

TEST CODE 6 1 2 2 1

FIAS - MGP 2023 (C-6) - Sectional Test #1

Time Allowed : Three Hours
समय : तीन घंटे

ForumIAS

Maximum Marks : 250
अधिकतम अंक : 250

GENERAL STUDIES / सामान्य अध्ययन

Name Of Candidate परीक्षार्थी का नाम	DEVANSH MDHAN DWIVED)		
Roll No./अनुक्रमांक	1910058989	Medium/माध्यम	English <input checked="" type="checkbox"/> हिंदी <input type="checkbox"/>
Center Code/परीक्षा केंद्र	1900	Date/दिनांक	13/07/2022

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INDEX TABLE / अनुक्रमणिका

INSTRUCTION / अनुदेश

Q. No. प्र.सं.	Max. Marks अधिकतम अंक	Marks Obtained प्राप्तांक		
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Evaluator's Discretion/मूल्यांकन कर्ता का विवेक :			Start Time/प्रारंभ करने का समय :	End Time/समाप्त करने का समय :
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Total Marks/कुल अंक :			Mode Of Examination/ परीक्षा की विधि :	Online/ऑनलाइन <input checked="" type="checkbox"/> Offline/ऑफलाइन <input type="checkbox"/>
*Evaluator's Discretion is the marks awarded at the discretion of the evaluator based on your overall impression, on the basis of (but not limited to) your handwriting, presentation, use of diagrams, flowcharts, facts and figures or absolutely anything that he/she liked in your copy. मूल्यांकन कर्ता का विवेक अंक, आपकी लिखावट, प्रस्तुति, आरेखों के उपयोग, फ्लोचार्ट, तथ्यों और आंकड़ों या समग्र रूप किसी अन्य विषय वस्तु, जो मूल्यांकन कर्ता को आपकी कॉपी में पसंद आयी के आधार पर (लेकिन इन्हीं तक सीमित नहीं) पर दिए गए अंक हैं।			For Office Use Only / केवल कार्यालय प्रयोग हेतु	
			ECN CODE/ ईसीएन कोड :	Evaluation Date/ मूल्यांकन तिथि :

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Parameters	Excellent	Very Good	Good	Average	Poor	Very Poor
Language						
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ADDITIONAL REMARKS

Q.1) Belief that the Indian constitution is a borrowed constitution is nothing but a myth. Discuss
(10 marks, 150 words)

यह मानना कि भारतीय संविधान एक उधार का संविधान है, एक मिथक के अलावा और कुछ नहीं है। चर्चा करें।
(10 अंक, 150 शब्द)

Indian constitution has often been described as a 'borrowed bag' from global constitutions. This is because of adoption of multiple features from numerous constitutions.

Borrowed Features :

UK constitution	Parliamentary system, writs, cabinet system
US constitutions	Fundamental rights, judicial review.
USSR constitution	Fundamental Duties.
Irish constitution	Directive principles

Indian constitution as borrowed constitution is a myth :

- ① No constitution has a copy right over the basic principles.
- ② Fundamental rights → present in most constitutions

- ② Only principles relevant to Indian context have been taken.
- eg Parliamentary system instead of Presidential system.
- ③ Innovations, where necessary have been done.
- eg Amending powers → 3 kinds.
- ④ Certain features were already a part of Indian tradition since long.
- eg Democracy → Buddhist sanghas.
- ⑤ Certain features haven't just been copy pasted.
- eg Secularism → different from major constitutions.

Thus instead of a borrowed bag, Indian constitution remains the cornerstone of the nation. (Granville Austin)

Q.2) Judiciary is increasingly becoming a super-legislature that undermines the basic tenets of a parliamentary democracy. Critically examine. (10 marks, 150 words)

न्यायपालिका दिन-ब-दिन एक सुपर-विधायिका बनती जा रही है जो संसदीय लोकतंत्र के मूल सिद्धांतों को कमजोर करती है। समालोचनात्मक परीक्षण करें। (10 अंक, 150 शब्द)

The constituent assembly devolved upon judiciary the role of interpreter of the constitution. But in recent times judiciary is turning into super legislature.

eg) Vishva guidelines

Reasons for judiciary as Super Legislature

- Legislative vacuum
- Executive not taking tough decisions
- Aim to regain lost credibility of judiciary
- Judicial enthusiasm.

Undermining the basic tenets of parliamentary democracy (PD)

Ⓐ PD is based on the notion of "representativeness" - judiciary is not a representative of people.

Ⓑ Judiciary is not accountable to the

- people → lack of another basic feature
- Ⓒ Creates the "tyranny of the unelected".
 - Ⓓ PD is based on deliberations → judicial legislation undermines parliamentary deliberation.
 - Ⓔ Violates the principle of separation of powers (Art 50).
 - Ⓕ Doesn't take into consideration the availability of funds, functions and functionaries of the govt.

However, this is also needed as:

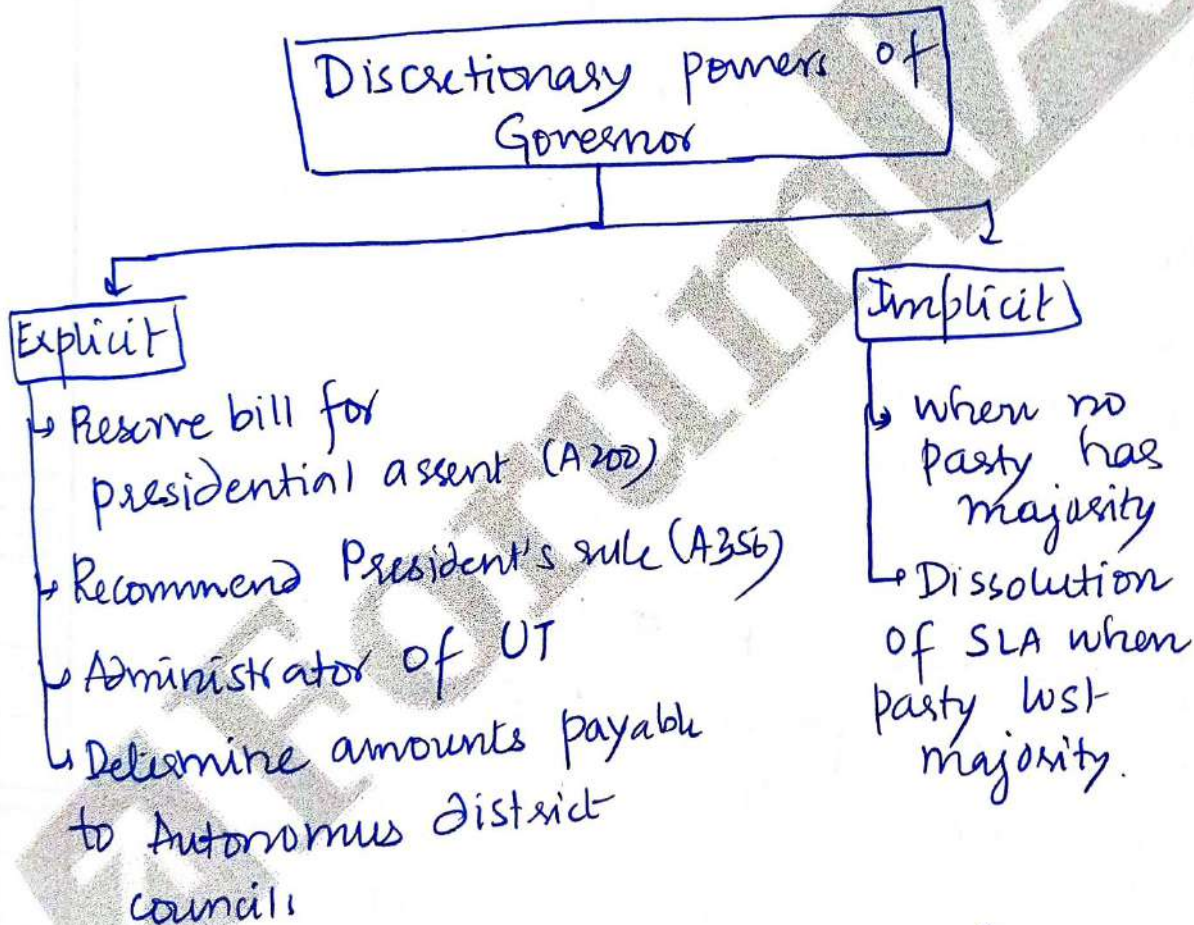
- Promotion of social justice → preamble vision.
- Resolve deadlocks in parliament over important legislations.

