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EXAMINATION

GENERAL STUDIES (TEST CODE : 1049)

Name of Candidate	CHITRA	Registration Number	7719
Medium Eng./Hindi	ENGLISH	Date	17/08/18
Center	M.N		

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
1	10	
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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 छपे हैं।
- All questions are compulsory.
सभी प्रश्न अनिवार्य हैं।
- The number of marks carried by a question/part is indicated against it.
प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।
- Answers must be written in the medium authorized in the Admission Certificate, which must be stated clearly on the cover of this Question-Cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.
प्रश्नों के उत्तर उसी माध्यम में लिखे जाने चाहिए जिसका उल्लेख आपके प्रवेश पत्र में किया गया है और उस माध्यम का स्पष्ट उल्लेख प्रश्न-सह-उत्तर (क्यूसीए) पुस्तिका के मुख्य पृष्ठ पर अंकित निर्दिष्ट स्थान पर किया जाना चाहिए। उल्लिखित माध्यम के अतिरिक्त अन्य किसी माध्यम में लिए गए उत्तर पर कोई अंक नहीं मिलेंगे।
- Word limit in questions, if specified, should be adhered to.
प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।
- Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.
उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।

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EVALUATION INDICATORS

1. Contextual Competence
2. Content Competence
3. Language Competence
4. Introduction Competence
5. Structure - Presentation Competence
6. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

1. Concerns regarding the wide formulation and indiscreet application of discretionary powers of the Governor need closer attention. Discuss. (150 words) 10

राज्यपाल की विवेकाधीन शक्तियों के व्यापक निरूपण एवं अविवेकपूर्ण अनुप्रयोग संबंधी चिन्ताओं के संदर्भ में सावधानीपूर्वक ध्यान केन्द्रित करने की आवश्यकता है। चर्चा कीजिए।

Governor is a linchpin between Centre and State government. He enjoys the discretionary power under Article 163 which specifies that decision of Governor is supremacy in case of discretionary power.

Discretionary power of Governor :-

- a) Article 200 & 201, provides the basis for Governor to reserve a Bill for reference to President.
- b) Article 356 provides him the discretion to send written report in case of a constitutional failure within the state.
- c) Article 164, in case of hung assembly, it is his discretion to appoint leader of single largest party to form the government.
- d) In case of 213, Governor has the power

to promulgate ordinances when the state assembly is not in session.

In the recent times, as seen in election in Goa, Manipur and lately Karnataka, the discretionary power of Governor has been severely questioned and hence the debate of immunity of Governor in such matter.

In Dr. Shambhu Singh vs State of Punjab, apex court has questioned the immunity of post of Governor.

Is it justified?

Governor is supposed to be a neutral personality, not affected by central government pressure, is meant to uphold the integrity, conduct for welfare of citizen and not any party. Even Lakshmi Commission and J.R. Bommai case suggest the Governor to be constitutional representative.

2. Explain the concept of subordinate legislation in India. Also discuss the mechanisms for their scrutiny and control. (150 words) **10**

भारत में अधीनस्थ विधान की अवधारणा की व्याख्या कीजिए। साथ ही उनकी संवीक्षा और नियंत्रण की क्रियाविधियों की भी चर्चा कीजिए।

3. The crucial position accorded to the Speaker in Indian legislatures, makes it imperative to protect them from undue political pressures and incentives. Examine. (150 words) 10

भारतीय विधायिकाओं में अध्यक्ष को प्रदान की गई महत्वपूर्ण प्रस्थिति वस्तुतः उन्हें अनुचित राजनीतिक दबावों एवं प्रोत्साहनों से सुरक्षित करना आवश्यक बनाती है। परीक्षण कीजिए।

Speaker has a very crucial position in the effective functioning of lower house. Its discussion, deliberation and conduct.

Major power of speaker :-

- The decision if a bill is qualified to be money bill is done by speaker.
- Speaker is responsible for business of conduct of house.
- In case of anti-defection (10th schedule), the decision of speaker is final and is not subject to judicial review.
- All the proceedings of house, order, casting vote in case of tie, adjournment, prorogation of session is done by speaker.
- Speaker presides over the joint session of parliament in case of deadlock.

In such a scenario, it is crucial that speaker is free from any form of political interference, is neutral in conduct of the business of house,

- The speaker must resign from the party after being elected as speaker
- In next election, the seat of speaker should remain uncontested.
- It is crucial that speaker commands immense respect, integrity, moral standard to set an example for parliamentarian.

However, the power of disqualification (as seen in Annapurna Pradhan, Uttarakhand) can be assigned to Election Commission and in case of speaker it should be subject to judicial review (Kihoto - Holloman case).

