

PAPER – II PART – A

UNIT - 1

1. Well Comprehensive material for 3 & 5 Markers.
2. **Prayas KSG** aims to provide answer of all the expected question from each unit of your syllabus.
3. This matter would cover all topics of this particular unit.
4. It is a very precise, well structured material, that would enhance the scoring ability of MPPSC aspirants.
5. The material would not only cover 5 marker questions but also provide relevant information for 3 markers.

UNIT - I

Making of the constitution

1. Provide Some Details of Constituent Assembly :

- It was constituted in November 1946 under the cabinet mission plan.
- It was partly elected and partly nominated body and members were indirectly elected.
- It held its first meeting on December 9, 1946.
- Election for 296 seats allotted to the British Indian Provinces were held in July-August- 1946.
- The total strength of the constituent assembly was to be 389 of these, 296 seats were allotted to British Indian and 93 seats to the princely states.
- Each province and princely state were allotted seats in proportion to their respective population.
- Members were indirectly elected by the members of the provincial assemblies.

2. Who was the President of the constituent Assembly:

- Dr.Sachchidanand Sinha elected as temporary President.
- Later Dr. Rajendra Prasad was elected as the President of the Assembly.

3. What do you know about Objective Resolution :

- On December 13, 1946, Jawaharlal Nehru moved it in the Assembly.
- It laid down the fundamentals & philosophy of the constitutional structure.
- It proposes to make India Independent, Sovereign and Republic.
- It laid down the objective of the constitution i.e., to provide to all people of India Justice, equality and freedom.
- It was unanimously adopted by the assembly on January 22-1947.
- It's modified version forms the Preamble of the Present Constitution.

4. What were the Changes made in the constituent Assembly by the Indian Independence Act 1947:

- The Assembly was made a fully sovereign body.
- Assembly also became a legislative body - it was chaired by G.V. Mavlankar.
- The Muslim league members withdrew from the constituent Assembly for India.

5. Mention Major committees led by Jawaharlal Nehru :

- He led union powers committee, union constitution committee & states committee.

6. Write a note about Drafting committee :

- It was chaired by Dr. B.R. Ambedkar.
- It was set up on August 29, 1947.
- It had seven members.
- It published first draft in February 1948.
- This committee was entrusted with the task of preparing a draft of the new constitution.
- The drafting committee took less than six months to prepare it's draft.
- In all it sat only for 141 days.

7. On which date the constitution was adopted

- The constitution as adopted on November 26, 1946, contained a preamble, 395 Articles & 8 schedules.

8. Provide some facts about the Enforcement of the constitution:

- Some Provisions of the constitution related to citizenship, elections, Provisional parliament, temporary and transitional provisions came into force on Nov. 26, 1949.
- Remaining provisions (the major part) came into force on Jan. 26, 1950,
- January 26 is referred as date of it's (constitution) commencement and celebrated as the republic day.

9. Why Jan. 26, was chosen as the 'date of commencement' of the constitution? :

- Because of its historical importance on this day in 1930 Purna Swaraj day was celebrated following the resolution of the Lahore session (December-1929).

Salient features of the constitution

10. How can you say that Indian Constitution is the Longest written constitution

- Because originally it contains 395 Articles (divided into 22 parts) & 8 Schedules originally.
- No other constitution in the world has so many Articles and Schedules.

11. What are the factors contributed to the big size of constitution?

- Geographical factors :- vastness of the country & its diversity
- Historical factors e.g. the influence of GOI Act -1935 which was bulky.
- Single constitution for both centre & the state.
- Dominance of legal luminaries in the constituent assembly.

12. Indian Constitution is Blend of Rigidity & Flexibility,
Comment:

- Some provisions can be amended by special majority of the Parliament.
- Some other provisions can be amended by a special majority of the parliament and with the ratification by half of the total states.
- At the same time, some provisions of the constitution can be amended by a simple majority of the parliament with ordinary legislative process, these amendments do not come under Article-368.

13. Indian constitution is based on Federal system with unitary Bias. Explain:

- Constitution contain federal features such as two government, division of power, written constitution, supremacy of constitution, rigidity of constitution, independent judiciary and bicameralism.
- But it also contain unitary features such as strong centre, single constitution, single citizenship, flexibility of constitution, integrated judiciary, appointment of state governor by the centre, all India services, emergency provisions etc.
- Moreover, the term ‘ Federation’ has nowhere been used in the constitution.
- Article-1, describe India as a ‘Union of states’.

14. Highlight some feature of Parliamentary form of government:

- It is based on principle of cooperation and Co-ordination between the legislative and executive organs.
- Some features are - majority party rule, collective responsibility of the executive to the legislature etc.
- Presence of nominal and real executives.
- Leadership of the prime minister or the Chief Minister.
- Dissolution of the lower house.

15. Indian Constitution is a Synthesis of parliamentary sovereignty and Judicial supremacy, comment:

- The Judiciary on the one hand, can declare the parliamentary laws as unconstitutional through power of Judicial review.
- Parliament, on the other hand can amend the major portion of the constitution through constituent power.
- Therefore we can say that Indian constitution is a proper synthesis between the British Principle of Parliamentary sovereignty and the American principal of judicial supremacy.

Schedules of the Constitution

16. Mention the subject matters of Fifth schedule:

- It contain provisions relating to the administration & control of scheduled areas and Scheduled Tribes
- It is found mentioned in Article-244.

17. Which subjects are included in the Ninth Schedule:

- It was added by the 1st Amendment Act (1951) to protect the laws included in it from judicial scrutiny on the ground of violation of fundamental rights.
- However in 2007, the supreme court ruled that the laws included in this after April 24, 1973, are now open to judicial review.

18. Highlight the subject matters of Tenth Schedule:

- It contain Provisions of disqualification of members of parliament and state legislatures on the ground of defection.
- It was added by the 52nd Amendment Act -1985 also known as Anti-defection.

19. Mention the subject matters of Eleventh Schedule:

- It contains the powers, authority & responsibility of panchayats.
- It contains 29 subjects.
- This schedule was added by the 73rd Amendment Act of 1992

20. What are the subject matter of Twelfth Schedule

- It specifies the powers, authority the responsibility of Municipalities.
- It has 18 subjects.
- This schedule was added by the 74th Amendment Act of 1992.

Sources of the Constitutions

21. Which Subjects are adopted from US constitution in the Indian constitution:

- Fundamental rights, independence of judiciary, judicial review, impeachment of the President, removal of Supreme Court and high court judges and post of vice president.

22. Mention Subjects which are adopted from French constitution:

- Republic and the ideals of liberty, equality & fraternity in the preamble.

23. Which Subjects are adopted from the British constitutions:

- Parliamentary government, Rule of law, legislative procedure, single citizenship cabinet system parliamentary privileges and bicameralism.

24. Write a short note on the basic structure Doctrine?

- The Basic Structure doctrine is laid down by the supreme court in the Kesavanand Bharti case- 1973.
- Under this doctrine supreme court ruled that the constituent power of parliament under Article 368 does not enable it to alter the 'basic structure' of the constitution.
- This means that the parliament cannot abridge or take away a fundamental Rights that forms a part of the 'basic Structure'.
- Some of it's elements are- Republic and democratic form of government, secular character of the constitution etc.

25. What are the elements of basic structure doctrine?

- Some of the elements such as Supremacy of the constitution.
- Sovereign, democratic & republican nature.
- Secular character, Separation of power between the legislature, the executive & the judiciary.
- Judicial review.
- Rule of law
- Independence of Judiciary
- Principles underlying fundamental rights.

