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GENERAL STUDIES (TEST CODE : 1399)

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Center		Date	

INDEX TABLE			INSTRUCTIONS
Q. No.	Maximum Marks	Marks Obtained	1. 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)। 2. There are TWENTY questions printed in ENGLISH & HINDI इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी में छपे हैं। 3. All questions are compulsory. सभी प्रश्न अनिवार्य हैं। 4. The number of marks carried by a question/part is indicated against it. प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं। 5. 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। 6. Word limit in questions, if specified, should be adhered to. प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए। 7. 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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Total Marks Obtained:			
Remarks:			

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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.

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All the Best

- 1) With over 38 million cases pending in subordinate judiciary, Fast-Track courts were introduced for speedy disposal of cases demanding urgent attention. e.g.: crimes against women.

Significance of FTCs:

- speedy disposal of serious cases restores faith in judicial process
- prevents public support for vigilante justice.
- expertise in handling particular issues promotes quick, quality judgements.

A fast-track court is essentially a dedicated court under a judicial magistrate mandated to complete hearing of cases involving particular sections of IPC in a fixed period of time.

Issues plaguing their functioning

- 1) lack of procedural innovation means that the same issues causing judicial delays plague FTCs too
- 2) states often designate existing courts as FTCs, without devoting additional resources (manpower, infrastructure)
- 3) deadlines are observed more frequently in the breach

Measures to improve functioning:

- 1) procedural innovation like daily proceedings, admissibility of digital evidence, etc
- 2) fill judicial vacancies for dedicated judges
- 3) integrate National Judicial Data Grid with CCTNS, eCourts for seamless flow of information, tracking
- 4) dedicated support staff like court managers to streamline process.
- 5) promote alternate dispute resolution like arbitration, mediation, Online Dispute Resolution
- 6) limit the right of appeal to one level only.

The recent initiative to setup 1,023 Fast Track Courts for trying POCSO Act cases is welcome. But it must be accompanied by remedial measures to achieve the objective of timely justice.

- 2) The management of inter-state river basins has been entrusted to Union Government under 7th schedule of Indian Constitution. Art 262 empowers Parliament to provide for tribunals to address inter-state disputes over sharing of water.

ISRWD - A pressing federal issue

- 1) Cauvery dispute between Karnataka & Tamil Nadu
- 2) Dispute over Sutley waters between Punjab & Haryana
 - unilateral legislation by Punjab to nullify tripartite agreement between Punjab, Haryana & G.O.I to construct Sutley-Yamuna link canal.
- 3) decades long disputes feed acrimony, regional nationalism and damage the fraternal ties between citizens.

Issues involved

- 1) delay in setting up tribunals, and notification of final award
- 2) appeals to higher judiciary delay implementation.
- 3) lack of up-to-date hydrographic and water use data to optimise demand-supply equilibrium.
- 4) inconsistency in principles applied to different disputes

ISRWD (Amendment) Bill 2019:

- 1) ~~perp~~ permanent tribunal in place to address disputes - bench will be formed for each new dispute.
- 2) Technical Committee to collate data for evidence based decision
- 3) The award shall be final and binding - no appeal to SC
- 4) No need for official notification in Gazette to implement award

clearly, ISRWD Bill 2019 addresses the aforementioned issues

But it may still be inadequate in addressing ^{some} issues.

- 1) SC's powers under Art 136 to grant Special Leave Petition may render the 'no appeal' provision infructuous
- 2) Setting up a new bench for each dispute may cause delays.
- 3) No River Boards have ~~been~~ been established despite enabling legislation - impedes integrated management.
- 4) politicisation of ~~issues~~ disputes will persist.

In addition to the tribunal, a constant dialogue between federal units is necessary to build trust and mutual understanding of needs and concerns. The Inter State Council is a good mechanism for this.

- 3) Lobbying refers to exercising influence over the decision making process through reasoned arguments, favours (financial or otherwise) or implicit threats. While it is a legal but regulated practice in USA, it is prohibited in India.

Though illegal, lobbying persists:

- 1) Nira Radia tapes exposed journalist-corporate-political nexus to influence policy decisions and bureaucratic appointments.
- 2) Pervasive corruption in defence deals e.g. Augusta-Westland deal.

Utility of lobbying:

- 1) policymakers may not be aware of intricacies of particular sectors - remedy information asymmetry.
- 2) ordinary citizens may not have the knowledge, time, or inclination to substantively engage in the public consultation phase of policy formulation.

e.g. lobbying by Youtubers ~~against~~ in favor of Net Neutrality led to TRAI prohibiting Facebook Basics program.

