

# VISION IAS

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## GENERAL STUDIES (TEST CODE : 1487)

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Medium Eng./Hindi	ENGLISH	Registration Number	857571
Center	ONLINE	Date	26/10/21

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

1. 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)।
2. There are **TWENTY** questions printed in **ENGLISH & HINDI** इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी में छपे हैं।
3. **All questions are compulsory.**  
सभी प्रश्न अनिवार्य हैं।
4. The number of marks carried by a question/part is indicated against it.  
प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।
5. 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।
6. Word limit in questions, if specified, should be adhered to.  
प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।
7. Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.  
उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।

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## EVALUATION INDICATORS

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

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

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. Highlight the significance of 73rd and 74th Constitutional Amendment Acts. Also, discuss some of their important provisions.

73वें और 74वें संविधान संशोधन अधिनियम के महत्त्व को रेखांकित कीजिए। साथ ही, इनके कुछ महत्त्वपूर्ण उपबंधों की भी विवेचना कीजिए।

The global idiom of the idea of Neo-liberalism also paved way for passing of 73<sup>rd</sup> and 74<sup>th</sup> Amendment Acts to the Constitution in 1993.

### About the Acts

- The 73<sup>rd</sup> Constitutional Amendment Act (CAA) pertained to giving constitutional status to Panchayats in rural areas, while 74<sup>th</sup> CAA concerned with providing the same to Urban Municipalities.
- The amendments inserted Article 243 and 243A, along with XI and XII schedules.

### Important provisions

- In ~~73<sup>rd</sup>~~ CAA, the act provided direct election to members at all levels in Panchayats and Municipalities.

- 3-tier level of governance in rural areas, with Gram Panchayats, Panchayat Samiti and Zila Parishad.
- ~~para~~ Likewise, as per 74<sup>th</sup> CAA, an urban area was divided into wards, headed by Municipal Council / Municipal Corporation — chaired by a Mayor.
- $\frac{1}{3}$  reservation of seats to women.
- Reservation of seats for SCs / STs.
- The state government may provide reservation to other backward classes, by law.
- A State Election Commission to conduct elections to Panchayats and Municipalities every 5 years.
- A State Finance Commission to recommend distribution of grants to local bodies, to be constituted every 5 years.
- XI schedule provides Panchayats powers, while XII schedules provides such powers to Municipalities. eg. power to levy tax on small dams.

### Significance

- The amendment acts have given true meaning to grassroots democracy and democratic decentralisation.
- It has provided voice to the downtrodden SCs / STs.
- Empowered women and enabled them to be decision makers.
- Empowered Regular elections have been made mandatory - enabling them effective ~~etc~~ voice.
- financial autonomy as the governments have power to levy tax etc.
- emboldened the ideas of federalism, rule of law, autonomy.

The 73<sup>rd</sup> and 74<sup>th</sup> CAA have effectively made Gandhiji's dreams of decentralised democracy a reality.

2. Explaining the importance of Parliamentary privileges, discuss the need for their codification.

संसदीय विशेषाधिकारों के महत्त्व की व्याख्या करते हुए, उन्हें संहिताबद्ध करने की आवश्यकता की विवेचना कीजिए।

Article 105(1) of the Indian Constitution states that there shall be freedom of speech in Parliament.

↓  
This points out to the idea of Parliamentary Privileges which are special prerogatives given to a Parliamentarian while making business in the Parliament.

→ It could mean giving freedom of speech which is more protected than a freedom of speech provided to an ordinary citizen [19(1)(a)].

### Importance

→ to ensure that Parliamentarians speak their voice without fear or favour.

↓  
fear of defamation / sedition etc.

→ The Parliamentarians have a greater onus of making laws for public welfare - hence, it is important that they be protected from suits.

However, the same privilege does not extend to discussing the conduct of a judge. Also, the parliamentarian is made free from arrest 10 days prior to or after a session.

- An MP is not bound to be produced as witness in court
- The House has the power to punish for contempt.

↓  
If a conflict so arises whether Right to life is more important than Parliamentary privilege, it was held in G. V. K. Reddy case that Art. 21 will prevail. However, in Keshav Singh case, it was held that

Art. 21 > Art. 105 > Art. 19

## Need for Codification

→ There have been incidents of ~~use of &~~ misuse of Parliamentary privileges.

eg: In a case pertaining to Bombay legislature, the legislature put a reporter behind bars for criticising some of its policies.

eg In Keshav Singh case, the UP legislature ordered to pass privilege motion against 2 sitting high court judges!

