parliament (Amendment) Bill**.
- **Suspensive Veto:** The power of the President to return the bill to the Parliament **with or without consideration** is called suspensive veto.
 - The President of India uses his suspensive veto when he returns the bill to the Parliament for its reconsideration. His **suspensive veto can be overridden by the re-passage** of the bill by the Parliament. If the Parliament resends the bill with or without amendment to the Indian President, he has to approve the bill without using any of his veto powers.
 - With respect to state bills, the **state legislature has no power to override the suspensive veto** of the President.
 - However, the President cannot exercise his suspensive veto in relation to the Money Bill.
- **Pocket Veto:** The power of the President to not act upon the bill is termed as a pocket veto. The Constitution does not give any time-limit to the President within which he has to act upon the bill. Therefore, the President uses his pocket veto where he does not have to act upon the bill.
 - For instance, the President of India used pocket veto power to prevent the **Indian Post Office (Amendment) Bill** from becoming a law.

The veto powers assigned to the President empowers him/her to use his/her own judgment and wisdom in the matters of legislation to avoid any hasty or erroneous passing of law.

8. *Discuss the role of the Departmentally Related Standing Committees in strengthening parliamentary democracy in India.*

Approach:

- Give an overview of the Departmentally Related Standing Committees in India.
- Highlight their role in strengthening parliamentary democracy in India.
- Conclude accordingly.

Answer:

The Department-related Standing Committees are the parliamentary committees of both the houses related to various ministries/departments. These consist of Members of Parliament (MPs) from both Houses, across political parties and they function throughout the year. These panels study and deliberate on a range of subject matters, bills, and budgets of all the ministries. Therefore, they ensure that the Parliament keeps up with the growing complexity of governance.

Presently, there are **24 Department-related committees** in India; out of which **8 work under the Rajya Sabha and 16 under the Lok Sabha**. These committees contribute in strengthening the parliamentary democracy by investing in with more meaningful parliamentary support in the following ways:

- **Ensure that a bill is scrutinized properly:** The Parliament meets only for three sessions a year which is not enough for members to get into the depth of matters being discussed in the house. In the last 10 years, the Parliament met for 67 days per year, on average. Therefore, committees, which **meet throughout the year**, can help make up for lack of time available on the floor of the house.
- **Provide technical expertise:** The Parliament deliberates on complex matters which require technical expertise to understand such matters better. The committees can help by providing a forum where **members can engage with domain experts and government officials** during the course of their study.
- **Forum for building consensus across political parties:** The proceedings of the House during sessions are televised, and MPs are likely to stick to their party positions on most matters. Committees have **closed door meetings**, which allow them to **freely question and discuss issues** and arrive at a consensus.
- **Ensure financial accountability:** Only a limited proportion of the budget is usually discussed on the floor of the House. However, the committees **study and examine detailed estimates** of expenditure of all ministries, called Demand for Grants, the trends in allocations, spending by the ministries, utilisation levels, and the policy priorities of each ministry.
- **Examine various policy issues:** Committees also **study policy issues** in their respective Ministries, and **make suggestions** to the government. The government has to report back on whether these recommendations have been accepted or not. Based on this, the Committees then table an **Action Taken Report**, which shows the status of the government's action on each recommendation.

While the Committees have substantially impacted Parliament's efficacy in discharging its roles, there is still scope for strengthening the Committee system. The working of these committees should be reviewed periodically and their recommendations should be discussed in greater detail in Parliament.

9. *What do you understand by pressure groups? Citing examples, state the different types of techniques used by pressure groups.*

Approach:

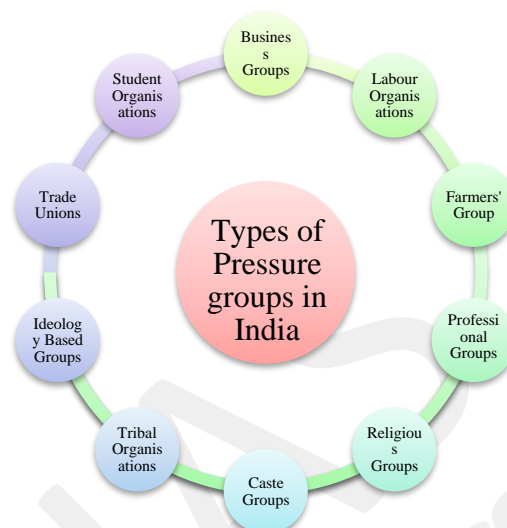
- Introduce with the definition of pressure groups.
- Explain the techniques used by the pressure groups along with appropriate examples.
- Conclude appropriately.

