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GENERAL STUDIES (TEST CODE : 848)

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Medium Hindi/Eng.	English	Registration Number	24773
Center	Old Rajinder Nagar	Date	11/08/17

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
1	12.5	
2	12.5	
3	12.5	
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5	12.5	
6	12.5	
7	12.5	
8	12.5	
9	12.5	
10	12.5	
11	12.5	
12	12.5	
13	12.5	
14	12.5	
15	12.5	
16	12.5	
17	12.5	
18	12.5	
19	12.5	
20	12.5	

Total Marks Obtained:

Remarks:

INSTRUCTIONS

- Do furnish the appropriate details in the answer sheet (viz. Name, Registration Number and Test Code).
उत्तर पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक आदि)।
- There are TWENTY questions printed in HINDI and ENGLISH. इसमें बीस प्रश्न हैं तथा हिन्दी और अंग्रेजी दोनों में छपे हैं।
- All questions are compulsory. सभी प्रश्न अनिवार्य हैं।
- The number of marks carried by a question/part is indicated against it.
प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।
- Answers must be written in the medium authorized in the Admission Certificate, which must be stated clearly on the cover of this Question-Cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.
प्रश्नों के उत्तर उसी माध्यम में लिखे जाने चाहिए जिसका उल्लेख आपके प्रवेश पत्र में किया गया है और उस माध्यम का स्पष्ट उल्लेख प्रश्न-सह-उत्तर (क्यूसीए) पुस्तिका के मुख्य पृष्ठ पर अंकित निर्दिष्ट स्थान पर किया जाना चाहिए। उल्लिखित माध्यम के अतिरिक्त अन्य किसी माध्यम में लिए गए उत्तर पर कोई अंक नहीं मिलेंगे।
- Word limit in questions, if specified, should be adhered to.
प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।
- Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.
उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।

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EVALUATION INDICATORS

1. Alignment Competence
2. Context Competence
3. Content Competence
4. Language Competence
5. Introduction Competence
6. Structure - Presentation Competence
7. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

All the questions are compulsory and carry 12.5 marks each. (12.5)

1. Parliamentary control over executive in India exists more in theory than in practice. Discuss.

भारत में कार्यपालिका पर संसदीय नियंत्रण व्यवहारिक रूप से कम और सैद्धांतिक रूप से अधिक है। चर्चा कीजिए।

Indian Constitution prescribes separation of powers between Executive, Judiciary & legislature but the separation is not a water tight one. Each part has control over the other & creates checks & balances

Parliamentary Control over executive

- Executive are part of Parliament & responsible to it.
- Collective & individual responsibilities of ministers
- The parliamentary tools such as Question hour, Zero hour, Adjournment motion, No confidence motion etc. keeps a check on activities of ministers
- Executives answerable to committees & to the house.

- Procedure of impeachment, appointment election via members of the house as electors.

However, the above provisions are more in theory less in practice :-

- Abuse of use of ordinances & the back to back re-promulgation to surpass the houses.

↳ Against the directive given by Apex Court in D.C. Wadhwa Case

- "Delegated legislation" due to increasing technicalities in governance & lack of expertise in legislators.

- "Working of committee's" along party lines so as to defend Party members.

- Use of money power to curb the Opposition. & pass bills.

- Committees doing Post-facto audits

- Declining quality of opposition & disruption in houses.
- Use of money bill to surpass Rajya Sabha. (Ordinary bill converted (tagged) as money bill)

The Separation of powers not only provides checks & balances but also tries to bring efficiency & helps in preserves the ethos of democracy & prevent government from being authoritarian. Thus, the doctrine should be adhered strictly.

2. Compare and contrast pressure groups with political parties. Describe the different techniques through which pressure groups influence policies in India.

दबाव समूहों की राजनीतिक दलों से तुलना कीजिए और उनके बीच भिन्नता बताइए। उन विभिन्न तकनीकों का वर्णन कीजिए जिसके माध्यम से दबाव समूह भारत में नीतियों को प्रभावित करते हैं।

Pressure groups are voluntary groups or organisations which have common interest & try to modify/change public policy making in their favour/interests.

FICCI, RSS, media etc. are pressure groups.

They are widely different from political parties.

Pressure Groups

- They don't try to seek power
- Uses both legitimate & illegitimate means
- Very narrow agendas concerning their interests.

