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GENERAL STUDIES (TEST CODE : 1049)

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Medium Eng./Hindi	ENGLISH	Registration Number	323294
Center	ONLINE	Date	11-08-2018

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Q. No.	Maximum Marks	Marks Obtained	
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- 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.

1. Concerns regarding the wide formulation and indiscreet application of discretionary powers of the Governor need closer attention. Discuss. (150 words) 10

राज्यपाल की विवेकाधीन शक्तियों के व्यापक निरूपण एवं अविवेकपूर्ण अनुप्रयोग संबंधी चिन्ताओं के संदर्भ में सावधानीपूर्वक ध्यान केन्द्रित करने की आवश्यकता है। चर्चा कीजिए।

Ans 1. The Governor is the chief executive head of a state. All executive actions are carried out under his name. Under Article 163 the Governor acts as per the aid and advice of the council of Ministers headed by the chief Minister, except when he has to act according to his discretion. Discretionary powers can be of the 2 kinds:

Constitutional

- give or withhold assent (Article 200)
- reserve a bill for President's assent (Ar. 201)
- ordinance making power (Article 213)

Situational

- in case of a hung assembly
- dissolution of the assembly
- breakdown of Constitutional machinery.

However, concerns have arisen with

regards to the misuse of discretionary power of the governor. Especially as seen in the case of Goa, Manipur and Karnataka state assembly elections.

The question arose as to whom to invite to form a government

→ largest party or a

→ pre-poll alliance.

Discrepancies were seen in the use of discretionary power.

The Punchhi Commission emphasised on steps to be taken by the governors according to priority being given to largest party, then a pre-poll alliance.

Supreme Court emphasises on the rule of floor test for determining majority.

Thus, the discretionary powers must be exercised prudently taking into account the Constitutional provisions & safeguards.

X

2. Explain the concept of subordinate legislation in India. Also discuss the mechanisms for their scrutiny and control. (150 words) 10

भारत में अधीनस्थ विधान की अवधारणा की व्याख्या कीजिए। साथ ही उनकी संवीक्षा और नियंत्रण की क्रियाविधियों की भी चर्चा कीजिए।

Ans(2)

Subordinate legislation, also referred to as delegated legislation is the process whereby the executive frames rules and regulations for the implementation of the Parent Act.

Merits of Subordinate legislation

- saves time of the Legislature as it has already framed the Act. The intricacies of administration are dealt by delegated legislation
- quicker process than the procedural law making. Thereby ensures timely implementation of the policy
- technical expertise is effectively ensured.

However, subordinate legislation is challenged on the grounds that it is executive overreach in the legislative domain. Further, there is no effective mechanism to ensure accountability.

Nonetheless, scrutiny and control is established by -

- following the procedures thereby reducing the scope of discretionary dictat
- remains under the ambit of the parent act
- open to the public, as it is published in the Gazette of India and PIB website.

Thus, delegated legislation proves to be an effective tool for policy formulation as well as implementation.

— X —

3. The crucial position accorded to the Speaker in Indian legislatures, makes it imperative to protect them from undue political pressures and incentives. Examine. (150 words) 10

भारतीय विधायिकाओं में अध्यक्ष को प्रदान की गई महत्वपूर्ण प्रस्थिति वस्तुतः उन्हें अनुचित राजनीतिक दबावों एवं प्रोत्साहनों से सुरक्षित करना आवश्यक बनाती है। परीक्षण कीजिए।

Ans 3.

Speaker is the chief presiding officer of the Lok Sabha. The neutrality of the speaker forms the bedrock of deliberative, Parliamentary democracy. In order to ensure this he cannot cast a vote in the first instance, but only in the case of a deadlock. Further he/she can forgo the party membership without incurring the defection clause.

However, the role of the speaker has come to be challenged on the following grounds :-

- > increased prejudice and partisanship
- > no convention of foregoing party

party membership.

- > coalition politics and rise of a ~~no~~ number of political parties and aspirations have proved to be a challenge in efficiently discharging functions.
- > Anti-defection Law (52 Amendment Act, 1985) - sole responsibility of the Speaker to decide the disqualification.
- > Deciding whether a bill is a money bill or not. ~~Passing~~ Bypassing the Rajya Sabha eg) Aadhaar Bill

Further the Speaker is from the ruling party and is generally a minister immediately before getting elected.

Hence it is important that the institution of Speaker is protected from getting politicized as he/she is the lynchpin of Parliamentary democracy.

_____X_____

4. The Departmentally-Related Standing Committees have been referred to as mini-parliaments in India. Highlight their relevance in a democratic polity and discuss, with examples, how they improve the overall effectiveness of the Parliament. (150 words) **10**

विभागों से संबद्ध स्थायी समितियों (विभागीय स्थायी समितियों) को भारत में मिनी-संसदों के रूप में संदर्भित किया गया है। लोकतान्त्रिक राजनीति में उनकी प्रासंगिकता पर प्रकाश डालिए और साथ ही उदाहरण सहित चर्चा कीजिए कि वे संसद की समग्र प्रभावकारिता में किस प्रकार वृद्धि करती हैं।

Ans 4

5. Enumerate the issues associated with functioning of tribunals in India. How can these be addressed? (150 words)

10

भारत में अधिकरणों की कार्यपद्धति से संबद्ध मुद्दों को सूचीबद्ध कीजिए। इनका समाधान कैसे किया जा सकता है?

