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GENERAL STUDIES (TEST CODE : 2071)

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Medium Eng./Hindi	English	Registration Number	995991
Center	online	Date	02/08/23

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
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20	15	

Total Marks Obtained:

Remarks:

INSTRUCTIONS

- Do furnish the appropriate details in the answer sheet (viz. Name, Registration Number and Test Code).
उत्तर पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक आदि)।
- There are TWENTY questions printed in ENGLISH & HINDI
इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी में दिये 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.

1. There are arguments that bills of national importance should be placed before the Inter-State Council prior to their introduction in the Parliament. Discuss in light of the issues that have been observed in the passage of bills in the Parliament in recent times. (150 words) 10

यह तर्क दिया जाता है कि राष्ट्रीय महत्व के विधेयकों को संसद में पुरःस्थापित किए जाने से पहले अंतर-राज्य परिषद के समक्ष रखा जाना चाहिए। हाल के दिनों में संसद में विधेयकों के पारित होने के दौरान अवलोकित मुद्दों के संदर्भ में चर्चा कीजिए।

Indian constitution envisage a federal structure and Schedule 7 provides for distinct legislative powers of union and state legislatures. However, recent bills/Acts like NEET-UG uniformization, farm laws have created demand for more consultation with states.

Key Issues observed

1. Limited discussion on bills - In 2021 Parliament, 18 bills were passed with avg. 34 min discussion.
2. Bills not being referred to parliamentary committees (eg: demand to put forest conservation bill to another committee).
3. Parliament being disrupted for political gains (less than 40% productivity in budget session).

4. Use of colourable legislation to bring laws on state subjects (like agriculture)
5. Lack of consultation with states on discussion on bills of concurrent list

Way Ahead

1. Leverage Article 263 to create inter-state council. Sarkaria Commission called creation of permanent secretariat
2. Punchi Commission recommended taking states into consultation for laws on List III
3. Reforms in schedule 7
4. Ensuring productivity in Parliament & minimal disruption
with Bengal installed in new Parliament building, cooperative federalism can ensure that it does not bend.

2. Discuss the role played by the Directorate of Enforcement in the investigation of offence of money laundering and violations of foreign exchange laws.
(150 words) 10

मनी लॉन्ड्रिंग के अपराध और विदेशी मुद्रा कानूनों के उल्लंघन की जांच में प्रवर्तन निदेशालय द्वारा निभाई गई भूमिका पर चर्चा कीजिए।

Recently, Supreme Court affirmed the changes in tenure of ED Directorate extended till 5 years however asked him to step down by August End. It highlights crucial role played by him.

- > Acts at head of key legislations to tackle money laundering -
 - (i) Prevention of Money Laundering
 - (ii) Foreign Exchange Management Act
 - (iii) Economic offenders Act
- > Recent data shows 49,000 crore of property has been attached in money laundering case
- > High conviction rate of 95%
(considering conviction on total cases decided)

→ Act as nodal body for review by Financial Action Task force

→ Supreme court has upheld the power the ED

→ ED officers are not police officers hence statement given can be used as evidence against accused

→ ECIR recorded by officer is not a public document

→ PNLA mandates to setup special tribunals & their bail condition is upheld by courts

Hence, ED plays an important role in tackling challenges of money laundering and hence helps ensure economic, social and national security.

3. The Indian Constitution has been successful in providing a framework for liberal democracy to flourish in India. Analyse. (150 words) 10
भारतीय संविधान भारत में उदार लोकतंत्र के विकास हेतु एक ढांचा प्रदान करने में सफल रहा है। विश्लेषण कीजिए।

Liberal democracy emphasises on individual rights and tries to create opportunities for growth (inclusive) as against conservative model solely relying on traditional roots & values.

Success of Indian Constitution

→ Fundamental Rights in Part III provide for holistic rights including

- (i) Equality before law & equal treatment of all (Article 14)
- (ii) Abolishment of untouchability (Article 17)
- (iii) Freedom of speech & expression (Article 19)
- (iv) Freedom of religion (Article 25-28)
- (v) Freedom & protection during arrest (Article 22)

→ Ensuring all kinds of justice: social, political & economic (Article 38)

- Champion of women rights and liberties — D.P.S.P. provide for equal pay, maternity relief
- Article 346 ensure welfare of backward communities
- Establish India as a secular state (Preamble)
- Minority rights are upheld (Article 29-30)
- Independent judiciary to uphold constitution

However, constitution also tries to create a fine balance. As Article 13 recognize custom as law, Article 48 prevents cow slaughter, Article 43 promotes cottage industry, 351 for Hindi language. Further there are reasonable restrictions on Fundamental Rights.

