

Important Short Questions and Answers - Topics

1. Pardoning power of President:****

According to the Indian Constitution, the President of India possesses the power to grant pardons, reprieves, respites, or remissions of punishment to individuals who have been convicted of offenses. This power is derived from Article 72 of the Constitution. The President's pardoning power extends to all offenses under the central government's jurisdiction, including those tried under military or naval law. However, it does not extend to offenses tried under state laws or by courts-martial.

2. Anti-Defection Law:****

The Anti-Defection Law, also known as the Tenth Schedule of the Indian Constitution, was introduced to curb political defections by elected representatives. This law disqualifies members of Parliament or state legislatures if they voluntarily give up the membership of the political party they were affiliated with at the time of their election or if they vote or act against the party's direction. The law aims to maintain stability and integrity in the political system by discouraging defections.

3. 44th Amendment, 1978:****

The 44th Amendment to the Indian Constitution was passed in 1978 and introduced significant changes to various aspects of the Constitution. It sought to restore certain democratic rights that were curtailed during the Emergency period and reinforced the supremacy of fundamental rights. The amendment restricted the power of the government to impose a state of Emergency and strengthened the protection of personal liberty and freedom of expression.

4. Financial Emergency:****

Financial Emergency, as provided in Article 360 of the Indian Constitution, empowers the President to declare a state of financial emergency if the financial stability or credit of the country is threatened. It grants the central government extraordinary powers to issue directions to the states regarding financial matters, including the reduction of salaries and allowances of public servants. The declaration of a financial emergency must be approved by both houses of Parliament within two months.

5. Interstate Commerce:****

Interstate commerce, as governed by the Indian Constitution, falls under the exclusive jurisdiction of the central government. Article 301 guarantees the freedom of trade, commerce, and intercourse throughout the territory of India. However, the government can impose

reasonable restrictions on these freedoms in the interest of public welfare, security, and other specified grounds.

6. Pith and Substance:****

The doctrine of "pith and substance" is a principle used to determine the legislative competence of a particular law in India. It ensures that the legislation's true nature and purpose are not defeated by its incidental effects. If a law primarily falls within the jurisdiction of one legislative body but incidentally affects the jurisdiction of another, the law will be deemed valid as long as its main purpose aligns with the legislative competence of the body enacting it.

7. Financial Relations:****

The Indian Constitution delineates the financial relations between the central government and the states. It provides for the distribution of financial resources through various mechanisms such as taxes, grants, and other revenue-sharing arrangements. Articles 268 to 293 deal with these financial relations and establish the powers and responsibilities of both the central and state governments in matters of taxation, revenue sharing, and financial administration.

8. Public Service Commission:****

Under Article 315 of the Indian Constitution, each state and the central government have their own Public Service Commission (PSC). The PSCs are responsible for conducting examinations, making appointments, and advising the government on matters related to the recruitment and conditions of service for civil servants. They ensure transparency, fairness, and meritocracy in the selection process, promoting the efficient functioning of the public administration.

9. Sarkaria Commission:****

The Sarkaria Commission, officially known as the Commission on Centre-State Relations, was established in 1983 to examine and suggest improvements to the relationship between the central government and the state governments in India. The Commission made recommendations on various issues, including the appointment of governors, intergovernmental relations, emergency provisions, and center-state financial relations. Its recommendations have served as valuable guidance for maintaining a cooperative and balanced federal structure in India.

10. Independence of Judiciary:****

The Indian Constitution guarantees the independence of the judiciary as a fundamental principle. The judiciary is separate from the executive and legislative branches and has the power of judicial review to ensure the Constitution's supremacy and protect citizens' rights. The appointment and removal process of judges, security of tenure, and financial autonomy are

some of the mechanisms in place to safeguard the independence of the judiciary and ensure its impartiality in delivering justice.

11. Doctrine of Colorable Legislation:***

The Doctrine of Colorable Legislation is an important principle in Indian constitutional law. According to this doctrine, if a legislature passes a law that appears to be within its jurisdiction but is actually intended to encroach upon the powers of another legislature, it is considered colorable legislation and therefore invalid. This doctrine is based on the principle that the legislature cannot disguise its true intent by passing a law that seems legitimate on the surface but is, in fact, aimed at trespassing into the domain of another legislative body.

12. Doctrine of Eclipse:***

The Doctrine of Eclipse is another key principle in Indian constitutional law. According to this doctrine, if a pre-constitutional law or provision is inconsistent with a provision of the Constitution, it does not become void or inoperative. Instead, it is said to be "eclipsed" by the Constitution. This means that the pre-constitutional law or provision remains in force, but its operation is temporarily suspended as long as it is in conflict with the constitutional provision. However, once the constitutional inconsistency is removed, the pre-constitutional law or provision reemerges and becomes fully operative again.

13. Ordinance making power of Governor:***

The Governor of a state in India possesses the power to issue ordinances under certain circumstances. The Ordinance making power of the Governor is derived from Article 213 of the Indian Constitution. This power allows the Governor to promulgate ordinances, which are temporary laws, when the state legislative assembly is not in session. Ordinances can only be issued when the Governor is satisfied that there are circumstances that require immediate action and it is not feasible to wait for the assembly to convene.

14. Cooperative Federalism:***

Cooperative federalism is a constitutional principle that emphasizes the cooperation and collaboration between the central government and the state governments in India. It recognizes that both levels of government have distinct powers and functions, but they should work together for the benefit of the nation and its citizens. Cooperative federalism promotes coordination, consultation, and sharing of resources and responsibilities between the Union and the states. It ensures that decisions are made through a process of consensus-building and mutual understanding, rather than through confrontation or domination. This principle is vital for maintaining a harmonious and effective functioning of the federal structure in India.

15. Basic Structure:***

The concept of Basic Structure is a fundamental principle in Indian constitutional law, derived from judicial interpretation. It holds that certain essential features of the Constitution cannot be amended by the Parliament, even if it possesses the power to amend other provisions. These essential features, collectively referred to as the "Basic Structure," form the bedrock of the Constitution and provide the framework for the governance of the country. The Supreme Court of India has the authority to determine what constitutes the Basic Structure and has identified principles such as democracy, secularism, judicial review, and federalism as part of the Basic Structure. Any constitutional amendment that violates the Basic Structure can be struck down as unconstitutional by the courts.

16. State Legislative Council:***

The State Legislative Council, also known as the Upper House, is one of the two chambers of the state legislature in certain states of India. The other chamber is the State Legislative Assembly, which is the Lower House. The Legislative Council is a unique feature of the federal system in India and is not present in all states. Its composition and functions vary from state to state. The members of the Legislative Council are partly elected by the members of the Legislative Assembly and partly nominated by the Governor. The Legislative Council provides a platform for the representation of various sections of society and serves as a revising chamber for legislation passed by the Legislative Assembly. It plays a crucial role in ensuring checks and balances within the state legislature.

17. Principle of Collective Responsibility:***

The Principle of Collective Responsibility is a fundamental principle in the parliamentary system of government in India. According to this principle, the Council of Ministers, including the Prime Minister at the central level and Chief Ministers at the state level, is collectively responsible to the legislature for its actions and policies. This means that all members of the Council of Ministers must support the decisions taken by the government and act in a unified manner. If a vote of no confidence is passed against the government in the legislature, the entire Council of Ministers is expected to resign. The Principle of Collective Responsibility ensures accountability and the stability of the government by maintaining the unity of the executive branch.

18. Court of Record:***

A Court of Record is a court that has the power to keep a permanent record of its proceedings and decisions. In India, the Supreme Court and High Courts are recognized as Courts of Record. Being a Court of Record means that the judgments, orders, and proceedings of these courts are preserved and can be used as evidence in subsequent legal proceedings. It also grants these courts the authority to punish for contempt of court and to maintain their own records independently. The status of a Court of Record enhances the prestige and authority of these higher courts and contributes to the integrity and transparency of the judicial system.

19. Judicial Accountability:***

Judicial Accountability is a vital aspect of the Indian legal system, ensuring that judges are answerable for their actions and decisions. While judicial independence is crucial, it is also necessary to maintain a system of checks and balances to prevent any abuse of power. Judicial accountability is achieved through various mechanisms, including the process of appointment and removal of judges, the existence of disciplinary bodies, and the requirement of reasoned judgments. These mechanisms aim to uphold the integrity and impartiality of the judiciary while allowing for appropriate scrutiny and corrective action when necessary.

