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## GENERAL STUDIES (TEST CODE : 1391)

Name of Candidate	AKASH AGRAWAL		
Medium Eng./Hindi	ENGLISH	Registration Number	272427
Center	02	Date	26/11/19

### 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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# 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।

Constitution  
~~Article 105~~ provides for the parliamentary privileges which ~~the Constitution provides~~. These are coupled with various conventions & Rules of Procedure of Lok Sabha & Rajya Sabha.

Privileges of Parliaments are :

- It can prohibit anyone to publish <sup>about</sup> the proceedings of the House
- It has the right to hold secret meeting.
- Right to punish for breach of privilege.
- Its members ~~are not bound to~~ are exempted from taking part in the court proceedings <sup>for testifying</sup>
- No civil proceeding can be started without giving a 1 month notice.
- In case of arrests, arrests can be done in the House only with the permission of the Speaker.
- In Searchlight case (1960) the Supreme Court held that the rights of Parliament & its members are superior to the rights of an

individual & the House has the right to publish or not to publish its proceedings of the House.

- Proceedings of the House & statements made by its members shall not be questioned in a court of law.

Hence the privileges establish supremacy of the Parliament over the individuals which is essential for the independent & efficient working of the House. But on the same time it must not be ignored that these privileges must be codified so that they are not misused to silence genuine voices.



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।

Article 280 of the Indian Constitution empowers the President to appoint a Finance Commission in every 5 years or a period before it. Finance Commission is described as the balancing wheel of fiscal federalism.

It consists of members ~~with~~ who have been judge of SC, people with knowledge of economics, administration etc. Currently the 15<sup>th</sup> Finance Commission is headed by N.K. Singh. Although it <sup>gives</sup> recommendations <sup>only</sup> ~~and~~ those are generally accepted.

The functions of Finance Commission are:

- 1) It recommends the manner in which funds must be transferred & devolved to the lower levels.
- 2) It describes the revenue sharing formula according to which the funds are passed on from the Centre to state govts. For ex: The 14<sup>th</sup> Finance Commission increased the states' share from 32% to 42%.
- 3) It recommends steps to be taken to ensure financial prudence.
- 4) Article 234 I also establishes State Finance

Commission which recommends transfer of funds from the states to the local levels.

5) It advises the President of the manner in which accounts must be kept.

With the coming of NITI Aayog, Finance Commission must be linked with it & experts have also argued to make Finance Commission a permanent body so that devolution of funds linked with performance of various programmes & states becomes easy.



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।

Preamble embodies the fundamental principles - political, moral, religious - that our Constitution seeks to establish. It provides with the source of authority (people of India), nature of Indian state (Sovereign Socialist Secular Democratic Republic) & the goals (justice, equality, liberty & fraternity) of our Constitution.

SC in *Re Berubari Union* case, although acknowledged that Preamble is the key to the minds of the makers of the Constitution & it is a guiding light for the organs of govt. to act, it held that Preamble is not a part of the Constitution.

SC in *Kesavananda Bharati vs. State of Kerala* (1973) case held that Preamble is a part of the Constitution. Since 42<sup>nd</sup> C.A.A., 1972 amended the Preamble to add "Socialist Secular" & "integrity" to the Preamble, the question of amendability was also addressed. SC held that Preamble was amendable to the extent that the amendment doesn't violate the basic structure.

The court held that the 42<sup>nd</sup> C.A.A. of 1972 merely made explicit ~~was~~ what was already implicit in the Constitution. The fundamental rights, DPSPs and various other provisions of the Constitution establish India as a secular & socialist state. The DPSPs aim at establishing a ~~so~~ welfare state which is socially democratic. Also the Right to Freedom of Religion, Articles 25-28, as also Educational & Cultural Rights, Article 29, 30 ensure a secular state with protection to all.

Hence the SC lay to rest the questions on whether Preamble was amendable or not. This view was reiterated by the SC in *Minerva Mills* case. Although the Preamble in itself is not a part of the basic structure, but the principles it contains, secularism, socialism, democracy, to name a few are part of the basic structure. & give insight to the idea of India which the visionaries of the Constituent Assembly sought to establish.



