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GENERAL STUDIES (TEST CODE : 1391)

Name of Candidate	ARTH JAIN		
Medium Eng./Hindi	ENGLISH	Registration Number	488737
Center	ORN	Date	22/10/19

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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Delhi- 110009

EVALUATION INDICATORS

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

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

Answer all the questions in NOT MORE THAN 200 WORDS each. Content of the answers is more important than its length. All questions carry equal marks.

12.5X20=250

1. Enumerate important privileges enjoyed by each House of Parliament collectively and its members individually and also discuss their significance.

संसद के प्रत्येक सदन द्वारा सामूहिक रूप से एवं उसके सदस्यों द्वारा व्यक्तिगत रूप से उपभोग किये जाने वाले प्रमुख विशेषाधिकारों को सूचीबद्ध कीजिए और साथ ही उनके महत्व की भी चर्चा कीजिए।

The constitution provides both collective and individual privileges to ensure its smooth functioning and maintain dignity.

Collective Privileges

- No member can be arrested in the premises of the house without the presiding officer's permission.
- The house can conduct a secret sitting, to the exclusion of general public.
- The house can publish reports on its proceedings, and debar someone from doing the same.

Individual Privileges

- No member can be arrested 40 days before/after session or during a session.

- Members are exempted from jury service while house is in session.
- Members have freedom of speech, subject to other provisions of constitution of rules of house.

Source of Privileges

Notably the privileges have been established from different sources such as:

- Constitution
- Statutory provisions
- Rules of house
- Conventions

Significance of Privileges

- Allow the house to maintain its dignity and respectable position in a democracy.
- Freedom of speech given to members leads to healthy debates.

- Most provisions aim to achieve political neutrality and impartiality.
- Allow upholding decorum while discharging responsibilities.

Way Forward

The privileges (both collective and individual) go hand-in-hand with responsibilities that the members have towards the parliament, and public in general.

Both must be exercised keeping the other in mind.

2. Give an account of the composition and functions of the Finance Commission as mentioned in the Constitution of India.

भारत के संविधान में यथा उल्लिखित वित्त आयोग की संरचना और कार्यों का विवरण दीजिए।

Finance Commission has been established under Article 280 of the Constitution as a quasi-judicial body.

Functions of Finance Commission

- To determine the distribution of net proceeds of taxes b/w Centre and states.
↓
It aims to achieve both horizontal and vertical equality in distribution.
- Principles governing grant-in-aids to the states.
- Recommend measures to be taken by states to augment their consolidated funds.
↓
Aims to promote higher devolution of funds to local bodies.

- Any other matter as specified by the President.

The Commission is constituted every 5 years or earlier, as the need arises.

Composition of FC

- The constitution makes no provisions for the qualifications, tenure of members.
- These are decided by a statute of parliament namely - Finance Commission Act.
- The last FC was chaired by Mr. NK Singh whose recommendations have been implemented for the coming 5 year period.

Role of FC

- Envisaged as the balancing wheel of fiscal federalism in India.

- Aims to achieve distributive justice in terms of devolution of resources.
- Can also recommend modification in taxation powers.

Conclusion

Finance Commission under Article 280 (or under Article 243) is an advisory body that aims to balance fiscal federalism in India.

3. Preamble shows the general purposes behind several provisions in the Constitution, and is a key to the minds of the makers of the Constitution. Explain. Also, comment on the amendability of the Preamble.

उद्देशिका संविधान के अनेक प्रावधानों में निहित सामान्य उद्देश्यों को अभिव्यक्त करती है और संविधान निर्माताओं की सोच को समझने की एक कुंजी है। व्याख्या कीजिए। साथ ही, उद्देशिका की संशोधनीयता पर भी टिप्पणी कीजिए।

The constitution of India opens with the Preamble. The preamble was based on the objectives resolution moved by Mr. Nehru in 1946.