Ans(5) The Constitution under Article 323A and 323B envisages Tribunals as alternative adjudicatory bodies, ~~not~~ with the chief aim of reducing the burden of the judicial system. Further they provide an element of flexibility, accessibility and expertise.

However there are several issues with ^{their} functioning :-

- > No element of finality as appeal lies straight to the Supreme Court.
- > failed to reduce the burden of the judicial system
- > failed to provide the sectoral expertise as it is generally headed by retired judges of the Supreme Court or High Courts
- > Bypasses the appellate route of

high Courts

- > lack of accessibility, as most of the Tribunals do not have a significant number of benches
- > depend on outside mechanisms to enforce their verdicts. Do not have contempt powers.

How can it be addressed :

- ↳ laying down a mechanism for e-filing / e-court to increase accessibility
- ↳ providing them with powers to enforce compliance
- ↳ laying down qualifications of members.
- ↳ appointment by a Panel
- ↳ decision should be made binding in routine cases. Appeal only in exceptional cases.

Thus Tribunals can prove to be effective tools for dispute resolution and policy adjudication.

6. Examine the significance of Gram Sabhas, as mentioned in Article 243A of the Indian constitution, in the development process with special reference to Fifth Schedule areas. (150 words) 10

पांचवीं अनुसूची के क्षेत्रों के विशेष संदर्भ में विकास की प्रक्रिया में, भारतीय संविधान के अनुच्छेद 243A में वर्णित ग्राम सभाओं के महत्व का परीक्षण कीजिए।

Ans 6 :

GRAM SABHAS have been accorded a pivotal role in establishing effective and decentralised democracy by ensuring people's participation.

It consists of all the adult members who are eligible voters of the Panchayat area. The role of Gram Sabha is extremely significant in ensuring grassroots democracy. Citizen participation forms the heart and soul of democracy.

The Panchayats (Extension to Scheduled Areas) 1986 further empowers the Gram Sabha. It performs the following functions in the Scheduled areas across

the 10 states in the country:

- decides the beneficiaries of social welfare schemes
- regulates money lending
- regulates local markets/mandis and sale of liquor
- social audit
- mining license for minor minerals
- regulates use of forest produce
- approves land acquisition
- dispute resolution according to local customs & traditions.

Thus the Gram Sabha, especially in the case of Scheduled areas, plays a very significant role in expanding the scope and functioning of participative democracy in India.

—X—

7. The Rajya Sabha is merely a secondary house rather than a second house in the Indian Parliamentary system. Critically analyze the statement.) Also, compare and contrast the position of the Rajya Sabha vis-à-vis the State legislative councils. (150 words) 10

भारतीय संसदीय प्रणाली में राज्यसभा वस्तुतः दूसरा सदन होने के स्थान पर एक दूसरे दर्जे का सदन मात्र है। इस कथन का आलोचनात्मक विश्लेषण कीजिए। साथ ही, राज्य विधान परिषदों के मुकाबले राज्यसभा की स्थिति की तुलना कीजिए और अंतर बताइए।

Ans 7

The Rajya Sabha or the Upper House of the Indian Parliament effectively represents the states and establishes federal equilibrium.

However its role is criticised on the following grounds:

> With reference to unequal powers as compared to the Lok Sabha in the following cases:

↳ money bill

- can be introduced only in the Lok Sabha

- Rajya Sabha can only delay it by 14 days

↳ passage of budget - Rajya Sabha can only discuss it

↳ no ^{effective} power over the government

- cannot pass No Confidence Motion as the government is

responsible only to the Lok Sabha
However the Rajya Sabha has certain
extra rights → Article 249 - to empower
Parliament to legislate on a matter of
state list

→ Article 312 - form an All India Service
Equal Powers - ordinary bills
- approval of emergency
- ministers
- laying of Reports etc.

RAJYA SABHA vis-a-vis LEGISLATIVE COUNCIL

- Rajya Sabha is a reviewing chamber
whereas the Legislative Council is
just a delaying House with no
effective powers.
- Rajya Sabha represents federal setup.
Legislative Council has no significant role.
- Rajya Sabha is relatively homogeneous.
Legislative Council is extremely heterogeneous
∴ inherently weak.
- Legislative Council's existence depends
upon the Legislative Assembly.

Thus, the Legislative Councils
have been regarded as secondary
house and merely ornamental.