20. All India Services:***

All India Services are a specialized cadre of civil servants in India who serve both the central government and the state governments. The three All India Services are the Indian Administrative Service (IAS), Indian Police Service (IPS), and Indian Forest Service (IFS). These services are created by the Union government and provide a common pool of highly skilled and experienced officers who can be appointed to various posts at both the central and state levels. The members of All India Services undergo a rigorous selection process and receive training at the central level. The objective of these services is to promote efficiency, professionalism, and uniformity in the administration of the country by ensuring a competent and impartial bureaucracy.

21. Promissory Estoppel:***

Promissory estoppel is a legal principle recognized under Indian constitutional law. It is a doctrine that prevents a person from going back on their promise if the other party has relied on that promise to their detriment. The principle is based on the concept of fairness and preventing injustice. Under Indian law, promissory estoppel is seen as a principle of equity and is applied in situations where it would be unconscionable for a party to go back on their promise.

22. Constitution of legislature in States:***

The Indian Constitution provides for the establishment of legislatures in the states. Each state has its own legislative assembly, also known as Vidhan Sabha, which is responsible for making laws for that particular state. The composition and powers of the state legislature are defined in the Constitution.

The state legislature consists of elected members who represent the various constituencies within the state. The number of seats in the legislative assembly is determined based on the population of the state. The Constitution also provides for reservation of seats for Scheduled Castes and Scheduled Tribes.

The state legislature has the power to make laws on subjects mentioned in the State List of the Seventh Schedule of the Constitution. It also has the authority to pass resolutions, debate

matters of public importance, and control the state government through discussions, questions, and motions.

23. Legislative Powers of the President:***

The President of India, as the head of state, possesses certain legislative powers under the Indian Constitution. These powers are primarily exercised in conjunction with the Parliament of India. The President has a role in the legislative process, which includes the power to initiate legislation, give assent to bills passed by Parliament, and promulgate ordinances.

The President can address both Houses of Parliament and can summon or prorogue them. The President also has the authority to dissolve the Lok Sabha (Lower House) in certain circumstances. The President's assent is required for a bill to become law. However, if the President withholds assent, the bill can be reconsidered by Parliament.

Additionally, the President has the power to promulgate ordinances when Parliament is not in session, subject to certain conditions. These ordinances have the force of law and must be laid before Parliament for approval.

24. Appointment of Ad-Hoc Judges of the Supreme Court:***

Under the Indian Constitution, provision is made for the appointment of ad-hoc judges to the Supreme Court in certain situations. Ad-hoc judges are appointed when regular judges of the Supreme Court are unavailable or when there is a need to temporarily increase the number of judges to expedite the disposal of cases.

The Chief Justice of India, in consultation with the President, can appoint ad-hoc judges from among retired judges of the Supreme Court or High Courts. These judges have the same powers and jurisdiction as regular judges and are appointed for a specific period or until a particular case or cases are disposed of.

The appointment of ad-hoc judges helps in ensuring the smooth functioning of the Supreme Court and reduces the burden of pending cases. It provides a mechanism to address temporary vacancies or a surge in the number of cases requiring immediate attention.

25. Power to Punish for Contempt of Court:***

The Indian Constitution grants the judiciary the power to punish for contempt of court, which ensures the dignity, authority, and effectiveness of the judiciary. Contempt of court refers to any act or behavior that disrespects or obstructs the functioning of the court or undermines the administration of justice.

Contempt of court can be of two types: civil contempt and criminal contempt. Civil contempt involves willful disobedience of court orders, while criminal contempt includes actions that scandalize or interfere with the administration of justice.

The power to punish for contempt of court is vested in the Supreme Court and High Courts. They have the authority to initiate contempt proceedings, conduct hearings, and impose appropriate punishments, which may include imprisonment or fines. However, these powers are subject to certain constitutional safeguards to prevent any misuse or abuse.

The power to punish for contempt of court helps maintain the integrity and independence of the judiciary, ensuring that it can perform its functions without fear or interference.

26. Theory of Territorial Nexus:***

The theory of territorial nexus is a legal principle used to determine the territorial jurisdiction of a particular law or authority. Under the Indian Constitution, laws enacted by Parliament or state legislatures are generally applicable within their respective territories. The theory of territorial nexus establishes a connection between the subject matter of the law and the territory in which it applies.

According to this theory, a law can be applied within a particular territory if there is a reasonable and logical connection between the subject matter of the law and the people or activities within that territory. The law must have a direct or substantial effect on the territory or its inhabitants for it to be applicable.

The theory of territorial nexus helps define the boundaries within which laws can operate and ensures that laws are not applied arbitrarily. It provides a framework for determining the jurisdiction of legislative bodies and helps prevent conflicts or overlapping of laws between different territories.

27. Subordinate Legislation:***

Subordinate legislation, also known as delegated legislation, refers to laws or regulations made by authorities subordinate to the legislature, under the powers conferred upon them by the legislature. In India, subordinate legislation plays a crucial role in implementing and supplementing the provisions of primary legislation passed by Parliament or state legislatures.

The Indian Constitution provides for the delegation of legislative powers to executive authorities, such as the President, Governors, and Central or State Governments. These authorities can make rules, regulations, or by-laws within the scope of the powers granted to them by the legislature.

Subordinate legislation is subject to certain safeguards to ensure its validity and prevent misuse. It must be consistent with the provisions of the Constitution and the parent legislation. It is also

subject to judicial review, and if found to be ultra vires (beyond the authority), it can be struck down by the courts.

Subordinate legislation allows for flexibility and enables the government to address specific situations, technical details, and changing circumstances without requiring the enactment of a new law. However, it is important to ensure that such legislation remains within the limits prescribed by the Constitution and does not unduly infringe on individual rights.

28. Liability of the State in Contract:***

Under the Indian Constitution, the liability of the State in contracts is governed by the doctrine of sovereign immunity. The doctrine provides that the State, as a legal entity, cannot be sued or held liable for its contractual obligations without its consent.

However, Article 300 of the Constitution waives the sovereign immunity of the State and allows individuals to sue the State for breach of contract. This means that if the State enters into a contract and fails to fulfill its obligations, the aggrieved party can approach the appropriate court for seeking redress and claiming damages.

The liability of the State in contract is subject to certain limitations and conditions. For instance, there may be specific procedures or time limits for initiating legal action against the State. Additionally, the State may have the power to claim immunity in certain situations, such as cases involving governmental or policy decisions.

The doctrine of sovereign immunity strikes a balance between protecting the State's interests and providing recourse to individuals in case of contractual disputes with the State.

29. Ordinance:***

In the Indian constitutional framework, an ordinance is a temporary law or legislative measure that can be promulgated by the President of India or the Governor of a state in exceptional circumstances when the legislature is not in session. It is an extraordinary power provided to the executive to address urgent and emergent situations.

The power to promulgate ordinances is derived from Article 123 of the Indian Constitution at

the central level and Article 213 at the state level. An ordinance has the same legal force and effect as an act of the legislature but is temporary in nature. It must be presented before the respective legislature and can be modified, replaced, or repealed by subsequent legislation.

The Constitution sets certain limitations on the ordinance-making power to prevent its misuse. An ordinance can only be issued when both Houses of Parliament or the state legislature are not in session, and the President or Governor is satisfied that immediate action is necessary.

The ordinance must be laid before the legislature and ceases to operate if it is not approved within a specified period.

The ordinance-making power provides flexibility to the executive branch to respond promptly to pressing issues. However, it is expected to be used sparingly and in situations requiring immediate attention.

30. Doctrine of Pleasure:***

The doctrine of pleasure is a constitutional principle that governs the tenure and removal of certain constitutional functionaries in India, such as the President, Governor, and other officials appointed by the President or Governor. According to this doctrine, these functionaries hold office during the pleasure of the President or Governor and can be removed from their positions at any time without specific grounds or reasons.

The doctrine of pleasure is based on the concept of political discretion and ensures that these functionaries can be removed if their continuance in office is not in the best interests of the government or the state. However, it does not grant absolute power to the appointing authority and is subject to constitutional limitations and safeguards.

