

3. Legislature and Executive

Parliament

1. **Articles 74 and 75** deal with the parliamentary system at the centre.
2. **Features of parliamentary Government**
 1. **Nominal and Real executive.**
 2. **Majority Party rule.**
 3. **Collective responsibility.** They act as a team, and swim and sink together.
 4. **Political Homogeneity.**
 5. **Double membership.**
 6. **Leadership of Prime Minister.**
 7. **Dissolution of the Lower House.**
 8. **Secrecy.** The Ministers operate on the principle of secrecy of procedure and cannot divulge information about their proceedings, policies and decisions.
3. **Parliamentary powers**
 1. The Parliament **enacts legislations for the country.** Despite being the chief law making body, the Parliament often merely approves legislations.
 2. Perhaps the most vital function of the Parliament is to ensure that the **executive does not overstep its authority** and remains **responsible.**
 3. The financial powers of the Parliament, involve **grant of resources to the government** to implement its programmes. The legislature also ensures that the **government does not misspend or overspend.** This is done through the budget and annual financial statements.
 4. The Parliament is the highest **forum of debate in the country.** Members are free to speak on any matter without fear. Parliament represents the divergent views of members from different **regional, social, economic, religious groups** of different parts of the country.
 5. Parliament also performs some **electoral functions.** It elects the President and Vice President of India.
 6. The **judicial functions** of the Parliament include considering the

proposals for removal of President, vice-President and judges of High Courts and Supreme Court.

4. Shortfalls in our Parliamentary system

1. **Anti-defection law** restrains MPs from voting according to their conscience.
2. **Lack of recorded voting** as a norm which reduces the **accountability** of the MP as voters don't know which way they voted on each issue.
3. **Party affiliation of the Speaker** making her dependent on the party leadership for re-election prospects.
4. **Frequent bypassing of committees** (just 25% of Bills have been referred to committees in this Lok Sabha).
5. **Insufficient time and research support** to examine Bills. There is a need for research support for all MPs.
6. **Lack of a calendar** (Parliament is held at the convenience of the government).

5. Problems in parliamentary functioning

1. **Delay in policy making:** Several **critical issues** raised in the Parliament have seen a slow death. Example: Passing of Triple Talaq Bill, delay in GST bill etc.
2. **Protests and walk outs:** The recent **frequent walkouts** and protests rendered the sessions chaotic and a waste of functional days.
3. **Lack of debate and discussion over key issues:** The **recent 124th constitutional amendment** bill which provided **10% reservation to EWS** was passed after just a single day of discussion.
4. **Duration for which Parliament meets:** **Average number of days** parliament met has come down to **70** in 2017 from **120** in 1950s.
5. **Un-parliamentary behaviour:** **Several instances of disruptions** and **physical violence** have been witnessed. Ex: **Shouting slogans**, bringing placards into the well, using pepper sprays, etc.
6. **Absence of MPs:** **Several MPs** have been reported to be absent for most of the working sessions including ministers during question hours.
7. **Waste of taxpayers' money:** The **budget session washout of 2018** is estimated to have cost the nation **almost 200 Crore** based on

loss of productivity and expenses of running both houses of Parliamentary.

8. **Poor image in world media:** Records of **disruptive, unproductive** parliamentary functioning, tarnishes the image of India as a vibrant democracy.
6. **Measures to improve its efficiency.**
1. **Proper training for members of parliament** in conducting the business of the house.
 2. **A minimum 120 days of meeting of both the houses** must be mandated through legislation.
 3. **Salaries** and privileges of legislators must be linked to their performance. **Penalising** the members including imposition of **fin**es, suspension from session etc. for unruly members.
 4. **Empowering the Presiding Officers** of the House with **additional powers to punish unruly members**.
 5. **Enforcing a code of conduct** and code of ethics for members of the house.
 6. **Making political parties more responsible** for their conduct inside the Parliament.
 7. **Setting up of coordination committees with members of ruling party and opposition** for smooth conduct of the House.
 8. While introducing reforms in Parliament, it is all the more important that the **reforms should cover the political parties and government**.



Cabinet committes.pdf

How parliament controls finance

1. **Union Budget:** Annual financial statement presented by means of the **Finance bill** and the **Appropriation bill** has to be passed by both the Houses.
2. **Imposition of tax:** **Any imposition of tax or collection of revenue** should be done only by the authority of law.

3. **Consolidated Fund of India (CFI):** All revenues received or loans raised by the government are deposited in the CFI. Parliamentary sanction is necessary for any expenditure made from the CFI (Article 266).
4. **Financial Emergency:** President can declare financial emergency only after the approval by the Parliament (Article 360).

Various funds mentioned in Indian constitution



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20190715172751.pdf Parliamentary privileges



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1. However, these sections have been prone to misuse. In 2017, the Karnataka assembly Speaker ordered the imprisonment of two journalists for a year based on recommendations in two separate reports of its privilege committees.
2. Our legislators have the power to be the sole judges to decide what their privileges are, what constitutes their breach, and what punishment is to be awarded in case of breach. It is too wide a power, which clearly impinges on constitutionalism, i.e. the idea of limited powers.
3. The U.S. House of Representatives has been working smoothly without any penal powers for well over two centuries. In fact, the British House has itself broken from the past. Acts and utterances defamatory of Parliament or its members are no more treated as privilege questions.
4. Further codification would enhance accountability of legislatures as once the privileges are embodied in the legislature enactment, it would be open to judicial scrutiny and would be tested on the touchstone of its consistency with constitutionalism.

Ineffectiveness of parliamentary control



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Parliamentary system vs Presidential system

1. India already had some experience of running the parliamentary system under the **Acts of 1919 and 1935**. This experience had shown that in the parliamentary system, the executive can be **effectively controlled by the representatives** of the **people**.

2. Merits of presidential system

1. It will **make political parties to be more democratic** and **careful in selecting a candidate**. They will have to choose their best candidate for a head-to-head contest.
2. **Separation of powers of various branches** found in this system is an effective safeguard against arbitrary and oppressive government.
3. The president will be fully in charge of the executive. He will be able to **attract the best and brightest to his cabinet, irrespective of their political affiliations**.
4. There is unity of control in administration and there is **absence of delay in taking decision**.
5. Presidential system provides **more stability** than the parliamentary system. The president will be elected by the people and will be voted out by them. He will not have to appease unreasonable allies.
6. **Increased efficiency of legislature**, as the legislature will be free to do its work, that is to pass laws, instead of devising methods to criticize the government. It will truly engage the electorate with the democratic process.
7. Presidential system presents a **clear choice for voters**. The parliamentary system has distorted the voting preferences of an electorate that knows which individuals it wants but not necessarily which parties or policies.
8. **Tough and unpopular decisions**.

3. Demerits

1. **Abuse of power by the President**.
2. **Frequent conflicts** between the legislature and the executive may

lead to deadlocks.

