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GENERAL STUDIES (TEST CODE : 1020)

Name of Candidate	MUKUL JAMLOKI		
Medium Eng./Hindi	ENGLISH	Registration Number	28393
Center	Old Rajendra Nagar	Date	09/10/17

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
1	12.5	
2	12.5	
3	12.5	
4	12.5	
5	12.5	
6	12.5	
7	12.5	
8	12.5	
9	12.5	
10	12.5	
11	12.5	
12	12.5	
13	12.5	
14	12.5	
15	12.5	
16	12.5	
17	12.5	
18	12.5	
19	12.5	
20	12.5	

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. Alignment Competence
2. Context Competence
3. Content Competence
4. Language Competence
5. Introduction Competence
6. Structure - Presentation Competence
7. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

All the questions are compulsory and carry 12.5 marks each.

1. Enumerate the discretionary powers of the Governor mentioned in the Indian Constitution. Why is it said that the post of governor has become highly politicised?

भारतीय संविधान में निर्दिष्ट राज्यपाल की विवेकाधीन शक्तियों को सूचीबद्ध कीजिए। ऐसा क्यों कहा जाता है कि राज्यपाल का पद अत्यधिक राजनीतिक बन गया है?

The office of the Governor is a constitutional post, serving as the Head of the state. The constitution provides a vast reserve of discretionary power to him/her in this regard.

• in the case of a hung legislative assembly after the election, calling upon a member to form a government;

• reserving bills for the President under Article 200;

• asking the Council of Ministers to reconsider their advice → Article 163;

- dismissal of a Minister, even the Chief Minister, if the situation demands so,

Article 164

- seeking information from the Council of Ministers, Article 167;

- administration of a Union Territory if given that responsibility;

- special responsibilities in states such as Maharashtra, Gujarat, Nagaland, Sikkim, etc under Article 371;

- making provisions for a linguistic minority in the state;

- sending Governor's report on a fortnightly basis to the Union govt that forms the basis of President's Rule;

Today, the post of governor has become highly politicized because:

- appointment of burnt-out politicians that are openly partisan and de-stabilise the state govt at the behest of Union govt;
- lack of consultation with state govt while appointing governor;

Ideally the post should be abolished, and the responsibilities should be divided among the President, CJI of state HC, etc. But the constitutional amendment wouldn't get the political consensus. Hence the ~~post~~ Governor should be appointed on the basis of recommendations of the Sarkaria and the Punchhi commission.

————— x —————

2. CAG is instrumental in securing accountability of the executive to the Parliament in the sphere of financial administration. Elaborate. Enumerate the provisions made in the Constitution to ensure the independence of the CAG.

CAG वित्तीय प्रशासन के क्षेत्र में संसद के प्रति कार्यपालिका की जवाबदेही तय करने में सहायक है। सविस्तार वर्णन कीजिए। CAG की स्वतंत्रता सुनिश्चित करने हेतु संविधान में किए गए प्रावधानों को सूचीबद्ध कीजिए।

According to BR Ambedkar, the CAG was the conscience-keeper of the Constitution. It's a very important constitutional office.

Its aim is to improve the quality of financial administrative in governance, and not to pick out faults. It should play the role of a watchdog against financial impropriety and corruption. Whenever there's a case of wrong or abuse of the rule of law, it's not just its right but its duty to bring it to light.

It prepares audit reports and sends them to the Parliament where they are laid down before the MPs. The CAH acts as the friend, philosopher and guide of the Public Accounts Committee of the Parliament. It helps the PAC in scrutinising govt expenditure and securing accountability and responsibility.

The CAH undertakes not just compliance audit or performance audit, it examines the quality of financial decisions made by the executive - the Propriety audit - which can expose financial wrong doings.

To secure the independence of the CAH:

- expenses are charged expenditure;
- difficult process of removal;

- security of tenure → 6 yrs or max age of 65 yrs, whichever is earlier;
- ~~partially~~ appointed by the President under his Hand and Seal;
- action taken report on CAG's audit report which has to be compulsorily tabled in the Parliament.

Moving forward, the appointment of the CAG should be on the recommendation of a broad based committee instead of current trend of executive discretion.

