



**Sleepy Classes IAS**  
Awakening Toppers

---

# Political Science & International Relations

## Crash Course

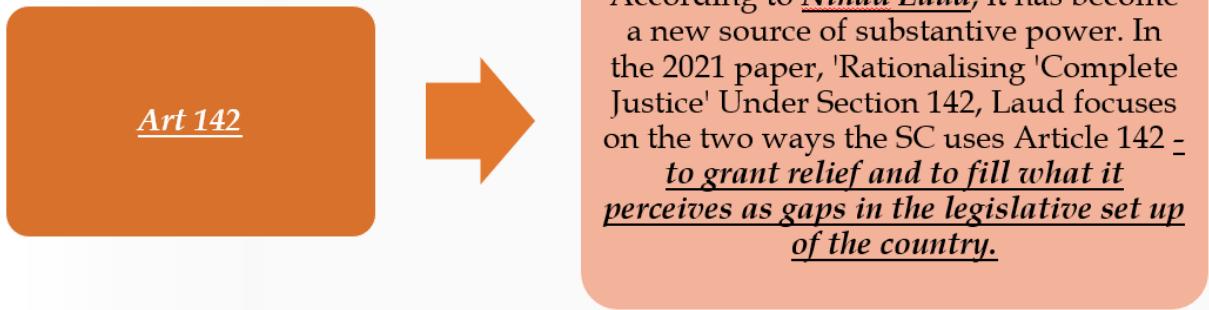
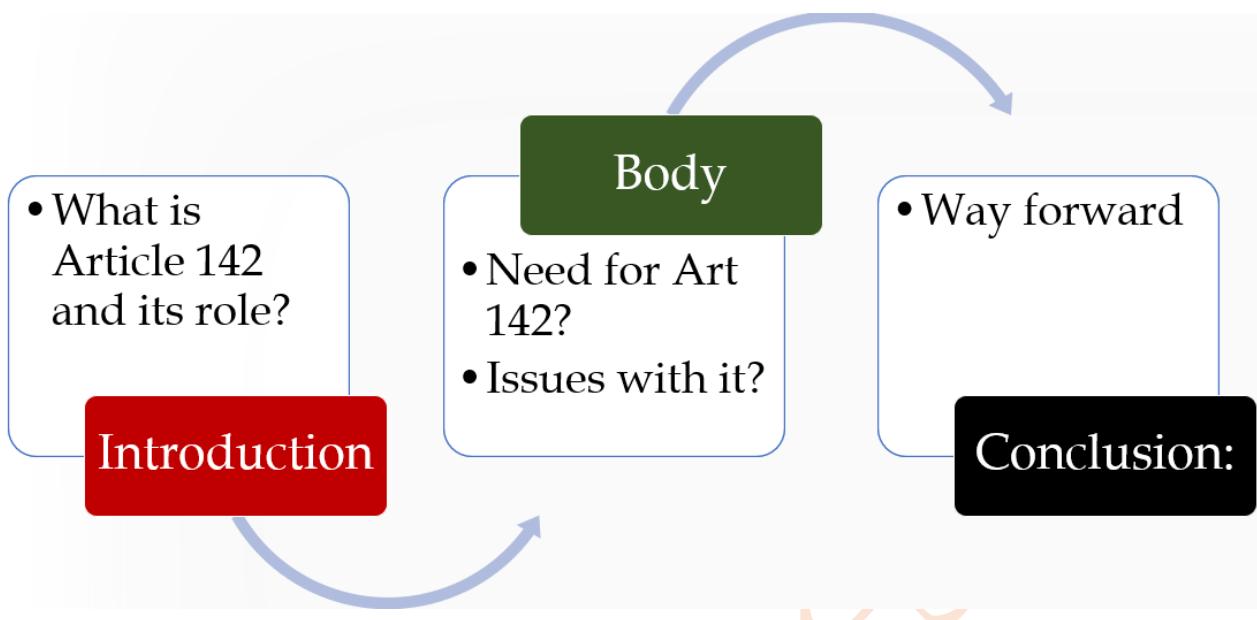
*Lecture - 6*

