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29 NOV 2019
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GENERAL STUDIES (TEST CODE : 1391)

Name of Candidate	SIDAQ SINGH		
Medium Eng./Hindi	ENG	Registration Number	160702
Center	KB	Date	29/11/2019

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.

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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।

Parliamentary privileges are provided under Art. 105 of constitution. Their aim is to ensure independence in the functioning of Parliament.

Collective privileges

- (I) Power to punish breach of parliament's privilege (in the hands of Speaker / Chairman)
- (II) Right to publish proceedings of the house
- (III) The Speaker / Chairman can call for a session / meeting without any audience / people in gallery.

IV) Privilege to form Rules of Procedure of House under Art 118

Individual Privileges

- I) Freedom of speech and expression to a parliamentarian
- II) Freedom from arrest 40 days before or after session
- III) Exemption from jury service.

Significance

- I) Ensure independence of parliament from undue influence.
(began in England to shield parliamentarians from monarch)
- II) Ensures that no obstacle comes in way of parliament's proceeding
(usage of Breach of Privilege)
- III) Gives the parliamentarians right to express themselves in the

house.

However codification of
parliamentary privileges is the
need of hour. Recently, 2 scribers
~~an~~ were sent to prison by
Karnataka assembly for breach
of privilege. India needs to
follow Australia which codified
Parliamentary privileges in 1987.

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।

Under Art. 280, Finance Commission (FC) is a five membered body which consists of 2 experts. It is a tool of fiscal equilibrium with respect to centre and states.

Functions

- (I) It recommends to the centre the devolution of funds to the states from the divisible pool of taxes.
- (II) It also suggests how to augment the resources of the third tier of government.
- (III) It fixes the formula and

weightage to be assigned to different factors which would decide devolution of taxes.

(iv) It would address / recommend over other heads specified by the government in its terms of reference

(v) As per 125th Constitutional Amendment Bill introduced in the Parliament, F.C would get power to devolve resources directly to Autonomous District Councils.

(vi) 14th Finance Commission introduced the performance based grants to local bodies.

Issues

- Ⓘ Southern states are concerned over the population data which would be considered by Finance Commission (1971 data or 2011 data)
- Ⓜ Non representation of states in Finance Commission.

India needs a permanent Finance Commission which would deal with devolution of taxes on yearly basis.

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 is a jewel set in our constitution and a key to ~~open~~ minds of makers of constitution".
— Sir Alladi Krishnaswamy Iyer

Importance

Ⓘ It espouses the values enshrined in our constitution — justice, liberty, equality and fraternity

Ⓡ It highlights the characteristics of the nation and polity — democratic, socialist, secular and republic.

Ⓙ It helps to understand various provisions of the constitution when

there is any ambiguity

Ⓐ It also highlights who the real source of authority is -
'We, the people of India'

Ⓡ It is like a 'horoscope of the constitution' (KM Munishi)

Amendability of Preamble

Ⓘ In the Berubari Union Case, 1960, SC held that preamble cannot be amended. However it can be used to understand provisions of constitution if there is any ambiguity.

Ⓢ However SC in Kesavananda Bharti Case, 1973 said that Preamble can be amended. The court

stated that in India, Preamble walks along with the main text of constitution and can be amended to ensure that it is in conformity with provisions of constitution.

(III) As a result in 1976, 42nd Constitutional Amendment Act led to addition of terms like socialist, secular etc to the preamble.

So as Granville Austin said Preamble is very important as it acts as a mirror of constitution.

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

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

As per the principle of subsidiarity, the functions which could be performed by the grassroot tier of government should be devolved to it and the rest of the functions should be devolved ~~on~~ ^{to} state government. The highest tier should perform only those functions which can't be performed by the first two tiers.

Importance

① It ensure effectiveness of functions as the implementing authority is closest to the

people.

(II) It increases the accountability of government towards the people.

(III) It leads to inclusive develop-ment as more resources get devolved towards the sections which are most deprived.

(IV) It increases people's participation in the governance and decreases corruption.

73rd Constitutional Amendment Act

It tries to implement the principle of subsidiarity as it lead to ~~lead~~ to inclusion of Schedule XI in the constitution which contains functions related to

water services, street lightening,
roads, animal husbandary etc.

Besides this it gave constitutional
status to panchayati raj
institutions

However there are systemic
flaws like power to levy and
collect taxes, and power to
perform functions mentioned in
Sch II depends upon devolution of
such powers from state to
panchayats. This has not take
place.