→ to promote freedom of speech.

→ codification will ensure more certainty in law and avert this misuse.

however, Cons of codification entail :-

→ dilution of separation of powers, as written laws might attract interpretation by the courts.

→ will lead to more litigation, even increasing backlog.

→ Reduced discretion of legislature.

At best, the Privilege motions must be used sparingly, which will uphold both the spirit of Parliamentary privileges and freedom of speech.

3. Mention the objectives and composition of the National Human Rights Commission. Also, throw light on its effectiveness.

राष्ट्रीय मानवाधिकार आयोग के उद्देश्यों और संरचना का उल्लेख कीजिए। साथ ही, इसकी प्रभावकारिता पर भी प्रकाश डालिए।

The National Human Rights Commission (NHRC) was passed after the world renowned Paris Conference on Human Rights in 1993.

The NHRC Act, 1993 paved way for institutionalising human rights issues.

### Objectives

- to uphold the right to life of every individual which is sacrosanct, inalienable and inviolable.
- to also promote the objectives of courts in various cases such as the Hussainara Khatoon case, and Sunil Batra case which called Art 21 to be part of basic structure of the Constitution.
- to ensure speedy disposal of human rights issues, viz, extrajudicial

Killings, murder and violence, rape etc.

- to provide annual report to Parliament on its workings.
- to provide recommendations to Union and state governments towards ameliorating human rights issues.
- to take cognizance of human rights issues within 1 year of occurrence.

### Composition

- The Act provided for NHRC at national level and SHRCs at state levels.
- To be headed by Chairperson who is a retired judge of Supreme Court or a Chief Justice of High Court [per 2019 Amendment Act]
- The Chairperson <sup>and members</sup> to be there for 3 years
- has <sup>terms</sup> powers of a civil court

### Effectiveness

Pros :- ① The NHRC is regular in taking cognizance of human

rights issues.

e.g. Its initiative to bring light to extra judicial killings in AFSPA-governed Manipur - is commendable.

- (i) It acts as a watchdog to prevent government from committing excesses.
- (ii) It has instilled a faith in public as someone to report to in case of human rights violations.

However :-

- (i) Lack of conducting criminal trials has rendered its functioning ineffective.
- (ii) Its recommendations are not usually accepted by state governments.
- (iii) annual reports to government - irregular
- (iv) Overstaffed
- (v) Under-funded
- (vi) Cognizance of cases of maximum 1 year of occurrence has further limited its powers.  $\Rightarrow$  have reduced NHRC status to that of a paper tiger.

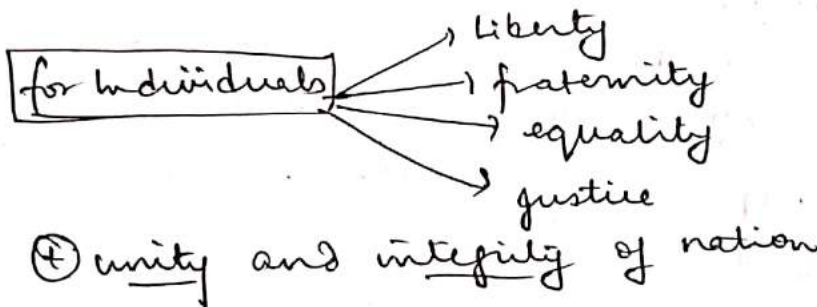
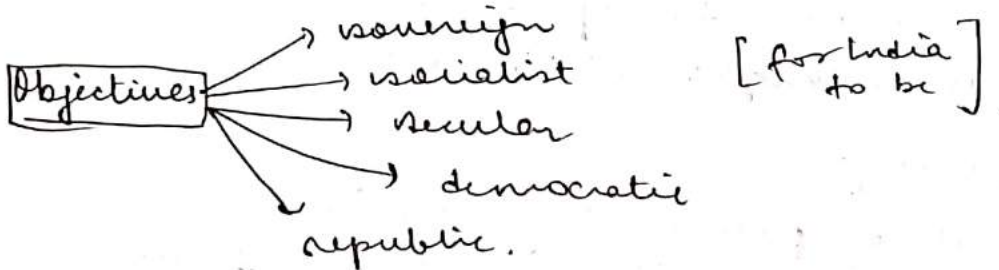
Way ahead

- (i) NHRC be given powers of prosecution.
- (ii) funding and filling of vacancies.
- (iii) human rights issues should not be barred by limitation.
- (iv) governments must promptly respond to its recommendations.