Need to regulate lobbying:

- 1) lobbying can turn into corrupt quid-pro-quo e.g. Bofors scandal
- 2) powerful interest groups may outcompete marginalised groups e.g. Mining companies vs tribals
- 3) Public trust in democratic process may erode if lobbying creates perception of elite capture
- 4) lobbying by foreign firms may compromise Indian sovereignty e.g. East India Company and the Mughals.
- 5) policymakers may be exposed to one-sided view due to information asymmetry - lead to bad decisions

Way forward:

- 1) robust legislative framework to address lobbying
- 2) independent think tanks must be engaged to present balanced picture to check lobbyist influence.
- 3) criminalise any form of quid-pro-quo, including by amending Prevention of Corruption Act

Well regulated lobbying can be useful input into the policymaking process.

- 4) India and Canada are both former British colonies. While India emerged as a sovereign republic in 1947, Canada as a sovereign state with Queen of England as nominal head of state.

Similarities between Indian & Canadian federal system:

- 1) both use the term 'Union' instead of 'Federation' - signalling centralising tendency
- 2) Heads of states (governors) are appointed by Union government
- 3) residuary powers lie with the ~~Centre~~ Centre.
- 4) special provisions for certain federal units eg. Quebec in Canada, Art 371A-I in India for Assam, Nagaland etc
- 5) written constitution - establishes dual polity.
- 6) independence of judiciary
- 7) Bicameral legislature

Differences:

- 1) Indian Constitution provides for third tier of government - Panchayati Raj Institutions & Urban Local Bodies
- 2) Upper house of Parliament consists of members elected by state legislatures in India.

- 3) The head of state (President) in India is elected by both Members of Parliament and Members of State legislatures.
- 4) Canadian provinces have authority to determine number of migrants and refugees that they will admit.
Indian states have no such power.

The different histories and circumstances of India and ^{Canada} ~~England~~ have led to similar yet distinct models of federalism.

- 5) Foreigners' Tribunals are empowered to examine if an individual has illegally entered India (without valid documents) or overstayed the duration of valid stay. They can order detention and deportation of individuals found guilty.

Legal Sanction: Foreigners Act 1946.

Context in which they function:

- 1) Illegal immigration from Bangladesh into neighboring states of West Bengal, Assam, Meghalaya, Tripura etc
- 2) change in demography and cultural norms due to it
- 3) influx of refugee populations due to instability in home country e.g. Rohingyas from Myanmar
- 4) Assam Accord which limits grant of citizenship to migrants who came before 25/3/1971 ~~now~~ requires Foreigners' Tribunals to make that determination.

Need of strict judicial supervision:

- 1) can lead to victimisation of minorities e.g. a retired Army official was deemed illegal immigrant in Assam, possibly because he was a Muslim

2) the evidence and reasoning used in judgements is often of unacceptable standard

3) damage to social fabric and fraternity: anyone can complain that an individual is an illegal immigrant, and then the accused must prove his innocence.

4) prolonged, indefinite detention after conviction is a violation of human rights.

Way forward

1) guarantee independence of Foreigners' Tribunals by modifying appointments process giving financial and administrative power

2) ^{some} suo-moto review of judgements by higher judiciary

3) judges with consistently poor record of judicial acumen should be removed.

As the government is planning to permit DMs across the country to establish Foreigners' Tribunals, judicial supervision of their conduct is urgent and important.

8) While 14th and 15th Lok Sabha saw over 60% of bills being referred to parliamentary standing committees, this has reduced to <20% from 2014-2020.

Importance of scrutiny by PSCs:

- 1) away from public glare, PSCs are much less politicised. discussions are substantive and issue based
- 2) empowered to ask officials, other stakeholders to appear enforces accountability to Parliament.
- 3) allow expert inputs into legislative process
- 4) Standing Committees develop subject area expertise, allowing more detailed review of legislation.

But recently, even important bills like Govt of NCT (amendment) Bill 2021 were passed without PSC scrutiny.

Undermines their importance:

- 1) moral authority of PSCs to seek representations from officials, civil society members is diminished.
- 2) Parliament is reduced to rubber-stamp for legislation drafted by the executive with no detailed discussion.