Political Parties

- They try to seek power & establish government
- majorly constitutional means
- Very wide agendas of national & international importance

- | | |
|--|---|
| <ul style="list-style-type: none"> - Very <u>limited member</u>
<u>-ship</u> - <u>may or may not have</u>
<u>ideologies</u> - are may have associa-
-tion with political
parties & turn into
political parties in future | <ul style="list-style-type: none"> - <u>wide & unlimited</u>
<u>membership.</u> - <u>will have ideologies</u> - try to maintain
neutrality |
|--|---|

Techniques used by Pressure Groups (P.G.'s)

P.G.'s use both legitimate & illegitimate means.

- legitimate means —
- Networking
 - Lobbying
 - Using Political Parties
 - Petitions
 - Through Public Supports
 - Using social media.

- illegitimate means —
- Hartals, Strikes
 - sometimes even resort to violence.

Pressure groups are vital components in policy making in India. However the use of illegitimate means often leads to bad & hasty legislation. To shun unconstitutional means was caveat given by Dr. Ambedkar for preserving democracy & thus Pressure Groups should use legitimate means to their maximum extent.

3. What are the constitutional provisions that ensure and safeguard the independence and impartiality of the Election Commission? In this context also identify the flaws that need to be addressed to further strengthen the institution.

चुनाव आयोग की स्वतन्त्रता तथा निष्पक्षता को सुनिश्चित करने तथा इसे सुरक्षित रखने वाले संवैधानिक प्रावधान कौन-से हैं? इस परिप्रेक्ष्य में, इस संस्था को और अधिक सशक्त करने के उद्देश्य से उन कमियों की पहचान कीजिए जिनका समाधान किए जाने की आवश्यकता है।

Election Commission of India (ECI) is one of the bulwarks on Indian democracy & tries to conduct free & fair elections which are essential for democracy.

Constitutional Provisions that ensure independence & impartiality

- Security of tenure :- Article 324 of Constitution provides security of tenure to Chief Election Commissioner (CEC)
 - ↳ He can be removed as Judges of SC
 - ↳ His salary cannot be disadvantaged
 - ↳ Fix tenure of 6 year or 65 years of age whichever is earlier
 - ↳ His conduct cannot be discussed in Parliament except during his impeachment

for other election commissioners, the removal can only be done after the advice of CEC.

Thus through article 324 • varied provisions are provided. However there are lot of flaws :-

- They are not barred from taking any post post-retirement
- The position of Election Commissioners can be diminished by order of president
- The appointment of Election Commissioner & CEC is in hands of central government rather than broad based committee.
- They are not given wide powers under Art. 324 as per their demand to conduct elections.

Law Commissions 25th report, Dinash Goswami Committee report & Apex

Courts judgements & ECI himself has made various recommendations in this regard.

- The position of Election Commissioners should be defined along with their appointment procedures.
- A broad based committee for appointment of all CEC & EC's.
- Disability post retirement should be made on lines of UPSC etc..
- Wide power to ECI under Art. 324 as said by Apex Court in Gill vs CEC case. should be given.

The independence, impartiality is not only required ~~by~~ ^{but} also desired for free & fair elections & maintaining trust on democracy.

4. CAG is instrumental in securing accountability of the executive to the Parliament in the sphere of financial administration. Elaborate. Enumerate the provisions made in the Constitution to ensure the independence of the CAG.

वित्तीय प्रशासन के क्षेत्र में संसद के प्रति कार्यपालिका की जवाबदेही सुनिश्चित करने में कैग (सी.ए.जी.) की प्रमुख भूमिका है। सविस्तार व्याख्या कीजिए। कैग की स्वतन्त्रता सुनिश्चित करने के लिए संविधान में किये गए प्रावधानों की गणना कीजिए।

Financial Accountability is one of the most important instrument to check executives action & henceforth Constitution of India via. Article 148 provides for Comptroller & Auditor General (CAG) as an impartial auditor to overview financial administration.

- CAG audits the finances - expenditures & revenues & submits reports on appropriation, finances to the Parliament.
- He is friend, philosopher & guide to Public Accounts Committee, thus helps them in scrutinising reports

- He not only audits but also looks over for irregularities in ~~the~~ usage of funds (Propriety) & also recommends economies ~~is to curb~~ for rationalising accounts.
- ~~the~~ Audit of Govt. departments, PSU, Schemes etc.