4. Discuss the significance of the Preamble of Indian Constitution. Can it be amended like any other provision of the Constitution?

भारतीय संविधान की उद्देशिका के महत्त्व की विवेचना कीजिए। क्या संविधान के किसी अन्य उपबंध की भांति इसमें संशोधन किया जा सकता है?

The Preamble is a document outlining the broad objectives of our Constitution, thus enabling the wishes of our Constitution framers — to happen.



### Significance

- The goals outlined give the government a sense of vision, on how to carry out governance.
- emphasis on the rights of individuals, to be achieved by the government.

- give government positive responsibilities so that India could one day become an egalitarian society.
- states the date on which our Constitution was adopted, that is, 26<sup>th</sup> January, 1950.
- to make individuals aware of their rights, viz, equality, liberty; and responsibilities, viz, fraternity, and justice.

### Amendability

- In Besuberi Union v Govt of India, it was held that since Preamble is not a part of Constitution, it could not be amended.
- The Court overruled this in Kesavananda Bharati case, wherein court held that Preamble is a part of the Constitution, and thus can be amended. However, it could not be amended so as to alter the basic structure.

→ Effectively, the government amended in its 42<sup>nd</sup> amendment Act - the Preamble, and inserted the words - socialist, secular and integrity, which were upheld.

The Preamble, as per top litigator Nani Palkhivala is an identity card of our constitution, has rightly said so.

5. Explain the significance and analyze the scope of judicial review in India.  
भारत में न्यायिक पुनर्विलोकन का महत्त्व स्पष्ट कीजिए और इसके दायरे का विश्लेषण कीजिए।

Judicial review refers to the power to review / amend / abolish an act of the legislature by the judiciary.

### Significance

- The power of judicial review has been inspired from America, which had stated in famous Marbury v Madison case that judicial review is a bedrock of any constitution.
- It ensures effective separation of Powers, wherein judiciary can strike off a law that might be arbitrary and against due process.
- curbs legislative excesses.
- upholds value of independence of judiciary.
- upholds civil liberties. In Minerva Mills v UOI, court held judicial review to be part of basic structure of constitution.

## Scope

- Article 13(2) of Constitution states that law contravening a fundamental right shall be void.
- In Shankari Prasad case, the Supreme Court, while deciding on the right to property, held that such law under Article 13(2) does not include a Constitutional amendment, and thus, not violative of Article 13(2). Herein, Court diluted the principle of judicial review & ~~undermining~~ <sup>undermining</sup> right to property.
- The same was reiterated in Sajjan Singh case. However, in KC Golak Nath case, Court struck down Constitutional amendment acts as being violative of fundamental right to property, and held fundamental rights to be immutable.
- ↓
- This was the first act of exercising judicial review over legislative action.
- In Kesavananda Bharati case, Court first held judicial review to be part of basic structure, thus, upholding this

principle. The Court added that such power is derived from the Constitution itself.

In ~~case~~ a nutshell, there, the Court has the power to review any action of the government that might violate a law, or in some way alter the basic structure of constitution.

6. What are the foundational principles on which our Constitution is based? Why do you think it was important to codify them in form of a written document?

वे कौन-से मूलभूत सिद्धांत हैं, जिन पर हमारा संविधान आधारित है? आपके अनुसार उन्हें एक लिखित दस्तावेज के रूप में संहिताबद्ध करना क्यों महत्वपूर्ण था?

The Constitution of India is a mosaic of principles derived from different countries, acts, our own history and philosophy.

The foundational principles include —

### ① Rule of Law

"Be you never so high,  
the law is always above you"  
— Lord Byron

- signifies that law is supreme.
- It is even greater than kings.
- embodied in various articles of Constitution, viz, Chapter - III, Art 13(2), Article 226, 142 [complete justice] etc.
- liberties of individual are derived from Constitution.

### ② Federalism

- means division of powers between Centre and States, in order to prevent

a conflict of power between the two.