However, Judicial legislations must be an exceptional case while judicial restraint the norm.

Q.3) Governor of a state enjoys more discretionary power than the president of India. Elaborate and explain the rationale behind this constitutional arrangement. (10 marks, 150 words)

किसी राज्य के राज्यपाल को भारत के राष्ट्रपति की तुलना में अधिक विवेकाधीन शक्ति प्राप्त है। इस संवैधानिक व्यवस्था के पीछे के तर्क की विस्तृत विवेचना एवं व्याख्या करें। (10 अंक, 150 शब्द)

Art. 153 of the constitution provides for the governor's office. Article 163 grants him/her discretionary powers.



The President of India (Art 52) enjoys only the implicit part of discretion with respect to the parliament, hence has lesser discretionary powers than governor.

Why Governor granted more discretionary powers

- ① Indian constitution was framed in fear of trepidation (Paul Brass) → thus Governor made long 'arm' of Centre. (eg) secessionist tendencies by DMK.
- ② Governor has to look after certain aspects of asymmetrical federalism. (eg) autonomous district council.
- ③ Nature of Indian federation: 'quasi federal' with strong centre → provision of president's rule.
- ④ In most UTs → no council of ministers hence has to act on own discretion.
- ⑤ Role of President is more exhaustive (eg. diplomatic powers) → powers granted to governor to lessen burden of him/her.

But, as SC observed in Rajbala case exercise of discretion must conform to public conscience i.e. We the people.

Q.4) Indian federalism is the middle point between Unitarianism and confederalism. Analyze. (10 marks, 150 words)

भारतीय संघवाद एकात्मकतावाद और संघवाद के बीच का मध्य बिंदु है। विश्लेषण करें। (10 अंक, 150 शब्द)

Indian federalism has been defined as a sui-generis model by Alexander. Since it is a mid point of unitarianism and confederalism.

Unitarianism → Strong centre (eg) UK.
 → States dependent / Appendages of Centre.

Confederalism → Strong states (eg) EU.
 → Centre derives power from states

Indian federalism as mid point between two

① Unitary features:

1) Art 1: India is a union of states

1.2) Art 3: not guarantee of territorial integrity of states.

1.3) Centre can legislate on state list when:

② Rajya Sabha passes resolution.

⑥ Two/more states request.

⑦ Give effect to international treaties.

1.4) Presence of All India service (A312)

1.5) Emergency provisions (A356)

② Confederalist features :

2.1) States have separate constitutional existence

2.2) Rajya Sabha to represent rights of States

2.3) Presence of State list (Art 246)

2.4) Special rights to states

eg) Autonomous district councils.

Since Indian federalism combines the features of both unitarism and confederalism, it appears at the mid point.

Q.5) Ideas about citizenship reflect the character of a nation. Explain the concept of citizenship. Also, evaluate the Citizenship (Amendment) Act, 2019. (10 marks, 150 words)

नागरिकता के बारे में विचार एक राष्ट्र के चरित्र को दर्शाते हैं। नागरिकता की अवधारणा को स्पष्ट कीजिए। इसके अलावा, नागरिकता (संशोधन) अधिनियम, 2019 का मूल्यांकन करें। (10 अंक, 150 शब्द)

Citizenship as an idea emerged with the dawn of modern nation states.

Concept :

- Provision of identity by a country to its inhabitants.
- Granting of rights by the state
eg right to life.
- Obligation of citizens towards fellow citizens and the state.

Citizenship Act, 2019

Cut off date = 31 Dec 2019

Cancellation of OCI
Card for violating
Constitution.

Features

Citizenship to
Christian, Buddhist,
Sikh, Parsi, Hindu

Naturalization
limit reduced
to 5 yrs

From countries
Bangladesh, Afghanistan,
Pakistan

Evaluation:

Positives:

- ↳ Granting rights to persecuted minorities in neighbourhood.
- ↳ OCI rules reflect on the duties of citizenship → respecting the country and constitution
- ↳ Reduction of naturalization ~~as~~ time → faster grant of citizenship
- ↳ Reduce burden on foreigner tribunals
- ↳ In line with international commitments like ICCPR.

- Issues**
- Arbitrary cut off date
 - Excludes one particular community
 - Diplomatic issues → perceived as anti Islam.

Citizenship Act needs to be referred to parliamentary committee for detailed scrutiny and necessary amendments should be made.

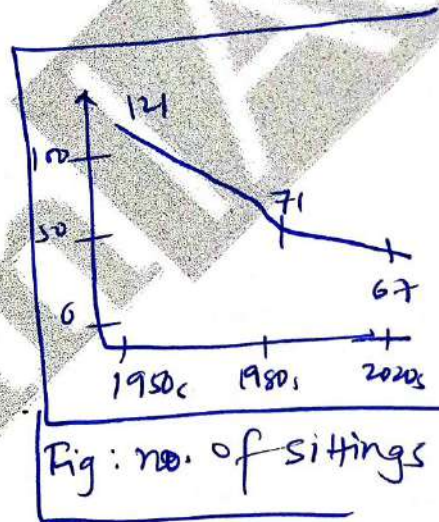
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Q.6) Analyse the reasons for degeneration of parliamentary functioning in recent time. Also, suggest measure to make the parliament more productive. (10 marks, 150 words)

हाल के समय में संसदीय कामकाज में आई गिरावट के कारणों का विश्लेषण करें। साथ ही, संसद को अधिक उत्पादक बनाने के उपाय सुझाएं। (10 अंक, 150 शब्द)

Parliament represents the will of the people. However, there has been a decline in its functioning of late since :

① Decline in number of sittings (Fig 1).