_____ x _____

3. What are the different institutional arrangements in India to promote cooperation between the Centre and States? Critically analyse the role of Inter-State Council to enhance cooperative federalism in India.

केंद्र और राज्यों के मध्य सहयोग को बढ़ावा देने के लिए भारत में विभिन्न संस्थागत व्यवस्थाएं क्या हैं? भारत में सहकारी संघवाद को बढ़ावा देने में अंतरराज्यीय परिषद की भूमिका का आलोचनात्मक विश्लेषण कीजिए।

Indian federalism is unique
in its own way, showing trends of cooperative
competitive and bargaining federalism. At the
same time, there are a number of non-
federal features present vertically & horizontally.

To cement Indian federalism
and strengthen, the different institutional
arrangements are:

- Inter-state Council → consisting of PM,
Cabinet Ministers, the CMs of all states and
the administrators of UTs;
- the National Integration Council;

- the newly constituted GST Council;
- the regional councils set up under the SR Act, 1956;
- the NITI Aayog, and the Planning Commission and NDC earlier;
- the All India Services and the Rajya Sabha itself;

The Inter State Council was conceived by India's first PM JL Nehru to enhance cooperative federalism in India. However it has hardly served the purpose and lies practically defunct today.

However, it offers a lot of promise in areas of water disputes, counter-tenanism, fiscal consolidation, agriculture, etc.

To enable the ISC to play its intended role, it must be given a clear mandate & plan of action, and the authority to carry out that mandate. Secondly, functions performed by parallel bodies like the NITI Aayog could be subsumed under the Inter State Council.

_____ X _____

4. In view of the idea of holding simultaneous elections to the Lok Sabha and State Legislative Assemblies, discuss the advantages that its implementation would lead to and the concerns that it raises.

लोकसभा और राज्य विधानसभाओं का चुनाव साथ-साथ कराने के विचार के आलोक में, इसके कार्यान्वयन से होने वाले लाभों और इससे उत्पन्न होने वाली चिंताओं पर चर्चा कीजिए।

Recently, there's been an idea doing the rounds of the prospect of holding simultaneous elections to the Lok Sabha and the State Legislative Assemblies.

The proposed advantages:

- economies of scale → would reduce the net expenditure involved in conducting elections;
- civil services and paramilitary forces are not routinely disturbed due to different elections;
- end to frequent invocation of the Model Code of Conduct;

- the party workers would be freed and could concentrate on social work;
- it's not a new experiment for us, the first four General Elections till 1967 coincided with elections to State legislatures;

However, the concerns raised are:

- it would require a Constitutional amendment to curtail/extend the term of state legislatures;
- massive logistical challenge & huge expenditures for first such experiment;
- danger of national narrative drowning the local narratives;
- it'd make coalitions an imposition and a necessity;

The Indian electorate is showing incremental maturity, as seen in Delhi in 2014-15 when the people chose different parties at national and state levels. This maturity should be nurtured to strengthen federalism and constitutionalism, and hence the time isn't ripe for simultaneous elections.

— x —

5. While the Competition Commission of India and sector-specific regulators are required to complement each other, overlapping jurisdiction has resulted in regulatory parallelism amongst them. Comment.

जहां भारतीय प्रतिस्पर्धा आयोग और क्षेत्र-विशिष्ट नियामकों को एक-दूसरे का पूरक बनने की आवश्यकता है, वहीं परस्पर अतिव्यापी अधिकार क्षेत्र का परिणाम उनके बीच नियामकीय समानांतरता के रूप में सामने आया है। टिप्पणी कीजिए।

The CCI and other sector-specific regulators like Telecom Regulatory Authority of India, Airports Authority of India, etc were set up due to rising technicalities in administration and to reduce the burden of the ordinary law courts who lacked the expertise to adjudicate in these matters.

However, while it was believed that these regulators would complement each other, overlapping jurisdiction has resulted in regulatory parallelism among them. For example, the entry of

Reliance Jio in Telecom market has triggered price wars, and both TRAI and CCI have intervened leading to adjudicatory paralysis.

Lack of full authority of powers, as available to the ordinary courts, makes the companies delay complying with the orders of these regulators. Therefore there's need to enhance their powers to accomplish compliance.

Lack of adequate resources & availability of sector-specific experts have also been a drawback. Most such bodies are headed by career bureaucrats who are conservative and status-quoists in nature.