Answer:

Pressure groups are **organised associations, unions or organisations of people** having common interests. Through organised efforts, they try to **influence the legislature, executive and other decision makers** to have decisions made in their favour. **Examples: FICCI, ASSOCHAM, India Against Corruption etc.**

Techniques used by pressure groups

- **Manipulate public opinion:** Pressure groups provide the necessary information to the concerned people to shape their attitude towards a specific issue.
 - For instance, pressure groups are attempting to **promote environmental awareness** around the **Kaiga project in Karnataka**.
- **Lobbying:** At times, pressure groups are able to influence the legislators for making or removing some specific provision in a legislation.
 - For instance, **ASSOCHAM** lobbying the government to consider a wage support mechanism and interest subvention for MSMEs.
- **Appeals & public interest litigations (PILs):** Pressure groups adopt the technique of influencing the government through PILs in courts of law.
 - For instance, Medha Patkar and her associates have exercised a vast amount of pressure on the executive at the state and central levels over the question of the Narmada Dam and particularly the resettlement of the people affected by the **Sardar Sarovar Project**.
- **Demonstrations and processions:** These groups may carry out satyagraha or adopt other non-violent techniques.
 - For instance, **farmers protest in 2021 to repeal the Farm Laws**.
- **Involvement of Civil Society Organizations (CSOs):** It is a form of mass pressure tactics in India. CSOs act as pressure groups on the government, to promote implementation of policies in their areas of concern.
 - For instance, civil society movements like the **Chipko, Appiko movements** for the protection of environment.
- **Financing the political parties:** It has been argued by some that pressure groups may **fund political party campaigns at times**, in order to influence policy-making.
- **Media:** Pressure groups distribute pamphlets, issues press releases, organize discussions and debates to raise awareness of the people on certain issues.



Given the diverse role and functions performed by them, pressure groups are considered as an indispensable part of the democratic process.

10. Enumerate the composition and functions of the National Commission for Women (NCW). Also, highlight the initiatives taken by the Commission to give an impetus to women empowerment.

Approach:

- Briefly mention the National Commission for Women Act, 1990 which set up the National Commission for Women (NCW).
- Provide the composition and functions of the NCW.
- Highlight the role played by the NCW in women empowerment.
- Conclude appropriately.

Answer:

The National Commission for Women (NCW) was set up as a statutory body under the National Commission for Women Act, 1990. It strives to enable women to achieve equality and equal participation in all spheres of life by securing their due rights and entitlements.

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Section 3 of the National Commission for Women Act, mentions the composition of the NCW:

- A **Chairperson**, committed to the cause of women.
- **Five Members** from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry potential of women, women's voluntary organisations (including women activists), administration, economic development, health, education or social welfare.
 - Provided that at least one member each shall be from Scheduled Castes and Scheduled Tribes respectively.
- A **Member-Secretary** who shall be
 - An expert in the field of management, organisational structure or sociological movement, or
 - An officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience

Under Section 10 of the National Commission for Women Act, the commission shall perform the following functions:

- **Investigate and examine all matters** relating to the safeguards provided for women under the Constitution and other laws.
- Provide an **annual report** to the Central Government on working of these constitutional and legislative safeguards.
- **Provide recommendations for the effective implementation** of those safeguards, needed legislative reforms and advise the Government on all policy matters affecting women.
- **Take up cases of violation of the provisions of the Constitution and of other laws** relating to women with the appropriate authorities, and
- **Look into complaints and take suo-moto notice of matters** that affect women rights with the Commission having been endowed with powers of a civil court.

Role of the NCW in women empowerment

- The Commission has developed a **fully functional online system for registration, processing and resolution of complaints**.
- Suo-moto cognizance of offences has resulted in **expeditious investigation and also prosecution of perpetrators**.
- Providing **assistance for resolving matters relating to non-resident Indian** marriages in coordination with the Ministry of External Affairs and State authorities.
- **Gender sensitization programmes for the police officials** to enable them to handle cases involving distressed women in a more compassionate manner.
- It has taken up the issue of **child marriage**, sponsored **legal awareness programmes**, and evolved the concept of Parivarik Mahila Lok Adalats. Also, it has 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 effective.

However, the Commission faces challenges like inadequate funding, functionary issues, its recommendations only a being advisory, among others. Consequently, to make it more effective, the above issues need to be resolved and provisions for greater powers, finances and training and capacity building need to be undertaken.

