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GENERAL STUDIES (TEST CODE : 1391)

3:20

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Medium Eng./Hindi	ENGLISH	Registration Number	709988
Center	ONLINE	Date	26/12/2020

INDEX TABLE			INSTRUCTIONS
Q. No.	Maximum Marks	Marks Obtained	
1	12.5		
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16	12.5		
17	12.5		
18	12.5		
19	12.5		
20	12.5		
Total Marks Obtained:			
Remarks:			

- 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 **ENGLISH & HINDI** इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी 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. Contextual Competence
2. Content Competence
3. Language Competence
4. Introduction Competence
5. Structure - Presentation Competence
6. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

Answer all the questions in NOT MORE THAN 200 WORDS each. Content of the answers is more important than its length. All questions carry equal marks.

12.5X20=250

1. Enumerate important privileges enjoyed by each House of Parliament collectively and its members individually and also discuss their significance.

संसद के प्रत्येक सदन द्वारा सामूहिक रूप से एवं उसके सदस्यों द्वारा व्यक्तिगत रूप से उपभोग किये जाने वाले प्रमुख विशेषाधिकारों को सूचीबद्ध कीजिए और साथ ही उनके महत्व की भी चर्चा कीजिए।

Article 105, 194 etc of the constitution of India provide for privileges with respect to Parliament and state legislature respectively.

Important Privileges

collectively :->

① Right to a secret meeting without media presence, spectators etc.

② Right to receive information.
eg:- Redacted Rafael related reports invited a privilege motion in Lok Sabha.

③ Right to stop an individual, organisation etc from maligning the parliament's image on frivolous and false/unethical grounds.

Individually

- ① Protection from facing trials (civil)
40 days prior and after of attend-
ing a session.
- ② Freedom of speech and protection
from facing charges for anything
said inside the parliament.
- ③ Freedom from performing
JURY DUTY . etc

SIGNIFICANCE

- ① These privileges enable the parlia-
ment to effectively function
as an institution of law
making, deliberation etc.

- ② It enables the parliament to uphold constitutional values, sovereignty of India etc in law making -
- ③ It enables it (parliament) to stop ungrounded maligning of its image

However, factual reporting of parliamentary debates is not a breach of privilege -

Also, civil society, investigative media must ensure that parliament doesn't show over-sensitivity in this respect.

2. Give an account of the composition and functions of the Finance Commission as mentioned in the Constitution of India.

भारत के संविधान में यथा उल्लिखित वित्त आयोग की संरचना और कार्यों का विवरण दीजिए।

Article-280 of Indian constitution provides for finance commission (F.C)

It is envisaged as a balancing wheel for fiscal federalism in Indian polity.

Composition :-

It comprises of a chairperson, who must have experience in public policy, administration etc.

It also includes an expert in finance, accounting etc.

It may also include members of NITI Aayog etc if the need arises.

Functions :-

President, appoints F.C for :-

① * Recommending vertical devolution of funds between the centre and states.

② Recommending horizontal devolution of funds among the states, based upon :-

* Income distance : (45%)

* Tax effort (latest in 15th F.C)

* Demographic performance etc.

③ Also, as seen in 15th FC, it has also made recommendations for "disaster management", "panchayats/municipalities", "Fire fighting service" etc, which is appreciable.

F.C. derives its conclusions after deliberating with all the states and understanding their peculiar challenges (eg:- UP's population etc) and ensure inclusive development.

3. Preamble shows the general purposes behind several provisions in the Constitution, and is a key to the minds of the makers of the Constitution. Explain. Also, comment on the amendability of the Preamble.

उद्देशिका संविधान के अनेक प्रावधानों में निहित सामान्य उद्देश्यों को अभिव्यक्त करती है और संविधान निर्माताओं की सोच को समझने की एक कुंजी है। व्याख्या कीजिए। साथ ही, उद्देशिका की संशोधनीयता पर भी टिप्पणी कीजिए।

Dr. B.R. Ambedkar explained beautifully how Preamble is the conscience of Indian constitution. The very fact that it (Preamble) was written at the last, i.e. after every other provision of our constitution, is a proof that it truly reflects the essence of our constitution.