② Increasing disruptions.

eg) 40% time lost in 15th LS

③ Bypassing of committee system.

eg) only 17% bill referred in 16th LS.

④ Criminalization of politics.

eg) 34% MPs have serious cases pending

⑤ Bypassing Rajya Sabha by passing bills as money bills.

eg) Aadhaar Act, electoral bonds.

⑥ Opaque source of funds to parties → lack of accountability.

⑦ Quality of questions in Question hour:
- More factual.

⑧ Declining morality.
eg cash for query scam

Reforms needed

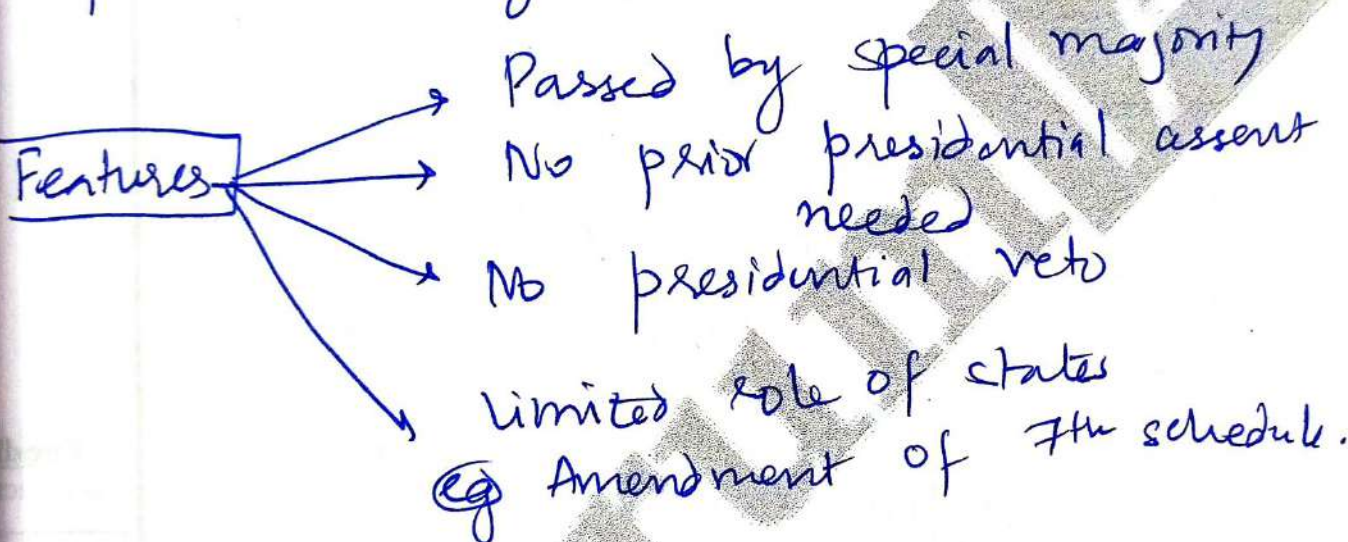
- ↳ min 100 days for RS and 120 days for LS sitting (NERWC).
- ↳ Reforming anti defection law.
- ↳ Greater powers to ECI to curb criminalization.
- ↳ Mandatory referral of bills to committee stage.
- ↳ UK model : led opposition decide agenda for 20 days.

Parliamentary functioning has to improve to strengthen vibrant democracy of India

Q.7) As economic, social and political conditions of a society mutate continuously, a constitution must be a living document in order to facilitate these ever-dynamic developments and needs of society. Elaborate in Indian context.
(10 marks, 150 words)

चूंकि किसी समाज की आर्थिक, सामाजिक और राजनीतिक स्थितियां लगातार बदलती रहती हैं, इसलिए संविधान को एक जीवंत दस्तावेज होना चाहिए ताकि समाज के इन गतिशील विकासों और जरूरतों को सुगम बनाया जा सके। भारतीय संदर्भ में विस्तृत विवेचना करें।
(10 अंक, 150 शब्द)

Indian constitution is a living document owing to article 368 which provides for amending provisions.



Constitution as living document :

① Providing for economic doctrines like socialism.

eg 1st CAA → land reforms.

② Advent of newer taxation systems.

eg GST via 101st CAA

③ Provide special safeguards to deprived sections.

eg separation of NCSC & NCST (89th CAA)
↳ estd. of NCBC. (102nd CAA)

④ Prevent concentration of power.

eg reforms via 44th CAA post emergency.

⑤ Granting newer rights as per demand.

eg Art 24A → right to education via 86th CAA

⑥ Amplification of already existing rights

eg right to form cooperatives = Art 19,

⑦ Granting of affirmative action to left out section.

eg 1st CAA & 100th CAA (EWS).

⑧ Inserting newer Directives for state.

eg 42nd CAA = Art 39(A); protection of entt.

Thus, this flexibility as per Cornell University has made Indian constitution last so long against avg. constitution age of 17 years.

Q.8) What do you mean by 'doctrine of essentiality'? How has judiciary used this doctrine to address conflict between various fundamental rights? Explain with examples. (10 marks, 150 words)

'अनिवार्यता के सिद्धांत' से आप क्या समझते हैं? विभिन्न मौलिक अधिकारों के बीच संघर्ष को दूर करने के लिए न्यायपालिका ने इस सिद्धांत का उपयोग कैसे किया है? उदाहरण सहित स्पष्ट कीजिए। (10 अंक, 150 शब्द)

Doctrine of essentiality was propounded by the SC in "Shirur Mutt case".

Meaning:

It held that those practises which are essential to a religion would be decided by the court.

eg Hijab is essential to Islam or not : pending issue

If found non-essential, those practises could be restricted.

Conflict resolution b/w various FRs

① Art 17 vs Art 26:

Judiciary held that untouchability is not an essential practise in hinduism thus can be ^(CERP) eradicated by law.

② Art 33 vs Art 26 :

Court limited the rights of Muslim man in Air force who wanted to keep beard.

③ Art 21 vs Art 26 :

Court held though azan is ERP, but azaan on loudspeaker is not. Hence can be limited especially in covid.

④ Art 14 vs Art 26

In Young Lawyers Association case, Court held that ~~women's~~ restriction on women entry in Sabimata is unjustified. (Pending before larger bench now).

However it has been criticized since it promotes Judicio papism and has granted conflicting judgements.

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 Q.9) Why does constitution provide for a weaker second chamber at state level when compared with that at union level? (Analyse the significance of Legislative Council in states.)
 (10 marks, 150 words)

संघ स्तर की तुलना में संविधान राज्य स्तर पर कमजोर द्वितीय सदन का प्रावधान क्यों करता है? राज्यों में विधान परिषद के महत्व का विश्लेषण कीजिए।
 (10 अंक, 150 शब्द)

As per article 168, state legislatures could be unicameral or bicameral (eg UP). But where constituted the state legislative councils are weaker than state legislative assemblies (SLA).