Significance of Preamble

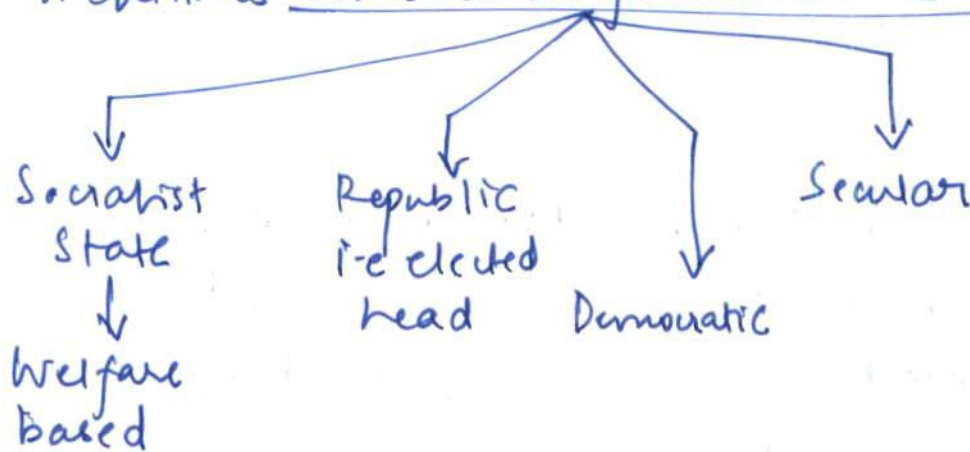
- It embodies the basic philosophy on which the constitution is based.
- It outlines the broad objectives which the constitution aims to achieve.

Thus it is called a "key to the minds of the makers of the constitution"

Further

- ~~It tells~~ It tells us the source of power/authority from which the constitution draws — i.e. "We the people"

— It outlines some basic fundamentals



The Indian state is based on above fundamentals.

— Highlights the Larger aims for society
such as:

- Justice: Socio, Economic, Political
- Liberty: Thought, Expression, Belief etc
- Equality: Status and Opportunity
- Fraternity: Individual & Nation

Amendability of Constitution

SC in Kesavananda Bharti (1973),
Minerva Mills (1980) has remarked
the following:

- ① Preamble is a part of constitution.
- ② Preamble is amendable under Article 268.
- ③ The amendability is subject to the basic structure doctrine.

Conclusion

The preamble forms an integral part of our constitution showing its general purposes and serving as a "key" to its provisions.

It is amendable subject to the basic structure doctrine.

4. Explain the principle of subsidiarity, its importance and discuss how the 73rd constitutional amendment act tries to achieve it.

समनुषंगिता के सिद्धांत व इसके महत्व की व्याख्या कीजिए एवं चर्चा कीजिए कि 73वां संविधान संशोधन अधिनियम इसे प्राप्त करने हेतु किस प्रकार प्रयास करता है।

Subsidiarity deals with devolution of powers and responsibilities to a subordinate level.

Importance of Subsidiarity

- Marks a shift from "bureaucratisation of development" to "democratisation of development"
- Allows for promotion of grass root democracy.
- Developmental work can be in sync with demands at the local level.
"In other words subsidiarity seeks to bring the development process closer to the people".
- Increases accountability as now people can put a direct check on exercise of power.

73rd Constitutional Amendment

73rd CAA, enacted in 1992 provides for local governance in the form of PRIs - Panchayati Raj institutions.

- Enactment of 73rd CAA led to establishment of Gram Sabha to discuss/deliberate on issues.
- Established a 3-tier system with Gram Panchayat at the bottom.

This allowed for developmental work to be in sync with local needs.

Further regular elections to panchayats enforce accountability.

Existing Challenges

- Interference of bureaucrats and politicians.
- Low taxation powers, reluctance to tax.

- Financial constraints and tied nature of funds.
- Absence of audit mechanism.

Way Forward

Subsidiarity as a model of governance is very effective as proven in case of Sweden and Denmark.

The 73rd CAA aims to achieve the same. Thus the need of the hour is to provide feasible fiscal powers to achieve grass root democracy in true sense.

5. Explaining the importance of an independent judiciary, highlight the relevant Constitutional provisions that safeguard and ensure the independent and impartial functioning of the Supreme Court.

एक स्वतंत्र न्यायपालिका के महत्व की व्याख्या करते हुए, उच्चतम न्यायालय की स्वतंत्रता एवं निष्पक्ष कार्य पद्धति को सुरक्षित और सुनिश्चित करने वाले प्रासंगिक संवैधानिक प्रावधानों पर प्रकाश डालिए।

Indian polity is based on the doctrine of separation of powers that divides both powers and responsibilities and ensure a system of checks and balances.

Importance of Independent Judiciary

- In line with separation of powers:
This helps check excessive/arbitrary exercise of power by executive or legislature.
- Executive interference can delay/disrupt justice.
- Crucial in taking "unpopular decisions" that are needed for progress of society.
Eg: Section 377 judgement.

Independence of judiciary has been guaranteed by the Indian Constitution.

Constitutional provisions

- SC/HC have the power to appoint their own staff.
- Appointment of CJI/other SC judges is taken after consulting members of the judiciary itself.
↓
Established in the 3rd Judge Case.
- Power to punish for contempt.
- Its role cannot be dismissed except on a substantive motion in the house.
- Its salaries are charged on CFI. Further the provisions cannot be changed to their disadvantage.
- Well-defined impeachment process has been laid down.