3. There is no continuous **accountability** of the executive to the representatives of the people in the legislature. The **fixed term of office of the executive** also curtails responsiveness to public opinion.
 4. In a diverse country like India, it can lead to a situation where the views of an individual can override the **interests** of different segments, especially **minorities**.
 5. Election is uncertain and the mass is often unpredictable. Therefore, **competent and qualified persons do not like to contest in elections**.
4. **Merits of parliamentary system**
1. **Close link between executive and legislature** avoids conflict between the two organs of government.
 2. There is much more **accountability** in parliamentary system.
 3. **Pluralistic nature of our society** demands giving representation to diverse sections and regions and include majority of people into political stream.
 4. It **puts an emphasis on institution building** rather than a form in which the executive power was vested in a single individual.
 5. Presidential suit in two party system. **In Multi-party state there will be fractured mandate** and President may lose legitimacy.
 6. The parliamentary system also provides for **financial accountability**.
5. In India context given the vast number of parties and maturing stage of democracy it is preferable to continue with Parliamentary form due to its stability and other advantages.

Parliamentary committees

1. The **work done** by the Parliament in modern times is **not only varied in nature**, but considerable in **volume**. **The time at its disposal is very limited**. In 2015, the parliament has only met for **72 days**. It cannot, therefore, give close consideration to all the legislative and other matters that come up before it. A **good deal of its business** is, therefore, transacted by what are called the **Parliamentary Committees**.

Parliamentary Committees are of two kinds, Ad hoc Committees and the Standing Committees.

2. **Ad hoc** committees are appointed for a **specific purpose** and they cease to exist when they finish the **task assigned** to them. The principal Ad hoc Committees are the **Select and Joint Committees on Bills**. Each House of Parliament has **Standing Committees** like the **Business Advisory Committee (BAC)**, the Committee on Petitions, the Committee of Privileges and the **Rules Committee**, etc.
3. There are **committees** which act as Parliament's **watch dogs over the executive**. The Committee on Estimates, the **Public Accounts committee (PAC)**, the Committee on Public Undertakings and **DRSCs** play an important role in exercising a **check over governmental expenditure** and the policy formulation.

4. **Benefits**

1. They **function throughout the year**. Thus they are helpful in discharging Parliament's obligations. Their reports allow for **informed debate** in Parliament.
2. They also offer an opportunity for **detailed scrutiny of bills** and suggest **important amendments**. Ex: Deadlock in passage of Prevention of corruption act, 2013 has been removed by two parliamentary committees.
3. Committees like **PAC** act as **watchdogs of the executive** and hold them accountable. **DRSCs** help parliament in discharging its financial powers by **scrutinising the budgets** of various departments and ministries.
4. Committees also provide a forum to build **consensus across party lines**.
5. These committees allow the views of **diverse stakeholders**. They help develop **expertise** in subjects, and enable consultation with independent **experts** and stakeholders.
6. They help in obtaining **public feedback** on various contentious issues.

5. **Limitations**

1. **Every bill** of parliament **need not be referred** to standing committees, which reduces the greater scrutiny. In the **16th Loksabha**, **only 29% bills have been scrutinised** by parliamentary committees as compared to 60% and 70% of bills being examined

in 14th and 15th Lok Sabhas respectively.

2. They do not have **own research expert staff** and they mostly rely on expert opinion from Government and other stake holders.
3. **Norms** not followed by most political parties while **nominating MPs** to committees.
4. Along with this there is **low attendance of MPs** at meetings.
5. **DRSCs are constituted newly every year**. This gives **very little time for specialisation**.

6. **Way forward**

1. **Indian can adopt the British model** where there is mandatory scrutiny of all the bills by parliamentary committees.
2. Parliamentary committees don't have dedicated **subject wise research support** available. Their work could be made **more effective** if the committees had full time, **sector specific research staff**.
3. A **law can be drafted** regarding the norms to be followed for **appointments** in to the **committee** rather than depending on the **precedents**.
4. The **number of DRSCs can be increased** and their term can be increased from present 1 year.
5. **Major reports** of all committees should be discussed in **Parliament** especially in cases where there is **disagreement** between a committee and the government. The recommendations of the PACs should be accorded greater weight.
6. As suggested by national review of constitution committee, three new committees on **national economy**, scrutinising **constitutional amendment** bills and **legislative planning** can be setup in the parliament.

7. **Should be open to public because**

1. It will **bring transparency** and openness to the whole law making process. It will make government more accountable to people as **public scrutiny** will prompt it to take right decisions.
2. It will make public more **politically literate** and present them with opportunity to understand lawmaking process and law makers better and will enhance their decision making power.

8. **Should not be open to public**

1. This will make the whole process more **time consuming**.
2. It may lead to **fracturing of law making process** as a result of divisions in the body.
3. Closed door mechanisms are necessary for **sensitive matters** like defence and foreign relations to maintain the secrecy.
4. **Public opinions** are many a times swayed by **emotional motives** which will hinder the pragmatism required while making decisions.



Parliament committees.pdf

Rajya sabha

1. **Seats in Rajya Sabha** have been **allocated seats on the basis of population**. As a result, number of seats allocated to its federating units is not uniform. Even though some in the **Constituent Assembly favoured the equal representation** of states, it was **not adopted** as Indian federation was not formed out of any **contract unlike United States**. Also, there were **centrifugal tendencies** and the country had just witnessed the mayhem of partition and thus a centralised polity with unequal representation of states in RS was adopted.
2. **Case for equal representation**
 1. The **number of seats in the Lok Sabha** are anyway is directly linked to the population and there is no need to duplicate the principle.
 2. **Nine States** in India have just **one member each in the Rajya Sabha**.
 3. **Just ten populous States occupy nearly 70% of the seats**. Some smaller States have expressed **resentment** at their inability to make their voice felt at the Centre.
 4. A **resolution under article 249** can be passed even **if bottom 14 states having least representation oppose** such a resolution.
 5. Due to coalition politics, the **interests of parties take precedence** over the **interests of the States**. So there are concerns whether even after giving equal representation, the behaviour of representatives of those States in the council will be according to

the interests of State and not their interests of their party.

3. Case for unequal representation

1. Equal representation **will not represent population** which is ultimate base for mobilization of democracy.
 2. Some scholar argues that providing **equal share** in Rajya Sabha will create **centrifugal tendencies**.
 3. The **Rajya Sabha doesn't exclusively** represent the **federal principle except when exercising the special powers** under **Articles 249 and 312**. The main objective of RS as envisaged was to hold dignified debates and to share the experience of seasoned persons. It also has legislative function.
 4. The **greatest opponents** of such a change would be those **states that enjoy larger number** of representatives in the Rajya Sabha. This would defeat the amendment bill.
 5. The **2/3rd majority argument seems weak** in practice because members in RS vote along party lines. Second Chambers are increasingly becoming national institutions rather than representing states.
4. However, **Indian federation has matured** since independence and a **balance of power between States is desirable** and this is possible by equality of representation in the Rajya Sabha. **Punchi Commission also endorsed** equality of representation of states in Rajya Sabha.
- ### 5. Arguments for removing domicile requirement
1. **Small states** which have very less representation in Rajya Sabha may send more representatives if no domicile requirement exist.
 2. **Domicile concept breeds partisan politics**, which is not favourable in a diverse Indian political setup.
- ### 6. Arguments for retaining domicile requirements
1. Members hold **allegiance to their political party** rather than state and their actions are guided by **political expediency** rather than state's interest.
 2. Any member can be elected from any state. Thus, elected members are **not representative** of the state's **socio-ethnic** composition.
 3. They are **not aware about the ground realities** of respective state and hence their contribution to policy making regarding state is

minimal.