8. A major shift is needed in the institutional framework of the Central Water Commission (CWC) and the Central Ground Water Board (CGWB) to make water management more holistic and multidisciplinary. Discuss in the context of Mihir Shah Committee recommendations. (150 words) **10**

जल प्रबंधन को अधिक समग्र और बहु-विषयक बनाने के लिए केंद्रीय जल आयोग (CWC) एवं केंद्रीय भूमि जल बोर्ड (CGWB) के संस्थागत ढाँचे में महत्वपूर्ण परिवर्तन की आवश्यकता है। मिहिर शाह समिति की अनुशंसाओं के संदर्भ में चर्चा कीजिए।

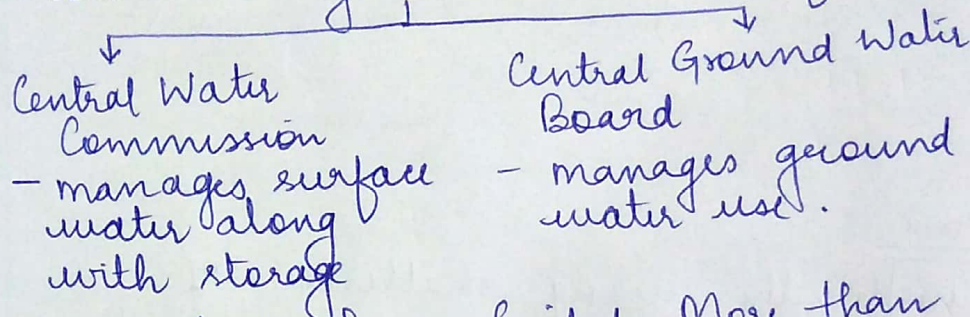
Ans 8

With the rising challenge of climate change and with it the associated water crisis, the need for holistic and efficient water management is imperative.

The Mihir Shah Committee, 2016 laid down the following recommendations -

- ↳ establish National Water Commission for the holistic water management
- ↳ put water in the concurrent list to effectively utilize the benefits of Centre-state cooperation
- ↳ judicious use of both surface and ground water
- ↳ emphasised on medium and small irrigation methods
- ↳ promote watershed management and community participation.

The Institutional mechanism for water management consists of:



However, both have failed. More than 80% of agricultural farmers continue to depend on groundwater leading to rampant overuse and depletion of ground water table. Large dams and reservoirs have failed to reuse and recycle water.

Thus the Mihir Shah Committee recommends establishing a National Water Commission with a chief commissioner along with expert commissioners on hydrology, river management, agronomy etc. This will effectively and efficiently manage water and check the deepening water crisis in India.

_____ X _____

9. On what grounds can a person be denied the right to contest elections to the Parliament in India? Will a life-time ban on those convicted of heinous crimes address the problem of criminalisation of politics? Discuss. (150 words) 10

किसी व्यक्ति को भारत में संसद हेतु चुनाव लड़ने के अधिकार से किन आधारों पर वंचित किया जा सकता है? क्या जघन्य अपराधों के दोषी व्यक्तियों पर जीवनपर्यन्त प्रतिबंध से राजनीति के अपराधीकरण की समस्या का यथोचित समाधान होगा? चर्चा कीजिए।

Ans 9 : India follows a Parliamentary Democratic model, where every citizen of, with the required qualifications can stand for elections. However there are various grounds that deny this, in order to preserve and safeguard the principles of free and fair elections. These grounds are as follows:-

- committing electoral offence or malpractise
- promoting enmity on grounds of religion, race, caste etc
- promoting untouchability
- dismissed ^{from any govt. service} on grounds of corruption
- having interest in any government contracts or agreements.

→ convicted to imprisonment for more than 2 years (Section 8, RPA)

These grounds are provided by the Representation of Peoples Act, 1951. The Constitution also lays down the following grounds:

- fails to be a citizen of India
- goes bankrupt (adjudged insolvent)
- unfit in mind ~~and~~ or body
- unsound mind

Recently the Election Commission has been emphasising the need to impose a lifetime ban on those convicted of heinous crimes.

Merits :- → gets rid of criminals from entering politics

- ensures trust and faith of citizens
- effective deterrent to those with political ambitions.

However change needs to be holistic and not piecemeal. Such an act can definitely be an effective instrument but not a long term strategy. Real change will come by increasing voter awareness, participation and providing means for honest public spirited individuals to stand for elections eg) state funding.

10. Directive Principles can be considered as even more important than the Fundamental Rights because they provide a positive thrust towards welfare. Discuss. (150 words) 10

निर्देशक तत्वों को मूल अधिकारों से भी अधिक महत्वपूर्ण माना जा सकता है क्योंकि वे कल्याण की दिशा में एक सकारात्मक प्रेरणा प्रदान करते हैं। चर्चा कीजिए।

Ans 10 : The Directive Principles enumerated in Part IV of the Indian Constitution aim to establish a welfare state, promoting justice-social, economic and political, thereby upholding social and economic democratic principles.

However, these are not enforceable in the court of law and merely form guidelines to be kept in mind while formulating policies, by the state. According to Granville Austin Directive Principles along with the Fundamental rights form the CONSCIENCE OF THE CONSTITUTION.