SLCs weaker than Rajya Sabha

- ① Rajya Sabha represents the states, no such provisions with SLC.
- ② Indian federalism is top heavy - more rights to centre.
- ③ Aim to prevent deadlocks at state level since joint sitting not available.
- ④ No participation in Presidential elections.

Significance of SLC

- ① Serve as revising chamber of laws passed by the SLA.

- ⑥ Prevent laws from being passed in passion → could cause rethink.
- ⑦ Representation to eminent members through governor's nomination
- ⑧ Varied interests (functional representation)
 - eg teachers, corporators.

Issues

- considered un-necessary drain on exchequer
- only a ditatory chamber
- SLA has over-riding powers.

2 ARC recommends mandatory creation of SLC in all states to represent local govt. interests like that of states in Rs.

Q.10) How is Indian judicial system different from that of the USA? Should India move towards a more federal judicial system? Discuss. (10 marks, 150 words)

भारतीय न्याय व्यवस्था अमेरिका से किस प्रकार भिन्न है? क्या भारत को अधिक संघीय न्यायिक प्रणाली की ओर बढ़ना चाहिए? चर्चा करें। (10 अंक, 150 शब्द)

Indian judicial system differs from USA as:

- ① No. of judges in US is 8 in SC, while 34 in India.
- ② Principle of judicial federalism in US:
 - 1) Federal court → Federal laws
 - 2) High court → State laws
- ③ Power of judicial review wider in US courts.
- ④ Appointed by President in US, unlike Collegium system of India.
- ⑤ Complete bench sits for hearing in (En banc), USA, unlike India.
- ⑥ No provision of basic structure in USA
- ⑦ No minimum qualification of judges in USA unlike here.

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Need for more federal judiciary :

- Provide inexpensive justice. (Art. 39A)
- Easy approachability to courts
- HCs more resilient to govt. against SC
- eg) ADM Jabalpur case
- Powers of HC under Art. 226 are wider.
- Reduce pendency in higher courts of review petitions
- Local language in subordinate courts.

Problems

- India is cooperative federalism
- Lack of uniformity in judgements
- Provision of integrated judiciary in constitution.

Gradual reforms like increasing no of judges, separating benches and reduced use of certiorari and prohibition can enforce Judicial federalism to an extent.

Q.11) 155318-61221-1010058989 (2022-09-13 19:11:11)
extra constitutional, has been instrumental in protecting the fundamental construct of the constitution. Highlighting the circumstance which led to development of basic structure doctrine, discuss the significance of basic structure doctrine.

(15 marks, 250 words)

आधारभूत संरचना सिद्धांत, हालांकि अतिरिक्त-संवैधानिक है, संविधान के मौलिक निर्माण की रक्षा करने में सहायक रहा है। उन परिस्थितियों पर प्रकाश डालते हुए, जिनके कारण आधारभूत संरचना सिद्धांत का विकास हुआ, आधारभूत संरचना सिद्धांत के महत्व पर चर्चा करें।

(15 अंक, 250 शब्द)

Basic structure doctrine wasn't present in the original ^(BSD) constitution which implied implicitly that amending powers of the constitution by parliament was unlimited. It was born in Keshvanand Bharati judgement (1973).

Circumstances leading to development of BSD

- ① The BSD was a product of the conflict between fundamental rights (part III) and Directive Principles (Part IV).
- ② In Shankari Prasad case, the SC upheld the 1st CAA and prescribed no limit on amending powers of parliament.
- ③ In IC Golaknath case, this was reversed. It was held that → fundamental

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rights are sacrosanct .

→ The word 'law' under A13 doesn't include amendment.

④ Government enacted 24th and 25th CAA to overturn this judgement.

4) They expanded the scope of A368 to 'unlimited amending powers'.

⑤ In Keswanand Bharti case, 13 judge bench upheld the Parliament's right to amend the constitution, but it must not destroy the ' basic structure'.

⑥ Later this was applied in Minerva Mill judgement.

Significance of BSD) :

① Protected the vision of the founding fathers from amending powers of the Parliament.

② Protected people from ' tyranny of majority'.

③ Rule of law → basic structure - SP Sampath Case

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- ① Noble visions like secularism were prevented from being removed (SR Bommai Case)
- ② Established supremacy of the constitution against parliamentary supremacy.
- ③ Protected rights of the state governments (Federalism → basic structure → SR Bommai)
- ④ Protected independence of judiciary → must for stability in society. (Keshwanand Bharati case).

Issues with BSD

- Vague and undefined.
- Undermines tenets of representative democracy.
- Judicial co-governance established (Bhikhru Parekh)
- Hindrance to changes → Status quoism

Zia Mody in her book regards BSD as most imp. judicial invention. Its relevance shows that it has been adopted by Bangladesh & Uganda Also.

Feedback

(For OFFICE use only)

Structure/ Presentation
Question Interpretation
Content
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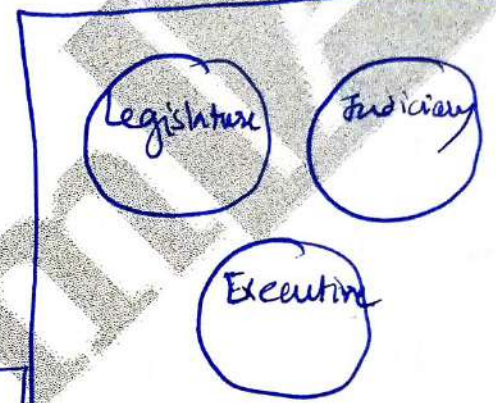
15023061221:1910058989 (2022-09-13 19:11:11) powers between various organs of the State? Also, explain Indian model of separation of power with relevant provisions in the constitution.

(15 marks, 250 words)

राज्य के विभिन्न अंगों के बीच शक्तियों का पृथक्करण सुनिश्चित करना क्यों महत्वपूर्ण है? साथ ही, संविधान में प्रासंगिक प्रावधानों के साथ सत्ता के पृथक्करण के भारतीय मॉडल की व्याख्या करें। (15 अंक, 250 शब्द)

The notion of separation of powers (SOP) was given by political scholars like Locke and Montesquieu. It refers to

different organs of govt. having separate domains of power (Fig 1)



Importance of SOP doctrine

Fig 1: (Separation of Powers)

- ① Prevent concentration of power in any single organ of the government.
- ② Reduce chances of totalitarianism.
eg Hitler's Germany → no SOP → Dictatorship
- ③ Promotes specialization of work among different organs.
eg Legislature → specializes in law making.

④ Protects independence of judiciary → necessary for social stability.