General purposes :-

For eg: → ① Constitution contains Article 17, which ensures abolition of untouchability, Preamble generally explains that it is to ensure "fraternity" among people of India.

② Constitution provides Article-21 (Right to life and personal liberty), Preamble generally explains that it is to realise LIBERTY (of thought, expression, faith etc)

Key to Constitution makers' minds :-

For eg:-

① Our constitution makers valued India's independence in policy making or international relations (N.A.M.)

↳ This is reflective from the word "SOVEREIGN" in our preamble.

② ~~Exponently~~ "DEMOCRATIC" "REPUBLIC" "SOCIALIST" (42nd CAA, 1976) etc all reflect the minds of our constitution makers which were majorly shaped by India's national

struggle.

Amendability :-

Initially, till Re Berubari Union case, 1960, it (preamble) was considered to be not amendable, due to not being part of constitution.

But, in Kesavandana Bharti case, 1973, it was considered to be amendable.

Certain words like "secular" "integrity" (of individual) were thereby added.

4. Explain the principle of subsidiarity, its importance and discuss how the 73rd constitutional amendment act tries to achieve it.

समन्वयिता के सिद्धांत व इसके महत्त्व की व्याख्या कीजिए एवं चर्चा कीजिए कि 73वां संविधान संशोधन अधिनियम इसे प्राप्त करने हेतु किस प्रकार प्रयास करता है।

Principle of subsidiarity, in polity, means the notion of one body being an essential, smaller part of a larger, more holistic body.

For eg:- parliament, state legislatures, panchayats etc all represent democratic institutions which function as subsidiaries (interdependent) to each other.

Importance :-

It is especially important for a big, heterogeneous and diverse country like India, which can not be properly represented by one big institution without any

complementing subsidiaries
73rd constitutional amendment:- (73rd CAA)

It assured the constitutionalisation
 of institutions of democratic decentralisation.

* By empowering "Gram Sabha" it
 made, the grass root people of
 India act as subsidiaries to
 the whole democratic machinery.

* They (Gram Sabha), through 73rd CAA,
 are not only at the receiving
 end of governance, but active
 participants in the process.

* By having control over local,
schools, sanitation, rural roads etc

Gram sabha achieves self efficacy
to be an agent of social change.

5. Explaining the importance of an independent judiciary, highlight the relevant Constitutional provisions that safeguard and ensure the independent and impartial functioning of the Supreme Court.

एक स्वतंत्र न्यायपालिका के महत्त्व की व्याख्या करते हुए, उच्चतम न्यायालय की स्वतंत्रता एवं निष्पक्ष कार्य पद्धति को सुरक्षित और सुनिश्चित करने वाले प्रासंगिक संवैधानिक प्रावधानों पर प्रकाश डालिए।

Indian constitution was inspired by American constitution to adopt an independent judiciary.

However, the structure and functioning of judiciary is inherited from the Government of India Act, 1935.

Importance of Independent Judiciary

- ① To ensure separation of power.
- ② To protect constitutionalism in the governance of the day.
- ③ To be the & ultimate guarantor of fundamental rights.
- ④ To interpret the constitution

in reference to ever-emerging scenarios; for eg:-

Right to marry, was recently interpreted by Supreme Court as a derived fundamental right under Article-21.

⑤ To avoid/suppress dictatorial tendencies before they become uncontrollable.

eg:-> Supreme court declared the "NTAC" collegium system "unconstitutional" in 2015 as it jeopardised judiciary's independence

⑥ To give voice to the deserving (LGBTQ etc) by practicing JUDICIAL ACTIVISM, PILs etc
constitutional provisions

① Article 32 :- which provides the power of "writ jurisdiction" to supreme court.