These are positive in nature as they promote the state

to formulate policies while adhering to the Socialistic, Gandhian and liberal principles to promote welfare and well being of all.

With regards to the importance of Directive Principles vis-a-vis Fundamental Rights, the Supreme Court emphasised on the principle of CONSTRUCTIVE HARMONY that is both are supplementary and complementary. The present position is that the State can formulate a law giving implementing Article 31(b) - using material resources for welfare of all and Article 31(c) - reducing inequality in the society, under Fundamental Rights.

Thus Directive Principles are the beacons that emphasise on welfare of all.

11. In light of demands for replacement of the FPTP (First Past the Post) system with other alternatives, compare the merits and enumerate the challenges associated with replacing the current system. (250 words) 15

FPTP (फर्स्ट पास्ट द पोस्ट) प्रणाली को अन्य विकल्पों से प्रतिस्थापित किए जाने की मांगों के प्रकाश में, वर्तमान प्रणाली के लाभों से तुलना करते हुए इसे प्रतिस्थापित करने से सम्बंधित चुनौतियों को सूचीबद्ध कीजिए।

Ans 11

India adheres to the system of First Past the Post (FPTP) or the MAJORITARIAN SYSTEM for implementing representative democracy.

The FPTP system was chosen on grounds of simplicity and familiarity. Under this the candidate securing the maximum votes stands elected.

However it is criticized on the following grounds :-

↳ does not represent the will of the people.

↳ results in wastage of votes

For example in the 2017 UP elections, candidate party with as much as 20% of the votes failed to secure

even a single seat, on the other hand the one with 28% of the votes formed the government.

Thus PTP fails to show the true aspirations of the voters and may result in 'tyranny of the majority'.

PROPORTIONATE System is an effective alternate. Merits :

- ↳ represents the will of the people
- ↳ give chances to minorities to get elected
- ↳ provides wider representation
- ↳ does not lead to wastage of votes.

Demerit : By-election proves to be a challenge. High voter literacy fails the essence of this system as voters are easily influenced by political strongholds. Expensive and complex for a large democracy like India.

Recently there has been a demand for

HYBRID/MIXED system. Under this the positive features of both FPTP and Proportional system are amalgamated.

It is of 2 types :

→ Mixed Member Proportional - results are linked

→ Mixed Member Majoritarian - results of the 2 systems are not linked.

Merits : - under representation
- lesser electoral fatigue
- less wastage of votes

Demerits : Complex and difficult to implement in Indian context because of poor voter literacy and awareness.

Thus, the framers of our Constitution after due deliberations adopted FPTP system for elections to the Lok Sabha and Legislative Assemblies.

—X—

12. Despite long term recognition of the problem of pendency of cases in the courts, limited progress has been made in reducing their number. What are the possible reasons for such a scenario? Suggest a framework of measures that can be taken to address this issue. (250 words) 15

न्यायालय में वादों के लंबित रहने की समस्या की बहुत समय से पहचान होने के बाद भी इनकी संख्या को कम करने की दिशा में सीमित प्रगति ही हो पाई है। ऐसे परिदृश्य के लिए संभावित कारण क्या हैं? इस समस्या को हल करने के लिए विभिन्न उपायों की एक रूपरेखा का सुझाव दीजिए।

Ans 12

[YATHO DHARMA, TATHO JAYAHIA]

(Where there is justice, there is victory). The Preamble enshrines the principle of Justice - social, political and economic and envisages a strong, independent judiciary to play a proactive role to bring about social transformation by ensuring that justice is accessible to all.

However the judicial system is heavily overburdened. According to National Judicial Data Grid more than 3.14 crore cases are pending in the judiciary. Reasons for high pendency:-

> Heavy government litigation - as much as 46%

- > Vacancies - more than 50% in several High Courts
- > Lack of infrastructure and resources
- > Lack of effective alternative dispute Redressal mechanisms.

Although several steps like - e-courts, evening courts, promoting plea bargaining in criminal cases, mediation, arbitration, conciliation, Lok Adalats, Gram Nyayalaya etc the pendency continues to exist. The Reasons are :-

- > lack of legal awareness among common man.
- > Appeal Culture - The Verdicts of ADRs, Tribunals etc are always appealed further. For eg) Out of 884 verdicts given by the Supreme Court in the year 2014-15 only 64 were of original jurisdiction.
- > Vacation - On average the higher judiciary functions for only 188 days.

> Ineffective utilization of working hours because of unscientific and random listing of cases.

> Ineffectiveness of lawyers - chief aim being advancing the date of hearing.

Measures that can address this:

- filling the vacant posts in the judiciary by either bringing the necessary changes in the NTAC or effectively implementing the Memorandum of Procedure
- Proper utilization of working hours by use of ICT eg) e-filing
- Reforming the Criminal Justice System according to MAJUMDAR Committee recommendations.
- Increasing legal awareness among citizens by promoting transparency and accountability.

Although judiciary is often criticized for suffering from several challenges and being in an 'institutional quicksand', it is imperative that the pendency of cases is reduced.

