

Political Science

Question Paper 2017

Maximum Marks: 80

Time allowed: Three hours

- Candidates are allowed additional 15 minutes for only reading the paper. They must NOT start writing during this time.
 - Answer Question 1 (Compulsory) from Part I and five questions from Part II, choosing two questions from Section A, two questions from Section B and one question from either Section A or Section B.
 - The intended marks for questions or parts of questions are given in brackets [].
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Part—I (Compulsory)

Question 1.

Answer briefly each of the questions (i) to (x): [10 x 2]

- (i) State two features of a liberal democratic state.
- (ii) Distinguish between a flexible constitution and a rigid constitution.
- (iii) Distinguish between bi-party system and multi-party system.
- (iv) Give one reason why it is important for a federal state to have a bicameral legislature.
- (v) Distinguish between political executive and permanent executive.
- (vi) In which landmark case was judicial review first exercised by the Supreme Court of the United States ?
- (vii) Why is November 26 celebrated as Constitution Day in India ?
- (viii) Which fundamental right was removed by the 44th Constitutional Amendment ?
- (ix) Briefly explain the composition of the Zilla Parishad.
- (x) What is meant by communalism in the Indian context ?

Answer:

(i) Features of Liberal Democratic State : Majority Rule : One of the features of liberal-democracy is that it is operated under the principle of majority rule. When major national decisions are taken the will of the majority is obtained through a free and fair elections referendum or poll.

Protection of Minority Interests : In spite of the fact that majority rule is practiced, the interests of the minority are respected and attempts are made to protect those interests.

(ii) A flexible constitution is one which can be amended in an ordinary legislative process by the ordinary legislature. A Constitutional law and an ordinary law are treated alike.

A rigid constitution is one which cannot be amended, in the manner in which ordinary laws are passed, amended or repealed. If a special procedure or organ is needed for its amendment, it is a rigid constitution.

(iii) In a Bi-party system, power usually changes between two main parties. Several other parties may exist, contest elections and win a few seats in the national legislature. But only the two main parties have a serious chance of winning majority of seats to form government.

When several parties compete for power and more than two parties have reasonable chance of coming to power either on their own strength or in alliance with others, it is known as a multi-party system.

(iv) The term “bicameral legislature” refers to any law-making body of government that consists of two separate houses or chambers, such as the House of Representatives and the House of States. Bicameral legislatures enforce an effective system of checks and balances preventing the enactment of laws unfairly impacting or favouring certain factions of the government or the people in a federal system.

(v) Political Executives :

- They are political leaders.
- They are elected for a specific period. Permanent Executives :
- They are civil servants selected through an exam conducted by UPSC.
- They are appointed on long-term basis or permanent basis their term is not as short as that of political executives.

(vi) Marbury v. Madison, 5 U.S. 137 (1803), was a landmark case in which the Supreme Court formed the basis for the exercise of judicial review in the United States under Article III of the Constitution. The land-mark decision helped define the boundary between the constitutionally separate executive and judicial branches of the American form of government.

(vii) Constitution Day in India is celebrated every year on 26th of November as the Constitution of India was adopted by the Constituent Assembly on 26th of November in the year 1949 and came into force on 26th of January in 1950.

(viii) By the 44th Amendment to the Constitution, the Right to Property was removed as a fundamental right and instead, a new provision was added to the Constitution i.e., Article 300-A.

(ix) A District Panchayat or Zilla Parishad is co-terminous with the district. Each district has one Zilla Parishad. This is the top tier of Panchayati Raj constituted at the district level by the Panchayat Samitis or Mandals. Most members of the Zilla Parishad are elected.

The composition of the Zilla Parishad is as follows :

- 10-25 members elected directly by all voters falling within the area of the Zilla Parishad. Approximately 50,000 voters elect one representative.
- All Chairpersons of Panchayat Samitis falling within the area of the Zilla Parishad.
- MP's and MLA's representing the area.
- MPs and MLAs whose names are registered in any constituency with the Zilla Parishad area.
- Women representation.
- SC/ST representation.
- OBC representation.

(x) Communalism implies a strong sense of belonging to a particular religious community to the exclusion of others. The concept of communalism holds that religious distinction is the most fundamental and over-riding distinction that separates a particular community from others. Communalism as evident from the rise of politics based on religious identity has been an important factor in the Indian Political System. The relationship between communalism and Indian politics was institutionalized in 1909 by the Minto-Morley Reforms and subsequently through the Montague-Chelmsford Reforms of 1919 which led to separate electorates. Though the system was abolished in 1947, the germs of communalism remained in independent India as well.