11. Highlight the devolution of powers under the 73rd and 74th Constitutional Amendment Acts. Do you think the process of devolution has been less than satisfactory so far?

Approach:

- Briefly mention the 73rd and 74th Constitutional Amendments Act (CAA).
- Mention in detail the devolution of powers under the 73rd and 74th CAA.
- Mention how the devolution has not been satisfactory.
- Conclude by suggesting a way forward.

Answer:

Based on the recommendation of various committees, the 73rd and 74th Constitutional Amendment Acts (CAA) were passed in 1993 to give constitutional status to the local government bodies. These provided for a formal process of decentralized governance by empowerment of the Panchayat Raj Institutions (PRIs) and Urban Local Bodies (ULBs).

Devolution of powers under 73rd and 74th CAA:

- **Three tier structure:** All the States were required to have Panchayats at the village, intermediate and district levels; and Municipalities in the urban areas respectively. Also, they mandated the creation of Gram Sabhas comprising all the registered voters in the Panchayats.
- **Devolution of functions:** The 11th and 12th Schedules list 29 and 18 subjects respectively for the panchayats and urban local bodies.
- **Separate body to conduct elections:** A new autonomous body, the State Election Commission, to conduct elections to the panchayats every five years was created.
- **Devolution of financial powers:**
 - **A State Finance Commission (SFC)** was to be created every five years to look into the financial status of the local bodies.
 - PRIs have been authorised to levy, collect and appropriate taxes, duties and fees in accordance with the procedure.
 - There is a provision of grant-in-aid out of the consolidated fund of the State.
- **District Planning Committee (DPC):** To consolidate plans prepared by local bodies and to prepare a draft development plan for the district as a whole.

However, despite these provisions for devolution, the actual devolution is a distant dream:

- **Ambiguity on the functional jurisdiction:** In the absence of properly defined jurisdiction, it is dependent upon the discretion of state legislatures for being assigned the functions.
- **Still functioning in the grip of the state bureaucracy:** The village Pradhan has to contact the block office for technical and financial sanctions.
- **Lack of administrative autonomy:** Local bodies failed to deliver in the past because they had inadequate control over people working to implement the programmes.
 - For instance, even when responsibilities in the field of health have been transferred, PRIs have no control over the staff and budget of these departments.
- **Inadequate involvement of local bodies:** In deciding and choosing the welfare programmes, local bodies are hardly involved.
- **Dependence on states and Centre for finances:** Due to inadequate resource raising powers of their own, the local bodies are dependent on state and central transfers to meet their financial needs.

Thus, there is a need to address the above-mentioned issues in order to realise the actual devolution as envisaged by the 73rd and 74th CAA. It will not only promote participative democracy but will also lead to local welfare and development.

12. Although quasi-judicial bodies have powers resembling those of the judicial bodies, there are important points of distinction between the two. Elaborate.

Approach:

- Give a brief description of quasi-judicial bodies.
- Identify the similarities between quasi-judicial and judicial bodies.
- Highlight the differences between the two.
- Conclude appropriately.

Answer:

Quasi-judicial bodies are authorities, which have powers resembling those of judicial bodies but are restricted to certain areas of expertise. Generally, the function of these bodies is to make the work of the courts easier and to **reduce the burden** of the local courts. Examples: National Green

Tribunal, Income Tax Appellate Tribunal, Central Administrative Tribunal, National Human Rights Commission etc.

Similarities between the judicial and quasi-judicial bodies:

- Like courts, these bodies have **full power to adjudicate on the matters** that come before them.
- Similar to courts, their **decisions are binding**, with provision of an **appeal** lying to their order.
- Both are manned by experts from the legal field.
- Both the bodies work with an aim to deliver timely justice to masses.

Although their powers resemble those of the judicial bodies, **there are important points of distinction between the two:**

- Quasi-judicial bodies are **non-judicial bodies**, which have the powers of interpreting the law. They are given powers and procedures resembling those of a court of law or judge, and are obliged to provide the basis of an official action.
- They **partly function like the court**, i.e. they have the power of the courts to adjudicate or pronounce decisions but they are **not strictly bound by the procedures that should be followed by the courts**.
- Unlike judicial bodies, they are **restricted to certain areas of expertise**. They are constituted for a special matter with people well versed in their respective streams.
- Quasi-judicial bodies **needn't adhere to strict judicial rules (of procedure and evidence)** but the ordinary courts have to strictly adhere to these policies.
- Quasi-judicial bodies **can hold formal hearings only if they are mandated** to do so as per their governing laws.

