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GENERAL STUDIES COMMENT SHEET **1820**

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Medium Eng./Hindi	English	Registration Number	1253004
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।
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.

3.

4.

5.

6.

All the Best

1. What do you understand by 'constitutionalism'? Highlight various ways in which the Indian Constitution underscores this principle. (150 words) 10

'संविधानवाद' से आप क्या समझते हैं? भारतीय संविधान में इस सिद्धांत को रेखांकित करने वाले विभिन्न उपबंधों पर प्रकाश डालिए।

Constitution is the supreme law of land. It lays down the set of aspirations, ideals and expectations of the governed.

Constitutionalism is a doctrine that limits the powers and role of the governing body to rules, laws, values and spirit enumerated by the Constitution.

The ways in which the Indian constitution underscores the principles of constitutionalism are as follows:-

- ① Imposes obligation upon the state to ensure social-economic democracy according to the DIRECTIVE PRINCIPLES OF STATE POLICY
- ② Makes the government accountable to the elected representatives through Article 75 of the constitution

- ③ Ensures separation of Powers and system of checks and balances (Article 50, 122, 212, 121, 211, 361)
- ④ Ensures effective distribution of power through precise allocation (7th schedule)
- ⑤ Supremacy of Fundamental Rights & their enforcement (Article 32)
- ⑥ Curbs misuse of administrative and legislative power through an independent judiciary and scope for judicial review (Article 13)
- ⑦ Free and fair elections for substantive democracy (Article 324)

Although the executive and parliament have tried to impose their supremacy through overriding legislations, yet through Judgements like Kesavnanda Bharati case, Minerva Mills, I.R. Coelho, the Supreme Courts have ensured the sanctity of Constitutionalism through the Basic Structure Doctrine

Hence, Constitutionalism is the foundation stone of Indian Democracy

2. Mention various initiatives taken for online delivery of judicial services in India. Also, discuss the challenges faced in their implementation.

(150 words) 10

भारत में न्यायिक सेवाओं की ऑनलाइन प्रदायगी के लिए प्रारंभ विभिन्न पहलों का उल्लेख कीजिए। साथ ही, उनके कार्यान्वयन में आने वाली चुनौतियों पर चर्चा कीजिए।

With 4.77 crore cases pending in lower & higher judiciary, situation aggravated by lockdown during the pandemic, there is a need for technology integration to make justice delivery quick, efficient and cost effective.

For the same various initiatives have been taken for online delivery of judicial services including :-

- 1) e-Courts Mission :- For integrating e governance in case filing, tracking and redressal
- 2) Legal & Information Management and Briefing System - For cases of various ministries and department
- 3) Live streaming of proceedings - Gujarat High court
- 4) Interoperable criminal Judicial System :- For data transfer between police, courts, prisons forensic labs etc.
- 5) Recently Justice N.V Ramanna also launched an app for journalists to access court

proceedings & recordings.
However, these initiatives have been
saddled with the following challenges:-

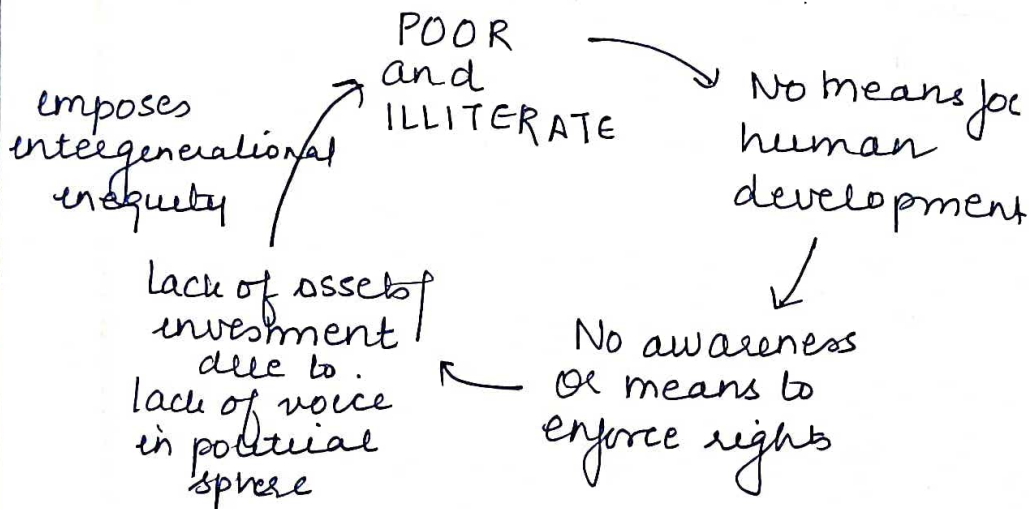
- 1) Lack of funds and necessary infrastructure for technology adaption
- 2) Overburdened judiciary and lack of training on use of new modes
- 3) Digital illiteracy and lack of tech savvy judges & lawyers
- 4) Threat of cyber attacks on stored data
- 5) Possibility of technology being used for surveillance & monitoring
- 6) Privacy concerns in case of live streaming of cases
- 7) Inaccessibility to the poor population

Therefore, online judicial services will bring in accountability, transparency and convenience for the users of justice, yet training, awareness & financial support needs to be ensured so that technology integration doesn't become exclusionary in nature.

3. Illiteracy and poverty are hindrances in the formation of healthy public opinion on public policies. Discuss with suitable examples. (150 words) 10
निर्क्षरता और निर्धनता सार्वजनिक नीतियों के संबंध में स्वस्थ जनमत के निर्माण में बाधक हैं।
उपयुक्त उदाहरणों के साथ विवेचना कीजिए।

With more than 9% of population in extreme poverty and about 35% of world's poor residing in India, the country faces serious threat to socio-economic democracy.