Part—II

Section—A

Answer any three questions

Question 2.

- (a) What are the characteristics of a federal state? [6]
(b) Explain why India is characterized as a quasi federal state [6]

Answer:

(a) Division of Powers : In a federal government, the powers of administration are divided between the center and the units. The powers may be distributed in one of the two ways. Either the Constitution states what powers the federal authority shall have

and leaves the remainder to the federating units, or it states what powers the federating units shall possess and leaves the remainder to the federal authority.

Written Constitution : A federation must have a written constitution. A federation is a political partnership of various states and consequently there must be a written constitution.

Rigid Constitution : The constitution of a federation should be rigid so that it could be regarded as a sacred agreement, the spirit of which should not be easily violated. A flexible constitution allows scope to the central government to curtail the autonomy of the federating states.

Special Judiciary : In a federation, there are possibilities of constitutional disputes arising between the federal centre and the units or between one unit and another or between the citizens and the government. All these disputes are to be adjudicated in the light of the constitution. For this purpose a special judiciary with wide powers must be established. It should act as the custodian and guardian of the constitution. It should be vested with powers of declaring any law, national or local, ultra vires if it is at variance with the articles of the constitution.

Supremacy of the Constitution : The Constitution is the supreme law in a federation. Neither the central government nor the government of the units can go against its spirit.

Double Citizenship : Citizens in a federal state have dual interests and they should be given rights of double citizenship of the state wherein they are domiciled and citizenship of federal state as a whole. However in India, we have single citizenship.

Bill of Rights : Citizens in a federation enjoy certain rights given to them by the Constitution. The constitution of India, Russia, and the U.S.A. have given fundamental rights to the citizens. It is a well established custom now.

Question 3.

- (a) Discuss three merits and three demerits of the First-Past-the-Post system. [6]
- (b) Explain the rationale for minority representation in the legislature. [6]

Answer:

(a) **Merits of FPTP System :** First Past The Post, like other plurality/majority electoral systems, is defended primarily on the grounds of simplicity and its tendency to produce winners who are representatives beholden to defined geographic areas and governability.

The most often cited advantages of FPTP system are :

It provides a clear-cut choice for voters between two main parties. The inbuilt disadvantages faced by third and fragmented minority parties under FPTP in many cases cause the party system to gravitate towards a party of the 'left' and a party of the 'right', alternating in power. Third parties often wither away and almost never reach a level of popular support above which their national vote yields a comparable percentage of seats in the legislature.

It gives rise to single-party governments. The 'seat bonuses' for the largest party common under FPTP (e.g., where one party wins 45 percent of the national vote but 55 percent of the seats) mean that coalition governments are the exception rather than the rule. This state of affairs is praised for providing cabinets which are not shackled by the restraints of having to bargain with a minority coalition partner.

It promotes a link between constituents and their representatives, as it produces a legislature made up of representatives of geographical areas. Elected members represent defined areas of cities, towns or regions rather than just party labels. Some analysts have argued that this 'geographic accountability' is particularly important in agrarian societies and in developing countries.

Demerits:

However, FPTP is frequently criticized for a number of reasons :

It excludes smaller parties from 'fair' representation, in the sense that if a party which wins approximately, say, 10 percent of the votes should win approximately 10 percent of the legislative seats. In the 1993 federal election in Canada, the Progressive Conservatives won 16 percent of the votes but only 0.7 percent of the seats and in the 1998 general election in Lesotho, the Basotho National Party won 24 percent of the votes but only 1 percent of the seats. This is a pattern which is repeated time and time again under FPTP.

It leaves a large number of wasted votes which do not go towards the election of any candidate. This can be particularly dangerous if combined with regional freedoms, because minority party supporters in the region may begin to feel that they have no realistic hope of ever electing a candidate of their choice. It can also be dangerous where alienation from the political system increases the likelihood that extremists will be able to mobilize anti-system movements.

It can cause vote-splitting. Where two similar parties or candidates compete under FPTP, the vote of their potential supporters is often split between them, thus allowing a less popular party or candidate to win the seat.

(b) There are also many ways to enhance the representation of minorities and communal groups. Again, electoral systems which use reasonably large district magnitudes encourage parties to nominate candidates from minorities on the grounds that balanced tickets will increase their electoral chances. A very low threshold, or the

complete elimination of a formal threshold, in PR systems can also facilitate the representation of hitherto under represented or unrepresented groups by encouraging the formation of parties specifically representing them. In plurality /majority systems in particular, seats are sometimes set aside in the legislature for minorities and communal groups.

