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ADVANCED INTEGRATED MENTORSHIP

POLITY ASSESSMENT TEST-5

(To be filled by candidate)

Test Code : TC306

Name of Candidate : ABHISHEK SINGH

NEXT IAS Roll No. : AIM24GCL1035 **Date of Examination :** 23-07-2023

Exam Centre : Old Rajinder Nagar ☐ Bhopal ☐ Online ☒

GENERAL INSTRUCTIONS

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SUBJECT/PAPER
GENERAL STUDIES

2

Invigilator's Sign. :

(For filling by Examiners only)

Evaluator Code :

Q.No	Pg No.	Maximum Marks	Marks	Total
1	1			
2	3			
3	5			
4	7			
5	9			
6	11			
7	13			
8	15			
9	17			
10	19			
11	21			
12	24			
13	27			
14	30			
15	33			
16	36			
17	39			
18	42			
19	45			
20	48			
Grand Total				

Signature

MACRO COMMENTS

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Q-1 There is a need to resolve the ambiguity in the disqualification provisions under Section 8 of RPA 1951. Discuss.

Ans RPA act 1951 was created under Article 327 by the parliament.

Disqualification under Section 8 :

- ① Section 8(3) → if a person gets convicted for ≥ 2 years of punishment. He/she stands disqualified for 6 years including the period of sentence.
- ② Section 8(4) : It provides exception to sitting legislator. It gives 3 months appeal time & obtain stay of conviction.
- ③ Supreme Court in Lily Thomas case held that Section 8(4) is unconstitutional & immediate disqualification from date of conviction.

(4) Ambiguity: There is ambiguity w.r.t to re-election of disqualified candidate.

(5) If disqualified candidate gets re-elected to parliament then there is no provision in Constitution about it.

(6) This is dealt by RPA 1951!

An election petition has to be filed in High Court for declaring such election void.

way forward → parliament should bring necessary amendment in Constitution and RPA act to deal with such ambiguity as this loophole is prone to exploitation.

RPA act 1950, 1951 gives Election commission enough powers to conduct free & fair election & reforms should be bring for above.

Q-2 Highlight the key differences in scope of freedom of speech & expression as provided under parliam. Privileges & i.e. fundamental rights. Why is it necessary to maintain a balance b/w P & F's?

Ans Article 105 & 194 provides for parliamentary Privileges & Article 19 provides for freedom of speech & expression.

Key Differences

<u>Article 105/194</u>	<u>Article 19</u>
1) Both <u>collective & individual rights</u> of house & its members	1) mostly available to individual against state. But also to bodies like trade unions etc.
2) To protect the dignity & sanctity of <u>house</u> & its <u>members</u>	2) To protect the <u>rights of citizens</u> & allowing them to speech & Express fully.
3) <u>It includes</u> Collective right → Right to regulate publishing of	<u>It includes:</u> → Right to <u>speech & expression</u> freely

Content about proceedings

- ↳ Right to exclude Strangers from gallery
- ↳ Right to furnish

Individual rights →

- ↳ freedom to speak their minds
- ↳ Exempt from jury services.

↳ Right to Press

↳ Right to convey Others view

↳ Right to remain silent

↳ Right to information about govt activities etc

Maintaining balance

↳ ① In M.S. Sharma case: SC held that Parliamentary privileges are above freedom of speech but there should be a balance between both.

↳ ② To protect abuse of power

↳ ③ To uphold Constitutionalism & allowing healthy debate & discussion in house.

"Power corrupts & absolute power corrupts absolutely", so there needs to be a balance between both aspects.

Q53 Electoral bonds are a double-edged sword, providing anonymity to donors while raising concerns about transparency. To what extent have e-bonds further legitimized opacity in funding?

Ans Electoral bonds was introduced in 2018 to bring transparency.

Benefits

- ① Anonymous donors: They can't ask for favours as their hidden identity
- ② Black money: It reduced illegal money through cash in election.
- ③ Regulated funding: SBI has all information regarding donors.
- ④ Enforcement agencies: Any court orders or union agencies like CBI can get info from SBI if they suspect some illegal violation of law.