26. Write a short Note on Kesavananda Bharti case (1973)

- In this supreme court overruled its judgment in the Golak Nath case (1967).
- It upheld the validity of the 24th Amendment Act (1971)
- It laid down a new, doctrine of the 'Basic structure'.

IMPORTANT AMENDMENTS :**27. Discuss the provisions added by First Amendment Act - 1951**

- It empowered the state to make special provisions for the advancement of socially and economically backward classes.
- Provided for the saving of laws providing for the acquisition of estates etc.
- Added Ninth schedule to protect the land reform & other laws included in it from the judicial review.
- Added three more grounds of restriction on freedom of speech and expression, viz. public order, friendly relations with foreign states and incitement to an offence.

28. What are the changes made by 24th Amendment Act – 1971 in constitution

- It Affirmed the power of parliament to amend any part of the constitution including fundamental rights.
- Made it compulsory for the President to give his assent to a constitutional Amendment Bill.

29. Highlight the provisions added by 38th Amendment Act - 1975

- Made the declaration of Emergency by the President non-Justiciable.
- Empowered the President to declare different Proclamations of national Emergency on different grounds simultaneously.
- Made the promulgation of ordinance by the president, governors and administrators of union territories non-Justiciable.

30. Highlight the Importance of 42nd Amendment Act - 1976

- It added 'socialist' secular & integrity in the preamble.
- Added Fundamental duties.
- Made the President bound by the advise of the cabinet.
- Provide for administrative tribunals and tribunals for other matters (Added Part XIV A).
- Froze the seats in the Lok Sabha and state legislative assemblies on the basis of 1971 census till 2001.
- Added three new Directive Principles viz, equal justice and free-legal aid, participation of workers in the management of industries and protection of environment, forests and wild life.
- Extended the one-time duration of the President's rule in a state from 6 months to one year.
- Shifted five subjects from the state list to the concurrent list, viz, education, forests, protection of wild animals and birds, weights and measures and administration of justice, constitution and organization of all courts except the Supreme Court and the high courts.
- Provided for the creation of the All-India Judicial Service.
- Because it introduced so many important changes in the constitution it is also known as mini constitution.

31. Right a short note on 44th Amendment Act -1978

- It was enacted by the Janta government mainly to nullify the amendments introduced by the 42nd Amendment Act 1976.
- Provided that the fundamental rights guaranteed by Article 20 & 21 cannot be suspended during National emergency.
- Restored the original term of the Lok Sabha and the state legislative assemblies. (i.e. 5 years)
- Empowered the president to send back once the advice of cabinet for reconsideration. But, the reconsidered advice is to be binding on the president.
- Restored some of the powers of the Supreme Court and high courts.
- Replaced the term 'internal disturbance' by 'armed rebellion' in respect of national emergency.
- Made the President to declare a national emergency only on the written recommendation of the cabinet.

- Deleted the right to properly from the list of Fundamental Rights and made it only a legal right.
32. **Discuss the importance of 52nd Amendment Act - 1985**
- It Provided for disqualification of members of parliament & state legislatures on the ground of defection.
 - It added a new Tenth schedule.
 - Because of Anti defection law it brought political stability in the Indian Polity and governance.
 - Upto some extent we may say that it reduced the influence of money power in the political system.
33. **Highlight the purpose of 73rd Amendment Act - 1992**
- It granted constitutions status to panchayati raj institution.
 - It Added a new part-IX & a new eleventh schedule containing 29 items.
34. **Mention the objectives of 74th Amendment Act - 1992**
- Granted constitutional status & protection to the urban local bodies.
 - It added a new part IX-A & a new 12th schedule containing 18 functional items.
35. **Write a short note on 86th Amendment Act 2002**
- It made elementary education a fundamental right & added Article 21-A it declares that “The State shall provide free and compulsory education to all children of the age of six to fourteen years.
 - **Added a new fundamental duty under Article-51 A**
It shall be duty of every citizen of Indian who is a parent or guardian to provide opportunities for education to his child between the age of 6 and 14 years.
 - Changed the subject matter of Article 45 in Directive Principles. It now reads- “ The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years”.

36. Discuss the objective behind 100th Amendment Act - 2015

- It gave effect to the acquiring of certain territories by India & transfer of certain other territories to Bangladesh in pursuance of the Land Boundary Agreement of 1974 and its Protocol of 2011.
- For this purpose, this amendment act amended the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution.

37. Ninety-First Amendment Act 2003 has strengthen the anti-defection law, describe

- The total number of minister, including the Prime Minister, in the Central Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha.
- A member of either house of Parliament belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.
- The total number of ministers, including the Chief Minister, in the council of Ministers in a state shall not exceed 15% of the total strength of the legislative Assembly of that state. But, the number of ministers, including the Chief Minister, in a state shall not be less than 12.
- A member of either House of a state legislative belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister.

From the above description we may say that these provisions made defection more difficult, thus strengthen the anti-defection law.

38. Mention the provision of 101st Amendment Act-2016

- It Paved the way of the introduction of the goods and service tax (GST) regime in the country.
- Conferred concurrent taxing powers upon the Parliament and the State Legislatures to makes laws for levying GST on every transaction of supply of goods or services or both.
- Provided for the levy of Integrated GST on inter-state transactions of goods and services.
- Provided for the establishment of a Goods and Services Tax Council by a presidential order.

- Made the provision of compensation to the states for loss of revenue arising on account of introduction of GST for a period of five years.
- Substituted and omitted certain in the Union and State Lists of the Seventh Schedule.

39. What are the provision of 102nd Amendment Act-2018

- Conferred a constitutional status on the National Commission for Backward Classes which was set-up in 1993 by an Act of the Parliament.
- Relieved the National Commission for Scheduled Castes from its function with regard to the backward classes.
- Empowered the President to specify the socially and educationally backward classes in relation to a state or union territory.

40. What changes are brought in the constitution by 103rd Amendment Act-2019

- Empowered the states to make any special provision for the advancement of any economically weaker sections of citizens.
- Allowed the state to make a provision for the reservation of upto 10% of seats for such sections in admission to educational institutions including private educational institutions, whether aided or unaided by the state, except the minority educational institutions. This reservation of upto 10% would be in addition to the existing reservations.
- Permitted the state to make a provision for the reservation of upto 10% of appointments or posts in favour of such sections. This reservation of upto 10% would be in addition to the existing reservation.

Preamble of the constitution :

41. Highlight the ingredients of the preamble of Indian Constitution:

- Source of Authority of the constitution : People of India
- Nature of Indian State: Sovereign, socialist, secular, democratic & republic.
- Objective of the Constitution: It specifies justice, liberty, equality and fraternity as the objectives.
- Date of adoption of the Constitution: it stipulates November 26, 1949, as the date.

42. Explain the meaning of 'sovereign' mentioned in the Preamble:

- It implies that India is neither a dependency nor a dominion of any other nation, but an independent state.
- There is no authority above it, and it is free to conduct its own affairs (both internal and external).
- Being a sovereign state, India can either acquire a foreign territory or cede a part of its territory in favour of a foreign state.
- Membership of the United Nations Organisation (UNO) also in no way constitutes a limitation on her sovereignty.

43. What do you mean by Socialism in the context Indian Constitution:

- The Indian brand of socialism is a 'democratic socialism' and not a 'communistic socialism' (also known as 'state socialism').
- Democratic socialism, on the other hand, holds faith in a 'mixed economy' where both public and private sectors co-exist side by side.
- Democratic socialism aims to end poverty, ignorance disease and inequality of opportunity.
- Indian socialism is a blend of Marxism and Gandhism, leaning heavily towards the Gandhian socialism.
- The new Economic Policy (1991) of liberalization, privatization and globalization has, however, diluted the socialist credentials of the Indian State.