---

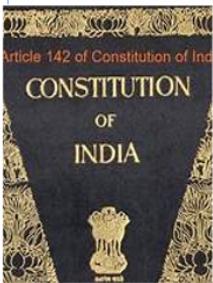


Click [here](#) to watch the following videos on the YouTube

Comment on following: Article 142



### As per Article 142(1)



- The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.
- Any decree so passed or order so made shall be enforceable throughout the territory of India.
- It may be in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

## Need for Article 142:

- Some scholars argue that by invoking Art 142 The Supreme Court has sought to correct the constitutional vacuum created by the inaction of the other branches of the government to ensure constitutional accountability of the executive. Prof Upendra Baxi labelled it as a response to the lawlessness of the state.
- Article 142 has been used to ensure implementation of fundamental rights as well as welfare of vulnerable section of population as has been done in case of ensuring degrees for students with learning disabilities, welfare of sex workers by state governments etc.
- John Rawls theory points out that rights of individuals cannot be disregarded under any circumstances. Article 142 of the Supreme Court may be regarded as a means of ensuring the same for Indian society.

## Issues around it

- Violation of the principle of Separation of power Supreme Court has been entering the areas which had long been forbidden to the judiciary by reason of the doctrine of 'separation of powers', which is part of the basic structure of the Constitution. Gautam Bhatia underlines how Article 142 has been used by Supreme Court to implement its vision of justice, without regard to issues of institutional competence and legitimacy.
- Ignoring of Fundamental rights In the coal block case without hearing allottees, the apex court imposed a huge penalty on the owner/allottees of coal blocks. It shows that while giving "complete justice", the Apex court ignored the fundamental rights of an individual.
- Vagueness: The Supreme Court tried to explain the phrase 'complete justice' but it is still blurred. The judgments passed by the Apex Court have created a lot of confusion and there is no clarity on invoking Article 142.
- Promotes Judicial Overreach VS Judicial activism In some judgments, it is mentioned that it could be used when the law of statutes is silent. However, by analysing judgments on the use of Article 142 it seems like it is used to fill the lacuna of the law. Mr. Arun Shourie has also criticised the judicial activism and termed it exhibitionist and opportunist socialism.
- Unaccountability: Unlike the executive and legislature, it cannot be held accountable for its decisions. The exercise of power, in contradiction with the existing statutory law, cannot be justified as an exercise to merely "fill the vacuum". Such exercise undermines the legitimacy of the statutory law, and questions the fairness of the proceedings itself.