Challenges

- ① Government Control over the SBI
Puts ruling party in advantage
Position to access information about donors.
- ② Camouflaged transparency: Only
on the face of it, it appears
transparent but in reality not.
- ③ 1% Criteria: to get funding
through E. bonds has put few
parties in advantageous mode.
e.g. ADF → 94% funding vs E.B are
to ruling party.

- Way forward →
- ① E.I. = to make data fully
Public about donations.
 - ② Removing 1% vote Criteria
 - ③ Setup & proper institutional mechanism

Electoral bonds have great
Potential to reform election funding
but inherent Challenges should be
resolved to make it more effective

Q-3 The Indian Constitution has not only served as political blueprint but also provides a social framework. In this context discuss the changing contours of socialism in last 75 years.

Ans During the time of independence India adopted a Mixed model of Socialism i.e. Democratic Socialism where both public and private sector could Co-exist.

Changing Contours

① Not in preamble: Initially Socialism was not included in preamble to prevent it from Judicial Scrutiny in the ~~face~~ ^{face} of Social reforms like land reforms etc.

② Awaadhi session of Congress: 1955, it Pledged for Socialistic pattern of society

③ Abolition of privy purses and bank Nationalization reforms are

Reflection of Indian Socialism

④ 92nd CAA: In this word 'Socialism' was added "what was implicit made explicit".

⑤ [LPG reforms]: After this the Country's economy was opened [Private sector] became major job provider.

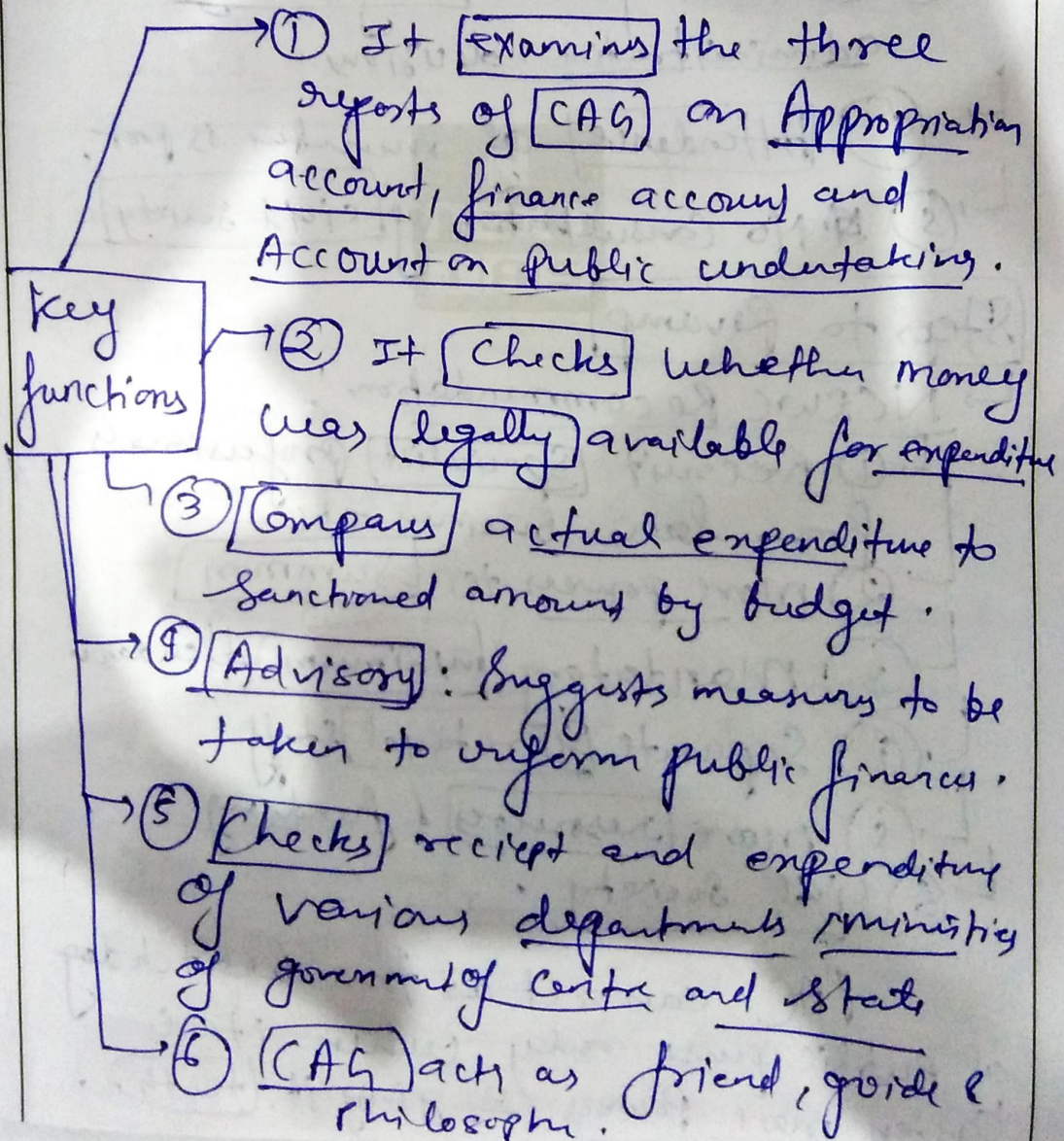
Concerns — ① Over regulation by government
e.g. license raj.
② Over centralization of industries
e.g. BHEL, IOL, etc.
③ foreign investment [hesitant] due to [unpredictable] policies.