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

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

Principle of subsidiarity seeks to devolve powers to the local levels to ensure grassroots democracy & bring~~ing~~<sup>good</sup> governance to the people.

Its importance are :

- As the powers reach to grassroots, people get involved in decision making hence strengthening democracy, rather than being mere spectators.
- As the corruption gets decentralised, it tends to get exposed faster.
- Holding accountability becomes easier at the local levels.
- People get to decide their priorities in governance as per their local needs.

The 73<sup>rd</sup> Constitutional Amendment Act which added XI Schedule & Part IX to the Constitution seek to fulfill the same goal. Through the Gandhian approach of democratic decentralisation, 73<sup>rd</sup> C.A.A. has ensured :

- Free & fair elections to Panchayats by establishing State Election Commission
- Timely elections in 5 years.

- 3 tier structure of governance .
- Reservation to the ~~to~~ marginalised sections in accordance with the Constitution .
- 33% reservation to women .
- Establishing State Finance Commission under Article 239I to ascertain finances to the local level, etc .

~~→~~ ~~Results~~

Although with problems of funds, functions & functionaries, with over 3.5 lakh local representatives the government has reached to the people. In over 2 decades of functioning we have given ourselves a robust structure of local government. It is for us to give life to this structure through democratic efforts of resolving its issues & fulfilling Gandhiji's ~~not~~ dream of democratic decentralisation in real 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 महत्त्व की व्याख्या करते हुए, उच्चतम न्यायालय की स्वतंत्रता एवं निष्पक्ष कार्य पद्धति को सुरक्षित और सुनिश्चित करने वाले प्रासंगिक संवैधानिक प्रावधानों पर प्रकाश डालिए।

Chapter IV of Part V & Chapter V, VI of Part VI establish an independent judiciary in the parliamentary setup of India ensuring separation of powers with a framework of checks & balances.

Constitution ensures independence & impartial functioning of Supreme Court by :

- Under Article 124, the judges of SC can only be removed by a majority of total strength of the ~~House~~ Houses and ~~&~~ not less than  $\frac{2}{3}$ rd present & voting, by both Houses individually.
- Terms of service of judges can't be changed to their disadvantage after their appointment.
- Judges are barred from private practice after retirement to ensure impartial functioning.
- The salary & pensions of judges are charged on the Consolidated Fund of India.
- The Court has the power to appoint its own staff.
- Parliament can enlarge the jurisdiction of Supreme Court (but can't reduce it)

Hence an independent judiciary is the custodian of Constitution in real terms. With the Memorandum of Procedure of appointment & elevation in place & the CJI ruling that CJI ~~is~~ being a Constitutional post is a post under RTI, the judiciary has set an example for the others to follow.

But also, as the Economic Survey 2018-19 suggests, steps must be taken to reduce pendency & filling vacancies. Also, by finalising Memorandum of Procedure for transfers, the doubts of "punitive transfers" must be put to rest. as independence doesn't means arbitrariness.



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।

Indian Constitution establishes a vibrant democratic state which grants to its citizens various fundamental rights. In accordance with this is the Article 19 which grants freedom of speech & ~~expression~~ to all its citizens.

Article 19 grants six freedoms:

- 1) Freedom of speech & expression
- 2) Right to assemble peacefully & without arms
- 3) Right to form associations, unions.
- 4) Right to move freely throughout the territory of India
- 5) Right to settle within the territory of India
- 6) Right to carry business throughout the territory of India (Right to Avocation)

But article 19 is also subject to the most of restrictions as the Constitution aims to create a harmonious balance b/w individual interests as well as interests of the society. In the interest of unity & sovereignty of India, security of India, public order, decency, morality, for friendly relations

With foreign states, in the interest of general public, in the interest of backward classes, ~~the~~ the rights can be curtailed.