Quasi-judicial bodies serve as an important organ in the justice delivery system. They act as a speedy trial mechanism as they deliver justice in a fast manner as the judgements that are usually pronounced by them are speedier and efficient. They have a specific role to play as per their constitution and purpose and play a great role in the smooth functioning of the society.

13. Delineate the grounds of disqualification under The Representation of the People Act, 1951. Also, discuss the remedial measures available to the disqualified representatives.

Approach:

- Introduce by giving brief account of the Representation of the People Act 1951 (RPA).
- Substantiate categorically the grounds of disqualification under RPA.
- Substantiate the remedial measures available for the same.
- Conclude accordingly.

Answer:

The Representation of the People Act, 1951 (RPA) was enacted to provide for the conduct of elections to the Houses of Parliament and to the House/s of Legislature of each State, details about the structure of administrative machinery for the conduct of elections; qualifications and disqualifications for membership to the two houses; the corrupt practices and other offences with respect to such elections and the decision of doubts and disputes arising therein.

The Act contains provisions for disqualification **both for being chosen as, and, for being, a member of** either house of the Parliament or the Legislature of the State. These have been broadly classified into the following grounds:

- **Criminal grounds:** Section 8(1) states that a person convicted of an offense punishable under:
 - offense of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony
 - offense of undue influence
 - any offense relating to rape or offense of cruelty towards a woman
 - offense of making statement creating or promoting enmity and hatred
 - ill-will between classes or offense relating to such statements in any place of religious worship or ceremony (of the Indian Penal Code (45 of 1860)).

- **On grounds of corruption:** Section 8(1) states that a person convicted of an offense punishable under offense of bribery/ corruption or disloyalty violation of The Prevention of Corruption Act, 1988.
- **Other offenses:** Likewise, there are various other offenses which if committed by a candidate will lead him to disqualification. For instance:
 - Preaching and practice of Untouchability (Protection of Civil Rights Act, 1955).
 - Offence of importing and exporting of prohibited goods (Section 11 of the Customs Act, 1962).
 - Offence of being a member of an unlawful association (Sections 10-12 of Unlawful Activities (Prevention) Act, 1967).
 - Violation of The Narcotics Drugs and Psychotropic Substances Act, 1985.
- **Contractual grounds:** If a person has entered into contract with government for business.
- **Failure of expenses reporting:** On failure to lodge account of election expenses with Election Commission of India (ECI).

The Supreme Court of India, in its judgement in **the Lily Thomas Case, 2013** ruled that **any MP, MLA, or MLC who is convicted of a crime and sentenced to a minimum of two years in jail loses his membership in the house immediately.**

Remedies available against such disqualification:

- Except under Section 8A (corrupt practices), the ECI may remove any disqualification, or reduce the period of any such disqualification.
- The person may file a petition with the President under sub-section (2) of Section 8A in respect of any disqualification.
- The disqualified person can move to a higher appellate authority for further consideration of the case, if he is satisfied that there is not sufficient ground for proceeding against him.
- For disqualification under corruption or disloyalty, the ECI cannot issue the certificate as conclusive proof of corruption or disloyalty, unless an opportunity of being heard has been given to the person.
- Furthermore, not all offences are of the same nature and degree. As such, the Act prescribes cut-off sentences for the case to be considered for disqualification.

Other than the provision of disqualification of a member through RPA, 1951, the Constitution of India also provides for disqualification of members on grounds of defection under the 10th Schedule.

14. The basic structure doctrine of the Indian Constitution is a judicial innovation. Analyse.

Approach:

- Introduce by explaining the meaning of the basic structure doctrine.
- With the help of examples, explain how it is a judicial innovation.
- Highlight its evolution and significance.
- Conclude accordingly.

Answer:

According to the basic structure doctrine, **the power of the Parliament to amend the Constitution is not absolute and any amendment that tries to change the 'basic structure' of the Constitution is invalid.** However, there is no mention of the term "Basic Structure" anywhere in the Constitution of India. It has evolved gradually over time through many judgements.

The basic structure doctrine is considered as judicial innovation because the content/ framework of basic structure was clarified by the judiciary through the numerous landmark judgements as follows:

- In the **Shankari Prasad case (1951)**, the Supreme Court (SC) held that the power of the Parliament to amend the Constitution under Article 368 also includes the power to amend the Fundamental Rights.