way forward: India being a welfare state has adopted pro-poor policies to cater to its wider diversity & socio-economic needs.

DPSR in part IV reflect the true nature of Indian socialism which has defined the changing contours of socialism.

Q-5 Discuss the key functions of PAC. What steps should be taken to revamp the PAC in order to enhance its effectiveness as a true guardian of public purse

Ans PAC is Constituted by Chairman of Lok Sabha and has 22 members (15-LS + 7-RS).



Limitations

- ↳ ① Only advisory in nature & Cannot enforce its decisions
- ↳ ② Post-mortem: Analysis is of post mortem nature & not before.
- ↳ ③ Can not question day to day administrative decisions.
- ↳ ④ Attendance of member is poor.
- ↳ ⑤ ~~No~~ Consultation of Civil Society

Steps to Revamp

- ↳ NCRWC Recommendation!
 - ↳ ① Recruit Specialist professionals from law, business etc.
 - ↳ ② more powers to Summon
 - ↳ ③ Mandatory minimum attendance
 - ↳ ④ Separate Secretarial staff
 - ↳ ⑤ more resources & funding
 - ↳ ⑥ Civil Society.

PAC can act as true watchdog of public purse only when it is given more powers & giving it teeth.

Q6 The Indian party system is passing through a phase of transition which looks to be full of contradiction & paradoxes.

Ans In India there are 7 National parties and 52 State parties (2019, ADR).

Political parties are associations which try to capture power through Constitutional means.

Paradoxes & Contradictions

① Inner party democracy: It is missing in India. No elections within party. ex: BJP

② Party bossism: only few members control the whole party giving less voice to ground level workers.

③ Non transparent funding: As per RPA 1951, there is a limit on Candidate expenditure but no such limit on party expenditure.

eg: Total 60,000 crs spent in 2019
LS election. (ADR)