44. Define 'Secularism' from Indian Perspective:

- Indian constitution embodies the positive concept of secularism i. e, all religions in our country (irrespective of their strength) have the same status and support from the state.
- The term 'secular' was added by the 42nd Constitutional Amendment Act of 1976.
- Accordingly Articles 25 to 28 (guaranteeing the fundamental right to freedom of religion) have been included in the constitution.

45. Discuss the three distinct form of Justice mentioned in the Preamble:

- The term 'justice' in the Preamble embraces three distinct forms-social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles.
- **Social justice** denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on.
- **Economic justice** denotes the non-discrimination between people on the basis of economic factors. It involves the elimination of glaring inequalities in wealth, income and property.
- **Political Justice** implies that all citizens should have equal political rights, equal access to all political offices and equal voice in the government.

46. Describe the meaning of Liberty and its forms mentioned in the Preamble:

- It means the absence of restraints on the activities of individual, and providing opportunities for the development of individual personalities.
- The Preamble secures to all citizens of India liberty of thought, expressions, belief, faith and worship through their Fundamental Rights, enforceable in court of law, in case of violation.
- However, liberty does not mean 'license' to do what one likes, and has to be enjoyed within the limitations mentioned in the Constitution.
- In brief, the liberty conceived by the Preamble or Fundamental Rights is not absolute but qualified.

47. What do understand by the term Equality mentioned in the Preamble and Fundamental Rights:

- The term 'equality' means the absence of special privileges to any section of the society, and the provision of adequate opportunities for all individuals without any discrimination.
- The Preamble secures to all citizens of India equality of status and opportunity. This provision embraces three dimensions of equality-civic, political and economic.

48. Explain the meaning of the term Fraternity and discuss how constitution promotes this feelings of Fraternity?

- Fraternity means a sense of brotherhood.
- The Preamble declares that Fraternity has to assure two things- the dignity of the individual and the unity and integrity of the nation.
- The Constitution promotes this feeling of fraternity by the system of single citizenship.
- Also, the Fundamental Duties (Articles 51-A) say that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities.

49. Write a short note on Significance of the Preamble:

- It embodies the basic philosophy and fundamental values - political, moral. And religious on which the Constitution is based.
- It reflects the dreams and aspirations of the founding fathers of the constitution.
- Pandit Thakur Das Bhargava, a member of the Constituent Assembly, summed up the importance of the Preamble in the following words. "The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a jewel set in the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution."

50. Is Preamble the part of the constitution?

- In the Kesavananda Bharati Case (1973) the Supreme Court rejected the earlier opinion and held that Preamble is a part of the Constitution. It observed that the Preamble is of extreme importance and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble.
- In the LIC of India Case (1995) also, the Supreme Court again held that the Preamble is an integral part of the Constitution.

51. Is Preamble amendable?

- In Kesavananda Bharti case - 1973 - Supreme court held that the Preamble is a part of the Constitution. The Court stated that the opinion tendered by it in the Berubari Union (1960) in this regard was wrong, and held that the Preamble can be amended, subject to the condition that no amendment is done to the 'basic features'.
- In other words, the Court held that the basic elements or the fundamental features of the Constitution as contained in the Preamble cannot be altered by an amendment under Article 368.
- The Preamble has been amended only once so far, in 1976, by the 42nd Constitutional Amendment Act.

52. Highlight some of the provisions of the constitution which ensures civic equality

The following provisions of the chapter on Fundamental Rights ensure civic equality:-

- (a) Equality before the law (Article-14)
- (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article-15)
- (c) Equality of opportunity in matters of public employment (Article 16)
- (d) Abolition of untouchability (Article 17)
- (e) Abolition of titles (Article 18)

Fundamental Rights

53. Write some important Features of Fundamental

Rights:

- They are not absolute but qualified. The state can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the courts.
- They are justiciable, allowing persons to move the courts for their enforcement, if and when they are violated.
- They are defended and guaranteed by the Supreme Court. Hence, the aggrieved person can directly go to the Supreme Court, not necessarily by way of appeal against the judgement of the high courts.
- They can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21.

54. Clarify the meaning of Equality before law:

- It is Covered under Article -14, this concept is of British origin.
- The absence of any special privileges in favour of any person. An Institute for MPPSC Examination
- The equal subjection of all persons to the ordinary law of the land administered by ordinary law courts.
- No person (whether rich or poor, high or low, official or non-official) is above the law.

55. What do you mean by Equal Protection of laws:

- It is also covered under Article -14, this concept is taken from American Constitution.
- The equality of treatment under equal circumstances, both in the privileges conferred and liabilities imposed by the laws.
- The similar application of the same laws to all persons who are similarly situated.
- The like should be treated alike without any discrimination.

56. Discuss the concept of Rule of law according to

A.V. Dicey:

His concept has the following Three elements or aspects:

- Absence of arbitrary power, that is, no man can be punished except for a breach of law.
- Equality before the law, that is, equal subjection of all citizens (rich or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts.
- The primary of the rights of the individual, that is, the constitution is result of the rights of the individual as defined and enforced by the courts of law rather than the constitution being the source of the individual rights.

57. What is the Present position of Right to property:

- It was deleted from fundamental rights by the 44th Amendment Act of 1978
- Now it is the part of Article 300A- Part XII and thus is a constitutional or legal right.
- It is not a part of the basic structure of the Constitution.
- Thus it can be regulated i.e., curtailed, abridged or modified without constitutional amendment by an ordinary law of the Parliament.

58. What does the Freedom of speech and expression

implies:

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- It implies that every citizen has the right to express his views, opinions, belief & convictions freely by word of mouth, writing, printing, picturing or in any other manner.
- The Supreme Court held that the freedom of speech and expression includes the following.
 - (a) Freedom of the press.
 - (b) Right to know about government activities.
 - (c) Freedom of silence.
 - (d) Right against imposition of pre-censor-ship on a newspaper.
 - (e) Right to demonstration or picketing but not right to strike.

59. Discuss the Grounds on which reasonable restriction can be imposed on the exercise of fundamental rights.

- The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court defamation, and incitement to an offence.

60. Write a note on Protection of life and personal liberty available under-21?

- **Article -21** - declares that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- It also include the right to live with human dignity and all those aspect of life which makes the life meaningful, complete & worth living.
- The Supreme Court has declared the following Rights as part of Article-21.
 - (a) Right to live with human dignity.
 - (b) Right to decent environment including pollution free water and air and protection against hazardous industries. An Institute for MPPSC Examination
 - (c) Right to privacy.
 - (d) Right to free education up to 14 years of age.
 - (e) Right to speedy trial.

61. Explain the Menka case judgment :- (1978) with reference to Article - 21

- In Menka case, the supreme court overruled it's Judgement in the gopalan case by taking wider interpretation of the Article -21
- Therefore, it ruled that the right to life and personal liberty of a person can be deprived by a law provided the procedure prescribed by that law is reasonable, fair and just. In other words, it has introduced the American expression 'due process of law'.
- In effect, the protection under Article-21 should be available not only against arbitrary executive action, but also against arbitrary legislative action.

62. Mention important provisions of child labour

Amendment Act (2016)?

- This Prohibits the employment of children below 14 years in all occupations & Processes.
- This also Prohibits the employment of adolescents (14 to 18 years) in certain hazardous occupations and Processes.