- In the **Golak Nath case (1967)**, the SC reversed its earlier stand and ruled that the Fundamental Rights are given a 'transcendental and immutable position' and hence, the Parliament cannot abridge or take away these rights.
- The Parliament then enacted the **24th Amendment Act, 1971** and declared that the Parliament has the power to abridge or take away any of the Fundamental Rights under Article 368 and such an act will not be a law under Article 13.
- In the **Kesavananda Bharati case (1973)**, the SC overruled its judgement in the Golakh Nath case and upheld the 24th Amendment Act. However, it also laid down **the doctrine of the 'Basic Structure' of the Constitution, which stated that the Parliament could abridge or take away the Fundamental Rights but not those which form a part of the basic structure of the Constitution.**
- In the **Minerva Mills case (1980)**, the SC upheld that 'judicial review' is a 'basic feature' of the Constitution.
- In the **Waman Rao case (1981)**, the SC held that the doctrine will be applied to Constitutional Amendments after the Kesavananda Bharati Case Judgement.
- In **Kihoto hollohan vs. Zachillhu, 1992**, 'free and fair elections' was added to the basic features.
- In **Indira Sawhney vs. Union of India, 1992**, 'rule of law' was added to the basic features.
- In **S.R Bommai vs Union of India, 1994**, federal structure, unity and integrity of India, secularism, socialism, social justice and judicial review were reiterated as basic features.

The final word on the doctrine of basic structure of the Constitution has not been pronounced by the Supreme Court. While the idea that there is such a concept as a basic structure to the Constitution is well established, its **contents cannot be completely determined with any measure of finality** until the Supreme Court clearly lists them. Nevertheless, the sovereign, democratic and secular character of the polity, rule of law, independence of the judiciary, fundamental rights of citizens etc. are some of the essential features of the Constitution that have appeared time and again in the apex court's pronouncements.

However, it has ensured that all laws and constitutional amendments are now subject to judicial review and laws that transgress the 'basic structure' are likely to be struck down by the Supreme Court. In essence, the Parliament's power to amend the Constitution is not absolute and the Supreme Court is the final arbiter over and interpreter of all constitutional amendments.

15. Highlight the various challenges in ensuring cooperative federalism in India. Also, suggest measures to foster cooperative federalism.

Approach:

- Give a brief introduction about cooperative federalism in India.
- Mention various obstacles to cooperative federalism.
- Write down measures to strengthen cooperative federalism.
- Conclude accordingly.

Answer:

Cooperative federalism means that though there is a constitutional provision for the distribution of powers, in practice, these powers are to be exercised jointly by the Centre and the states. It is understood to have the following characteristics:

- To evolve a **shared vision of national development priorities, sectors and strategies** with the active involvement of States in the light of national objectives.
- Working in a **cooperative spirit through structured support initiatives and mechanisms** with the States on a continuous basis, recognising that strong States make a strong nation.

However, cooperative federalism in India faces certain challenges:

- **Ineffectiveness of institutions:** Various institutions formed for the purpose of strengthening cooperative federalism have not lived upto the expectations.

- **Inter-State Council:** Besides not having regular meetings, it is seen as a mere talk shop and its recommendations are not binding on the government.
- **NITI Aayog:** Though it has given significant boost to cooperative federalism, it is not a statutory body and has limited focus on accountability. Further, its policies may work in favour of the already advanced states to the detriment of others.
- **Role of the Governor:** Many times, states have complained of misuse of the office of the Governor by the Centre due to political reasons.
- **Unbalanced regional development:** Due to different states being in different stages of development, there is often a sense of discriminatory treatment in the allocation of resources among the states.
- **Inter-state water disputes:** With India's water problems taking a turn towards the worse, various states indulge in water disputes, which often becomes an emotive issue difficult to manage.

Remedial measures which can be taken:

- **Expediting resolution of issues:** Forums like NITI Aayog, Inter-State Council etc. should be used in an effective manner to resolve issues between the central ministries and state and UTs.
- **Address misgivings of states:** The Centre should ensure that genuine grievances of states are addressed, for instance the office of the Governor should not be misused politically.
- **Evidence-based policy making:** NITI Aayog's approach where it focuses on policy formulation based on adequate data should be adopted and sharing of best practices should be focussed upon. For example, it brought out a three-year action agenda, development of composite water management index, promotion of GIS based planning etc.
- **Balanced regional development:** Such as focus on areas such as the North-East. For eg: NITI Forum for North East which aims to identify various constraints in the way of accelerated, inclusive and sustainable economic growth of the North Eastern Region (NER) is co-chaired by the Vice-Chairman of NITI Aayog.
- **Strengthening of Inter State Council:** It can be strengthened by implementing recommendations of Sarkaria Commission by giving it all the **powers contemplated in the Constitution like Article 263(a) which gives it** the power to investigate issues of inter-state conflict but was dropped in the Presidential order of 1990.