- 3) reduces imperative to strengthen PSCs by investing resources into support staff, providing longer tenure to members.
- 4) MPs who are less likely to actively seek PSC memberships or participate in proceedings. reflected in poor attendance.

sets a wrong precedent:

- 1) legislative function of Parliament is diminished as executive can pass any legislation by force of majority.
- 2) damages separation of powers.
- 3) can lead to authoritarian decision making with scant regard for consensus or minority rights.
- 4) lowering authority of Parliament in public eye contributes to deterioration of political process - qualified individuals stay away, while muscle and money power are paramount.

Way forward Thus,

- Parliamentary Standing Committees should be granted statutory status, with a minimum threshold for proportion of bills referred.

- 7) India's rich linguistic diversity consists of over 1300 languages, of which 22 have been recognised under 8th schedule for official purposes.

key The Constitution provides for Special Officer for Linguistic Minorities to safeguard minority languages and culture.

key functions

- 1) review functioning of schemes and safeguards of minority languages.
- 2) investigate complaints of discrimination or bias
- 3) recommend languages to be included into 8th schedule.
- 4) recommend additional measures to promote and safeguard India's linguistic diversity.

Contemporary relevance

- 1) India has the highest number of endangered languages (UNESCO)
- 2) reorganisation of states on linguistic basis may lead to discrimination against minority languages within those states e.g. imposition of Urdu on Ladakh in erstwhile J&K.

- 3) safeguard national unity and fraternity against linguistic chauvinism, nationalism
- 4) promote literary and other creative pursuits in minority languages through financial incentives, awards, platforms.
- 5) promote translations and cross-linguistic dialogue to build appreciation for India's composite culture
- 6) ~~NEP~~ NEP 2020 recommends teaching in mother tongue upto primary and middle schools for cognitive development and boosting self-esteem.

Way forward

- 1) increase resource allocation for administrative functions
- 2) establish regional benches across India to make grievance redressal more easily accessible

India's diversity must be nurtured as a source of strength to face the upcoming challenges of an uncertain world.

8) ~~Article 22 provides for preventive detention of individuals~~

8) Article 22 provides for fundamental right of freedom against arbitrary arrest and detention. It complements the right to life and personal liberty in Art 21 by providing for procedural safeguards in case of arrest/detention.

Safeguards

- 1) the detainee must be informed of the charges against them
- 2) he/she must be produced before a magistrate within 24 hours
- 3) right to competent legal representation

However, these safeguards are diluted in case the arrest is made under a preventive detention law. Indian Constitution is unique in granting constitutional recognition to preventive detention. This is why Art 22 is called a necessary evil.

Provisions for arrest under preventive detention law

- 1) detainee may be informed of grounds of arrest unless it affects national security
- 2) the detention may continue for 2 months, beyond which approval by HC judges is necessary

why this is necessary:

- 1) intelligence regarding threat to law and order may necessitate pre-emptive action against known criminal elements.
- 2) threat of terrorism - sleeper cells in urban areas
- 3) allows for proactive instead of just reactive and post-facto policing

why this is evil:

- 1) violates principle of natural justice by denying personal liberty without any commission of crime
- 2) vast discretion to local authorities can be misused for partisan political or corrupt purposes
- 3) promotes stereotypical characterisation of certain communities as 'habitual offenders'.

Way forward:

- 1) Stronger procedural safeguards for preventive detention
- 2) Periodic review of application of this provision by the High Courts to correct individual misuse and systemic bias.

A robust legal framework grounded in human rights is the approach desired for this necessary evil.

- 9) Art 44 of DPSP provides for Uniform Civil Code (UCC). UCC stands for set of ~~and~~ codified personal laws that are uniformly applicable to citizens of India without any difference between religions, races, castes, ~~or~~ class etc.

'Uniformity' is not necessary for a unified nation.

- 1) Uniformity is an ideal of western societies which are vastly more homogenous in terms of ethnicity and religion.
- 2) India's unity is grounded in its diversity eg: linguistic states.
- 3) Indian secularism demands equal respect for all religions as against western ideal of strict separation between church and state.

43 A UCC will replace existing religion specific personal laws (Hindu Marriage Act, Muslim personal laws etc) with a unified legal framework for all its citizens in areas of marriage, inheritance, divorce, adoption etc.

Merits of this proposal:

- 1) rectify gender bias in several personal laws - provide for women empowerment eg: power to seek divorce should be equally with men and women.