4. The Departmentally-Related Standing Committees have been referred to as mini-parliaments in India. Highlight their relevance in a democratic polity and discuss, with examples, how they improve the overall effectiveness of the Parliament. (150 words) **10**

विभागों से संबद्ध स्थायी समितियों (विभागीय स्थायी समितियों) को भारत में मिनी-संसदों के रूप में संदर्भित किया गया है। लोकतान्त्रिक राजनीति में उनकी प्रासंगिकता पर प्रकाश डालिए और साथ ही उदाहरण सहित चर्चा कीजिए कि वे संसद की समग्र प्रभावकारिता में किस प्रकार वृद्धि करती हैं।

5. Enumerate the issues associated with functioning of tribunals in India. How can these be addressed? (150 words) 10

भारत में अधिकरणों की कार्यपद्धति से संबद्ध मुद्दों को सूचीबद्ध कीजिए। इनका समाधान कैसे किया जा सकता है?

TRIBUNAL :- These are the quasi-judicial bodies which are set up for specific, quick disposal of cases by executives to avoid the judicial overload and disposal of administrative disputes in time-bound manner.

Issues associated with tribunals :-

- They circumvent the judicial path and aim at bypassing the standard procedure. Supreme Court struck down that Tax Tribunal, in this context.
- At times, multiple tribunals are created to solve the disputes, but still pendency remains.
- As seen in Finance Bill, 2017 many tribunals were merged to reduce unnecessary, redundant tribunals. The problem arises in case of lack of expertise. Eg:- Telecom sector tribunal

- one of the major challenge is it bypass the jurisdiction of high court, as the verdict of tribunal can be only challenged in supreme court.
- Separation of power doctrine is under compromise as most of the time the litigant is government itself, while appointment to tribunal is made by executive. This is conflict of interest and encroaches power of judiciary.

So, while article 323 A and 323 B were added under Indian constitution to provide for specialised appeal mechanism, care should be taken that balance of power must be maintained. It should be dissolved once purpose is achieved and what is needed is a comprehensive overhaul of tribunals in India.

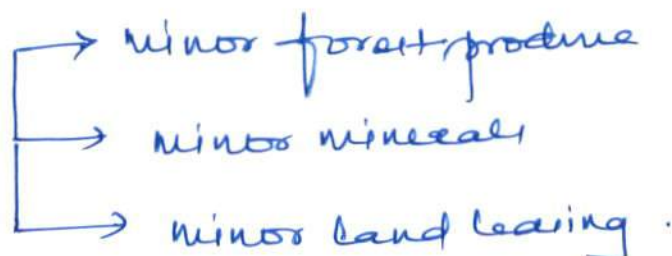
6. Examine the significance of Gram Sabhas, as mentioned in Article 243A of the Indian constitution, in the development process with special reference to Fifth Schedule areas. (150 words) 10

पांचवीं अनुसूची के क्षेत्रों के विशेष संदर्भ में विकास की प्रक्रिया में, भारतीय संविधान के अनुच्छेद 243A में वर्णित ग्राम सभाओं के महत्व का परीक्षण कीजिए।

Significance of Gram Sabhas :-

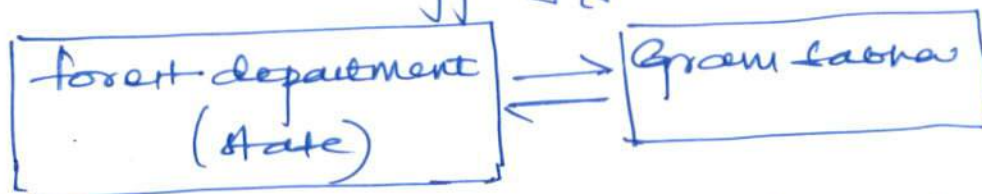
It was by 73rd & 74th CA that Gram Sabha was granted constitutional status

- It represents all adult population and is harbinger of ideal of political decentralisation.
- Under PESA act and Scheduled area (tribe traditional dwellers) act, Forest Right Act, 2006, Gram Sabha needs to be consulted before any form of encroachment of land.
- Gram Sabha also has special power in case of



This is also specific to 5th schedule.

However, over the last decade (or) so, there are overlapping jurisdiction b/w



this is a major source of conflict, and control over minor forest produce impacts livelihood, to additional customary rights of forest dwellers (who resided since 13 December, 2005 or per act).

Then, there is a need to review the actual implementation of provision of these acts and also actual realisation of article 243A, with special reference to Gram Sabha.

7. The Rajya Sabha is merely a secondary house rather than a second house in the Indian Parliamentary system. Critically analyze the statement. Also, compare and contrast the position of the Rajya Sabha vis-à-vis the State legislative councils. (150 words) 10

भारतीय संसदीय प्रणाली में राज्यसभा वस्तुतः दूसरा सदन होने के स्थान पर एक दूसरे दर्जे का सदन मात्र है। इस कथन का आलोचनात्मक विश्लेषण कीजिए। साथ ही, राज्य विधान परिषदों के मुकाबले राज्यसभा की स्थिति की तुलना कीजिए और अंतर बताइए।

Rajya Sabha is an indispensable part of Indian parliamentary system. It is the second house with Lok Sabha having primacy on account of being directly elected representative house. But it does have certain exclusive powers.

a) Article 249 :- On the passing of 2/3rd members present and voting, RS can ask Parliament to make law on State subject.

b) Article 312 - Only Rajya Sabha has power to recommend creation of All India Service.
- Hence it is a primary source of State's representation in Parliament.