The spirit of 'cooperative federalism' got a boost with establishment of NITI Aayog, which is the premier policy 'Think Tank' of the Government of India. The success of the GST Council in bringing one tax all over the country is also a unique example of the working of cooperative federalism.

16. *Despite having features borrowed from Constitutions of various other countries, the Constitution of India remains unique. Discuss.*

Approach:

- In introduction, give a brief background of the making of the Indian Constitution.
- Highlight the various provisions which are borrowed from different constitutions around the world.
- Compare the borrowed provisions with the modified provisions, as adopted in India, to suit our needs.
- Conclude accordingly.

Answer:

The Indian Constitution has several features, which were borrowed from various other countries. For instance, the parliamentary form of government, bicameralism and legislative procedures from the **United Kingdom**; the fundamental rights, independent judiciary and the process of removal of Supreme Court judges from **United States of America**; the ideals of liberty, equality and fraternity in the preamble from **France**; the Federation with a strong Centre from **Canada**; the Directive Principles of State Policy from **Ireland**; and the idea of socio-economic and political justice from **erstwhile USSR**.

Despite the presence of these borrowed provisions, the Indian Constitution remains unique, as can be observed below:

- **Lengthiest written constitution:** While the UK had no written constitution, the American Constitution had just seven articles and the Australian Constitution comprised of 128 articles, India gave itself a comprehensive constitution which **initially had 395 articles and is now extended to 470.**
- **Constitutional Sovereignty:** Though India adopted a Parliamentary form of government as existed in the UK, it is the Constitution that is sovereign in India and not Parliament. The **Indian Parliament cannot give itself a new constitution.** It can just amend the existing constitution and that too without compromising on its **basic structure.**
- **Fundamental Rights with restrictions:** Unlike the USA, Fundamental Rights granted in India are not absolute. They are **subject to certain restrictions.** The Indian Constitution seeks to strike a balance between individual liberty and social interests.
- **A federal system with unitary bias:** The idea of federalism in India is borrowed from the Canadian federal system. However, in India, **the Centre becomes strong enough to usurp the power of states only in case of emergency.** Under normal circumstances, both the Centre and the states work within the constitutional domain demarcated for them.
- **Independent but Integrated judiciary:** Unlike the USA, where the federal laws are enforced by the federal judiciary and the state laws are enforced by the state judiciary, the Indian constitution provides for an integrated judiciary, **headed by the Supreme Court at the Centre and the High Courts and subordinate courts at the state and district level,** which enforce both central as well as the state laws.
- **A blend of rigidity and flexibility:** In comparison to the constitutions of the USA and Australia, the Indian Constitution is flexible. However, on issues related to centre-state relations, the Constitution is rigid.
- **The wider scope of the DPSPs:** In India, the DPSPs include not only economic rights as in Ireland, but also principles relating social justice, economic welfare, foreign policy, and administrative matters.

Thus, the Indian Constitution is not merely a borrowed document. It reflects the sagacity and the foresight of the founding fathers who have tailored it according to the needs of the country and its people.

17. Is there a need to rationalize the large number of ministries in the Government of India? Discuss with logical arguments.

Approach:

- Give a brief background about the ministries and their role in the Indian politico-administrative system.
- Highlight the various provisions of the Indian Constitution under which the ministries are created and function.
- Argue whether there is a need to rationalise the present number of ministries in Government of India.
- Conclude accordingly.

Answer:

In India, the Ministries and departments are created by the President on the advice of the Prime Minister under the Government of India (Allocation of Business Rules) 1961. Under these rules, each ministry is assigned a minister and each department in the ministry is generally under the charge of a civil servant or official who assists the minister on policy matters and general administration.

Following are the reasons which necessitate the creation of the Ministries in the Indian Parliamentary system:

- **For administrative convenience and to ensure development:**
 - Each ministry is central to the formulation of policies and their implementation. For example, the Ministry of Consumer Affairs, Food and Public Distribution is responsible for the implementation of the National Food Security Act.
 - Multiple ministries ensure administrative convenience through division of work, better coordination, oversight, etc.
 - Ministries are also created for the development of a particular region or for a particular section of the society. Example: Ministry of Development of North Eastern Region and Ministry of Social Justice and Empowerment.
- **Ever-increasing functions of the government:** Due to its welfare nature, the functions performed by the government are increasing and getting more specialized day by day. This necessitates the formation of new and specialized ministries or departments or divisions. For example: The New and Emerging Strategic Technologies (NEST) division was recently created in the Ministry of External Affairs.