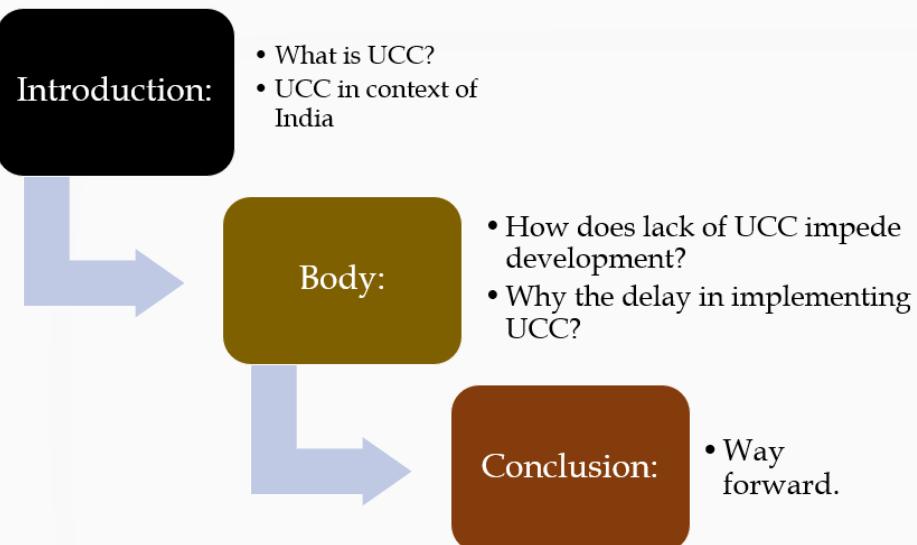


## Way forward

- K.K. Venugopal argues that the use of Article 142 as an independent source of power should be regulated by strict guidelines so that check and balance can be maintained.
- All cases invoking Article 142 should be referred to a Constitution Bench of at least five judges so that this exercise of discretion may be the outcome of five independent judicial minds operating on matters having such far-reaching impact on the lives of people.
- He further proposes that where the court invokes Article 142, the government must bring out a white paper to study the beneficial as well as the negative effects of the judgment after a period of six months or so from its date.
- Ninad laud suggests courts to provide "rational justification for its directions aimed at doing "complete justice".

Sleepy Classes

The lack of a Uniform Civil Code in India is undercutting the chances of an overall development of the Indian society. Comment [15]



- Uniform Civil Code emerged in 17th century Europe as a consequence of acceptance of the concept of 'universal citizenship' which provides that uniform law applies to all citizens regardless of religion, ethnicity and so on.
- In India, Article 44 [Part IV] of the Constitution that declares that the state shall endeavour to secure the citizens a uniform civil code. It comes under Directive Principles of State Policy. UCC simply means a common law to govern all civil relations, specifically marriage, divorce, succession, etc.

#### How it is undercutting overall development

#### Violation of constitutional morality

- Chief Justice YV Chandrachud observed that the common civil code is an instrument that facilitates national harmony and equality before the law. As there is uniformity in criminal law but when it comes to civil law that is missing which is quite perplexing, as it violates the constitutional principle of equality.
- Moreover, the lack of UCC also dents the secular credentials of our country due to which sometime communal and divisive agendas get impetus. In the Jose Paulo Coutinho judgment of the apex court found Goa a "shining example of an Indian state which has a Uniform Civil Code".



## Gender justice

- Women's rights are frequently restricted under patriarchal rhetoric by religious regulations, so lack of UCC will further patriarchal oppression and deny them the right to liberty and equality that they deserve. Issues like Parsi women property rights, mutilation among women of Bohra muslims are some issues presently with Supreme Court.

## Lack of simplification of laws

- There are numerous personal laws, such as the Sharia Law, Hindu Code Bill, and others. The existence of so many laws leads to complexity, confusion, and inconsistency in the adjudication of personal matters, which can result in delayed or no justice.

## National integration remains elusive

- The Supreme Court was critical of the government's failure to enact a UCC in 1985 (Shah Bano judgment), in 1995 (Sarla Mudgal case), and in 2003 (John Vallamattom case), because it hoped a UCC would help forge national integration.
- As the Constitution granted separate rights to minority religious communities to enable them to live with dignity, the state did not consider the adoption of a UCC absolutely essential for national integration.

### Why UCC has remained dead letter so far?

#### Fear of losing identity

- The All-India-Muslim Personal Law Board (AIMPLB) has been consistently opposing a UCC because it fears that such a code will undermine Muslim identity.
- Upendra Baxi, argues that there is not enough knowledge about the personal law of various tribal communities, and of other Indian communities and it is a sad mistake to think UCC is all about Hindu-Muslim relations and identities.

### Politics of appeasement



In Shah Bano case of 1986, the Supreme Court had upheld the right of a divorced Muslim woman for post-divorce maintenance under Section 125 of the Code of Criminal Procedure. Some adverse comments against Islam and the Prophet led to a backlash within the orthodox Muslim community and, under pressure, the then ruling Congress government enacted Muslim Women Act 1986 to exempt divorced Muslim women from the purview of the secular provision of maintenance.