Provocative speeches might hamper unity & integrity, friendly relations ~~set~~ with foreign state, security, public order, decency, morality. Right to free movement & settlement can hamper the unique culture & environment which the tribals have been preserving for centuries. ~~statement of~~ Right to carry business & movement might lead to prostitutes travelling which poses health hazards & hence isn't in the interest of general public. There might be businesses like organised crime which are not in the interests of society.

Hence, the Constitution provides ample freedom to all the citizens. The restrictions it imposes are not ~~an~~ encroachments on their rights but seek to create conducive environment for everyone to enjoy their freedom.



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 महत्त्व की उदाहरणों सहित चर्चा कीजिए।

The Parliament <sup>recently enacted</sup> ~~recently passed~~ The New Delhi International Arbitration Centre Act & Arbitration & Reconciliation Act 2019. Also Article 51 of the Indian Constitution seeks to promote alternative dispute redressal mechanisms along with other things.

Dispute resolutions outside the court of law through <sup>mutually</sup> agreed conditions is known as alternative dispute resolution mechanisms. such as arbitration, mediation, reconciliation, etc.

Benefits of ADR :

- Since dispute is addressed mutually, the acceptability of decisions is high
- Relatively lower costs due to early resolution
- Less time consuming as there are over 3 crore pending cases in the judiciary.
- Cost of compliance with legal procedure as well as administrative formalities reduced.
- Sigh of relief to the overly burdened judiciary.
- Ease of Doing Business improves as India's

worst performance is in enforcing contracts.

- ~~With~~ easier resolution will promote investments hence boosting India's growth in the goal towards \$ 5 trillion economy.
- NDIAC gives the potential of making India a global hub for arbitration promoting business opportunities related to it.
- It presents a better solution than tribunals which in turn have contributed to increase in pendency.
- As ~~so~~ various surveys have time & again linked judicial pendency with lack of social development, this will also promote ease of living.

With complying to the constitutional command of promoting arbitration, the govt. has taken a welcome step by passing the acts. But equal focus must be given on demand side & arbitration as a means of dispute redressal must be promoted while simultaneously striving towards reducing pendency in courts.



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।

Art 1(1) describes India as a Union of States. But on the same time Article 246 read with the III schedule establishes India as a federal country :

Indian federalism can be observed from :

- Dual polity as coordinate polity. Art 1(1) & Art 246 + III Schedule
- Under normal circumstances states have same jurisdiction over state list as the Centre has over Union list.
- Independent judiciary. Art 131, Art 132 + 141
- Written & supreme Constitution
- Bicameral legislature Art 79
- Rigid articles under Art 368

But on the same time India has also been described as "indestructible Union of destructible states". There exists a tilt towards Union, the reason of which was described by Dr. Ambedkar - India is a federal country. But in a moment of crisis, the authoritative position must be made clear, hence the centralisation. The provisions which hint towards centralisation are :

- Q • More no. of items in the Union list as well as more imp. items.
- Art 3 ; Union can change name, boundary, area of any state.
- Under 5 extra-ordinary circumstances, Parliament can legislate on state subjects.
- Single citizenship  
Single integrated audit machinery  
Integrated election machinery  
Integrated judiciary
- Institution of Governor, who is disrespectfully called as "agent of the Centre".
- Art 312 : All India Services, etc.

The S.R. Bommai judgment noted that federalism in India is not a matter of administrative convenience but that of principle. Yes, there are exceptions but exceptions are not rules. Hence the federal structure of India is rightly described as sui generis, which is unique in itself.



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 Indian Constitution establishes a parliamentary form of govt. as it is evident from:

- Nominal & real executive (Art 53, 74, 75)
- Real executive is the Council of Ministers headed by a PM (Art 74)
- The executive is drawn from the legislature.

~~But~~ Through various methods, the Parliament makes sure that the executive is held accountable:

- Question Hour & debates
- Parliamentary Committees
- President lays various reports like that of CAG, NCSC, etc. in the House which are examined by the House.
- By seeking clarifications through starred, unstarred questions.
- By the Rajya Sabha which represents the states & acts as a check on the majority govt.