The provisions are similar for HC and other courts with certain modifications.

Conclusion

Constitution envisages an integrated and independent judiciary for India, to impart justice in an impartial and unbiased manner.

For this it provides adequate safeguards.

6. Mention the six freedoms as guaranteed under Article 19 of the Indian Constitution. Also, comment on the way in which the constitution has attempted to strike a balance between individual liberty and interests of society.

भारतीय संविधान के अनुच्छेद 19 के अंतर्गत प्रत्याभूत छः स्वतंत्रताओं का उल्लेख कीजिए। साथ ही, संविधान ने जिस प्रकार से व्यक्तिगत स्वतंत्रता और समाज के हितों के मध्य संतुलन स्थापित करने का प्रयास किया है, उस पर भी टिप्पणी कीजिए।

Constitution under Article 19 guarantees 6 freedoms as fundamental rights.

The 6 freedoms

- Freedom of Speech & Expression.
- Of Association.
- Of movement
- Of residing anywhere in the country
- Of carrying out any trade/profession
- Of assembly.

The Constitution has however struck a balance b/w individual liberty and interests of society by imposing certain restrictions, on these Fundamental rights under Article 19.

Restrictions / Qualifications

- Speech & Expression: Subject to public order, sovereignty and integrity of the nation. Thus for example hate speech is not allowed.
- Of Assembly: Rioting / Striking or assembling with weapons is not allowed.
- Of movement: Restriction on grounds of public health and morality.
eg: Movement of people with AIDS.
- Of residence: Restriction on ^{grounds of} interests of communities. Eg: One cannot go and reside in a scheduled area.
- Of Association: Various safeguards have been provided in Articles 243ZH - 243ZT.
- Of Trade: Trade in immoral activities is banned. eg: Trafficking

Conclusion

The constitution under Article 19, while granting several freedoms aims to balance both individual liberty and interests of society.

7. With examples, discuss the significance of alternative dispute resolution mechanisms in light of costly and time-consuming litigation process in India.

भारत में महंगी और समयसाध्य वाद प्रक्रिया के आलोक में वैकल्पिक विवाद समाधान तंत्र के महत्व की उदाहरणों सहित चर्चा कीजिए।

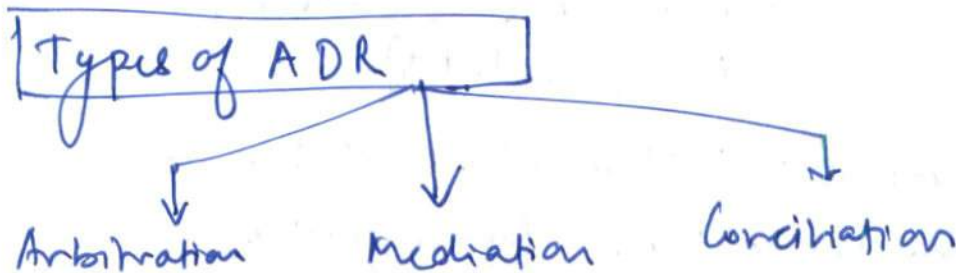
Alternate Dispute Resolution refers to unconventional methods of resolving disputes and arriving at a compromise/desired solution.

Significance of ADR

- Judiciary is overburdened with cases. (₹ 3.2 crore according to NTDG data)
- legal technicalities/cost of process often deters people from justice.
- Since ADR is based on principles of natural justice, and not bound by procedural codes such as Evidence Act, it can achieve speedy dispensation of justice.
- Tribunals/ADR setup for specific purposes achieve expertise on the same.

Examples

- ① N G T has been successful in dispensing quick environmental justice.
- ② Lok Adalats—due to their method of informal proceedings have been successful in coming at a compromise in many cases.
- ③ Establishment of Permanent Lok Adalats.



Issues with ADR

- Lack of formal procedure leads to non-uniformity in results.
- Executive interference in case of appointments.
- Low awareness.
- Credibility issues.

Way Forward

ADR as a method of dispensing justice is crucial given the overburdened judiciary and time consuming litigation.

Reforms to address structural gaps in ADR process must be undertaken.

8. Explain why the Indian Constitution has been argued to have created a 'federation with a centralising tendency'.

ऐसा तर्क क्यों दिया जाता है कि भारतीय संविधान ने 'केंद्रीकरण की प्रवृत्ति वाले एक परिसंघ' को सृजित किया है, व्याख्या कीजिए।

The Indian Constitution has provided for a federal polity with both a unitary bias and centralising tendency.