63. Write a short note on Right to constitutional Remedies under Article - (32).

- Article 32 confers the right to remedies for enforcement of the fundamental rights of an aggrieved citizen. In other words, the right to get the fundamental rights protected is in itself a fundamental rights. This makes the fundamental rights real.
- It contains following four provisions:
 - (a) The right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights is guaranteed.
 - (b) The Supreme Court shall have power to issue directions or orders it's writs for the enforcement of any of the fundamental rights.
 - (c) Parliament can empower any other court to issue direction, orders and writs of all kinds.
 - (d) The right to move the Supreme Court shall not be suspended except as otherwise provided for by the Constitution.

64. Provide a description about writs available with the Supreme Court & High Court:

- The Supreme Court (under Article 32) and the high courts (under Article 226) can issue the following writs:
 - (a) **Habeas corpus:-**
 - It means to have the body of.
 - It is a bulwork of individual liberty against arbitrary detention.
 - (b) **Mandamus:-**
 - It means 'we command'
 - It is a command issued by the court to a public official asking him to perform his official duties.
 - (c) **Prohibition:-**
 - It mean 'to forbid'.
 - It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction.
 - It is only preventive.

(d) Certiorari:-

- It means 'to be certified' or to be informed'.
- It is issued by a higher court to a lower court either to transfer a case or to squash the order in case of excess of jurisdiction.
- It is both curative and preventive.

(e) Quo - warranto:-

- It means by what authority or warrant.
- It is issued by the court to enquire into the legality of claims of a person to a public offices.
- Thus it prevents the illegal usurpation of public offices by a person.

65. Highlight major difference between the martial law and National emergency:**• Martial law -**

- It suspends the government and ordinary court.
- It is imposed to restore the breakdown of law and order due to any reason.
- It is imposed in some specific area of the country.
- It has no specific provision in the Constitution it is implicit.

• National Emergency-

- It continue the government & ordinary law court.
- It can be imposed on three grounds - war external aggression or armed rebellion.
- It continues the government and ordinary law courts.
- It is imposed either in the whole country or in any part of it.
- It has specific and detailed provision in the Constitution it is explicit.

66. Provide some valid Criticism of Fundamental Rights:

- **No social and economic Rights:** The list is not comprehensive as it mainly consists of political rights. It makes no provision for important social and economic rights like right to social security, right to work to employment.
- **Suspension during emergency:** Except Article 20 and 21. This provision cuts at the roots of the democratic system in the country by placing the rights of the millions of innocent people in continuous jeopardy.
- **Expensive Remedy:** as Judicial process is too expensive.

- **No Permanency:** They are not sacrosanct or immutable as the Parliament can curtail or abolish them.

(DPSP) (Directive principles of state policy)

67. Discuss the Important features of DPSP:

- It constitute a very comprehensive economic, social and political program for a modern democratic State. They aim at realizing the high ideals of justice, liberty, equality and fraternity.
- DPSP's are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation.
- It denotes the ideals that the state should keep in mind while formulating policies and enacting laws.
- The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935.

68. List out some of the Socialistic Principles of DPSP's:

- To promote the welfare of the people by securing a social order permeated by justice – social, economic and political- and to minimize inequalities in income, status, facilities and opportunities (Article- 38).
- To Promote equal justice and to provide free legal aid to the poor (Article-39A)
- To make provision for just and humane conditions of work and maternity relief (Article-42)
- To take steps to secure the participation of workers in the management of industries (Article-43 A).

69. Enumerate few Gandhian Principles of DPSP:

- To organize village panchayats- (Article- 40)
- To Promote cottage industries on an individual or co-operative basis in rural areas - (Article-43)
- To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article-47).
- To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (Article-48)

70. Mention some of the liberal and Intellectual principles of DPSP:

- To secure for all citizens a uniform civil code (Article - 44)
- To protect and improve the environment and to safeguard forests and wild life- (Article -48A).
- To organize agriculture and animal husbandry on modern and scientific lines (Article-48)
- To separate the judiciary from the executive in the public services of the State (Article-50)

71. Why the framers of the constitution made the DPSP non-justiciable?

Framers of the Constitution made the DPSP non-justiciable due to following reasons:

- The country did not possess sufficient financial resources to implement them.
- The presence of vast diversity and backwardness in the country would stand in the way of their implementation
- The newly born independent Indian State with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time the place and the mode of fulfilling them.

72. Highlight some of the utility of the DPSP:

- They are supplementary to the governance of the country.
- They are supplementary to the fundamental rights.
- They have helped the court in exercising their power of judicial review.
- They amplify the Preamble, which solemnly resolves to secure to all citizens of India justice, liberty, equality and fraternity.
- They enable the opposition to exercise influence and control over the operations of the government. The Opposition can blame the ruling party on the ground that its activities are opposed to the Directives.

73. **Enumerate some distinction between fundamental Rights : and DPSP.**

Fundamental Rights :-

- These are justiciable, that is, they are legally enforceable by the courts in case of their violation.
- They aim at establishing political democracy in the country.
- These have legal sanctions.
- They promote the welfare of the individual. Hence they are personal and individualistic.
- The courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid.

Directive Principles :-

- These are non-justiciable, that is, they are not legally enforceable by the courts for their violation.
- They aim at establishing social and economic democracy in the country.
- These have moral and political sanctions.
- They promote the welfare of the community. Hence, they are societal and socialistic.
- The courts cannot declare a law violative of any of the Directive Principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

74. **Provide some valid Criticism of the DPSP?**

- **No Legal Force:** As they are non justiciable in nature.
- **Illogically arranged:** According to N Srinivasan, the Directives are neither properly classified nor logically arranged. The declaration mixes up relatively unimportant issues with the most vital economic and social questions.
- **Conservative:** According to Sir Ivor Jennings, the Directives are based on the political philosophy of the 19th century England.
-

75. Comment on the present position of DPSP with respect to fundamental rights?

The present position is that the Fundamental Rights enjoy supremacy over the Directive Principles. Yet, this does not mean that the Directive Principles cannot be implemented. The Parliament can amend the Fundamental Rights for implementing the Directive Principles, so long as the amendment does not damage or destroy the basic structure of the Constitution.

76. Write a short note on the balance between the fundamental rights and DPSP:

- In the *Minerva Mills* case (1980), the Supreme Court also held that the Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the Directive Principles. They together constitute the core of commitment to social revolution.
- They are like two wheels of a chariot, one no less than the other. To give absolute primacy to one over the other is to disturb the harmony of the Constitution.
- This harmony and balance between the two is an essential feature of the basic structure of the Constitution. The goals set out by the Directive Principles have to be achieved without the abrogation of the means provided by the Fundamental Rights.'

Fundamental Duties

77. Write some of the fundamental duties mentioned in Article- 51A

- To abide by the constitution & respect its ideals and institutions.
- To uphold and protect the sovereignty of India.
- To defend the country & render national service when called upon to do so.
- To value and preserve the rich heritage of the country's composite culture.
- To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

78. Highlight certain features of the fundamental Duties

- They are non justiciable like DPSP..
- It is confined to citizens only.
- Some of them are moral duties while others are civic duties. For instance cherishing noble ideals of freedom struggle is a moral precept and respecting the Constitution, National Flag and National Anthem is a civic duty.
- They refer to such values which have been a part of the Indian tradition, mythology, religions and practices. In other words, they essentially contain just a codification of tasks integral to the Indian way of life.