Illiteracy and poverty reinforce a vicious circle of lack of agency.



The cycle is further augmented by :-

- 1) Lack of education & information about rights and entitlements

(Eg:- Jharkhand → Gitee couldn't enforce right to food due to no information and poverty
(Death due to non linking of Aadhar card))

- 2) Cannot get themselves enrolled in government schemes

(Eg:- Migrants (due to different state Ration card) in Pandemic)

- 3) Cannot make use of instruments which enable healthy public opinion (eg :- Social Audit; RTI, Citizen charter)
(eg :- RTI fees too high for poor household)
- 4) Cannot hold politicians accountable, mercy of freebies in elections

However, there have been some instances to contrary (Farmer Protests, CAA Activism) which shows that awareness & evoking response can go a long way in forming opinion on public policies and remedy poverty & illiteracy ultimately.

4. Why did Dr. B.R. Ambedkar see the CAG as "probably the most important officer in the Constitution of India"? Discuss the issues faced in the functioning of CAG. (150 words) 10

डॉ. बी. आर. अम्बेडकर ने कैग (CAG) को "संभवतः भारत के संविधान में सबसे महत्वपूर्ण अधिकारी" के रूप में क्यों माना है? कैग के कामकाज के समक्ष उत्पन्न होने वाले मुद्दों पर चर्चा कीजिए।

Article 148-151 lays down the provisions regarding the Comptroller and Auditor General of India.

Dr. B.R. Ambedkar claimed the indispensable nature of this officer and CAG has been rightly called the GAURDIAN OF PUBLIC PURSE. This is due to:-

- 1) Responsible for audit of accounts of central, states and local bodies which may be extended to include banks & public sector undertakings and hence works as trustee of taxpayer money
- 2) Watchdog of Economy :- Role not only limited to Propriety/legal Audit (ensuring authenticity of source & destination of funds) but also Performance/Efficiency Audit (ensuring economy of outcome of funds)
- 3) Coordinates with Public Accounts Committee and Committee on PSU's
- 4) Has helped to unearth various scams like 2G & Coalgate)

However, the following issues are faced in functioning of CAG :-

- 1) Postmortem role :- criticism because of reactive role over proactive role
- 2) Single member body :- Biases in judgement may creep up, overburdened office and inefficient management of workforce.
- 3) Dubious appointment system with executive involvement & lack of prescribed qualification.
- 4) No mechanism to ensure action taken on reports making it a paper tiger

The role of CAG becomes even more important when the other institutions of vigilance including CBI, CVC, CIC are witnessing weakening functioning due to appointment & structural flaws & courts are overburdened with pendency.

CAG is the backbone of democracy and hence transparency & objectivity in its role, appointment & functions must be ensured.

5. Bring out the similarities and differences in the Bill of Rights in the Constitution of the United States and Fundamental Rights in the Constitution of India. (150 words) 10

संयुक्त राज्य अमेरिका के संविधान में उपबंधित बिल ऑफ राइट्स और भारत के संविधान में मूल अधिकारों के मध्य समानताओं और भिन्नताओं को रेखांकित कीजिए।

The Bill of Rights in the United States of America and Fundamental Rights enumerated in Part III of the Constitution in India are Magna Carta of justiciable enforceable and legally tenable rights.

The following similarities are observed in the Bill of Rights and Fundamental Rights :-

- 1) Based on the ideas of John Locke, Rousseau and the social contract theory, which states that the governing authority is bound to ensure well being and safety of their subjects.
- 2) Entail human rights that ensure natural justice including right to life, freedom of expression, right against discrimination.
- 3) legally enforceable in courts of law & adequate remedies available

However, the two differ on following counts:-

FUNDAMENTAL RIGHTS (INDIA)	BILL OF RIGHTS (USA)
Find a place in the original constitution	Added by way of an amendment in 1791.
Work on the principle of PROCEDURE ESTABLISHED BY LAW.	Work on the principle of DUE PROCESS OF LAW.
Tweaked to suit the Indian context including Positive & Affirmative actions in form of reservations, prohibition of untouchability etc.	Have stood the test of time and more or less remained same.
Exhaustive list is specified other rights may be legal but not fundamental	Specifies that Bill is a non-exhaustive rights document.
For eg:- Freedom of Press is under Freedom of Expression No Fundamental Right to Property	Freedom of Press is a separate right - Fundamental Right to Property exists

In spite of the above differences both ensure substantive justice for their citizen & guide the two democracies

6. There are various issues related to appointments in higher judiciary in India that need urgent attention. Discuss in context of the recent report by the Parliamentary Standing Committee for the Ministry of Law and Justice.

(150 words) 10

भारत में उच्चतर न्यायपालिका में की जाने वाली नियुक्तियों में संदर्भ में विभिन्न मुद्दे विद्यमान हैं जिन पर तत्काल ध्यान दिए जाने की आवश्यकता है। विधि और न्याय विभाग संबंधी संसदीय स्थायी समिति की हालिया रिपोर्ट के संदर्भ में चर्चा कीजिए।

There exists a 39% vacancy in higher courts. This leads to a huge pendency in cases and hence leads to delay in decision making.

The Recent report by the parliamentary standing committee for Ministry of Law & Justice has highlighted the following issues in appointment of higher judiciary:

① Delays in appointment :: The MOP (Memorandum of Procedure) lays down the process & timelines for appointment which is rarely adhered to.