At present, there are more than 40 ministries and their departments in the Government of India that are headed by 78 ministers. It is argued that the ministries in India need rationalization due to the following reasons:

- **Slows down decision-making process:** With the growing complexity of the government functioning, too many ministries end up having jurisdiction over any given decision. This undermines efficient implementation of a policy/scheme, as well as makes it difficult to ascertain accountability. e.g. tussle between Ministry of Civil Aviation and Home Affairs over regulations related to drones in India.
- **Insufficient allocation of resources:** It is not possible for a developing country like India to provide adequate funds to such a large number of ministries. Besides, a large share of the fund allocated to these ministries goes towards providing salaries and pensions to the employees. Hence, the resource allocation is not optimum.
- **Overlaps and conflicts with the private sector:** India being a welfare state the government provides many services which the private sector could provide. Thus, the government becomes a competitor of the private sector resulting in crowding out the private sector. Example: BSNL, LIC, etc.
- **Vehicles of political patronage:** In the era of coalition politics, ministries are being used as an allurements for the allies.

In view of the large number of ministries, there have been arguments for the need to rationalize the number of ministries e.g., the road, railways and shipping ministries can be fused into one to get an integrated transport strategy. Similarly, the ministries of power, petroleum and natural gas and renewable energy can be merged to resolve the issues in the energy sector.

18. Provide an account of the role of UPSC. Also, enumerate the Constitutional provisions to safeguard and ensure the independence and impartial functioning of the UPSC.

Approach:

- Introduce by briefly mentioning the role of UPSC and its importance.
- Mention its limitations.
- State the constitutional provisions that safeguard and ensure the independence and impartial functioning of UPSC.
- Conclude giving a suitable way forward.

Answer:

UPSC was created as the central recruiting agency and is an independent constitutional body constituted under **Article 315 of the Indian Constitution**. It has been visualized as the '**watch-dog of merit system**' in India and in this regard, it has the following roles:

- It **conducts examinations** for appointments to the All-India Services, Central services and public services of the centrally administered territories.

- It **renders advice on service matters** and is consulted by the government in **deciding disciplinary matters**.
- It assists the states (if requested by two or more states to do so) in **framing and operating schemes of joint recruitment** for any services for which candidates possessing special qualifications are required.
- The **additional functions relating to the services of the Union** can be conferred on UPSC by the Parliament. It can also place the personnel system of any authority, corporate body or public institution within the jurisdiction of the UPSC.
- It has the authority to **appoint officers through interviews for lateral entry**.

However, some experts argue that UPSC has certain limitations:

- **Advisory body:** The recommendations made by it are only of advisory nature and hence, not binding on the government. Further, the government can also make rules which regulate the scope of the advisory functions of the UPSC.
- **Limited role:** It is not concerned with the classification of services, pay and service conditions, cadre management, training, and so on. Further, it is neither consulted while appointing personnel to different posts or temporary jobs nor while making provisions for any kind of reservation. The President can also exclude posts, services, and matters from the purview of the UPSC.
- **Overlap of function:** The role of UPSC in disciplinary matters has been affected by the emergence of the Central Vigilance Commission because the government has come to consult the anti-corruption watchdog, as a specialized agency.

Considering the importance of UPSC, the Constitution has provided following the provisions for ensuring independent and impartial functioning of the organization:

- **Security of Tenure: Article 316(2)** provides that the member of a Public Service Commission shall hold the office for the term of six years from the date on which he has entered upon his office and in the case of Union Commission; the age is of sixty-five years.
- **Tough removal process: Article 317** provides that the Chairman or any other member of the Public Service Commission can only be removed from his office by order of the President on the ground of misbehaviour after an enquiry done by Supreme court.
- **Conditions of service: Article 318** of the Constitution provides that the conditions of service of a member of a Public Service Commission shall not be varied to his disadvantage after his appointment.
- **Charged Expenditure: Article 322** provides that the salaries, allowances and pensions of the chairman and members of the UPSC are charged on the Consolidated Fund of India and not subject to vote of Parliament.
- **Check on Re-appointments: Article 319 (a)** provides that the Chairman is not eligible for further employment in Government of India or state. Further, a member of UPSC is eligible for appointment as the chairman of UPSC or a State Public Service Commission (SPSC), but not for any other employment in the GoI or a state.
- **Memorandum on non-acceptance of recommendation: Article 323** provides that along with the report of the working of the Commission, a memorandum explaining the cause of non-acceptance of the Commission's recommendations would also be laid down before the two Houses by the President.