It was due to CAG report 2G Scam, Coal Scam got surfaced - & thus evidents the importance of CAG in Indian Administration.

Constitutional Provisions to insure CAG independence

→ Security of tenure

- Salary cannot be disadvantage in his tenure
- Service conditions equal to that of SC Judge
- Removal process as of SC Judge
- fixed tenure

→ Disability Post retirement - no allowed to taken any post. (Government)

- His expenses of office charged in Consolidated fund of India.
- Not answerable to Parliament for its work & his conduct cannot be discussed except during removal.

The impartiality & independence of CAG is desired for better & efficient financial administration & constitution has made enough safeguards in this regard.

5. Though judicial activism has made the judiciary more people friendly, there is also a negative side to the idea of a pro-active judiciary in the form of judicial overreach. Discuss with examples.

यद्यपि न्यायिक सक्रियता के कारण न्यायपालिका और अधिक जन अनुकूल हो गयी है, तथापि अग्र-सक्रिय न्यायपालिका का न्यायिक अतिसक्रियता के रूप में एक नकारात्मक पक्ष भी है। उदाहरण सहित चर्चा कीजिए।

→ Judicial Activism refers to Judiciary playing the role of legislature & executive by enacting laws or ordering them to enact laws in public interest.

Due to lack of Political will to impose legislation Judiciary often takes assertive role & thus activism is seen.

However, though Public interest is served in long term it has a negative

Side

- Violation of Separation of Powers
- Judiciary lacks expertise on Polycentric issues & thus leads to inappropriate & Lasty laws

The compulsion to sing National Anthem in
cinemas & prohibiting sale of liquor on
highways are some of ~~the~~ evidences

— Government has developed "Let the court
decide attitude" → leading to delay in
making legislation.

— Conflict between Judiciary & legislature
↳ NJAC Act was quashed & the Memor
— andum of Procedure in process are
such issues leading to vacancy in the
Judiciary

— Too much dependence of Citizens on Judiciary
→ increasing pendency of cases in
the court.

There is a very fine line between
the Judicial Activism & Judicial overreach
which is often crossed by Judiciary in

giving directions.

However this is due to decline in parliamentary functioning due to disruptions & lack of political will & thus all three parts of system viz, executive, legislative & Judiciary should work in tandem & efficiently & should try not to cross lines & interfere in each others domain inevitably.

6. What are the provisions under the Tenth Schedule of the Indian Constitution? Does it unduly curb the right of legislators to dissent?

भारतीय संविधान की दसवीं अनुसूची के अंतर्गत कौन-से प्रावधान किये गए हैं? क्या यह अनावश्यक रूप से विधायकों (लेजिस्लेटर्स) के असहमति के अधिकार में अवरोध उत्पन्न करता है?

Tenth Schedule of Constitution was enacted by 52nd Amendment Act, 1985 to check defections & was further amended by 97th Amendment Act, 2003 to strengthen it.

Provisions

- ① member of a political party becomes disqualified if he.
 - (a) voluntarily gives up membership
 - (b) does not obey party orders
- ② Independent members disqualified if they join ~~at~~ a party post election
- ③ Nominate member disqualified if they join any party after 6 months of election.

④ a person not disqualified in case of merging of $\frac{2}{3}$ members of party with other party.

⑤ Speaker of the house is the deciding authority in cases of defection

Tenth Schedule is often criticised as it fails to differentiate between defection & dissent & thus curbs right of legislators.

- Also, it has not been able to curb defection as seen in recent Arunachal Pradesh & Himachal Pradesh, Uttarakhand State legislative assembly. ~~elections~~ ...

However, this is one side of story.

- Tenth Schedule has ~~been~~ brought down defection to a great extent as compared to era of 1975-85

- Defection v/s Dissent

It differentiates between defection & dissent as.

- ① members of parties are not considered defected when they vote across party lines in Rajya Sabha & Presidential Election.
- ② In Kihoto Holohan Case, Apex court has specifically mentioned that 10th Schedule provisions are applicable only when
 - it is imperious for a member to vote against party's order in case of serious legislations which are integral to electoral programmes of party. & are important for existence of government.

Thus, 10th Schedule differentiates well between dissent & defection.

10:50

7. Parliamentary committees perform an important function of maintaining continuous accountability of the Executive. Explain. What are the factors that limit the functioning of these committees?