② Article 142 :- which provides extraordinary powers to Supreme court.

(eg:- Recently Manipur assembly MP was deposed by court due to questionable conduct by Speaker).

③ Article 136 :- which provides original jurisdiction to supreme court to hear inter-state, centre-state disputes etc.

other tacit judicial authority is provided through, for eg:- CTI being members of selection panels of CAG etc.

6. Mention the six freedoms as guaranteed under Article 19 of the Indian Constitution. Also, comment on the way in which the constitution has attempted to strike a balance between individual liberty and interests of society.

भारतीय संविधान के अनुच्छेद 19 के अंतर्गत प्रत्याभूत छः स्वतंत्रताओं का उल्लेख कीजिए। साथ ही, संविधान ने जिस प्रकार से व्यक्तिगत स्वतंत्रता और समाज के हितों के मध्य संतुलन स्थापित करने का प्रयास किया है, उस पर भी टिप्पणी कीजिए।

Article 19 (Six freedoms) and Article 21 (right to life and personal liberty) are the most liberally interpreted articles of Indian constitution giving maximum number of derived rights.

SIX FREEDOMS :-

19(1)(a) :- Freedom of speech and expression, (i.e. to speak, not speak, paint, sing, play sports, hoist national flag (Tindal case) etc).

Interestingly "right to remain silent" is a part of "expression".

19(1)(b) :- Freedom of assembly. But, as Article 19(2) describes, it must

be peaceful, without arms etc.

19(1)(c) :- Freedom of movement
throughout the country. But as
19(2) mentions, it can be restricted
based on health, public order etc.

19(1)(d), 19(e),

Freedom of residence, profession etc.
But on terms of Article 19(2), they
can be limited too.

Right to Property is now a constitu-
tional right under Article 300.

BALANCE :-

① Through Article 19(2) constitution
proposes the DOCTRINE OF PROPORTION-
ALITY; where in certain indivi-
dual rights can be limited when
they infringe upon societal rights

eg:- Sawoodi Bohra community's religious rights (under Article 25) was curbed in the case of "Genital mutilation" [using HEALTH as a societal ground]

Apart from constitution, even supreme court in Re. Kerala Education Bill case, put forwarded the DOCTRINE OF HARMONIOUS CONSTRUCTION, in ensuring balance between fundamental rights (individual) and DPSPs (societal welfare).

↳ This allows acts like Bank-nationalisation (1969) to be done which abrogates individual rights of certain individuals, but ensures societal welfare at large.

7. With examples, discuss the significance of alternative dispute resolution mechanisms in light of costly and time-consuming litigation process in India.

भारत में महंगी और समयसाध्य वाद प्रक्रिया के आलोक में वैकल्पिक विवाद समाधान तंत्र के महत्व की उदाहरणों सहित चर्चा कीजिए।

NJDG (National Judicial Data Grid) highlights that, even just Supreme court has around 60,000 pending cases before it.

Also, despite Article 39(A) mentioning about "free legal aid" for poor, NCRB report suggests that maximum conviction occurs of poor SCs/STs because of their inability to defend themselves.

SIGNIFICANCE OF ADR (Alternative Dispute Resolution)

~~#~~ ~~AR~~ ADR mechanisms reduce the burden on mainstream judiciary; for eg: →

① Lok Adalats :- (as per NALSA, 1987)

we ensure "participative justice", where solutions are arrived at by consensus and understanding.

② Gram Nyayalayas :- (by Gram Nyayalaya Act) ensure "justice at doorstep" by providing judicial services in far-flung areas through "mobile courts" etc.

③ Tribunals :- eg:- NGT, CAT, JAT etc, set up under Article 323A (Administrative) and 323B. They provide expert judgements, recommendations as they usually have expert representation.

④ Various other arbitration and conciliation mechanisms also exist.