For eg.: Appointment of HC (High court judge)

CTI of HC initiates proposal → State govt approval → Union Ministry of Law & Justice Approval → SC collegium approval → President appoints

There are delays in every step. It takes about 41 days for HC judge appointment and 5-7 months for district judge appointment

- ② The number of sanctioned judges is not based on scientific formula & is ad hoc & random with no consideration of litigation trends, disposal rates and Judge productivity.
- ③ There is a huge rate of rejection (40-50%) at each level.
- ④ Composition of judges do not reflect socio-economic & cultural diversity of India: Inadequate representation to women, backward classes and transgenders, which translates into lack of inclusivity in the verdicts.

In the era of rising number of judicial cases and judicial emergency, an inclusive, rational and well laid down appointment procedure is indispensable, which can be followed in letter & spirit.

7. The Competition Commission of India (CCI) effectively reflects a shift from the era of Licence Raj to a conducive regulatory ambience for enhancing consumer welfare by encouraging competition in the market. Discuss.

(150 words) 10

भारतीय प्रतिस्पर्धा आयोग (CCI) बाजार में प्रतिस्पर्धा को प्रोत्साहित करके उपभोक्ता कल्याण को बढ़ाने के लिए लाइसेंस राज के युग से एक अनुकूल नियामकीय परिवेश में स्थानांतरण को प्रभावी ढंग से प्रदर्शित करता है। चर्चा कीजिए।

1991 liberalisation reforms were a watershed movement in the regulatory landscape of the country.

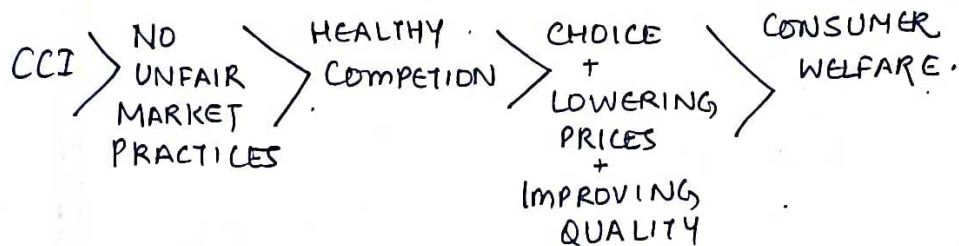
One of the ripple effect of the reform was creation of Competition Commission of India, in 2009 which was a (CCI) statutory body under the Competition Act of 2002. This act replaced the erstwhile MRTP Act (Monopolistic & Restrictive Trade Practices) Act.

The role of CCI was enumerated to be a FACILITATOR OF COMPETITION than a PROHIBITOR in the following ways:-

- 1) It was envisaged to regulate combinations (acquisitions/takeovers) abuse of dominant positions and overseeing anticompetitive agreements that have appreciable ^{adverse} effect on competition of India

- 2) It seeks to promote consumer welfare by ensuring cartelisation/monopolisation is restricted and consumers pay fair price.
- 3) It prevents market distortions through collusive agreements.
- 4) It safeguards domestic interests through regulation of International companies.

For eg:- CCI recent regulations against tyre companies, marine shipping companies, & Google colluding with handset makers have helped ensure healthy competition in market.



Thus the revamped role of the regulator has led to economic freedom for both producers & consumers unlike the previous regimes of regulatory chockhold that stifled initiative.

8. Enumerate the various kinds of writs in the Indian judicial framework and state the remedial significance of writs. (150 words) 10

भारतीय न्यायिक ढांचे में विद्यमान विभिन्न प्रकार के रिटों को सूचीबद्ध कीजिए और इनके उपचारात्मक महत्व को स्पष्ट कीजिए।

Article 32 and Article 226 gives the Right to constitutional Remedies which mandates the Supreme Court and High Court to issue writs for enforcement of Fundamental Rights.

The various kinds of WRITS in the Indian Judicial Framework include:-

HABEAS CORPUS → Demanding presence of someone illegally detained by private/public authority

MANDAMUS - 'Resume duty' command to public official who has failed to perform duty

PROHIBITION - Forbidding a lower court from exceeding / usurping jurisdiction (Preventive in Nature)

CERTIORARI - Ordering lower court to transfer case / quash order due to excess jurisdiction (Curative in nature)

QUO WARRANTO - Enquiry into the legality of claim of person for public office

Remedial significance of writs

- Article 32 - brings other rights to life by providing grievance redressal mechanism
- Based on social contract theory, based on Judiciary being protector of fundamental rights of people.
- Imposition of penalty, injunction, punishment against both private & public office.
- Ensures complete justice and harmony and public trust.

The remedial powers of the Article 32 and prerogative writs is such that B.R Ambedkar called it the HEART and SOUL of the CONSTITUTION, without which all other rights will fall into nullity.

9. Giving the rationale behind the formation of a separate Ministry of Cooperation, discuss the ways to deepen Co-operatives as a true people centric movement in India.
(150 words) 10

एक पृथक सहकारिता मंत्रालय के गठन के पीछे निहित तर्क प्रस्तुत करते हुए, भारत में एक वास्तविक जन केंद्रित आंदोलन के रूप में सहकारिता को सुदृढ़ करने के तरीकों पर चर्चा कीजिए।

The government of India in July 2021, created a new Ministry of Cooperation by separating it from the Ministry of Agriculture and Farmer welfare.

The rationale for the formation of a separate ministry includes:-

- 1) Embolden the community based development model that was pioneered by cooperatives like Amul, by Mr. Varghese Kurien during operation Flood.
- 2) Provide a separate Administrative, legal and policy framework for cooperatives, including ones engaged in dairy farming, textiles, sugar mills, banks etc.
- 3) Help cooperatives become a people based movement, reaching upto grassroots
- 4) Streamline processes for Ease of doing Business for cooperatives and enable development of Multi State Cooperative Societies.