But the declining efficiency of the Parliament because of frequent disruptions leaves less space for debates & discussions. Also, as per PRS Legislative Research, 71% of Bills were scrutinised by Parliamentary Committees in the 15<sup>th</sup> Lok Sabha.

a number which fell to 24% in the 16<sup>th</sup> Lok Sabha, thus compromising on the legislative's ability to hold the executive accountable.

Also in the present scenario where the govt. enjoys majority in both the Lok Sabha & Rajya Sabha, most Bills get passed easily. The conventions & privileges which vest the authority of deciding which Bill has to be referred to Committee makes matters more complicated. Recently it has also been seen that Financial Bills have been passed as Money Bills to evade Rajya Sabha scrutiny. Some Bills have not been given sufficient time to enable a meaningful debate.

As the Supreme Court held in *Kihoto Hollohan* case (1992), the Speaker is the guardian of rights & privileges of the House. He holds a high Constitutional office which ~~is~~ is why various discretionary powers including the right to take decision on defection has been vested in him. Hence he must behave impartially to uphold the integrity of the institution to make sure that the executive is held accountable. Also, the parties must rise above <sup>narrow</sup> political motives to make sure that efficient discussions are done in the House.



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।

Article 153 of the Indian Constitution establishes the office of governor as the head of state executive. He acts as alynch pin between the Centre & states & plays a vital role in ensuring cooperative federalism.

Reasons for having appointed governors :

- The constitutional role of the Governor requires him to act as the connecting link between the Centre & states & hence it is necessary that he adheres to the ideology of Centre & states to create a balance rather than creating a third opinion.
- Since Governor is the nominal head, the expenditure on election would make little sense.

Article 155, 156 which relate to the appointment of Governor & terms of office of Governor are the main bones of contention. This is because:

- People have no say in his appointment & he is nominated just by executive.
- Even though he isn't appointed by the people, he can hinder decision making <sup>through</sup> various veto powers available to him.
- No security of tenure merely makes him an "agent of the Centre"

Suggestions to the above problems have been given by various commissions like Sarkaria Commission, Punchhi Commission, National Commission to Review the Working of Constitution:

- Appointment by a collegium consisting of PM, Home Minister & CJI
- Appointing an outsider
- Security of tenure to ensure ~~the~~ independence

S.R. Bommai case  
The Supreme Court in ~~Kihoto Hollohan case (1992)~~ held that Governor is a <sup>high</sup> constitutional office & an office of trust. Hence he is expected to uphold his oath of office ~~of~~ "to preserve & protect the Constitution" & work in the best interest of the people by working with integrity & impartiality.



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।

Indian Constitution is based on the concept of separation of powers which is also a part of the basic structure as mentioned in Kesavananda Bharati case (1973). It establishes 3 pillars - Executive, Legislature, Judiciary - with 3 being separated, although not strictly.

Over time it has been seen that since executive & legislature rest on public vote, they refrain from taking bold decisions. Also the reluctance of both these organs forces the judiciary to take on their role. This role of judiciary where it fills in the void of executive & legislature to ensure justice is known as judicial activism.

For example: Liquor ban judgment

While the constitution envisages separation of powers, it is not without checks & balances. But when one organ tries to usurp hence the court must observe judicial restraint because:

- 1) This disturbs the separation of power with judiciary gaining upper hand.
- 2) Judicial decisions have to be ultimately implemented by the executive. But there may be executional challenges which judiciary hasn't accounted.
- 3) It might hamper the financial mathematics of the legislative as the amount spend <sup>might</sup> could have been planned on for something else.
- 4) Ultimately it is the legislature which is ~~responsible~~ accountable to the people & not the judiciary. Hence wrong decisions might create problems.
- 5) With the present pendency in courts, 2.93 crore in subordinate courts, 49 lakhs in HC & 60,000 in SC, it's ~~own~~ first priority must be to put its own house in order.

From RTI to decriminalising politics, judicial activism has led to many positive changes. But still this disturbance to the separation of powers isn't ideal & legislature & executive must make sure that they ~~th~~ don't ~~least~~ leave voids for the judiciary to fill in & must be proactive in their own duties.