13. Despite the phrase 'due process of law' not being included in Article 21, the Supreme Court, over the years, has adopted the doctrines of 'procedural due process' and 'substantive due process' into Indian constitutional law. Comment. (250 words) 15

'विधि की सम्यक् प्रक्रिया' वाक्यांश के अनुच्छेद 21 में सम्मिलित नहीं होने के बावजूद, समय के साथ सर्वोच्च न्यायालय ने 'प्रक्रियात्मक विधि के अनुसार' एवं 'सारवान विधि के अनुसार सम्यक् प्रक्रिया' के सिद्धांतों को भारतीय संवैधानिक कानून में अपना लिया है। टिप्पणी कीजिए।

Ans 13.

Article 21 of the Constitution establishes the United Kingdom model of 'procedure established by law'. According to it, the legality of arrest and detention is determined by the following three tests :

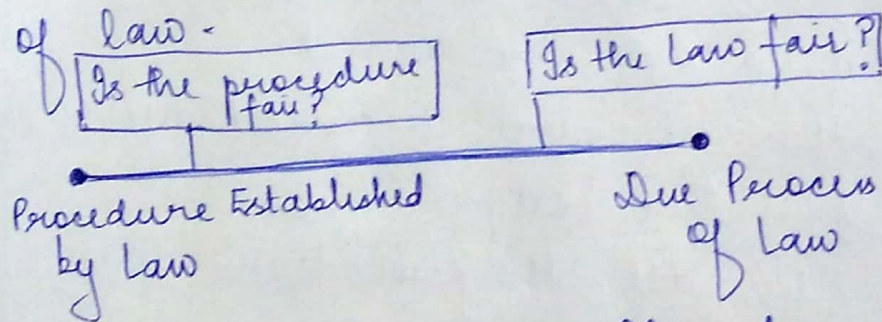
- whether there exists a law that allows the arrest
- whether it was framed by a legislative body
- whether all the procedures were followed.

The Court, tests the executive action on these three basis and determines the legality. It does not look

into the fairness or justness of the law. Thus procedure established by law safeguards from arbitrary action of the executive but not the legislature.

On the other hand, "due process of law", as practised in the US, looks into the inherent goodness of the law (substantive due process) along with the fact that the law is fair, just and reasonable. (procedural due process).

Thus it provides a broader and more liberal interpretation of law -



The Supreme Court in Maneka Gandhi Case, 1980 incorporated the doctrine of due process of

law by widely and liberally interpreting Article 21 of the Constitution. It further incorporated the principles of natural justice while determining the legality of a law. Thus providing safeguards from both arbitrary action of the Executive and the Legislature.

— X —

14. Can we say that cooperative federalism in India has strengthened in the post-liberalisation era? Give reasons in support of your answer. (250 words) 15

क्या हम कह सकते हैं कि उदारीकरण के बाद की अवधि में भारत में सहकारी संघवाद सुदृढ़ हुआ है? अपने उत्तर के समर्थन में कारण प्रस्तुत कीजिए।

Ans 14

Cooperative federalism refers to a federal setup based on the theme "strong states make strong nations." It promotes cooperation between centre and the state along with between states, thus expanding the nature and scope of horizontal federalism.

The post-liberalization era is marked by greater economic and financial opportunities both for the centre and the states.

Growth and development of a nation is determined by inclusive growth. In order to achieve this national vision both centre and

states have enhanced cooperation. This is reflected through following:

- > NITI Aayog - National Institute for Transforming India replacing the Planning Commission. It has wider representation of states and considers them as active participants. Its core goal is promoting cooperative federalism.
- > Goods and Services Tax : The passage of GST Bill and formulation of the GST Council to establish "one nation, one market."
- > E-NAM - National Agricultural Market to form a single market and connect buyers and farmers across all states.
- > All the states are actively involved in achieving the INDC targets thereby promoting renewable energy.

Thus cooperative federalism is definitely strengthened in the post liberalization era. However various challenges have emerged -

- excessive competitive federalism
- imbalanced regional growth
- internal politicization over larger national vision. Each state is trying to maximise its gains by aggressive means.
- rise of subnationalism and other challenges like immigration, 'son of the soil' etc.

Thus, the need is to follow a balanced approach adhering to competitive-cooperative federalism, as propounded by the Prime Minister and the Niti Aayog.