Why is it then second house?

- It can only recommend money bill and Lok Sabha is not entitled to accept its suggestion.

- Numerical strength in joint session of Lok Sabha outweighs that of Rajya Sabha.

However, Rajya Sabha can have equal say in case of

- ordinary bill.
- constitutional amendment bill
- emergency promulgation.

In addition, it acts as a check on the arbitrariness of hasty legislation if any by Lok Sabha.

Rajya Sabha vis-a-vis State Legislative Council :-

While L.C. can delay an ordinary bill only by maximum of one month (3+1) Rajya Sabha has greater power.

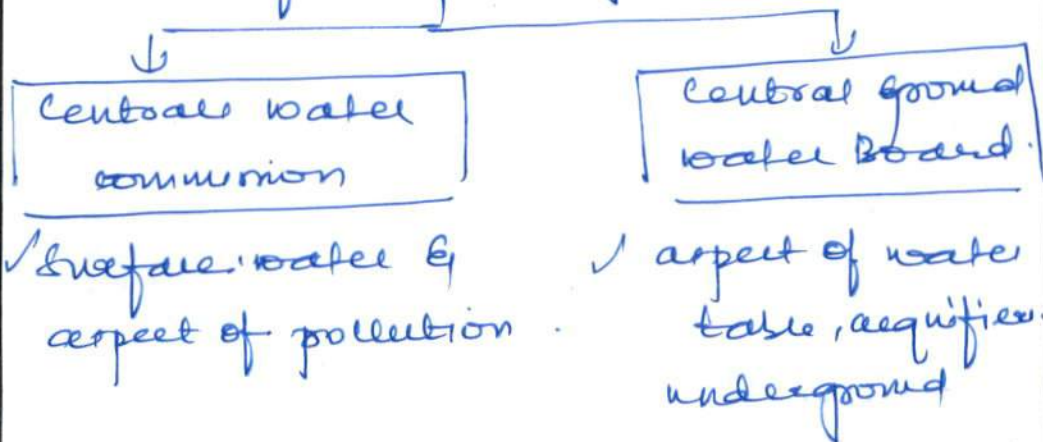
L.C. is not a federal representation of state while R.S. has significance of being elected by State Legislative Assembly.

Finally Rajya Sabha is a permanent body as compared to L.C. which are present only in 7 states and can be dissolved anytime.

8. A major shift is needed in the institutional framework of the Central Water Commission (CWC) and the Central Ground Water Board (CGWB) to make water management more holistic and multidisciplinary. Discuss in the context of Mihir Shah Committee recommendations. (150 words) **10**

जल प्रबंधन को अधिक समग्र और बहु-विषयक बनाने के लिए केंद्रीय जल आयोग (CWC) एवं केंद्रीय भूमि जल बोर्ड (CGWB) के संस्थागत ढाँचे में महत्वपूर्ण परिवर्तन की आवश्यकता है। मिहिर शाह समिति की अनुशंसाओं के संदर्भ में चर्चा कीजिए।

In case of water regulation



Because of multiplicity, divided domain of authority, water management lacks a comprehensive approach in regulation.

In this context, Mihir Shah committee suggested combining both these bodies to form NATIONAL WATER COMMISSION.

This would enable

- comprehensive planning of water bodies,
- restoration, mapping, harvesting, rejuvenation of sources (water bodies)

- adequate effort to conserve, store and regulate the water both for agriculture as well as industrial purposes.

Challenges :-

- It might amount to over-regulation
- more centralised chain of command.
- overlapping of funds.
- there is need for domain expertise to address specific challenges to augment resources.

9. On what grounds can a person be denied the right to contest elections to the Parliament in India? Will a life-time ban on those convicted of heinous crimes address the problem of criminalisation of politics? Discuss. (150 words) 10

किसी व्यक्ति को भारत में संसद हेतु चुनाव लड़ने के अधिकार से किन आधारों पर वंचित किया जा सकता है? क्या जघन्य अपराधों के दोषी व्यक्तियों पर जीवनपर्यन्त प्रतिबंध से राजनीति के अपराधीकरण की समस्या का यथोचित समाधान होगा? चर्चा कीजिए।

Right to contest election :-

Anybody who is a citizen of India and has acquired required age of 25 years (Lok Sabha), 30 years (Rajya Sabha), 35 years (President and Governor) is eligible subject to RPA act 1951.