In spite of these administrative efforts, the cooperatives cannot become a people centric movement unless:-

- Adequate credit, members Training and Infrastructural facilities are made available.
- Regional imbalance with only a handful of states (Maharashtra, Gujarat, Karnataka) benefitting is tackled
- Technology integration (Eg:- Kisan Drone Policy for FPO's (Farmer Producer Organisation)) is made possible
- Increased cooperation through Bank-SHG-Cooperative linkages with empowerment of women farmers and women stakeholders
- Single window clearance & regulatory handholding

Thus, on one hand where service sector is seeing booming startups and unicorns, grassroot agricultural & primary cooperatives can make growth more Inclusive and story of development backed by Jan Andolan

10. Highlighting the key provisions of The Tribunals Reforms Bill, 2021, discuss whether it can help in addressing the issues pertaining to tribunals in India.

(150 words) 10

अधिकरण सुधार अधिनियम, 2021 के प्रमुख प्रावधानों को रेखांकित करते हुए, चर्चा कीजिए कि क्या यह भारत में अधिकरणों से संबंधित मुद्दों को संबोधित करने में सहायता कर सकता है।

Tribunals are quasi judicial bodies with powers limited to an area of expertise and seeking to reduce the burden of existing judicial system in India

The Tribunal Reforms bill, 2021 seeks to replace an earlier ordinance dealing with Rationalisation & conditions of service.

Various provisions of the bill include:-

ADDRESSES ISSUES	DOESNT ADDRESS
① <u>Absolute certain appellate tribunals</u> ↳ <u>Streamline</u> tribunals ↳ Saves considerable cost to <u>exchequer</u>	↳ Dissolution add to <u>burden</u> of existing court ↳ Defeats <u>purpose</u> of <u>formation</u> ↳ Lack of <u>technical expertise</u> <u>degrade</u> <u>quality of judgement</u>
② <u>Formation of search, cum. selection committees to determine appointment and conditions of service (including removal)</u>	

- ↳ Time bound appointments
- ↳ Judicial Role in appointments (Chairman - SC Judge/ CJI)

- ↳ Lack of Discussion bill
- ↳ Same provision struck down in Madras Bar Association Case (2021)
- ↳ Non adherence to recommendation of forming National Tribunals Commission

③ 4 year term of office, Maximum age 70, Minimum age 50.

- ↳ Ensure only experienced officials inducted to fast track pendency
- ↳ ↑ in maximum age ensures more productive years
- ↳ 4 yr office - no conflict of interest

- ↳ Bar on minimum age hampers security / length of tenure
- ↳ Innovative young approach unavailable
- ↳ No bar on practice after retirement

The bill might be well intentioned but must be properly debated upon and in consonance with Supreme Court recommendation in Madras Bar Association Case (2021)

11. Asymmetry is not only an important characteristic of federalism in India, it has also helped in the accommodation of diverse demands inherent in our democracy. Discuss.
(250 words) 15

असममिति न केवल भारत में संघवाद की एक महत्वपूर्ण विशेषता है, अपितु हमने हमारे लोकतंत्र में निहित विविध मांगों के समायोजन में भी सहायता प्रदान की है। चर्चा कीजिए।

Indian federalism is characterised by differential roles and responsibilities, political, administrative and financial powers of constituent states. This phenomena is termed as asymmetric Federalism.

Asymmetry in Indian federalism avoids the 'one size fits all' Approach by the Union and gives flexibility and autonomy to the states to cater to their varied requirements.

Differential provisions are enumerated both in the spirit and law of India due to following IMPORTANT CHARACTERISTICS

- ① Accomodate differences on account of GEOGRAPHY, ETHNICITY, culture, TERRAIN; Neighbouring Areas, Historical Context.

- ② Ensures sense of belongingness and assimilation.
- ③ Secures rights to the citizens and ensure social justice
- ④ Portrays Unity in Diversity and equity in resource allocation.
- ⑤ Keeps divisive tendencies and internal security threats at bay

Unlike the United States of America, which is a coming together federation, India is a holding on federation which seeks to accomodate diverse demands in our democracy.

This has been ensured by :-

- ① FINANCIAL FRAMEWORK
 - ① Special Category states -
 - ① Unequal financial burden for centrally sponsored states
 - ① Grants in aids by the finance commission for backward states.

This has been done to ensure equity in development and remedy the economic and infrastructural backwardness and

support non viable nature of state princies

② POLITICAL FRAMEWORK

- ① Devision of political power between states and union territories (UT's)
- ① UT's with & without Legislature
(Eg:- Delhi (due to its status of being capital)
Puducherry (due to noncontagious areas)
- ① Unequal Representation in Rajya Sabha

This has been done to accomodate demands arising due to varied population, resource base, territorial size and level of development.

③ ADMINISTRATIVE FRAMEWORK

- ① Article 370 - for Jammu Kashmir
- ① Article 371 - for Northeastern states giving governors greater powers to preserve culture ethnicity and Tribal rituals & traditions
- ① Sixth Schedule areas to preserve autonomy.

This has been done to factor in hilly & difficult terrain, low population density and strategic location around borders

Thus, Asymmetric federalism ensures that India caters to varied demands of democracy like a Thali rather than "melting pot," that belongs together but not necessarily mix.

12. Identifying the designated role of Parliament, discuss the consequences of inefficiency in parliamentary functioning in India. Also, suggest some measures for improving the functioning of Parliament. (250 words) 15

संसद की निर्दिष्ट भूमिका की पहचान करने हुए, भारत में संसद के कामकाज में अक्षमता के परिणामों पर चर्चा कीजिए। साथ ही, संसद के कामकाज में सुधार के लिए कुछ उपायों का सुझाव दीजिए।

India follows a Westminster form of government which means that the executive is directly responsible to the parliament / the elected representatives of the people.