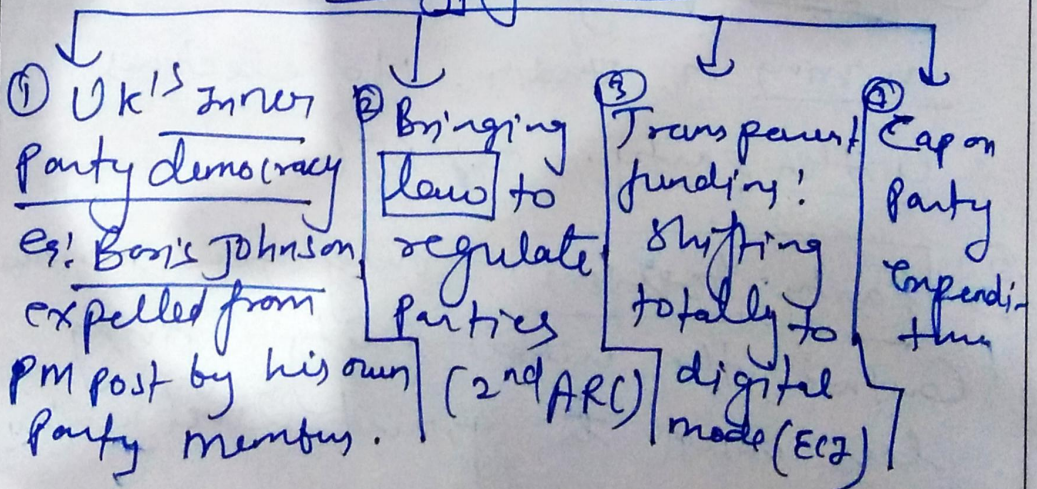
② Charismatic leadership: whole party

Survives due to few leaders
eg: Indira Gandhi, N. Modi etc.

③ one party dominant system: At
National level not having strong
opposition.

⑤ Invoking caste, religion to garner
Support → affecting National integration

Way forward: (NCRWC)



Political parties are most important
yet highly unregulated entity in
India. A law should be created
for the same.

Q-7

The lack of effective functioning in local bodies partly results from their incapability to generate independent financial resources disaut.

Ans

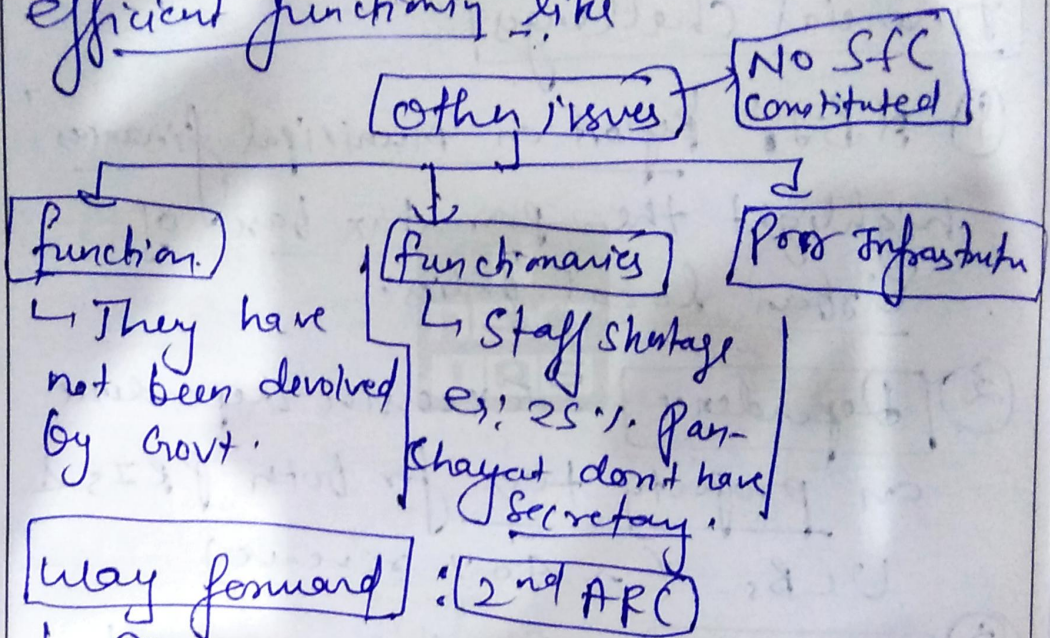
73rd & 79th CAA provided for creation of local bodies as third tier government.

Financial Challenges

- ① RBI's Report on Municipal finances highlight the poor tax base of Urban local bodies.
- ② Dependence : Excessive dependence on property tax for both PRIs & ULBs (~ 40% revenue)
- ③ Devolution : State governments have not devolved tax collection powers to many ULBs & PRIs.
Ex: Bihar govt.
- ④ Hesitant : Local bodies fear loss of public support if taxed.
- ⑤ Government transfers : LBs rely

mostly on Central & State govt. transfers based on finance Commission & State FC's recommendation.