So as Economic Survey
2016-17 mentioned, ~~the~~ 3Fs i.e
Funds, functions and functionaries
need to be developed to ensure
realisation of principle of subsidiarity

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।

Judiciary is one of the two arms of government (other being legislature and executive). Independent judiciary is important so as to:

- (I) keep legislature and executive within their constitutional mandate
- (II) ensure rule of law
- (III) ensure that the laws formulated by parliament do not violate provisions of constitution (Judicial review)

Constitutional provisions to ensure independence of judiciary

(I) Manner of appointment provided under Art 124 and Art 217

ensure that executive doesn't dominate the process of selection of judges (2nd Judges Case, 1993 and 3rd Judges Case, 1998)

(II) The salary and services conditions can't be varied to judges' disadvantage during their tenure.

(III) The judges can be removed only if a resolution is ~~is~~ passed by both houses of parliament by special majority

(IV) The conduct of judges can't be discussed in parliament except

during discussion over their
impeachment

⑤ Power to punish contempt
of itself [At 129 & At 19(2)]

However along with Judicial
independence, judicial accountability
is also necessary. For this
judiciary recently decided to
make ^{proceedings of} collegium discussions public
along with live streaming SC
proceedings.

"Judicial independence is not
something which is owned by
judiciary but a commodity held
by judiciary in interest of public."

— Lord Woolf

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।

As a fundamental right,

Art 19 provides for 6 rights:

Art 19(1)(a): Right to freedom of speech & expression

Art 19(1)(b): Right to freedom of peaceful assembly

Art 19(1)(c): Right to form associations

Art 19(1)(d): Right to freedom of movement

Art 19(1)(e): Right to settle anywhere in country

Art 19(1)(f): Right to ^{adopt} form any profession.

To strike a balance between individual liberty and interests of society, Constitution provides for Art 19(2) which contains reasonable restrictions on Art 19(1) w.r.t ensuring integrity of nation, maintaining public order, defamation, contempt of court, maintaining friendly relations with foreign nations etc. To enable ^{judgements} various laws, and provisions like:

- Ⓘ Sec 295A of IPC : penalising a person who ~~creates diff~~ uses words to create differences on the basis of caste, religion etc
- Ⓡ Sec 124A of IPC : Sedition

③ Restriction to certain occupations like child trafficking etc.

④ ~~S.C judgement w.r.t~~ Restriction of activities which can only be taken up by government like mining of radioactive minerals, railways etc

So ~~the~~ To ensure that constitution doesn't limit individual liberty on pretext of social interests and vice versa, S.C gave various judgements like Puttasw Shreya Singhal Case, Kanbayya Kumar case etc.

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

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

As per Economic Survey 2018-19,
about 3.5 cr cases are pending
in India. To decrease judicial
pendency and counter costly &
time consuming litigation process,
alternate dispute resolution (ADR)
is very important.

Significance

① It helps get rid of lengthy
proceeding. Eg: Consumer Protect
Act 2019 provides for consumer
mediation cells which would
provide for mediation and hence
amicable resolution of disputes.

(II) Decreases cost of litigation

Eg: District Legal Service Authority
provides for ADR mechanism
to ensure amicable resolution
of disputes in which poor
and needy are involved.

(III) Prevents politicisation of

issues Eg: Inter State River
Water (Amendment) Bill, 2019
provides for formation of
Dispute Resolution Committees (DRCs)
which would prevent resolution
of inter-state river water
disputes without politicising it.
S.C made a similar attempt of
arbitration with respect to Babri
Masjid Case.

(IV) India is establishing an International Arbitration Centre in New Delhi which would provide for resolution of commercial disputes without going through lengthy judicial trials.

To ensure success of ADR mechanism in India, it must be ensured that India has a pool of arbitration experts, infrastructure and institutional mechanisms suitable to success of ADR proceedings.

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।

Though federalism is a part of basic structure of constitution, however many constitutional experts believe that Indian federalism has a centralising tendency. (K.C. Wheare called it quasi federal)

Reasons for centralising Tendency

① Distribution of subjects under Sch 7: Centre List contains 100 items which are most important like defence, communication etc.

State list on other hand contains 61 items which are relatively less important like health, water etc.

② Post of Governor: The manner

of appointment and removal of governor makes him/her an agent of government

③ Centre's power to legislate over states subject in 5 exceptional circumstances like National Emergency, President's rule etc

④ Centre Parliament has power to alter boundary of any state under Art 3 (Eg: Recent bifurcation of Jammu and Kashmir)

⑤ Emergency provisions: The federal structure gets replaced by unitary structure when emergency is in place.