- 2) prevent politicisation of personal law reform as targeting one particular community e.g. recent Triple Talag legislation
- 3) unfinished agenda of personal law reform from 1st Lok Sabha - while Hindu personal laws were codified, Muslim personal laws were not
- 4) uncodified personal law violates principle of rule of law because of arbitrary and capricious application
- 5) Different personal laws with gender-related disabilities subject the rights of citizens of India to their religious identity

Demerits of this :

- 1) imposition from above of UCC will be perceived as victimisation of minorities - damage social fabric & fraternity
- 2) right to administer personal laws has been provided to tribal communities in Nagaland, Manipur etc under Art 371 A-J. UCC cannot violate constitutional protection.
- 3) Indian idea of secularism suggests a balance between inter-religious equality and intra-religious equality.

Way forward

A national consensus must precede implementation of UCC. In the meanwhile, the discriminatory aspects of personal laws can be addressed through legislation and judicial intervention.

- 10) Article 14 provides for right to equality in two formulations - 'equality before law' and 'equal protection of the laws'. While superficially redundant, these formulations address distinct dimensions of right to equality.

Equality before law

- 1) derived from AV Dicey's principles of 'rule of law'
- 2) requires that ~~so~~ all persons shall be equal before law - no special privileges or exemptions in application of law due to individuals' caste, class etc
- 3) pre-modern India had different punishments for the same crime committed by individuals of different castes.
- 4) Indian Penal Code provides for no such distinctions.
- 5) dismantles pre-modern regime of aristocratic privileges and affirms fundamental equality of human beings rooted in human dignity.

Equal protection of laws

- 1) derived from American Constitution
- 2) in simple words - 'like should be treated alike'

- 3) recognises that laws & blind to historical discriminations and circumstances may perpetuate injustices and inequality
- 4) provides for ~~substantive~~ substantive equality, ~~not just~~
- 5) permits special treatment of disadvantaged groups like women, SCs, STs etc in legislation
- 6) is the foundation of affirmative action policies (like reservation)

Read together, these two formulations of right to equality prohibit class legislation but permit reasonable classification for purpose of application of law.

In a historically hierarchical society like India with 2500 year old evil of caste system, the right to equality addresses the history of ~~no~~ marginalisation in an appropriate manner.

11) Article 324 provides for Election Commission with the authority to supervise, direct and conduct elections to Parliament, state legislatures, the office of President and Vice President. This includes power to prepare electoral rolls for each.

Further, ROPA 1950, ROPA 1951 have been enacted under Art 325 for further delineation of EC's powers.

Quasi-judicial functions :

- 1) determining if a candidate indulged in corrupt practices (Art 123 of ROPA 1951), disqualification if guilty.
- 2) ~~ordering~~ declaring election null and void if it was found to not be free and fair
- 3) imposition of gag-orders on campaigners for violating Model Code of Conduct. e.g. recently against Mamta Banerjee

Advisory functions :

- 1) advises President on allegation of 'office of profit' against sitting legislators, recommending disqualification
- 2) policy recommendations to strengthen electoral process
- 3) State Election Commissions benefit from EC's expert advice in conduct of local body elections

Challenges faced in recent years:

- 1) no expenditure limit for political parties - money power ↑
- 2) political parties violate transparency requirements under RPA, e.g.: third party audit of finances.
- 3) ~~instances~~ allegations of bias against EC - selective enforcement of Model Code of Conduct, scheduling of recent WB elections
- 4) questions on integrity of EVMs.

5) In this context, powers of EC need a relook:

- 1) Amend Art 29A to grant power to ~~de~~-recognise a political party.
- 2) EC has requested for contempt powers to be granted so to curb malicious propaganda damaging integrity of the electoral process.
- 3) questions regarding anti-defection law under 10th schedule should be referred to EC instead of presiding officer.

That being said, SC has held that Art 324 provides plenary powers to EC. Thus, it is not the lack of power, but transparent and rules-based application of it that should guide the path forward.

12) District Planning Committees are an important pillar of decentralised governance and developmental process envisaged by 73rd and 74th amendments to the Constitution

What are DPCs?

- 1) district level bodies comprising members of both Panchayati Raj Institutions, Urban Local Bodies.
- 2) local MLAs, MPs, also part of DPC, alongwith Dy. Commissioner.

What is bottom-up planning?

- 1) decentralisation of planning process ~~that~~ in which national and state level development trajectories are constructed by combining district and panchayat level preferences

How DPCs envisage bottom-up planning

- 1) they combine and collate development plans designed by panchayats and municipalities at the district level
- 2) this district plan is forwarded to state, then to national government for designing schemes, budget and policies.