The Role of Parliament as designated by the constitution, entails:-

- ① Ensuring the accountability of the executives with help of
 - ① Parliamentary Committees
 - ① Motions, Question hour
 - ① Vote on grants.
- ② Deliberative law making
 - ① including meaningful debates which give guidance to executive & judiciary on how to implement & enforce laws.
- ③ Keeping tyranny of political parties in check through
 - ① Whip
 - ① Anti Defection Law

- ④ Effective opposition to unsound & hasty legislation
- ⑤ Amend the constitution according to changing needs of democracy

However, decrease in number of sittings, lack of referral of bills to committees and controversial role of speaker on money bill & anti-defection law has led to creeping of inefficiencies in parliamentary governance. Consequences of same are :-

- ① Sensationalisation of parliamentary proceeding & neglect of meaningful debates
 - ② Obstructionist strategies & indiscipline
 - ③ Criminalisation of politics
 - ④ Hasty and Populist decision making by majority party
 - ⑤ Politicisation of the office of speaker
 - ⑥ Poorly drafted legislation
 - ⑦ Increase in subordinate legislation
 - ⑧ Authoritarian tendencies of executive
- , Breach of Parliamentary Privileges.

Thus, the inefficiencies would lead to parliament losing its institutional credibility.

The following steps can be taken to improve functioning of parliament

- 1) Ensure attendance by rooster system & mandating minimum sitting
- 2) Women Representation and chance to new entrants & back benches
- 3) Reforms in antidefection law, office of speaker and whips
- 4) Pre and Post legislative impact assessment
- 5) Special Tribunals & disclosure of criminal antecedents for members / candidates
- 6) Enforcing a code of conduct for MP's.
- 7) Mandatory vetting of bills by committees & requirement of Action Taken Report on recommendations.

Therefore, the need of the hour is to cut down parliamentary disruption and also encourage fresh candidates by conducting Youth parliaments

13. Despite awarding constitutional status to the National Commission for Backward Classes, there still remain issues with regard to inclusion/exclusion of communities in the OBC list. Discuss. (250 words) 15

राष्ट्रीय पिछड़ा वर्ग आयोग को संवैधानिक दर्जा देने के बावजूद, ओ.बी.सी. सूची में समुदायों के समावेशन/वहिष्करण के संबंध में अभी भी विभिन्न मुद्दे विद्यमान हैं। चर्चा कीजिए।

The National Commission for Backward Classes was a statutory body created the National Commission for Backward Classes Act, 1993 functioning under the Ministry of social justice and empowerment.

It was accorded the constitutional status through 102nd Constitutional Amendment Act in 2018, when Article 338B and 342A were added.

Article 338B provides the authority to the NCBC to :-

- 1) Examine complaints & welfare measures with respect to socially & educationally backward classes (SEBC)
- 2) Advise on welfare matters related to SEBC
- 3) Supervise policy implementation
- 4) Present a report to President (annually or otherwise) on working of safeguards for SEBC

5) In pursuance of the above, the NCBC acts as a civil court.

However, there remain issues with respect to inclusion/exclusion of castes in the OBC list on account of the following.

1) Lack of updated Data on OBC's →

The NCBC does not have the powers to collect nationwide data and the census carried on each decade contains data only for SC & ST. The Socio-economic Caste Census was carried out but data hasn't been made public. The recent proposal to introduce Caste Census has also been facing backlash.

2) Huge no. of backward castes with similar names - Makes exercise even more tedious & complex

3) Article 342A gives the power to the President to decide backward classes for each states with consultation of state governors, but only parliament can amend the list with a law, therefore

NCBC does not have power to include/exclude

castes from the list

- 4) Recommendations of NCBC are not binding on the government and accountability cannot be ensured through Action Taken Reports (ATR)
- 5) Financial Deficit, Manpower shortages, lack of Technical expertise and non inclusion of provisions for timely review of list (As mandated by the supreme court) also adds to the woes of NCBC.

Therefore, simply providing a constitutional status to the National Commission for Backward classes won't be fruitful unless concurrent changes are made for revamping its powers and increased say in safeguards of backward classes.

14. A critical appraisal of the outcomes of the 74th Constitutional Amendment Act underlines the need for second generation reforms to strengthen decentralisation of Urban Local Governance in India. Discuss.

(250 words) 15

74वें संविधान संशोधन अधिनियम के परिणामों का आलोचनात्मक मूल्यांकन भारत में शहरी स्थानीय शासन के विकेंद्रीकरण को सुदृढ़ करने हेतु दूसरी पीढ़ी के सुधारों की आवश्यकता को रेखांकित करता है। चर्चा कीजिए।

74th amendment Act, 1993 sought to provide democratic decentralisation to the administrative and political framework of India.

However, after a critical appraisal the following issues have been reported in the working of the Urban local bodies:-

1) Scarcity of Finance - According to the Municipal Performance Index (2021) released by Ministry of Housing & Urban affairs only 20 out of 111 cities have the power to borrow and invest funds without state approval. This makes them increasingly dependent on state and central grants, whose funds have been scarce due to the pandemic & economic slowdown.

2) Lack of autonomy - Excessive state regulation & requirement of approval hampers day to day functioning of Urban Local Bodies.

3) Multiple authorities (like state public works) for similar sectors - Duplication of effort, lack of coordination, poor accountability & implementation of policies.

4) lack of regular elections.

Thus this leads to poor urban local governance which calls for the following reforms.