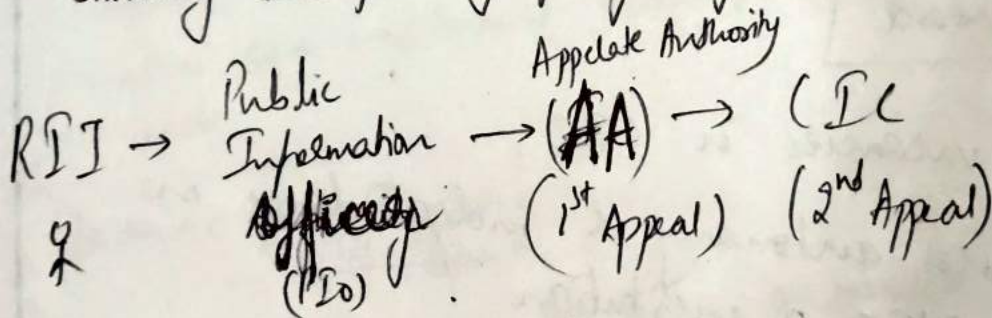
Thus, a fine balance is created, with more tilt towards establishment of liberal democracy, can be seen in Supreme Court verdicts like Anesh Kumar, Navtej Johar, NALSA judgements.

4. The Central Information Commission plays a key role in empowering people through information. In this context, discuss the issues faced by it and suggest measures that are required to strengthen the institution.

(150 words) 10

केंद्रीय सूचना आयोग सूचना के माध्यम से लोगों को सशक्त बनाने में महत्वपूर्ण भूमिका निभाता है। इस संदर्भ में, इसके द्वारा सामना किए जाने वाले मुद्दों पर चर्चा कीजिए और इस संस्था को मजबूत करने के लिए आवश्यक उपायों का सुझाव दीजिए।

Right to Information Act, 2005, establishes Central Information Commission (CIC) to look into appeal of cases for RTI disposal. It acts as key body in ensuring transparency for good governance.



Issues faced

1. Recent amendments have eroded autonomy of institution as tenure is not fixed now & service conditions can be asked by central govt
2. Vacancy are high in CIC, against sanctioned strength of 10 Information Commissioners

3. Delay in disposal of appeals
(as per RTI report by SNS - Satwark Nigrit Sanghan)

4. Difficulty in enforcement against
lesser PIOs who are not properly trained

5. Can only direct PIOs to take action
but cannot dismiss them

Way Ahead

1. Fill vacancies in CIC
2. Ensure autonomy & independence in
working of institution
3. Ensure training of PIOs
4. Leverage technology for accessing
data & fast RTI disposal

NDP requires transparency &
right to information as pre-requisites of good
governance, in this context strengthening RTI
process will help to ensure doctrine of public trust

5. What do you understand by the "principle of subsidiarity"? Discuss its importance in the context of India. (150 words) 10

"समनुषंगिता के सिद्धांत" से आप क्या समझते हैं? भारत के संदर्भ में इसके महत्व की विवेचना कीजिए।

"Principle of subsidiarity" is a governance mechanism in European Union, which provides for significant ~~to~~ independence & autonomy to nation states. Example, while there is European Council & European Parliament, countries can implement own policies as per needs.

Importance for India

1. Help to fulfill constitutional aspiration of competitive & cooperative federalism.
2. Ensure decentralized decision making (Eg. States can implement as per local context & needs)
3. Takes citizens demands & aspirations into consideration and frank policy

as per local requirements

4. Ensure one-size does not fit all approach (Eg: NEET bill opposed by Tamil Nadu)

5. Imbibe positive aspects of regionalism to cater to development needs & resolve inter-state disputes amicably

6. Central government acts as guide and provides model laws (Eg: Model Prisons Act, Model Tenancy Act)

Recommendations

1. Implement Lunchi & Sarkaria Commission guidelines for better center-state relations
2. Ensure financial autonomy to states (Leverage Finance Commission as balancing wheel)
3. Use technology for tracking data, creating transparency & trust (Eg: Single Model Agency)
4. Leverage NITI Aayog for competitive federalism & sharing best practices

Subsidiarity principle will help to implement sui-generis federalism in India which is basic structure of constitution (SR Bommai case)

6. Bringing out the differences between political parties and pressure groups, discuss how pressure groups play an important role in improving governance and democratic processes in India. (150 words) 10

राजनीतिक दलों और दबाव समूहों के बीच विद्यमान अंतरों को स्पष्ट करते हुए, चर्चा कीजिए कि भारत में शासन (गवर्नेंस) और लोकतांत्रिक प्रक्रियाओं को बेहतर बनाने में दबाव समूह कैसे महत्वपूर्ण भूमिका निभाते हैं।

Both political parties & pressure groups have an active role in Indian polity and influencing government policies, yet there are significant differences.