Factors hampering bottom-up planning process

- 1) lack of capacity, skilled functionaries in local bodies to design development plans

- 2) lack of relevant data in a digestible format to enable planning
- 3) no audit of how closely state and national initiatives adhere to inputs of DPCs.
- 4) inadequate devolution of funds, functions to implement by themselves parts of development plans.
- 5) limited public ~~eng~~ engagement and low public awareness of the purpose and function of DPCs

Measures to strengthen DPCs:

- 1) regular training and workshops for local body functionaries in the development planning process.
- 2) design SOP for functioning of DPCs emphasising wide public consultation, esp marginalised groups
- 3) NITI Aayog, with other thinktanks should study the alignment of state/national initiatives with district plans.
- 4) a GIS ~~and~~ enabled database and analytics platform to assist development planning. e.g. real time cropping data, along with global supply-demand forecasts to enable strategic cropping patterns

Gram Swaraj Abhiyan by Ministry of Rural Development is an excellent initiative to strengthen PRI capacity to design Gram Panchayat Development Plans.

- 13 State Finance Commissions are the cornerstone of financial decentralisation to the third tier of government, provided by 73rd and 74th Amendment Acts.

What is fiscal decentralisation

- 1) devolution of funds from Consolidated fund of Centre/states
- 2) devolution of powers to collect funds eg: road tax etc
- 3) devolution of authority to plan development expenditure

In this context, functions of SFCs are

- 1) determine the share of net proceeds of taxes and grants that should be transferred from consolidated fund of states to local bodies
- 2) determine the principles of grants-in-aid to local bodies
- 3) ~~recommendations~~
- 3) any other matter that Government may refer in interest of sound finance

Importance for fiscal decentralisation

- 1) recommendations of SFCs are considered by Finance Commission to suggest measures to augment consolidated funds of states to supplement resources of local bodies
- 2) recommendations must be placed before state legislature

which enforces oversight over pace and progress of democratic decentralisation in terms of fiscal devolution

- 3) Objective, rules based, and predictable awards provide policy certainty strengthening ^{institutional} integrity and long term credibility of local bodies, regardless of politics.
- 4) reinforce the independent constitutional existence of local bodies - not dependent on whims of state government for sustenance.

However, multiple hurdles in fulfilling their role:

- 1) SFCs are not appointed regularly
- 2) recommendations are often not accepted, unlike the Finance Commission.
- 3) stringent fiscal deficit targets for states limit space for fiscal devolution to local bodies
- 4) Uneven access to audited accounts of local bodies in prescribed format for objective needs assessment

Way forward

- 1) permanent secretariat to build institutional memory and long term database may be established.

Thus, SFCs can be instrumental in fulfilling the vision of grassroots democracy.

14) A recent legislation increased the sanctioned strength of SC from 31 to 34 judges, including the CJI.

This is a welcome step:

- 1) over 66,000 pending cases at SC (justice delayed is justice denied)
- 2) enables appointment of women justices in immediate future (historically skewed gender balance)

Efficient functioning of judiciary involves:

- 1) accessible, affordable, and timely justice
- 2) independence of judiciary - esp. in enforcing fundamental rights of citizens against arbitrary state action

why this requires reforms at all levels:

- 1) pendency begins in subordinate judiciary, where over 38 million cases are pending
- 2) pipeline of recruiting judges is broken - bright graduates don't prefer judiciary as a profession, allegations of nepotism in senior appointments
- 3) the subordinate judiciary is the first and often the only experience interface of common man with justice system

Reforms needed in subordinate judiciary:

- 1) inadequate, dilapidated infrastructure must be remedied - states must provide land, vertical construction where necessary
- 2) All India Judicial Service to attract talent
- 3) periodic review of judgements to sanction judges who fail a threshold of competence

Reforms in High Courts:

- 1) Law Commission's judicial strength fixation formula
- 2) remedy 40% vacancy rate - timely acceptance of collegium recommendations
- 3) separate criminal division to speed up cases (Malimath committee)

Reforms in Supreme Court:

- 1) judicial restraint, including less frequent use of special leave petition powers (Art 136)
- 2) regional appellate benches in four metros, and a single constitutional bench in Delhi
- 3) transparency, accountability in collegium proceedings

Reforms at all levels:

- 1) digitisation: including procedural changes e.g. admissibility of digital evidence under CrPC
- 2) emphasis on Alternate Dispute Resolution: arbitration, Lok Adalats, Gram Nyayalas, Online Dispute Resolution

- 3) set timelines and code of conduct for timely disposal of cases eg: Odisha reduced pendency by 50% since 2018
- 4) identify choke points in lifecycle of cases eg: Delhi HC's Zero Pendency project is a diagnostic exercise.
- 5) integrate National Judicial Data Grid with eCourts, ePrisons, CCTNS, enable AI-based elastic search.
- 6) enforce CrPC provision for bail to undertrials if they serve half of the maximum sentence under the charged provision of IPC

These measures will help fulfil Preamble's vision of liberty, equality and justice to all citizens.

15 Ivor Jennings argued that India was a federation with a centralising tendency. But the vast socio-economic and cultural diversity of India necessitated special provisions and measures to meet specific needs.

Asymmetry in federalism refers to

- 1) special constitutional provisions like Art 371
- 2) 90-10 Centre-state ratio in Centrally Sponsored Schemes for hilly and north-eastern states vs 60-40 for the rest
- 3) multiple criteria used by Finance Commission like income distance, population, border state etc
- 4) different constitutional status of sub-units: erstwhile Art 370 for J&K, Sikkim was initially 'associate state'
- 5) Schedules 5th & 6th: special provisions for tribal areas

Specific needs of some sub-units

1) Economic backwardness:

- hilly and heavily forested states have lower level of economic activity. eg: Himachal, North-east
- border states like Punjab lack trade access
- states like Bihar, UP suffer from historic deprivation due to being landlocked, overpopulation, agrarian economies.

2) Cultural diversity:

- different tribal groups at varying levels of isolation. e.g: Primitive Vulnerable Tribal Groups are almost entirely devoid of modern civilisation.
- concerns of cultural and demographic change in states like Arunachal Pradesh, Nagaland due to in-migration.

3) varying historical trajectory

- context of accession of J&K, Sikkim to India necessitates provisions like Art 370, 'associate' statehood, respectively.

4) How asymmetry has helped cater to these needs

- 1) Art 371 provides control over personal laws, to communities in Nagaland, Manipur etc.
- 2) Inner line Permit system to regulate movement into states of Arunachal Pradesh, Nagaland, Manipur, Meghalam.
- 3) Art 371 provides governor with special responsibility for maintaining law and order, promoting development in certain backward regions (Marathwada, Hyderabad-Karnataka)
- 4) States with scheduled areas (5th schedule) have Tribal Advisory Council to assist Governor, who is empowered for tribal development e.g: preventing application of certain laws.

5) Autonomous districts and ~~too~~ Councils for 6th schedule areas - Mizoram, Tripura, Meghalaya, Assam providing higher autonomy w.r.t. land, markets, schools, personal laws etc.

6) higher fiscal support :

- 80-10 Centre-State contribution for hilly, NE states

- grants-in-aid under Art 275, including revenue deficit grants

7) Way forward

1) while asymmetric provisions are important, they must not negate the ultimate objective of strengthening unity and integrity of India. e.g.: erstwhile Art 370 for J&K.

2) demands like statehood (Gorkhaland, etc.), autonomous councils (Bros in Mizoram) should be considered.

While establishing a dual polity, the Constitution as a foundational document provides flexibility in navigating unique circumstances of India's size and diversity

- 16) Rajya Sabha is the Upper House of India's bicameral Parliament and as Council of states, a pillar of Indian federalism.

How electoral process differs

- 1) Lok Sabha
- 1) members directly elected by the people
 - 2) represent territorial ~~const~~ constituencies
 - 3) no nominated members
(Anglo Indian provision removed)
 - 4) first past the post system
 - 5) elections by secret ballot

- Rajya Sabha
- indirectly elected by people through MLAs
 - represent states as a whole
 - 12 nominated for special contribution to art, literature, science, social service
 - proportional representation
 - no secret ballot in elections

How structure differs RS vs LS

- 1) LS
- 1) presiding officer elected from among members
 - 2) 545 members

- RS
- Vice President is the ex-officio presiding officer.
- 238 elected, 12 nominated members.

Envisaged role of Rajya Sabha

- 1) ~~deliberative~~: discuss and debate legislative proposals
- 2) cooling chamber: prevent hasty passage of legislation
born out of one-off Lok Sabha majorities.
- 3) represent interests and concerns of states - strengthen federalism
- 4) recommend new All India Services eg: All India Judicial Service
- 5) indirectly elected and nominated members can elevate standard of debate, provide inputs based on expertise.
- 6) recommend subjects in state list that Parliament should legislate on in national interest.