→ although the word 'federal' has not been used in the Constitution, its provisions are many.

of VII schedule.

### (iii) Separation of Powers

→ entails division of powers and functions between different organs of government.

→ stated as a Directive Principle (Art 50).

→ In Ram Jawaya Kapoor case, held that separation of power is a basic feature of our constitution.

### (iv) Judicial Review

→ entails power of judiciary to curb arbitrary actions of government.

→ meant to uphold civil liberties.

### (v) Democracy

→ It is a government of the people, for the people and by the people.

→ provisions relating to elections, right to vote and to represent etc.

Why codified ?

The Indian Constitution is codified unlike the British, from where we got our power. The British constitution is uncodified and is a mixture of laws, common law principles.

however, codified in India due to -

- (i) certainty in law is ensured more through codification.
- (ii) will enable to check excesses of government
- (iii) will enable Judicial review, which can, through interpretation, derive the intent of constitution framers.
- (iv) to prevent totalitarianism of government, and to show that all the organs of government are equals.

Hence, above are the foundational values of constitution and why it was codified

7. Explaining the concept of federalism, mention the key features of federalism in India.

संघवाद की अवधारणा की व्याख्या करते हुए, भारत में संघवाद की प्रमुख विशेषताओं का उल्लेख कीजिए।

Federalism is defined as the division of powers between two sets of government, be it between Centre and state governments.

- The power of federalism ~~in India~~ was born in USA, wherein it is meant to be clear cut separation of power between Union and States.
- It ensures regional autonomy, financial autonomy, functional autonomy of the governments.
- Prevents encroachment of power into another's domain.
- prevents conflict between Centre and states.
- Ensures development without any hindrances.

## Federalism in India

- Although the word 'federalism' is not mentioned in Constitution, it has many provisions pertaining to it.
- The federalism India has is based on 'Canadian model' - which means a federal state with centralising tendency, also called 'Quasi federal'.
- Article 245, read with Schedule VII deals with 3 lists -
  - Union list - list I eg: defence.
  - State list - list II eg: agriculture
  - Concurrent list - list III eg: education
- Residuary powers are dealt by Union of Information Technology.
- As per Lord Jennings, India is federal during normal times, but unitary in emergencies. That is why it is not called totally federal, or totally unitary.
- Union government does not have power to tax state governments,

barring certain situations. Likewise, states do not have power to tax Union governments.

→ Such provisions have ensured regional autonomy in a multidiverse state - ~~of~~ giving them voice and averting chances of breaking up.

Thus, federalism in India can be said to be a success as being a unique model which caters to both regional aspirations and national integrity.

8. Give an account of the composition, mandate and functioning of the Inter-State Council in India.

भारत में अंतरराज्य परिषद् के गठन, अधिदेश और कार्यपद्धति का विवरण दीजिए।

Article 263 of Indian Constitution states that the President <sup>'may'</sup> ~~should~~ establish an Inter-State Council (ISC) in India.

### Composition

→ The ISC is headed by the Prime Minister, and comprises of Chief Ministers of different states and LGs of Union Territories of India.

→ The Constitution of ISC is not mandatory, as it is established when President deems 'fit'. Hence, in 1990s - an ISC was constituted to streamline administrative relations between Centre and states.

### Mandate

→ Its mandate is also to promote Union-state coordination in

various fields, be it agriculture, inter-state trade and movement, etc.

- A medium to channelise grievances of states before the Union.
- A forum to raise inter-state issues and resolution thereof.
- enhancing coordination would lead to more development - and empowerment of the masses.
- to discuss pressing issues pertaining to the states.
- to provide channel for effective communication of creative ideas put in making policies.

However, the functioning of ~~the~~ ISC has not been very effective as -

- It's used as a mere chat forum and no sound action.
- Irregular meetings

- tool for politicisation and polarisation as used by governments.
- non-attendance of major leaders.
- waste of public exchequer due to this.

### Way forward

- make ISC meetings mandatory.  
["may" be replaced with "shall"].
- appropriate media coverage and
- involvement of more stakeholders viz, civil society.
- should not be used as a tool for petty politics.
- its recommendations must be acted upon.

9. Although the Indian Constitution gives Rajya Sabha some special powers, yet on most matters the Lok Sabha exercises supreme power. Discuss.