Indian model of SoP:

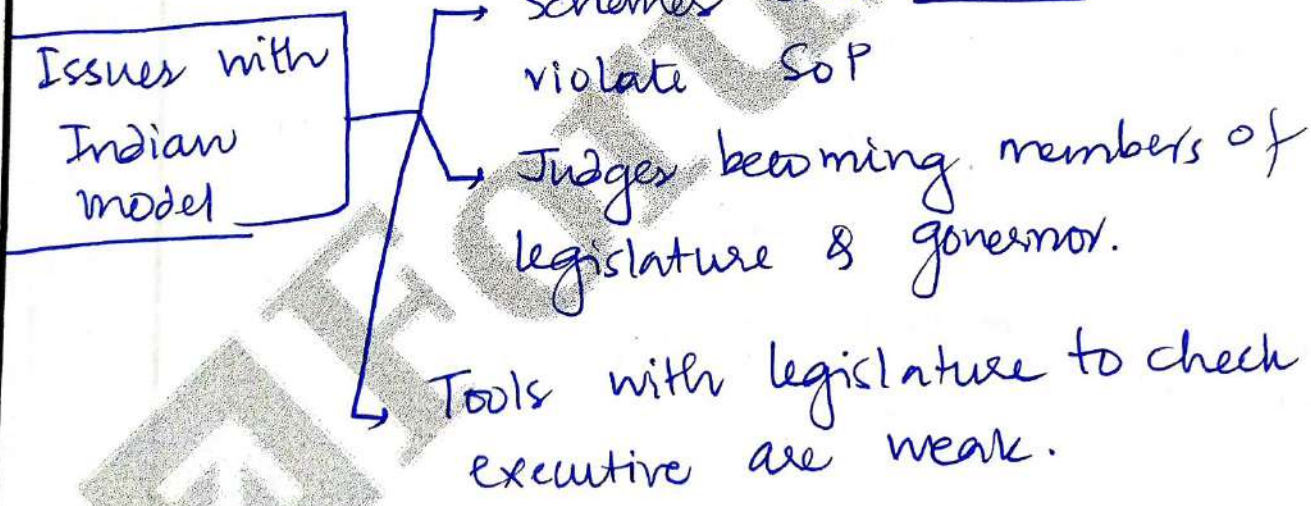
- India, based on Parliamentary democracy, doesn't have strict separation of powers
- It is based on the notion of "checks and balances"

* Constitutional provisions for SoP

Art 50.	Separation between executive and judiciary
Art 113 Art 121 & 311	Conduct of judge can't be discussed in legislature.
Art 74 & 163	Courts barred from inquiring into advice rendered by Council of ministers.
Art 122 & 212	Proceedings of legislature can't be questioned in court.
Art 361	Legal immunity to President & Governor in certain matters

Provisions for checks and balances :

- ① Appointment of judges by the executive.
- ② Provision of judicial review (Art 13) to check if laws are ultra vires.
- ③ Tools like no confidence motion (Art 74) adjournment motion, question hour → check on executive.
- ④ Provision for legislature to overstep judicial pronouncements.



Hence, Indian model is a pragmatic model and as SC upheld in India

Gandhi case : Constitution doesn't entail a strict separation but workable separation.

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Total

Q.13) Preamble reflects the ideals and aspirations of the Indian constitution. Elaborate. How far have these ideals been achieved? (15 marks, 250 words)

प्रस्तावना भारतीय संविधान के आदर्शों और आकांक्षाओं को दर्शाती है। विस्तृत विवेचना करें। इन आदर्शों को कहीं तक प्राप्त किया गया है? (15 अंक, 250 शब्द)

The Preamble has been variously described as the identity card and horoscope of the Indian constitution.

It reflects the ideals and aspirations of the constitution as:

- Tells about the form of government that we aspire for: Democratic.
- Tells the nature of Indian state → Sovereign, socialist, democratic republic.
- Reflects the aspirations of communal harmony → secularism.
- Reflects the principles on which the society must be based:
 - (a) Justice → social, economic, political.
 - (b) Liberty → faith, expression, belief.
 - (c) Equality → of opportunity, & status.

→ Reflects the ideal state of Indian society:
has fraternity and free from exploitation.

→ with these principles, amplifies other parts of the constitution (eg) Fundamental rights.

How far these ideals achieved

Ideal	Achievement	Challenges
① Sovereignty	<ul style="list-style-type: none"> Doesn't take direction from any other authority. 	<ul style="list-style-type: none"> Rise of bodies like <u>WTO</u> → peace clause Membership of Commonwealth.
② Socialism	<ul style="list-style-type: none"> Labour reforms Land reforms - land to tiller Establishment of PSUs Planning commission 	<ul style="list-style-type: none"> Advent of <u>LPG</u>. Reduced transfers from govt. Disinvestments
③ Secularism	<ul style="list-style-type: none"> Right to equality (Art 14) Freedom of religion (Art 26-30) 	<ul style="list-style-type: none"> Radicalization Communalism

<p>④ Democracy</p>	<ul style="list-style-type: none"> Powerful EC Regular elections 	<ul style="list-style-type: none"> Politicization of religion. One man one vote not translated to one man one value eg caste system.
<p>⑤ Liberty</p>	<ul style="list-style-type: none"> Art. 19. Art. 26. 	<ul style="list-style-type: none"> Draconian laws VAPA Telegraph Act.
<p>⑥ Equality</p>	<ul style="list-style-type: none"> Art. 14 granted Affirmative action 	<ul style="list-style-type: none"> 73% own wealth owned by 10%. Social issues like patriarchy.
<p>⑦ Justice</p>	<ul style="list-style-type: none"> Art. 39(A) PIL mechanism Tribunals 	<ul style="list-style-type: none"> Pendency - 400 cases Costly procedure
<p>⑧ Fraternity</p>	<ul style="list-style-type: none"> women rights → Maternity Act. SC/ST Act. 	<ul style="list-style-type: none"> Communalism Class-caste barriers

Preamble's noble visions have been achieved to an extent, but steps like national integration commission, UBI, greater powers to EC, are needed.

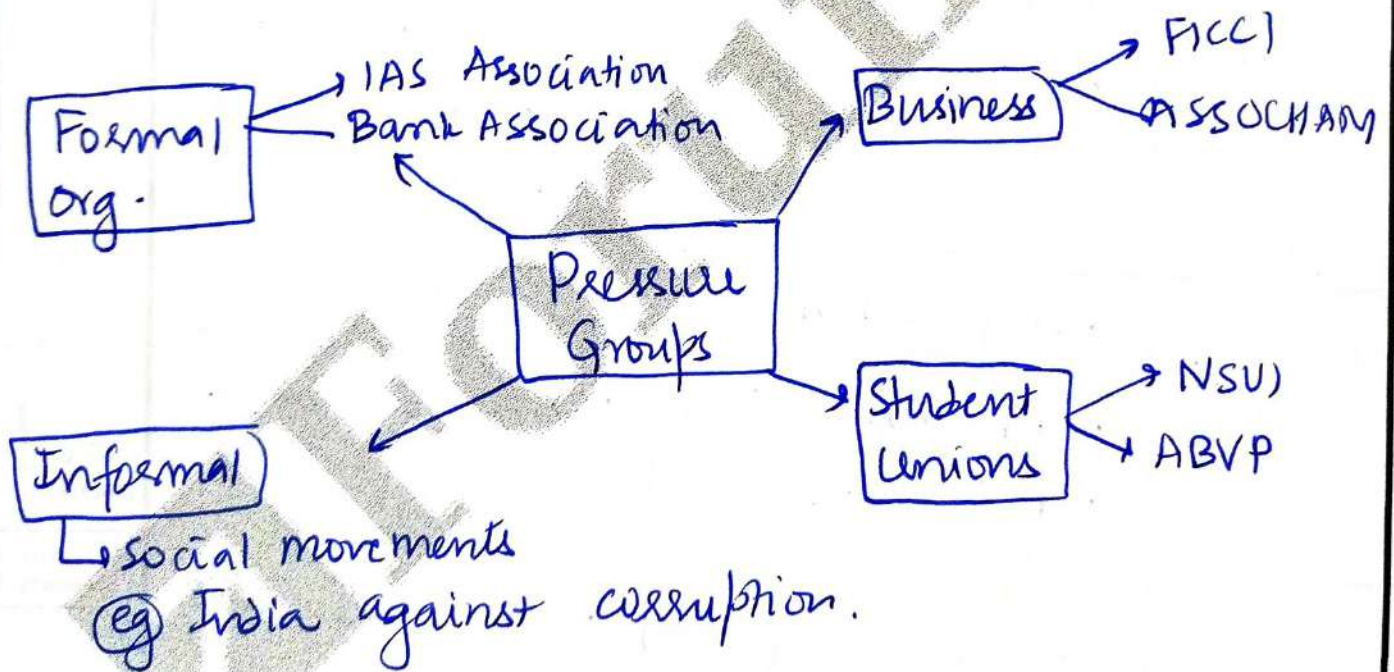
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Q.14) What are pressure groups? Evaluate their role in public policy formulation with special reference to farmer organizations and trade unions. (15 marks, 250 words)