79. Discuss the significance of fundamental Duties:

- They serve as a reminder to the citizens that they should also perform certain duties while enjoying the rights.
- They help courts in examining and determining the constitutional validity of a law.
- They serve as a warning against the antinational and antisocial activities like burning the national flag, destroying public property and so on.
- They serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them. They create a feeling that the citizens are not mere spectators but active participants in the realization of national goals.

80. Provide some valid Criticism of Fundamental Duties:

- The list of duties is not exhaustive as it does not cover other important duties such as casting vote, paying taxes, family planning and so on. In fact, duty to pay taxes was recommended by the Swaran Singh Committee.
- They have been described by the critics as a code of moral precepts due to their non-justiciable character. Interestingly, the Swaran Singh Committee had suggested for penalty or punishment for the non-performance of Fundamental Duties.
- Some of the duties are vague, ambiguous and difficult to be understood by the common man. For example, different interpretations can be given to the phrases like ' noble ideals' composite culture', scientific temper; and so on.

Federalism, Central:**Centre - state Relations****81. Discuss the Extent of central and state legislations:**

- **Central:-** Parliament can make laws for the whole or any part of the territory of India. They can also make extra territorial legislation. Thus, the laws of the Parliament are also applicable to the Indian citizens and their property in any part of the world.
- **State:-** State legislature can make laws for the whole or any part of the state. The laws made by a state legislature are not applicable outside the state, except when there is a sufficient nexus between the state and the object.

82. Which authority in India has the power to make laws with respect to residuary subjects:

- The power to make laws with respect to residuary subjects (i.e. the matters which are not enumerated in any of the three lists) is vested in the Parliament. This residuary power of legislation include the power to levy residuary taxes.

83. Which law prevail in case of a conflict between the central law & the state law on concurrent list?

In case of a conflict between the Central law and the state law on a subject enumerated in the Concurrent List, the Central law prevails over the state law. But, there is an exception. If the state law has been reserved for the consideration of the president and has received his assent, then the state law prevails in that state. But, it would still be competent for the Parliament to override such a law by subsequently making a law on the same matter.

84. Write a short note parliamentary legislation in the state field:

- Parliament make laws on state list in extraordinary circumstances such as-
 - a. **When Rajya sabha Passes a Resolution:** If the Rajya Sabha declares that it is necessary in the National interest that Parliament should make.
 - b. **During a National emergency:** The Parliament acquires the power to legislate with respect to goods and services tax or matters in State List.
 - c. **During President's Rule:** When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state.
 - d. **When States Make a Request:** When the legislatures of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws for regulating that matter.
 - e. **To implement International Agreements:** The Parliament can make laws on any matter in the State List for implementing the international treaties, agreements or conventions.

85. Discuss ways of centre's control over state legislation.

The Constitution empowers the Centre to exercise control over the state's legislative matters in the following ways.

- (a) The governor can reserve certain bills for consideration of the President. The president enjoys absolute veto over them.
- (b) Certain bills can be introduced in the state legislature only with prior sanction of the president (For example, the bills imposing restrictions on the freedom of trade and commerce).
- (c) The Centre can direct the states to reserve money bills and other financial bills passed by the state legislature for the President's consideration during a financial emergency.

86. Write note on the extent of executive power of centre?

- The executive power of the Centre extends to the whole of India:
 - (1) to the matters on which the Parliament has exclusive power of legislation (i.e., the subjects enumerated in the Union List); and
 - (ii) to the exercise of rights, authority and jurisdiction conferred on it by any treaty or agreement.

87. Describe the executive relation between centre and state during emergencies.

- (1) During the operation of a national emergency (under Article 352), the Centre becomes entitled to give executive directions to a state on 'any' matter. Thus, the state governments are brought under the complete control of the Centre, though they are not suspended.
- (2) When the President's Rule is imposed in a state (under Article 356), the President can assume to himself the functions of the state government and powers vested in the Governor or any other executive authority in the state.
- (3) During the operation of a financial emergency (under Article 360), the Centre can direct the states to observe canons of financial propriety and can give other necessary directions including the reduction of salaries of persons serving in the state.

88. Highlight the main provisions of the Article -355:

Article 355 imposes two duties on the Centre:

- (1) To protect every state against external aggression and internal disturbance; and
- (2) To ensure that the government of every state is carried on in accordance with the provisions of the Constitution.

89. What do you mean by The Residuary power of taxation:

- The residuary power of taxation (that is, the power to impose taxes not enumerated in any of the three lists) is vested in the Parliament. Under this provision, the Parliament has imposed gift tax, wealth tax and expenditure tax.

90. Write a short on Statutory grants:

- Article -275 empower the parliament to make grants to the states which are in need of financial assistance and not to every state. Also, different sums may be fixed for different states. These sums are charged on the Consolidated Fund of India every year.
- Apart from this general provision, the Constitution also provides for specific grants for promoting the welfare of the scheduled tribes in a state.
- It is given to the states on the recommendation of the Finance commission.

91. Provide a description of Discretionary grants:

- Article - 282 empowers both centre and the states to make any grants for any public purpose even if it is not within their respective legislative competence. Under this provision, the Centre makes grants to the state.
- These grants are also known as discretionary grants, the reason being that the Centre is under no obligation to give these grants and the matter lies within its discretion.
- These grants have a two-fold purpose: to help the state financially to fulfil plan targets; and to give some leverage to the Centre to influence and coordinate state action to effectuate the national plan.

92. Write a short note on Establishment of Finance Commission:

- Article -280 provides for a Finance commission as a quasi - judicial body.
- It is constituted by the President every 5th year or even earlier.

93. Throw light on the functions of Finance Commission:

It is required to make recommendation to the President on the following matters:

- The distribution of the net proceeds of taxes to be shared between the Centre and the states, and the allocation between the states, the respective shares of such proceeds.
- The principles which should govern the grants-in-aid to the states by the Centre (i.e. out of the Consolidated Fund of India).
- The measures needed to augment the Consolidated fund of a state to supplement the resources of the panchyats and municipalities in the state on the basis of the recommendations made by the State Finance Commission.
- Any other matters referred to it by the President in the interests of sound finance.

94. Write a short note on the establishment of GST**council:**

- The smooth and efficient administration of the goods and services tax (GST) requires a co-operation and co-ordination between the Centre and the State. In order to facilitate this consultation process, the 101st Amendment Act of 2016 provided for the establishment of a Goods and Services Tax Council or the GST Council.
- Article 279-A empowered the President to constitute a GST Council by an order. The Council is a joint forum of the Centre and the state.

95. Discuss the Function of GST council:

It is required to make recommendations to the Centre and the States on the following matters:

- The taxes, cesses and surcharged levied by the Centre, the States and the local bodies that would get merged in GST.
- The goods and services that may be subjected to GST or exempted from GST.
- Model GST Laws principles of levy, apportionment of GST levied on supplies in the course of inter-state trade or commerce and the principles that govern the place of supply.
- The threshold limit of turnover below which goods and services may be exempted from GST.

- The rates including floor rates with bands of GST.
- Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster.

96. Explain the borrowing power of the state:

- A state government can borrow within India and (not abroad) upon the security of the consolidated Fund of the state or can give guarantees, but both within the limits fixed by the legislature of the state.
- A state cannot raise any loan without the consent of the centre if there is still outstanding any part of a loan made to the state by the Centre or in respect of which a guarantee has been given by the Centre.