To some extent, RS has performed its role:

- 1) blocked passage of Land Acquisition Bill 2015
- 2) quality inputs for GST, Aadhar and other legislation
- 3) a 1976 amendment provided for All India Judicial Service
- 4) eminent members like Javed Akhtar, Ranjan Gupte
- 5) different political compositions of Lok Sabha and Rajya Sabha encourage consensus building for legislation

But on many counts, it has lagged:

- 1) increasing use of 'money bill' certification has bypassed Rajya Sabha scrutiny eg: Aadhar Act.
- 2) removal of domicile requirement has weakened representation of state interests. eg: Manmohan Singh represents Assam.
- 3) frequent disruptions and shenanigans prevent reasoned debate
- 4) declining relevance of parliamentary committees (only 16% referred in 17th LS vs over 60% in 14th & 15th) impacts influence of RS members over policymaking.

Way forward

abuse of

- 1) Judicial scrutiny of 'money bill' certification
- 2) re-insert domicile requirement for election

weakening of Rajya Sabha will leave a hole in the constitutional schemes of checks and balances.

- 17) National Commission for Backward Classes (NCBC), earlier a statutory body, was granted constitutional status through 102nd amendment act.

Structure of NCBC

- 1) under purview of Ministry of Social Justice & Empowerment
- 2) consists of a Chairperson, Vice-Chairperson and three other members - appointed by President
- 3) tenure, conditions of service to be determined by rules
- 4) has power to regulate own procedure, powers of a civil court

Functions of NCBC

- 1) monitoring implementation of safeguards for backward classes
- 2) inquire into specific complaints of violation of rights.
- 3) make recommendations for socio-economic development of BCs.
- 4) annual reports to be placed before Parliament by President, state legislatures by Governors
- 5) Centre and States must consult NCBC on all major policy matters

Changes made in status

- 1) now a constitutional body under Art 338B
- 2) earlier, power limited to recommending inclusion and exclusion of a community to central list of OBCs.
- 3) ~~then~~ power to inquire into rights violations was with NCSC.
- 3) now, the powers are ~~trans~~ transferred to NCBC.

Significance of these changes

- 1) brings NCBC on par with NCSC and NCST
- 2) including woman member in the commission is welcome
- 3) having the powers of a civil court, it is better equipped with powers to protect interests of backward classes.

Way forward

- 1) <1% of OBCs corner 50% of reservation benefits. Justice Rohini Commission's recommendations should be considered (regarding sub-categorisation of OBCs)

The changes made to NCBC are a step forward in realising the vision of justice (social, economic and political) for OBCs.

18) The Objectives Resolution was introduced by Jawaharlal Nehru in 1946 to set the context for the constituent assembly's exercise of drafting the Constitution. This resolution became the template for the text of Preamble which would form the 'keystone of our constitution' (Granville Austin)

(Philosophical underpinnings refer to:)

- 1) the underlying assumptions and foundational beliefs
e.g: inherent human equality and dignity
- 2) common vision for the future for India
e.g. a democratic, republic
- 3) understanding of India's strengths and weaknesses which the constitution must address
e.g: strength (unity), weakness - untouchability.

for Indian constitution, these can be understood through Preamble

- 1) solemn resolve to constitute India into a democratic, sovereign, socialist, secular republic
 - a mutual vision for India's future
 - sovereign: free to take decisions for itself. neither a dependency, not nor a dominion.

- socialist: Gandhian socialism, absence of hunger and deprivation, equality of opportunity
 - secular: equal respect for all religions
 - democratic: free and fair elections based on universal adult franchise.
 - republic: head of the state is not hereditary (like UK)
all public offices open to all people
- 2) liberty of thought, belief, faith, expression and worship
- freedom of speech and expression (Art 19(1)(a))
 - freedom of conscience and to profess, practice and propagate any religion (Art 25)
- 3) equality - of status and of opportunity
- of status - Art 18 (abolition of all titles), Art 17 (prohibition of untouchability), Art 14 (before law)
 - of opportunity: welfare provisions & like right to free and compulsory primary education (Art 21A)
- 4) justice - social, economic and political
- social justice: abolition of untouchability, reservations

- 3) - economic justice: workers' share in ownership of capital and right to decent working conditions (Art 39, 42)
- political justice: universal adult suffrage (Art 326), every citizen is eligible to hold political office.