Reserved seats can be used to ensure the representation of specific minority groups in the legislature. Seats are reserved for identifiable ethnic or religious minorities in countries as diverse as Colombia ('black communities'), Croatia (the Hungarian, Italian, Czech, Slovak, Ruthenian, Ukrainian, German, and Austrian minorities), India (the scheduled tribes and castes), Jordan (Christians and Circassians), Niger (Tuareg), New Zealand (Maori), Pakistan (non-Muslim minorities), Palestine (Christians and Samaritans), Samoa (non-indigenous minorities), Slovenia (Hungarians and Italians), Taiwan (the 'aboriginal' community) and Iraq (Christians, Sabians, Shabaks and Yezidis).

Representatives from these reserved seats are usually elected in much the same manner as other representatives, but are sometimes elected only by members of the particular minority community designated in the electoral law. This requires a communal roll (a roll of those voters who, by belonging to 'a particular community, are eligible to vote in that election). While it is often deemed to be a normative good to represent small communities of interest, it has also been argued that it is a better strategy to design structures which give rise to a representative legislature without overt manipulation of the electoral law or legal obligation and that quota seats may breed resentment on the part of majority populations and exacerbate mistrust between various cultural groups.

Instead of formally reserved seats, regions can be over-represented to facilitate the increased representation of geographically concentrated groups. In the UK, Scotland and Wales have more MP's in the British House of Commons than they would be entitled to if population size alone was the only criterion. The same is true in the mountainous regions of Nepal.

Another possibility is the best loser system used in Mauritius, whereby some of the highest-polling losing candidates from a particular ethnic group are awarded seats in the legislature in order to balance overall ethnic representation.

Electoral boundaries can also be manipulated to promote the representation of particular groups. The Voting Rights Act in the United States has in the past allowed the government to draw weirdly shaped districts with the sole purpose of creating majority Black, Latino or Asian-American districts; this might be called 'affirmative gerrymandering'.

Question 4.

(a) Explain the important functions of the Lok Sabha. [6]

(b) Compare the relative positions of the Rajya Sabha and the United States Senate in their respective systems. [6]

Answer:

(a) Legislative: The Lok Sabha can pass bills concerning all those subjects which have been included in the Union List and the Concurrent List. It can pass bills regarding state subjects also in case of emergencies or if Rajya Sabha by a resolution passed by majority of its total members and 2/3 of its members present and voting declared a particular state subject of national importance. However, such a bill can be valid for a year only.

A non-money Bill can be initiated in any of the two Houses. In case, the Houses cannot come to an agreement, the President may summon a joint session of both the Houses of Parliament. If the Bill is passed by the majority of the total members of the Houses concerned in a joint session, it is deemed to have been passed by both the Houses of Parliament. Since the membership of Lok Sabha is almost double to that of the Rajya Sabha, the will of the former is likely to prevail. Thus supremacy of Lok Sabha over Rajya Sabha in ordinary or important non-money bills is self evident.

Financial : The Lok Sabha's control over purse is an undisputed fact. A money bill must be initiated in the Lok Sabha. When passed by the Lok Sabha, it is to be transmitted to the Rajya Sabha for its recommendations. The Constitution, however, requires the Rajya Sabha to return it to the Lok Sabha with its recommendations within 14 days from the date of receipt of the bill.

Control over the Executive : In a Parliamentary form of government, the most important function of a lower House is "Control over the Executive". The lower House of our Parliament is not an exception. According to Article 75(3), the Council of Ministers is collectively responsible to the Lok Sabha. This means, the ministry must tender resignation if a vote of non-confidence is passed against it by the Lok Sabha. There are other effective methods also adopted by our lower House, like that of other lower Houses in Parliamentary form of governments, to control the executive.

The Ministers in charge of various departments can be interrogated and censured by the members of the House. The bill introduced by the government may be rejected by the House. The adjournment motion may be moved to criticize the government or raise discussions on matters of vital importance for short duration. A resolution moving a token cut in the budget or the grant to a particular ministry may be passed, reflecting lack of confidence in the ministry by the majority in the House.

Electoral Function : Article 54 of the Constitution vests electoral functions of the Parliament. The elected members of both the Houses of Parliament constitute a part of the Electoral College for the election of President. Article 66 provides for the election of

the Vice-President by the members of both the Houses of Parliament at a joint session. The Lok Sabha elects its speaker as well.

Discussions on Questions of Public Importance : The Parliament possesses unlimited power of discussing and debating questions. This is done usually on the occasion of the inaugural and annual address by the President of India. It is empowered to review and criticize the work of the different departments of state during the discussion on the estimates of expenditure, the appropriation and revenue bills. Through such criticism and review, the members of House can get their grievances redressed.