Irrational setting up of such tribunals has resulted in a phenomena of "Tribunalisation" with such bodies today coming up for even minor administrative & governance issues.

There's a need to economise and bring efficiency in the working of these regulators, giving them a clear field of adjudication, as outlined in the amendment to Finance Bill 2017, however their control cannot be left to executive discretion either.

— x —

6. Criticism about the judiciary should be welcomed, so long as criticisms do not hamper the "administration of justice". In this context discuss whether the power of contempt of court given to the higher judiciary limits the freedom granted by Article 19(1)(a) and whether these two can be reconciled.

जब तक आलोचनाएं "न्याय के प्रशासन" में बाधा न डालें, न्यायपालिका के संबंध में आलोचनाओं का स्वागत किया जाना चाहिए। इस संदर्भ में चर्चा कीजिए कि क्या उच्चतर न्यायपालिका को दी गई न्यायालय की अवमानना की शक्ति अनुच्छेद 19 (1) (a) द्वारा प्रदत्त स्वतंत्रता को सीमित करती है और क्या इन दोनों में सामंजस्य हो सकता है।

The judiciary is one of the three pillars of the state, given the responsibility to secure the rights of citizens and check the majoritarianism of the Executive. To enable it to play this role effectively, it's been given contempt powers.

The contempt of court according to the CC Act, 1971 can be civil or criminal. While civil contempt refers to wilful disobedience of the orders of the court, criminal contempt refers to scandalising the dignity of the court or obstructing the course of justice.

The power to penalise criminal contempt often comes in conflict with Article 19(1)(a) in Part III of the Constitution, which guarantees the Freedom of Speech and Expression. It's often observed that judges are very insecure about the critiques of their judgements and hence mechanically apply this law. Many a time, innocent and genuine people have been punished.

In the Mulgaonkar case, the apex court took a liberal stand and clarified that judgements should be allowed to stand critical scrutiny and judges should make economical use of contempt powers. This pronouncement does try to reconcile the two.

However, it's easier said than done because the judiciary is often conservative, as seen in the recent judgement to decline making defamation just a civil offence. Hence, although theoretically the two can be reconciled, but practically there will always be chances of judicial tyranny.

_____ x _____

7. Despite being a welcome step, Inter-State Water Disputes (Amendment) Bill, 2017 fails to resolve the issue of overlapping of jurisdiction between the legislature and judiciary. Analyse.

स्वागत योग्य कदम होने के बावजूद, अंतरराज्यीय जल विवाद (संशोधन) विधेयक, 2017 विधायिका और न्यायपालिका के बीच क्षेत्राधिकार के परस्पर अतिव्यापन का मुद्दा सुलझाने में विफल रहा है। विश्लेषण कीजिए।

Given the delay in announcement
of awards by ad hoc tribunals and the
judiciary intervening in these awards, the
Union govt has proposed the Inter-State
Water Disputes (Amendment) Bill, 2017.

Features of the new bill:

- a permanent tribunal of 5 yrs years
tenure having a Chairman & 2 VC and
five other members;
- the award would be declared in 4.5
years;
- no need for notification of the award
announced;

- a dispute resolution committee under the tribunal to first try and sort out the issue through negotiations;
- assessors & technical experts to help the tribunal in adjudication;
- collection of data from all the river basins in the country;

The ^{concerns} ~~concerns~~ raised:

- whether judicial intervention could be still avoided;
- water, being a state list subject, whether a union-set up tribunal has adjudicatory powers;
- the issue of compliance by the base state;

The Union govt has traditionally followed a
minimalistic,
lethargic, and uninterested approach in water
disputes. Due to climate change, such disputes
are going to exacerbate in future and the
Union must adopt a pro-active approach.
Additionally, water can be made a concurrent
state
list subject.

_____ x _____

8. Critically discuss the major reforms introduced in the area of electoral funding in Union Budget 2017. Do you think that state funding of elections is a viable idea to check misuse of money power in politics?

2017 के केंद्रीय बजट में चुनावी वित्तपोषण को लेकर प्रस्तुत किए गए प्रमुख सुधारों पर आलोचनात्मक चर्चा कीजिए। क्या आप मानते हैं कि राजनीति में धनबल का दुरुपयोग रोकने के लिए चुनावों का राज्य द्वारा वित्त पोषण एक व्यावहारिक विचार है?