4. They **fail to act as the conduit** between the centre and state and present **state's concerns** in parliament.
5. The current system has become **biased against small states** who already miss out representation of their people in the parliament owing to limited parliamentary seats.
7. **Thus domicile requirements must be reinstated.** Equal representation to all states must be given. Ethics committee in RS to educate and guide the members on the ethical issues related to their duty and making them understand that what is legal may not necessarily be ethical.
8. **Equal vs unequal position of RS with LS**



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Code of Conduct For MPs and MLAs

1. Recently, Vice President has called on political parties to **evolve a consensus on a code of conduct for their members**, both inside the legislature and out of it, so that people do not lose faith in political processes and institutions. **A Code of Conduct for members of Rajya Sabha has been in force since 2005.** There is no such code for Lok Sabha.

Provisions of Rajya Sabha 14 point Code of Conduct

- **Public interest primary:** If Members find that there is a **conflict between their personal interests and the public trust** which they hold, they should resolve such a conflict in a manner that their private interests are subordinated to the duty of their public office.
- **Guarding against conflict of interest:** Members should always see that their private financial interests and those of the members of their immediate family do not come in conflict with the public interest and if any such conflict ever arises, they should try to resolve such a conflict in a manner that the public interest is not jeopardized.
- **Non-participation:** According to the rule, a **member should not participate in any debate if there is direct conflict of interest**, without first declaring it and that in case of a vote on any issue in the House, the vote of such a member could be challenged.
- **Expectation from members:** **Members should never expect or accept any fee, remuneration or benefit for a vote given** or not given by them on the floor of the House, for introducing a Bill, for moving a resolution or desisting from moving a resolution, putting a question or abstaining from asking a question or participating in the deliberations of the House or a Parliamentary Committee.
- **Rule 293 of Rajya Sabha:** Rule 293 of the Rules of Procedure and Conduct of Business in the Council of States states that there shall be maintained a **Register of Member's Interests** in such form as may be determined by the Ethics Committee which shall be available to members for inspection on request. This is accessible to ordinary citizens under the RTI Act.

Speaker

1. Since the Indian system of government follows the **Westminster Model**, the **Parliamentary proceedings** of the country are **headed by a presiding officer who is called a Speaker**. In other words, the Speaker is responsible for ensuring the smooth functioning of the House. The Lok Sabha chooses its Speaker through a vote.
2. **Speaker derives powers from**
 1. **Constitution** of India.
 2. **Rules of procedure and conduct of business of Lok Sabha**.
 3. **Parliamentary conventions**.
3. **Role of speaker**
 1. The **Speaker presides over the meetings in the House**. The **business in the House** is conducted by the Speaker, **ensuring discipline** and decorum amongst its members. He/she **guards the rights and privileges** of the members of the two Houses. He/she also permits various **parliamentary procedures** such as the motion of adjournment, the motion of no-confidence, the motion of censure, among others.
 2. **He is the final interpreter of provisions** of a) constitution of India b) rule of procedure c) parliamentary precedents within the house. The **Speaker ensures that MPs are punished for unruly behaviour**. A Speaker can also disqualify an MP from the House on grounds of defection.
 3. In the **absence of a quorum** in the House, he/she adjourns the House or suspends it.
 4. He is the sole authority to **decide whether a Bill is a Money Bill** or not. His decision is final in this regard.
 5. A Speaker uses his/her **power to vote in order to resolve a deadlock**.
 6. The Speaker of the Lok Sabha presides over a **joint sitting** of the two Houses of Parliament.
 7. He **decides on the questions of disqualification** under 10th schedule.
 8. **Speaker appoints the Chairman of all the parliamentary committees** and supervises their functioning. He himself is

chairman of the Business Advisory committee, the Rules committee and the General Purpose committee.

9. Besides heading the Lok Sabha, the Speaker is also the 'ex-officio' **President of the Indian Parliamentary Group.**

4. Independence and impartiality

Independence and Impartiality As the office of the Speaker is vested with great prestige, position and authority, independence and impartiality becomes its *sine qua non*¹¹. The following provisions ensure the independence and impartiality of the office of the Speaker:

1. He is provided with a **security of tenure.** He can be removed only by a resolution passed by the Lok Sabha by an **absolute majority** (ie, a majority of the total members of the House) and not by an ordinary majority (ie, a majority of the members present and voting in the House). This motion of removal can be considered and discussed only when it has the **support of at least 50 members.**
2. His **salaries and allowances** are **fixed by Parliament.** They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.
3. His work and conduct **cannot be discussed** and **criticised in the Lok Sabha** except on a substantive motion.
4. His **powers of regulating procedure** or conducting business or maintaining order

in the House are not subject to the jurisdiction of any Court.

5. He cannot vote in the first instance. He can only exercise a casting vote in the event of a tie. This makes the position of Speaker impartial.

6. He is given a very high position in the order of precedence. He is placed at sev-

1.

enth rank, along with the Chief Justice of India. This means, he has a higher rank than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.

In Britain, the Speaker is strictly a non-party man. There is a convention that the Speaker has to resign from his party and remain politically neutral. This healthy convention is not fully established in India where the Speaker does not resign from the membership of his party on his election to the exalted office.

2.

Money bill and Speaker

1. A **Money bill is defined in Article 110** of the constitution as one which only contains provisions related to **taxation, borrowings** by the government, or **expenditure** from CFI. A Money bill only needs the approval of **Lok Sabha**. The power of certification vested in the **speaker of the Lok Sabha**, whose decision is final. Some have raised concerns about the **finality** of the Article as **Rajya Sabha can't question the**

decision of the Speaker even when it is malafide. Ex: **Aadhar bill, FCRA amendment bill**, etc.

2. **Impact of indiscriminately passing bills as money bills**

1. **By-passing Rajya Sabha** affects the federal character of Indian Polity, which is one of the **basic structure** of Constitution.
2. Constitution has cast the Rajya Sabha as a revisory house to **prevent hasty, politically motivated** legislation and not as a secondary house.
3. Rajya Sabha keeps a check on **authoritarian character of a Government** that enjoys **absolute majority** thereby ensuring that debates, discussions are still central in the functioning of government.
4. Passing off bills as money bill **casts aspersion on the neutrality** of the office of **Speaker**. Speaker has a role to play in the smooth functioning of legislature and neutrality is a paramount quality of a speaker. **Violates the spirit of Article 110**.
5. It is therefore necessary to **evolve a proper procedure** for the speaker to arrive at a decision. **A committee of the secretaries general** of both houses may examine in detail the given bill and submit their views to the Speaker before she takes a final decision on certifying bill as money bill.
6. It may be remembered that **Article 122** provides **immunity** against challenges to the proceedings only on the **grounds of procedural irregularities**. A wrong decision taken under Article 110(3) is not a procedural irregularity and hence does not grant any immunity to the Speaker's decision.

3. **SC judgement**

1. **Article 110(3)** of the constitution declares that **speaker is the final authority** in deciding whether a bill is a money bill. SC has refrained from direct confrontation with speaker's power as **Article 122** of the constitution restricts court from **inquiring into proceeding of Parliament** and examining their validity.
2. But it **reviewed** the powers of the speaker related to the **anti-defection** law and laid down that speaker's **decision is not final and it can be challenged**. It went on to say that the protection of **Articles 122 and 212 was only to protect** the validity of proceedings from mere irregularity of procedure.