Denial to contest election :-

Section 8 of RPA act points to

- Section 8(1) - subject to specific crimes like sati, untouchability, murder, sexual misconduct among many is entitled to ban for 6 years to contest election.

- Section 8(2), specifies that if a legislator is convicted for term of 2 years and above, he is barred from contesting election for 6 years.

Will such ban and life-time ban in specific solve the problem?

Election Commission has urged the government along with Supreme Court to ban such conducts to be part of law making.

- It violates essence of democracy and right of people to choose conduct and assign them privileged position.
- Such ban will reduce the politician-bureaucracy-police nexus and set an example of integrity, fair and transparent democracy.
- Systemic reform, intra-party democracy, self-regulation among parties while assigning ticket also will go a long way in addressing this issue.

10. Directive Principles can be considered as even more important than the Fundamental Rights because they provide a positive thrust towards welfare. Discuss. (150 words) 10

निर्देशक तत्वों को मूल अधिकारों से भी अधिक महत्वपूर्ण माना जा सकता है क्योंकि वे कल्याण की दिशा में एक सकारात्मक प्रेरणा प्रदान करते हैं। चर्चा कीजिए।

DPSP and FR are regarded as the tools of socio-economic and political democracy of governance.

Significance of DPSP :- (Article 35-51)

- It is basis of ideals for governance, form of guiding principle for legislation.

- It is comprehensive in nature

- Separation of Power
- weaker, disabled, women etc, IT's.
- public health.
- Panchayat (Article 40)
co-operative society (43 B).
- Equal pay for equal work.
- social welfare, liberal and Gandhian ideals in general

Fundamental Rights on other hand are limitation on executive and legislature. They are essential for rule of law, rights of citizen against any arbitrary order and are essential for the individual and social development of citizens in general.

Harmonious balance between FR & DPSP

While FR is justiciable, DPSP is non-justiciable. Both are essential in terms of laying outline of governance to realize the essence of ideals of PREAMBLE.

It is rightly stated that both are the 'conscience keepers' of Indian democracy.

DPSP, is a prescriptive document of ideals for legislation makers and acts as a check against any aberration in law-making to realize ideals of Liberty, equality, fraternity, justice.

11. In light of demands for replacement of the FPTP (First Past the Post) system with other alternatives, compare the merits and enumerate the challenges associated with replacing the current system. (250 words) 15

FPTP (फर्स्ट पास्ट द पोस्ट) प्रणाली को अन्य विकल्पों से प्रतिस्थापित किए जाने की मांगों के प्रकाश में, वर्तमान प्रणाली के लाभों से तुलना करते हुए इसे प्रतिस्थापित करने से सम्बंधित चुनौतियों को सूचीबद्ध कीजिए।

Among the three possible forms of election pattern

- 1) First past the post system
- 2) System of proportional representation
- 3) Hybrid system;

India follows the first two in different election process. While FPTP is used in Lok Sabha and State legislative assembly, PR system is used in presidential election.

- Our constitutional makers opted for selected systems owing to
- huge population and related illiteracy
 - FPTP is simple to understand, whereby voters are able to relate with candidate, evaluate the prospect and not merely as a whole.
 - In this, winning larger share of votes imply winning a seat and thus is simple.

Proportional Representation, on the other hand has its own benefit. A automatically varied interest groups and party system is strengthened. For example, women as a group can be represented better under this system. One of the drawbacks, is its complexity, expensive method and voters are not given a choice of candidates.

In the recent times, suggestion is made for Hybrid election where there is a combination of both the methods in selective manner. This can be tested in certain areas, as seen in Punjab, Kerala before it is aimed at Lok Sabha level.

However, owing to varied population distribution, urban-rural divides, caste and religious identities, vote bank politics, experiment of FPTP has been so far satisfactory. Though one aspect of vote: seat proportion

(for example, party with third largest votes did not win single seat in 2014 Lok Sabha) and also recent UP election is problematic, but any change towards system of PR must be well analysed, tried in limited capacity.

In this context, hybrid form of election, changes in VVPAT, electoral reforms must all go hand-in-hand for comprehensive review of election in India. Election Commission should also provide its insight in case of simultaneous election, hybrid form of voting, and electoral reforms in general.

12. Despite long term recognition of the problem of pendency of cases in the courts, limited progress has been made in reducing their number. What are the possible reasons for such a scenario? Suggest a framework of measures that can be taken to address this issue. (250 words) 15

न्यायालय में वादों के लंबित रहने की समस्या की बहुत समय से पहचान होने के बाद भी इनकी संख्या को कम करने की दिशा में सीमित प्रगति ही हो पाई है। ऐसे परिदृश्य के लिए संभावित कारण क्या हैं? इस समस्या को हल करने के लिए विभिन्न उपायों की एक रूपरेखा का सुझाव दीजिए।

Despite the features of judicial 'activism', judicial overreach and existence of an integrated, autonomous judiciary, India faces major challenge in form of huge pendency in cases in courts.