संसदीय समितियां कार्यपालिका की सतत जवाबदेही बनाए रखने में महत्वपूर्ण भूमिका निर्वहन करती हैं। व्याख्या कीजिए। इन समितियों के प्रकार्यों को सीमित करने वाले कारक कौन-से हैं?

Parliamentary system of government, Parliament keeps account of Executive & Parliamentary committees are important tool of it:-

- Scrutinises the reports of CAG & table its findings to Parliament
- Summons executives & asking/Querying for their conduct.
↳ RBI governor was summoned post demonetisation by Public Account Committee
- Estimates Committee, looks after economic aspects
- Departmental Committees, looks & scrutinises grants in Annual financial statements
- Committees scrutinises Bills & suggests recommendations before they

become an act.

- Parliamentary committees has members from all parties & thus efficient scrutiny & discussions takes place which saves time of the houses & help in efficient & better decision making.

Factors that limit decision making

- lack of expertise in increasing technicalities of governance
- recommendation are advisory not binding → often neglected by centre
- increasing trend of members siding across party lines hampers working of committees
- increasing works & lack of sufficient manpower increasing pendency
- overlapping of domains of work of two parliamentary committees

- They mostly do post-mortem exercises in terms of scouting
- do not overlook day-to-day work & activities

With increasing disruption in partian-ent, the committee's work has increased & thus the limitations should be solved by making appropriate legislation & adherence of "code of conduct" by members for efficient decision making.

- 10:00
8. The position of Rajya sabha is neither as weak as the British House of Lords nor as strong as the United States Senate. Examine.

राज्यसभा की स्थिति न तो ब्रिटेन के हाउस ऑफ लॉर्ड्स जितनी कमज़ोर है और न ही संयुक्त राज्य अमेरिका की सीनेट की भांति सशक्त है। परीक्षण कीजिए।

→ Rajya Sabha or the Upper house of Parliament has been taken from Government of India Act 1935 & British Parliament while its functioning i.e. Chairman as Vice President is taken from US Senate.

However it is neither as weak as British House of Lords nor as strong as US Senate.

Comparison with House of Lords

— House of Lords is a delaying chamber (just like legislative councils at state level in Indian constitution) while in Constitutional Amendment & ordinary bill, Rajya Sabha has same power

— Rajya Sabha has special powers

↳ All India Services (Art. 312)

↳ Asking Parliament to form laws on state list (Art. 249)

Such powers are not given to house of Lords. Thus as compared to Rajya Sabha House of Lords is a weak body.

Comparison with US Senate

- US Senate has equal representation from all states while Rajya Sabha has not
- US Senate has equal power in all bills while Rajya Sabha has not significant power in case of money bills
- US Senate has special powers in ratification of bills, international treaties which are not given to Rajya Sabha in India.

~~However Rajya Sabha is a continuous body while Senate dissolves in every 5y~~

Thus US Senate is a stronger body than Rajya Sabha.

Constitution makers have deliberately kept Rajya Sabha weak & not equal to US Senate because unlike USA, India is a Union of States & thus equal representation in terms of population is given regard.

Also, as Rajya Sabha members are indirectly elected (not by citizens directly), they cannot be kept at same status as compared to direct representative & thus such provisions are made.

9. Fundamental Duties, though significant, have certain limitations. Examine.

मौलिक कर्तव्य यद्यपि महत्वपूर्ण हैं, तथापि इनकी कुछ सीमाएं हैं। परीक्षण कीजिए।

Article 51-A was added as Part-IV(A) ⁱⁿ Indian Constitution by 42nd Amendment Act 1976 on recommendations of Swaran Singh Committee. This article prescribes fundamental duties to citizens of country towards its nation.

Significance

- "Rights cannot come without Duties"
Thus fundamental duties complement fundamental rights.
- Gives feeling of nationalism & grandeur to citizens
- Prescribes set of duties to be done by citizen for betterment of not only nation but also humanity
- Comprehensive as they talk about developing scientific temper, brotherhood, preservation of ancient monuments etc.

- Overall, it leads to progress on nation ~~through~~ through progress of citizens.