3. However, in similar case in 2014, the **UP Assembly** passed a bill to amend the Uttar Pradesh **Lokayukta act as a money bill**. The act was challenged but the **Supreme Court** decided that the decision of the speaker in a Money bill is final.
 4. Thus the question of **application of judicial review** over speaker's action in declaring a money bill is **not settled**. It is true that certain actions have led to **controversies** in the near past. We need to bring some reform such as **UK's practice of appointing a committee** of two senior legislators to assist the speaker over the question of money bill.
4. **Ways by which a Speaker compromises neutrality**
1. The position of the Speaker is paradoxical. **They contest the election for the post on a party ticket**. Yet they are expected to conduct themselves in a non-partisan manner.
 2. The **fear of losing the current position** in case of not favouring their political parties also pushes them to compromise neutrality.
 3. The determination of whether a representative has become subject to **disqualification**, post their **defection**, is made by the Speaker.
 4. The **absoluteness of the Speaker's decisions** can also be an incentive for potential abuse. Ex: Money bill.
5. **Ways to bring neutrality**
1. The practise followed in UK of speaker **giving up the party membership can be followed**.
 2. The discretion of the speaker in matter of **anti-defection** must be taken away and be kept in hands of President.
 3. Any Speaker should be **barred from future political office**, except for the post of President or Vice-president.
 4. Some of the speaker's decision can be brought within the **judicial review**.

Devices of Parliamentary proceedings

1. **Question Hour:** **First hour of every parliament sitting** is slotted for this. Members ask three types of questions -- Starred questions, Unstarred questions, Short notice questions.
2. **Zero Hour:** This is an informal device available to members to **raise**

matters without any prior notice. It is an Indian innovation.

3. **Motions:** No discussion on a matter of public importance can take place except on a motion made with the consent of the presiding officer. Motions fall into three types of categories -- **Substantive motions** (important matters like impeachment), **Substitute motions** (substitution of an original motion) and **Subsidiary motions**.
4. **Closure motion:** To **cut short the debate on the matter**.
5. **Privilege motion:** **Breach of parliamentary privileges by a minister**.
6. **Calling attention motion:** To **call the attention of the minister** to an urgent matter of public importance.
7. **Adjournment motion:** To **draw the attention of the House** to a definite matter of urgent public importance.
8. **No-confidence motion and Censure motion:** To enforce **collective responsibility** of the Ministers to Lok Sabha.
9. **Resolutions:** To **raise attention of house to matters of general public importance**.

Office of profit

1. The term office of profit has **not been defined in Indian constitution**. But article 102 and 191 of the Indian Constitution bars a member of the Indian **Parliament and state legislature** from holding an office that would give a **financial benefit**. Any violation attracts disqualification of MPs or MLAs. Recently **Delhi Government appointed 27 MLAs as parliamentary secretaries**. Regarding this, Election Commission issued show cause notice to its 27 MLAs on a petition seeking their disqualification for allegedly holding office of profit.
2. **This concept is designed to**
 1. **Secure independence of the MPs and MLAs** and preserve the separation of powers.
 2. **Obviate a conflict of interest between the duties of office** and their legislative functions.
3. **The reasons for controversy**
 1. **Neither the constitution nor the RPA, 1951, explicitly defined the term**.
 2. **OoP is also used to circumvent Article 164** of the constitution

which limits the number of Ministers in the cabinet.

3. The legislatures have kept on expanding exemptions from disqualification under Articles 102 and 191 without any proper rationale. Prevention of Disqualification Act, 1959 exempts several posts from disqualification on the grounds of Office of Profit.
4. Posts like chairmanships of corporations, parliamentary secretaryships of various ministries and other offices of profit are used as to appease and leverage legislators as way of buying peace for the government.
4. **Guidelines by EC and SC**
 1. Whether the government makes the appointment.
 2. Whether government has the right to remove or dismiss the holder.
 3. Whether the government pays remuneration and what the functions of the holder are.
 4. Supreme Court held that each case must be measured and judged in the light of the relevant provisions and sections.
 5. In Jaya Bachan Case, Sc held that to decide whether a person is holding Oop or not, it must be considered whether the post is capable of yielding profit and not if the person has actually relieved the profit.
5. **Explicit rule**
 1. The practice followed in England that whenever a new office is created, the law also lays down whether it would be an office of profit or not can be followed in India also.
 2. All offices purely advisory in nature should not be treated as office of profit.
 3. Any government undertaking responsible for control and distribution of funds shall be treated as office of profit.
 4. MPLADS and MLALADS must be abolished.

Anti-defection law

1. The 52nd amendment to the Constitution added the Tenth Schedule which laid down the process by which legislators may be disqualified

on grounds of defection.

2. Grounds of disqualification

1. When the elected member **voluntarily gives up his membership** of a political party.
2. **If he votes or abstains from voting** in such house contrary to any direction issued by his political party or anyone authorised to do so, without obtaining prior permission.
3. **Independent members** would be disqualified if they **joined a political party**.
4. **Nominated members** who were not members of a party could **choose to join a party within six months**. After that period, they were treated as a party member or independent member.

3. Positives

1. To prevent **horse trading** and frequent changing of political parties.
2. To prevent **political instability**.
3. **Voters elect a candidate both on individual capacity** and for the party he belongs to.
4. Five-judge constitution bench of the supreme court in 1992 (**Kihoto Hollohan**) held that the law **does not violate any rights or the basic structure of parliamentary democracy**.
5. The argument that it curtails the legislative activity of private members is countered by the presence of various **standing committees** which streamlines legislative business in the legislature.

4. Issues

1. There is no mention of **time frame for Speaker** to take decision regarding disqualification which is one of the main loophole in the law.
2. The **law does not apply to pre-poll alliances**.
3. ADL **cannot prevent mass defections**. Ex: TDP MLAs in Rajya Sabha.
4. **Curtailment of legislator's right to vote** according to his conscience. Also, disincentivising lawmakers from serious **thinking, researching** or even rifling for best practices to incorporate into legislation. **So, it has reduced the quality discussion** in Parliament as members are made to **toe the party**

line.

5. The **decision of the presiding officer is final** and not subject to judicial review. Though there is provision of **judicial review** (**Kihoto Hollohan case, 1993**) still judiciary is by and large helpless.
6. Unfortunate trend that has recently manifested itself is the use of House majorities to get even **Private Members bills defeated** at the introduction stage.

5. Way forward

1. **Dinesh Goswami Committee on electoral reforms** (1990) suggests that the issue of disqualification should be **decided by the President/Governor** on the advice of the Election Commission.
2. **Halim Committee on anti-defection law** (1998) suggests that the words ‘**voluntarily giving up membership** of a political party’ be comprehensively defined.
3. The **Law Commission** (1999) suggested that **mergers shouldn’t be exempt from disqualification**.
4. The **Constitution Review Commission of 2002** suggested that **defectors should be barred from holding public office**.
5. Need to define the entire procedure clearly and set definite **time limits** for each step of the process, ensuring transparency.
6. The rationale that a representative is elected on the basis of the party’s programme can be extended to **pre-poll alliances**.
6. **Defections are blot on our democracy**. They **reduce the trust of people** in our parliamentary system. Defections bring a culture of corruption, instability, etc. They need to be nipped in the bud.