Reasons :-

- More than 4 million cases, (cases in high court, 60,000 in supreme court) in general is pending.
- Inadequate manpower - There's massive variance at all the three levels of judges, advocates, public prosecution and this highlights lack of recruitment.
- Overburdened courts - Because there are pendency, lack of timely resolve, adjournments, special leave, gap in the

Investigation, multiple cases under single judge, there is a lack of timely disposal of cases.

- Lack of time, Judicial Standards :-

There is a general apathy to the legal hurdles, cases go on for more than 10 years, sometimes litigants do not get justice in their lifetime.

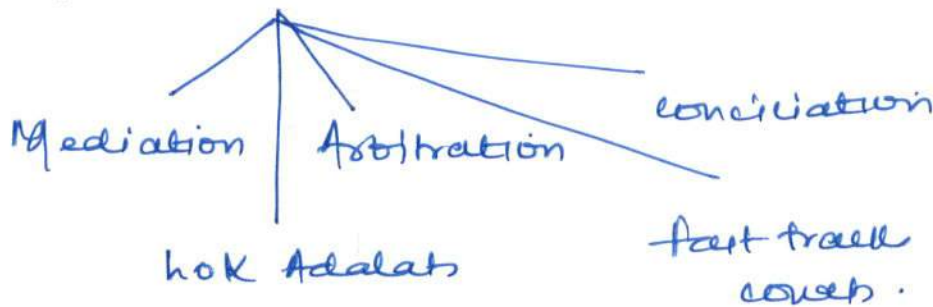
- Role of Police :- The mismatch in the investigation, delay, lack of sensitivity all of these add to judicial delay.

- Recruitment :- Because variation exist in state level selection of district judges, there is a need for standard National District Judge Selection Exam, as suggested by Law Commission.

All of these lead to the denial of justice, against the moral and constitutional rights of citizen. This needs massive correction to provide speedy justice.

Measures :-

- Time bound manner of planning case disposal - monthly and yearly targets and there should be updated on website.
- Access of justice, by dividing the cases on basis of timeline, severity and urgency and speedy disposal.
- ALTERNATE DISPUTE RESOLUTION



- Reform in recruitment at district, session level, increased selection of public prosecution, staff and reform of Bar Council of India. Also All India Judicial Service would improve quality of recruitment.
- In addition, systemic reform in courts, transparency and accountability to enhance judicial standard as a whole.

13. Despite the phrase 'due process of law' not being included in Article 21, the Supreme Court, over the years, has adopted the doctrines of 'procedural due process' and 'substantive due process' into Indian constitutional law. Comment. (250 words) 15

'विधि की सम्यक् प्रक्रिया' वाक्यांश के अनुच्छेद 21 में सम्मिलित नहीं होने के बावजूद, समय के साथ सर्वोच्च न्यायालय ने 'प्रक्रियात्मक विधि के अनुसार' एवं 'सारवान विधि के अनुसार सम्यक् प्रक्रिया' के सिद्धांतों को भारतीय संवैधानिक कानून में अपना लिया है। टिप्पणी कीजिए।

In the initial years of drafting the constitution, it was felt that the law is valid subject to procedure, in testing the legislative action. So long as procedure was followed along constitutional provisions, it remained valid.

The doctrine of separation of power and its overlap where judicial review can question the validity of law has evolved over the time.

What is the shift?

Till 1940s, what was followed was procedure established by the law. This had inherent limitation as it did not analyse the intent, process and meaning of framing the law. It was only after the landmark case Maneka Gandhi

Vs Union of India case, that there was involving of due process of law.
(This is borrowed from US constitution).
What does this imply?

- whenever a law is tested on part of article 21 (right to life and liberty) it also should realise the expression under article 19.
- For example some of the landmark judgements of Supreme Court include
 - right to die. (Euthanasia)
 - right to education (RTE, 2009).
 - custodial death
 - on Khap panchayat & kangaroo court

Even within this doctrine where the intent, meaning, rationale of drafting a law is looked into instead of merely procedure laid by the law, the main

examination is to be flexible, overlap of jurisdiction subject to essence, rationale and intent.

For instance, if while making a law, state government intervenes in concurrent list (or) Union government makes a legislation that is state subject, the due process (actual intent) and rationale is subjected to judicial scrutiny.

Hence, undoubtedly, it is one the major judicial innovation in Indian context, subject to changing and evolved circumstances.

14. Can we say that cooperative federalism in India has strengthened in the post-liberalisation era? Give reasons in support of your answer. (250 words) 15

क्या हम कह सकते हैं कि उदारीकरण के बाद की अवधि में भारत में सहकारी संघवाद सुदृढ़ हुआ है? अपने उत्तर के समर्थन में कारण प्रस्तुत कीजिए।

Federalism is a harmonious balance, separation and division of power b/n centre and state in legislative, administrative, financial and executive domain of governance.