यद्यपि भारतीय संविधान राज्य सभा को कुछ विशेष शक्तियां प्रदान करता है, तथापि अधिकांश विषयों पर लोक सभा को सर्वोच्च शक्ति प्राप्त है। चर्चा कीजिए।

The model of bicameralism in India is somewhat unique. There are many powers of parity between Rajya Sabha (RS) and Lok Sabha (LS) and some of disparity.

### Special powers of RS

→ Article 249 gives RS power to legislate on a state list in national interest.

→ RS has the power to introduce legislation on All India Services.

→ RS never dissolves.

however, the Lok Sabha exercises Supreme powers on most matters -

→ A money bill can only be introduced in LS

→ A money bill can be introduced, voted on by LS only. It can be sent to RS which can suggest recommendation.

which may or may not be accepted by LS.

- RS does not have power to pass adjournment motion, or a no-confidence motion.
- RS cannot pass motion to end emergency passed under Article 352. Only LS has such power.

The above shows that LS exercises more powers than RS, however, such powers are only a certain few. In other words, there is largely a parity between the two houses, barring some.

Parity between LS and RS —

- (i) A constitutional Amendment bill can be introduced in either house.
- (ii) RS can amend, refuse to pass an ordinary bill.

- (iii) Both have parity in cases of state and financial emergency.
- (iv) both have parliamentary privileges
- (v) both have equal powers in creation and alteration of states.
- Thus, by and large, both RS and LS enjoy a common ground. ~~It is just~~

10. What is the role of Comptroller and Auditor General (CAG) of India? Mention the constitutional provisions to ensure its independence.

भारत के नियंत्रक-महालेखापरीक्षक (CAG) की भूमिका क्या होती है? उसकी स्वतंत्रता सुनिश्चित करने वाले संवैधानिक उपबंधों का उल्लेख कीजिए।

Article 148 of the Constitution deals with the office of Comptroller and Auditor General (CAG) in India.

### ROLE

- to audit accounts of Centre and state governments, ADCs in VI scheduled areas.
- to audit accounts of local governments when asked to do so.
- to provide financial advice to government in power.

⇓  
all these to ensure that the public purse is not embezzled and is being used right.

### Independence of CAG

- salaries of the CAG is ~~charged~~ charged on the Consolidated Fund of India (CFI).

- The CAG has a fixed tenure, that is, 6 years ⇒ ensures he can function without fear or favour.
- The CAG is removed in a manner as a judge of the Supreme Court.
- CAG's reports are not represented by the ministers - to ensure the office of CAG is separate from the government.
- He takes oath of secrecy.
- He is not eligible for reappointment.

### Analysis on performance of CAG

- ~~he largely performs post mortem exercises, that is, after some scam has been done.~~
- CAG has been successful in unearthing many scams. of 26 scams.
- acts as an advisor to the government's by warning the latter

from unnecessary expenses .

However; —

- the CAG's role is largely fait accompli i.e. after some scam is over .
- CAG's excessive advice on government's policies may lead to policy paralysis .
- office of CAG is understaffed .

### Way forward

- CAG must be teethered with more powers, to ensure that some unhappening does not happen in the first place .

The CAG is a friend, philosopher and guide of our Constitution and the office must be used with almost true spirit .

11. It is often argued that state legislative council is an ornamental and superfluous body. Do you agree?

प्रायः यह तर्क दिया जाता है कि राज्य विधान परिषद् एक सजावटी और अनावश्यक निकाय है। क्या आप सहमत हैं?

State legislative council is the second chamber in a bicameral state.

At present, 6 states [Maharashtra, Karnataka, Andhra Pradesh, Telangana, Bihar, Uttar Pradesh] have functioning legislative councils, which derive their power from Art 159 of the Constitution.

The state legislative council <sup>(SLC)</sup> is oft commented as being a dilatory chamber, due to —

① A state assembly may introduce a bill and pass it to SLC, which may

- accept it, or
- reject it, or
- not work on it, or
- make amends

⇓  
whatever the SLC does, the state assembly may choose to ignore it.

In other words, the SLC's ~~out~~ may not have a force of law if Assembly chooses so. [hence, SLC = superfluous]

→ In the meantime, the bill may ~~be~~ be stalled for a maximum 4 months - which may delay passage of the bill

hence, called a dilatory

chamber.