The Finance Bill 2017

introduces major reforms in the area of electoral funding in India.

- the cap of 7.5% on companies profits under section 182 of Companies Act has been abolished;*
- cash donations on individual basis limited to Rs 2000 per head;*
- electoral bonds to be issued to make electronic payments to political parties;*

The problem in the ~~elect~~ electoral funding in India has always

been use of black money that incentivises corruption and criminalisation of politics, and opaque funding that promotes crony capitalism.

The reforms introduced are at best incremental and only serve to replace black money with white, and at the same time transparency has reduced, incentivising crony capitalism and park-banking.

State funding of election isn't a viable idea because:

- lack of effective norms wrt taxation and real estate;
- absence of transparency and hence no clarity on actual est election expenditure of political parties;

• socio-economic realities of India

Ideally, the partial state funding should continue in the form of free air time on state media and electoral lists for parties. Corporate funding should be channelled via electoral trusts. We need reforms for transparency in electoral funding, which the recently introduced reforms squarely fail to do.

_____ x _____

9. Discuss the significance of the concept of Office of Profit as enshrined in the Indian Constitution. Why has it been embroiled in controversies for a long time? Analyse the role played by judiciary in this regard.

भारतीय संविधान में यथा प्रतिष्ठापित लाभ के पद की अवधारणा के महत्व पर चर्चा कीजिए। लंबे समय तक यह विवादों में क्यों उलझा रहा? इस संबंध में न्यायपालिका द्वारा निभायी गई भूमिका का विश्लेषण कीजिए।

The Concept of Office of Profit

as enshrined in the Indian Constitution is aimed at avoiding/preventing not just financial impropriety but adverse administrative influences also. The aim is to prevent not just material depravity, but upholding ethical norms of transparency and probity.

The ~~It~~ concept wasn't present in letter in the original constitution, but was present in the spirit. The statutory provision, Office of Profit Act (1959) subsequently applies to members of legislatures.

The concept has embroiled in controversies for a long time because:

- absence of clear definition, esp w.r.t to administrative propriety;
- Council of Ministers coming from the Legislative;
- crony capitalism and pork-banishing emerging quite dramatically after post-1991 reforms;
- misuse of law enforcement agencies like CBI;
- lack of a credible & strict legislation to act in this context;

The judiciary has played a very important role in this regard.

- conceived the notion of 'administrative'

propriety in context of just financial propriety;

- rejecting the 2007 legislation that was full of vested interests;
- countering majoritarianism of government to pull acts of non-transparency & financial impropriety;

In 2012, the apex court also rightly held in the favour of Praanab Mukherjee on the petition filed by PA Sangma. There's a need for broad based consensus, backed by legislation and convention, to end the controversies on this issue.

_____ x _____

10. The provisions of the Sixth Schedule of the Constitution devolve some essential powers to the lower levels in order to cater to the needs of the tribal community. Discuss, while examining the modern day challenges faced by the institutions set up under the Sixth Schedule.

संविधान की छठी अनुसूची के प्रावधान, जनजातीय समुदाय की आवश्यकताओं को पूर्ण करने के लिए निचले स्तर को कुछ आवश्यक शक्तियां हस्तांतरित करती हैं। छठी अनुसूची के अंतर्गत स्थापित संस्थाओं के समक्ष वर्तमान चुनौतियों का परीक्षण करते हुए चर्चा कीजिए।

The Schedule VI of the Constitution deals with the administration of scheduled areas in the states of Meghalaya, Assam, Tripura and Mizoram.

There's a functional list of items codified in the Constitution over which power has been devolved to Autonomous District Councils, such as:

- management of local forest produce;
- health & education facilities;
- organisation of village markets;
- preventing land alienation;

- management of land & water resources;
- royalty from mining by State;

However, the powers haven't been exercised adequately and modern day challenges that are faced today are:

- lack of sustainable livelihoods;
- climate change induced freak disasters;
- money & muscle power in elections;
- pollution;
- commercialisation of community resources leading to violent conflicts;

There's a need to urgently act against these challenges to implement the Schedule VI in both letter & spirit.