The idea of co-operative federalism is borrowed from British constitution, which aims to foster idea of collective, mutually beneficial manner of co-existence for better outcome.

Has it strengthened in post LPG era?

- Single dominant party paved way for era of state parties going to dominance, inaugurating era of coalition politics.

- Regional parties emerged strong to make vocal demand in law making, their concerns came across regional corner.

making space for more accommodative governance. Eg:- Development demands in eastern India, infrastructure needs of North-east.

- Emergence of IIT, digital revolution, global economic changes, improved FDI regulation, telecommunication boom all paving way for more open economy.
- In addition, the role of central govt changed from 'regulator' to 'facilitator'.

What are the recent changes?

- In 2015, NITI AAYOG was formed by cabinet resolution replacing the erstwhile planning commission. One of its core essence is cooperative federalism.

- In 2017, the GST - one tax, one nation, attempt was a major milestone in fostering a economic unified taxation structure. In addition, 14th finance commission also aimed to devolve larger share of

42% taxes to state enhancing the financial decentralization and large share of disposal.

In addition, the major step in 1993-94 was the 73rd and 74th constitutional amendment, which enabled local self government provide the base upon which centre-state relation could transform from federalism to "co-operative" and now due to NITI Aayog, we are encouraging COMPETITIVE FEDERALISM.

- to perform, positive areas of strength, transparent governance
- based on incentive and healthy spirit of growth, development!

15. Faulty regulatory policies can have a severe adverse effect on the efficient interplay of market forces and end up harming public interest. Examine in the context of systemic issues pertaining to regulatory environment in India. (250 words) **15**

दोषपूर्ण विनियामक नीतियों का बाजार की शक्तियों की कुशल अंतर्क्रिया पर गंभीर विपरीत प्रभाव पड़ सकता है और सार्वजनिक हित को नुकसान पहुँच सकता है। भारत में विनियामकीय परिवेश से संबंधित प्रणालीगत मुद्दों के संदर्भ में परीक्षण कीजिए।

16. Mention the constitutional provisions to safeguard and ensure the independent and impartial functioning of the UPSC. Further, assess the limitations of UPSC in effectively performing its role as the 'watchdog of merit system' in India as envisioned by the Constitution. (250 words) 15

UPSC की स्वतंत्र और निष्पक्ष कार्य पद्धति को सुरक्षित रखने और सुनिश्चित करने हेतु संवैधानिक प्रावधानों का उल्लेख कीजिए। साथ ही संविधान द्वारा प्रकल्पित 'योग्यता प्रणाली के संरक्षक' के रूप में अपनी भूमिका को प्रभावी रूप से निष्पादित करने में UPSC की सीमाओं का आकलन कीजिए।

UPSC is one the major constitutional body aimed to be the "watchdog of merit system". It is covered under article 312 to 323, under Part XIV.

Constitutional provisions

- The chairman and members are appointed by President of India for fixed tenure of 5 years.
- The expenses are charged under the consolidated fund of India and hence are not subjected to vote of Parliament (salaries, pensions & allowances).
- The service conditions are safeguarded and cannot be altered, ensuring the autonomy and security of tenure.

→ Chairman of UPSC is not allowed to further appointment. The members can become chairman of UPSC (or) other State Public Service Commission.

→ More importantly, ^{annual} report by President is laid in both houses of parliament, with explanation in case of not following its recommendation is provided.

In such a scenario, despite having safeguards and validity, UPSC is subjected to certain limitation :-

- In case of corruption issue, of public servants, the role of central vigilance commission supersedes UPSC.
- The advice is only recommendatory of UPSC and not binding in nature.
- It is not consulted in appointment to higher post (diplomat, secretary level) and is only recruiting at initial stage.

- Any change in terms of service allotment, seats are not under its ambit.
- It also do not have a say in case of reservation policy.

So, aspects of post, promotion, performance, transfer are overlapping with DoPT, departments and UPSC is not consulted in cases of service related matters.

Despite these limitation, no department under various ministry can refuse the decision of UPSC and it is undisputed body of repute, merit and integrity to select the steel frame of Indian government.

17. What are the key issues in the context of electoral funding in India? How far do you think the idea of state funding of elections can address these issues? (250 words) 15

भारत में चुनावी वित्तपोषण के संदर्भ में मुख्य मुद्दे क्या हैं? आपकी राय में चुनावों के राज्य द्वारा वित्तपोषण का विचार इन मुद्दों का किस सीमा तक समाधान कर सकता है?

Key issues in electoral funding in India

- As per Law Commission and ADR (Association of Democratic Reform), 69% of fund source to political parties are anonymous.
- This implies unaccounted, black money also hints at crony capitalism, lobbying in political party - corporate nexus.
- Most of the parties refuse to come under ambit of RTI (Germany, Bhutan)
- Lack of inner party democracy, absence of audit of pol parties accounts, refusal to file returns, despite repeated orders of SC and EC
- All of these lead to unfair, corrupt patterns of electoral process whereby free, fair, transparent election process is severely compromised.