97. Throw light on the issues which created tensions and conflict between centre and state:

Following Issues creates tensions and conflict between centre and state

- (1) Mode of appointment and dismissal of governor.
- (2) Discriminatory and partisan role of governors.
- (3) Imposition and President's Rule for partisan interests.
- (4) Deployment of Central forces in the states to maintain law and order.
- (5) Reservation of state bills for the consideration of the President.
- (6) Discrimination in financial allocation to states.
- (7) Management of All-India Services (IAS, IPS and IFS).
- (8) Sharing of finance (between Centre and states)
- (9) Encroachment by the Centre on the State List

98. Highlight some important recommendation of the sarkaria commission with respect to centre state relation:

The important recommendations are mention below:

- (1) A permanent Inter-State Council called the Inter-Government Council should be set up under Article 263.
- (2) Article 356 (President's rule) should be used very sparingly, in extreme cases as a last resort when all the available alternatives fail.
- (3) When the president withholds his assent to the state bills, the reasons should be communicated to the state government.

(4) The Centre should consult the states before making a law on a subject of the Concurrent List.

(5) The procedure of consulting the chief minister in the appointment of the state governor should be prescribed in the Constitution itself.

(6) The governor cannot dismiss the council of ministers so long as it commands a majority in the assembly.

99. Enumerate some important recommendations of Punchi commission on centre state relation:

- Agreement should be reached between the union and states before introducing legislation in parliament on the matters of concurrent list.
- Governor should be given fixed tenure of 5 years.
- In respect of bills passed by the Legislative Assembly of a state, the Governor should take the decision within six months whether to grant assent or to reserve it for consideration of the president.
- On the question of dismissal of a Chief Minister, the Governor should invariably insist on the Chief Minister proving his majority on the floor of the House for which he should prescribe a time limit.

Inter - State Relations

100. Throw light on the Provisions for the Adjudication of inter-statewater dispute:

Article 262 provides for the adjudication of inter-state water disputes. It makes two provisions:

- Parliament may by law provides for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.
- Under this provision, the Parliament has enacted two laws (the River Boards Act (1956) and the Inter-state Water Disputes Act (1956).

101. Write a short note on establishment and function**Inter-state council:**

- Article 263 provides for the establishment of an Inter-state council.
- It is established by the President and define its duties.
- It is chaired by the Prime minister.
- Article 263 specifies the duties that can be assigned to it in the following manner:
 - (a) Enquiring into and advising upon disputes which may arise between states.
 - (b) Investigating and discussing subjects in which the states or the Centre and the states have a common interest; and
 - (c) Making recommendations upon any such subject, and particularly for the better co-ordination of policy and action on it.

102. Discuss the provisions related to 'Zonal councils':

- They are the statutory institution.
- Established by the states reorganization Act of 1956.
- It is headed by the Union Home Minister.
- Each Chief Minister acts as a vice-chairman of the council by rotation, holding office for a period of one year at a time.
- Each zonal council consists of the following members:
 - (a) Home minister of Central government.
 - (b) Chief Ministers of all the States in the Zone.
 - (c) Two other ministers from each state in the zone.
 - (d) Administrator of each union territory in the zone.

103. Throw light on the aims and objectives of ‘Zonal Councils:’

The zonal councils aim at promoting cooperation and coordination between states, union territories and the Centre.

The objectives (or the functions) of the zonal council

- (a) To achieve an emotional integration of the country.
- (b) To help in arresting the growth of acute state-consciousness, regionalism, lingusim and particularistic trends.
- (c) To enable the centre and states to cooperate with each other in social and economic matters and exchange ideas and experience in order to evolve uniform policies.
- (d) To cooperate with each other in the successful and speedy execution of major development projects.
- (e) To secure some kind of political equilibrium between different regions of the country.

Supreme court

104. Discuss the original jurisdiction of the supreme court:

- Original jurisdiction means, the power to hear such disputes in the first instance, not by way of appeal. It also means that aggrieved citizen can go directly to the supreme court like in case of violation of fundamental rights.
- Under this supreme court decides the disputes between different units of the Indian federation such as.
 - a. Between the centre & one or more states.
 - b. Between two or more states.
 - c. Between the Centre and any state or states on one side and one or more other states on the other side.
- In the above federal disputes, the Supreme Court has exclusive original jurisdiction. Exclusive means, no other court can decide such disputes.

105. Write a note on the power of Judicial Review of the supreme court:

- It is the power to examine the constitutionality of legislative enactments and executive orders of both the central & state government.
- On examination, if they are found to be violative of the Constitution (ultra-vires), they can be declared as illegal, unconstitutional and invalid (null and void) by the Supreme Court, Consequently, they cannot be enforced by the Government.

106. Provide a comparison between Indian & American Supreme Court:

Indian	American
1. It's scope of judicial review is limited.	1. It's scope of judicial review is wide.
2. It has advisory jurisdiction.	2. No Advisory jurisdiction.
3. Its original jurisdiction is confined to federal cases.	3. Its original jurisdiction covers not only federal cases but also relating to naval forces, maritime activities, ambassadors, etc.
4. Its appellate jurisdiction covers constitutional, civil and criminal cases.	4. Its appellate jurisdiction is confined to constitutional cases only.
5. It has a very wide discretion to grant special leave to appeal in any matter against the judgement of any court or tribunal (except military).	5. It has no such plenary power.
6. It defends rights of the citizens according to the 'procedure established by law'.	6. It defends rights of the citizen according to the 'due process of law.'

107. The Original jurisdiction of the Supreme Court with regard to federal disputes is different from its original jurisdiction with regard to disputes relating to fundamental rights, Analysis:

- In case of fundamental rights, it is exclusive and in the case of federal disputes, it is concurrent with high courts jurisdiction.
- Moreover, the parties involved in the first case are units of the federation (Centre and states) while the dispute in the second case is between a citizen and the Government (Central or state).

108. Highlight the difference between the writ jurisdiction of the Supreme Court and that of the High Court :

- The Supreme Court can issue writs only for the enforcement of the Fundamental Rights and not for other purposes.
- The high court, on the other hand, can issue writs not only for the enforcement of the fundamental rights but also for other purpose.
- It means that the writ jurisdiction of the high court is wider than that of the Supreme Court.
- But, the Parliament can confer on the Supreme Court, the power to issue writs for other purpose also.

109. Write a short note on the Advisory Jurisdiction of Supreme Court:

- The Constitution (Article 143) authorizes the president to seek the opinion of the Supreme Court in the two categories of matters.
 - (a) On any question of law or fact of public importance which has arisen or which is likely to arise.
 - (b) On any dispute arising out of any pre-constitution treaty, agreement covenant, engagement, sanad or other similar instrument.
- In the first case, the Supreme Court may tender or may refuse to tender its opinion to the president. But, in the second case, the Supreme Court 'must' tender its opinion to the president. In both the case, the opinion expressed by the Supreme Court is only advisory and not a judicial pronouncement.

High Court

110. Write a short note on the Power of Judicial review of the High court:

- The provisions of Article -13 and 226 confer the power of judicial review on a high court.
- The constitutional validity of a legislative enactment or an executive order can be challenged in a high court on the following three grounds:
 - (a) It infringes the fundamental rights (Part III).
 - (b) It is outside the competence of the authority which has framed it, and
 - (c) It is repugnant to the constitutional provisions.

The 42nd Amendment Act of 1976 curtailed the judicial review power of high court. It debarred the high courts from considering the constitutional validity of any central law. However, the 43rd Amendment Act of 1977 restored the original position.