The doctrine of pleasure is not applicable to all positions in India. It is generally limited to positions that involve policy-making, high-level decision-making, or positions of trust and confidence in the executive branch. Other positions may have specific provisions regarding their tenure and removal.

The doctrine of pleasure helps maintain the flexibility and efficiency of the executive branch by allowing the government to make changes in personnel when necessary. However, it is important to strike a balance between executive discretion and ensuring accountability and fairness in the exercise of such powers.

31. Size of the Ministry:***

According to the Indian Constitution, the size of the Ministry refers to the number of ministers that can be appointed by the President to assist and advise the President in the exercise of their functions. Article 74(1) of the Constitution states that there shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President. The size of the Ministry is not explicitly mentioned in the Constitution, but it is determined by the Prime Minister in consultation with the President.

32. Vicarious Liability:***

Vicarious liability, under the Indian Constitution, refers to the legal principle that holds a person responsible for the acts or omissions committed by another person in the course of their employment or agency. It means that an employer or a person in a position of authority can be

held liable for the wrongful actions or negligence of their employees or subordinates. This principle is important in cases where harm or damage is caused by an employee while carrying out their duties.

33. Transfer of Judges:**

In the Indian Constitution, the transfer of judges refers to the process of moving a judge from one High Court to another High Court or from a High Court to the Supreme Court. Article 222 of the Constitution empowers the President, after consulting with the Chief Justice of India, to transfer a judge from one High Court to another if it is deemed necessary in the public interest. The transfer of judges is intended to ensure the efficient functioning of the judiciary and the equitable distribution of judicial resources.

34. Residuary Powers:**

Residuary powers, as per the Indian Constitution, are the powers that are not specifically assigned to either the Union government or the State governments. Under the Constitution, certain subjects are enumerated in the Union List, State List, and Concurrent List, which outline the areas of legislative jurisdiction between the Union and the States. Any power that is not mentioned in these lists is considered a residuary power and falls within the exclusive jurisdiction of the Union government. The residuary powers provide flexibility and allow the Union government to legislate on matters that are not covered by the specific lists.

35. Doctrine of Repugnancy:**

The doctrine of repugnancy in Indian constitutional law deals with situations where there is a conflict or inconsistency between a law enacted by the Parliament (Union legislation) and a law enacted by the State Legislature. Article 254 of the Constitution provides guidelines for resolving such conflicts. If a State law is inconsistent with a Union law on a subject in the Concurrent List or if it directly contradicts a Union law on a subject in the Union List, the Union law prevails and the State law becomes void to the extent of the repugnancy. However, if a State law has received the President's assent, it can prevail in that particular State. The doctrine of repugnancy ensures uniformity and avoids conflicts in the legislative powers of the Union and the States.

36. Kinds of Amendment:**

The Indian Constitution provides for three kinds of amendments: simple majority amendments, special majority amendments, and amendments requiring ratification by the states. Simple majority amendments can be passed by a majority of the members present and voting in each House of Parliament, provided that the amendment does not affect the federal character of the Constitution or the powers of the States. Special majority amendments require the support of a majority of the total membership of each House of Parliament and a two-thirds majority of the members present and voting. These amendments can affect the federal character or the powers

of the States. Amendments that deal with subjects listed in the "States" or "Concurrent" List and require ratification by at least half of the State Legislatures fall under the category of amendments requiring state ratification. The different kinds of amendments ensure a balance between the power of the Union government and the States in amending the Constitution.

37. Collective Responsibility:**

Collective responsibility, as enshrined in the Indian Constitution, refers to the principle that the Council of Ministers, headed by the Prime Minister, is collectively responsible to the Parliament for its actions and policies. Article 75(3) states that the Council of Ministers shall be collectively responsible to the House of the People (Lok Sabha). It means that the actions of individual ministers are attributed to the entire Council of Ministers, and they are jointly accountable for the decisions taken by the government. This principle ensures unity and coherence in the functioning of the government and facilitates the smooth implementation of policies.

38. Curative Petition:**

A curative petition is a legal remedy available under Indian constitutional law to rectify an error or omission in a final judgment of the Supreme Court. It is a rare and exceptional remedy that can be sought after exhausting all other available legal remedies. The curative petition is based on the principle of natural justice and the need for fairness in the judicial process. To file a curative petition, the petitioner needs to establish that there was a violation of principles of natural justice or that the judgment suffers from a grave error that has resulted in a miscarriage of justice. The petition is heard by a bench of the senior-most judges of the Supreme Court. The concept of the curative petition was introduced by the Supreme Court through its judgments to address exceptional situations where the finality of a judgment may result in manifest injustice.

39. Act of State:**

In Indian constitutional law, an act of state refers to an action taken by the government or its authorities that is protected from judicial review. It is based on the principle of sovereign immunity, which grants certain actions of the state immunity from legal scrutiny. Acts of state are typically related to foreign affairs, defense, or matters of national security. The courts generally refrain from interfering in acts of state as they involve matters of high policy and require the expertise and discretion of the executive branch. However, it is important to note that the doctrine of act of state is not absolute, and the courts can still intervene if there is a violation of fundamental rights or a clear abuse of power. The concept of act of state ensures that the government can effectively carry out its functions without undue interference from the judiciary.

Important Essay Questions and Answers - Topics

1. Examine the scope of writ jurisdiction of the Supreme Court under the Constitution of India.****

Under the Constitution of India, the Supreme Court is granted extensive powers and jurisdiction to exercise its authority as the highest court in the country. The scope of the writ jurisdiction of the Supreme Court is primarily outlined in Articles 32 and 136 of the Constitution.

1. Article 32:

Article 32 of the Indian Constitution confers the right to constitutional remedies, empowering individuals to directly approach the Supreme Court for the enforcement of their fundamental rights. This provision grants the Supreme Court the power to issue writs for the enforcement of these rights, which include the following:

- a. Habeas Corpus:** A writ that safeguards against unlawful detention or imprisonment.
- b. Mandamus:** A writ that compels a public authority to perform its legal duty.
- c. Prohibition:** A writ that prohibits a lower court or tribunal from exceeding its jurisdiction or acting in excess of its powers.
- d. Certiorari:** A writ that orders the quashing of an order or judgment of a lower court or tribunal.
- e. Quo Warranto:** A writ that seeks to prevent a person from holding a public office to which they are not entitled.
- f. Public Interest Litigation (PIL):** The Supreme Court can also entertain PILs filed by individuals or organizations seeking relief on behalf of the public or a section of society whose rights have been violated.

2. Article 136:

Article 136 of the Constitution grants the Supreme Court discretionary power to grant special leave to appeal against any judgment, decree, determination, sentence, or order passed by any court or tribunal in India. This means that the Supreme Court can choose to hear and decide any matter, even if an appeal does not lie as a matter of right. This provision allows the Supreme Court to ensure that justice is served and to maintain consistency and uniformity in the application of laws across the country.

The writ jurisdiction of the Supreme Court is extensive and crucial in protecting and upholding the fundamental rights of individuals. It provides a constitutional remedy to citizens when their

rights are violated, and it acts as a guardian of the Constitution by ensuring that laws and actions of the government are in compliance with the constitutional framework. However, it's important to note that the Supreme Court's jurisdiction is not unlimited, and there are certain limitations and exceptions defined by the Constitution and judicial precedents.

2. Explain the scope of Doctrine of immunity of Instrumentalities. Does it apply in India?****

The Doctrine of Immunity of Instrumentalities refers to a legal principle that grants immunity or protection from legal actions to certain entities or instrumentalities of a state, usually in relation to their activities conducted on behalf of the state. The doctrine is based on the principle of sovereign immunity, which recognizes that a state cannot be sued without its consent.

The scope of the Doctrine of Immunity of Instrumentalities can vary from one jurisdiction to another. In general, it applies to entities that are considered instrumentalities of the state, such as government departments, agencies, or entities created by the state to carry out governmental functions. These instrumentalities are often granted immunity from legal actions, including lawsuits, enforcement of judgments, or other legal proceedings.

In India, the doctrine of immunity of instrumentalities is recognized and applied to a certain extent. The concept of sovereign immunity is derived from the common law principles inherited from British jurisprudence. Under Indian law, the doctrine is often invoked to protect the government and its instrumentalities from legal actions and liabilities.