However it is not only finance but other issues also which hinder its efficient functioning like



① Mandatory Constitution of State finance Commission by State govt.

② Activity mapping.

③ Creation of "Land banks" for resource generation.

④ Expanding tax nets.

There are more than 34 lakh elected people at ground level it can revolutionize the local governance if above reforms are done.

Q→8 The harmonious Coexistence b/w FRs & DPSPs lays the foundation of equitable society, where individual liberty & collective welfare complement each other - Dr. Ambedkar. Discuss harmonious relationship b/w FRs & DPSPs in light of SC judgements.

Ans

"Justiciability of FR and non justiciability of DPSPs" on one hand and "moral obligation of state to implement DPSP" create confusion between the two

Supreme Court judgements.

① Champakam Dorairajan Case

↳ FRs can be amended to implement DPSPs. & FRs have supremacy over DPSPs.

② Golak Nath Case (1967):

FRs can't be amended to implement DPSPs.

③ Parliament reacted by 25th amendment act which created Article 31C which provided protection to laws created to implement Article 39(b) & 39(c) on the ground of challenged as violation

of Article 14 & 19.

(4) Kesavananda Bharati case: SC upheld 25th CAA and it was accepted that Article 39(b) & 39(c) have primacy over Article 14 & 19. But overall FRs have Supremacy over DPSP.

(5) Parliament through 42nd CAA amended Article 31C to provide protection for all DPSPs & not just 39(b) & (c)

(6) Minerva Mills case: SC invalidated above provision. It said that Constitution of India is based on the bedrock of harmonious balance between FRs & DPSPs. Both of them are wheels of a chariot & important.

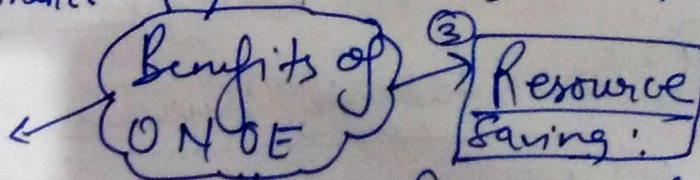
Present position is of harmonious Coexistence & FRs can be amended to implement DPSPs as long as it does not violate basic structure doctrine (K.B. case).

Q→9 In the Spirit of unity & efficiency, ONE nation one election stands as a powerful step towards streamlining our democratic process". Comment

Ans One nation, One election (ONOE) refers to aligning national elections & assembly elections of state to the same time period so that voting for both can be done simultaneously.

① NITI Aayog: Parties always in election mode affects governance

② Policy analysis as MCI does not allow announcing new policies



⑤ Effective administration for full 5 years without hindrance

④ Financial benefits
→ Saves money & material

Deputation of officers Police force can be better managed, & they can be employed at right places.

Limitations of ONOE

- ① Fusing of National issues and regional issues during election. Can affect voters behaviour negatively.
- ② Reduced accountability!
Through multiplex elections leaders are in touch of people.
- ③ Opposition from states not ruled by ruling party of centre
- ④ Constitutional hurdles: Amendment of term lengths of houses in both Centre & States.

Way forward → Law Commission: It should be done through reducing or increasing length of state assemblies
NICKROC = Bringing all parties on board.

ONOE can be a game changer but multi-stakeholder consultation & not forceful implementation should happen.

Q-10 under what circumstances can the governor use his discretionary powers under Article 200 of Constitution? Discuss its ~~not~~ impact on the role & authority of the governor in federal setup.

Ans Article 200 provides for reservation of State bills by governor for the consideration of president.