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।

Article 79 of the Indian Constitution provides for a bicameral legislature with the Upper House (Rajya Sabha) & Lower House (Lok Sabha) in a federal setup of Indian democracy.

The constitutional position of Rajya Sabha & Lok Sabha w.r.t. various Bills is :

1) Ordinary Bills & Financial Bills :

Here both the Houses stand at the same pedestal as these Bills can originate in either House & need to be passed by simple majority of both the Houses. In case of a disagreement, there is a provision of Joint Sitting of both the Houses, which is presided by the Chairman of Lok Sabha.

2) Money Bills :

Rajya Sabha enjoys lesser powers than the Lok Sabha as a Money Bill can originate only in the Lok Sabha. Once it passes in the Lok Sabha, it is sent to the Rajya Sabha which can only give recommendations which the Lok Sabha may or may not accept. Hence the question of joint sitting is inconsequential.

3) Constitutional Amendment Bill:

The Bill can originate in both the Houses & needs to be passed by both the Houses with special majority (& also by state legislatures depending on subject matter). Hence the powers of both the Houses are similar. There is no provision of a joint sitting in case of disagreement.

The Rajya Sabha also has special powers under:

- 1) Article 249: If the RS feels that it is in the national interest, it can delegate the law making power of items in the ~~State~~ State list to the Parliament. (Majority of <sup>not less than</sup>  $\frac{2}{3}$ <sup>rd</sup> present & voting)
- 2) Article 312: RS can pass a resolution with a majority of <sup>not less than</sup>  $\frac{2}{3}$ <sup>rd</sup> present & voting for creation of All India Service. The Indian Forest Service was created in accordance with this article.

Hence the constitutional creates a beautiful balance between the powers of Lok Sabha & Rajya Sabha to make sure that ruling party doesn't usurp the power & consensus based decision making takes place while making sure ~~on~~ at the same time, that a deadlock doesn't result in

policy paralysis

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?

Indian federalism is described as "sui generis" & has its own unique features. Dr. Ambedkar described that the country is federal, but ~~there might arise~~ a moment of crisis arise, the authoritative position must be made clear, which is why a primacy to Parliament over State legislatures.

Art 246 read with the III Schedule gives the list of subjects on which the Union & States can legislate: ~~& Under normal~~

- Under normal circumstances, Centre has power over Union list & similar power exists with the states w.r.t. State list.
- On Concurrent list, Union has primacy over the states.
- If the President has ~~reserved~~ a provision, recommended a legislation, then ~~Centre~~ States have primacy over ~~Union govt.~~ Centre.

There exists unitary bias as there are more subjects in the Union list ~~is~~ than the State list. Also Item No. 97 of the Union list gives power to ~~the~~ legislate on all the subjects that are

not covered in the 3 lists .

Under 5 extra-ordinary circumstances, the Parliament can legislate in the subjects of state list :

- Article 249 ( National Interest : when RS passes a resolution )
- Article 250<sup>+353</sup> ( National Emergency )
- Article 252+356 ( President's Rule )
- Article 253 ( International Agreement )
- Article 365 ( Breakdown of constitutional machinery )

Hence with the distribution of powers b/w Centre & States, the constitution has ensured that the spirit of cooperative federalism thrives. But with time it has <sup>also</sup> been seen that no. of items in Union list <sup>& concurrent list</sup> have increased at ~~the~~ ~~to~~ the cost of items in the state list.

These developments must cease & a harmonious balance b/w States' & Centre's legislative powers must be maintained.



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 is an essential feature of the Indian Constitution & also a part of the basic structure. Indian Constitution clearly establishes 3 organs of the state - Legislature, Executive & Judiciary - with their respective powers. This system comes with various checks & balances so that one organ doesn't usurp the power of other, while ensuring good governance to the citizens at the same time.