Miscellaneous Powers:

The Lok Sabha together with the Rajya Sabha possesses the power of amending the Constitution.

The Lok Sabha along with the Rajya Sabha, has the power to move petition for the removal of judges of the Supreme Court and the High Courts on the ground of proven misbehaviour and incapacity by an address supported by a 2/3rd majority of the members present and voting and also majority of their total membership in each House.

The Lok Sabha participates in the impeachment of the President of India. Either of the two Houses of the Parliament frames the charges and the other House sits as a Court of trial.

The resolution passed by the Rajya Sabha for the removal of the Vice-President is subjected to ratification by the Lok Sabha as well.

Proclamation of emergency issued by the President needs approval of Lok Sabha along with Rajya Sabha for its continuance.

The Lok Sabha, in collaboration with the Rajya Sabha, must devise the system of effectively controlling the official bureaucracy by jealously maintaining its purity and the high standard of its ability and by making it more responsible to the people at large.

The House serves as a public forum. "The potential virtue of a public forum is two-fold. First, it can benefit the spectators who may learn by watching. Second, it can improve the participants who may have yet to find reasons with which to clothe the interests they represent." The House, in fact, is the mirror and educator of popular feeling. The impact of Parliament is more than political. The habit of orderly discussion, once established, helps to set the tone of public life in general.

(b) Both the Rajya Sabha of India and the Senate of USA are Upper Houses of their respective legislatures. This means that both houses represent the member states. In contrast, the lower houses i.e., Lok Sabha in India and House of Representatives in

USA do not represent the member states, but represent constituencies. The practical understanding of this is: Each state of the country is divided into several constituencies and from each one, one representative is elected who becomes a part of the lower house. This person represents the constituency from which he/she is elected. This is in contrast to members of the upper houses. Each state of the country is represented by two senators and both of them represent the entire state and not any particular constituency as such.

The difference is in the power each house wields. And the reason for this difference of power lies in the difference in the nature of government in both nations i.e., India and USA. USA is a classic example of a federation. A federation is one that has “member states” that are partially self-governing, but that operate under the ambit of the central government. In USA, each state has its own constitution and provides its own citizenship. In India, however, federalism has a unitary bias and hence separate citizenship is not recognized, separate constitutions do not exist and neither does any real freedom of state governments. Rather, state governments depend largely on the center for resources and party affiliations guide this center-state relationship to a great extent.

An upper house is less powerful than the lower house, as a general principle. This is because a lower house is directly elected by the people. However, USA can be said to be the “exception” to this. The Senate is considered to be the “most powerful upper house in the world”. In comparison, the Rajya Sabha is a weak, superfluous and redundant house.

Election Method : The Senators are in fact directly elected by the citizens of the states. Hence, they have direct support and approval of the people. In contrast, members of the Rajya Sabha are indirectly elected. They are elected by the legislatures of the state governments. They do not have direct representation of the people.

Composition : The Senate gives equal representation to all states irrespective of size or population. This means that both small states and large states get two members. All states get an equal voice in the process of law-making. This is in contrast to Rajya Sabha members where each state’s representation depends upon population. More populated states get a louder voice and hence rule of the majority is very common. This makes it easy for the ruling party to ignore opposition and interests of the minorities.

Powers : The Senate is more powerful than the House of Representatives in many ways. First, the Senate has almost complete control over the Budget. Second, the President requires ratification of the Senate for treaties. The Rajya Sabha in comparison has no control over the Budget, except for a “delaying” power. Not passing a bill has no productive outcome since the joint sessions method for resolving a dispute between the houses favours the Lok Sabha since it would be headed by the Speaker of the Lok Sabha itself.

Representation : Each member of the Senate represents say half of the state he/she is elected from (the other member representing the other half). Hence, they have more voter backing. The Rajya Sabha, on the other hand, represents a smaller number (a fixed number) and hence has a smaller voter backing.

Compactness : Since the Senate has just 100 members, it makes discussions and deliberations simpler. Members get more time to speak as well. The Rajya Sabha, however, has 235 members. Members may not get enough time to speak. Plus, more people always lead to more chaos.

One can say that both houses are similar merely in the fact that they are “upper houses” and represent state interests. But they radically differ in the context of powers, functions and the nuanced implications of the same.

Question 5.