### Constitutional paradox- Fundamental right VS DPSPs

- Detractors contend that it will rob the nation of its religious diversity and violate the fundamental right to practise religion enshrined in Article 25 of the Constitution. In fact, they hold that a state action to introduce the UCC is against the quintessence of democracy. The secular state is, after all, an enabler of rights rather than an inhibitor in sensitive matters of religion and personal laws.
- The Law Commission of India notes that the Constituent Assembly debates reveal a lack of consensus on what a potential uniform civil code would entail. While many thought the UCC would coexist alongside the personal law systems, others thought that it was to replace the personal law.
- The enactment of UCC may indirectly harm the essential practices doctrine of secularism by interfering with the personal laws of religions.

### Way forward

- Zoya Hassan argues that there is a need to devise secular laws and encourage people to opt for them. Such an idea was advanced as early as 1945 when it was suggested that the UCC be made optional. At the same time, it is important to look at the substantive content that UCC will contain. Often, UCC is espoused in the name of gender justice.
- Flavia Agnes argues that enforcement of a UCC cannot be viewed in a simplistic manner. The issue is far more complex and would require a detailed analysis of the gaps in the existing laws of all communities, from the perspectives of women's empowerment.

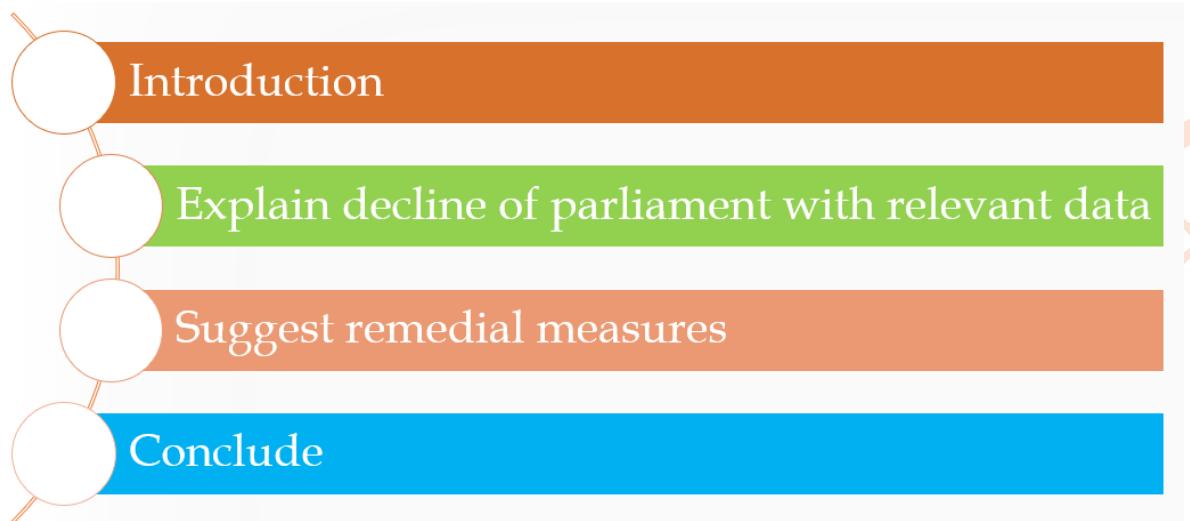


- The Supreme Court too in the Sarla Mudgal verdict state that the UCC can concretize only when social climate is properly built by the elite of the society and the statesmen.
- According to the Law Commission, the best way forward may be to preserve the diversity of personal laws but at the same time ensure that they do not contradict fundamental rights. The commission further argues that uniform civil code is neither necessary nor desirable at this stage
- Snehil Kunwar Singh argues that There should be a wide public consultation before UCC is framed to reflect the true intent of the public and to increase the legitimacy and acceptability of the law so framed.

*A larger social and political consensus as well as awareness is required to move ahead on the idea of UCC in a manner that it ensures rights of all individuals from all sections of communities while also protecting the positive secular ethos of India.*

Sleepy Classes IAS

The Indian parliament has a central role to play in Indian democracy. However, in recent years there is a debate regarding the declining standards of the Indian Parliament. Identify the challenges faced by the Indian Parliament and suggest measures to overcome the same.[20].