Political Parties

- ↳ Registered with Election Commission
- ↳ ultimate objective is to form government
- ↳ They can have a regional or pan-India character
- ↳ They aim to influence voters
- ↳ Answerable to citizens

Pressure Groups

- ↳ Not registered with any body
- ↳ ultimate objective is to influence govt decisions (no power sharing aspiration)
- ↳ their character is group based or need based
eg: FICCI for industry
- ↳ They aim to influence the government
- ↳ Not accountable to anybody

Role of Pressure Groups

- They bring to fore important challenges faced by the group & associated stakeholders (Eg: online Gaming Association calling to revoke 28% GST)
- They help to collect data and help in better decision making (Eg: AICCI, DII, data on entrepreneurship)
- They voice concerns of the group and force government to ensure consensus based decision making (Eg: withdrawal of farm laws)
- They act as important lobby to bring policies that can help in development (Eg: demand for ONDC by retailers against big-tech)
- They bring/ensure accountability of government (Eg: National Sahi Karamchari Andolan, Seethan Nagrik Sansthan)

Thus, they play important role in improving democratic processes in India

7. The practice of separation of powers in the Constitutional scheme of India and USA is distinct in its own way. Examine. (150 words) 10
भारत और यू.एस.ए. की संवैधानिक योजना में शक्तियों के पृथक्करण का कार्य अपनी व्यवस्था के अनुसार भिन्न है। परीक्षण कीजिए।

Montesquieu in his seminal work on 'spirit of laws' gave doctrine of separation of power and held its importance for ensuring liberty of citizens.

While Indian Constitution envisage separation of power between executive, judiciary & legislature yet it is in contrast with US model.

Indian model

→ No strict separation of power due to Parliamentary system

→ Executive part of legislature
(VP head of Rajya Sabha)

→ Judiciary is independent

US model

→ More explicit separation of power due to Presidential system

→ Executive separated from legislature
(except VP is also head of senate)

→ Judiciary appointed by President & approved by Senate

India

→ Power of delegated
legislation with
executive (Article 312)

→ Appointments to
executive don't need
Parliament approval

→ Executive has
power to issue
ordinance
(Article 123)

→ President can
consult Supreme
Court

US

→ US Executive does not
have delegated legislative
powers
(everything needs Congress approval)

→ Major executive
appointment needs
Senate approval
(Eg: Ambassador appointment)

→ President cannot issue
ordinances

→ No such power to
President

Thus Indian model calls for
enhanced cooperation between the three
legs so that there is no deadlock or
policy paralysis as in US (ex: during public
debt ceiling debate).

8. "The moral value of fundamental duties would not be to smother rights but to establish a democratic balance by making the people conscious of their duties equally as they are conscious of their rights". Discuss.

(150 words) 10

"मूल कर्तव्यों का नैतिक मूल्य अधिकारों का दमन करना नहीं होगा, बल्कि लोगों को अपने कर्तव्यों के प्रति उसी रूप में जागरूक बनाकर एक लोकतांत्रिक संतुलन स्थापित करना है, जिस प्रकार से वे अपने अधिकारों के प्रति जागरूक हैं।" चर्चा कीजिए।

While Constitution provides fundamental rights to citizens under Part-III, it also puts upon them fundamental duties, added in Part IV with 42nd Amendment Act

Rights & Duties Balance

While there are explicit freedom like that of speech & expression, there is also duty to ensure harmony (SIA(e)) and upholding unity, integrity & sovereignty (SIA(d)).

It doesn't mean that rights are curtailed, rather it ensures that rights of others are upheld when one does their duty in moral way.

Example duty to renounce practices derogatory to women is not against right to religion.

Making people conscious of duties

While duties are not legally enforceable, only through education & awareness, citizens can be made aware of them. It calls for dedicated IEC campaign and social & behavioural change communication.

Further, reasonable restrictions to fundamental rights must also be taught so that there is no abuse of one's right in form of hate speech or violence. This will act as first step towards inculcating duty.

Way Ahead

1. Use social media platforms (short Reels can be made)
2. Popular trending hashtags #MyDuty can be used to create awareness
3. Make it mandatory for all offices to include it in training (apart from schools)

It will help to fulfill the 'Panel Pran' of PM which includes developing a sense of duty towards nation

9. Discuss the impact of the proclamation of National Emergency on Fundamental Rights in India. Also, highlight the various Supreme Court judgments in this context.

(150 words) 10

भारत में मूल अधिकारों पर राष्ट्रीय आपात की उद्घोषणा के प्रभाव की विवेचना कीजिए। साथ ही, इस संदर्भ में उच्चतम न्यायालय के विभिन्न निर्णयों को रेखांकित कीजिए।

Recently, Prime Minister in his Man ki Baat addressed that period of national emergency in 1976 was a dark period with violations to life & liberty.