- (a) Explain how the President of the United States is elected. [6]
- (b) Discuss briefly, the limitations that the Constitution of the United States places on the powers of the President. [6]

Answer:

(a) Eligibility Guidelines set by U.S. Constitution : Article II of the United States Constitution establishes the Executive Branch of the Government, including the President, Vice-President and other executive officers. Within Article II, rules are set as to who can become President and how a President is elected :

Article II

Section 1. The executive power shall be vested in a President of the United States of America. He or she shall hold his office during the term of four years and together with the Vice President, chosen for the same term, be elected, as follows :

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President neither shall any person be eligible to that office who shall not have attained to the age of thirty five years and have been fourteen years a resident within the United States.”

Every four years, people in the United States elect a new President on a Tuesday followed by first Monday in November. Last year the date fell on November 8, 2016. The American election system is not straightforward, as mere votes do not allow one to win the presidency.

Here is how the system works starting from who can become a presidential candidate to the day, a newly-elected President is inaugurated in five steps:

The Requirements : If one want to contest for the presidency one has to fulfill the following criteria :

- One should be a natural born US citizen.
- One has to be 35 years of age.
- One must be a US resident for the past 14 years.

Primaries and Caucuses : Each candidate is backed by a party and each party has its own believers. The primaries and caucuses help bring these like-minded candidates and believers of a party together to choose a candidate who will represent the party in the general elections. In a way, these are 'elections before elections' where one candidate of each party is selected by party believers before they go on to face the general elections.

During caucuses, voters divide themselves into groups according to who they support in the party. They then discuss and give speeches to convince others to join their group. Finally, votes are called in and the winner is chosen. These are private meetings organised by political parties.

Delegates : At the end of every primary or caucus, the candidates of different parties pick up 'delegates'. Each candidate of a party has to pick up a pre-determined number of delegates to win the nomination.

If one wants to become a Democratic party candidate one has to pick up 2,383 of 4,765 delegates. To become a Republican party candidate one has to pick up 1,237 of 2,472 delegates.

The question of why the delegates target is different for each party needs a long-winding explanation. Delegates are of two types – pledged and pledged.

National Conventions : Parties hold national conventions to announce the candidate, who has picked up the required number of delegates, as the party's nominee for the general elections.

If no one has achieved the magic number then the convention becomes a brokered or contested one. The pledged delegates and unpledged delegates come into the spotlight. Contested convention is equivalent to the election of a Pope. Because there was no consensus in the primaries and caucuses, another round of voting is conducted. Wherein 'pledged delegates' usually have to vote for the candidate they were awarded to in the first round of voting, while unpledged delegates don't. Pledged delegates may be allowed to choose any candidate in subsequent rounds of voting. The voting continues until a consensus emerges and a nominee is finalized.

General Elections : US citizens vote to choose their President during general elections. But here too they do not choose the president directly. The US follows an indirect method called electoral college to choose the president. Under this system, citizens vote for a group of people known as electors. And the electors, in turn, choose the president.

In the electoral college system, each state gets a certain number of electors based on its representation in the Congress. There is a total of 538 electoral votes.

Each political party nominates electors who are state-elected officials, party leaders or persons who have a personal or political affiliation with the presidential candidate. Each selected elector casts one vote following the general election and the candidate who crosses the 270 mark wins. The newly-elected president is inaugurated in January.

(b) Presidential power is derived from, and limited by, the Constitution. The framers of the Constitution lived in dread fear of a powerful executive and consequently, granted to the chief executive sharply limited powers.

James Madison, the chief architect of the Constitution, stated in the Constitutional Convention that presidential powers should be “confined and defined.” Constitutional Limitations on the powers of the President of the United States :

- Term Limit: A person can only be elected for two four-year terms as President. If a person serves two or more years of another President's term (if the President dies in office or resigns) this shall be deemed as a full term for purposes of the term limit.
- All presidential appointments to high federal offices require confirmation by the Senate.
- All treaties entered into by the President require ratification by a 2/3rd's majority.
- Although the President has the power to veto legislation passed by Congress, the veto can be overridden by a 2/3rd majority of both Houses.
- Although the President is the Commander in Chief of the Armed Forces, the power to declare war rests with Congress.
- The President can be impeached (by the House) and tried (by the Senate) and removed from office for high crimes and misdemeanors.
- Presidential actions are subject to judicial review by the Supreme Court.
- The working of the federal executive is subject to congressional oversight.

Question 6.

(a) Explain the various jurisdictions of the Supreme Court of India. [6]

(b) Do you agree with the view that the Supreme Court of India is the most powerful apex court in the world ? Explain the reasons for your answer. [6]

Answer:

(a) The jurisdiction of the Court can be kept in four categories, viz., original, writ, appellate and advisory.