- a adequate devolution of funds, functions, functionaries & framework;
- capacity building of functionaries;
- urban-rural continuum must be maintained in planning;
- checking environmental degradation;
- checking corruption in elections and administration.

Above all, we need politics-bureaucratic will to ensure efficient working of Schedule VI.

— X —

11. Special rights are not privileges but they are granted to make it possible for minorities to preserve their identity, culture and traditions. Elaborate in the context of India with examples.

विशिष्ट अधिकार विशेषाधिकार नहीं हैं, बल्कि अल्पसंख्यकों के लिए अपनी पहचान, संस्कृति और परंपराओं का संरक्षण करना संभव बनाने के लिए इन्हें प्रदान किया गया है। उदाहरण सहित भारत के संदर्भ में सविस्तार वर्णन कीजिए।

Minorities are those communities who follow culture and traditions different from those of the majority communities around them. India has linguistic, caste, religious etc minorities and have been granted special rights under the constitution.

• Articles 29 and 30 → the freedom to preserve their culture and also to establish minority educational institutions; this enables them to preserve their identity, culture & traditions while at the same time a healthy mix of evolution of a hybrid culture;

• the Aligarh Muslim University, the St Stephen College, etc are minority institutions;

• Article 25-28 → provide freedom of religion, freedom to establish religious institutions, acquire immovable property, administer it independently and freedom from religious instructions, eg. the Lotus Temple of the Baha'is in New Delhi;

• Articles 14-15-16 → prevents discrimination against minorities in any form, with respect to public and private services, and also makes provisions for positive discrimination and affirmative action, eg. quotas in IITs, NITs, IIMs, etc.

These rights are not privileges because they help the minorities ~~exercise~~ lead their lif lives according to principles of natural justice. The minorities are after ostracised and discriminated. Hence these rights enable their soia-economic development and we can make the best use of our talent pool.

— x —

12. While it has been argued that the judiciary should be brought under RTI, a balance also needs to be maintained between independence of the judiciary and the right of people to know. In this context, discuss the pros and cons of bringing the judiciary under the ambit of RTI.

एक ओर यह तर्क दिया जाता है कि न्यायपालिका को RTI के अंतर्गत लाया जाना चाहिए, वहीं न्यायपालिका की स्वतंत्रता और लोगों के सूचना के अधिकार के मध्य संतुलन बनाए रखना भी आवश्यक है। इस संदर्भ में, न्यायपालिका को RTI के दायरे में लाने के पक्ष और विपक्ष पर चर्चा कीजिए।

The judiciary is an important pillar of the Indian State and has pronounced far-reaching judgements to bring transparency in the activities of the Legislature and the Executive. The recently pronounced verdict in the KS Puttaswamy case is a prime example of this.

However, the judiciary has yet been cold to the idea of practising RTI when it comes to itself. While it indulges in judicial activism

to enhance the canvas of citizens' rights, it's particularly adverse to the Right to Information. This fear of transparency has even defeated the actual meaning and objective of the collegium process, and we see increasingly dubious appointments to the Bench.

The advantages of bringing the judiciary under the ambit of RTI would be:

- walking the talk and hence inspiring the legislature & executive to do the same,
- bridging the growing trust deficit between the citizens & the judiciary;
- would enable constructive criticism which'd help in improving the judicial administration.

However, there could be disadvantages like:

- contempt of court,
- independence of judiciary may be compromised,
- serious consequences for separation of powers;

There needs to be a balance in the application of RTI to the judiciary. Some degree of transparency in the collegium process and information about the assets and source of the members of the Bench could be the way to go in the beginning.

_____ x _____

13. Differentiate between pressure groups and political parties. It is often said that pressure groups are primarily a consequence of inadequacies of the political parties in India. Discuss the above statement in the context of rising environmental protection groups.

दबाव समूहों और राजनीतिक दलों के मध्य अंतर कीजिए। प्रायः यह कहा जाता है कि दबाव समूह मुख्य रूप से भारत में राजनीतिक दलों की अयोग्यता का परिणाम हैं। बढ़ते पर्यावरण संरक्षण समूहों के संदर्भ में उपर्युक्त कथन पर चर्चा कीजिए।

While pressure groups are associations of people united to pursue a common cause by advocacy and making representations to the government and bureaucracy, a political party is one which is registered by the ECI under the provisions of RPA, 1950.