→ Money bill can't be introduced in SLC.

However, it also has positive roles -

→ Being an indirectly elected body, it can act as a forum for discussion by experts → providing judicious opinions on a bill.

→ delaying a bill might give more chance to Assembly to rethink on it.

Nevertheless, doing a cost-benefit analysis, I opine that SLC is indeed a superfluous body, since apart from above-mentioned reasons, it also costs on public exchequer.

Don't write  
anything this  
margin  
(इस भाग में  
कुछ ना लिखें)

12. Compare the discretionary powers of the Governor of a state and the President of India.

किसी राज्य के राज्यपाल और भारत के राष्ट्रपति की विवेकाधीन शक्तियों की तुलना कीजिए।

The President of India and Governor are armed with certain discretionary powers, provided by the Constitution.

President Art 73(2) states that President shall act in aid and advice of Council of Ministers. However, there are certain instances of discretion:-

→ power to appoint ~~or~~ the Prime Minister when former PM dies.

eg: just like the President did after assassination of Indira Gandhi

→ power to appoint a government when no party is having clear majority.

→ asking for report from govt. on conduct of business.

→ power to dismiss government for want of clear majority.

→ power of poCKET veto, since there is no time limit for President to give assent to a bill - the President can delay it indefinitely.

eg: Gyani Zail Singh used the power of pocket veto of ~~or~~ the Post office bill which was prima facie violation of privacy of citizens.

Governor

→ Likewise, Constitution states that Governor shall act on aid and advice of State Council of Ministers, other than matters to be dealt by himself.

⇓  
this is an enabling provision, giving the governor under ambit of discretion than the President.

- ① Governor acts on discretion when he reports to President on failure of constitutional machinery of state (356)
- ② Report to Parliament on status of Schedule V areas.
- ③ Annual Report to Parliament on status of Schedule VI areas.
- ④ dismissal of state government for want of majority, however, in SR Bommai case it was held

that such dismissal can be done only after a floor test.

(v) Appointment of Chief Minister on Death of current CM.

(vi) asking for report from government on conduct of business.

The above clearly shows that governor has more discretionary powers than President. This is due to the fact that the 24th CAA was passed to limit discretion of the President only.



→ Parliament is not supreme -  
any arbitrariness can be checked by  
courts and struck down

↓  
because, law is supreme,  
unlike UK where there is  
Parliamentary supremacy.

→ neither is there Judicial supremacy -  
Judiciary is appointed by the  
Executive, and it works under  
the mandate of Constitution of India.

In conclusion, it could  
be said that India follows a  
unique model wherein law is  
supreme, sovereignty is of the  
people, and Judiciary is not  
supreme but acts as a watchdog  
to uphold the law.

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# VISION IAS™

Don't write  
anything this  
margin  
(इस भाग में  
कुछ ना लिखें)

14. Though not justiciable, why are Directive Principles of State Policy considered fundamental in the governance of the country?

प्रवर्तनीय न होते हुए भी, राज्य की नीति के निदेशक तत्वों को देश के शासन में मूलभूत क्यों माना जाता है?

Article 38 of Constitution states that Directive Principles of State Policy (DPSP) are fundamental in the governance of the country.

DPSP — not justiciable

- the DPSPs are not justiciable in order to avert the possibility of excessive litigation that might spring from government not abiding by it totally.

DPSP — fundamental —

→ Chapter IV of Constitution deals with DPSP, some of them being —

- redistribution of resources
- equal justice and free legal aid
- management of workers in participation of industries
- right to education (45)
- right to clean environment

- prohibition of liquor
- Uniform Civil Code
- maternity relief
- separation of state from judiciary etc.

→ The above enumerate some goals of the constitution, to be fulfilled by the state.

for example,

~~the~~ having a Uniform Civil Code (Art-44) ~~also~~ would highlight the spirit of secularism and equality among individuals.

→ Similarly, provision of free legal aid will help in upholding the right to life of ~~and~~ prisoners.

→ likewise, was held in MC Mehta case, a clean environment, which is a part of ~~the~~ right to life under Art-21.

In other words, when state strives to make provisions in consonance with

DPSP, it upholds the fundamental rights of the citizens — a necessary goal of every Constitution.

15. Discuss the emergence of the concept of 'Basic Structure' vis-a-vis power of the Parliament to amend the Constitution.