However, it is important to note that the doctrine is not absolute, and there are exceptions and limitations to its application. In certain circumstances, the immunity of instrumentalities can be waived or restricted by law. For example, if an instrumentality engages in commercial activities or enters into contracts, it may be subject to certain legal obligations and liabilities. Additionally, the doctrine does not protect instrumentalities from claims based on fundamental rights violations or actions that are ultra vires (beyond their legal authority).

It is also worth mentioning that the scope and application of the doctrine can be subject to interpretation and may vary in different legal contexts. Therefore, it is advisable to consult with a qualified legal professional for specific advice and guidance on the Doctrine of Immunity of Instrumentalities in India or any other jurisdiction.

3. Comment on the scheme of distribution of legislative powers between the Centre and States?****

The distribution of legislative powers between the Centre (federal government) and the states is an essential aspect of federalism in many countries, including India. In India, the scheme of distribution of legislative powers is outlined in the Seventh Schedule of the Constitution, which divides subjects into three lists: the Union List, the State List, and the Concurrent List.

1. Union List:

The Union List consists of subjects on which only the central government can make laws. It includes matters of national importance and interest, such as defense, foreign affairs, atomic energy, banking, telecommunications, and inter-state trade. The central government has exclusive authority to legislate on these subjects throughout the country.

2. State List:

The State List contains subjects on which only the state governments can make laws. These subjects pertain to the day-to-day governance and administration of the states, such as police, public order, health, agriculture, land, and irrigation. The state governments have exclusive authority to legislate on matters in this list within their respective states.

3. Concurrent List:

The Concurrent List consists of subjects on which both the central and state governments can make laws. This list includes subjects of shared interest and responsibility, such as criminal law, marriage and divorce, bankruptcy and insolvency, education, and social welfare. Both the central and state governments have the power to legislate on matters in this list, but in case of a conflict, the central law prevails over the state law.

The scheme of distribution of legislative powers aims to strike a balance between the need for a strong central government to ensure national unity and the autonomy of states to govern matters of local importance. It allows the central government to handle national-level issues, while giving states the power to address regional and local concerns.

However, it is important to note that the distribution of legislative powers is not static and can evolve over time. The interpretation and application of these powers can be subject to judicial review, and there may be instances where disputes arise between the Centre and the states regarding the extent of their legislative authority. The judiciary plays a crucial role in resolving such disputes and interpreting the boundaries of legislative powers.

Overall, the scheme of distribution of legislative powers in India's federal system provides a framework for cooperative governance between the Centre and the states, allowing for the efficient and effective functioning of the country while accommodating regional diversity and local needs.

4. Discuss the scope of the Doctrine of basic structure formulated by the Supreme Court of India in Kesavananda Bharathi case.****

The doctrine of basic structure, formulated by the Supreme Court of India in the landmark Kesavananda Bharathi case, is a significant legal principle that establishes certain fundamental

features of the Indian Constitution that cannot be amended or abrogated by the Parliament through its amending power under Article 368.

The case of *Kesavananda Bharathi v. State of Kerala* (1973) was a landmark judgment in which the Supreme Court examined the extent of the Parliament's power to amend the Constitution. The court, in a historic decision, propounded the doctrine of basic structure to define the limits of the amending power.

According to the doctrine, there are certain core features or basic elements of the Constitution that form its basic structure. These basic features cannot be altered, destroyed, or abrogated by any constitutional amendment, including those made by the Parliament. Any amendment that violates or destroys the basic structure would be deemed unconstitutional and invalid.

The Supreme Court did not provide an exhaustive list of the basic features or elements of the Constitution that constitute the basic structure. However, through various judgments before and after *Kesavananda Bharathi*, the court has recognized certain principles as part of the basic structure. Some of these recognized elements include:

- 1. Supremacy of the Constitution:** The principle that the Constitution is supreme and any law inconsistent with it shall be void.
2. Sovereign, democratic, and republican nature of the Indian polity.
- 3. Secularism:** The principle of secularism, which prohibits the state from favoring or discriminating against any religion.
- 4. Federalism:** The division of powers between the central government and the state governments.
- 5. Separation of powers:** The separation and independence of the judiciary, legislature, and executive.
- 6. Judicial review:** The power of the judiciary to review and strike down laws inconsistent with the Constitution.
- 7. Rule of law:** The principle that the government is bound by the law and all individuals, including the government, are subject to the law.
- 8. Protection of fundamental rights:** The guarantee of fundamental rights and their enforcement.

These elements, along with others that may be identified in future judgments, are considered essential to the functioning and identity of the Indian Constitution. The doctrine of basic

structure acts as a safeguard against arbitrary changes to the Constitution and ensures the preservation of its core values and principles.

The scope of the doctrine of basic structure is broad and provides the judiciary with the power to review constitutional amendments for their conformity with the basic structure. The Supreme Court has the authority to strike down any amendment that violates the basic structure. However, it is important to note that the court has also held that not every provision of the Constitution is a basic feature, and the power of judicial review should be exercised with restraint.

Over the years, the doctrine of basic structure has been applied in various cases to determine the validity of constitutional amendments. It has played a crucial role in safeguarding the fundamental principles and values enshrined in the Indian Constitution and maintaining the balance of power between the branches of government.

It is worth mentioning that the scope and application of the doctrine have been the subject of ongoing debates and discussions. The precise contours of the basic structure doctrine continue to evolve as the Supreme Court interprets and applies it to different cases.

5. Examine the scope of legislative privileges under the constitution of India in the light of decided cases.****

Legislative privileges in India refer to the special rights and immunities granted to members of the Parliament and state legislatures to ensure their effective functioning and independence. These privileges are enshrined in the Constitution of India and are essential for the proper discharge of legislative duties. The scope of legislative privileges has been extensively examined by the judiciary through various decided cases. Let's explore the key aspects and limitations of legislative privileges in India.

1. Article 105 of the Indian Constitution:

Article 105 confers certain privileges and immunities on members of Parliament, while Article 194 grants similar privileges to members of state legislatures. These privileges include freedom of speech and expression, exemption from legal proceedings in relation to their speeches or votes, and the right to regulate their internal affairs.

2. Freedom of speech and expression:

Legislative privileges provide members of Parliament and state legislatures the freedom to express their opinions and participate in debates without fear of prosecution. However, these privileges are not absolute and are subject to reasonable restrictions imposed by the Constitution.

3. Exemption from legal proceedings:

Members of Parliament and state legislatures enjoy immunity from legal proceedings for their speeches, votes, and actions inside the legislature. This immunity is crucial for ensuring uninhibited discussions and safeguarding legislators from external pressures. However, this privilege is limited to their official duties and does not extend to criminal acts or offenses committed outside the legislative sphere.

4. Right to regulate internal affairs:

Legislative bodies have the right to regulate their internal affairs and maintain discipline among their members. This includes the power to punish members for their misconduct or breach of privilege. However, the exercise of this power is subject to judicial review to prevent abuse.

5. Judicial review of legislative privileges:

While legislative privileges are protected by the Constitution, the judiciary acts as the ultimate interpreter of these privileges. Courts have the authority to determine the scope and limits of legislative privileges and can intervene if they are misused or infringe upon fundamental rights.

6. Contempt of the legislature:

Legislative bodies have the power to punish individuals for contempt of the House. Contempt may include actions that obstruct or interfere with the functioning of the legislature, disrespecting its authority, or undermining the dignity of its members. However, this power is subject to constitutional limitations and must be exercised judiciously.

Decided cases, such as the Keshav Singh case (1965), Raja Ram Pal case (2007), and the P.V. Narasimha Rao case (1998), have played a significant role in shaping the understanding and interpretation of legislative privileges in India. These cases have established that legislative privileges are not absolute and should be exercised in accordance with constitutional principles, fundamental rights, and the principles of natural justice.

It is important to note that the scope of legislative privileges is a dynamic area of law that evolves through judicial interpretations and legislative practices. Therefore, it is crucial to refer to the latest legal developments and precedents to have a comprehensive understanding of the current scope of legislative privileges in India.

6. Discuss the scope of Judicial review under the constitution of India.****

The scope of judicial review under the Constitution of India is a significant aspect of the country's constitutional framework. Judicial review refers to the power of the judiciary to review the actions of the legislative and executive branches of the government and determine their

constitutionality. In India, the scope of judicial review is primarily outlined in Articles 13, 32, 226, and 136 of the Constitution.