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Don't write
anything this
margin
(इस भाग में
क़ुल्ल ना लिखें)

8. Explain why the Indian Constitution has been argued to have created a 'federation with a centralising tendency'.

ऐसा तर्क क्यों दिया जाता है कि भारतीय संविधान ने 'केंद्रीकरण की प्रवृत्ति वाले एक परिसंघ' को सृजित किया है, व्याख्या कीजिए।

Indian constitution is considered to be Federation in generalis, quasi-federal etc.; because it has centralising tendencies; for eg:-

CONSTITUTIONAL PROVISIONS

① Article 249 :- provides that Rajya Sabha can acknowledge parliament's importance in legis-
lation over a subject of national importance.

② Article 250 :- under national Emergency, parliament gets overriding powers, even over the state list subjects.

③ Article 252 :- If two or more than two states approve, it can lead to 'abdication'

of legislative powers of state to parliament for a subject in state list.

④ Article 355 :- puts a "DUTY" on the parliament / central government particularly to ensure maintenance of constitutionalism in various states' governance.

⑤ Article 365 :- even governor can call for central intervention in states' matters in certain cases.

⑥ Article 356 (~~Emergency~~ President's rule) also provides extraordinary powers to centre.

⑦ Article 253 :- while implementing international treaties also, parliament gets overriding powers over states.

CONSTITUTIONAL INSTITUTIONS

various institutions like "All India Services" "office of Governor" etc are also, by some perspectives considered to add centralising tendencies in Indian polity.

Thus, despite India being a federal polity is not a federation per say, rather a UNION.

This is done, as highlighted by Dr. B.R. Ambedkar to check the secessionist tendencies which may arise ~~in~~ among various states.

9. The parliamentary control over government and administration in India is more theoretical than practical. Discuss.

भारत में सरकार और प्रशासन पर संसदीय नियंत्रण व्यावहारिक की अपेक्षा सैद्धांतिक अधिक है।
चर्चा कीजिए।

The biggest advantage of parliamentary form of government is considered to be the "parliamentary control" over the executive, for eg:-

Article 75(3) of Indian constitution mentions council of ministers' (COM's) collective responsibility to the parliament.

But different views consider it more theoretical than practical.

Arguments for theoretical.

① Executive often enjoys a majority in the popular house.

② Instruments like "whip" etc often makes the ruling coalition members avoid exercising aggressive control.

③ Instruments like "money bill" allow the government to effectively & by-pass the upper house (Rajya Sabha) of the parliament.

④ Parliamentary Standing Committees, etc are often politicised, lack legal backing for mandatory reference for all bills.

⑤ "Horse trading", "defection", etc, atleast in India's case, by some views, remain a reality.

Arguments for practical :-

① 1996-1998 saw three general elections due to inability of ruling coalition to gain confidence in the popular house.

② "Vote-of Thanks" "No Confidence Motion" etc are, at any rate strong powers with the popular house.

③ Assertive Presidents eg:- Pranab Mukherjee, KR Narayanan, Zail Singh (Post office Bill) etc have shown effective control over government, in effect, it is parliament's control as President is part of it

④ moral control of Rajya Sabha, even in cases of money bill.

Various factors (PM's personality, party & majority etc) play to determine extent of parliamentary control. But, the presence of parliamentary influence on executive's actions is the essence of Indian polity.

10. Why did the Constituent Assembly replace the original plan to have elected governors in favour of appointment by the President? Also, bring out the arguments that are raised against the current form of appointment of Governors.

संविधान सभा ने निर्वाचित राज्यपाल होने की मूल योजना को राष्ट्रपति द्वारा नियुक्त राज्यपाल के पक्ष में क्यों प्रतिस्थापित कर दिया? साथ ही, राज्यपालों की नियुक्ति के वर्तमान तरीके के विरुद्ध दिए जाने वाले तर्कों का भी उल्लेख कीजिए।

Ans → Article 166 of Indian constitution
provide that the President appoints the Governor as a moderator, link etc between centre-state relations.