### Introduction

The study of institutions was sidelined with the rise of behaviouralism. However, the publication of '**Neo-institutionalism**' (**March and Olsen**), has once again revived interest in the study of institutions.

**Devesh Kapur and P.B. Mehta** highlight the role of Indian Parliament as an Institution of accountability and representation that has been the backbone of Parliamentary democracy in the country. However, over the years we have seen a decline in the status and functioning of the institution:

- *Increased Criminalisation* → 43% (2019), 34% (2014), 30% (2009), 24% (2004) MPs had criminal cases pending against them. According to ADR Report, the 17th Lok Sabha in 2019 saw the highest number of members of parliament facing serious criminal charges like rape, murder and kidnapping, since 2004.
- *Fall in debates*: *B.L. Shankar and Valerian Rodrigues* in their book *The Indian Parliament: A democracy at work* has talked about *falling deliberations*



- Question Hour scrapped in 2020 Monsoon session, Winter session 2020 was not conducted completely. Even Budget Session 2021 was reduced by two weeks because of election campaigning.
  - RS → 2015-19 only 40% of time allotted to question hour was used
  - **Christophe Jaffrelot** has pointed out that no of addresses by the PM is also falling. Between 2014-19, the PM made 3.6 addresses per year to Parliament. During Vajpayee's tenure, this figure was 16.7
  - **M.R. Madhavan** is extremely critical of what he terms is the abdication of its oversight role by Indian Parliament.
- **Increased use of Ordinance powers:** In 1950s = 7 ordinances issued on average in a year. There has been considerable spike in ordinance seen recently = 16 ordinances issued in 2019 and 15 in 2020.
  - **Low utilisation of committees:** LS → b/w 2009-14, in 16 DSRC serviced by LS only 49% members were present for meetings. PRS : 16th LS → 25% bills referred to committees compared to **71% in 15th LS** and **60% in 14th LS**. **Chakshu Roy** highlights how the government after the 17<sup>th</sup> Lok Sabha by January 2022 had already passed 100 laws. Given the technicalities surrounding issues like 10% reservation for EWS, linkage of electoral roll to Aadhar, Govt. of NCT Act 2021, Tribunal Reforms Bill- their quick passing without referring to Parliamentary committees raises many issues.
  - **Menace of Anti-Defection law:** The terms of anti-defection law have also led to misuse often leading to curbing of freedom of expression of MPs and the usage of legislation to arm-twist members into toeing the line of the party rather than interests of their constituents.
  - **Partisan role of speaker** with respect to money bills and suspension of members in Parliament has hurt the 'majesty' of the Parliament.
  - **Lack of a credible opposition:** **Kapur and Mehta** argue that the opposition is the constituent part of Parliament that has the most incentive to use the statutory powers of Parliament to keep the government accountable. Morris Jones commented that the working of Parliamentary democracy depends on the balance between political parties. The lack of a strong and cohesive opposition in recent years has also contributed to this decline.

## How To Restore the health of Parliament:

- **NCRWC** → LS should have at least 120 sittings in year while RS 100
  - ❖ Constitutional Amendment that allows Parliament to convene at the request of a required no of MPs
  - ❖ Shadow cabinet
  - ❖ PM Question time like UK where PM answers questions
  - ❖ "Parliamentary Disruption Index" + Code of Conduct for MPs and MLAs



- **Parliamentary intellectual capital.** eg provide research staff to MP's
- Reserve days for **opposition to set agenda** so govt doesn't shy from inconvenient topics.
- **Chakshu Roy** underlines the need to have legislative processes enshrined to ensure both pre-legislative and post-legislative scrutiny of bills.

### Conclusion:

- **Daniel Ziblatt and Levinsky** in their Book '**How Democracies Die?**' have talked about the importance of institutions in democracy and how crumbling of keystone institutions like parliament can lead to collapse of democracy. There is an urgent need to ingrain reforms in the working of the Parliament and its structure to ensure it can carry out responsibilities of electoral democracy.