Article 352 provides for proclamation of National Emergency, which has to be later ratified by Parliament. Impact on fundamental rights be studied under :-

Impact on Legislature

- ↳ Parliament can pass laws on state subjects
- ↳ Laws can be passed curtailing fundamental rights

Impact on Judiciary

- ↳ Article 32 is suspended (except for violation of Article 20 & Article 21)

Impact on Executive

- ↳ Executive can gain arbitrary powers to enforce decisions

(Eg: mass sterilization campaign during last emergency)

Impact on rights & suspension

- ↳ Article 19 is automatically suspended
- ↳ Government can further suspend other rights with a notification

Other impact

- ↳ Elections can be postponed by extending the tenure of Lok Sabha one year at a time

Supreme Court Cases

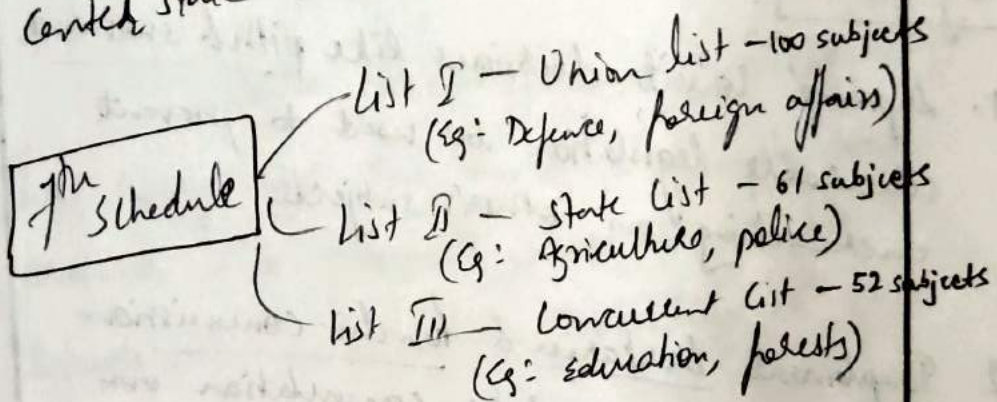
In ADM Jabalpur Case while Supreme Court held that Habeas Corpus is not available during emergency but it was later overruled in Munira Mills and Maneka Gandhi Case.

National Emergency should only be used as last resort. 44th Amendment Act helped to bring in sufficient safeguards against politically motivated use of Article 352.

10. The Seventh Schedule is a relic from the colonial past inherited from the Government of India Act, 1935 which needs to be revisited for improving Centre-state relations. Discuss. (150 words) 10

सातवीं अनुसूची भारत सरकार अधिनियम, 1935 से विरासत में मिले औपनिवेशिक अतीत का एक ऐसा अवशेष है, जिसका केंद्र-राज्य संबंधों में सुधार के लिए पुनरीक्षण किये जाने की आवश्यकता है। विवेचना कीजिए।

Recently PM-EAC (Economic Advisory Council) published a report to reform the schedule. Even N.K. Singh, former finance commissioner has asked to revisit it in context of Centre state relations.



Need for reforms

1. Many subjects are obsolete and not relevant & add new areas like cybersecurity
2. Need to update placing of topics into concurrent list for better nationwide reforms like prisons
3. Centre-state coordination for legislation on concurrent list

4. Examine residuary powers are given to Union legislature be devolved to states as well

5. Usher into cooperative federalism with enhanced discussion & deliberation between states & center (eg. best practices can be shared like Anti Copying law of Odisha)

Way Ahead

1. Supreme court doctrines like pith & substance, colourable legislation be used to prevent encroaching on other's subjects

2. Implement Sarkaria & Lunchi commission recommendations like consultation on bills of concurrent list subjects

3. Governor should play an impartial role in giving assent to state bills

4. Holistic review of 7th schedule

In this context civil society & domain experts be leveraged, like Vidhi center has provided first draft of reforms needed

11. Technology has the potential to bring drastic changes in the field of law and transform the court system. In this context, discuss the need for digitization of Indian judiciary and challenges faced in this regard. (250 words) 15

प्रौद्योगिकी में कानून के क्षेत्र में व्यापक बदलाव लाने और न्यायिक प्रणाली को रूपांतरित करने की क्षमता विद्यमान है। इस संदर्भ में, भारतीय न्यायपालिका के डिजिटलीकरण की आवश्यकता और इस संबंध में सामना की जाने वाली चुनौतियों पर चर्चा कीजिए।

India's technological and digital prowess is recognized globally with her being a champion of digital public infrastructure. It can be utilized in judiciary as well.