But this system of separation of powers isn't watertight:

- Legislature & Executive: (Separation: Art 53, 79)
- ∴ India follows British parliamentary system, the Council of Ministers is drawn from the legislature
- Art 123: President can promulgate ordinances.
- Executive & Judiciary: (Separation: GP 1973)
- Executive has a say in judicial appointments
- Tribunals have ~~executive~~ non-judicial members as well.
- Judicial activism. Ex: *Devgan Ban*

- Legislature & Judiciary : (Art 79, Art 132-124)
- Judicial activism : Ex: General Data Protection Bill
  - ~~Breach of privilege is quasi~~ : quasi-judicial  
Disqualification U/A 102 process
  - Impeachment of judges (Art 124, 217)

Hence while the 3 organs are sufficiently separated to work independently towards achieving constitutional goals, the separation is not watertight to ensure that they nudge each other towards moving forward while ensuring balance of power amongst the organs. Whether it is judicial activism, or dispensation of justice ~~Judicial~~ through tribunals, this unique mix of separation & engagement guides the nation in its stride towards excellence.



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।

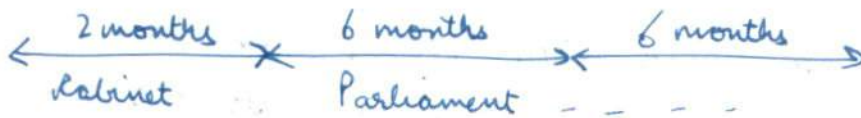
Under Article 352, President of India, on advice of the Cabinet, can declare National Emergency in case of external aggression or war, or in case of eminent threat of it.

National Emergency turns the federal architecture into a unitary one & hence effects the Centre-state relations:

- Article 250 read with Article 353 prescribes that Union can make laws on state list in case of National Emergency.
- The working of state becomes completely subordinate & is done on directions of the Centre.

If National Emergency is proclaimed under Article 358, ~~the~~ Article 19, i.e., Right to freedom of speech gets curtailed. If it is proclaimed under Article 359, ~~none of~~ the enforcement of rights mentioned in the order of proclamation of emergency gets curtailed, other than that of Article 20 & 21.

But as National Emergency provides many arbitrary powers to Union v.s.t. states, it is not without any checks & balances. It must be approved by both Houses of the Parliament by a special majority of not less than  $\frac{2}{3}$ rd part & voting & a majority of total strength of the House, within 2 months of proclamation of Emergency. This will be valid for the next 6 months after which the Parliament needs to give approval again.



National emergency changes the Centre - state relationship as well as impacts the fundamental rights but it is to be also noted that national security is paramount without which both of these won't make much of sense.



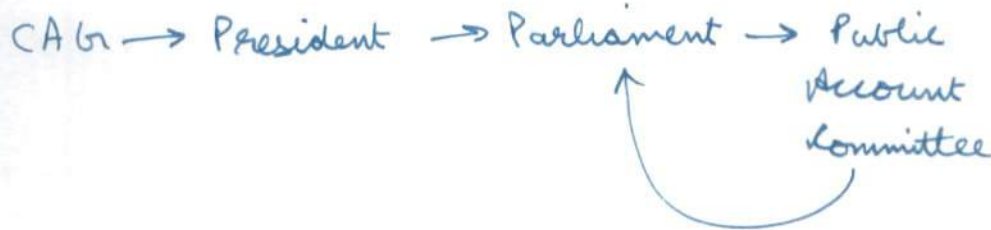
16. Analyze how the CAG ensures financial accountability of the Executive to the Legislature while working as an independent Constitutional body.

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?

Art 148 establishes the CAG as the head of Indian Audit & Account <sup>Services</sup> Dept. Dr. B.R. Ambedkar described it as the "most important office under the Constitution".

The CAG performs the following main functions:

- Audits the Consolidated Fund, Contingency Fund & Public Account Fund of India & states.
- Ascertains the proceeds of tax under Article 27A.
- Performance audit, financial audit & compliance audit of receipts & expenditures of Union & states.
- Audits any other body as the President requests.
- Performs Proprietary Audit (optional)
- Performs audits of PPP, PSUs and other bodies with substantial govt. stake.
- Submits reports to the President who lays it in the Parliament.
- Gives recommendations to ensure financial prudence in expenditure.
- Acts as friend & advisor to Public Accounts Committee



Hence by auditing the accounts, the CAG ensures that financial prudence was followed & any misuse of public funds doesn't go unreported.