- Circumstances
- ① when bill is regarding Inter-state trade or Commerce
 - ② when it affects the powers of high courts
 - ③ when governor thinks it is necessary for presidential consideration
 - ④ when a law or Constitution specifically prescribes for it

Positive Impact

- ① Protects federal spirit : Decisions which affects other states or National interests are resolved

- ② Judicial Authority of High Courts are preserved to function effectively
- ③ Upholding Constitutionalism
- ④ checks hasty & illdebated legislation

Negative impact

- ① Delay: Governor not deciding on the fate of bill causing delay as no time limit mentioned.
e.g. NEET bill.
- ② Agent of Centre: Political interests of Centre's party can be furthered by Governor ~~ending party~~ by harassing States.
e.g. Tamil Nadu, West Bengal.
- ③ Violates federalism: States are supreme in their "State lists" matters.

Wf: Article 200 should be used in rare cases to protect federal spirit & not to fulfill vested interests.

States are not appendages to Centre & are independent so they should be given enough freedom except in rare cases.

Q11 The office of CBI has faced criticism & challenges, primarily due to concerns about its autonomy, transparency & susceptibility to external influences. Discuss & suggest reforms to uphold its credibility & effectiveness.

Ans CBI derives its power from Delhi police establishment act 1946.

Criticism & challenges

- ① Independence: As it is appointed ^(+COO+CTJ) by central government which can affect the appointment process.
- ② Political interference: Ruling party exercises undue influence.
for eg: harassing opposition members.
- ③ Supreme Court: has said CBI as "Caged parrot speaking its master's voice".
- ④ Lack of proper infrastructure

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⑤ Post retirement benefits : CBI officers, directors are not barred from post retirement post.

⑥ Funding : It depends on central government totally for it

⑦ General Consent of States : are not given easily or withdrawn frequently (Section 6) e.g. West Bengal.

⑧ Lack of personnel & staff.

⑨ Technology Utilization is poor

Despite criticism CBI has done good works as well

↳ ① Exposing Corruption

e.g. Coal Scam, Bofors Scam

↳ ② Economic offences :

e.g. Banking frauds like

Chanda Kochhar of ITCI.

- ↳ (3) wildlife crimes & stopping trafficking
- ↳ (4) National agency of Interpol for international crime.

Reforms : 2nd ARC

- ↳ (1) Independence : It should be made totally immune from political leadership
- ↳ (2) funding : should not depend on government.
- ↳ (3) Create more strong institutional mechanisms to appoint officers
- ↳ (4) barred officers from post retirement benefits. ↳ (6) Bring new ^{law.} ~~law.~~
- ↳ (5) More infrastructure, resources & technology deployment.

CBI being a non-statutory body should be regulated by a ^{new} law & should be made statutory body by giving it more powers as specified by 2nd ARC.

Q-12

How has the Anti-defection Law impacted the relationship b/w Political parties & Individual legislators in India? In the light of recent examples also discuss the unintended Consequences it has on functioning of democracy in India.

Ans

52nd CAA included 10th Schedule which provided for Anti defection law.

② Independent members

→ If they join any political party after elected to house

→ ① Political Parties (PP)
 → if a member voluntary resigns from PP
 → or members vote against direction of whip in the house.

Impact/ features of A-DL on PP.

→ ③ Nominated members

↳ If they join any political party after 6 months of getting nominated to house.

In the above circumstances the member stands disqualified from membership of the house. He also

gets disqualified to become minister
or hold any remunerative post (91st CAA)

Unintended Consequence

① Resign & Re-elected : In many states members resign from one party leading to toppling of government. These members get re-elected in by-elections & enter house from opposition party's ticket.
for ex: Madhya Pradesh

② Merges : ADL allows for merger of "legislative party" ($\frac{2}{3}$ rd members) to evade defection

for ex: In Goa, 10 out of 15 MLAs merged with ruling party & avoided defection.

③ Speaker : not deciding the plea on time for ex: Manipur MLA's

plea not decided for 2 year.

① Governor : Not deciding majority on the floor of the house. eg: Maharashtra

② Judiciary : Not punishing MLAs of Karnataka assembly despite clear cut violation.

Reforms

↳ ① Kihoto Wilon case : Speakers decision is subject to judicial review.

↳ ② Keisham Meghachan case : Speaker should decide matter in 3 months

↳ ③ Dinesh Goswami' comm : Direction of 'whip' should be binding on members only when 'stability of government' is in question. eg: No confidence motion.