It has been modelled along the Canadian constitution.

Centralising Tendency

- Emergency Powers: Under these the Centre becomes all powerful and can exercise both legislative and executive power in state domain.
- President's Rule: Under Article 356, 365 - the centre can takeover the state administration/discharge of duties.
- Article 253: Allows Parliament to legislate in state domain to enforce an international treaty.

Structural Causes → Centralising Tendency

- Distribution of legislative powers has a unitary bias. The Union list has the most important subjects.
 - Further law of parliament prevails over the state law in case of concurrent list.
- Distribution of taxation powers is skewed in favour of centre.
 - States have to depend on devolution of taxes and grants to meet their needs.
- All India services: Their ultimate control lies with the centre.
- Appointment of governor is done by the centre unilaterally.

Need for a strong Centre/Conclusion

Notably Punchhi Commission remarked the need for a strong centre in light of unity of the nation and to deal with

secessionist tendencies.

Centralization however must go hand in hand with demands of state autonomy in view of achieving cooperative federalism.

Decentralization of adequate powers is a sign of a healthy democracy.

9. The parliamentary control over government and administration in India is more theoretical than practical. Discuss.

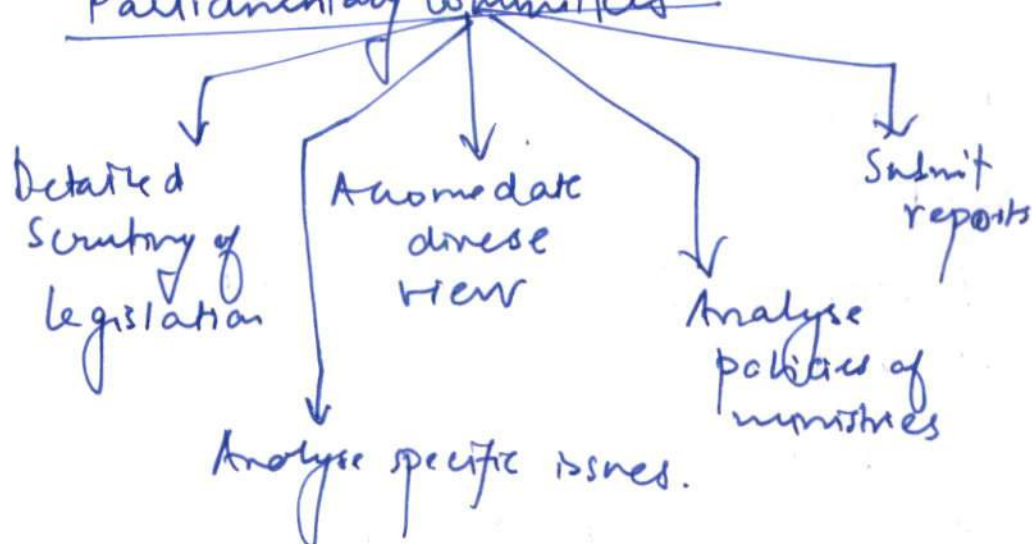
भारत में सरकार और प्रशासन पर संसदीय नियंत्रण व्यावहारिक की अपेक्षा सैद्धांतिक अधिक है। चर्चा कीजिए।

The parliament is the supreme legislative body. It aims to ensure accountability of the executive and constructive policy making.

Parliamentary Control over Executive

- Presence of in-house tools such as Question Hour, Zero Hour etc increase executive's accountability.
- Impeachment/Removal process ensures the dignity of high level appointments.

Parliamentary Committees



- No Confidence motion: Under Article 75, ~~council of Union~~ ^{executive} is collectively responsible to the parliament in general.

Challenges to Parliamentary Control

- Majority of ruling party in lower house → voting/decisions as party lines.
- Speaker, elected by the ruling party (due to its majority) often shows bias.
- Impeachment processes suffer due to political causes.
- Reports of parliamentary committees are usually advisory in nature.

What can be done?

- ① Increased transparency measures—in terms of sittings of committees and recording dissent.
- ② Revamping office of speaker to ensure his impartiality.

Conclusion

The parliament's controlled over executive, while detailed, suffers from several lacunae due to political reasons. Addressing these is necessary to ensure a healthy democracy.

10. Why did the Constituent Assembly replace the original plan to have elected governors in favour of appointment by the President? Also, bring out the arguments that are raised against the current form of appointment of Governors.