The Parliament on examining the report can ~~ensure~~ <sup>ensure</sup> the Executive's accountability by debates in the House. Also the govt. must report within 3 months on the steps taken on the implementation of recommendations.

The CAG has emerged as the most trusted institute among the people, replacing the ECI which show its work in spite of lacking the "Comptroller" role. But on the same time it has been criticised to be overcritical & ~~its~~ its observations are sometimes found without backing of data & resources. Hence it must work on improving the quality of report & must give solutions along with the criticisms.



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?

India follows a parliamentary form of govt with President as the head of Executive who shall act on the aid & advice of the Council of Ministers (Art 53 & 74). Similarly, Governor is the <sup>executive</sup> head of the state.

Under Article 111 & Article 200, the powers of the President & Governor respectively are described w.r.t. giving assent to Bills. From here the veto powers of the President can be inferred as:

- 1) Absolute Veto: If the President withholds his assent to a Bill. This is done on advice of Council of Ministers & is applicable on all Bills except Constitutional Amendment Bills (24<sup>th</sup> C.A.A., 1971).
- 2) Suspensive Veto: The President can ~~ask~~ send the Bill back for reconsideration. But if the Bill is passed again by the legislature, s/he has to give assent. This is applicable only to Ordinary & Financial Bills.
- 3) Pocket Veto: Since the Constitution doesn't prescribe a time limit for the President to give his assent,

he can keep the Bill pending.

Art 201 ~~of the President~~ also gives the veto powers to the President w.r.t. state legislations if the Governor has reserved the Bill for her.

The Governor has same veto power as those of the President, as mentioned Article 200, along with the power of reserving a Bill for the President if:

- it is related to water tax
- related to provisions of judiciary or raises any questions to balance of federalism.
- if the Governor feels so

Hence the Governor can also reserve a Money Bill for the President which ~~can~~ have ramifications on the financial autonomy of the states.

The President & Governor are high constitutional offices & offices of trust. Hence they must work as per their oaths to "Preserve & protect the Constitution". As the National Commission to Review the Working of Constitution observed, many reserved Bills were pending with the President for more than 5 years. Such practices must be discontinued & the office must be led with high level of integrity & impartiality in the

*best interest of the nation*

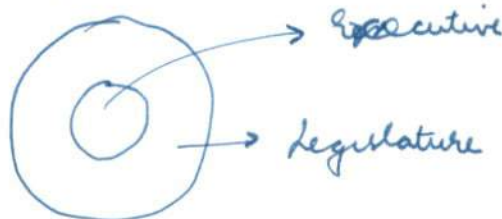
18. Even though the parliamentary system of government in India is largely based on the British parliamentary model it never became a replica of the British system. Elaborate.

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 Constitution was drafted by ransacking all the constitutions of the world. But this wasn't done without moulding the features to Indian requirements, & also quietly avoiding the flaws.

The Indian parliamentary s/m has been taken from the British parliamentary model. This can be ascertained from:

- Art 53 & 79: An executive with President as the nominal head & an independent bicameral legislature.
- ~~Independent~~ Art 74: Council of Ministers headed by the PM to aid & advise the nominal head. (Executive)
- Art 75(3): Council of Ministers ~~chosen from the legislature~~ & shall be collectively responsible to the Lok Sabha (legislature)
- Council of Ministers chosen from the ~~leg~~ Parliament, i.e., executive a part of legislature.



But there are few differences also :

- President of India is "more or less" like a ceremonial head but has many powers unlike the Queen of England which is completely a ceremonial head.
- In India, the Constitution is supreme & hence the Parliament is not sovereign as is in England.
- In Britain, the Speaker on election resigns from the political party to ensure neutrality. While this can be done in India too, it is not an established norm.
- India is a sui generis federal state where generally the states enjoy the same powers as the Union.
- India is a multi-party democracy while Britain follows 2-party system with a shadow cabinet to keep a watch on the govt. of the day.