What are the possible reforms?

(A) Electoral reforms :- Due to the multiple amendments of Representation of Peoples act, (RPA, 1951), there have been suggestion to

- file annual return (as after electoral bond scheme, 2017).
- electoral expenses for individual candidates are capped at ₹10 lakh.
- KYC based bank accounts to be used for election expenses.
- Reduction of cash donation cap from 20000 to 2000.
- foreign contribution allowed under FCRA.
- Amendments to IT Act and Companies act to allow companies less than 3 years of operation to donate above 7.5% of three year average return of profit.

Hence, many measures for transparency, anonymity (for safety) has been suggested.

(b) State funding of elections

As per Indrajit Gupta Committee, Law Commission and National Committee to Review working of Constitution suggested, that electoral reforms and election process must be revamped prior to state funding.

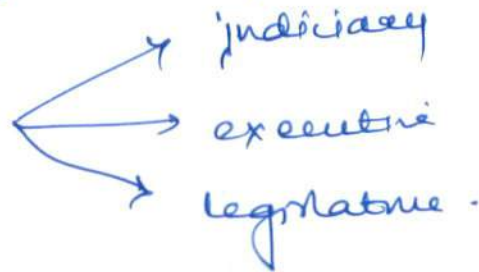
S. Y. Qureshi, former CEC suggest that National Electoral Fund should be created and based on performance of last two general election, parties must be given allotment.

However, utmost care should be taken that state funding should not become mere supplement to contesting candidates. So, it can begin on pilot basis at limited level to test the possibility of state funding in long run.

18. Separation of powers in case of India has acquired its own uniqueness under the constitutional arrangement. Explain. (250 words) 15

भारत के सन्दर्भ में शक्तियों के पृथक्करण ने संवैधानिक व्यवस्था के अंतर्गत एक अनन्य विशिष्टता प्राप्त कर ली है। व्याख्या कीजिए।

The doctrine of separation of power implies clear jurisdiction of sphere of



This is provided in article 30. However India is different in comparison of US, which is rigid in its shape. In Indian context, it is overlapping, fluid and flexible.

How is Indian case unique?

- Due to basic structure doctrine, the Judiciary has the power to strike the validity of a law passed by legislature. This has been seen in NJAC Bill, 2016, right to life and liberty cases.
- Secondly, there is a provision of legislature

assigning law making power to executive under delegated legislation, subject to check and scrutiny.

— Within parliament, legislature exercises quasi-judicial power in

- ✓ impeachment of president
- ✓ removal of judges of SC & HC.
- ✓ contempt of parliamentary privileges.

— While judges cannot question the parliamentarians on vote, speech and action in parliament, no legislative body can discuss the action of judges except during his removal.

— Most importantly, despite being elected in parliament, ministers are executive power, subject to confidence of Lok Sabha in general.

In this way, the three spheres of legislative, executive and

Judiciary are intertwined and overlap making Indian context unique, novel and flexible.

This leads to

- system of checks & balance.
- lack of arbitrary legislation (by cross-checking basic structure ideal) if violating rights of people.
- idea of judicial activism can also be seen in this context.

19. Highlight the extent of President's powers under Article 352. Comment on the judicial scrutiny of proclamation and the exercise of executive powers under National Emergency. How is this power different from the one bestowed under Article 356? (250 words) 15

अनुच्छेद 352 के अंतर्गत राष्ट्रपति की शक्तियों की सीमा पर प्रकाश डालिए। राष्ट्रीय आपात की उद्घोषणा की न्यायिक संवीक्षा तथा आपातकाल के दौरान कार्यकारी शक्तियों के प्रयोग पर टिप्पणी कीजिए। यह शक्ति अनुच्छेद 356 के अंतर्गत प्रदत्त शक्ति से किस प्रकार भिन्न है?

Article 352 denotes the proclamation of National Emergency on the pretext of war, external aggression (or) internal armed rebellion. India has witnessed emergency during 1962, 1971 and 1975-77.

Power of President :-

President has the power to promulgate emergency upon particular area, (or) whole of India, subject to satisfaction that situation of external threat looms over country. In this case, post 44th constitutional amendment, a written cabinet approval is required.

In addition, such resolution must be passed by both the houses of parliament with special majority in

specified time frame.

The proclamation is also subject to judicial review in case of malafide intention. However the basis of the proclamation cannot be questioned.

Executive power under National Emergency :-

The Parliament can make any law under the State List and State List also continues to function. In this way State List becomes concurrent List.

Also there is power of centre to direct any aspect upon States, which under normal circumstance is limited to only few aspects.

So, executive power increases in absolute manner, as centre can direct States to carry out any function assigned to it during National Emergency.