—————X—————

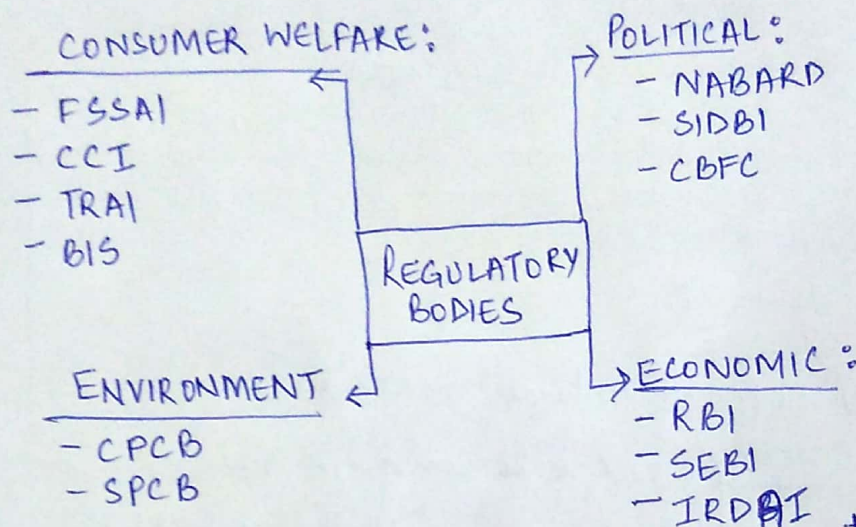
15. Faulty regulatory policies can have a severe adverse effect on the efficient interplay of market forces and end up harming public interest. Examine in the context of systemic issues pertaining to regulatory environment in India. (250 words) 15

दोषपूर्ण विनियामक नीतियों का बाजार की शक्तियों की कुशल अंतर्क्रिया पर गंभीर विपरीत प्रभाव पड़ सकता है और सार्वजनिक हित को नुकसान पहुँच सकता है। भारत में विनियामकीय परिवेश से संबंधित प्रणालीगत मुद्दों के संदर्भ में परीक्षण कीजिए।

Ans 15

The role of effective regulation along with monitoring has significantly increased with the opening up of economy. The LPG forces have unleashed a plethora of opportunities both for the consumers as well as the producers.

Being a welfare state, the role of the Indian state is to ensure the interests of the citizens are safeguarded. Thus several regulatory bodies have been established in different arenas.



However there exist several systemic issues pertaining to the regulatory environment :

> Lack of funds and resources :
this hampers their effective functioning

> Politicization : Undue intrusion by the politics on account of promoting its political interests severely affects the efficiency eg) Politicization of CBFC

> No effective mechanism to ensure compliance

> Advisory bodies - the government is free to ignore the advice. No binding rules to follow the recommendations.

> Bureaucratization : These bodies are generally headed by bureaucrats either retired or under deputation thus rendering them under the same bureaucratic inertia as that in other departments.

Thus, it is imperative that the functioning and role of regulatory bodies is made more effective and people centric.

The recent example of reducing the number of members in Competition Commission of India to bring about greater efficiency in decision making is a step in the right direction.

— X —

16. Mention the constitutional provisions to safeguard and ensure the independent and impartial functioning of the UPSC. Further, assess the limitations of UPSC in effectively performing its role as the 'watchdog of merit system' in India as envisioned by the Constitution. (250 words) **15**

UPSC की स्वतंत्र और निष्पक्ष कार्य पद्धति को सुरक्षित रखने और सुनिश्चित करने हेतु संवैधानिक प्रावधानों का उल्लेख कीजिए। साथ ही संविधान द्वारा प्रकल्पित 'योग्यता प्रणाली के संरक्षक' के रूप में अपनी भूमिका को प्रभावी रूप से निष्पादित करने में UPSC की सीमाओं का आकलन कीजिए।

Ans 16

The Union Public Service Commission (UPSC) under Part XIV of the Indian Constitution is the central recruiting agency. It recruits members of All India Services and Central Services (Group A and B).

Independent and impartial functioning of UPSC is of utmost importance to ensure transparent and efficient model of recruitment based on merit. The Constitutional Provisions are as follows:-

↳ Security of tenure - the members

are appointed and summoned by the President. The grounds for removal are laid down -

- insolvency
- unsound mind
- unfit due to infirmity of mind & body
- office of profit
- misbehaviour (determined by the Supreme Court)

↳ the Service Conditions, though determined by the President cannot be changed

↳ no further reappointed of the chairman

↳ ban on any other service post retirement, by the chairman, while the members can be appointed as chairman of either UPSC or State Public Service Commission

↳ Salaries & expenses charged on the Consolidated Fund of India.

However, its role as the 'watchdog of merit system' is challenged and limited because of the following reasons :-

- > no role in case of reservation of OBCs
- > no role in the case of reservation of SCs and STs
- > under DoPT (Department of Personnel and Training) :- it determines the service conditions, cadre management etc
- > advisory role with regards to promotion and transfer.
- > Consultation not even mandatory if the President passes a regulation for the same.
- > Further with the establishment of the CVC (Central Vigilance Commission) there exists overlapping of roles with regards to corruption.

Nonetheless, UPSC is a Constitutional Body and has stood the test of time. It has effectively and efficiently fulfilled and continues to fulfill the role of central recruiting agency.

17. What are the key issues in the context of electoral funding in India? How far do you think the idea of state funding of elections can address these issues? (250 words) 15

भारत में चुनावी वित्तपोषण के संदर्भ में मुख्य मुद्दे क्या हैं? आपकी राय में चुनावों के राज्य द्वारा वित्तपोषण का विचार इन मुद्दों का किस सीमा तक समाधान कर सकता है?