दबाव समूह क्या हैं? किसान संगठनों और ट्रेड यूनियनों के विशेष संदर्भ में सार्वजनिक नीति निर्माण में उनकी भूमिका का मूल्यांकन करें। (15 अंक, 250 शब्द)

Pressure groups are informal organization of people with similar aspirations, intentions and goals who come together to achieve a common objective. They are the 'invisible empires' of a democracy.



Role of PG in policy formulation:

① Keeping the government upbeat with the aspirations and needs of the people

- of the country.
- ① Farmer groups demand for Bt cotton.
 - ② often represented in committees formed for policy formulation.
 - ③ BKV members in legalization of MSP conty.
 - ③ Filing of PILs to stop or initiate a policy.
 - ④ Trade unions (AITUC) against labour law reforms.
 - ④ Agitational politics → sit-ins, dharna, gheraos.
 - ④ Farmer groups against farm laws.
 - ⑤ Trade unions adopt methods like strikes, slowing down of work in industries.
 - ④ Demand for minimum wages and fixed working hours.

⑥ Electioneering: putting one's own man into the legislature.

eg many farmer groups support legislators from agrarian backgrounds in West UP.

⑦ Funding of political parties: get policies favourable to them framed.

⑧ Political education of people regarding the pros and cons of public policy.

eg webpages and social media handles of AIKS and BMU.

Issues in their role

- Represent only a section of groups
- Lack of internal democracy
- Policy tussle → policy paralysis
- Creates law and order issues
- Economic loss to country on its account (~ 3% of GDP → Eco Scenery)

Pressure groups derive power from Art 19, but they are also subject to 'reasonable restrictions' (Art 19(2)).

Q.15) Why was parliamentary form of government adopted for independent India? Do you agree with the opinion that Indian government is increasingly transitioning towards presidential form? Justify. (15 marks, 250 words)

स्वतंत्र भारत के लिए संसदीय शासन प्रणाली को क्यों अपनाया गया? क्या आप इस राय से सहमत हैं कि भारत सरकार तेजी से अध्यक्षीय शासन प्रणाली की ओर बढ़ रही है? औचित्य साबित करें। (15 अंक, 250 शब्द)

Indian constitution is based on the Parliamentary form of government (govt) unlike US constitution which is based on Presidential form. It was declared a part of Basic structure in Keshwanand Bharti case. (1973).

Why India adopted Parliamentary form :

- ① Familiarity : Starting from Buddhist sanghas to GOI Act, 1935 India was well versed in parliamentary form.
- ② Preference to more accountability over stability (as in Presidential form).
- ③ Quest to avoid the executive - legislature deadlock and hence policy paralysis.

- ④ To represent the diversity of interests across the country.
- ⑤ Nascent Democracy → would have found Presidential system as difficult to understand and implement.
- ⑥ Lack of resources to maintain the Presidential system.
- ⑦ Some experts regard it as 'colonial hangover'.

Indian govt. transitioning towards Presidential form):

- ① legislators contest polls not to become parts of legislature but executive.
- ② Rise of alternate centres of powers in the executive.
eg PMD.
- ③ Personality politics leading to Presidentialization. (Christophe Jeffrelot)

(Don't Write anything in this Area)

- ① People vote not for party, but the face of the party.
- ② Roping in of specialists in the ministerial posts like in US.
- ③ EAM S. Jaishankar.
- ④ Executive has become less accountable to legislature.
- ⑤ i) declining parliamentary sittings (127 in 1950s to 67 in 2020)
- ii) Increasing resort to ordinance (~3.5 per year)

Counter arguments :

- Adequate check and balance by judiciary
- Intrinsic features → responsibility of GM to lower house.
- Rise of regional parties → enforcing accountability.
- Most legislators and executive is still generalist.

So, there seems to be some degree of Presidentialization, but counter trends are equally strong.

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Q.16) Discuss the role of parliamentary financial committees in ensuring executive accountability to the parliament. (15 marks, 250 words)

संसद के प्रति कार्यपालिका की जवाबदेही सुनिश्चित करने में संसदीय वित्तीय समितियों की भूमिका की विवेचना कीजिए। (15 अंक, 250 शब्द)

Parliamentary committees draw their existence from Art 105 (privileges) and Art 118 (rules of house). Their origin can be traced to Montford reforms of 1929.

Role of Parliamentary financial committees in securing executive accountability

There are mainly three kinds of parliamentary financial committees:

- 1) Public accounts committee (PAC)
- 2) Estimates committee (EC)
- 3) Committee on public undertakings (CPIU)

Their roles in accountability are:

- a) Examination of the laws and accounts at length.
- b) They sit for round the year unlike

parliament which meets for < 67 days. →
hence continuous scrutiny.

- ① Have to leisure to rope in external experts → better analysis of reports.
- ② They are not bound by party directives and whips → impartial functioning.
- ③ Meetings held behind closed doors → not susceptible to public pressure and opinions unlike legislators.
- ④ Expose irregularities and malfeasance, misfeasance in use of public funds.
- ⑤ PAC exposed coal scam.
- ⑥ Provide reports (detailed) on which the executive could be questioned in the parliament.
- ⑦ EC report on undue spending on subsidies, foreign trips of executive.

- h) Their reports also come out in public domain → allow the citizens, civil society organizations to question the executive.
- eg report on Rafale Deal, Profors scam.

Shortcomings in their enforcement of accountability

- ↳ Reports are advisory and not binding
- ↳ Floating membership → ~~man~~ member transferred before complete understanding
- ↳ Long and voluminous reports are not considered fully.
eg CAB reports' only few paras considered by PAC.
- ↳ Unaccounted exigencies → during COVID couldn't meet due to rules prohibiting virtual meet.