Original Jurisdiction : As per Article 32, Supreme Court is the guardian / protector of fundamental rights and any person whose fundamental rights are violated can directly approach the Supreme Court for remedy. Supreme Court has interpreted the fundamental rights and has protected the citizens of India from any unconstitutional legislation which breach their fundamental rights. Any matter regarding the enforcement of Fundamental Rights comes under the Original Jurisdiction of the Supreme Court. Apart from this, Supreme Court is the Highest Interpreter of the Constitution and tribunal for final settlements of the disputes between Center and States as well as States and States. Supreme Court has original jurisdiction in matters related to any . dispute between :

- Government of India and one or more states;
- Government of India and State(s) on one side and State(s) in other side;
- State(s) and State(s).

The dispute should involve a question whether of law or fact on which depends the existence of a legal right which the court is called upon to determine.

Appellate Jurisdiction : Supreme Court is the Highest Court of appeal and the writs and decrees of Supreme Court run throughout the country. The cases come to the Supreme Court in the form of appeals against the judgments of the lower courts and this is called appellate jurisdiction. Appellate jurisdiction involves the Constitution, civil and criminal matters.

An appeal can be made in the Supreme Court against any judgement, decree or final order of the High Court in the territory of India, whether in a civil, criminal or other proceedings, if the High Court certified that the case involves a substantial question of law as to the interpolation of the Constitution. Even if the High Court refuses to give such certificate, the Supreme Court can grant special leave to appeal if the court is satisfied that the case involves a substantial question of law as to the interpretation of the Constitution.

In every matter that involves the interpretation of the constitution whether, civil, criminal or any other proceeding, the Supreme Court has been made the final authority to elaborate the meaning and intent of the Constitution.

As far as criminal cases are concerned there are 3 situations in which criminal appeals in Supreme Court are permitted: (Article 134)

- The High Court has on appeal reversed the order of acquittal of accused person and sentenced him to death.

- The High Court has withdrawn for trial before itself any case from any subordinate court and such trial convicted the accused person and sentenced him to death.
- High Court certifies that the case is worth appeal to the Supreme Court.

Advisory Jurisdiction : Article 143 (Power of President to consult Supreme Court) discusses the advisory jurisdiction of the Supreme Court.

If the president feels that a question of law or fact has arisen or is likely to arise and the question is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he can refer the same to Supreme Court for its advisory opinion.

Such an opinion is NOT binding on the President. It is said that the Lower court is concerned with the facts and High Court with the error of the judgement of the lower court. The Supreme Court is concerned with wisdom. But the Supreme Court may also go wrong and such wrongs can be rectified. Article 137 of the Constitution provides that Supreme Court can review and revise its own orders.

Special Leave Petition : Special leave petition is a power of Supreme Court whereby the court may, in its discretion, grant special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India. {Article 136}. Special Leave Petition has been used frequently to obviate the bar put by Article 262 on SC for hearing the matters related to inter-state riparian disputes.

Court of Record : The judgements, proceedings and acts of the Supreme Court are recognized as legal precedents and legal references. They are recorded for perpetual memory and testimony. These records are admitted to be of evidentiary value and cannot be questioned when produced before any court. In India, both Supreme Court and High Courts serve as Courts of Record.

Power to punish for contempt of itself : Supreme Court and High Courts have power to punish for contempt of themselves. While Supreme Court has power to punish for contempt not only of itself but also of high courts, subordinate courts and tribunals of the entire country.

(b) Indian Judiciary is one of the three pillars of the democracy other than Legislature and Executive. Though Indian Constitution has envisaged separation of powers between these pillars they are not sovereign in absolute sense. But if compared to the judicial systems of other democracies, Indian judiciary can be termed as powerful among its tribe globally and the reasons for this are as follows:

When compared to the British Constitution, from where the tenets of democracy spread to other countries, Indian judiciary seems to be more powerful. In case of Britain,

parliament is sovereign and judiciary has a secondary role to play as compared to parliament.

When compared to its American counter – part, Our Supreme Court possesses larger powers, which can be described as follows:

The Appellate jurisdiction of American supreme court is confined only to the issues arising out of federal relationships, but Indian SC is not only the federal court but also a highest court of appeal. Appeals related to civil and criminal cases can be heard originating from any lower court.

Our SC can entertain special leave petition arising from any tribunals but there is no such appeal granted by American SC.

Our SC has been mandated with giving advisory opinion to the President and government, there is no such provision in American constitution.

Besides getting more powers over its peers in the world, Indian Judiciary has time to time stated its authority as a guardian of constitution which can be made clear as follows:

It has given the “Doctrine of Basic structure” in the famous Keshvananda Bharti case (1973), upholding the supremacy of constitution.