111. Elaborate upon the original Jurisdiction of High Court:

- It means the power of high court to hear disputes in the first instance, not by way of appeal. It extends to the following:
 - (a) Matters of admiralty and contempt of court.
 - (b) Disputes relating to the election of members of Parliament and state legislatures.
 - (c) Regarding revenue matter or an act ordered or done in revenue collection.
 - (d) Enforcement of fundamental rights of citizens.
 - (e) Cases ordered to be transferred from a subordinate court involving the interpretation of the Constitution to its own file.

Judicial Review

112. Clarify the meaning of Judicial Review:

- Judicial review is the power of the judiciary to examine the constitutionality of legislative enactments and executive orders of both the Central and State governments. On examination, if they are found to be violative of the Constitution (ultra vires), they can be declared as illegal, unconstitutional and invalid (null and void) by the judiciary. Consequently, they cannot be enforced by the Government.
- Justice Syed Shah Mohammed Quadari has classified the judicial review into the following three categories.
 1. Judicial review of constitutional amendments.
 2. Judicial review of legislation of the Parliament and State Legislatures and subordinate legislations.
 3. Judicial review of administrative action of the Union and State and authorities under the state.

113. Discuss the importance and need of judicial review:

- Judicial review is needed for the following reasons:
 - (a) To uphold the principle of the supremacy of the Constitution.
 - (b) To maintain federal equilibrium (balance between the Centre and the States)
 - (c) To protect the Fundamental Rights of the Citizens.
- “In India it is the Constitution that is supreme and that a statute law to be valid, must be in conformity with the constitutional requirements and it is for the judiciary to decide whether any enactment its constitutional or not”

114. Highlight the grounds on which legislative enactments or an executive order can be challenged in the courts:

- When it infringes the fundamental Rights.
- When it is outside the competence of the authority which has framed it.
- It is repugnant to the constitutional provisions.

115. Write a short note on the judicial Review of the 9th schedule with reference to I.R.Coelho Case (2007):

- In a significant judgement delivered in I.R.Coelho case (2007), the Supreme Court ruled that there could not be any blanket immunity from judicial review of laws included in the Ninth Schedule.
- The court held that judicial review is a ‘ basic feature of the constitution and it could not be taken away by putting a law under the Ninth Schedule. It said that the laws placed under the Ninth Schedule after April 24,1973 are open to challenge in court if they violated Fundamental Rights guaranteed under the Articles 14, 15, 19 and 21 or the ‘basic structure’ of the Constitution.

Judicial Activism

116. Explain the meaning of judicial Activism :

- It denotes the proactive role played by the judiciary in the protection of the rights of citizens and in the promotion of justice in the society.
- In other words, it implies the assertive role played by the judiciary to force the other two organs of the government (legislature and executive) to discharge their constitutional duties.
- “Judicial activism is a procedure to evolve new principles, concepts, maxims, formulae and relief to do justice or to expand the standing of the litigant and open the door of courts for needy or to entertain litigation affecting the entire society or a section of it.”

117. How can the Judicial Activism be justified :

The following reasons or circumstances provides a justification of Judicial Review

- There is near, collapse of the responsible government, when the Legislature and Executive fail to discharge their respective functions. This results in erosion of the confidence in the Constitution and democracy amongst the citizens.
- The citizens of the country look up to the judiciary for the protection of their rights and freedoms. This leads to tremendous pressure on judiciary to step in aid for the suffering masses.
- Legislative Vacuum, that is, there may be certain areas, which have not been legislated upon. It is therefore, upon court to indulge in judicial legislation and to meet the changing social needs.

118. Discuss about citizen groups who activated judicial activism :

- **Civil Rights Activists :** These groups primarily focus on civil and political rights issues.
- **Citizens for environmental Action:** These groups activate an activist judiciary to combat increasing environmental degradation and pollution.
- **Rights of child groups:** These groups focus on child labour, the right to literacy, juveniles in custodial institutions and rights of children born to sex workers.
- **Poverty Rights Groups:** These groups litigate issues concerning draught and famine relief and urban impoverished.

119. What do you understand by Judicial Restraint:

- Judicial Restraint contend that the role of judge should be scrupulously limited; their job is merely to say what the law is, leaving the business of law-making where it properly belongs, that is, with the legislators and the executives. Under no circumstances, moreover, should judges allow their personal political values and policy agendas to colour their judicial opinions.
- It means judges should limit the exercise of their our power. It asserts that judges should hesitate to strike down laws unless they are obviously unconstitutional.

Public Interest Litigation**120. Provide an Explanation about the Meaning of PIL**

- Under the PIL, any public spirited citizen or a social organization can move the court for the enforcement of the rights of any person or group of persons who because of their poverty or ignorance or socially or economically disadvantaged position are themselves unable to approach the court for the remedies. Thus, in a PIL, any member of the public having 'sufficient interest' can approach the court for enforcing the rights of other persons and redressal of a common grievance.
- The Supreme Court has defined the PIL as "a legal action initiated in a court of law for the enforcement of

public interest or general interest in which or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.

121. Highlight some of the Important features of PIL:

- It is a strategic arm of the legal aid movement and is intended to bring justice within the reach of the poor masses.
- It is a Co-operative effort on the part of the petitioner, the State or Public Authority, and the Court to secure observance of the constitutional or legal rights, benefits and privileges conferred upon the vulnerable sections of the community and to reach social justice to them.
- In PIL, the role held by the Court is more assertive than in traditional actions; it is creative rather than passive and it assumes a more positive attitude in determining acts.

125. Provide an insight on the Scope of PIL

- In 1998, the Supreme Court formulated a set of guidelines to be followed for entertaining letters or petitions received by it as PIL.
- Bonded labour matters.
- Neglected children
- Non-payment of minimum wages to workers and exploitation of casual workers and complaints of violation of Labour Laws (except in individual cases)
- Petitions against police for refusing to register a case, harassment by police and death in the police custody.
- Petition against atrocities on women, in particular harassment of bride, bride-burning, rape, murder, kidnapping etc.

Lok Adalat**122. Provide an Introduction of Lok Adalat:**

- The term 'Lok Adalat' means 'People's Court' and is based on Gandhian principles.
- As per the Supreme Court, it is an old form of adjudicating system prevailed in ancient India and its validity has not been taken away even in the modern days too.
- It is one of the components of the Alternative Dispute Resolution (ADR) system and delivers informal, cheap and expeditious justice to the common people.
- In view of its growing popularity over time, it was given statutory status under the Legal Services Authorities Act, 1987. The Act makes the provisions relating to the organisation and functioning of the Lok Adalats.

123. Discuss certain features of Lok Adalat:

- It is based on settlement reached through systematic negotiations.
- It is one of the Alternate Dispute Resolution (ADR) Systems.
- It is economical.
- It has power of civil court.
- It shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law. The jurisdiction of the Permanent Lok Adalats is upto Rs. 1 Crore.
- Before the dispute is brought before any court, any party to the dispute may make an application to the Permanent Lok Adalat for settlement of the dispute.
- After an application is made to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

124. Highlight some benefits of Lok-Adalat:

- There is no court fee and if court fee is already paid the amount will be refunded if the dispute is settled at Lok Adalat.
- There is procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws while assessing the claim by Lok Adalat.
- The parties to the dispute can directly interact with the judge through their counsel which is not possible in regular courts of law.
- The award by the Lok Adalat is binding on the parties and it has the status of a decree of a civil court and it is non-appealable, which does not cause the delay in the settlement of disputes finally.