संविधान में संशोधन करने की संसद की शक्ति के सम्मुख 'मूल संरचना' की अवधारणा के उद्भव की विवेचना कीजिए।

The 'basic structure' is a judicial innovation invoked by the Supreme Court, which initially began due to tug-of-war between the legislature and judiciary.

In Shankari Prasad case, the 1<sup>st</sup> CAA was challenged as being violative of right to property. The judiciary sided with the government and upheld the law as according to it, 'law' under Article 13(2) does NOT include amendment — hence, an amendment violating a fundamental right is not void.

The same was reiterated in Sajjan Singh case. In Goldenath case, however, court struck down CAA's that were violative of right to property, holding that fundamental rights are transcendental and immutable.

→ This was modified in Kesavananda Bharti case, which held that fundamental rights could be amended provided that such amendment does NOT alter the basic structure of the constitution.

↓  
The basic structure is thus a set of features which are deemed unviolable & sanctified. e.g. Rule of law, judicial review. The concept was derived from Theory of 'Doctrine of Implied Limitations' derived by German courts after Nazi regime.

Subsequently, in Waman Rao case, Court held that laws after judgment of Kesavananda Bharti case, that were inserted in IX schedule (which give legislature immunity from challenge) would be void.

↓  
This was clarified in IR Coelho case, wherein ~~the~~ court said that

IX Schedule laws are NOT immune from judicial review.

Hence, the evolution of basic structure.

16. It is not absolute separation of powers, but a system of checks and balances with regard to the three organs of the state that the Indian Constitution envisages. Elucidate.

यह शक्तियों का पूर्ण पृथक्करण नहीं है, बल्कि भारतीय संविधान द्वारा परिकल्पित राज्य के तीन अंगों के संबंध में नियंत्रण एवं संतुलन की एक व्यवस्था है। स्पष्ट कीजिए।

Separation of powers (SOP) entail that power is divided between the three organs of government.

It depends on a country

whether SOP is strict or not.

→ The American model of SOP is strict and rigid, but not so in India.

→ In Indira Gandhi v Raj Narain, court held that the SOP envisaged in India is a broad & not a narrow one. It does not impute a rigid separation of powers.

Constitutional provisions showing SOP is not absolute -

- Art 73 states that the Council of Ministers are responsible to the Lok Sabha. ⇒ showing executive allegiance to legislature.
- pardoning powers of President

legislature performing Judicial functions :-

→ Art. 323A and 323B [Tribunalisation  
of Justice].

→ Executive performing legislative functions

→ Art 123 - President performing  
Ordinance functions

→ bye laws, delegated legislation,  
rules etc.

→ Art 213 - governor promulgating  
Ordinance.

~~The above examples show that~~  
~~despite~~

→ Also, the Constitution does not state  
separation of Powers to be a mandatory  
but a directive provision [Art. 50] as  
a DPSP → evoking that SOP is  
not supposed to be strict.

From the above,  
it can be effectively concluded that

Separation of powers is more akin to independence of Judiciary, as the legislature and executive work hand-in-hand while it is the Judiciary that works separate from them.

17. Differentiating between pressure groups and political parties, discuss how pressure groups exert influence on politics in India.

दबाव समूहों और राजनीतिक दलों के मध्य अंतर स्पष्ट करते हुए, चर्चा कीजिए कि दबाव समूह भारतीय राजनीति को किस प्रकार प्रभावित करते हैं।

Pressure groups and political parties are the defining factors in Indian democracy.

Pressure groups	Political parties
→ put pressure on the government to work for their cause.	either run the government or put pressure on the govt. if not in power.
→ do NOT contest elections.	contest elections.
→ have narrow <del>or</del> agenda	have <del>narrow</del> wider agenda
e.g. FICCI - lobbying for free trade and commerce.	e.g. Indian National Congress - for national development

How pressure groups exert influence ?

- lobbying with govt. to make decisions in their favour
- provide criticism to govt and its policies

↓  
ensure govt. accountability and transparency.

→ give voice to the affected.  
eg. The coming of RTI Act, 2005 is a result of vociferous protests and effort of pressure groups.

however, its influence might also lead to -

- excessive concentration of money and power toward one section
  - bribery and corruption
  - idrain of public wealth for refarious motives
- ↓  
undermining  
equality and  
justice.
- a nexus between pressure group - govt. might create a quid pro quo - impacting credibility of government.