It innovated “Public Interest Litigation” to serve those who are unable to reach judiciary for various reasons or where public interest has suffered a lot.

It has upheld even the fundamental rights of the prisoners by invoking that inordinate delay in deciding on mercy petitions is violation of the Article 21 of the constitution.

Though these are the positive measures by Indian judiciary there are instances when it is blamed for judicial over-reach. So our judiciary system shall maintain the delicate balance of power between three pillars besides upholding the spirit of the constitution.

Section—B

Answer any two questions

Question 7.

- (a) Explain the rights conferred under Right to Freedom (Article 19). [6]
- (a) Explore the relationship between Fundamental Rights and Directive Principles. [6]

Answer:

- (a) Article 19 of the Constitution specifically guarantees to the citizens of India six basic

freedoms, they are :

Freedom of Speech and Expression, Freedom of peaceable assembly without arms, Freedom to form associations, Freedom of movement throughout the territory of India, of residing and settling in any part and Freedom of practicing any profession and carrying on any occupation, trade or business. These freedoms are recognized as the natural rights inherent in the status of a citizen.

Article 19(1)A guarantees to every citizen the right to freedom of speech and expression. This means that every citizen is free to express his views, beliefs and convictions freely and without inhibitions by word of mouth, through writing, printing, picturising or in any other manner.

Article 19(1)B secures to all citizens of India the right to assemble peacefully and without arms. This consequentially leads to the conferment of the right to hold public meetings and demonstrations and take out processions peacefully.

Article 19(1)C guarantees to all citizens the right to form associations and unions for pursuing lawful purposes subjected to reasonable restrictions.

Article 19(1)D guarantees all citizens the freedom to reside and settle in any part of the country except for those where the interest of the public are being hindered.

Article 19(1)E guarantees all citizens the freedom to move freely throughout the territory of India, with restriction on the basis of interest of general public.

Article 19(1)G says that every citizen of India has the right to practice any profession or to carry on any profession, occupation, trade or business. The right to carry on a business includes the right to close it any time the owner likes.

(b) The Directive Principles of State Policies embodied in Part IV are a unique feature of our Constitution. Besides the precedent of the Irish Constitution, the basic inspiration for the Directive Principles Chapter came from the concept of Welfare State. While seeking to protect the basic rights of the individual, the framers of the constitution also wanted it to become an effective instrument for social revolution. The possible conflict between the rights of the individual and their needs of the community was sought to be resolved on the one hand by hedging the Fundamental Rights themselves by necessary restrictions "public interest", etc., and, on the other, by incorporating a chapter on the more positive "Directive Principles of State Policy".

Article 37 declares that the Directive Principles are "Fundamental in governance of the country" and that "it shall be the duty of the state to apply these principles in making laws". Thus, it is clear that these constitutional directives were not intended to be merely moral precepts but were to be treated as positive mandates and part and parcel of the

Human Rights provision of the constitution. The Directive Principles however, did not give rise to any legal rights for the violation of which any individual could seek a remedy nor did these bestow any power of the legislature. Also, no law could be declared ultra vires on the ground of inconsistency with these principles.

It is possible to see both Fundamental Rights and Directive Principles as complimentary to each other. Fundamental Rights restrain the government from doing certain things while Directive Principles exhort the government to do certain things. Fundamental Rights mainly protect the rights of the individuals while Directive Principles ensure the wellbeing of the entire society.

Many a times many policies of Directive Principles have been taken and incorporated in the Fundamental Rights through amendments. For example, abolition of the Zamindari system, mid-day meal system, etc.

Question 8.

- (a) Explain the main features of the 74th Amendment to the Indian Constitution, relating to urban local self-government institutions.[6]
- (b) Discuss three challenges faced by Panchayati Raj institutions in India. [6]

Answer:

(a) The Constitution (74th Amendment) Act, 1992 have added new Parts IX and IXA to the Constitution. Under these two parts, we have as many as 34 new Articles-243 to 243ZG and two new Schedules viz. Schedule 11 and 12. The 74th Amendment gives constitutional recognition to the Municipalities or the provisions relating to Urban Local Government (Nagarpalikas). It came into force in 1993.

The census of India defines an urban area as having :
a minimum population of 5000. (2) Atleast 75% of male working population engaged in non-agricultural occupation , (3) a density of population of at least 400 persons per sq. km. The Provisions made under this Act are :

Three Tier Structure : All states now have a uniform Municipality system.

Elections : Elections were made mandatory for all the posts of the third tier of local government. They are elected directly by the people for a term of five years.