Committee system forms the "nucleus" of the parliament it must be strengthened through mandatory referral of bills and capacity building.

Q.17) To what extent have tribunals achieved this objective? How does Tribunals Reforms Act, 2021, help in making them more effective? (15 marks, 250 words)

न्यायाधिकरण की कल्पना त्वरित और सस्ते न्याय वितरण के लिए एक संस्था के रूप में की गई थी। न्यायाधिकरणों ने इस उद्देश्य को किस हद तक प्राप्त किया है? न्यायाधिकरण सुधार अधिनियम, 2021 उन्हें और अधिक प्रभावी बनाने में कैसे मदद करता है? (15 अंक, 250 शब्द)

Tribunals are provided for by the following two articles of the constitution:

- 1) Art. 323-A → Administrative tribunals
- 2) Art. 323-B → Tribunals for other matters.

Functioning in respect of speedy and effective justice inexpensively

Successes :

* LCI report recognizes their speedy disposal as compared to traditional judiciary
(lower cases pending)

* Time limit in certain tribunals.

eg) NGT has to give

Shortcomings

* Govt. accepted that tribunals like FCAT are drain on exchequer

* Pending cases in certain tribunals

eg) ITAT has 91,000 pending cases.

* High vacancies

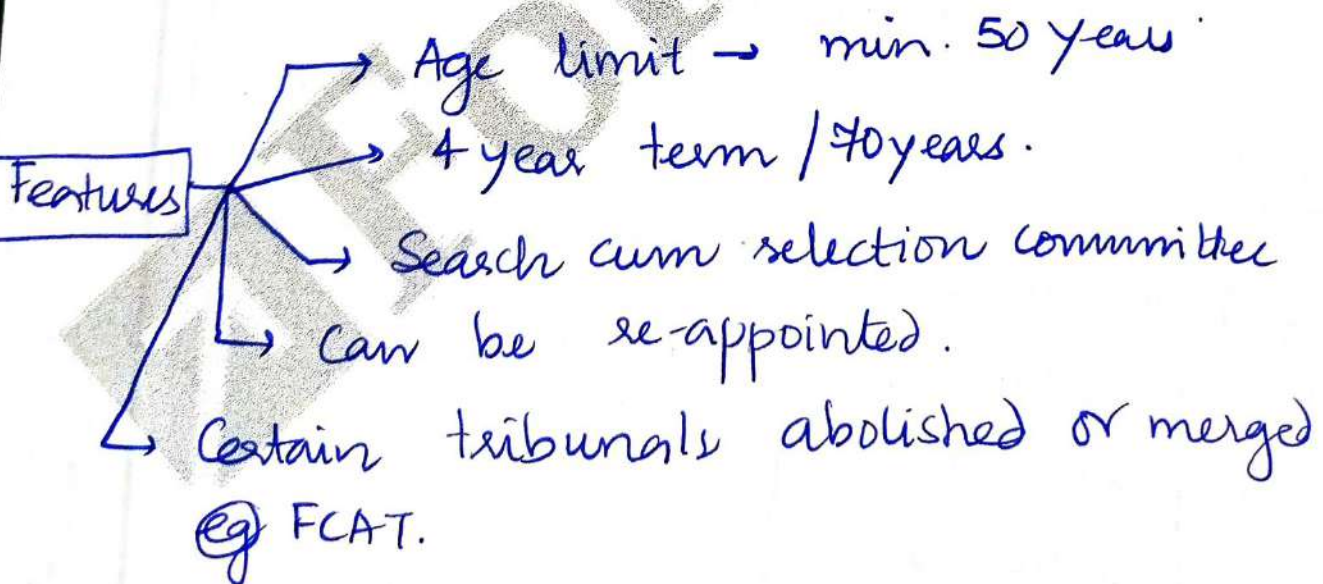
Verdict in 6 months.

- * Multiple benches, hence easy approachability unlike SC.
- * Low/minimal court fees.
- * Promotion of EoDB through fast resolution @ NCLAT.

(eg) 27/31 seats vacant in CAT.

- * Judicial members appointed → lack of understanding of issue → long time taken in pronouncement.
- * Emasculation by the govt → 30 Delay, dispose, dissolve.

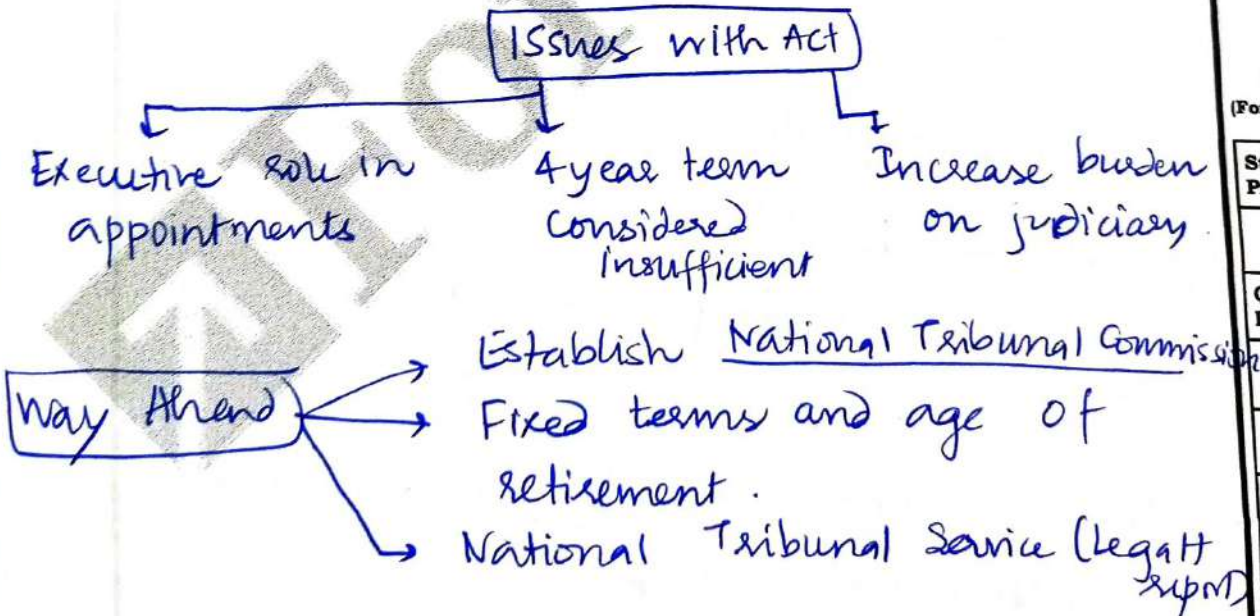
Recently, the Tribunal reforms ordinance was enacted as the tribunal reforms act, 2021



This act, will help making tribunals more

effective as:

- 1) Search cum selection committee will take care of the vacancies.
- 2) Save scarce resources of govt. on inefficient tribunals → merged with more effective ones.
- 3) Bring in experienced members → greater efficiency and quality of judgements.
- 4) Certain tribunals bypassed highcourts → corrects this → reduce burden on SC (in line with LC Chandrakumar case)



Tribunals, as quasi judicial bodies can become a tool to realize Art 39 CA if granted autonomy and independence.