Difference b/w Article 352 & 356.

Article 352

Article 356.

In this case, State list ✓ becomes concurrent list. Union also can make legislation. In this State assembly is dissolved and State list becomes union list.

Both Parliament & State legislature can make laws.

✓ President (or) any executive under him is in charge of law making.

✓ Fundamental rights are suspended except article 20 & 21. Only in case of war, article 19 suspended.

✓ No fundamental right is suspended.

✓ Applies to whole of the country

✓ It applies only to constitutional machinery failure in a state.

20. Fiscal transfers from the Centre to States are critical in India. In this context, explain the rationale of both general and specific purpose fiscal transfers. Also highlight the problems witnessed in the design and implementation of specific purpose transfers. (250 words) 15

भारत में केंद्र से राज्यों को राजकोषीय अंतरण अत्यंत महत्वपूर्ण हैं। इस संदर्भ में, सामान्य और विशिष्ट प्रयोजन वाले राजकोषीय अंतरण के औचित्य की व्याख्या कीजिए। साथ ही, विशिष्ट प्रयोजन वाले अंतरण की अभिकल्पना और कार्यान्वयन में आने वाली समस्याओं प्रकाश डालिए।

In case of financial jurisdiction, it is the central government which is empowered to levy/majority share of revenue. Eg - Income Tax, corporate tax.

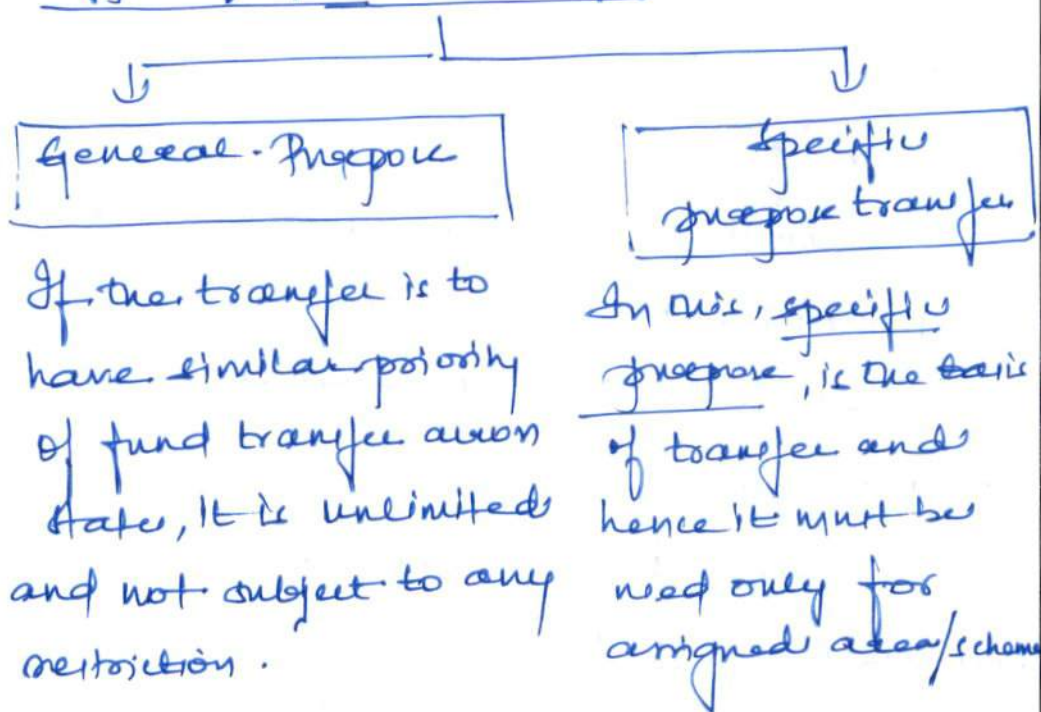
On the other hand state government is assigned with role of social sector (education, health), law and order. All these require revenue generation, which is limited due to its lesser sphere of taxation jurisdiction.

In such a scenario, one of the major source is

- fiscal transfer from centre to state.
- grants and tax devolution as per recommendation of Finance Commission.

It is in context of these limitation and skewed regional development pattern (eg: tribal areas, hill areas) that states intermittently demand the SPECIAL CATEGORY STATUS (Andhra Pradesh, Bihar among many).

Types of fiscal transfer :-



In this scenario, it is the specific purpose transfer which faces certain issues :-

a). Multiplicity of schemes.

- b). Bureaucratic interference.
- c). Lack of convergence between fund allotted and necessity of scheme.
- d). Delay in transfer and implementation.

In this way, care should be taken that

- State specific, regional needs and requirement must be studied before allocating funds.

For example :- Education should be prioritised in East India (Bihar, Odisha, Jharkhand) instead of Kerala, Pondicherry.

- Secondly, fiscal transfer must be accompanied by transparent, audit and accountable review on timely basis.