⑥ All India Services officers are appointed by Centre and Centre retains ultimate control over them.

Though India's federal structure is not as strong as that of USA but through separation of powers and functions under Schedule 7, constitution provides a separate identity to the states. Besides this through institutional structures like NITI Aayog, Inter State Council etc, co-operative federalism can be promoted.

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।

In a parliamentary form of government, the parliament exercises control over executive through various means. However there are certain issues with respect to parliament's control over executive:

(I) Question hour It provides time to hold government accountable. However 23% of this time in 16th Lok Sabha and 53% of this time during corresponding time in R.S got wasted due to disruptions.

(II) Parliamentary sittings have decreased from ~~65~~¹²⁰ to ~~70~~¹²⁵ days/yr during 1950s to 65 to 70 days/yr in 16th L.S.

③ Since executive is also a part of legislature and the ruling party forms majority in legislature, parliamentary control over government is weak.

④ Reports of parliamentary committees are not properly discussed.

⑤ Time spent on budget discussions has decreased from ~~140~~ 140 hours during 1950s to around 40 hours in last decade.

⑥ Whip system also prevents legislators from holding government accountable as per their wishes
(Anti defection = Xth Schedule)

To ensure parliamentary control over government, the Rules of Procedure and Conduct of Business should be amended to give more power to presiding officer to ensure smooth functioning of house. Besides this, the reports of parliamentary standing committee should be discussed thoroughly.

Like in UK, opposition should be given 20 days / session to set the agenda. Use of Anti-Defection Law should be diluted as per recommendations of 170th report of Law Commission.

Parliament should be a platform for policy & not politics.

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।

Art 161 of Indian constitution provides for a post of governor for each state of India.

Constituent Assembly replaced the original plan to have elected governors because:

(I) Direct election would have created two power centres which would have made administration complex.

(II) It would have increased the burden of on exchequer (cost to conduct elections).

(II) It would have been impractical to have an elected governor without actual power

(IV) As an agent of Centre, the governor would be able to contain fissiparous tendencies in the state.

Issues w.r.t current form of appointments

(I) The constitution merely says that the governor would be appointed by the President. Besides this, he/she remains in office till he/she enjoys pleasure of President. This makes the incumbent an agent of Central of central government

(II) No ~~appointed~~ discussion/role of elected CM of state in case of appointment of Governor, unlike

Australia (where elected leader of states are asked about their suggestion).

③ Acts as retirement package for party politicians.

To ensure independence, The recommendations of Punchhi & Sarkaria Commission should be

followed as per which the governor should not be a career politician

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।

Art 142 of constitution gives the judiciary power to issue decrees and orders to ensure complete justice. Under this article, judiciary has tried to fill various voids created by legislature and executive.

Eg:

(I) Vishakha Guidelines, 1997: It

took ~~new~~ ^{protection of} parliament 16 more years to legislate Sexual Exploitation of Women at Workplace Act, 2013

(II) Witness Protection Scheme formed

by S.C to protect witness from threats and ensure rule of law.

Ⓐ However it is the important for courts not to indulge in judicial adventurism as:

Ⓘ It would upset the separation of powers as provided by various provisions of constitution

Ⓣ The executive is better equipped as an institution to formulate policies. So instead of passing order in 2016 w.r.t mandatory playing of National Anthem in cinema halls, SC could have asked the executive to amend Cinematograph Rules.

Ⓡ The legislature which is accountable to the people is the best forum to enact laws.

So judiciary, which is not accountable to the people or legislature, should not intrude into the domain of legislature.

So judicial restraint should be exercised by judiciary. As former supreme court judge, Justice Markandey Katju said, "Judicial activism may be in the interest of people but the judges should be cautious not to toe the line of judicial overreach".

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

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

The constitution of India provides for bicameral legislature consisting of Rajya Sabha & Lok Sabha

Comparison in terms of legislative powers

- (I) Ordinary bills : Both houses have equal powers. Ordinary bill can originate in either house.
- (II) Ordinance : For ordinance to become a law, it has to be approved by both the ~~so~~ houses of parliament.
- (III) Constitutional Amendment Bill can be introduced in either house of parliament.

(iv) Money bill under Art 110
can be introduced only in Lok
Sabha. Rajya Sabha cannot
amend it. It has only 14 days
to give its recommendations.

(v) With reference to financial bills
which deals with matters in
addition to Art 110 can be
introduced only in Lok Sabha
but with respect to their passage,
both houses have equal powers.