However the fundamental duties have certain limitations -:

- they are non-justiciable, non-enforceable
- most of them have vague & tough language
- some of them are moral in nature thus cannot be comprehended.
- Some of them curb civil liberties & thus conflicts with fundamental rights.
- Vague language leads to varied interpretation
↳ hasty & orbit laws are made
- Difficult for common person to understand
thus not followed by citizens occasionally
- not exhaustive as duty to vote etc has not been included.

Thus though they are vague & difficult

- it to be implemented or enforced by

government; Citizens should try to follow them whole heartedly. Duties are important aspects as they guide citizens in nation building & thus should not be neglected.

10:30

10. Compare and contrast First Past the Post system with the system of Proportional Representation. Is India now ready to shift from First Past the Post to Proportional Representation?

फर्स्ट पास्ट द पोस्ट प्रणाली की आनुपातिक प्रतिनिधित्व प्रणाली से तुलना कीजिए और उनके बीच भिन्नता बताइए। क्या भारत अब फर्स्ट पास्ट द पोस्ट प्रणाली से आनुपातिक प्रतिनिधित्व प्रणाली की ओर जाने को तैयार है ?

→ First Past the Post System (FPTP) is presently used in Indian election system instead of Proportional System

FPTP

- Easy to understand
- Easy to administer
- leads to formation of stable government
- Person votes for candidate
- legislator/candidate accountable to constituency
- often minority/small groups go unrepresented

Proportional

- complex procedure & tough for voters to understand
- instability can continue
- Person votes for party
- no such accountability
- minority gets due representation.

FPTP

- Candidate wins even without majority of votes
↳ wastage of votes
- less costly as no need of frequent election & easy counting

Proportional

- no such wastage as representation on proportion
- more costly due to complexities

FPTP is better system in Indian context as compared to Proportional representation

- lack of awareness/literacy
Proportional is complex may lead to confusion.
- Stability & Accountability is more important in decision making
- Proportion voting will lead to some politicians always in house
↳ new candidates will not get chance

- Rather than favouring people/citizens candidates will favour parties, defeating purpose of democracy.
- Issue of minority representation
 - ↳ Present system has policy of "Affirmative Action" to deal with such issues.

Thus, FPTP in Indian context is better as compared to Proportional. However, the wastage of votes is also an important issue to be considered.

The recommendation of Law Commission 170th report of "Hybrid System" i.e.

keeping 25% seats for proportional system is a case in point and

can be considered by ECI.

11. Elaborate the process of legislation in the Indian Parliament for an ordinary bill. How is a money bill different from an ordinary bill?

सामान्य विधेयक के लिए भारतीय संसद में अपनायी जाने वाली विधायन प्रक्रिया की विस्तृत व्याख्या कीजिए। धन विधेयक, सामान्य विधेयक से किस प्रकार भिन्न है?

(1:12 - 1:03:12)

12. Highlight the features of Inter-State Council as defined under Article 263 of the Constitution. Is there a need to establish a permanent Inter-State Council? Discuss with reference to the recommendations of Sarkaria Commission.

संविधान के अनुच्छेद 263 के अंतर्गत, परिभाषित अंतर्राज्यीय परिषद् की विशेषताओं पर प्रकाश डालिए। क्या एक स्थायी अंतर्राज्यीय परिषद् स्थापित करने की आवश्यकता है? सरकारिया आयोग की अनुशंसाओं के सन्दर्भ में इस पर चर्चा कीजिए।

→ Article 263 of Indian Constitution gives power to President to form Inter-state council for need arising in Public interest.

The features are -:

- The council will help in effective decision making & consensus making amongst centre & states
- Disputes between centre-states & states-states can be amicably solved.
- Can look after both legal & non-legal disputes thus saving essential time of Judiciary.
- It will consist of Prime minister, Chief ministers of all states & Governors of Union Territories.

Thus, ISC will act as an alternate place for redressal of disputes & bring consensus on effective policy making.

Sarkaria Commission has recommended the setting up of permanent commission with secretary staffs & Infrastructure in its report on centre-state relation.

Advantages of Permanent Council

- Will lead to regular meetings & proper functioning
- Permanent Secretariat will improve its efficiency & day-to-day business
- Will be in line with spirit of "Cooperative federalism" in country
- Will make it a serious body of national importance, not yet taken by parties in centre

ISC can act as a tool for coordinated & integrated working which is very much needed in today's increasing demand of good governance. & Thus making ISC as permanent body is much desired.