1. Article 13:

This article establishes the doctrine of judicial review in India. It states that any law passed by the legislature that violates the fundamental rights guaranteed under Part III of the Constitution shall be considered void to the extent of such inconsistency. The judiciary is empowered to strike down such laws if they are found to be unconstitutional.

2. Article 32:

This article confers the right to constitutional remedies upon individuals. It empowers the Supreme Court to issue writs for the enforcement of fundamental rights. Through this provision, the Supreme Court acts as the protector and guarantor of fundamental rights and can strike down any law or government action that violates these rights.

3. Article 226:

This article empowers the High Courts to issue writs for the enforcement of fundamental rights as well as for any other purpose. The High Courts have the authority to review the decisions and actions of both the central and state governments and ensure that they are in accordance with the Constitution.

4. Article 136:

This article grants the Supreme Court discretionary power to grant special leave to appeal from any judgment, decree, determination, sentence, or order in any case or matter. This provision allows the Supreme Court to review and correct any legal error or injustice, ensuring uniformity in the interpretation and application of the law throughout the country.

Under these constitutional provisions, the scope of judicial review in India extends to various areas, including:

1. Review of legislative actions:

The judiciary can examine and strike down laws enacted by the legislature if they are inconsistent with the provisions of the Constitution, particularly the fundamental rights.

2. Protection of fundamental rights:

The courts have the authority to safeguard and enforce fundamental rights guaranteed under Part III of the Constitution, ensuring that they are not violated by any governmental action or legislation.

3. Examination of executive actions:

Judicial review extends to executive actions and decisions of both the central and state governments. The courts can review administrative actions to ensure they are lawful, fair, and in compliance with the Constitution.

4. Judicial activism:

The Indian judiciary has exhibited a proactive approach in addressing social issues and ensuring justice. It has intervened in matters involving public interest, environmental concerns, corruption, and other areas to protect the rights of citizens and uphold constitutional principles.

It's important to note that the scope of judicial review in India is not absolute. The Constitution itself provides for limitations on judicial review, such as the inclusion of certain matters that are beyond the purview of judicial review, such as parliamentary proceedings, the President's exercise of powers, and some matters related to the armed forces. Additionally, there are certain legal doctrines like the principle of separation of powers and the doctrine of legislative competence that act as checks on the scope of judicial review.

Overall, judicial review in India is a vital mechanism that ensures the supremacy of the Constitution and protects the rights and liberties of individuals. It plays a significant role in maintaining the balance of power and upholding the rule of law in the country.

7. Analyze the Constitutional provision concerning the financial relation between Center and the States.****

The financial relations between the Center (the federal government) and the States in India are governed by several provisions in the Constitution of India. The primary constitutional provisions concerning the financial relationship between the Center and the States can be found in Articles 268 to 293 in Part XI of the Constitution, titled "Relations between the Union and the States."

1. Distribution of Taxing Powers:

Article 246 of the Constitution provides for the distribution of legislative powers between the Center and the States. It specifies that the Center has the exclusive power to levy taxes on matters listed in the Union List, while the States have the exclusive power to levy taxes on matters listed in the State List. Both the Center and the States have concurrent powers to levy taxes on matters listed in the Concurrent List.

2. Division of Revenues:

Articles 268 to 281 deal with the distribution of revenues between the Center and the States. Under these provisions, certain taxes and duties are assigned exclusively to the Center (such

as customs duties, income tax, and corporation tax), while others are assigned exclusively to the States (such as taxes on agricultural income and excise duties on certain goods). Some taxes, like sales tax (now known as the Goods and Services Tax or GST), are shared between the Center and the States as per a formula prescribed by law.

3. Grants-in-Aid: Article 275 empowers the Center to provide grants-in-aid to the States, especially to the States that are in need of financial assistance. These grants can be made in the form of revenue grants or grants for specific purposes.

4. Finance Commission:

Article 280 establishes a Finance Commission, which is constituted by the President of India every five years or at such earlier intervals as necessary. The Finance Commission is responsible for recommending the distribution of tax revenues between the Center and the States, as well as among the States themselves. It also suggests principles to govern the grants-in-aid provided by the Center to the States.

5. Borrowing Powers:

Both the Center and the States have the power to borrow money. However, Article 293 imposes certain limitations on the borrowing powers of the States, requiring them to obtain the consent of the President of India for certain types of borrowings.

These constitutional provisions aim to establish a framework for financial cooperation and coordination between the Center and the States, ensuring a balanced distribution of resources and financial support to enable effective governance at both levels of government.

8. Explain the position of the Union Council of Ministers vis-à-vis the President.****

The Union Council of Ministers is a collective body of ministers who assist and advise the President of India in the governance of the country. The position of the Council of Ministers vis-à-vis the President is defined by the provisions of the Indian Constitution.

According to Article 74 of the Indian Constitution, there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his/her functions. The President is the constitutional head of the executive branch of the Indian government and exercises powers and functions as per the advice of the Council of Ministers.

The Council of Ministers is responsible for the day-to-day administration of the country and formulates policies and decisions on various matters. It consists of ministers who are appointed by the President on the advice of the Prime Minister. The President generally accepts the advice of the Prime Minister in the appointment and dismissal of ministers.

The President's role in relation to the Council of Ministers is largely ceremonial. The President appoints the Prime Minister, who is the leader of the majority party or coalition in the Lok Sabha (the lower house of Parliament). The Prime Minister, in turn, selects the other ministers to form the Council of Ministers. The President also administers the oath of office to the ministers.

While the President appoints ministers on the advice of the Prime Minister, the President does have some discretionary powers. For example, the President can appoint a person who is not a member of either house of Parliament as a minister, but that person must become a member of either house within six months of their appointment.

The Council of Ministers is collectively responsible to the Parliament, and the President acts on the advice of the Council of Ministers in most matters. However, there are certain exceptional circumstances where the President can exercise independent judgment. For instance, the President can return a proposed legislation for reconsideration, seek information from the Council of Ministers, and in some cases, exercise discretionary powers during the proclamation of emergency.

In summary, the Union Council of Ministers is a body of ministers that aids and advises the President in the exercise of his/her functions. While the President appoints ministers on the advice of the Prime Minister, the President's role is largely ceremonial, and the Council of Ministers holds the real executive power in the day-to-day administration of the country.

9. How are the Judges of the Supreme Court and High Courts appointed in India? Refer to the recent initiatives and proposed changes in this regard.****

In India, the appointment of Judges to the Supreme Court and High Courts is governed by a combination of constitutional provisions, judicial precedents, and an established collegium system.

Appointment of Supreme Court Judges:

1. Eligibility:

To be appointed as a Judge of the Supreme Court, a person must be a citizen of India and must have served as a Judge of one or more High Courts for a minimum specified period, or must have been an advocate of a High Court for a specified number of years.

2. Collegium System:

The collegium system, which consists of the Chief Justice of India (CJI) and a group of senior Judges, plays a significant role in the appointment of Supreme Court Judges. The collegium is responsible for recommending candidates for appointment to the President of India.

3. Recommendations:

The collegium discusses and considers the suitability of potential candidates for appointment. Once a unanimous decision is reached, the collegium sends its recommendations to the President. Although the President's approval is largely a formality, it is necessary for the formal appointment.

Proposed Changes and Recent Initiatives:

There have been discussions and proposals to reform the process of judicial appointments in India. Some of the notable initiatives and proposals are as follows:

1. National Judicial Appointments Commission (NJAC):

In 2014, the Parliament of India passed a constitutional amendment to establish the NJAC, which aimed to replace the collegium system. The NJAC would have consisted of the CJI, two senior Judges of the Supreme Court, the Union Minister of Law and Justice, and two eminent persons nominated by a committee. However, the Supreme Court declared the NJAC unconstitutional in 2015, stating that it encroached upon the independence of the judiciary.

2. Memorandum of Procedure (MoP):

The MoP is a document that outlines the process and guidelines for judicial appointments. In 2015, the Supreme Court struck down the National Judicial Appointments Commission Act but held that the collegium system could be improved through a transparent and objective MoP. The government and the judiciary have been engaged in discussions to finalize the MoP, addressing issues like transparency, eligibility criteria, and the selection process.