Treaty making powers of the Union executive

1. **Entering into treaties and agreements** with foreign countries are items **left to the Union Government**. On the other hand, **article 253** confers **exclusive power on Parliament to make any law** for implementing any treaty, agreement or convention with any other country.
2. Therefore **exercise of the power** by union executive obviously cannot be **absolute** or unchartered in view of the **federal structure of legislative and executive powers**. So Parliament must make a law to regulate treaty making powers of Union executive.

3. Argument for such law

1. Legislature has to maintain **continuous accountability** of the **union executive**.
2. Several international treaties like the **WTO agreement** have serious **implications for the states**, especially with **respect to state subjects like agriculture**. In all such cases, consultation with the States and concurrence of the Inter-State Council must also be made mandatory.
3. Agreements which largely relate to **defence, foreign relations** etc., **which have no bearing on the individual rights or rights of the states** can be put in a separate category on which the executive may act independently. Other treaties which affect the rights and obligations of citizens as well as those which **directly impinge on subjects** in **state list** should be negotiated with greater involvement of States and representatives in Parliament.
4. There may be treaties or **agreements** which put **obligations** on particular states affecting its **financial and administrative capacities**. In such situations, in principle, the **Centre should underwrite the additional liability** of concerned states according to an agreed formula between the Centre and States.
5. **Financial obligations and its implications on State finances** arising out of treaties and agreements should be a **permanent term of reference** to the Finance Commissions constituted from time to time. So that Commission may come up with the recommend compensatory formulae.

4. Arguments against such law

1. Where **parliamentary approval** is required, it has led to certain **complications**. Ex: **US Senate and Treaty of Versailles**. In Indian case, treaties between India and Nepal and with Bangladesh on **sharing of the Ganga** waters would not have been possible had these agreements been submitted to Parliament for ratification.
2. In view of the fact that treaties may relate to all types of issues within or outside the States concern, there **cannot be a uniform procedure for exercise of the power**.
3. **Some agreements require approval of Parliament to come into effect**. Thus any **WTO agreements** can be implemented only by Parliament by making a law.

4. Under our system of parliamentary government, **executive** has to render **continuous accountability to Parliament** anyway.
5. **Ways to democratise treaty making power**
 1. As stated by Punchi commission, **Parliament should make a law** on the subject of entering into treaties and agreements with foreign countries. The law should regulate the treaty making power of the Union.
 2. **A committee of Parliament** can be constituted to whom **every treaty proposed to be signed** or ratified shall be **referred**. This will **decide whether to to be signed** by the Union executive without referring the matter for consideration to Parliament or state Government.
 3. **Proper accountability** system should be established at the central as well as state level. Besides accountability, the **exercise of power must be open and transparent**.
 4. The law made by Parliament must also provide for **consultation** with **affected persons, organisations** and stake holders, in general.

President's rule

1. According to **Article 356**, **President's rule** can be imposed in a state if a situation has arisen in which the Government of the state cannot be carried on in accordance with the provisions of the constitution. It has been imposed more than **120 times** shows that the provision has been mis-used.
2. **Circumstances in which it is imposed**
 1. **Art. 356:** When the state government is not being carried on according to constitution i.e. break down of constitution.
 2. **Art. 365:** When the state Government does not follow the executive directions of the Centre.
 3. The state legislature is **unable to elect a leader as Chief Minister**.
 4. The **collapse of a coalition government** due to disagreements, parting ways within the members.
 5. **Serious breakdown of law and order**.
 6. **Shoot up of insurgency or rebellion**.
3. **Necessity of President's rule**

1. **Preserving the unity and integrity of the nation.** For example, Prime Minister P.V. Narasimha Rao's government **dismissed four state governments** led by the BJP in the wake of the destruction of the Babri Masjid. Supreme court in SR Bommai case upheld the dismissal.
 2. It is necessary is **when no party can form a government** and a **political crisis** arises. For example, in 2002 election in Uttar Pradesh and in 2005 election in Bihar, no single formation cobbled sufficient seats to take oath as government. In such a situation, the Governor recommended President's rule to the central government.
 3. **Maintaining peace and harmony** in the state. Ex: In Punjab during Khalistan Movement.
4. **It has become controversial because**
- **Frequent use:** Since 1950, the President's Rule has been imposed on over 100 occasions.
 - Imposition on **arbitrary grounds** for political or personal reasons.
 - Imposition when there are **different parties** at the Centre and State level.
 - The expression '**breakdown of constitutional machinery**' is not defined in the Constitution.
 - Misuse of Art. 365 as '**directions from the Centre**' are vague and unexplained.
 - **Biased and distorted reports** sent by the Governor to the Centre, which results in imposition of President's rule.
 - A law made by the Parliament during State Emergency continues to be operative even after it.
5. **S R Bommai vs Union of India**
1. President proclamation imposing President's rule is subject to **judicial review**. **Burden lies on the centre** to justify president rule.
 2. **Court cannot question the advice** tendered by Council of ministers but it can **scrutinise the ground for that advice** of imposition of President's rule in the state and may take corrective steps if malafide intention is found.
 3. Use of Art 356 is justified only when there is **breakdown of constitutional machinery** and not **administrative machinery**.
 4. **Secularism** is basic feature of the constitution. Hence, a **state government pursuing anti-secular politics** is liable to action under Article 356.
 5. The **state legislative assembly should be dissolved** only after the parliament has approved the **presidential proclamation**. The strength of the government should be **tested on the floor of the house** and not as per whims of the **Governor**.

6. The power under article 356 should be used sparingly.

6. Other SC decisions

1. SC has used the **Sarkaria commission** recommendations to give directions regarding applicability of president's rule. It said **mal-administration, corruption accusations, internal disturbances** cannot be a reason for imposition of President's rule.
2. In **Rameshwar Prasad** case, SC has said that the **subjective interpretation** of Governor **cannot override** majority in the State legislature.

7. How president should act

1. President should ensure that the **demand** for imposition of Article 356 should not be rooted into any kind of **dispute** between the union and state government.
2. President should ensure that the **Governor** must **not be acted on union Government's direction**.
3. President must ensure that the union Government **has followed the procedure** like issuing **warning to state first**, giving adequate time to reply etc.
4. President, before issuing proclamation, must **ensure that the constitutional machinery** in the state has indeed been broken.

8. Arunachal decision of SC

1. Judgment is **historic** since it is the first time the **Supreme Court has restored a government** after it was dismissed and a new government was sworn in.
2. SC directed that a **Governor cannot have the freedom** to determine when and in which situation he can take a decision at his **own discretion** without the aid and advice of the Chief Minister and his Council of Ministers.
3. As per the judgment, **Governor** can act **without the aid and advice** only when a government **has lost its majority** in a **floor test**.
4. Judgment also ruled that the **Governor** had to **stay away from the business of the Assembly**. Hence it would be outside the domain of his **powers** to fix a date for an Assembly session or to decide how the assembly functions.

9. Impact

1. The main significance of this verdict is that it **provides clarity** on

the **Governor's role**. The Governor has no authority to resolve disputes within a political party.

2. Also, **he has no discretionary power** to advance an Assembly session without the aid and advice of the Council of Ministers **nor can he fix its agenda**. In future, Judgment will be helpful in avoiding the misuse of the Governor's power under Article 356.