Both executive and judiciary has recognized the need and implemented projects like eCourts, use to AI for translation, online-line proceedings etc.

Need for digitization

1. Huge pendency of cases (~5 crore) with more than 4 crore cases pending in district courts

→ Technology be used for fast dissemination/gathering of case facts

- technology be used for faster, online proceedings
- reduce delays during proceedings

2. Promote indianization of judiciary (like providing judgments in local languages)
3. Enhance trust in judiciary through live telecast (Swapnil Tripathi case)
4. Promote online dispute resolution mechanisms
5. Better management of human resources & succession planning (Eg: HRMS for updates on vacancy which is about 30% in high courts)

Challenges

1. Huge number of lower courts lack infrastructure like lack of video conferencing facilities

2. Need a dedicated body for implementing judicial infrastructure reforms especially in district courts with frequent transfer
3. Digital divide (or from digital inequality report) creates access restrictions
4. Need for digital education (many judges are used to non-digital methods, this requires both training & attitudinal change)
5. Create robust cybersecurity protocols

Way Ahead

Schemes like modernization of courts & online platforms like eCourts be leveraged and any gap related to training, funding, cybersecurity be bridged so that benefits of techade be ~~separat~~ reaped in judicial processes as well.

12. Even after three decades of constitutional amendments, India is yet to decentralise power to local self-government institutions in the true sense.

Discuss. Do you agree with the view that Rashtriya Gram Swaraj Abhiyaan will be able to develop the governance capabilities of the Panchayati Raj Institutions (PRIs)? (250 words) 15

संवैधानिक संशोधनों के तीन दशकों के बावजूद, भारत में अभी भी स्थानीय स्व-शासन की संस्थाओं का वास्तविक अर्थों में शक्तियों का विकेंद्रीकरण किया जाना शेष है। चर्चा कीजिए। क्या आप इस विचार से सहमत हैं कि राष्ट्रीय ग्राम स्वराज अभियान पंचायती राज संस्थाओं (PRIs) की शासन (गवर्नेंस) क्षमताओं को विकसित करने में सक्षम होगा?

Recently, India celebrated 30 years of 73rd and 74th constitutional amendment acts which aimed to implement decentralisation through PRIs & ULBs.

Success

1. Ensure participation of women and backward communities in decision making process
2. Streamline traditional culture of panchayat system through Gram Sabha meetings
3. Help in localization of SDGs
4. RBI reported positive role during COVID as acting as breakwaters

Limited decentralization

1. Lack of 3Fs - funds, functions and Functionaries (Aiygar Committee)
2. In many states, There is interference by state governments (including appointment of State Election Commission & delay in elections - Eg: Municipal elections of Mumbai delayed)
3. Lack of own sources of revenues (Eg: property tax collection is less than 0.2% of GDP)
4. In some cases, state finance commission is not constituted
5. PESA rules not notified in some states like Jharkhand

Therefore, Ministry of Panchayati Raj has implemented Rashtriya Gram Swaraj Abhiyan, particularly to strengthen PRTs

→ Promote creation of plan for development of villages

- Promote people participation in Gram Sabha plan creation
- Training of officials at local level
- Provide infrastructure support (like broadband connection) - eGram Shiksha
- Every village to adopt atleast one SDG

Thus, through dedicated efforts, PRIs are strengthened but true decentralization requires political support especially by state governments to give more functions as per 11th and 12th schedule.

Further, 2nd ARC report and committees like Sunit Bawra report be leveraged to strengthen local self-govt institutions.

13. With 98% coverage in rural India, cooperatives are the mainstay of rural economy ensuring sustainable livelihoods and income for people. Discuss. Also, state the recent initiatives taken by the government to improve the functioning of cooperative societies and make them more effective.

(250 words) 15

ग्रामीण भारत में 98% कवरेज के साथ, सहकारी समितियां ग्रामीण अर्थव्यवस्था का मुख्य आधार हैं जो लोगों के लिए स्थायी आजीविका और आय सुनिश्चित करती हैं। चर्चा कीजिए। साथ ही, सहकारी समितियों के कामकाज में सुधार तथा उन्हें और अधिक प्रभावी बनाने के लिए सरकार द्वारा हाल ही में प्रारंभ की गई पहलों का उल्लेख कीजिए।

Out of 30 lakh cooperatives in world, India boasts of highest 8.55 lakh cooperatives, especially in rural areas
example PACS - primary agri credit society.