3. Transparency and Accountability:

There have been calls for increasing transparency and accountability in the appointment process. Suggestions include a more detailed and objective evaluation of candidates, a mechanism for receiving public feedback, and the establishment of an independent body for overseeing judicial appointments.

10. Explain the Tortious Liability of the state with the help of landmark decisions.****

Tortious liability of the state refers to the legal responsibility of the government or state entities for any wrongful acts or omissions that result in harm or damage to individuals or their property. It holds the state accountable for its actions and allows affected individuals to seek compensation for the losses suffered. Landmark decisions have played a crucial role in shaping the principles of tortious liability of the state. Here are a few examples:

1. Rylands v. Fletcher (1868):

Although not directly related to state liability, this case established the principle of strict liability. In this case, a reservoir owned by Fletcher flooded a coal mine belonging to Rylands due to the reservoir's defective construction. The court held that even though there was no negligence involved, Fletcher was still liable for the damages caused. This case laid the foundation for the concept that a person or entity can be held liable for harm caused by a non-natural use of their property, even without negligence.

2. The Case of the Western Isles (1953):

In this case, a military aircraft crashed into a hill on the Isle of Islay, causing the death of several people. The court held that the Ministry of Defense was liable for the damages, stating that the military activities were a "non-natural use of land" and fell within the scope of Rylands v. Fletcher. This case expanded the application of strict liability to state entities engaged in non-natural activities.

3. Anns v. Merton London Borough Council (1978):

This case marked a significant development in the UK's tortious liability of the state. The House of Lords established a two-stage test to determine if a duty of care exists: (1) foreseeability of harm, and (2) proximity or relationship between the parties. It broadened the scope of state liability by recognizing that public authorities could owe a duty of care to individuals.

4. X (Minors) v. Bedfordshire County Council (1995):

In this case, the House of Lords clarified the limits of the duty of care owed by local authorities in child protection cases. The court held that the local authority had a duty to take reasonable steps to protect children in their care from foreseeable harm. This decision emphasized the importance of protecting vulnerable individuals and expanded the liability of state entities in the context of child welfare.

These landmark decisions, along with subsequent case law and legislation, have shaped the principles of tortious liability of the state. They have established the duty of care owed by the state, expanded the application of strict liability, and recognized the rights of individuals to seek compensation for harm caused by the government or state entities. It is important to note that the specifics of state liability can vary across jurisdictions, as legal systems differ in their approach to this area of law.

11. Explain the Doctrine of Pleasure. What are the constitutional safeguards against its misuse?***

The Doctrine of Pleasure is a principle derived from common law and constitutional conventions, particularly in countries following the Westminster system of government, such as

the United Kingdom and India. It refers to the power vested in the executive or head of state to dismiss or terminate the services of certain public officials, primarily those holding political or discretionary positions, at their discretion or pleasure.

Under this doctrine, individuals serving in certain positions, such as ministers, civil servants, and other public office holders, hold their positions at the pleasure of the executive or the head of state. This means that they can be removed from office without any specific cause or reason, as long as it is done in accordance with the applicable laws and procedures.

However, to prevent the arbitrary exercise of this power and to safeguard against its potential misuse, there are several constitutional safeguards in place. These safeguards may vary depending on the specific legal framework of each country, but here are some common examples:

1. Constitutional Limitations:

The power to dismiss public officials at pleasure is generally subject to constitutional limitations. The constitution may specify certain offices or positions that are excluded from the doctrine, such as judges or independent constitutional authorities, to ensure their independence and impartiality.

2. Procedural Safeguards:

The exercise of the power of pleasure often requires adherence to procedural safeguards. This may include providing the individual with an opportunity to be heard, following principles of natural justice, or complying with specific termination procedures as prescribed by law.

3. Judicial Review:

The courts play a crucial role in ensuring the legality and constitutionality of executive actions, including the exercise of the power of pleasure. If an individual believes that their dismissal was arbitrary or in violation of their constitutional rights, they can seek judicial review to challenge the decision. The courts can review the decision and strike it down if it is found to be arbitrary, mala fide (in bad faith), or in violation of constitutional provisions.

4. Legislative Oversight:

The legislature often exercises oversight over executive actions, including dismissals made under the power of pleasure. Parliamentary committees may be responsible for scrutinizing the exercise of this power, holding the executive accountable, and ensuring that it is not misused.

5. Public Accountability:

In a democratic system, public opinion and media scrutiny play a significant role in holding the

executive accountable. The transparency and public visibility of the exercise of the power of pleasure can deter its arbitrary use.

It is important to note that the specific constitutional safeguards against the misuse of the Doctrine of Pleasure can vary from country to country. The above examples are general principles aimed at ensuring the rule of law, protecting individuals from arbitrary actions, and maintaining the balance of power within the government.

12. Give a detailed note on Parliamentary privileges under the Indian Constitution.***

Parliamentary privileges refer to a set of special rights and immunities enjoyed by members of parliament (MPs) to ensure the functioning and independence of the legislative body. In India, these privileges are enshrined in Article 105 of the Constitution and are essential for the effective discharge of parliamentary duties. Let's delve into the details of parliamentary privileges under the Indian Constitution:

1. Freedom of speech:

Members of Parliament have the freedom of speech and expression within the Parliament. They can freely express their opinions, participate in debates, criticize the government, and present the views of their constituents without fear of legal repercussions.

2. Immunity from legal proceedings:

MPs enjoy immunity from civil and criminal proceedings for any statements made or actions taken in the Parliament or its committees. This privilege aims to protect MPs from external pressures and ensure open and frank discussions in the legislative process.

3. Exemption from attendance as witnesses:

Members of Parliament cannot be compelled to appear as witnesses in courts or tribunals for any information or opinions expressed in the Parliament. This privilege safeguards the MPs' availability for parliamentary work and prevents interference with their duties.

4. Exemption from arrest:

MPs are protected from arrest in civil cases during their attendance in Parliament or while going to or returning from parliamentary sessions. However, this immunity does not extend to criminal offenses, and if an MP is found to have committed a criminal act, they can be arrested and prosecuted.

5. Right to regulate internal affairs:

Parliament has the authority to regulate its own internal affairs and maintain discipline among its

members. It can punish its members for misconduct, breach of privilege, or contempt of the House through measures like reprimand, suspension, or expulsion.

6. Control over publication:

Parliament exercises control over the publication of its debates and proceedings. No person can publish or report debates or proceedings of the Parliament without its authorization. This privilege ensures the accuracy and authenticity of parliamentary proceedings.

7. Access to information:

MPs have the right to seek information from the government and its departments. They can ask questions, seek clarifications, and request documents related to public affairs, policies, and legislation. This privilege helps MPs in holding the government accountable and ensures transparency in governance.

8. Privileges of members' residences:

MPs are entitled to certain residential privileges, including freedom from arrest in civil cases and immunity from process of courts regarding their official residences. These privileges aim to secure the MPs' independence and enable them to discharge their legislative responsibilities effectively.

It is important to note that parliamentary privileges are not absolute and are subject to certain limitations. They must be exercised responsibly, and any abuse or misuse of these privileges can be challenged and reviewed by the judiciary. The objective behind granting parliamentary privileges is to foster a conducive environment for free and fearless deliberations within the legislature, ensuring that the voice of the people is adequately represented and protected.

13. Explain the powers of the Indian President.***

The President of India is the head of state and the first citizen of the country. The powers and functions of the Indian President are defined by the Constitution of India. Here are the key powers and responsibilities of the Indian President:

1. Executive Powers:

The President is the nominal head of the executive branch of the Indian government and exercises various executive powers, including:

a. Appointment of the Prime Minister: After a general election, the President appoints the leader of the majority party or coalition as the Prime Minister.

b. Appointment of Ministers: The President appoints the Council of Ministers on the advice of the Prime Minister.

c. Removal of Ministers: The President can remove a Minister on the advice of the Prime Minister.

d. Summoning and Proroguing of Parliament: The President has the power to convene and adjourn sessions of both houses of Parliament.

e. Promulgation of Ordinances: The President can issue ordinances when Parliament is not in session, provided certain conditions are met.

2. Legislative Powers:

The President has several legislative powers, including:

a. Giving Assent to Bills: The President gives assent to bills passed by Parliament, turning them into laws.

b. Withholding Assent: In certain cases, the President can withhold assent to a bill and send it back to Parliament for reconsideration.

c. Addressing Parliament: The President addresses both houses of Parliament at the beginning of each year and on other occasions.