Powers of the President

1. Important articles

1. **Article 53: Executive power of union shall be vested in President.**
2. **Article 74: President shall act in accordance with the advice tendered by CoM.**
3. **Article 75: Collective responsibility of CoM to Lok Sabha.** Also deals with appointment, qualification, salaries, etc of CoM. CoM shall not exceed 15% of the total strength of Lok Sabha.
4. **Article 78: Duty of the PM to communicate to the President** all decision of CoM relating to the administration of the affairs of the union.

2. Executive powers

1. **Article 53(1) vests the executive power** of the union in the president. **All executive actions of the Government** of India are formally taken in his name.
2. He **appoints Prime Ministers and other Ministers**. They hold office during his pleasure.
3. President of India makes **appointment to various constitutional posts**. These include CAG, UPSC members, attorney General, ISC, etc.
4. He makes **rules for more convenient transaction of the business** of the Union Government, and for allocation of said business among the ministers.
5. He can **declare any area as scheduled area** and has powers with respect to the administration of the scheduled and tribal areas.
6. He **directly administers union territories** through administrators appointed by him.

3. Legislative powers

1. President of India is a **inseparable part of Indian Parliament** despite not being member of any house.
2. President has power to **summon or prorogue the two houses** of the **Parliament**. The President may dissolve the Lok Sabha.
3. **President nominates 2 members of Anglo Indian** Community in the Lok Sabha (Article 331). He also nominates 12 members of Rajya Sabha if they excel in Art, Literature, Science, Social Science, Culture etc. (Article 80).
4. The bills passed by the parliament become **acts only after assent of president**.
5. He has power to promulgate an **ordinance** when the Parliament is not in the session (Article 123).
6. He **decides on questions as to disqualification** of members of the Parliament, in consultation with EC.
7. His **prior recommendation** is needed to introduce certain types of bills in the parliament. Ex: Bill involving expenditure from the consolidated fund of India.
8. He can make **regulations for peace , progress and good government** of A&N Islands, Lakshadweep, etc. In case of Puducherry also, the president can **legislate by making regulations** but only when the assembly is suspended.

4. Financial powers

1. **Money bills can be introduced** in the Parliament only with prior recommendation of President.
2. He causes to be laid before parliament the **Annual Financial Statement (Budget)**.
3. **No demand for grant** can be made except on his recommendation.
4. He can make advances out of the **contingency fund of India**.
5. He **constitutes a finance commission** after every 5 years to recommend the distribution of revenues between the centre and the states.

5. Judicial powers

1. **Article 72** says that the President shall have the power to grant pardons, reprieves, respites or remissions of punishment.
2. **He appoint the chief Justice and judges of supreme court** and high

courts. He can **seek advice from supreme court** on any questions of law or fact.

6. **Diplomatic powers**

1. President **appoints ambassadors to foreign countries** and receives diplomatic delegates of foreign countries.
2. The **international treaties and agreements** are **negotiated** and concluded on behalf of the President.

7. **Military powers**

1. The **President is the Commander-in-Chief** of the Defence forces.
2. He can **declare war or conclude peace subject** to the approval of the Parliament.

8. **Emergency powers**

1. President is assigned **three kinds of emergency powers** under Article 352, 356 and 360.

9. **Limitations of Ordinance powers**

1. He can promulgate an ordinance only when **both the houses of parliament or at least one house are not in session**.
2. He can make an ordinance only when he is **satisfied that the circumstances exist** that render it necessary for him to take immediate action.
3. An ordinance can be issued only on those **subjects on which the parliament can make laws**. An ordinance is subject to the same **constitutional limitation** as an act of Parliament. Hence, an ordinance **cannot abridge any fundamental right**.
4. Every ordinance issued by the President during the recess of Parliament must be **laid before both the houses of Parliament** when it re-assembles. It **cannot be issued to amend the constitution**.

10. **Important points in ordinance powers**

1. In *Krishna Kumar Singh vs. State of Bihar* SC held that the failure to place an ordinance before the legislature constitutes abuse of power and a fraud on the constitution.
2. The Securities Laws (Amendment) Ordinance, 2014 was re-promulgated for the third time during the term of the 15th Lok Sabha.
3. Governments also take the ordinance route to address matters of public concern as was the case with the Criminal Law

(Amendment) Ordinance, 2013.

4. Triple Talaq ordinance to by-pass legislature.

Article 72 and Article 161

1. Provisions and Procedure

1. Under **Article 72 of the constitution**, the **President can grant pardon, suspend, remit or commute** a sentence of death. However, President acts on the advice of the Council of Ministers. The **view of the Union Ministry of Home Affairs (MHA)**, **conveyed to the President in writing**, is taken as the view of the Cabinet.
2. Once a convict has been **finally awarded the death sentence** by the Supreme Court, anybody, including a foreign national, can send a **mercy petition** with regard to that person to the President's Office or the MHA.

2. Pardoning power to President in cases

1. Punishment or sentence is for an offence against **Union Law**.
2. Punishment or sentence is by a **court martial**.
3. Sentence is sentence of **death**.

3. Types of pardon

1. **Pardon: Completely absolves** the convict from all sentences, punishments and disqualifications.
2. **Commutation:** Substitution of one form of punishment for a **lighter form**. Ex: Death sentence to rigorous imprisonment.
3. **Remission: Reducing amount of sentence** without changing its character.
4. **Respite:** Awarding **lesser sentence** in place of originally awarded due to some **special fact**, such as physical disability.
5. **Reprieve: Temporary suspension of sentence** to enable the convict to have time to seek pardon or commutation.

4. SC directives on pardoning powers

The Supreme Court examined the pardoning power of the President under different cases and laid down the following principles:

1. The petitioner for mercy has no right to an oral hearing by the President.
2. The President can examine the evidence afresh and take a view different from the view taken by the court. ✓
3. The power is to be exercised by the President on the advice of the union cabinet. ✓
4. The President is not bound to give reasons for his order. ✓
5. The President can afford relief not only from a sentence that he regards as unduly harsh but also from an evident mistake. ✓
6. There is no need for the Supreme Court to lay down specific guidelines for the exercise of power by the President.
7. The exercise of power by the President is not subject to judicial review except where the presidential decision is arbitrary, irrational, *mala fide* or discriminatory.
8. Where the earlier petition for mercy has been rejected by the President, stay cannot be obtained by filing another petition.

5. Issues

1. There is **no fixed timeframe for disposing of a mercy petition**, both the MHA and President have sometimes **delayed decisions**

for years. For example, at the end of his five-year term, Dr. Kalam left behind over two dozen mercy pleas, having decided only two.

2. Moreover, there have been allegations that due process is not being followed in awarding capital punishment. Ex: Yakoob Menon case.
3. There is lot of subjectivity involved in the entire process and it depends upon the views of the each President.
4. On the issue of delay in deciding mercy pleas, the Supreme Court in a landmark judgment in 2014 held that the death sentence of a prisoner cannot be commuted to life imprisonment on the ground of delay on the part of the government in deciding the mercy plea.