Mainstay of rural economy

1. Leverage economies of scale in rural production
2. Create successful businesses and provide sustainable income source especially in allied sectors like dairy (Eg: Amul, Nandini, Ghatapod)
3. Formalization of credit system (~12-14% rural credit through cooperatives)

4. Help small and marginal farmers (like PALs - about 40% Kisan Credit Card loans to small & marginal farmers).
5. Promote training among workforce
6. Better information dissemination of markets (Eg: agri marketing cooperatives)
7. Enhance collective bargaining power
8. Incentive democratic governance

Recent initiatives

1. 97th Amendment Act aimed to strengthen cooperative movement, making it a fundamental right
2. Ministry of Cooperation created with vision of sahkar se samridhhi
3. Suresh Prabhu Committee for national policy on cooperatives

4. Draft multi-state cooperatives bill to enhance governance
5. Modernization/digitization of 64,000 PACs
6. RBI reforms for urban cooperative banks eliminating dual control
7. Budget 2023 provided for tax incentives for cooperatives setup
8. State governments have also put dedicated policies to promote state & district cooperatives

Cooperative sector has huge potential in transforming rural economy especially agriculture, in this context, govt efforts to overcome challenges like politicization, lack of training & infrastructure support are welcome.

14. Governance of inter-state rivers in India suffers from various issues due to conflictual federalism. Discuss. Also, highlight the mechanisms which can be utilised to resolve inter-state river water disputes in India.

(250 words) 15

भारत में अंतर्राज्यीय नदियों का प्रबंधन परस्पर विरोधी संघवाद के कारण विभिन्न समस्याओं से ग्रस्त है। चर्चा कीजिए। साथ ही, उन तंत्रों को रेखांकित कीजिए जिनका उपयोग भारत में अंतर-राज्यीय नदी जल विवादों को हल करने के लिए किया जा सकता है।

Unfortunately, inter state river disputes has become a perennial issue among states. Be it legacy issues among states like Karnataka, Tamil Nadu (over Canary waters) or new challenges like diversion of flood water (Delhi Haryana).

Reasons

1. Lack of competitive & cooperative spirit among states
2. Lack of trust in Union Government (especially by opposition ruled states) to act as mediator
3. Regionalism and chauvinistic sentiments create zero-sum approach for water issues

4. Political parties leveraging on vote bank politics
5. Limited success of federal alternatives like Inter-state river authority
6. Inter-state councils have not been successful in promoting dialogue
7. Lack of united water governance approach based on watershed principles (instead artificial state boundaries are used)

Possible mechanisms

> Constitution empowers the Parliament to create a body to resolve water disputes. Therefore Inter-state River Tribunals and river authority laws are created by Parliament

- Other federal structures like Inter-state Council & Zonal Councils be leveraged (Article 263)
- Ministry of Home Affairs can intervene to dissolve inter-state disputes (eg: Assam - Naghalaya)
- Supreme Court can act as facilitator to ensure tribunals work in expedited manner
- NITI Aayog in its India @75 report has recommended creation of Digital Water model (digital twin) to create enhance visibility & transparency

As India enters Amrit Kaal of development, having cooperative & competitive federalism is a pre-requisite to tackle such challenges especially for water given ever increasing pressure due to population rise & development needs

15. A dysfunctional criminal justice system, absence of well-considered legislation and need for domain expertise, are being seen as the new challenges for the Indian judiciary. Discuss. (250 words) 15

एक दोषपूर्ण आपराधिक न्याय प्रणाली, सुविचारित कानून की अनुपस्थिति और डोमेन विशेषज्ञता की कमी को भारतीय न्यायपालिका के लिए नई चुनौतियों के रूप में देखा जा रहा है। चर्चा कीजिए।

Constitution envisages an integrated, independent judicial system that acts as arbiter of rights & bedrock of system.

Over the years, apart from traditional challenges like vacancy, pendency issues, new issues have also emerged.

Dysfunctional criminal justice system

Indian courts follow adversarial process, hence reliance on justice system like police, investigation officers, post-mortem machinery are important foundations which have become dysfunctional

>> lack of scientific labs

>> compromised investigation process

- » Politicization of bureaucracy & interference in working of police (Vohra Committee)
- » Overburdened police & vacancy issue
- » Limited technology training given use of social ^{media &} internet for new age crimes.

Legislative issues

- » Most of criminal laws are of colonial nature including IPC
- » Need to streamline penal provisions and remove ambiguity & differences (Eg: child marriage law vs personal law)
- » Provide better explanation to terms like sedition provision
- » Simplification of laws & use of local languages is needed to create citizen friendly approach

VISIONIAS
margin
(इस भाग में कुछ न लिखें)

>> Need to decriminalize several business offences (like mentioned in Tail of Doing Business Report)

Need for domain experts

Judges have generalized knowledge of law and constitution. However modern challenges like cyber crimes, environment issues, company disputes require specific domain awareness and technical expertise.