3. Judicial Powers:

The President has limited judicial powers, which include:

a. Pardoning Powers: The President can grant pardons, reprieves, respites, or remissions of punishment to individuals convicted of certain offenses.

b. Mercy Petitions: The President considers mercy petitions from individuals who have been sentenced to death.

4. Diplomatic Powers:

The President represents India in international relations and performs various diplomatic functions, such as:

a. Receiving Foreign Ambassadors and High Commissioners: The President receives credentials from foreign diplomats and represents India in international events.

b. Ratifying International Treaties: The President ratifies and approves international treaties and agreements entered into by the Indian government.

5. Emergency Powers:

During times of emergency, the President's powers expand significantly. The President can declare three types of emergencies—national emergency, state emergency, and financial emergency—based on specific constitutional provisions.

It's important to note that while the President holds these powers, many of them are exercised on the advice of the Council of Ministers headed by the Prime Minister. The President's role is primarily ceremonial, and the real executive power is vested in the Council of Ministers.

14. Explain the powers and functions of the Governor under the Indian Constitution.**

According to the Indian Constitution, the Governor is the constitutional head of a state and represents the President of India at the state level. The powers and functions of the Governor can be broadly categorized into three main areas: executive, legislative, and discretionary powers.

1. Executive Powers:

a. Appointments: The Governor appoints the Chief Minister, who is usually the leader of the majority party in the state legislature. The Governor also appoints other important state functionaries such as judges of the high court, members of the state public service commission, and the Advocate General.

b. Council of Ministers: The Governor appoints other members of the Council of Ministers on the advice of the Chief Minister.

c. State Administration: The Governor is responsible for the state administration and exercises control over the state executive machinery.

d. Law and Order: The Governor is the head of the state police forces and can exercise control over the maintenance of law and order.

2. Legislative Powers:

a. Summoning and Proroguing the State Legislature: The Governor summons and prorogues the sessions of the state legislature. The Governor also has the power to dissolve the state legislative assembly in certain situations.

b. Addressing the State Legislature: The Governor addresses the state legislature at the beginning of each session and lays down the policy of the state government.

c. Assent to Bills: The Governor gives assent to bills passed by the state legislature and withholds assent in case there are constitutional irregularities.

d. Ordinance Making Power: The Governor can promulgate ordinances when the state legislature is not in session. However, these ordinances need to be approved by the state legislature within a specified time.

3. Discretionary Powers:

a. Dismissal of State Government: In exceptional circumstances, if the Governor is satisfied that a government cannot be carried on in accordance with the provisions of the Constitution, the Governor can dismiss the state government.

b. Reserving Bills for President's Assent: The Governor can reserve certain types of bills, such as bills affecting the relations between the state and the Union government, for the President's assent.

c. Emergency Powers: During a breakdown of constitutional machinery in the state, the Governor can take over the administration and exercise emergency powers.

It is important to note that while the Governor holds significant powers, they are expected to exercise these powers in consultation with the Council of Ministers led by the Chief Minister and act on the aid and advice of the state government in most matters. The role of the Governor is mainly ceremonial and symbolic, representing the President and maintaining the constitutional balance between the state and central governments.

15. Explain Trade, Commerce and Intercourse within the territory of India.***

Trade, commerce, and intercourse within the territory of India refer to the economic activities and interactions that take place within the geographical boundaries of the country. These terms encompass various aspects of the exchange of goods, services, and cultural interactions among individuals, businesses, and communities within India.

Trade refers to the buying and selling of goods and services, involving the exchange of commodities for monetary value. It involves the movement of goods from producers to consumers or intermediaries. Trade can be both domestic, involving transactions within the country, and international, involving transactions with foreign nations. In India, trade plays a crucial role in the country's economy, contributing to employment, revenue generation, and overall economic growth.

Commerce encompasses a broader scope than trade, as it includes not only the exchange of goods but also services, information, and ideas. It involves various activities such as transportation, warehousing, advertising, banking, insurance, and communication, which facilitate trade and enhance economic activities. Commerce encompasses both trade within the country and trade with foreign nations, covering a wide range of economic interactions.

Intercourse, in this context, refers to the social and cultural interactions that occur alongside trade and commerce. It involves the exchange of ideas, knowledge, customs, traditions, and practices among people from different regions within India. Intercourse can include the sharing of languages, arts, literature, music, dance, and religious practices, promoting cultural diversity and unity within the country.

The Constitution of India recognizes the significance of trade, commerce, and intercourse and provides guidelines and regulations to ensure their smooth functioning. It grants the Indian government the power to regulate and control trade and commerce, including inter-state and international trade, to maintain a harmonious economic environment. The government formulates policies, establishes trade agreements, enforces trade regulations, and promotes commerce and intercourse through various initiatives.

Overall, trade, commerce, and intercourse within the territory of India are vital components of the country's economic and cultural fabric. They foster economic growth, facilitate the exchange of goods and services, and promote cultural diversity and unity among the diverse communities of India.

16. Explain the powers, privileges and immunities of legislatures in India.***

In India, the powers, privileges, and immunities of legislatures are defined under Article 105 of the Constitution of India. These provisions ensure that members of the Parliament (for the central government) and the Legislative Assemblies (for the state governments) can perform their functions without any hindrance and are protected from any legal action for their speech or actions within the legislative premises. Here's a breakdown of these powers, privileges, and immunities:

1. Freedom of Speech and Debate:

Members of the legislature enjoy freedom of speech and debate during the proceedings of the House. They can express their opinions, criticize government policies, and engage in discussions without fear of legal action or being held liable for their statements. This privilege is necessary to enable members to effectively represent their constituents.

2. Freedom from Legal Proceedings:

Members of the legislature are immune from any civil or criminal proceedings for any

statements made or actions taken during the course of the legislative proceedings. This immunity protects them from being sued or prosecuted for their legislative activities.

3. Exemption from Attendance in Court:

Legislators are exempted from attending court proceedings while the legislature is in session. This provision allows them to fulfill their legislative responsibilities without being compelled to appear in court.

4. Powers to Punish for Contempt:

The legislature has the power to punish individuals for its contempt. Contempt of the legislature includes any act or omission that disrespects or obstructs the functioning of the legislature, its members, or its authority. The legislature can reprimand, fine, or even imprison individuals found guilty of contempt.

5. Authority to Regulate Internal Affairs:

The legislature has the authority to regulate its internal affairs, including matters related to its organization, conduct of proceedings, discipline of its members, and maintenance of order. This allows the legislature to function independently and efficiently.

6. Facilities and Privileges:

Members of the legislature are provided with various facilities and privileges to enable them to discharge their duties effectively. These include allowances, salaries, residential accommodations, medical facilities, travel allowances, and other perks.

It is important to note that while these powers, privileges, and immunities are essential for the functioning of a democratic legislature, they are not absolute. They are subject to certain limitations and can be regulated by law to ensure they are not misused or abused. The Speaker or Chairman of the respective legislature has the responsibility of interpreting and enforcing these powers and privileges.

17. Explain the powers, privileges and immunities of legislatures in India***

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18. Discuss the Jurisdiction of the Supreme Court of India.***

The Supreme Court of India is the highest judicial body in the country and holds significant jurisdiction over various matters. Its jurisdiction is primarily defined in the Constitution of India, and it acts as the final court of appeal in the Indian legal system. Here are some key aspects of the jurisdiction of the Supreme Court of India:

1. Constitutional Matters:

The Supreme Court has original jurisdiction in matters related to the interpretation and enforcement of the Constitution of India. It can hear disputes between the central government and one or more states, or between different states.

2. Appellate Jurisdiction:

The Supreme Court has appellate jurisdiction, which means it can hear appeals from lower courts and tribunals in both civil and criminal cases. The court can review decisions of high courts, tribunals, and other subordinate courts if a substantial question of law or a significant legal issue of general importance is involved.

3. Public Interest Litigation (PIL):

The Supreme Court has expanded its jurisdiction to include PIL, enabling any individual or organization to file a petition on behalf of those whose rights may have been violated or in the larger public interest. This allows the court to address matters of public importance and enforce fundamental rights.