संविधान सभा ने निर्वाचित राज्यपाल होने की मूल योजना को राष्ट्रपति द्वारा नियुक्त राज्यपाल के पक्ष में क्यों प्रतिस्थापित कर दिया? साथ ही, राज्यपालों की नियुक्ति के वर्तमान तरीके के विरुद्ध दिए जाने वाले तर्कों का भी उल्लेख कीजिए।

Under the constitutional scheme in India, while the President is elected, the governor is unilaterally appointed by the centre.

Reasons

- Governor is only a nominal head.
- Further, while the office of President represents the Union, the governor only represents a state.
- Election process will be expensive and time consuming.
- May lead to unnecessary politicisation at the state level.
- Superfuous as Chief Minister has the real power.

Thus they decided to have the governor appointed by President.

Issues in Appointment form of govt

- Indirect control by centre which is misused in many cases.
 - ① Imposition of emergency.
 - ② Calling CM candidate in case of hung assembly.
eg: Karnataka floor test
 - ③ Delaying passing of bills.
 - ④ Reserving bills for President.
- Making use of discretionary power in conflict with state government.
- Appointment of loyalists of ruling party at the centre.

What can be done?

In S. R. Bommai (1994), SC put a check on the misuse of governor's power to impose President's rule.

Similar guidelines can be set for other discretionary powers.

Adopting the process laid out by Sarkaria Commission for selection of governor — to achieve a healthy cooperative democracy.

11. Explaining the concept of judicial activism, discuss why it is important for courts not to take over the functions of the legislature or the executive.

न्यायिक सक्रियता की अवधारणा की व्याख्या करते हुए, चर्चा कीजिए कि न्यायालयों के लिए विधायिका या कार्यपालिका के कार्यों का अतिक्रमण न करना क्यों महत्वपूर्ण है।

Judicial Activism refers to the proactive role played by the judiciary in ensuring complete execution of justice. It is the opposite of judicial restraint.

Advantages

- Allows compensating for the inadequate efforts of executive/legislature.
- Aims to achieve holistic justice i.e. justice that is socially and economically desirable.
- Addresses the gaps in administration's exercise of its duties.

PIK

- Successful example of judicial activism.
- Allows any public spirited citizen to fight for the rights of the weaker sections or the public in general.

- Relaxes the requirement of loose standing.

Issues with Judicial Activism

- Against the doctrine of separation of powers.
- Excess of jurisdiction is unhealthy for a democracy.
- Judiciary is not popularly elected
↓
It has no right to legislate, which is a function of elected representatives.
- May lead to authoritarian tendencies as power is getting concentrated in the hands of judiciary.
- It may not have the necessary expertise to deal in certain matters.

Way Forward

SC has cautioned judges that:

"Judicial activism must not become

judicial adventurism". Thus highlighting the need for judges to exercise some restraint. It may lead to reckless legislation.

The advantages of PIL must be achieved while exercising certain restraint.

12. Compare the constitutional position of Rajya Sabha with the Lok Sabha in terms of legislative powers. Also bring out special powers given to Rajya Sabha in this context.

विधायी शक्तियों के संदर्भ में लोकसभा के सापेक्ष राज्य सभा की संवैधानिक स्थिति की तुलना कीजिए। साथ ही, इस संदर्भ में राज्य सभा को दी गई विशेष शक्तियों का भी उल्लेख कीजिए।

The Constitution of India provides for a bicameral legislature at the centre, consisting of the lower house (Lok Sabha) and Upper House (Rajya Sabha).

Rajya Sabha vs. Lok Sabha

Constitution of houses:

- ① Lok Sabha is directly elected while RS is indirectly elected by members of legislative assembly.
- ② Lok Sabha represents the people in general, while RS represents the states.

Legislative Powers:

- ① With regard to ordinary bills they have similar powers.
- ② However a joint sitting is provided once by the speaker.

- ③ Money bills can only be certified by the speaker.
- ④ Final power to pass a money bill also rests with the Lok Sabha.

↓
Rajya Sabha can atmost delay it for 14 days.

In other matters such as passage of a constitutional amendment bill both have similar powers.

Special powers of Rajya Sabha

- ① Under Article 249, it can authorize the parliament to legislate on a state subject.
- ② Under Article 312, it can authorize the parliament to create an All India service.

Conclusion

The Rajya Sabha has a "unique" position in the constitutional scheme.

While it is inferior in some aspects, it
does have special powers.

Overall it represents the states and
checks hasty legislation.

13. Comment upon the distribution of legislative subjects between the Centre and states. Under what circumstances does the Parliament make laws on matters enumerated in the State list?