In this context, tribunal system was established yet it also faces issue of delays, vacancy and government influence.

These challenges can be overcome only with dedicated & combined efforts of 3 legs of state with whole of government approach.

16. To what extent has the anti-defection law been able to address the issue of political instability in India? Discuss with suitable arguments. (250 words) 15

दल-बदल विरोधी कानून भारत में राजनीतिक अस्थिरता के मुद्दे को किस हद तक हल करने में सक्षम रहा है? उपयुक्त तर्कों के साथ चर्चा कीजिए।

55th Constitutional Amendment Act provided 10th schedule to tackle challenges of defection — Aye Lam, Gaye Lam.

Success of anti-defection law

- Helped in eliminating massive horse trading of legislatures during passing of bills (now they have to follow party whip)
- Frequent splits & mergers in political parties are reduced with two-third merger condition
- Supreme Court has upheld the law in Kihno Holhan case

Not completely successful
in reducing instability

- Recent examples of political crisis in Maharashtra, Madhya Pradesh show inadequateness of 10th schedule
- political parties still face split (eg: Shiv sena, NCP) and there is race to gather 2/3rd legislatures
- new resort culture has emerged now to show support for one party
- office of speaker which should have non-partisan role is compromised (eg: Supreme Court suspending an MHA after defection, Nabam Rebia case)
- it has created new challenge of lack of independence of MLAs & MPs in speaking their mind during ordinary bills

→ Provision in 10th schedule like voluntarily give up membership have varied interpretations leading to delays in disqualification proceedings

Way Ahead

Though having a positive intention, anti-defection law requires serious overhaul as envisaged by Dinesh Goswami Committee

- President/ Governor to decide on defection cases (consultation of ECI)
- 10th schedule only applicable to trust and confidence motions
- Add explanations to ambiguous terms in 10th schedule
- Remove arbitrary 2/3rd benchmark for members to form government

17. Though the Indian Constitution provides a clear division of legislative powers between the Union and states with each being supreme within the spheres allotted to them, this division is tilted towards the Union. In this context, discuss the powers of the Parliament to legislate on subjects in the State List.

(250 words) 15

यद्यपि, भारतीय संविधान संघ और राज्यों के बीच विधायी शक्तियों के स्पष्ट विभाजन का प्रावधान करता है, जिनमें से प्रत्येक उन्हें आवंटित क्षेत्रों में सर्वोच्च हैं, तथापि यह विभाजन संघ की ओर झुका हुआ है। इस संदर्भ में, राज्य सूची के विषयों पर कानून बनाने की संसद की शक्तियों की विवेचना कीजिए।

7th schedule provides for clear division of legislative powers to create a federal model.

List I : Union List

Parliament control is exclusive over these subjects. It includes 100 subjects of national importance like defence, external affairs etc.

List II : State list

State legislatures can make laws on 61 subjects mentioned in list. However there are 5 conditions

When even parliament can legislate which will be discussed later. In general circumstances, state legislature have power to create laws. However, Governor can reserve bill for President.

List III: Concurrent list

It has 52 subjects. Though both Parliament & state legislature can create laws but Parliament control is prior & supreme.

If state makes law on already existing law/act on same subject, then it requires President approval.

Residuary powers — with parliament

5 conditions to legislate on state subjects by Parliament are —

- (i) When Rajya Sabha passes a resolution empowering Parliament to create a law

- (ii) When two or more states request center to legislate on given subject
- (iii) During national emergency, Parliament can create law (valid for 1 year)
- (iv) During President's rule, Parliament can create a law or center can pass an ordinance
- (v) To implement an international treaty

Thus, constitution envisage a suigeneris federation giving the specific needs of security & development of country with diversity of subcontinental nature.

Hence, several committees on center-state relations have warned to use these provisions sparingly ensuring cooperative federalism.

18. Despite the benefits of wider representation of women in the judiciary, Indian courts have significantly fewer women as compared to men. Discuss. Also, suggest some measures to bridge the gender gap in Indian judiciary. (250 words) 15

न्यायपालिका में महिलाओं के व्यापक प्रतिनिधित्व के लाभों के बावजूद, भारतीय न्यायालयों में पुरुषों की तुलना में महिलाओं की संख्या काफी कम है। चर्चा कीजिए। साथ ही, भारतीय न्यायपालिका में लैंगिक अंतराल को कम करने के लिए कुछ उपायों का सुझाव दीजिए।

When former Supreme Court Justice of US Ruth Bader Ginsburg was asked on how many female judges be there - she promptly replied all nine.