Sleepy Classes IAS

# PSIR 2023 COURSES



## PSIR Without Answer Evaluation

- ✓ Rank Oriented, Retainable Video Lectures & PDFs
- ✓ To the Point Monthly Current Affairs
- ✓ Telegram group for Doubt Resolution and a sense of Community
- ✓ 24 Chapter wise Tests
- ✓ 4 Half Length Tests
- ✓ 2 Full Length Tests
- ✓ Holistic Model Answers & Video Solutions
- ✗ Answer Evaluation & Workable Feedback
- ✗ One on One Personal Mentorship

INSTALMENTS AVAILABLE  
**Rs.11,999/-**

## PSIR With Answer Evaluation

- ✓ Rank Oriented, Retainable Video Lectures & PDFs
- ✓ To the Point Monthly Current Affairs
- ✓ Telegram group for Doubt Resolution and a sense of Community
- ✓ 24 Chapter wise Tests
- ✓ 4 Half Length Tests
- ✓ 2 Full Length Tests
- ✓ Holistic Model Answers & Video Solutions
- ✓ Answer Evaluation & Workable Feedback
- ✗ One on One Personal Mentorship

INSTALMENTS AVAILABLE  
**Rs.14,999/-**

## PSIR Mentorship

- ✓ Rank Oriented, Retainable Video Lectures & PDFs
- ✓ To the Point Monthly Current Affairs
- ✓ Telegram group for Doubt Resolution and a sense of Community
- ✓ 24 Chapter wise Tests
- ✓ 4 Half Length Tests
- ✓ 2 Full Length Tests
- ✓ Holistic Model Answers & Video Solutions
- ✓ Answer Evaluation & Workable Feedback
- ✓ One on One Personal Mentorship

INSTALMENTS AVAILABLE  
**Rs.20,999/-**

📞 1800-890-3043 📩 sleepy.classes@gmail.com

ENTRY IN MENTORSHIP BATCH ONLY THROUGH TEST

**ADMISSIONS**

**OPEN**

## PSIR SPECIAL PRIORITY GROUP

UPSC MAINS 2022

10 Rank Oriented Tests including 4 Half Length Tests and 6 Full Length Tests.

Half Length Tests covering each Part of Paper 1 and 2 separately, of 10 questions each.

6 Full Length Tests- 3 each for PSIR Paper 1 and 2 on UPSC pattern.

360 degree evaluation with feedback for improvement of content and structure with model answers and video solution.

Talk to dedicated PSIR expert mentors for improvement+ Toppers Copies after test

Includes current affairs lectures from Jan 2022 and PYQ trend analysis.



ANURAG NAYAK  
AIR 340, CSE 2020



RAGHAVENDRA SINGH  
AIR 379, CSE 2020



PREETI PANCHAL  
AIR 449, CSE 2020



ANJALI BIRLA  
AIR 90, CSE 2016



RAVINDERPREET  
AIR 389, CSE 2018



RUPESH KUMAR  
AIR 487, CSE 2018

Only at  
**Rs. 6,999**

Reach us- **18000-890-3043**



Scan to be the  
Next Topper



# PSIR ANSWER WRITING SERIES FOR UPSC MAINS 2022



Complete coverage of PSIR  
Important topics and guidance.



72 days of daily answer writing 5 days a week  
to ensure regular practice and improvement.



Holistic evaluation and feedback by PSIR experts



Model answer and evaluation  
to ensure improvement in answer writing.



Editorial summaries for PSIR since January 2022

~~5,999~~

**Rs.4,999/-** Only at



ANURAG NAYAN  
AIR 340, CSE 2020



RAGHAVENDRA SINGH  
AIR 379, CSE 2020



PREETI PANCHAL  
AIR 449, CSE 2020



ANJALI BIRLA  
UPSC CSE 2018



RAVINDERPREET  
AIR 389, CSE 2018



RUPESH KUMAR  
AIR 487, CSE 2018



Scan to be the  
Next Topper