6. Death penalty in India

1. In India, capital punishment is awarded for murder, gang robbery with murder, abetting the suicide of a child or insane person, waging war against the government, and abetting mutiny by a member of the armed forces. It is also given under some anti-terror laws for those convicted for terrorist activities. Recently, in 2018, India has introduced death penalty for those who rape children under age of 12.
2. The death sentence is imposed only when the court comes to the conclusion that life imprisonment is inadequate based on the facts and circumstances of the case.
3. In Bachan Singh case, the SC upheld the validity of death penalty and provided that death penalty should be awarded only in the rarest of rare cases.
4. In Shatrughan Chauhan vs Union of India, SC further humanised the implementation of capital punishment. Prior to this judgment, the execution of the sentence is entirely in the domain of the executive. This status quo was challenged through this judgement and created new forms of the accountability of the executive at all stages of the pardon process, right from the level of the Ministry of Home Affairs all the way up to the office of the President of India.

7. Arguments for death penalty

1. **Rarest of rare cases:** The death penalty is imposed only in rarest of rare cases that shock the conscience of society. This is

reflective in the fact that in the **last 13 years, only four people have been executed.**

2. **Problem of terrorism & neighbourhood: India's neighbourhood is not peaceful**, unlike Scandinavia. On the contrary, every day vested interests attempt to destabilize the very idea of our nation from across every border.
 3. **Controlling law and order:** In 1991, the Supreme Court cited its use in defending law and order as the reason for its continuance.
 4. **Retributive/Deterrance effect.**
8. **Cons of capital punishments**
1. The death penalty is criticized mainly on **three counts** i.e. **arbitrariness, irreversibility and human rights.**
 2. There has been an **arbitrary manner/application** in which death penalty is awarded by different judges (**judge-centric variations**) and the way public discourse influences such decisions.
 3. If court proceedings were based on **false evidence** or crime was shown as more gruesome than actual. Capital punishment in such cases **can't be reverted back.**
 4. There is lack of resources in India justice system, an **overstretched police** force and **ineffective prosecution** as among the reasons. As a result, the administration of capital punishment is vulnerable to **misapplication.**
 5. There is **no evidence** to suggest that the **death penalty** has greater **deterrent** effect than life imprisonment.
 6. Many a times, it is found that Capital punishment are awarded to **less privileged** people coming from poor and **lesser represented** background. Rich convicts get away with good lawyers. Hence capital punishment will be discriminated on economical ground of convict.
 7. **Disposal of mercy petitions** are also based on **personal beliefs of individual Presidents.**
 8. It is **influenced by public opinion.** It evokes nation's emotion and if it exists, always **people will demand for it** in protests and dharnas. It can be seen in Nagaland Mob lynching case, where mob took law in their hand to deliver then and there justice.
 9. **Gandhian principles** also asks for killing crime and not criminal. International best practices like in **Norway** where punishment is

treated as corrective measures, and prisons are designed to get the person out of it.

9. The Supreme Court has covered considerable ground in limiting the scope, to the rarest of rare case. The **treatment of death row prisoners has been humanized** and there is scope for judicial review even against a sovereign decision denying clemency.

Governor

1. **Article 153** of the Constitution requires that there shall be a **Governor for each State** appointed by the President, holding office during his pleasure. **Governor is titular head of state executive**. But, he has more discretionary powers than President of India, as unlike President he is not bound by advice of the state's cabinet.
2. **Discretionary powers**
 1. **Reservation of a Bill** for consideration of the President (**Article 200**).
 2. Recommendation for **imposition of President's rule** in state.
 3. Exercising his functions as administrator of an adjoining **union territory**.
 4. In the States of Assam, Meghalaya, Tripura and Mizoram, **Governor determines the amount payable** to an **autonomous Tribal District Council**.
 5. **Seeking information from Chief Minister** with regard to administrative and legislative matters of the state.
 6. **Appointing Chief Minister when no party** has acquired clear cut majority and **dismissal** of the Council of Ministers when they lose confidence of assembly.
3. **Factors that led to politicisation of office**
 1. In our country, it has become a **tradition** that whenever there is change of guard at the centre, State **governors are removed or appointed as per the convenience of the center**.
 2. **Wide discretionary powers of governor** give him ample scope to act independently of elected state's executive. Ex. **Article 356**.
 3. It was expected that Governors would be **elderly statesmen**, however, the post has become a spoils post. Sometimes **people**

unworthy of holding such high constitutional positions getting appointed.

4. Legislature both at the Centre and state can't impeach governor, giving him absolute patronage of central executive.

4. Sarkaria Commission

1. He should be eminent in some walk of life and should be a person from outside the state.
2. He should be a detached figure and not too intimately connected with the local politics of the state.

5. Punchi Commission

1. Governors should be given a fixed tenure of five years and their removal should not be at the sweet will of Centre.
2. It is necessary to provide for impeachment of the Governor on the same lines as provided for impeachment of the President in Article 61 of the Constitution. The dignity and independence of the office warrants such a procedure.
3. The scope of discretionary powers under Article 163(2) has to be narrowly construed. This can smoothen relationship between Governor and Chief Minister.
4. It is necessary to prescribe a time limit within which the Governor should take the decision whether to grant assent or to reserve it for consideration of the President. Time limit of 6 months earlier recommended should apply here too.
5. Governor should not be burdened with positions and powers which are not envisaged by the Constitution. Ex: Making the Governor the Chancellor of the Universities. His role should be confined to the Constitutional provisions only.
6. Chief Justice K. G. Balakrishnan, in 2010, emphasised that no Governor can be removed on basis of being out of sync with policies and ideologies of the Government at centre. This decision also states that governors can be removed, but there must be compelling reasons for doing so.

6. These recommendations are still relevant

1. Governor's position is getting strongly politicized and there are questions arising on the discretion which the governor enjoys.
2. Misuse of A-356 for political purpose to dispose rival political

parties govt.

3. The present way this post is working is not in line with the tenets of the **constitution**.
4. The balance between the centre-state relationship looks is skewed especially when the **regional parties** are at the helm in the state.
5. Even the supreme court recently stated that any decision taking by the president in the removal of the governor is not against **judicial review**.

Powers and functions of Prime Minister

1. In relation to Council of Ministers

1. He **recommends persons who can be appointed as ministers by the president**. He **can ask a minister to resign** or advise the president to dismiss him in case of difference of opinion.
2. He **presides over the meeting of council of ministers** and influences its decisions.
3. He **allocates and reshuffles various portfolios** among the **ministers**.
4. He can bring about the **collapse of the council of ministers** by resigning from office.

2. In relation to the President

1. **He is the principal channel of communication** between the president and the council of ministers.
2. He **advises the president with regard to the appointment** of important officials like attorney general of India, comptroller and auditor general of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.

3. In relation to Parliament

1. The prime minister is the **leader of the Lower House**.
2. He advises the president with regard to **summoning and proroguing of the sessions** of the **Parliament**.
3. He can **recommend dissolution of the Lok Sabha** to president at any time.
4. He announces **government policies** on floor of the House.

4. Other Powers and Function

1. He is the chairman of the National Development Council, National Integration Council and Inter-State Council.
2. He plays a significant role in shaping the foreign policy of the country.
3. He is the chief spokesman of the Union government.
4. As a leader of the nation, he meets various sections of people in different states and receives memoranda from them regarding their problems, and so on.
5. He is the crisis manager-in-chief at the political level during emergencies. He is leader of the party in power and the political head of the services.