Though the Indian Constitution is sometimes criticised to be copied, it was never a blind imitation. Seventy years later, we might <sup>still</sup> be arguing on language, reservations, cow slaughter, but it were the visionaries of the Constituent Assembly who showed us how to do it with context, conviction & respect.



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।

F.R. & DPSPs have been together called as the "conscience of Indian Constitution" by Dr B.R. Ambedkar. Part III of the Indian Constitution (F.R.) aims to achieve the goal of political democracy, while Part IV (DPSPs) aim to achieve the goal of welfare state through socio-economic democracy.

→ Relationship b/w F.R. & DPSP:

Supreme Court (SC) in *Champakam Dorairajan* case (1951) held that F.R. are transcendental & can't be abrogated to achieve the goals of DPSPs.

The 38<sup>th</sup> C.A.A., 1971 inserted new Article 31C which said:

31C(1): No law which seeks to fulfill the commitments under Article ~~38(2)~~ 39 (a) & 39 (c) shall be void for violating F.R. under Article 14, 19 & 31.

31C(2): No such law will be questioned in a court of law.

SC in Kesavananda Bharati vs. So Kerala (1973) case declared the 2<sup>nd</sup> provision as unconstitutional as it violates the basic structure by denying judicial review & hence giving indirect approval to the 1<sup>st</sup> provision.

This was again challenged in the Minerva Mills (1980) case where the SC held that:

- F.R. & DPSP are 2 wheels of a chariot
- The Indian Constitution is laid on the foundation of balance b/w F.R. & DPSPs.
- Law should seek to fulfill the duties under DPSPs while taking care of F.R. as both of these don't contradict but compliment each other.

Hence balance b/w F.R. & DPSPs <sup>has</sup> ~~have~~ emerged as part of the basic structure. ~~we must~~  
As the Supreme Court quoted Article 21, 48A & 51A(g) together while commenting on National Action Plan on Climate Change, similarly we must look at FR, DPSP & FDs as an organic whole in our stride towards excellence as a nation.



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।

Free & fair elections are the bulwark of democracy. In accordance with this the Constitution establishes, under Part XVI, ~~of the~~ an independent Election Commission (Art 324), a 3 member body consisting CEC & 2 other ECs.

Power & functions:

- Conducting timely elections
- Voter education & ensuring their participation
- Ensuring compliance to Model Code of Conduct & other laws under RPA 1951 to ensure free & fair elections
- ~~Directing~~ Advising the President w.r.t. disqualification of ~~the~~ legislators under Art 102 & Art 191.
- Suggesting steps to make the election process better (by eliminating vices such as criminalisation, role of money & muscle power, etc.)

Although since the 1990s, the Election Commission has been one of the most trusted institutions among the public, it is not without few issues such as <sup>allegations of</sup> siding with the ruling party.

↳ These are because of flaws in the provisions:

- CEC & ECs are not at same pedestal, & while CEC is constitutionally protected from arbitrary ~~dis~~ disqualification, ECs aren't.
- Their expenditure is not charged upon the Consolidated Fund of India which is why they are dependent on the govt. of the day for day to day functioning.
- In spite of being such an important Constitutional post, they are appointed by the PM & not by a collegium.
- They don't have power to prosecute on violation of their orders.
- They can register political parties but can't deregister them.

In regard to above issues, the recommendations of the 255<sup>th</sup> ~~law~~ Report of Law Commission ~~that~~ are relevant:

- Appointment by a collegium consisting PM, Leader of Opposition in LS & Home Minister.
- Giving same constitutional status to ECs & CEC
- Elevating the seniormost EC to CEC.
- Independent secretariat for ECI.
- Inserting new clause under RPA, 1951 to ~~de~~ give powers to take action against individuals & political parties.

An independent & impartial ECI is not just important to maintain the vibrancy of democracy but also to fulfill the goal of SDG 17: Strong Institutions.