2nd ARC report also highlights to strengthen this body for effective legislative & administrative relation between Centre & states.

1:03:19-55:55

13. Distinguish between the expressions 'Union of India' and 'Territory of India'? What is the Parliamentary procedure with respect to reorganisation of states in India?

'भारतीय संघ' (यूनियन ऑफ इंडिया) तथा 'भारतीय क्षेत्र' नामक पदों के बीच भेद बताएं?
भारत में राज्यों के पुनर्गठन के संदर्भ में क्या संसदीय प्रक्रिया है?

→

Article-1 of Indian Constitution mentions both the terms "Union of India" & "Territory of India".

Union of India :- Union of all States & Union-territories.

Territory of India :- it includes:-

- (i) States in the Union
- (ii) Union-territories in the Union
- (iii) territory acquired / annexed by Indian federation.

Thus as compared to "Union of India", "Territory of India" is a wider term & has more exhaustive definition.

Article 3 of Indian Constitution provides a procedure for reorganisation of states.

Procedure

- A bill for reorganisation cannot be introduced without President's assent
- Once introduced it is discussed & sent to respective state legislature for its consent.
- Post its consent, whether opposed/favoured by state, ~~the~~ it comes back to Parliament. Thus
 - * State legislatures consent has not mattered / binding on centre.
 - * Recommendations are discussed.
 - * Few more changes based on recommendation can be made but it is not again sent to state for consent.

— Passed by Houses in Simple majority
& goes for President's assent following
which it becomes an Act.

Thus due to this procedure India
is termed as "Indestructible Union
of destructible States"

14. What are the constitutional provisions governing the financial relations between the Union and the States. Comment on the role of Finance Commission in this regard.

केन्द्र तथा राज्यों के बीच वित्तीय सम्बन्धों को प्रशासित करने वाले संसदीय प्रावधान कौन-से हैं? इस संबंध में वित्त आयोग की भूमिका पर टिप्पणी कीजिए।

Article 264 to Article 281 of Indian Constitution broadly discusses the provisions governing financial relations between Union & States.

Some of the important Provisions are

- Discusses in details the collection, appropriation & levy of tax by respective parts.

↳ Union :- imposes taxes on Union & concurrent list

State :- imposes taxes on state list

- Article 280 talks about Finance Commission & its role & membership
- Post introduction of GST, many articles have been repealed &

Article 269-A, 279A has been introduced which establishes GST council & empowers it to decide on matters of CGST, SGST & respective slabs

Finance Commission Role

Article 280 establishes finance commission, as a quasi-judicial body whose members are appointed by President.

Role & functions

- Formule for Vertical & horizontal distribution of net proceeds is devised by FC
 - ↳ Vertical distribution :- between Centre & states
 - ↳ Horizontal distribution :- Equitable distribution between states
- Also, devolves finance to local bodies
- * 14th FC has devolve ₹ 2,87,000 Cr to local bodies for 2014-19

- Also, looks after grant in aid & Centrally Sponsored Schemes devolutions
- Special Category Status states were given special benefits in Past (14th FC discontinued the trend)

Finance Commission has a very crucial role in dividing tax proceeds to states to make them financially autonomous institutes. The intervention of 13th & 14th FC to empower local bodies is an important intervention in power devolution to states in financial stream.

पृ: 34-36: 28

15. Discuss the structure, powers and limitations of National Human Rights Commission.

राष्ट्रीय मानवाधिकार आयोग की संरचना, शक्तियों तथा सीमाओं की चर्चा कीजिए।

National human rights commission is a Statutory
Body formed by National Human Rights Act, 1993.

It has -:

- (i) Ex. - CJI of India as Chairman.
- (ii) Two other Judicial members of rank of
SC Judge or CJI of HC
- (iii) Two eminent social activists.
- (iv) Ex officio members: Chairpersons of
National Committees of SC's, ST's, Minorities
& women respectively.

Powers -:

- (i) looks after cases of human rights violation
in territory of India.
- (ii) Can take Suo-moto cognisance of issue
- (iii) Can interfere in ongoing judicial proceedings
in cases of human rights violation
- (iv) Can visit jail anytime to check
conditions of inmates

(v) Can ask government at centre & state to provide compensation to victim.

Thus NHRC has wide powers.