केंद्र और राज्यों के मध्य विधायी विषयों के वितरण पर टिप्पणी कीजिए। किन परिस्थितियों में संसद राज्य सूची में उल्लिखित विषयों पर विधि बना सकती है?

The distribution of legislative subjects are well defined under Schedule 7 of the Constitution.

List I — Union list (~ 97 subjects)

List II — State list (~ 50 subjects)

List III — Concurrent list (~ 60 subjects)

Distribution of legislative powers

- States have exclusive power on subjects in State list, while centre has exclusive power in Centre list.
- In case of concurrent list both have concurrent powers.

↓
However the state law is subject to the overriding power of the central law.

— Further there are provisions for mutual delegation of legislative powers.

eg: Centre can make a state law on the request of 2 or more states.

eg: With permission of governor, by Centre.

Parliament can also make laws on subjects mentioned in the state list in certain circumstances.

Special Circumstances

① During National Emergency:

- It does not debar the state from legislating.
- Laws are applicable only until 6 months after emergency.

② During President's rule:

The state assembly is either dissolved or suspended.

③ When two or more states make a request.

④ Under Article 249: When Rajya Sabha passes a resolution to that effect.

⑤ Under Article 253: To give effect to certain international agreements and treaties.

Conclusion

The distribution of powers has an inherent central bias — in view of the unity and integrity of the nation.

The special circumstances highlight the flexibility of the constitution to meet unforeseen circumstances.

14. Explain the significance of the concept of 'separation of powers' in a democracy. What can be the reasons for India not following the doctrine in the strict sense?

लोकतंत्र में 'शक्तियों के पृथक्करण' की अवधारणा के महत्व को स्पष्ट कीजिए। भारत द्वारा इस सिद्धांत का कठोर अर्थों में अनुपालन न किये जाने के क्या कारण हो सकते हैं?

Separation of powers refers to the clear demarcation of powers and responsibilities b/w different organs of state.

Significance of Doctrine

- Also for a "system of checks and balances"
- Prevents concentration of power in the hands of few.
- Well defined demarcation reduces the scope for conflicts.
- Harmonious cooperation b/w different organs is essential for a healthy democracy.
- Each organ has expertise in different matters and must exercise powers accordingly.

However in India, the executive and legislative are not strictly separated as the council of ministers (executive) is an integral part of the legislature.

Further the ruling party has (necessarily) a majority in legislature.

Reasons

- India follows a parliamentary form of government and not presidential form.
↓
emphasises on cooperation b/w legislature and executive.
- Promotes stability to the government.
- In case of strict separation, the legislature and executive will be in perpetual conflict.
- Historical reasons: India adopted this form as it had experience in this form since British days.

Conclusion

Separation of powers is necessary to prevent despotism and sustain a healthy democracy.

Cooperation b/w legislature and executive provides stability to the parliament system.

15. Explain the grounds on which a National Emergency can be declared and highlight its effects on Centre-state relations and Fundamental Rights.

उन आधारों की व्याख्या कीजिए जिन पर राष्ट्रीय आपातकाल घोषित किया जा सकता है एवं केंद्र-राज्य संबंधों और मूल अधिकारों पर पड़ने वाले इसके प्रभावों पर प्रकाश डालिए।

The constitution has provisions relating to Emergency under Articles 352-360.

The National emergency can be imposed on the following grounds:

(Under Article 352)

- ① External Aggression
- ② War
- ③ Armed rebellion (internal)

Thus it acts as a safeguard to ~~prevent~~ the integrity and unity of the nation.

Effects on Fundamental Rights

- Under Article 358: The ~~sm~~ freedoms (Article 19) are automatically suspended.
- Under Article 359: The president can suspend the enforcement of any fundamental rights, except those under Articles 20 & 21.

- Immunity is only provided to those laws that are related to the suspended rights.

Effects on Centre-State relations

- Centre has overriding and supreme powers in legislative matters!
- In financial matters, it can suspend the devolution of resources/ alter their distribution.
- It also has executive powers in all matters.

Conclusion

National emergency under Article 352, significantly alters the distribution of powers b/w centre and states.

It temporarily converts the federal polity into "unitary" polity.

16. Analyze how the CAG ensures financial accountability of the Executive to the Legislature while working as an independent Constitutional body.

विश्लेषण कीजिए कि एक स्वतंत्र संवैधानिक निकाय के रूप में कार्य करते हुए CAG, विधायिका के प्रति कार्यपालिका की वित्तीय जवाबदेही को किस प्रकार सुनिश्चित करता है?