Rejection of Elected Governor :-

① Economy :-

It'd would have been a costly exercise for a post which is not representing an executive office. Same, argument was used in choosing popular elections for president.

② Power Dynamics :-

It'd would have caused unnecessary

friction between the two power offices in the state i.e. the Governor's and Chief Ministers.

③ Federalism :-

It is best represented when there are clear and analogous counterparts at centre and state level. When President is not popularly elected, electing Governor would've disturbed the socio-political dynamics.

④ UNITARY CHARACTER :-

It is also a need of Indian polity. An appointed office provides greater central control over this office and counter tendencies like secessionism, etc.

⑤ Apolitical character :-

of this office ensures "unbiased" advice to enable the policy making.

keers to be aware of situation on ground.

ARGUMENTS AGAINST STATUS QOO :-

As ~~Prime Minister~~ Sarkaria Commission highlighted :-

- ① often this office is used to express Centre-State rivalry in case of different parties.
- ② often, the CM of the state is not even consulted before appointing Governor.
- ③ often, Article-356 is misused due to greater executive control over the Governor office.

we must ensure an ethically motivated active civil society, to enable efficient functioning of all the constitutional offices.

11. Explaining the concept of judicial activism, discuss why it is important for courts not to take over the functions of the legislature or the executive.

न्यायिक सक्रियता की अवधारणा की व्याख्या करते हुए, चर्चा कीजिए कि न्यायालयों के लिए विधायिका या कार्यपालिका के कार्यों का अतिक्रमण न करना क्यों महत्वपूर्ण है।

Although not explicitly mentioned in our constitution, Judicial Activism (JA) is implicitly provided through, say Article 32 (writs), Article 226, Article 14, 17 etc.

JA refers to the unconventional role of judiciary where it actively advises the executive on law making and administration.

This is called "activism" because such functions are conventionally considered to be executive functions.

Public Interest Litigations (PILs) are considered to be the backbone of JA, and it has given rise to various appreciable judgements for eg:-

- ① Transgender rights. (3rd gender) which also led the executive make a law in that regard.
- ② LGBTQ rights ③ Adultery's decriminalisation etc.

AVOIDING JUDICIAL OVER-REACH :-

It is important :-

- ① To maintain separation of power.
- ② Since judiciary is not popularly elected, rather selected; it must stick to its constitutional mandate.
- ③ Unlike the executive, judiciary is also not an expert in administration.
- ④ Judiciary may discourage active law making; for eg:-

Mandating regrassing post mining.
Rather, encouraging government
on an urgent basis could've
been considered.

It is utmost important to protect

- * Separation of power
- * checks and balances
- * Active civil society
- * Investigative media
- * Value based education, etc

to preserve the basic structure
of Indian constitution and polity

12. Compare the constitutional position of Rajya Sabha with the Lok Sabha in terms of legislative powers. Also bring out special powers given to Rajya Sabha in this context.

विधायी शक्तियों के संदर्भ में लोकसभा के सापेक्ष राज्य सभा की संवैधानिक स्थिति की तुलना कीजिए। साथ ही, इस संदर्भ में राज्य सभा को दी गई विशेष शक्तियों का भी उल्लेख कीजिए।

The presence of Rajya Sabha in Indian parliament is the biggest and strongest federal feature of Indian polity as it represents the states in parliament.

Rajya Sabha vis-a-vis Lok Sabha

① In general bills, the Lok Sabha and Rajya Sabha stand at parity. Both can initiate it. Any house can reject it etc

② In money bill, Rajya Sabha is legislatively inferior (not morally) to Lok Sabha and it can only provide its views and non-binding recommendations.

③ In Constitutional Amendment Bill case, only Lok Sabha can initiate it and there is no scope for deadlock.

④ Termination of National Emergency is also only Lok Sabha's prerogative.

Special powers with Rajya Sabha :-

① Using Article 312, a new All India service can be created only by initiating the process in Rajya Sabha.