- 1) Financing - Municipal bodies should be encouraged to borrow without government approvals / guarantees.
 - ① increased delegation of taxation power
 - ① floating of municipal bonds
 - ① coverage under priority sector scheme.
- 2) Capacity building through training of elected municipal councillors / mayors
- 3) Effective coordination with elected and permanent bureaucracy with delegation of powers.
- 4) Taxation reforms - to increase ^{Voluntary} compliance by simplification :-
 - ① Reform of land ceiling, Rent control & stamp duty act, property tax collected through GIS mapping
- 5) Transparent Municipal Accounting for better financial management

- 6) Governance Reforms including conduct of regular elections before expiry of term of current ULB.
- 7) Integration of technology for e-governance which will make administration quick, transparent & participative.
- 8) Collaboration with private sector through public private partnerships to bridge financial & technical expertise gap.

Therefore, all though the 74th constitutional amendment worked as the first generation of reforms to recognise urban local governments constitutionally, there is a dire need for Reform 2.0 to provide greater functionality to Urban Local Bodies.

15. Checks and balances as well as separation of powers are not mere intellectual ideas, but principles which strengthen a democracy in real ways. Discuss in the context of India. (250 words) 15

नियंत्रण और मंतुलन के साथ-साथ शक्तियों का पृथक्करण न केवल बौद्धिक विचार हैं, अपितु ये ऐसे सिद्धान्त हैं जो वास्तव में लोकतंत्र को मजबूत बनाने हैं। भाग्य के मंदिर में चर्चा कीजिए।

constitutional experts, intellectuals and academicians have defined the two complimentary pillars of 'checks & Balances' and 'separation of powers' on which the judicial, political & administrative framework of the country rests upon.

Checks and balances refers to the concrete idea of supervision of functions of each authority by other constituents to make sure that there is no

- ↳ Overstepping of jurisdiction
- ↳ concentration of power
- ↳ Misuse/Abuse of authority.

separation of powers refers to clear cut division of powers between judiciary executive and legislature with delineated functions assigned to each

In the first glance, they might look like contradictory ideals with one advocating scrutiny & other non interference, yet the constitution has maintained a delicate yet substantive balance in the Indian context.

SEPERATION OF POWER

CHECK and BALANCES

① Executive - Legislature

Executive - Policy Implementation
Legislature - Law making
Ministers bailed from
becoming members of
parliamentary committees

executive selected
from parliament

Article 75 - Nonconfidence
motion

Impeachment of President

Ordinance promulgation

Delegated legislation

President assent to bill

② Executive - Judiciary

Article 50 - Separation
of executive & judiciary

Article 154 + 53 - Immunity
from civil & criminal liability

Article 361 - President
Governor not answerable
to court for exercise of
duties

Appointment,
Transfer of judges
through collegium
with executive
participation

Tribunals & Quasi
judicial bodies

President Governor
power to grant pardon

Art 42 - Complete justice

③ Legislature - Executive

A122+212 validity of legislative proceedings cannot be called in question in court

A121+129 - Judicial conduct of judges not discussed in legislature

- Impeachment of judges
- Judicial Review (i.e striking down NJAC)
- Courts punish in case of Breach of privilege
- Basic structure of Constitution unamendable

The principles have ensured

- ↳ Accountability of each organ
- ↳ Credibility of each institution
- ↳ Rule of law
- ↳ Check and Balances / Power accumulation
- ↳ Cooperation b/w different organs
- ↳ Conflict management
- ↳ Smooth functioning by checking hindrances.

Therefore, both principles have eliminated misdeant use of power and brought in greater power sharing in the fusion model of Indian democracy which is contrary to rigid separation practised in USA.

16. In the Lok Sabha and the Vidhan Sabhas, the Speaker has vast powers and extensive functions. Elaborating on it, highlight the grounds on which the Office of the Speaker has been criticised and the reforms required in this regard. (250 words) 15

लोक सभा और विधान सभाओं में, अध्यक्ष के पास विशाल शक्तियां और व्यापक कार्य होते हैं। इसे सविस्तार वर्णित करते हुए, उन आधारों को रेखांकित कीजिए जिन पर अध्यक्ष के पद की आलोचना की जाती है और इस संबंध में आवश्यक सुधारों पर प्रकाश डालिए।

While the members of parliament (MP's) and members of legislative assemblies (MLA's) represent the people of the constituency, the speaker represents the house of people as a whole.

The constitution has prescribed an elaborate role for the speaker of the legislature both at state and central level. This includes :-

- 1) Ensure Decorum & orderly conduct of house
- 2) Guardian & Conscience of the house
- 3) Final interpreter of constitutional provisions for house, rules of procedure & conduct of business, parliamentary precedents.
- 4) Presiding over joint sitting of houses
- 5) Sole discretion to permit adjournment motion
- 6) Decide issues to be taken up & presides

over the house

7) Decides whether a bill is money bill / not

8) Powers to disqualify under Tenth Schedule

9) Responsible for constitution of committees & choosing/nominating chairpersons.

Grounds of Criticism

1) Favours ruling party = MAJORITARIANISM

- Partisan conduct in disqualifying / taking no action on account of Anti-Defection Law.

- Introduction of ordinary bill as money bill to subvert discussion

2) Favours party interest over national interest

- Voice vote even in unambiguous calls
- Continuing party membership

3) Not referring bills to parliamentary committees

4) Outright rejection of private member bill.

Thus the above criticism arise due to continuation of political affiliation with political party & increasing politicisation of role of speaker.