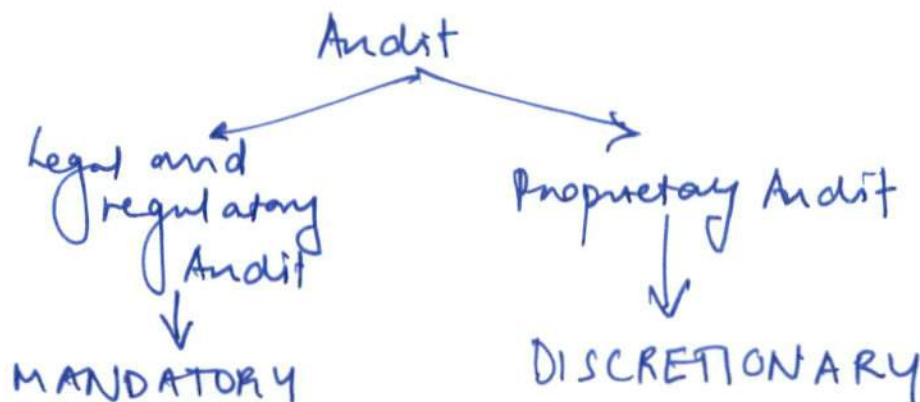
The office of CAG has been established under Article 148 of the Constitution.

It is visualized as the guardian of public purse in India.

Independence of CAG

- Provided with fixed tenure.
- Salaries and other emoluments are charged on the consolidated fund.
- Cannot be represented by any minister in parliament.
- Directly responsible to the parliament.

Role of CAG



The legal audit looks at various dimensions such as:

- ① Lawfulness
- ② Cases of corruption
- ③ Whether due process has been followed.

Proprietary Audit looks at

- ① Wastefulness of expenditure
- ② Extravagance
- ③ Prudence of underlying policy

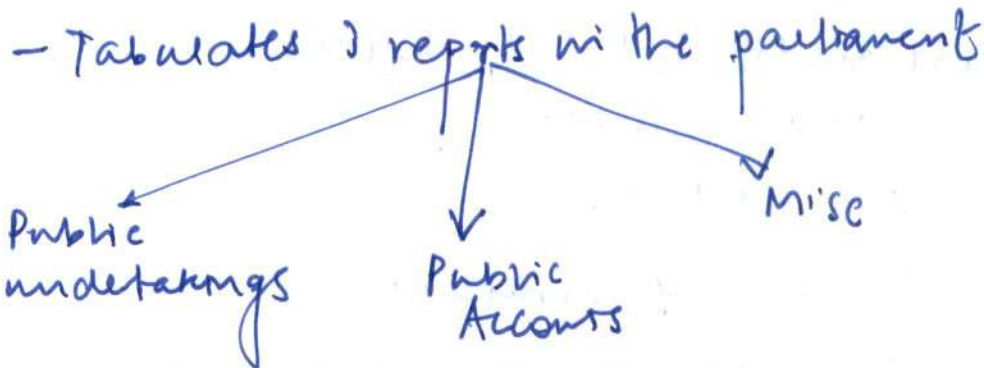
Ensures financial Accountability

- Conducts both legal and proprietary audit for central and state governments.



Along with these it also audits the reports of various public undertakings.

- Acts as a guide to the Public Account Committee and Committee on public undertakings.



Issues in functioning of CAG

- Reports are advisory.
- Work is of a "post-mortem" nature.
- CAG has no control over issuance of money.

Conclusion

While the CAG aims to secure financial accountability to the executive, its advisory and post-mortem nature significantly reduces its powers.

17. Highlight the veto powers of the President of India. How does the veto powers of the Governor differ from that of the President?

भारत के राष्ट्रपति की वीटो शक्तियों पर प्रकाश डालिए। राज्यपाल की वीटो शक्तियां राष्ट्रपति की शक्तियों से किस प्रकार भिन्न हैं?

The office of President is established under Article 52 of the constitution.

In regards to passage of an ordinary bill, the president has certain veto powers:

- ① Absolute Veto: Can withhold assent to a bill.
- ② Suspensive Veto: Can return the bill for reconsideration of the parliament. However he must give assent, if the bill is presented again.
- ③ Pocket Veto: Not taking any action on the bill.

With regards to money bills he ~~has~~ does not have suspensive veto.

With regards to Constitutional amendment bills giving assent is mandatory.

Veto of Governor vs President

- Their vetopowers are almost similar.
- However when the governor reserves a bill for the President - who returns it - then it must be presented to the President again.

↓
Here he still has absolute veto
unlike in case of parliamentary
bills.

Need for Veto / Usefulness

- Checks hasty legislation.
- Can stop bills that are driven by perverse political interests.
- Symbol of the president's prestige in the constitutional scheme of things.