② Initiation of impeachment of the Vice President can begin only in Rajya Sabha,

We must remember that in certain cases where the Rajya Sabha

appears to be lacking legislative powers vis-a-vis Lok Sabha; it is not inferiority but rather because of DEMOCRATIC COMPULSIONS where certain important policy matters (financial bills, money bills, budget etc) must be passed by the POPULARLY ELECTED HOUSE.

13. Comment upon the distribution of legislative subjects between the Centre and states. Under what circumstances does the Parliament make laws on matters enumerated in the State list?

केंद्र और राज्यों के मध्य विधायी विषयों के वितरण पर टिप्पणी कीजिए। किन परिस्थितियों में संसद राज्य सूची में उल्लिखित विषयों पर विधि बना सकती है?

Schedule 7 of Indian constitution puts forward 3 lists i.e. the Union List :- where only the centre can legislate

State List :- where only the state can legislate under "normal" circumstances.

Concurrent List :- where both the centre and state can legislate, but centre has overriding stand in case of conflict.

DISTRIBUTION

Union List

- ① It has more than 95 subjects.
- ① It has most important subjects,
for eg:- DEFENCE, ATOMIC ENERGY,
FOREIGN POLICY etc.
- ① It has most important finance
related legislative powers etc.

State List

- ① It has subjects which demand
regional considerations for effective
governance.
- ② It has around 60 subjects,
eg:- Agriculture etc.

Concurrent List

- ③ It has subjects which demand national
character, but also, regional consider-
ations, eg:- ~~land~~ human organ
transplantation etc.

Special cases :-

- ① Article 249 :- When Rajya Sabha itself passes a resolution for a particular subject demanding parliamentary legislation in national interest
- ② Article 250 :- During National Emergency
- ③ Article 252 :- When two or more than two states pass a resolution in that regard.
- ④ Article 253 :- When so is required to implement an international treaty.
- ⑤ Article 248 :- When the subject is not present in any list.

14. Explain the significance of the concept of 'separation of powers' in a democracy. What can be the reasons for India not following the doctrine in the strict sense?

लोकतंत्र में 'शक्तियों के पृथक्करण' की अवधारणा के महत्व को स्पष्ट कीजिए। भारत द्वारा इस सिद्धांत का कठोर अर्थों में अनुपालन न किये जाने के क्या कारण हो सकते हैं?

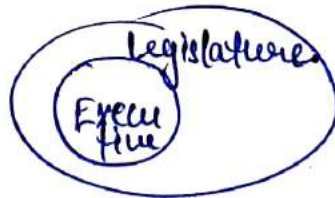
Strict separation of powers (S.O.P) is seen in American polity where the executive and legislature are, by and large, separated from each other.

CONCEPT OF S.O.P :-

- ① It refers to the restriction of domain of influence of legislature, executive and judiciary.
- ② It is a method to ensure 'checks and balances' and avoid excessive power in any one institution.
- ③ It protects democracy in true sense.

Reasons behind India not following it in true sense:-

- ① due to historical reasons, India valued responsible control of the legislature over executive.
- ② we opted for integrated judiciary due to strengthening the legal unification of the country
- ③ we already had experience of responsible democracy.



Thus, we went ahead with a different, less stable but more responsible form of S.D.P.

Still, as a DPSP, S.D.P is written in Article-50 of our constitution, thus,

if situation demands, Indian can rightfully exercise its sovereignty and implement S.O.P in strict sense also.

15. Explain the grounds on which a National Emergency can be declared and highlight its effects on Centre-state relations and Fundamental Rights.

उन आधारों की व्याख्या कीजिए जिन पर राष्ट्रीय आपातकाल घोषित किया जा सकता है एवं केंद्र-राज्य संबंधों और मूल अधिकारों पर पड़ने वाले इसके प्रभावों पर प्रकाश डालिए।

National Emergency is mentioned in Article 352 of Indian constitution.