Ans 17

One of the prime concerns of the Election Commission is to ensure financial accountability to make the electoral process 'free and fair' in the true sense.

Key issues :

> Opacity in funding -

According to Association of Democratic Reforms as much as 69% of electoral funding between 2004-05 to 2014-15 is from unknown sources.

> Removal of Corporate limit of 7.5%
of the net profits has opened the door for even stronger corporate-politics nexus. As

pointed out by the Law Commission
such an act will result in
extreme lobbying by big business
donors.

- > Foreign Contributions - despite
the regulations under the FCRA Act
political parties continue to
receive funds from foreign
sources.
- > Exemption from ~~filing~~ Income Tax
Act and filing returns in the case
of electoral bonds along with
denial to be under the purview
of the RTI Act has reduced transparency
and accountability

STATE FUNDING of elections can
prove to be an effective panacea
to the challenge of opacity in
electoral funding.

Merits:

→ equal opportunity to all by
promoting these individuals
and minorities who could not

stand for elections because of inability to compete with the strong criminal-political nexus.

- Remove role of money power
- Reduce criminalization of politics
- Increase transparency

Demerits :

- ↳ poverty and lack of funds would render this mechanism ineffective
- ↳ all voters would not support this as they would want their contribution to go in for parties of their choice

Nonetheless, if implemented effectively by providing share from the National Contribution Fund, depending upon share in votes of the last elections, state funding can reduce the criminalization of politics and promote free and fair elections.

— X —

18. Separation of powers in case of India has acquired its own uniqueness under the constitutional arrangement. Explain. (250 words) 15

भारत के सन्दर्भ में शक्तियों के पृथक्करण ने संवैधानिक व्यवस्था के अंतर्गत एक अनन्य विशिष्टता प्राप्त कर ली है। व्याख्या कीजिए।

Ans 18.

The concept of Separation of powers was propounded by French political philosopher Montesquieu.

Principles of Separation of Powers:

- more tight separation of functions.
- No overlap between the roles of judiciary, legislature and executive.

First incorporated by the US - has full separation of powers, because of Presidential form of governance.

India follows PARTIAL form of separation of powers. This is because of Parliamentary form

of governance under which the executive is a part of the legislature.

Indian features :-

- > system of cooperation - where under certain circumstances one organ performs the role of another eg Parliament impeaching the President
- > checks and balances - for effective balancing of the three pillars of the Indian political setup. Supreme Court in Kannadasan Case, incorporated this under the basic structure doctrine.

However Article 51 establishes separation of powers between the judiciary and the executive.

The codification of CrPc ensured this, whereby judicial functions are performed by judicial magistrates and not executive magistrates.

Thus separation of powers forms a part of the basic structure (Kesavananda Bharati Case 1973)

— X —

19. Highlight the extent of President's powers under Article 352. Comment on the judicial scrutiny of proclamation and the exercise of executive powers under National Emergency. How is this power different from the one bestowed under Article 356? (250 words) 15

अनुच्छेद 352 के अंतर्गत राष्ट्रपति की शक्तियों की सीमा पर प्रकाश डालिए। राष्ट्रीय आपात की उद्घोषणा की न्यायिक संवीक्षा तथा आपातकाल के दौरान कार्यकारी शक्तियों के प्रयोग पर टिप्पणी कीजिए। यह शक्ति अनुच्छेद 356 के अंतर्गत प्रदत्त शक्ति से किस प्रकार भिन्न है?

Ans 19

President on being satisfied that a grave situation exists on the grounds of -

- war
- external aggression
- armed rebellion

or a threat thereof, he can declare promulgate National Emergency under Article 352. Thereafter the President controls the governance and executive functions of the state, through the Governor or another authority. The state executive is under complete authority and control of the

President. Thus promulgation of National emergency changes the federal setup to a unitary one.

However, this comes under the ambit of judiciary. The judiciary can review the decision of the President on the grounds of malafide and whether grave conditions existed or not.

Article 356, commonly referred to as President's rule on the basis of a report or otherwise by the Governor of a state on account of breakdown of Constitutional machinery. Here the central executive can give directions on all matters in the state list. Thus the governance

of the state executive is exercised through the Governor functioning under directives given by the central executive.

Thus Article 352 along with Ar. 356 are provisions to deal with crisis situation incorporated from the Weimar Constitution of Germany.