The existence of multitudes of diversity present in our nation results often in inadequate representation given to certain socio-economic and political interests ~~per~~ across the political spectrum. This inadequacy is further exacerbated by

the fact that we follow parliamentary democracy based on the first-past-the-post system and not a list-system of seats.

Then there are certain organisations which are not capable of participating in the usual political & electoral process because of their schedules. Hence they form pressure groups to address their concerns & demands to the politico-bureaucratic executive.

In India, there are farmer-based, industry-based (eg. CII, ASSOCHAM), labour-based (eg. Bhartiya Majdoor Sangh), environment based (eg. NBA), etc pressure groups. Even the Bar Council of India acts as a pressure group.

Environment ~~has~~ yet to find an important place in the election manifestos of political parties while public awareness

is also inadequate in this regard. Therefore there's a need to sensitize the political executive & the citizenry, given the adverse impacts of climate change in the long run, and the short term adverse consequences of pollution, for example crackers on Diwali affect asthma patients.

Environmental consciousness is going to rise in the future and the pressure groups in this context ~~are~~ are currently leading a silent revolution.

_____ x _____

14. Give an account of the factors responsible for the limited success of Lok Adalats. What measures are required to ensure that Lok Adalats function as an effective dispute redressal mechanism?

लोक अदालतों की सीमित सफलता के लिए उत्तरदायी कारकों का विवरण प्रदान कीजिए।
लोक अदालतों द्वारा प्रभावी विवाद निवारण तंत्र के रूप में कार्य करने के लिए क्या उपाय
किए जाने आवश्यक हैं?

Lok Adalats are a unique
example of alternate dispute resolution
mechanisms propounded by the apex courts
to deal with ~~non~~ cognisable and ~~non~~ compoundable
civil and criminal cases.

In 1987, the Lok Adalats' award was given the decree of a civil court to improve the perception and acceptance.

However, the experiment has enjoyed only limited success so far, because:

- inadequate resources & functionaries allocated for the purpose;
- increasingly cases which are beyond

the mandate of Lok Adalats are being
fired,

- jurisdictional conflicts with other quasi-judicial bodies, like NCW in case of women-abuse cases;
- tendency of people, esp the lower party, to file a review petition in the higher judiciary w/o award;

Although Lok Adalats provide an effective instrument to reduce the workload of higher judiciary, there's a need for a few structural reforms to galvanise its effectiveness:

- structural reforms, devolutions of funds, functions, functionaries & framework;
- ~~content~~ transform public perception by giving better status & emoluments to

the Bench in Lok Adalats;

- properly sensitising the public about the existence of these instruments so that people can first exhaust this remedy;

The higher judiciary is burdened with more than 3 crore cases currently.

An improvised & galvanised Lok Adalat platform can definitely help in this regard.

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15. The provision of 33% reservation of seats for women in urban local body elections in Nagaland has been in news for various reasons in recent times. Discuss the underlying issues in light of the constitutional provisions at stake and the social realities of the state.

हाल ही में नागालैंड में शहरी स्थानीय निकाय के चुनावों में महिलाओं के लिए 33% सीटों के आरक्षण का प्रावधान विभिन्न कारणों से सुर्खियों में रहा है। इस सन्दर्भ में राज्य की सामाजिक वास्तविकताओं तथा दाँव पर लगे संवैधानिक प्रावधानों के आलोक में अंतर्निहित मुद्दों पर चर्चा कीजिए।

According to Constitutional provisions, there are 33% mandatory reservation for women candidates according to the Schedule XI A and Article 243 in urban local bodies.

However, long after this provision has been constitutionalised, this hasn't been implemented on the ground because it's in contradiction to Naga local customs, enshrined in ^{provisions of} Article 371.

The Naga society is deeply patriarchal when women are denied

even basic decision-making rights. As a result, the 33% reservation criteria hasn't been implemented. The state of Nagaland, in fact, hasn't ever sent a woman MP to the Parliament.

Although there's a need to balance provisions of Article 371 with the provisions of Article 243, it must be taken into account that any provision in any part of the Constitution can't be misinterpreted to defy the basic structure principle, as enunciated in the Keshavananda Bharati Case, 1973.