It has been imposed thrice. (1962, 1971, 1975 etc).

GROUND :-

① WAR :- with a foreign power,
eg:- during 1962,
in Sino-Indian war, this
ground was used.

② ARMED REBELLION :- This ground
was introduced
to remove the erstwhile, "internal
disturbance".
i.e. "insurgency, militant movements etc"

particularly to dethrone the state, cause social disharmony can serve as a ground.

③ External Aggression :- which threatens the sovereignty, integrity and unity of India can also be used.

LOCALISED EMERGENCY

This provision was also added & using 44th CAA, 1978 to provide for application of emergency in a particular part of India instead of the whole country.

This can be done if, say :-
Governor in his/her report highlights that Centre's duty under Article 355 is hindered by states conduct, etc.

In the Bommai Case, 44th Constitutional Amendment Act etc various other safeguards were introduced, for eg :- mandatory cabinet approval etc

Effects on Centre-State Relation :-

Centre gets over-riding powers in the legislative/executive and administrative domains.

Fundamental Rights are not removed, ~~its~~ their enforcement is ~~also~~ constricted.

Article 19 rights are automatically revoked and other rights are mentioned in the proclamation order.

Active political awareness, ethical legislators are needed to avoid Article-352 use for political gains.

16. Analyze how the CAG ensures financial accountability of the Executive to the Legislature while working as an independent Constitutional body.
- विक्षेपण कीजिए कि एक स्वतंत्र संवैधानिक निकाय के रूप में कार्य करते हुए CAG, विधायिका के प्रति कार्यपालिका की वित्तीय जवाबदेही को किस प्रकार सुनिश्चित करता है?

Dr. BR Ambedkar considered CAG to be the most powerful constitutional office in Indian polity

Ensures financial accountability :-

① By being a friend and philosopher to the P.A.C. (Public Accounts Committee); which is the strongest tool to ensure parliamentary control over legislature.

② By providing reports to the Standing committee on PSUs to avoid extravagant spending by PSUs.

- ③ By having complete powers to audit any government department, institution etc for its expenses etc.
- ④ Article 148, 149 etc also empower the CAG to instruct the accounting department to maintain accounts in specific format enabling efficient scrutiny.
- ⑤ Its reports are publically debated and their easy to understand format enable ~~as~~ sound awareness generation in the civil society.

However, Indian CAG largely works post-modern and does

not function as a Comptroller in
true sense as in UK's case.

17. Highlight the veto powers of the President of India. How does the veto powers of the Governor differ from that of the President?

भारत के राष्ट्रपति की वीटो शक्तियों पर प्रकाश डालिए। राज्यपाल की वीटो शक्तियां राष्ट्रपति की शक्तियों से किस प्रकार भिन्न हैं?

President of India is provided by some veto powers to prevent hasty legislations in Indian polity

For eg :-

① ABSOLUTE VETO :- This is exercised on the aid and advice of the Council of Ministers (C.O.M) (Article - 74).

② It can be exercised on ordinary bills, money bills etc, but not on Constitutional Amendment bills.

② POCKET VETO :- This is exercised by President in its discretion. However it can not

be exercised for Constitutional Amendment Bills -

eg:- President Zail Singh used this for Post office Bill.

③ Suspensive Veto :-

President uses this power in his discretion. But, ~~again~~, if after referring, the parliament again refers the bill, the President has to agree.

Difference with Governor

Gov

1391
VISION IAS™

Don't write
anything this
margin
(इस मार्ज में
कतुड ना लिखें)

18. Even though the parliamentary system of government in India is largely based on the British parliamentary model it never became a replica of the British system. Elaborate.

यद्यपि भारत में सरकार की संसदीय प्रणाली मुख्य रूप से ब्रिटिश संसदीय मॉडल पर आधारित है तथापि यह कभी भी ब्रिटिश प्रणाली की प्रतिकृति नहीं बनी। सविस्तार वर्णन कीजिए।

Government of India Act, 1935 etc
provided a lot of elements to
Indian constitution, eg: -

- ① Emergency provisions.
- ② Federal setup etc.