- 5) fraternity - assuring ~~and~~ dignity of individual and unity and integrity of the nation
- Dr. Ambedkar regarded fraternity (feeling of brotherhood) as integral to the trinity of liberty, equality, fraternity - all three were essential.

This exposition of philosophical beliefs is why Supreme Court frequently uses the Preamble to interpret key constitutional provisions, in a sense, it is the key to the constitution.

- 19) With 17% of world's population, India has only ~2% of world's freshwater resources. Water security is a core policy concern, especially with emerging threat of climate change

Water related issues in India

- 1) severe depletion of groundwater in paddy and sugarcane producing states like Punjab, Haryana
- 2) poor quality of groundwater - presence of arsenic, fluorides etc.
- 3) over 90% of India's precipitation is received in under 3 months of south-west monsoon.
- 4) inter-state river basins create long standing disputes over water sharing, disturb fraternity e.g. Cauvery dispute between Tamil Nadu, Karnataka
- 5) water ~~leaked~~ leakage and wastage due to creaky infrastructure, poor water use habits
- 6) non-economic pricing of water promotes overuse
- 7) limited recycling and reuse of water
- 8) water pollution - industrial effluents, sewage, agricultural runoff

Need for convergence

- 1) river basins run across multiple states requiring inter-state coordination, facilitated by Centre
- 2) different sources - groundwater, glacial melt, monsoons - should be leveraged in integrated manner
- 3) concerns of upstream and downstream populations must be harmonised.
- 4) water related disputes must not threaten unity of India through regional chauvinism

In this context, Ministry of Jal Shakti has been created by amalgamating Ministries of Water Resources, and Drinking Water and Sanitation.

It provides for convergences in:

1) policy-making:

- demand-side and supply side issues will be addressed in a holistic manner
- single Union Ministry to liaison with states to promote consensus on watershed based management
- single repository of data, institutional memory and expertise for ~~the~~ evidence based policy-making

2) for implementation:

- aims to make water conservation and management a people's movement ('jan andolan') by bringing together all stakeholders.
- fixes responsibility and accountability for water security

3) for monitoring:

- integrated ~~network~~ network of sensors and data collection centres.

Way forward

- 1) institutional mechanism for regular interactions between Centre and states for mutual understanding of needs and constraints.
- 2) leverage geospatial data for micro-level planning and bottom-up policy making eg: through Gram Panchayat Development Plans.

This restructuring is a step forward in achieving water security

20) The doctrine of eminent domain relates to land acquisition.

It states that government may acquire privately held land in public interest. It establishes the ^{ultimate} authority of the state acting in public interest over private ownership.

Evolution of right to property

- 1) in 1950, right to property was a fundamental right
 - art 19(1)(g) and ~~art~~ art 31
 - right to acquire, hold and dispose of property.
 - property could not be acquired by the state except by due process and payment of compensation
- 2) Land reform laws across India imposed land ceiling. Supreme Court held several laws as unconstitutional for violating right to property.
- 3) PM Nehru introduced Art 31A, 31B and Ninth schedule to save land ceiling laws from judicial scrutiny.
- 4) Indira Gandhi introduced Art 31C to save legislation enforcing Art 39(1), 39(c) from challenge on ground of Art 314, 19, 31.

5) through 44th amendment act, Art 19(1)(g) and Art 31 were deleted and replaced with Art 300A - state can acquire private property only by procedure established by law

6) since then, right to property is a constitutional right with no 'fundamental right' defence or mandate to pay compensation

how eminent domain can help us understand

1) public interest cannot be sabotaged by narrow and rigid understanding of private property rights.

- extreme inequality in land ownership as legacy of zamindari system was unsustainable

- Preamble's vision of equality and justice demanded land reforms.

2) public infrastructure like railways, roadways, defence installations cannot be held up by greedy landowners

- impede economic growth. make cost of infrastructure ^{unbearable}

3) aligns with theory of social contract under which certain private rights are given to the state for

maintaining the security and prosperity of the whole community.

Way forward

- 1) land acquisition prices under LARR 2013 may be rationalised as cost of land is a major barrier to attracting private investment
- 2) digitise land records administration and move to a conclusive titling system (government guaranteed titles)

Mission SWAMITVA to provide digitised, GIS-linked land-titles to farmers is a welcome initiative.