Limitations

- ① Advice is not binding & only recommendatory in nature
- ② Cannot have its own investigation team thus depends on police & other machinery
- ③ delay in providing justice due to lack of infrastructure
- ④ Pendency of cases due to shortage of manpower
- ⑤ limited intervention in cases of violation by Army personnel's
- ⑥ Lackadaisical attitude of Governments.
- ⑦ NHRC has no plenary powers.. Thus often termed by constitutional experts as "toothless tiger"

Human right violations are gross harm to liberties of citizen & thus as member of UN covenant of human rights, Govt. should strengthen NHRC as organisation & provide sufficient technical infrastructure & manpower to deal with cases in time-bound manner.

16. Discuss how the concept of basic structure, although not specifically defined in the Indian constitution, is an Indian judicial innovation. Tracing the evolution of basic structure doctrine in India highlight its salient features.

चर्चा कीजिए कि भारतीय संविधान में स्पष्ट रूप से वर्णित नहीं होने के बावजूद, किस प्रकार मूल ढांचे की अवधारणा एक भारतीय न्यायिक नवोन्मेष है? भारत में मूल ढांचे के सिद्धांत के विकास पर दृष्टिपात करते हुए इसकी मुख्य विशेषताओं पर प्रकाश डालिए।

The doctrine of basic structure was propounded by Apex Court in Keshvanand Bharti v/s state of Kerala Case in 1973.

Under this doctrine SC laid down an innovative way to prevent the amendments in the constitution. It says "the constitution can be amended to the extent it does not hampers the basic structure of constitution".

It is an Indian Judicial innovation as:-

- Propounded by Indian Judiciary, not borrowed from other constitutions.
- The list of basic structure has been kept open so as to adjust the list with need of governance.

- Checks the hasty legislations from government to curb civil liberties of citizen

Evolution of Doctrine

- * The doctrine has been evolved with debate of Fundamental rights v/s DPSP's in Shankari Prasad Case, 1951 to Keshvananda Bharti Case, 1973.

- * Post Keshvanand Bharti Case, more ~~added~~ provisions are added :-

- Minerva Mills Case :- Judicial review was made part of basic structure

- S.R. Bommai Case, 1994 :- Secularism, Federalism was added.

- Thus, judiciary over the years has played a proactive role in

defending the constitution & continuing the trend the Independence of Judiciary was added by quashing NJAC act in 2014. Some of the salient features

- It is ever evolving doctrine
- Open ended list
- Used rarely by Judiciary in rare cases when persons civil liberties are impinged.

Truly, Doctrine of Basic Structure has played a critical role in preventing legislature usurping power & is a unique innovation in this regard.

17. Part IV of the Indian Constitution has great value as it provides for social and economic democracy as distinguished from political democracy. In light of the above statement, discuss the importance and limitations of this part of the constitution.

भारतीय संविधान का भाग IV अत्यधिक महत्वपूर्ण है क्योंकि यह राजनीतिक लोकतंत्र से भिन्न सामाजिक तथा आर्थिक लोकतंत्र हेतु प्रावधान करता है। उपर्युक्त कथन के आलोक में, संविधान के इस भाग के महत्व तथा सीमाओं पर चर्चा कीजिए।

18. Tracing the evolution of panchayati raj since independence highlight its achievements in facilitating the inclusion of vulnerable sections of society in the political process.

स्वतंत्रता के बाद से लेकर अब तक पंचायती राज के विकास पर दृष्टि डालते हुए, राजनीतिक प्रक्रिया में समाज के सुभेद्य वर्गों के समावेशन को सुगम बनाने में इसकी उपलब्धियों पर प्रकाश डालिए।

Evolution of Panchayati Raj Institution as tool for local Governance

Balwant Rai Mehta Committee 1957
(Assessed Community Development Programme; recommended three tier Panchayati System)

Panchayati Raj, in Nagaur Rajasthan
(1969) (1st time ever)

Gvk Rao Committee & Ashok Mehta Committee
1977

LM Singher Committee (Demanded Constitutional Status)
1986

73rd Amendment Act was Passed in 1992
setting Panchayati Raj as constitutional
body (Articles 243-243(O))
were added.