Special powers to Lok Sabha

(i) Rajya Sabha has the power
to legislate over an item
in State list if it passes
a resolution by special majority
(Art 249)

(ii) Art 312 gives the Rajya Sabha

power to form a new All-India Services.

So in most of matters other than ^{passage of} money bill, Rajya Sabha enjoys almost similar power as Lok Sabha. So as former PM Atal Bihari Vajpayee said, "Though Rajya Sabha is a second house, but it is not a secondary house."

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

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

The distribution of legislative subjects between centre and states is done under Schedule 7 which provides for Central list, State list and Concurrent list.

The Central list has 100 subjects on which centre can legislate like communication, banking etc. State list has 61 subjects on which state can legislate like police, health etc. Concurrent list has 52 subjects on which both centre and states can legislate but in case of conflict, the central law will prevail.

Circumstances in which Parliament can make laws over state list

- (I) National Emergency : When a national emergency is proclaimed under Art 352, Centre can legislate over items in state list.
- (II) President's rule : When President's rule is imposed under Art 356, due to breakdown of constitutional machinery.
- (III) With Rajya Sabha passes a resolution by special majority under Art 249
- (IV) When two or more states request the centre to legislate over a subject in state list.
Eg: Air Pollution Act, Transplantation

of Human Organs etc

⑤ To give effect to international treaties : Eg: Anti Hijacking Act etc.

These circumstances ensure that Centre is able to legislate on subjects not under its domain to meet exceptional circumstances or to meet provisions/commitments under an international treaty.

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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?

The 3 arms of government are formed by Legislature, executive and judiciary. 'Separation of Power' entails a water tight compartmentalisation of spheres of all three arms of government to prevent intrusion of an arm of government into others sphere.

Eg: USA
This is done so as to ensure that there is no centralising tendency in the political sphere and the threat of one arm of government becoming superior.

Reasons for India not following Separation of powers strictly

(I) India follows the model of parliamentary democracy. As a result, complete separation cannot take place as executive is a part of legislature.

(II) India follows the concept of checks and balances which are inherent in the constitution.

Eg: Judiciary has the power to strike ^{down} an executive action or law made by parliament on the grounds of it being violative of ~~or~~ constitution.

(III) Similarly legislature keeps a check on executive through various instruments like question

hour, financial committees, no
confidence motion etc

The system of checks and
balances has worked very
well for the Indian parliamentary
set up. It has ensured no
organ of government centralises
all power within itself.

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

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

The constitution has provided for emergency provisions to enable centre to deal with exceptional circumstances.

National Emergency can be declared under Art 356 on

3 grounds:

(I) War

(II) External Aggression

(III) Armed rebellion (replaced

'internal disturbance' by 44th

Constitutional Amendment Act, 1978)

Effects on centre-state relations

(I) Legislative Sphere: Centre has legislate on any subject in state list. The law will remain

in force till 6 months from the date of revocation of emergency

(II) Executive sphere : Centre takes over all executive powers of state.

(III) Financial sphere : Centre can dictate the principles which would guide the state in financial decision making.

Effects on fundamental rights

(I) Under Art 358, fundamental rights under Art 19 get automatically suspended.

(II) Art 359 of Constitution states that president can suspend ~~other~~ for the right to move the court for other fundamental rights.

So thought the other fundamental rights are not suspended unlike Art 19 but president can suspend the right to move the courts for violation of other fundamental rights

So on proclamation of National emergency, the federal structure changes to unitary structure as well as imposition of restriction on fundamental rights.

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

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

The constitution provides for the office of CAG under Art 148 of the constitution

CAG ensures the financial accountability of executive to Parliament through following measures :

Ⓘ It conducts 3 audits for Parliament :

- Audit of appropriation account
- Audit of financial account
- Audit account of Public

Undertakings

Ⓣ The audit report of appropriation account is studied by Public Accounts Committee. CAG act

as a friend and guide for the Public Accounts Committee which makes the government accountable to parliament on the floor of the house

(III) It mandatorily conducts compliance audit and financial attest audit. Besides this

conducting Performance audit is optional for CAG.

(IV) It also conducts audit of companies substantially financed by public funds.

By submitting these reports to President, who further places them before parliament, CAG ensures financial accountability of government to parliament.

CAG ensures its independence

through constitutional provisions like removal process being similar to SC judge, salary and allowances cannot be altered etc.

Due to the ~~imp~~ crucial role played by CAG, Dr BR Ambedkar called him the 'most important officer of the country'

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?