Conclusion

Both the President and Governor have been given similar veto powers with minor differences.

18. Even though the parliamentary system of government in India is largely based on the British parliamentary model it never became a replica of the British system. Elaborate.

यद्यपि भारत में सरकार की संसदीय प्रणाली मुख्य रूप से ब्रिटिश संसदीय मॉडल पर आधारित है तथापि यह कभी भी ब्रिटिश प्रणाली की प्रतिकृति नहीं बनी। सविस्तार वर्णन कीजिए।

The Indian parliamentary system is largely based on the British parliament as it draws its ^{major} underlying provisions from the Govt of India Act, 1935.

Similarities

- Presence of a bicameral legislature.
Lok Sabha ~ House of Commons
Rajya Sabha ~ House of Lords
- Presence of a nominal head of state.
- Responsible form of government.
- Council of ministers and "Cabinet".

Despite these similarities it could never become a replica as there are certain differences.

Differences

- In India, parliament is not supreme as its powers are bounded by a written constitution. Britain has an unwritten constitution.
- India has an elected head of state, while Britain has a monarchical head.
- India has federal polity, while British model is largely unitary.

Reasons

- Indian Constitution drew from a lot of other sources and not just British
 - ← Russian model
 - ↓ American model
 - Germany
 - Irish model
- To accommodate for the wide diversity of the country.
- Account for customary features of Indian Society.

Conclusion

While Indian parliament largely drew its inspiration from the British model, it has significant differences with it.

19. A number of judicial pronouncements and constitutional amendments have altered the balance between Fundamental Rights and Directive Principles of State Policy since the commencement of the constitution. Analyse.

संविधान के लागू होने के पश्चात से अनेक न्यायिक निर्णयों और संविधान संशोधनों ने मूल अधिकारों और राज्य की नीति के निदेशक तत्वों के मध्य के संतुलन को परिवर्तित कर दिया है। विश्लेषण कीजिए।

The Constitution under Part-III and Part IV provides for the Fundamental Rights and Directive Principles respectively.

Various judicial pronouncements have altered the balance b/w the two:

- ① In Gopal Nath (1967): SC held the fundamental rights to be sacrosanct and immutable. They were given a position superior to DPSPs.
- ② In Kesavananda (1973): SC reversed its earlier stand. Fundamental rights were declared amendable subject to the basic structure doctrine.
- ③ In Minerva Mills (1980): SC held that the constitution is founded

on the bedrock of balance b/w
fundamental rights and DPSPs.

Current Position

- ① Both FRs and DPSPs are amendable subject to the basic structure doctrine.
- ② FRs can be amended to give effect to DPSPs as long as it does not destroy the basic structure.
 ↓
 This is also evident from the fact that Articles 31-A, 31-B, 31-C have been upheld as constitutionally valid.
- ③ In I.R. Coelho (2007): SC held the "blanket immunity" under gm schedule to be unconstitutional.

Conclusion

As remarked in Minerva Mills, the constitution is based on

a delicate balance b/w FPs and
DPSPs. The exercise of one must
not come in the way of other.

20. Highlight the powers and functions of the Election Commission of India (ECI). Also, discuss the issues regarding the independence and impartiality of the ECI.

भारत के निर्वाचन आयोग (ECI) की शक्तियों और कार्यों पर प्रकाश डालिए। साथ ही, ECI की स्वतंत्रता और निष्पक्षता से संबंधित मुद्दों की चर्चा कीजिए।

The constitution under Article 324 provides for an Election Commission as an independent body to conduct free and fair elections.

Powers and Functions

- To register political parties.
- To give recognition - "National" & "State" to parties.
- Preparation of electoral rolls.
- Announcing schedule of elections.
- Enforcing model code of conduct, looking into cases of violation.
- Cancellation of polling in case of booth rigging or any malpractice.
- Disqualification of candidates found using criminal means.

Thus as evident above it has the power to conduct elections in a free and fair manner.

Issues regarding Independence

- ① CEC/EC have not been provided with a fixed tenure (under Constitution).
- ② They are not barred from further employment. This may lead to quid pro quo.
- ③ Constitution does not specify qualifications of either the CEC or EC.

Recent Controversies

Its independence has come into question over its inability to deal with "alleged" violations by ruling party.

- Further the EC failed to tackle the EVM controversy in a convincing manner.

Conclusion

Credibility in EC is essential for the conduct of free and fair elections, which form the core of a healthy democracy.

The appointment process (unilaterally by Government) must be amended to include members of opposition.