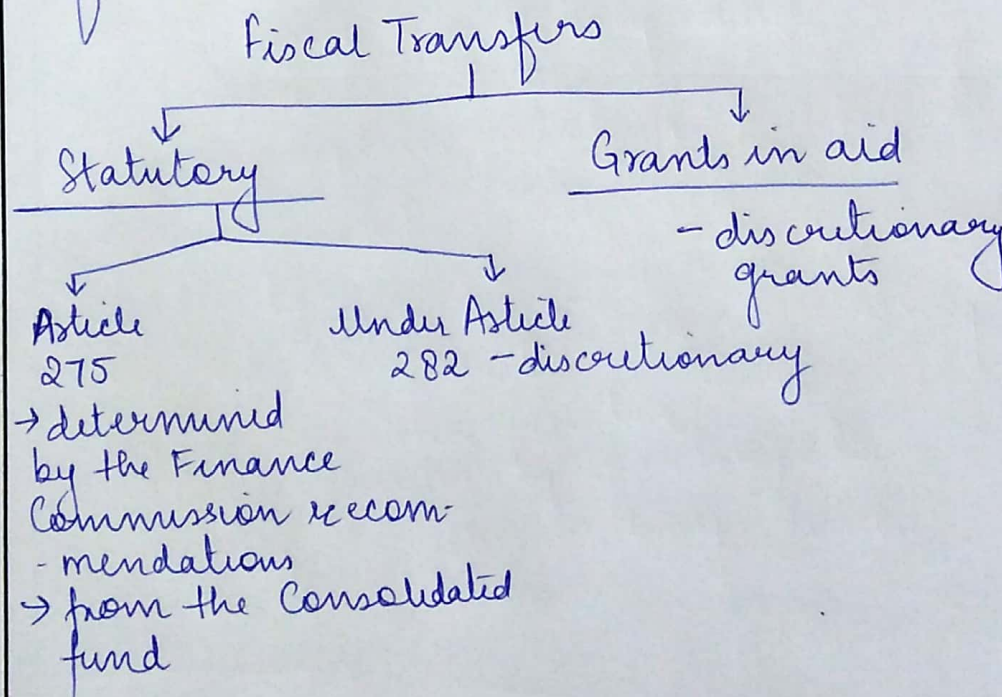
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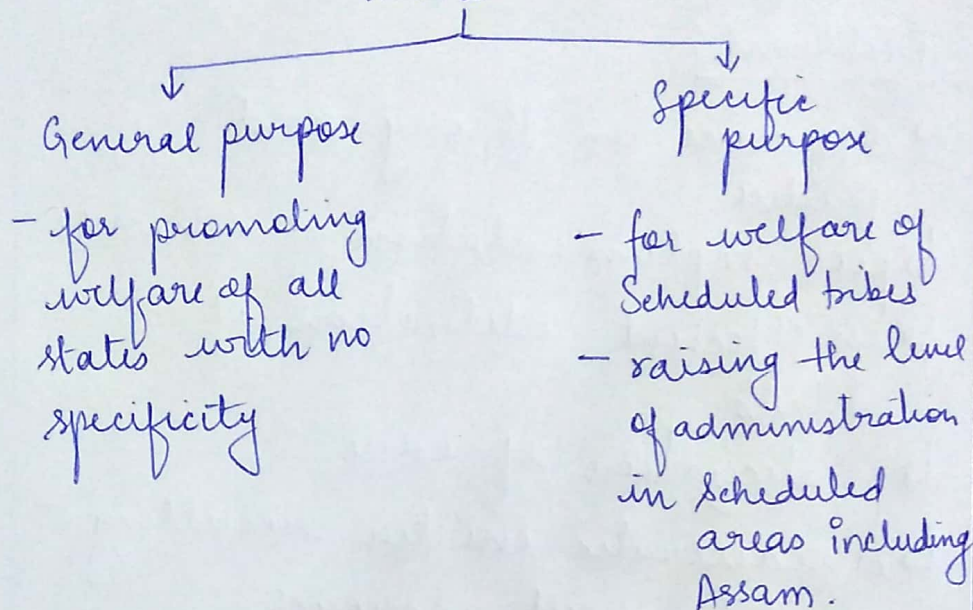
20. Fiscal transfers from the Centre to States are critical in India. In this context, explain the rationale of both general and specific purpose fiscal transfers. Also highlight the problems witnessed in the design and implementation of specific purpose transfers. (250 words) 15

भारत में केंद्र से राज्यों को राजकोषीय अंतरण अत्यंत महत्वपूर्ण हैं। इस संदर्भ में, सामान्य और विशिष्ट प्रयोजन वाले राजकोषीय अंतरण के औचित्य की व्याख्या कीजिए। साथ ही, विशिष्ट प्रयोजन वाले अंतरण की अभिकल्पना और कार्यान्वयन में आने वाली समस्याओं प्रकाश डालिए।

Ans 20

Fiscal transfers refer to financial transfers from the centre to the states, to promote overall growth and development of the nation.



Fiscal transfer
under Article 275

The rationale is that the centre is under a responsibility to provide an equal footing to all states.

Few states are disadvantaged on grounds of historical and geographical reasons. Therefore 'needy states' need special packages.

The 14th Finance Commission, though removed the Special Category Status increased the devolution amount from 32 → 42% of the

diminble pool.

Problems :

- ↳ difference in theory and practice
- ↳ poor implementation of schemes
- ↳ in efficient utilization of funds
- ↳ politicization of issue
- ↳ bureaucratic inertia resulting in statusquoist approach
- ↳ poor community participation at the decision making level.

— X —