Being the head of the Indian state and federating units, the constitution provides the President and Governor some veto powers respectively.

Veto powers of President of India

① Absolute Veto: When a bill passed by the parliament comes to President for his assent, the President may withhold his assent. Eg: done by then president w.r.t PEPSU Bill

② Suspensive Veto: The President

can return a bill (once) back to parliament for reconsideration (the bill must be ~~a~~ an ordinary bill). However if the parliament passes the bill again, the president will have to give his assent.

(iii) Pocket Veto: There is no fixed time in which Indian President is required to give assent to a bill unlike the US President.

Veto powers of Governor differ from that of president that along with above mentioned veto powers, he/she has the power to reserve a bill for consideration of President, which

has been passed by State Assembly, under At 200 (Eg: Gujrat Control of Organised Crime Bill).

The President may under At 201, give his assent; withhold his assent; or send the bill back for reconsideration by state assembly

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।

India borrowed the parliamentary system of government from Britain. Though Indian system is largely based on British system but there are certain differences like:

① Parliamentary sovereignty: In Britain the parliament is sovereign. Blackstone said, "English parliament can do anything except declare a man as a woman & vice versa." However the parliament in India is not sovereign. It rather operates in checks and balances. Through judicial review, judiciary can strike a law

made by parliament if it is unconstitutional

② The King can do no wrong:

This is the philosophy behind the British model. In Britain, every minister has to countersign a document relating to his/her ministry. In case of any shortfall, it would be the minister ~~too~~ who would be responsible & not the king. No such procedure is followed in India.

③ In Britain, the Prime Minister must be mandatorily from lower house (House of Commons). In India PM can be member of either house, Rajya Sabha (Manmohan Singh) or Lok Sabha (Narendra Modi)

(iv) In India, a non member can be appointed as a minister, but he must get elected in either house in 6 months. There is no such procedure in Britain.

So though Indian model has a lot of similarities with British model but Indian model has also adopted different procedures/systems to suit India's interests.

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

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

The aim of Fundamental rights under Part III of constitution is to usher in political democracy, whereas the aim of Directive Principles of State Policy under Part IV is to bring in social & economic democracy.

However there has been a conflict between Fundamental Rights & DPSPs explained below:

- ① Shankari Prasad Case, 1951 : SC held that parliament can't violate fundamental rights to give effect to DPSPs. However parliament can do so by amending

the Constitution

② Golaknath Case, 1967 : SC. said fundamental rights are immutable and Parliament can't amend fundamental rights to give effect DPSPs.

③ 24th Constitutional amendment act, 1971 gave parliament right to amend Constitution

④ 25th Constitutional amendment act, 1971 inserted Art 31C which gave primacy to Art 39(b) & Art 39(c) over Art 14 & Art 19. This was upheld by Supreme Court in Kesavananda Bharti Case, 1973

⑤ By 42nd Constitutional Amendment Act, 1976, Parliament gave primacy to all DPSPs over Art 14 & 19

⑥ In Munera Mills Case, 1980,
SC struck down the previous
portion of amendment & restored
the situation as after 25th constitutional
amendment, 1971

So as SC said in Munera
Mills Case, constitution is
founded on bedrock of balance
between fundamental rights &
DPSP. They should go ~~the~~ together
& not come in conflict with
one another.

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।

At 324 of constitution gives ECI the power of direction, control & superintendence over elections of parliament, state legislature, president & vice President

[Powers and Functions]

Ⓘ In Mohinder Singh Gill case, SC said ECI enjoys vast powers under Art 324

Ⓙ ECI has power to register a political party under Sec 29 of Representation of People Act, 1951.

Ⓚ It decides on disputes relating to allotment of election symbols

after split of party. (Eg: AIADMK)

④ It updates electoral rolls before every election.

⑤ Advises the president/governor with respect to disqualification cases with respect to office of profit.

Issues regarding independence & impartiality

① Allegations of bias against ECI w.r.t violation of Model Code of Conduct by MPs of ruling party

② Constitutional protection equivalent to that given to CEC is not given to the 2 ECs. This compromises the independence of 2 ECs

③ ECIs dependence on central government for paramilitary forces

for conduct of elections

(iv) ECI doesn't have secretariat for itself and can't frame its own recruitment rules & shortlist and appoint officers on its own.

To ensure independence and impartiality, the 255th report of Law Commission recommended creation of a panel consisting of PM, leader of opposition and CJI to appoint the election commissioners.