Benefits of women in judiciary

1. Ensure social justice as enshrined in constitution
2. Truly promote right to equality overcoming gender bias
3. Help to improve trust in judiciary especially in cases involving women victims of rape, domestic abuse etc.
4. Have wider perspective on sensitive issues (apart from dominant male opinion)

5. Act as role model for young girls
6. Indirectly help to skew out patriarchal mindsets

Despite these benefits, there have been only 11 women justice in Supreme Court. currently only 3 out of 34 judges are female. In High Courts also only 10% judges are women.

Reasons

1. Historically, women have not been promoted to take law profession.
⇒ few judges in district courts earlier who can be promoted today
2. Lack of adequate infrastructure for women (about 100 district courts don't have separate women toilet)
3. Lack of transparency in collegium (with no female members)

4. Patriarchal mindset looking down on women as lawyers (instead professions like teacher, doctor are encouraged)

5. women asked to consider profession in civil side & not criminal side

Measures

1. As in district courts, there should be affirmative action for women in higher courts

2. Encourage role models like Justice Rohini

3. Add provision of having atleast one female judge in collegium (through MoP)

4. Proper training facilities for lawyers like female lawyers

5. Overcome infrastructure challenges like lack of toilets.

As Justice Nagarathna is poised to become India's first CJI, we need to promote women at all levels

19. Elaborate on the fundamental aspects in which the Indian Constitution differed from its contemporaries despite being a post-colonial document. (250 words) 15

उत्तर-औपनिवेशिक दस्तावेज होने के बावजूद भारतीय संविधान के उन मूलभूत पहलुओं का सविस्तार वर्णन कीजिए, जिनके संदर्भ में यह अपने समकालीन संविधानों से भिन्न था।

Indian constitution was a product of important luminaries like B.R. Ambedkar, S.N. Rau with support from all sections including dalits, women & minority community.

While there was inspiration from contemporaries like French constitution, US constitution, even large provisions imported from 1935 Act, yet there were some fundamental differences.

- 1) All the provisions even inspired from outside were tweaked to India context. Eg: while federalism is a basic structure (SP Bonumai case), yet constitution makers provided

enough unitary features to tackle security challenges.

- 2) Indian model of secularism is a positive model that allows state to equally promote all religions and also promote reforms without being a theocratic state
- 3) Instead of being a British colony, Constitution makes denied role of monarch as head (as in other former colonies like Australia, Canada)
- 4.) Huge emphasis on minority rights including religions & cultural minorities (Article 29-30)
- 5.) Directive Principles of State Policy envisaged all types of directions to state from liberal to socialist to Gandhian

- 6) Despite being a post-colonial power, it provided an important role of India in promoting internal peace & security (Article 51) (It became basis for leadership in NAM)
- 7) Constitution had detailed provisions and was the longest written constitution at that time. When new princely states were joining Union like Hyderabad, J&K there were adequate safeguards for them

Hence, we can evidently conclude, our constitution was result of wisdom of constituent assembly to take into consideration huge diversity of socio-cultural-economic nature in India & secured a sovereign, socialist, secular democratic republic.

20. The tribunalisation of justice though considered to be an effective step is fraught with several challenges. Discuss in light of the Law Commission of India's report on the working of tribunals in India. (250 words) 15

हालांकि, न्याय के ट्रिब्यूनलीकरण को एक प्रभावी कदम माना जाता है, लेकिन इसमें कई चुनौतियां भी विद्यमान हैं। भारत में अधिकरणों की कार्यपद्धति पर भारत के विधि आयोग की रिपोर्ट के आलोक में चर्चा कीजिए।

With 42nd Constitutional Amendment Act, tribunals emerged as quasi-judicial bodies established by legislature under Article 323A and 323B.

Effective step

1. Leverage principle of natural justice to deal with cases instead of CrP, Evidence Act
2. Ensure speedy disposal of cases
3. Address issue of huge pendency in lower courts (>4 crore cases)
4. Leverage domain experts like National Green Tribunal to deal with environment issues, company law tribunal

5. Reduce courts burden in dealing with particular government matters like service conditions and appointments

Challenges

1. There is still huge pendency of cases even in tribunals
2. Vacancy issues in tribunals
3. Dependence on executive (while it's litigant in 50% cases)
4. Against separation of powers
5. Cases eventually end up in higher courts for appeal, reducing trust in tribunal process
6. In Roger Mathew & Madras Bar Association case, Supreme

Court had challenged various arbitrary provisions created by Center through an ordinance (like different age for members & chairperson).

Way Ahead

Law Commission report as well as Supreme Court in L. Chandra Kumar case has given recommendations to improve tribunal system —

- (i) Create All India Tribunal Commission an independent body to look into appointments & infrastructure needs
- (ii) Executive should limit interference in tribunal proceedings
- (iii) Any vacancy of judges be filled expeditely
- (iv) Strict timelines be followed for resolution of disputes