19. *What are tribunals? How is Article 323A different from Article 323B of the Indian Constitution?*

Approach:

- Start with a brief description of tribunals and their features.
- Differentiate between the Articles 323A and 323B of the Indian Constitution with respect to functions, jurisdiction, etc.
- Conclude accordingly.

Answer:

Tribunals are **judicial or quasi-judicial institutions established by law**. They intend to reduce the caseload of the judiciary with faster adjudication. Also they bring in subject expertise for technical matters. They were **originally not part of the Indian Constitution. In 1976, Articles 323A and 323B (42nd Amendment)** empowered Parliament and State legislature to constitute tribunals.

The **Administrative Tribunals Act, 1985** authorises the central government to establish one **Central Administrative Tribunal and the State Administrative Tribunal**. The Act also makes a provision for setting up of Joint Administrative Tribunals for two or more states.

Differences between Article 323A and 323B of the Indian Constitution

- **Functionality:** While Article 323A contemplates establishment of tribunals for public service matters only, Article 323B contemplates establishment of tribunals for certain other matters like taxation, forex, land reforms, rent and tenancy rights, etc.
- **Who can establish:** While tribunals under Article 323A can be established only by the Parliament, tribunals under Article 323B can be established by **both the Parliament and State Legislatures** with respect to matters falling within their legislative competence.
- **Hierarchy of Tribunals:** Under Article 323A, only one tribunal for the Centre and one for each state or two or more states may be established. There is no question of hierarchy of tribunals, whereas under Article 323B, a hierarchy of tribunals may be created.

Originally, appeals against the orders of these tribunals **could be made only in the Supreme Court and not in the High Courts. However, in Chandra Kumar Case 1997, the Supreme Court** declared those provisions of these two articles which excluded the jurisdiction of high court and the Supreme Court as unconstitutional. Hence, the judicial remedies are now available against the orders of these tribunals.

The tribunal system has developed as a parallel to the traditional court system over the last eighty years. The Income Tax Appellate Tribunal was created in 1941 to reduce pendency of cases in courts. After the insertion of Articles 323A and 323B, several tribunals such as the Central Administrative Tribunal as well as sector specific tribunals were set up from the 1980s to 2010s. The Finance Act, 2017 consolidated several tribunals.

20. On what grounds can President's Rule be imposed in a state? Also, mention the procedure of its imposition and its effects.

Approach:

- Give a brief introduction about the President's rule or state emergency.
- Mention the grounds on which it can be imposed in a state.
- Mention the procedure of its imposition and its effects.
- Conclude accordingly.

Answer:

President's Rule refers to the suspension of a state government and the imposition of direct rule of the Centre. The central government takes direct control of the state in question and the Governor becomes the chief executive of the state. The State Assembly is either dissolved or prorogued. Such a situation forces the Election Commission to conduct a re-election within six months.

President's rule can be imposed on two grounds:

- Under **Article 356**, i.e., **failure of constitutional machinery in the States**. If the President receives a report from the state's Governor or otherwise is convinced or satisfied that the State's situation is such that the state government cannot carry on the governance according to the provision of the Constitution.
- **Under Article 365**, the President of India gets the power to suspend a state government under the following conditions:

- The state legislature is not able to elect a leader as the Chief Minister for a time prescribed by the state's Governor.
- If a coalition government in the state breaks down, the CM ends up having a minority.
- A no-confidence vote is passed in the Legislative Assembly.
- Elections of the state are postponed due to unavoidable reasons like natural disasters.

Procedure to impose President's rule in a state:

- On the fulfilment of above conditions, the President proclaims the President's rule in a state. However, this proclamation should be approved within two months by both the House of Parliament. This approval takes place through simple majority in either House.
- Thereafter, it remains in force for six months. It can be extended for a maximum period of three years with the approval of Parliament every six months.

Effects of imposition of the President Rule:

- When the President's rule is imposed in a state, the President dismisses the State Council of Ministers, headed by the Chief Minister.
- The state Governor, on behalf of the President, carries on the State administration with the help of Chief Secretary of the state, or the advisors appointed by the President.
- Further, the President either suspends or dissolves the State Legislative Assembly. The powers of the State Legislature in that case are exercised by the Parliament. The Parliament may also delegate these powers to the President.

President rule has been criticized for its misuse in the past. **The 44th Constitutional Amendment Act** has provided that such a proclamation can be challenged in a court of law to check its misuse. In the **SR Bommai case**, the Supreme Court held that the Presidential proclamation imposing state emergency is subject to judicial review.

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