Reservations : Reservations are made for women at all the levels of Nagarpalikas. Reservations for Scheduled Castes and Scheduled Tribes are also provided for all the three levels, in proportion to their population. If the States find it necessary, they can also provide for reservations for the other Backward Castes (OBCs).

Transfer of Subjects : Twenty-nine subjects, which were earlier in State List of subjects, are identified and listed in the Eleventh Schedule of the Constitution. These subjects are to be transferred to the Local Governments. These subjects are mostly linked to the development and welfare functions at the local level. The actual transfer of these functions depends upon the State Legislation. Each state decides how many of these 29 subjects would be transferred to the local bodies.

State Election Commissioners : The state government is required to appoint a State Election Commissioner who would be responsible for conducting elections. He is an independent officer and is not linked to nor is this officer under the control of the Election Commission of India.

State Finance Commission : The State . government is also required to appoint a State Finance Commission once in five years. This commission would examine the financial position of the local governments in the State. It would also review the distribution of revenues between the state and local governments on the one hand and between the rural and urban local governments on the other.

(b) The experience with the functioning of local government in the past few years has shown certain challenges in India. They enjoy limited autonomy to perform the functions assigned to them. Many states have not yet transferred most of the subjects of the local bodies. This means that the local bodies cannot really function in an effective manner. Therefore, the entire exercise of electing so many representatives becomes symbolic. Some people criticize the formation of the local bodies because this has not changed the way in . which decisions are taken at the central and the state level. People at the local level do not enjoy much powers of choosing welfare programmes or allocation of resources.

The three challenges faced by Panchayati Raj institutions in India are as follows :
Insufficient Funds : One of the biggest hurdles in front of smooth working of Panchayati Raj is in form of scarcity of funds. Panchayati Raj has restricted powers in relation to imposing taxes and cesses. State Government also offers the very little financial support. Usually, they are not eager to raise the funds on account of losing popularity among public.

Undemocratic Composition : Most of the Panchayati Raj institutions are not based on democratic rules and principles. Due to indirect election of the members of Panchayat Samiti leads to the cropping of corruption and bribery. The Zilla Parishad also comprises of mainly ex-officio members which are mostly government officials. It is against democratic principles.

Incompatibility between the three-tiers :
The three-tiers fail to work as functional authorities. The higher structures are likely to

treat the lower structure as subordinates. There is hierarchy and domination. The absence of mutual relationship is against the true spirit of democratic decentralization.

Question 9.

(a) Explain three forms of political violence in India and comment briefly on the causes of each. [6]

(b) Identify three challenges facing Indian democracy and explore how these can be overcome. [6]

Answer 9.

(a) The three forms of Political violence in India can be categorized in the following way :

Inter-State : There are certain matters like distribution of river water, inclusion and exclusion of certain linguistic areas into state, where we find political violence done by the political parties, its supporters and public mobilisation as well. In such cases two or more states participate when their political motives do not get accommodated into the existing system.

Intra-State : Political violence takes place when within the state two or more opposing political parties come up with their unmatched issues. Political violence also takes place when people of the same state come out for political demonstration, political strikes and political movements against the ruling party or the government.

Communal Issues : India is the house to many different religions with its rights. Being a secular state, all the existing religions have rights to propagate , and practice any religion according to their choice. And while doing so, we find different communal people clash with each other in order to protect their religious rights. At times, they take the form of riots as well. Then strong actions are taken to curb the issues and settle down the matters.

(b) Challenge of Expansion : Most of the established democracies like India face the challenge of expansion. This involves applying the basic principles of democratic government across all the regions, different social groups and various institutions. Ensuring greater power to the local governments, extension of federal principles to all the units of the federation and inclusion of women and minority groups fall under this challenge. This also means that less and less decisions should remain outside the arena of democratic control.

Challenge of Deepening of Democracy : This is also faced by every democracy in one form or the other, which is widely prevalent in India as well. This involves strengthening of the institutions and practices of democracy. This should happen in such a way that people can realise their expectations from democracy. But ordinary people have different expectations from democracy in different societies.

Therefore, this challenge takes different meanings and paths in different parts of our country. In general terms, it usually means strengthening those institutions that help people's participation and control. This requires an attempt to bring down the control and influence of the rich and powerful people in making governmental decisions.

Challenge of Wrong Political Practices : Carefully devised changes in law can help to discourage wrong political practices and encourage good ones. Democratic reforms are to be carried out mainly by political activists, parties, movements and politically conscious citizens. The best laws are those which empower people to carry out democratic reforms. The Right to Information is a good example for it.