Reforms required in Speaker post

- ① The Supreme Court in Kinotokalan & Megha-Chandran case reflected upon the possibility of judicial review in case of Anti defection verdict given by Speaker and recommended setting up of an independent tribunal for the same.
- ② Impartiality of speaker ensured through severing all political ties & mandating resignation from majority party.
- ③ Follow best practices of UK, where "once a speaker always a speaker." Speaker remains in office till retirement even when party in power changes.
- ④ Induction of e-voting in parliament over voice voting.

Thus, Jawaharlal Nehru claimed that speaker was a symbol of liberty & freedom of the country & hence constitutional revamp is needed in its role to ensure the impartiality & nonpartisanship of the post.

17. In India, the Finance Commissions are established pursuant to the constitutional mandate. In this context, do you think the State Finance Commissions have been effective in promoting fiscal federalism? Substantiate with arguments. (250 words) 15

भारत में वित्त आयोगों की स्थापना संवैधानिक अधिदेश के अनुसार की जाती है। इस संदर्भ में, क्या आपको लगता है कि राज्य वित्त आयोग राजकोपीय संघवाद को बढ़ावा देने में प्रभावी रहे हैं? तर्कों के साथ पुष्टि कीजिए।

Article 280 of the constitution mandates setting up of the finance commission every 5 years to recommend transfer of financial resources from centre to states including the principles on which grant in aids will be given to states.

This is on central level.

On State level, The state finance commission is created through 73rd and 74th constitutional amendment to rationalise and systematise state/sub-state level fiscal relations in India

Although the state finance commission have been given a constitutional mandate, yet the following issues have crept up:-

↳ State governments have not been setting up their State Finance commissions regularly

↓
↳ even when they are set up, SFC's are not able to submit their reports on time

↓
↳ This is on account of 4 reasons

① Lack of proficiency and availability of technical expertise

② Humongous work of compiling data from multiple local bodies

③ Lack of on field workers with practical experience.

④ Lack of Reliable Data

↓
↳ Even when the reports are submitted to state governments, suitable actions are not taken by the governments and it is difficult to fix responsibility

↳ Allocation of resources for administrative staff; research and analysis programmes also becomes a barrier in the same.

Yet all hope is not lost.

According to Municipal Performance Index 2021, 95% of states use less than 5% of their 'revenue' generation potential, this can be expanded to provide increased funding for SFC's.

Other Initiatives for Improved Fiscal Federalism

↳ Financial Mgmt Module Training to SFC officers

↳ Delhi government has encouraged youth to participate in YLP (youth leadership & Internship programme) in various municipal bodies

↳ Action taken reports on SFC recommendations has also been mandated. (ATR)

↳ Technology integration, with real time data collection & entry into standard performa is encouraged for quicker SFC reports.

It has been observed that although both have been given constitutional recognition SFC's are seen on a lower pedestal than union finance commission. Thus, this attitudinal barrier has to be removed to ensure greater cooperation for greater fiscal federalism

18. It is argued that unchecked and rampant exercise of the power to insert laws in the Ninth Schedule results in undermining of constitutional supremacy and creation of parliamentary hegemony. Do you agree? Justify your stand with logical arguments. (250 words) 15

यह तर्क दिया जाता है कि नौवीं अनुसूची में विधियों को सम्मिलित करने की शक्ति के अनियंत्रित और व्यापक स्तर पर प्रयोग से संवैधानिक सर्वोच्चता में कमी और संसदीय अधिपत्य का सृजन होता है। क्या आप सहमत हैं? उचित तर्कों के साथ अपने मत की पुष्टि कीजिए।

Ninth Schedule was added to the constitution by the First Constitutional Amendment Act, 1951.

It currently contains about 248 laws (both central & state) which cannot be challenged in courts.

It was initially brought by the government to protect laws related to agrarian reforms and for abolishing the zamindari system.

Although there has been an unchecked & rampant exercise of inserting laws in the 9th schedule to avoid Judicial Review, the Supreme court in Waman Rao vs Union of India case, stated that Judicial Review is a part of basic structure doctrine as given by the Kesavananda Bharti case, and hence amendments & inclusions to 9th schedule are valid upto Kesavananda Bharti case, any further inclusions are

Subject to Judicial Review

Recently there have been demands to include reservation laws in 9th schedule. On the other hand farmer organisation have demanded deletion of 9th schedule.

Irrespective of the 2 sides, insertion of laws in 9th schedule do not result in parliamentary hegemony because :-

1)

Basic structure
well laid
out principle
(Kesavananda
Bharti case)

Laws contrary to
Part III of Constitution
incorporated in 9th
schedule post 1973
can be challenged on basis of :-
(laid out in I.R
Coelho case)

Judicial
Review
part of
Basic
structure

(laid out in
Minerva Mills
case)

Therefore as enumerated by the apex court in its judgement, any law placed under the 9th schedule after April 23, 1973, are subject to scrutiny of the court if they are violative of fundamental rights and thus put a check on misuse of provision of 9th schedule by legislative.

To summarise,

- > Protection to fundamental Rights ensured
- > Safeguards against parliamentary whim & fancies
- > Essence of Judicial Review undisturbed
- > Supreme court working as guardian of constitutional morality, ensuring its supremacy.
- > Accountability to people maintained.

Therefore the veil of 9th schedule can very well be pierced by the Judicial review to check if laws are well within the four corners of fundamental rights guaranteed by constitution

19. Though the antecedents of the Indian Constitution can be traced to a series of British colonial legislation and other constitutions of the world, in spirit and practice it has been completely Indian. Discuss. (250 words) 15

यद्यपि भारतीय संविधान की पृष्ठभूमि ब्रिटिश औपनिवेशिक कानूनों की श्रृंखलाओं और विश्व के अन्य संविधानों में देखी जा सकती है, तथापि सिद्धान्त और व्यवहार में यह पूर्णतः भारतीय है। चर्चा कीजिए।

The Indian Constitution is a well thought out comprehensively drafted holistic document that has stood the test of time and proven to be a bulwark for India's Democracy.