The failure to implement 33% reservation for women is violation of Articles 14, 16, 19 and 21 and hence

neither does Naga customary law nor the provisions of A371 can stand the test of legality.

However since this is an emotive issue, political consensus must be reached with Naga political leaders, with the promise of adequate safeguards, before 33%.

reservation is implemented, which is inevitable in any case in the long term.

— x —

16. Government advertisements have often been viewed as misuse of taxpayer's money for enhancing the image of political parties. Discuss in the light of relevant SC rulings. Also enumerate the recommendations made by the Twentieth Law Commission to address the issue of paid news and political advertisements.

सरकारी विज्ञापनों को प्रायः राजनीतिक दलों की छवि सुधारने के लिए करदाताओं के धन के दुरुपयोग के रूप में देखा जाता है। सर्वोच्च न्यायालय के प्रासंगिक निर्णयों के आलोक में चर्चा कीजिए। पेड न्यूज और राजनीतिक विज्ञापनों के मुद्दे से निपटने के लिए 20वें विधि आयोग द्वारा की गई अनुशंसाओं को भी सूचीबद्ध कीजिए।

In the PUCL case of 2015,

the apex court made the following announcements:

- only PM, President and CJI of Supreme Court can appear in govt advertisements;
- an independent body to check misuse of taxpayers' money;
- different govt agencies & departments shouldn't publish the same advertisements;

However, the judgement clearly fails to draw the line between genuine need for govt to advertise its policies

and achievements, and the material effect on the popularity of the ruling party.

Without pictures, govt advertisements would be reduced to didactic text which will be a loss to citizens. In the Bennett Coleman case (1989), the apex court supported the use for govt advertisements under Article 19(1)(a) of Part III.

The recommendations made by the 20th Law Commission are banning/prohibition of paid news by making it an electoral offence.

To ensure taxpayers' money isn't misused for govt adverts, the CAG should audit the dept of adverts, both in terms of compliance & propriety.

17. A clear delineation of functions of local governments vis-à-vis State Governments will only strengthen the principle of subsidiarity. In this context, discuss the challenges and the reforms required for effective democratic decentralization in India.

राज्य सरकारों के साथ-साथ स्थानीय सरकारों के कार्यों के स्पष्ट आरेखण (निरूपण) से केवल अनुषंगिकता का सिद्धांत पुष्ट होगा। इस संदर्भ में, भारत में प्रभावी लोकतांत्रिक विकेंद्रीकरण के लिए आवश्यक सुधारों और चुनौतियों पर चर्चा कीजिए।

According to Nehru, the democracy at the top cannot flourish without a stable and successful one at the bottom. Although the local governments are statutory creations of the State govt, there's a need to clearly delineate functions according to the principles of subsidiarity.

Challenges in the working of local bodies:

- lack of adequate politico-bureaucratic will due to vested interests;

- the environment in the countryside isn't conducive to local governments due to presence of feudalism, casteism & patriarchy;

- increasing use of money and muscle power in local body elections;
- restrictive norms of eligibility, such as in Haryana → 2 child norm, educational qualifications;
- existence of parallel state agencies like District Rural Development Agency leading to conflict in jurisdiction;
- local body functioning dominated by MPs & MLAs;
- lack of devolution of Funds, Functions, Functionaries and Framework;

Therefore, the reforms needed for democratic decentralisation are:

- capacity - building of functionaries;
- clarity in delineating subjects under

Schedule VI & VII A;

- devolving Funds, Functionaries, Functions & Framework in both letter & spirit;
- electoral funding reforms and checking criminalisation;
- avoid restrictive eligibility criteria and at best they should start from the Parliament-level;
- ARC 2 → a system representing Chief Minister & COMs at district level and district bureaucracy must cooperate with local bodies;

There's a need to empower local bodies to help initiate faster socio-economic development at the grassroots level.

_____ X _____

18. Vast powers have been vested in the office of the Speaker to strengthen the democratic institutions of the parliamentary system, and not to stifle dissent or protest in the House. Comment in the context of India.