Achievement in inclusion of vulnerable

Sections

- Women :- 33% reservation in Panchayati raj institutions has led to
 - women occupying position in decision making bodies
 - women welfare schemes
 - women empowerment.
- Backward, SC's & ST's
 - ↳ Policy of affirmative action brought them at par with high castes
 - PESA Act has safeguarded Tribal rights & thus brought them in mainstream local governance
- Indicators of Human Development & Education has improves
- Sanitation facilities, financial inclusion etc. has improved

- People are coming out of caste lines & thinking of collective development of societies
- Patriarchy has taken a back seat
 - ↳ Girls are participating in school education
 - ↳ Social Stigmas are declining

Though, Positive benefits have occurred due to Panchayati Raj, Casteism, Communalism & Patriarchy still prevails & thus much has to be done in this regard to achieve equitable & inclusive growth & development.

19. Enumerate the discretionary powers of the Governor mentioned in the Indian Constitution. Why is it said that the post of governor has become highly politicised?

भारतीय संविधान में उल्लिखित राज्यपाल की विवेकाधीन शक्तियों की गणना कीजिए। ऐसा क्यों कहा जाता है कि राज्यपाल का पद अत्यधिक राजनीतिक हो गया है?

Article 153 of Indian Constitution prescribes the Post of Governor in States & Union territories. For proper & independent functioning, discretionary powers are provided in constitution:

- Reserves bills for President's Assent (Art. 200)
- Report to President for imposition of Emergency (Art. 355 & 356)
- Reverting the bill back to the legislative assembly for reconsideration. (Veto)
- Objecting the promulgation of ordinances (Art. 213)

Some non-constitutional discretionary power

- Appointment of Chief Minister in case of hung government
- Asking minister / council to resign in case of passing on no-confidence motion

Also, Governor also acting as administrator of State also has discretionary powers.

Politicisation of Position of Governor

Constitution does not prescribe any qualification for governor & thus this provision is abused as evident :-

- Rajbharans have become a place for retirement of Politicians, Bureaucrats etc.

Factors leading to such trend.

- Governor has wide discretionary powers and thus often misused to depower opposition ruled states by centre
- Used as tool to satisfy coalition demands

& Pacify Politicians

- Using Governor as a tool of centre to capture powers of state in their favour

Governor's position over the years
has got wide criticism due to increasing
politicisation.

NCRW, Sarkaria Commission & Pannchi
Commission has recommended to discuss
Chief ministers prior to appointment of
Governor & Selection of Governor by
broed based committee with Parliamentary
Approval is the need of hour.

36:28-26:00

20. Briefly enlist the constitutional provisions related to tribunals in India. Critically analyze the role of tribunals in the Indian judicial system.

भारत में अधिकरणों से संबंधित संवैधानिक प्रावधानों को संक्षिप्त रूप से सूचीबद्ध कीजिए। भारतीय न्यायिक प्रणाली में अधिकरणों की भूमिका का आलोचनात्मक विश्लेषण कीजिए।

Government of India via. 42nd Amendment Act, 1976 introduced Tribunals in Part-XIV-A of constitution. Following provisions were added :-

Article 323-A :- To setup tribunals for matters related to service of employees in public services at centre & state
→ CAT (Central Administrative Tribunal)
SAT (State Administrative) tribunal
were setup via. Act in 1987.

Article 323-B :- To setup tribunals for matter other than Art. 323-A & thus for matters of taxation, environment, corporate affairs etc. tribunals were set up.

* NGT via act of 2010 etc are few examples.

Analysis of working of tribunalPositive Effects

- led to quick delivery of Justice
- Efficient judgement in technical cases (i.e. where expertise was required)
- has led to reduction in pendency of cases in Judiciary
(acted as Alternative Dispute Redressal Mechanism)

Negative Effects

- Violation of Separation of Powers as Bureaucrats doing work of Judiciary.
 - ↳ Lack of Judicial expertise leads to hasty & bad judgements
- Indiscriminate setting up of tribunals
 - ↳ they came like wild mushrooms in rainy season
- Overlapping of Jurisdiction

- Conflict between Judiciary & Executive
 - ↳ "Tribunalisation" of Judiciary
 - ↳ Judiciary quashed several judgements of Tribunals
- Violates Principle on Natural Justice
- Non-uniformity in working & facilities
given to tribunals

Thus, despite large negative influences Tribunals has wide potential in improving Judicial Jurisprudence in country.

Tribunals should be given independence, uniformity & should not be created indiscriminately. Also, conflict between Judiciary & legislation should not hinder their functioning.