125. Provide details about the organizations of Lok-Adalat:

- The State/District Legal Services Authority or the Supreme Court/High Court/Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.
- Every Lok Adalat organised for an area shall consist of such number of serving or retired judicial officers and other persons of the area as may be specified by the agency organising.
- Generally, a Lok Adalat consists of a judicial officer as the chairman and a lawyer (advocate) and a social worker as members.
- National Legal Services Authority (NALSA) along with other Legal Services Institutions conducts Lok Adalats.

126. Write a short note on Jurisdiction of Lok-Adalat:

- A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of:
 - Any case pending before any court, or
 - Any matter which is falling within the jurisdiction of any court and is not brought before such court.
- Any case pending before the court can be referred to the Lok Adalat for settlement if:
 - Parties agree to settle the dispute in the Lok Adalat or one of the parties applies for referral of the case to the Lok Adalat or court is satisfied that the matter can be solved by a Lok Adalat.
 - In the case of a pre-litigation dispute, the matter can be referred to the Lok Adalat on receipt of an application from any one of the parties to the dispute.
- Matters such as matrimonial/family disputes, criminal (compoundable offences) cases, land acquisition cases, labour disputes, workmen's compensation cases, bank recovery cases, etc. are being taken up in Lok Adalats.

127. Comment on the Power possessed by Lok-Adalats:

- The Lok Adalat shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure (1908).
- Further, a Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.
- All proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of the Indian Penal Code (1860) and every Lok Adalat shall be deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973).
- An award of a Lok Adalat shall be deemed to be a decree of a Civil Court or an order of any other court.
- Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute. No appeal shall lie to any court against the award of the Lok Adalat.

128. Write a short note on permanent Lok Adalat:

- The Permanent Lok Adalat, organized under Section 22-B of The Legal Services Authorities Act, 1987. Permanent Lok Adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc.
- Here, even if the parties fail to reach to a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties.
- The jurisdiction of the Permanent Lok Adalats is upto Rs. Ten Lakhs. Here if the parties fail to reach to a settlement, the Permanent Lok Adalat has the jurisdiction to decide the case. The award of the Permanent Lok Adalat is final and binding upon the parties.

129. Discuss the objectives of the Lok-Adalat

- Objective is to settle the dispute which are pending before the courts, by negotiation, conciliation and thus reduce the pendency of cases.

130. Through which amendment act preamble has been amended and highlight the changes made by this amendment?

It has been amended in 42nd Amendment Act 1976. It added three new words .socialist, secular and Integrity.

They meant for:

- (a) Socialist- It means democratic Socialism, which holds faith in mixed economy.
- (b) Secular- It means all religions in our country have the same status and support from the state.
- (c) Integrity- It means Union of States, implying the indestructible nature of the Indian Union.

It changed the description of India from “Sovereign democratic republic” to a “Sovereign, Socialist Secular democratic republic”.

It changed the word “Unity of the nation” to “Unity and integrity of the nation”.

131. Explain the fundamental rights which are available only to citizens and not to foreigners?

- (1) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15)
- (2) Equality of opportunity in matters of public employment (Article 16)
- (3) Protection of six rights regarding freedom of:
 - (a) Speech and Expression
 - (b) Assembly
 - (c) Association
 - (d) Movement
 - (e) Residence
 - (f) Profession
- (4) Protection of language, script and culture of minorities (Article 29)
- (5) Right of minorities to establish and administer educational institutions (Article 30)

132. From where the concept of Equality before Law and Equal Protection of Laws have been taken?

- (1) Equality before law is of British origin.
- (2) Equal protection of Laws has been taken from the American constitution.
- (3) Both of them aim at establishing equality of legal status, opportunity and Justice.

133. Mention some other Directives apart from DPSP's in Part IV?

- (1) Claims of SCs and STs to Services (Article 335 in Part XVI)
- (2) Instruction in mother tongue (Article 350-A in Part XVII)
- (3) Development of the Hindi Language (Article 351 in Part XVII)
- (4) The above Directives are also non-justiciable in nature

134. What major steps have been taken by the government at the Centre and in the states for the effective implementation of Directive Principles?

- (1) Establishment of Planning Commission in 1950 later it was replaced by NITI Aayog in 2015.
- (2) Land reform laws to bring changes in the agrarian society.
- (3) Three tier panchayati raj system has been introduced.
- (4) Various national level commissions have been established.
- (5) Child Labour Prohibition and Regulation Act (1986)

135. What do you mean by Directive Principles of State Policy.

- (1) It is enumerated in Part IV of the constitution from Article 36 to 81.
- (2) This idea borrowed from the Irish Constitution of 1937.
- (3) It denotes the ideals that the State should keep in mind while formulating policies and enacting laws.
- (4) Dr. B.R.Ambedkar described these principles as novel features of the Indian Constitution.

136. Mention Directive Principles that are added to original list in 42nd Amendment Act of 1976?

- (1) To promote equal justice and to provide free legal aid to the poor (Article 39 A)
- (2) To secure the participation of workers in the management of industries (Article 43A)
- (3) To protect and improve the environment and to safeguard forests and wild life (Article 48A)

137. The first part of Article 22 confers which rights on a person who is arrested or detained under an ordinary law?

- (1) Right to be informed of the grounds of arrest.
- (2) Right to be consult and be defended by a legal practitioner.
- (3) Right to produced before a magistrate within 24 hours.
- (4) Right to be released after 24 hours unless the magistrate authorizes further detention.

138. How Article 32 confers the right to constitutional remedies for the enforcement of the fundamental rights?

- (1) The Supreme Court has ruled that Article 32 is a basic feature of the constitution.
- (2) It cannot be abridged or taken away even by way of an amendment to the constitution.
- (3) The Supreme Court shall have power to issue writs (which include habeas corpus, mandamus, prohibition, certiorari and quo-warranto) for the enforcement of any of the fundamental rights.

139. Name the fundamental rights which cannot be suspended during National Emergency?

- (1) Protection in respect of conviction for offences. - Article 20
- (2) Protection of life and personal liberty- Article 21

140. Compare the judicial system of India and America?

India	America
(1) It has integrated judicial system with the Supreme Court at the top.	(1) It has double system of courts in - one for the centre and the other for the states.
(2) Its scope for Judicial review is limited	(2) Its scope for judicial review is very wide.
(3) It has advisory jurisdiction.	(3) It has no advisory Jurisdiction.
(4) Its jurisdiction and powers can be enlarged by parliament	(4) Its jurisdiction and powers are limited.
(5) It defends rights of the citizen according to the 'procedure established by law'.	(5) It defends rights of the citizen according to the "due process of law."

141. What is the difference between the writ Jurisdiction of Supreme Court and High Court?

Supreme Court	High Court
(1) It can issue writs only for the enforcement of the fundamental rights	(1) It can issue writs not only for the enforcement of the fundamental rights but also for other purposes.
(2) Writs jurisdiction of Supreme Court is applicable to the whole country.	(2) While the writs jurisdiction of High Court is applicable within the territory.
(3) A remedy under Article-32 is in itself a Fundamental Right and hence, the Supreme Court may not refuse to exercise its writ jurisdiction.	(3) On the other hand, a remedy under Article-226 is discretionary and hence, a High Court may refuse to exercise its writ jurisdiction.

142. Highlight some constitutional provisions for judicial reviews?

(1) Article 13 declares that all laws that are inconsistent with or in derogation of Fundamental Rights shall be null and void.

(2) Article 32 guarantees the right to move the Supreme Court for the enforcement of the Fundamental Rights.

(3) Article 143 authorises the president to seek the Supreme Court on any question of law or fact and on any pre-constitution legal matters.