लोकसभा अध्यक्ष के पद में निहित व्यापक शक्तियां वस्तुतः संसदीय प्रणाली के लोकतांत्रिक संस्थानों को सशक्त बनाने के लिए प्रदान की गयी है, न कि सदन में मतभेद या विरोध को दबाने के लिए। भारत के संदर्भ में टिप्पणी कीजिए।

The office of the Speaker of the House of the People is a highly august and honorable under the Indian Constitution.

The Speaker is provided numerous safeguards to function according to the best of democratic principles.

- difficult procedure of removal;
- expenses are charged expenditure;
- is allowed only a casting vote;
- conduct cannot be discussed unless removal resolution is being discussed

Issues in the office of Speaker:

- misuse of power under Schedule X to manage the numbers of on the floor of the House in favour of the ruling party;
- misuse of powers under Article 110 & 199;
- expunging words from proceedings that are critical of ruling party;
- misuse of disciplinary powers;

The way forward:

- powers under Schedule X can be given to Election Commission;
- ^{British} convention of 'Once a Speaker, Always a Speaker, and then nothing else' → gives a second term, constituency should go uncontested by rivals, after that no office under original party;

- as soon as one's elected, resignation from the primary membership of the party;

There's also a need for a broad-based selection of a seasoned statesman as the Speaker, with restriction on future offices, leaving only those of the President and the Vice President.

_____ X _____

19. Tenth Schedule of the Constitution and the subsequent amendments have failed at solving the problem of defections and opportunistic politics. Critically analyse.

संविधान की दसवीं अनुसूची तथा उत्तरवर्ती संशोधन दल-बदल और अवसरवादी राजनीति की समस्या का समाधान करने में विफल रहे हैं। आलोचनात्मक विश्लेषण कीजिए।

The Schedule X of the Constitution refers to Defection power given to the Speaker of the Legislature. The most important amendment to schedule X was brought in 1985.

Issues in Schedule X

- the speaker misusing the power to manage the arithmetic on the floor of the house;
- defections allowed in wholesale ($2/3$) but not in retail ($1/3$);
- the absence of pre-election & post-election coalition partners ~~is~~ under the ambit of defection;

- failure to implement the apex court's Kihoto Hollohia judgement of 1992 in letter and spirit;
- the MPs failing to give genuine representations to their constituency because of gagging by whip;
- the ruling govt only needs to convince the leader of other parties to pass their business;
- immoral practices like cash for votes scam;

Ideally, the powers must be given to the Election Commission under Schedule X. The Speaker cannot be expected of unbiased and non-partisan

behavior unless there are codified restrictions on future office. Coalition partners must be brought under the Schedule X. The recent case of floor management in Tamil Nadu assembly makes it highly urgent to implement these measures.

————— X —————

20. It is the Parliamentary system, with its basis on constant accountability, accommodation and inclusion, which can best serve the needs of the country. Examine, keeping in mind the arguments that are periodically put forward for adopting the Presidential system in India.

यह निरंतर जवाबदेही, समायोजन और समावेशन पर आधारित संसदीय प्रणाली ही है, जो देश की आवश्यकताएं सर्वोत्तम ढंग से पूरी कर सकती है। भारत में राष्ट्रपति प्रणाली अपनाने के लिए समय-समय पर प्रस्तुत किए जाने वाले तर्कों को ध्यान में रखते हुए परीक्षण कीजिए।

The Constituent Assembly
adopted the ~~west~~ Westminster system of
Parliamentary democracy instead of the
Presidential system, keeping in mind the
needs of the country.

- ① less chances of conflict between the
executive & the legislature;
- ② accountability of the Executive;
- ③ better representation in the governance
→ regionally & community-wise;

- ④ less chances of rise of personality cult;
- ⑤ the British system of administration since 1861 had been a Parliamentary model;
- ⑥ different social and economic groups that could be represented;

However, periodically arguments are put forward for adopting the Presidential system in India:

- ① stability in governance due to fixed tenure;
- ② better expertise in Cabinet and no constraint in choices;
- ③ faster and consistent policy-making;
- ④ no instability due to coalition politics;
- ⑤ less chances of friction between Formal Head and Executive Head;

As a result, although the Presidential system although offers its own set of benefits, there are interest no limitations in the Parliamentary system which can be leveraged to suit India's needs.

According to Sir Alexander Pope, "For forms of government, let fools contest.
~~For~~ What governs best, is the best."

————— x —————