The Indian constitution has been inspired from many legislations and constitutions around the world.

<u>Idea</u>	<u>Inspiration</u>
Liberty Equality Fraternity	French Revolution
Fundamental Rights Judicial Review	USA Constitution's Bill of Rights
Federation with strong centre & Residual powers with union	Canada Constitution
Parliamentary government & Bicameralism	British Parliament and Legislations
Federal scheme, Office of Governors, Public Service Commission	Government of India Act, 1935.

Although critics have called it a patchwork and bag of borrowings, yet Indian constitution has been an innovative and unique document that has modified the well accepted ideals in order to

- ↳ remove fundamental flaws
- ↳ Accomodate needs of the country

Its spirit and practice consists of the following provisions:-

① Unique Federalism ⇒ "Unitary in spirit"

This has been done to ensure feeling of cooperation among states (Article 1, 3)

② Secularism of Equal Protection of All religions contrary to western model of non interference (Preamble, Article 25, 26)

③ Reservations Positive Affirmation for women, marginalised to provide equal voice (Article 15 & 16)

④ Abolition of Untouchability (Peculiar to Indian society) (Article 17)

⑤ Preventive Detention laws to counter security threats (Article 22)

⑥ Emergency Provisions to secure national integrity & ward off diverse forces peculiar in Indian context. (Article 356, Article 365)

- ⑦ Greater Democratic Decentralisation
On Ideals of Gandhiji (73rd & 74th
(Panchayats) amendment)
- ⑧ Gandhian Directive Principles of
states policy (low Protection laws)
Article 40, 48)
- ⑨ Schedule 5th & 6th - Safeguards for
Tribes and aboriginals.

Thus India follows a best of all worlds
fusion model, this can be observed through
^{both} rigidity (USA) and flexibility (UK) in
¹ amending constitution, both
parliamentary sovereignty (UK)
and judicial supremacy (US), both
Due process of law (USA) and procedure
established by law (UK).

Hence, constitution is unique and
completely indian in practice wherein
it has evolved in accordance with
changing needs of society & yet
has maintained its basic structure

20. Providing greater flexibility to states in relation to subjects in the state list and 'transferred items' in the concurrent list can pave the way for better Centre-State relations in India. Examine. (250 words) 15

राज्य सूची के विषयों और समवर्ती सूची में 'हस्तांतरित विषयों' के संबंध में राज्यों को अधिक लचीलापन प्रदान करना भारत में बेहतर केंद्र-राज्य संबंधों का मार्ग प्रशस्त कर सकता है। परीक्षण कीजिए।

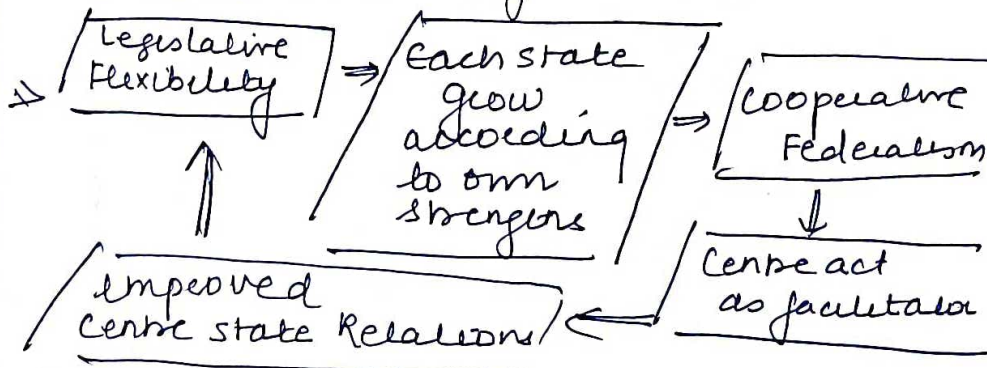
The subject wise distribution of legislative power is given in 3 lists of Seventh Schedule of the constitution.

There exists a FEDERAL SUPREMACY with respect to legislative powers :-

- 1) Only centre can make laws on subject in Union list.
- 2) Although both state & centre can make laws for concurrent list - Central law prevail
- 3) In a Rajya Sabha resolution centre can also make laws on state subjects
- 4) Residuary subjects are with centre
- 5) 42nd amendment Act 1976 transferred subjects like forest, education, protection of wildlife to concurrent list
- 6) Over the years subject in state list has decreased & central & concurrent list has increased.

In this scenario, providing greater flexibility to states in relation to subjects in state & Transferred list can :-

- Help states customise laws and schemes according to own requirement (with wide discrepancy in educational levels of Bihar and Kerala a one size fit all Education Policy (concurrent list) would be counterproductive)
- Gives relief from one size fits all approach (Forest cover difference between Karnataka & North eastern states varies and hence the conservation efforts)
- Prevent centre encroaching on state Subjects ensure federal stability & coordination between central & state ministries (eg:- centre enacting laws on Agricultural marketing which is a state subject)
- Pandemic has highlighted need for real time & quick response which is only possible with state intervention (eg:- Union imposing a Nationwide lockdown during 1st wave which harmed less prone states economically) & Health → state subject



These states need to be provided with autonomy, agency and liberty to act in own favour, hence apart from subjects like those needed for sake of national integrity, security or uniformity, effective power allocation would result in bridging of vertical imbalances & improve centre state relations