Minimum Government, Maximum Governance

1. There are more than 50 ministries at the government of India. It has the advantage of specialisation, focus and resource channelisation but it also has the disadvantages of lack of coordination and inability to adopt an integrated approach to national priorities and problems.
2. **Case for more Ministries**
 1. Need to accommodate MPs from different regions and states to give sense of inclusivity. Coalition compulsions.
 2. Caste and religion representation also play an important role in India.
 3. Some vulnerable sections of society need extra and dedicated attention of government. Ex. Women, Child, Minority, Tribes etc.
 4. Dedicated attention required to a particular sector which requires utmost importance. Ex Ministry of Skill.
 5. For better work distribution and increased efficiency of the government.
 6. With new advancements new sectors are emerging. Ex: Artificial intelligence may require a separate ministry to deal with.
3. **Case for less Ministries**
 1. **Coordination:** For example, different aspects of transport are dealt by different Ministries like Railways, Civil aviation, Shipping, etc. It has been fragmented into multiple disciplines making the necessary integrated approach to this important sector difficult. Similarly initiatives like 'Housing for All' often require

approvals from Ministries of Defence, Environment and Forests, Civil Aviation etc.

2. **Less government:** It **reduces complexity in government functions** and fast forwards the policy implementation.
 3. **Reduced red-tape:** **Multiple approvals** required for any project falling under more than one ministry.
 4. **Reduce expenditure:** To sustain a full ministry is a **costly matter**, so by reducing we can use **resources efficiently**.
 5. **Federalism:** On many regards there is demand for more **decentralisation**, so fewer ministries will help to achieve it.
 6. **Reduce clashes:** At political level, more ministries become cause for **political tussle** especially in coalition government, so merger will reduce such confusion and challenges.
4. **What needs to be done**
1. It would also be **unrealistic to expect curtailment** in the size of the Council of Ministers in a **multiparty democracy**. Instead, a more pragmatic approach would be to increase the level of **coordination** by providing for a **senior cabinet minister to head each of the 20-25 closely related departments**.
 2. In order to ensure better implementation of policies and coordination, we should **merge similar and complementary ministries** into one. This will allow policymakers to frame holistic and comprehensive policies on the one hand and ensure smooth implementation on the other.
 1. Currently, three ministries in the **energy sector**—**power, petroleum and natural gas, and renewable energy** can be fused into a single ministry. The recent problem of power plants being built without proper coal supplies could have been avoided if the policy had been handled by one minister.
 2. Similarly **integrate the aviation, railways, roads, and shipping ministries** so that the country gets an integrated transport strategy rather than the current mess.
 3. Can bring **pharmaceutical department** and **Ayush Ministry** under the health ministry.
 3. **Several ministries**, which are irrelevant now, **can safely be shut down** while some of their tasks can be handed over to independent

regulators.

4. Set up **technocratic missions** that **have very specific projects** which can be best dealt through commissions. Ex. The mission for cleaning the Ganga, building new cities, **setting up high-speed rail links**.
5. The **office of cabinet secretary** should be used with greater efficiency.
6. **Privatisation** and **disinvestments** of loss making public sector enterprises is also **useful in restricting the number of ministries** and departments in post liberation period. This will enable government of the day to **streamline ministries** and departments and retaining only those which have direct relevance for **core governance** functions.
5. Creation of umbrella ministries like **Jal Shakti** and **housing and urban affairs ministry** by the government is a good step in the right direction.

Sedition

1. The **section 124A of IPC covers sedition charges**. An act of Sedition is committed **when a person's speech, language, written words** attracts the group of people to **rebel against authority of state** or create incitement to public disorder or violence. When a person is charged under this, the **offence is punishable with imprisonment for life**.
2. **Supreme court interpretation**
 1. In **Kedar Nath Singh case (1962)**, supreme court made it clear that allegedly **sedition speech and expression** may be **punished only if speech is an incitement to violence or public disorder**. It also upheld section 124A and held that it struck a correct balance between fundamental rights and the need for public order. In further cases, Supreme Court stated that only speech that amounts to **“incitement to imminent lawless action”** can be **criminalised**.
 2. **Balwant Singh vs State of Punjab**, Supreme Court **overturned the convictions for sedition** (124A IPC) and promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc
3. **Arguments for the law**

1. **To check and balance the public disorder** created by different ideologies and hatred remarks.
 2. **Protects** the integrity of the nation by curbing insurgency.
4. **Arguments against the law**
1. Figures of the National Crime Records Bureau (NCRB) reveal that in the two years, **there were a total of 77 sedition cases**, of which **only one is sustained**.
 2. There is **lot of scope for subjective interpretation** of the act. It has not been properly interpreted and has been cause of contention. For example, charging some students under this section for cheering Pakistan cricket team.
 3. The slapping of sedition charges can be considered as an **attempt to strong arm the protesters into submission**. Ex: An entire village in Kudankulam had sedition cases slapped against it for resisting a nuclear power project.
 4. We have **separate laws for those who wage war against state**, assaulting public servant, **unlawful assembly**, **rioting**, **defamation** and many more which themselves are sufficient for punishment under sedition so why have another law.
 5. The draconian nature of this law which includes **non-bailable**, **non-cognisable** and punishment that can extend for life has a **strong deterrent effect on free speech**.
 6. Sedition is 19th century law brought in to **curb nationalist activities against British**, since then it has been repealed in most of the countries including **Britain itself 5 decades back**.
5. **Way forward**
1. **Criticism against the Government** is different from questioning the authority of the state.
 2. **Rather than repealing Section 124-A**, there should be some changes made to it. Reduce the quantum of punishments which currently includes life imprisonment. This has chilling effect on freedom of speech and expression.
 3. **Forming a committee involving Government** and renowned civil society members while deciding cases under section 124 A.
 4. **To limit the discretionary power** as much as possible through better and comprehensive drafting of guidelines.

National registry of citizens (NRC)

1. **NRC** is a register containing **names of all genuine Indians residing in Assam**. It was prepared in **1951** and is being updated to **weed out illegal immigrants** from Bangladesh and other neighbouring countries.
2. **Controversies**
 1. Adding a person to NRC is a **laborious and complex procedure** because of presenting many documents and layers of verification.
 2. **Family tree verification has become difficult process for left out children**.
 3. **More than 40 lakh people are excluded** from Draft NRC published in July, 2018.
 4. **Failed to ensure legal clarity** over the manner in which the claims of citizenship could be decided.
 5. Role of **Supreme Court in monitoring process complicates** the situation.
 6. Given the size of **India's population**, implementation of the NRC will be a mammoth task and demands a detailed analysis.
 7. **Assam has a peculiar problem** of villages getting ravaged, or disappearing, due to **annual floods** unleashed by the fiery Brahmaputra. Documents get destroyed, geographies shift, addresses change.
 8. **Widespread perception** that **specifically linguistic and religious minorities** are being targeted – namely, Bengali speaking Muslims and Hindus.
3. **Benefits**
 1. **Detection of illegal immigrants**, inclusion will be a shield against harassment and a ticket to enjoying all the constitutional rights and safeguards and the benefits of government schemes.
 2. To **safeguard** the indigenous population and civilization.
 3. **Illegal activities like terrorism**, human trafficking, drug trafficking can be checked.
 4. To **safeguard voting rights** and properties such as land and house.
4. It is important and essential for the union government to **proactively come out with an equitable, predictable and transparent plan** on the way forward, for those who will be identified as '**foreigners**'. The left out

from the NRC must be handled carefully on humanitarian basis.