4. Disputes between States:

The Supreme Court has jurisdiction over disputes arising between states in India. It acts as an arbitrator and adjudicates conflicts related to boundaries, river water sharing, or any other matter affecting the rights of states.

5. Protection of Fundamental Rights:

The Supreme Court is responsible for safeguarding fundamental rights guaranteed under the Constitution. It can entertain writ petitions, including habeas corpus, mandamus, prohibition, certiorari, and quo warranto, to ensure the protection of fundamental rights.

6. Advisory Jurisdiction:

The President of India can seek the Supreme Court's opinion on any question of law or fact that is of public importance. Although the opinion is not binding, it carries persuasive value.

7. Judicial Review:

The Supreme Court has the power of judicial review, which allows it to examine the constitutionality and legality of laws, regulations, and government actions. It can strike down any legislation or executive action found to be inconsistent with the provisions of the Constitution.

It's important to note that the jurisdiction of the Supreme Court can be modified by an amendment to the Constitution or by legislation passed by the Parliament of India, provided it does not infringe on the basic structure of the Constitution as laid down by the Supreme Court itself.

Overall, the jurisdiction of the Supreme Court of India encompasses a wide range of issues, allowing it to play a crucial role in upholding the rule of law, protecting fundamental rights, and ensuring justice in the country.

19. Explain the Constitutional Safeguard available to Civil Servants.***

Constitutional safeguards available to civil servants vary depending on the country and its specific legal framework. However, I can provide you with a general understanding of the safeguards commonly found in many democratic systems.

1. Freedom of Speech:

Civil servants often enjoy freedom of speech, which allows them to express their opinions on matters of public interest. However, this freedom may be subject to limitations to maintain the integrity and impartiality of their positions.

2. Right to Equality:

Civil servants are generally protected against discrimination based on factors such as race, religion, gender, or political affiliation. They have the right to be treated fairly and equally in matters of employment, promotions, and disciplinary actions.

3. Due Process:

Civil servants are entitled to due process, which ensures that they are treated fairly and have access to fair procedures in cases of disciplinary action, dismissal, or any other adverse action against them. This includes the right to be informed of the charges, the opportunity to present a defense, and a fair and impartial hearing.

4. Protection against Arbitrary Actions:

Civil servants are protected against arbitrary actions by their superiors or the government. They

have the right to challenge decisions or actions that are inconsistent with established rules, regulations, or procedures.

5. Whistleblower Protection:

Many countries have provisions to protect civil servants who report corruption, misconduct, or wrongdoing within their organizations. These protections often include safeguards against retaliation, such as protection against dismissal, demotion, or harassment.

6. Right to Association:

Civil servants may have the right to join professional associations or labor unions to protect their interests, negotiate employment conditions, and collectively advocate for their rights.

7. Right to Privacy:

Civil servants, like all individuals, have a right to privacy. Their personal information should be protected and should only be used for legitimate purposes related to their employment.

It is important to note that the specific constitutional safeguards available to civil servants can vary significantly from one country to another. Legal systems and national constitutions may provide additional or different protections depending on the local context and legal traditions. It is advisable to consult the relevant laws and regulations specific to your country to obtain accurate and up-to-date information on the constitutional safeguards available to civil servants in your jurisdiction.

20. Discuss the impact of national emergency with special reference to fundamental rights.***

A national emergency refers to a situation in which a country faces a grave threat or crisis, such as war, natural disaster, or public health emergency. During such emergencies, governments may invoke special powers and measures to respond effectively. However, the impact of national emergencies on fundamental rights can be a subject of concern and debate. Let's discuss this issue in more detail.

1. Suspension of Fundamental Rights:

In certain cases, a national emergency may lead to the temporary suspension or restriction of certain fundamental rights. Governments may argue that these measures are necessary to maintain public order, national security, or to address the crisis at hand. For example, during a war, governments may curtail the right to freedom of speech, assembly, or movement in the interest of national security.

2. Balancing Public Interest and Individual Rights:

During a national emergency, there is often a delicate balance between protecting the public interest and preserving individual rights. Governments must justify any restrictions imposed on fundamental rights as necessary and proportionate to the crisis. This balance can be challenging to maintain, as excessive or prolonged restrictions on fundamental rights can lead to abuses of power and erosion of democratic values.

3. Accountability and Checks on Power:

It becomes crucial to ensure that the exercise of emergency powers does not become a tool for authoritarianism or disregard for human rights. Effective accountability mechanisms, such as judicial oversight, legislative review, and independent monitoring bodies, play a vital role in safeguarding fundamental rights during emergencies. These mechanisms help prevent abuse of power and ensure that the restrictions imposed are in line with constitutional principles.

4. Impact on Vulnerable Groups:

National emergencies can disproportionately affect vulnerable groups within society. For example, marginalized communities, refugees, or migrants may face heightened discrimination or reduced access to essential services during crises. Governments should be mindful of protecting the rights of these groups and ensure that emergency measures do not exacerbate existing inequalities or violate human rights standards.

5. Duration and Exit Strategy:

It is important to define the duration of a national emergency and establish a clear exit strategy. Prolonged emergencies may raise concerns about the normalization of emergency powers, leading to a potential long-term erosion of fundamental rights. Governments should regularly reassess the situation and lift emergency measures as soon as the crisis subsides, restoring normalcy and the full exercise of fundamental rights.

6. International Human Rights Obligations:

Countries are bound by international human rights treaties and conventions, even during national emergencies. While some limitations on rights may be permissible under exceptional circumstances, they must still adhere to the core principles of human rights law. International scrutiny and accountability mechanisms can help ensure that governments uphold their human rights obligations during emergencies.

In conclusion, national emergencies can have a significant impact on fundamental rights. While certain limitations on rights may be necessary to address the crisis, it is crucial to strike a balance between protecting public interest and upholding individual rights. Governments should adopt measures with clear justification, establish accountability mechanisms, and ensure that

emergency measures do not disproportionately affect vulnerable groups. Safeguarding fundamental rights during national emergencies is essential to maintaining the principles of democracy and upholding human rights standards.

21. Explain the powers and functions of the State Executive under the Constitution of India.***

Under the Constitution of India, the State Executive refers to the executive branch of the state government. It consists of the Governor, the Chief Minister, and the Council of Ministers. The powers and functions of the State Executive are defined in the Indian Constitution and can be summarized as follows:

1. Governor:

The Governor is the head of the State Executive and represents the President of India at the state level. The powers and functions of the Governor include:

a. Executive Powers: The Governor appoints the Chief Minister, who is usually the leader of the majority party or coalition in the state legislature. The Governor also appoints other ministers on the advice of the Chief Minister.

b. Legislative Powers: The Governor summons and prorogues the sessions of the state legislature. The Governor also addresses the legislature at the beginning of each session and gives assent to bills passed by the legislature.

c. Administrative Powers: The Governor is responsible for the administration of the state. The Governor appoints various state officials, including the Advocate General, State Election Commissioner, and members of the State Public Service Commission.

d. Judicial Powers: The Governor appoints judges of the High Court and determines their conditions of service. The Governor also grants pardons, reprieves, and remissions of punishment.

2. Chief Minister:

The Chief Minister is the head of the elected government in the state. The powers and functions of the Chief Minister include:

a. Formation of the Government: The Chief Minister is appointed by the Governor and advises the Governor on the appointment of other ministers.

b. Council of Ministers: The Chief Minister presides over the meetings of the Council of Ministers and allocates portfolios to the ministers.

c. Legislative Functions: The Chief Minister leads the government in the state legislature, formulates policies, and introduces bills for consideration.

d. Administrative Functions: The Chief Minister exercises general supervision over the functioning of various departments and agencies of the state government.

3. Council of Ministers:

The Council of Ministers consists of ministers appointed by the Governor on the advice of the Chief Minister. The powers and functions of the Council of Ministers include:

a. Policy Formulation: The Council of Ministers assists the Chief Minister in formulating policies and decisions for the state government.

b. Legislative Functions: Ministers participate in the proceedings of the state legislature, present government's views, and defend government policies.

c. Administrative Functions: Ministers are responsible for the administration of specific departments and implementation of government programs.

d. Executive Functions: Ministers exercise executive powers in their respective departments and are accountable for the functioning of their departments.

Overall, the State Executive in India plays a crucial role in the governance of the state by exercising executive, legislative, administrative, and judicial powers within the framework of the Constitution.