Also, various parliamentary tools
like "question hour", "office
of speaker" etc came all inspired
by British model.

But, still we have our innova-
tions and differences :-

- ① Our President is an "elected"
functionary unlike hereditary
one in British model.
(highlighted by former President
Rajendra Prasad)

② Our Speaker does not necessarily abrogates his/her party membership unlike British model.

③ In our model, "Constitution" is supreme, whereas in Britain, "Parliament" is supreme.

④ Innovations like "ZERO HOUR" "ADJOURNMENT MOTION" etc are Indian doings

⑤ Our Parliament and Judiciary ~~and~~ are independent offices, whereas British judiciary conforms to its Parliament

Thus, however we adopted a large part of British model, (say: emergency provisions); but we added other aspects to it, sometimes from other sources, sometimes indigenous.

eg:- (strong centre ~~was~~ ~~not~~ in emergency was inspired from Canadian constitution)

19. A number of judicial pronouncements and constitutional amendments have altered the balance between Fundamental Rights and Directive Principles of State Policy since the commencement of the constitution. Analyse.

संविधान के लागू होने के पश्चात में अनेक न्यायिक निर्णयों और संविधान संशोधनों ने मूल अधिकारों और राज्य की नीति के निदेशक तत्वों के मध्य के संतुलन को परिवर्तित कर दिया है। विश्लेषण कीजिए।

Since land reforms, bank nationalisation etc like initiatives provide societal welfare as mandated by DPs but they too undermine individual FRs. (Fundamental Rights).

For eg:-

① Shankari Prasad v/c Union of India
Supreme Court highlighted that a constitutional amendment act is not a law as per Article 13(3), thus, FRs can be amended by parliament.

② Champakam Dorairajan case

Supreme court held that DPSPs
(Directive Principles) have to run
subsidiary to FRs.

— FRs.

DPSPs

③ In Re Kerala Education Bill case

Supreme court upheld the
"harmonious construction"
doctrine as there is no inherent
difference between DPSPs & FR.

④ In Kesavananda Bharati Case
1973, Supreme Court upheld
Bank Nationalisation etc, thus
upholding "24th and 25th"

constitutional amendment acts

Thus,

Article 31(c) can be used to
implement Article 39(b) and 39(c)
DPSPs without any challenge
from Article 14, 19 or 31.

But, in Minerva Mills Case,
supreme court upheld "Judicial
scrutiny" of Schedule 9
and also held that "the balance
between FR and DPSP is a
~~function~~ basic structure part
of Indian constitution).

20. Highlight the powers and functions of the Election Commission of India (ECI). Also, discuss the issues regarding the independence and impartiality of the ECI.

भारत के निर्वाचन आयोग (ECI) की शक्तियों और कार्यों पर प्रकाश डालिए। साथ ही, ECI की स्वतंत्रता और निष्पक्षता से संबंधित मुद्दों की चर्चा कीजिए।

Article 324 provides for the Election commission of India (ECI)

Powers :-

- ① Guiding President with respect to disqualification of candidates under Article 102(1).
- ② Moral suasion of candidates during MCC (Moral Code of Conduct)
- ③ Directing observers, presiding officers, returning officers for ethical conduct of elections.

Functions

- ① Prepare electoral rolls (Article 325)
- ② Allot party symbols, free air time etc.
- ③ Observe the conduct of elections etc.

Issues :-

- ① Chief Election Commissioner is NOT debarred from re-appointment to office.
- ② The removal process of Chief Election Commissioner and other officers is not same.
- ③ ECI does not have the

power to punish for its contempt

④ ECI doesn't have legal backing to enforce MCC (Model code of conduct)

More importantly, it is the values of office bearers which gives teeth to an institution,
for eg:- JN Seshan is

credited for the same
with respect to E.C.I.