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Q.18) Democracy thrives on disagreements; critical and dissenting voices make a society vibrant. In your opinion, do limitations on hate speech infringe right to freedom of speech and expression? Discuss how hate speech impacts the society and ways to restrain it. (15 marks, 250 words)

लोकतंत्र असहमति पर पनपता है; आलोचनात्मक और असहमतिपूर्ण आवाजें समाज को जीवंत बनाती हैं। आपकी राय में, क्या अभद्र भाषा पर प्रतिबंध वाक् और अभिव्यक्ति की स्वतंत्रता के अधिकार का उल्लंघन करती हैं? चर्चा करें कि अभद्र भाषा समाज को कैसे प्रभावित करती है और इसे नियंत्रित करने के तरीके क्या हो सकते हैं। (15 अंक, 250 शब्द)

Recently, the case of Yati Narsinghanand in Dharm Sansad at Haridwar has put the focus back on hate speech and its effects.

Limitations on hate speech and freedom of speech and expression (FOSE)

How it infringes FOSE:

- ① Against JS Mill's notion : let even the fool speak.
- ② No concrete definition of hate speech → subjective interpretation.
- ③ whether criticizing true aspects of another's religion hate speech?
- ④ Tools like preventive detention used in such cases further curtail FOSE.

① Even principles like contempt of court have exceptions eg truth as valid defense.

How it doesn't infringe:

- ① FOSE means FOSE of all → it can't be at the cost of one community to another.
- ② Reasonable restrictions under A 19(2).
- ③ Rights are complementary to duties (Gandhiji) → duty to respect others' views.

Impacts of hate speech on society :

- ↳ Creates issues of law and order → disturbs public order
- ↳ Against the social fabric → promotion of communalism
- ↳ Ghettoization and stigmatization of particular sections.
eg North East people
- ↳ Promotes and instigates social crimes like mob lynching.

- Induces fear and feeling of deprivation among sections that are targeted.
- Reinforces social prejudices.
@ caste barriers.
- Against the vision of constitution for Indian society. → Fraternity

Ways to tackle hate speech

- (a) Vishwanathan Committee → 2 years Jail
→ Fine
- (b) Coming up of concrete definition by MHA.
- (c) Revise IT act, to include responsibility of platforms.
- (d) Appointing cybercrime coordinators in every district (SC)
- (e) Establish national integration commission (NIC)
- (f) Educational syllabus overhaul.

The menace of hate speech has to be ~~face~~ fought by the state and citizens through above steps.

Q.19) Compare the position of the Speaker in Indian and British parliamentary system? Also, discuss various controversies related to functioning of Office of Speaker in Indian context and suggest corresponding reforms. (15 marks, 250 words)

भारतीय और ब्रिटिश संसदीय प्रणाली में अध्यक्ष की स्थिति की तुलना करें? इसके अलावा, भारतीय संदर्भ में अध्यक्ष के कार्यालय के कामकाज से संबंधित विभिन्न विवादों पर चर्चा करें और संबंधित सुधारों का सुझाव दें। (15 अंक, 250 शब्द)

The office of speaker is provided for in Art 93 under Part V of the constitution. Though Indian constitution is based on British parliamentary model, there are certain difference in the speaker's position

Feature	British Speaker	Indian Speaker
① Election	<ul style="list-style-type: none"> Elected unopposed 	<ul style="list-style-type: none"> Many contenders can come up.
② Voting in his election	<ul style="list-style-type: none"> Unanimous election → no need of voting 	<ul style="list-style-type: none"> Voting is done among ruling party and opposition.
③ Tenure	<ul style="list-style-type: none"> "once a speaker, always a speaker" = till retirement 	<ul style="list-style-type: none"> Continues only till the next new lok sabha elects another

④ Casting vote

Has has casting vote, but also can vote in first instance

Speaker:

- Cannot vote in first instance.
- Only casting vote.

⑤ Powers

• More powerful
- suspend members

- comparatively role is more of neutral referee.

Controversies related to speaker's office :

① Manner of election → elected on party ticket, hence many times neutrality questioned.

② Instances of being bound by party whips

eg Somnath Chatterjee resigned when the whip asked all party people to do so.

③ Anti defection law (ADL) : used as a tool to subvert the opposition.

eg Nebam Rabia disqualified 16 MLA even

when they hadn't defected.

④ Speaker accepting ministerial posts after ending tenure → conflict of interest.

eg GS Dhillon → Ministry of shipping

⑤ Allegations of favouring the ruling party.

eg giving more time to them in discussions.

⑥ Behind the chair meetings - opacity.

Reforms needed:

- ↳ Adopt UK's practise of once a speaker, always a speaker.
 - ↳ Transfer ADL powers to a separate tribunal (NCPWC).
 - ↳ Make them resign from party once elected a speaker
 - ↳ Bar further appointments.
 - ↳ Codification of parliamentary privileges & code of ethics.
- Speaker is the conscience keeper of the house. Reforms will strengthen this function.

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155313201221a1910058989 (2022-09-18 10:11:11) rights? Which fundamental right is considered as 'heart and soul of the constitution' and why? (15 marks, 250 words)

मौलिक अधिकारों के बारे में इतना मौलिक क्या है? किस मौलिक अधिकार को 'संविधान का हृदय और आत्मा' माना जाता है और क्यों? (15 अंक, 250 शब्द)

Fundamental rights are given under part III of the constitution or articles 12-35. They are fundamental since:

- ① Needed for truly human existence.
- ② Prohibit discrimination by fellow citizens.
- ③ Limit the powers of the state, hence the tyranny of majority.
- ④ Are tools to eradicate social evils and promote social reforms
 eg) Abolition of untouchability: A(17).
- ⑤ Some are positive and enabling rights
 eg) right to education A 21A.
- ⑥ Reflect the fundamental foundations of the constitutional principles.

eg Rule of law, secularism.

Heart and Soul :

Art. 32 (Right to Constitutional remedies) was considered heart and soul of the constitution by DR. BR Ambedkar.

Why?

- ① Serves as the ground for enforceability of other fundamental rights.
- ② Prevents usurpation of rights of citizens by state.
eg ADM Jabalpur case - Habeas corpus.
- ③ Enforces judicial accountability through writs like certiorari and injunction.
- ④ Provide scope of judicial review of laws and judgements.
- ⑤ Prevents unlawful usurpation of

any public office by any official -

eg Quo warranto.

⑥ Provide for social justice through a combination of Art 32 and PIL.

⑦ Grant right to directly approach the court without going through judicial hierarchy.

⑧ Promotes good governance and reduction of bureaucratic apathy.

eg writ of Mandamus.

Limitations → suspended during Martial law
 → Lack of legal awareness
 → limited scope as compared to Art. 226.

Fundamental rights were called the 'conscience of the constitution' by Granville Austin and A 32 protects that conscience.