Thus, pressure groups  
exert massive influence in the  
politics of India.

18. The legislature in a parliamentary system ensures executive accountability at various stages. Discuss in the context of India.

संसदीय प्रणाली में विधायिका विभिन्न चरणों में कार्यपालिका की जवाबदेही सुनिश्चित करती है। भारत के संदर्भ में चर्चा कीजिए।

Separation of powers ensures checks and balances. In the context of India, the legislature also exercises checks and balances, in form of -

### No Confidence Motion

→ If the Parliament feels that party in majority no longer has a majority, a No confidence motion can be passed in Lok Sabha.

### Adjournment Motion

→ to take call for discussion in extraordinary circumstance

→ if such motion fails, party in power has to resign.

### Censure motion

→ to criticize acts of govt.

### Question hour

→ to ask questions of ~~agent~~ public

importance to MPs - in form of oral or written questions.

### Zero hour

→ immediately follows the question hour, to ask on questions of urgent national importance.

### Office of CAG

→ to audit accounts of govt & check possibility of misuse.

### Parliamentary Committees

some parliamentary committees, such as Committee on privileges, committee on absence of members - to look into irregularity of conduct.

### Privilege motion

to examine breach of privilege.

Hence, there are enough checks and balances +

ensure executive accountability, on  
part of the legislature in India.

19. Why is the 42nd amendment of the Indian Constitution often referred to as the 'mini-constitution'?

भारतीय संविधान के 42वें संशोधन को प्रायः 'लघु संविधान' के रूप में क्यों संदर्भित किया जाता है?

The 42<sup>nd</sup> amendment act was passed by the Indira Gandhi government during the emergency period (1975-77) - its length so big as deemed by scholars as the 'mini constitution'.

features —

(i) inserted Art. 323 A [Administrative  
Tribunals  
&  
tribunals for  
other matters.  
323 B

(ii) inserted word

→ socialist

→ secular

→ integrity to Preamble.

(iii) Amended National Emergency provisions (352) -

→ extended legislature's term by 1 year.

→ Amended provisions of State Emergency.

- (iv) Added DPSPs -  
 → Right to clean environment (48A)  
 → participation of workers in management of industries  
 → Right to free legal aid (39A)
- (v) made DPSPs more important than fundamental rights. Law contravening DPSPs would be void.
- (vi) inserted few items to concurrent list, viz - forest education electricity etc.
- (vii) provision of All India Judicial Services
- (viii) Parliamentary Privileges - to adopt those of House of Commons in England, until a law in India is made.
- (ix) made election of PM - challenge to it as immune from judicial review.
- (x) Added fundamental Duties (Art- IV A) as per recommendations

of Swaran Singh Committee.

Hence, 42<sup>nd</sup> CAA was  
a mammoth act, eroding  
the Constitution.

20. Elucidate the relation between the President and the Council of Ministers as provided for in the Indian Constitution.

भारतीय संविधान में यथा उपबंधित, राष्ट्रपति और मंत्रि-परिषद् के मध्य के संबंध को स्पष्ट कीजिए।

Article 74 of the Indian Constitution states that the President <sup>'shall be'</sup> ~~is~~ bound by the aid and advice of Council of Ministers.

↓  
This means that the President is bound to accept the advice of Council of Ministers. He exercises no discretion. This was held in Sankar Singh v Union of India case.

- The President appoints the Prime Minister, who is the leader of the single largest party in Lok Sabha.
- The president ~~is~~ appoints the Council of Ministers after consultation with Prime Minister.
- The President may ask for reports from Council of Ministers, through the Prime Minister.

- If the Council of Ministers are dismissed when ~~the~~ party loses majority in Lok Sabha, by President, however, a mandatory floor test shall be conducted before dismissal, as held in SR Bommai case.
- The President promulgates ordinance during recess of the House, as per aid and advice of Council of Ministers.
- The President grants Pardon, reprieves, remissions, respite and commutes prisoners after aid and advice of Council of Ministers.
- The President commences sessions of Parliament and ~~terminates~~ also prorogues it on the Council of Ministers' advice.

Hence, the President is like a moon,

whose decisions revolve around the  
earth - the Council of Ministers.