↳ ④ An independent tribunal to decide disqualification

↳ ⑤ Amend ADL to fill loopholes

ADL's original purpose has been lost & it should be reformed on unfettering basis to uphold democracy in true sense.

Q-13

S.R Bommai V. UOI Signified a paradigm shift in judicial interpretation of union's authority to assume Control of States Administrations. In this context discuss the significance & impact of the judgement on cementing the federal structure?

Ans

S.R Bommai judgment of 1994 is a landmark case which strengthened Indian federalism

Significance

- ① Judicial review: President's power to impose president rule is subject to judicial review
- ② Relevant material: President to use 'relevant material' to justify imposition of Article 356
- ③ Federalism: was declared as basic structure.

④ Floor of the house : Should be used by governor to test the majority of government

⑤ President can dismiss State government only when both house approves it ~~and then~~ & till then just suspend

⑥ Case of Proper & Improper use of Article 356 : Guidelines issued by SC to governors.

for eg:

<u>Proper use</u>	<u>Improper use</u>
→ when <u>hung assembly</u> in state & governor <u>can't find any coalition</u> to form <u>ministry</u> , etc.	→ <u>Maladministration</u> or <u>corruption</u> , <u>difficult financial status</u> of state etc.

Impact of judgement

(Positive)

(Negative)

Positive impact

- ① Upholds Constitutionalism (Limited government)
- ② Rule of law
- ③ Saving federal spirit
- ④ Bring more stability to state government.

Negative impact

- ① SC Judgments are ignored by Centre. eg: Maharashtra → NO testing majority on floor of house. etc.
- ② Governor's day to day interference in States governance.
for eg: R.N. Rao in Tamil Nadu, Delhi LG etc.

- Way forward → maintain balance of power
- Punchhi Commⁿ: fixed tenure for Governor.
- 2nd ARC: making Governor independent status.
- use A356 in 'rare cases'

Bombay case is significant but more political over-riding is required from Union for true federalism.

Q.19

The doctrine of parliamentary sovereignty & judicial supremacy has exerted considerable influence in shaping the constitutional framework of India & USA. Citing relevant case laws discuss the role of judiciary in influencing the constitution in these countries. Is the scope of judicial review wider in India?

Ans

While U.S.A adopted for judicial supremacy, India favoured Synthesis of parliamentary sovereignty & Judicial Supremacy.

Role of Judiciary in Shaping Constit

① India

(a) Kesavananda Bharati Case :

Parliament can amend any part of Constitution subject to 'Basic Structure' doctrine. Basic Structure is those principles which can't be changed by parliament

for eg: Rule of law, federalism, Judicial review etc.

(b) I. R. Coelho case: Laws placed under 9th Schedule through Constitutional amendment are subject to Judicial review on grounds of Basic Structure.

(c) Minerva Mills case: Harmonious Construction between Fundamental rights and Directive principles of State Policy.

(d) Gommarai Case 1994: States are independent unit in their own domain. federalism is basic structure & Can't be taken away.

(2) USA

(19) Marshall V. Matherly Case 1803:

Judicial review is not mentioned in USA's Constitution (unlike India). It was innovated by Courts through above case.

1b) Struck down of Abortion law in Roe v. Wade judgment & Recent Struck down of affirmative action in universities.

Scope of Judicial review in USA & India

India	USA
J.R Can be used in (a) Constitutional amendments (b) Legislative acts (c) Administrative acts	USA's Constitution is <u>Very rigid</u> so judiciary has <u>limited</u> power w.r.t to Constitutional Amendment. But for (b) & (c) it is same as India.
J.R can be used for both <u>pre</u> and <u>post</u> Constitution law	<u>only</u> for <u>post</u> Constitution law
Procedure established by law. But in <u>Mandak Gandhi Case</u> this difference was <u>done away with</u>	Due process of law. i.e. law should be Just, fair & reasonable.
So Scope of J.R is <u>wider in India.</u>	

Q-15 Delimitation of seats is essential to ensure ~~free~~ & fair representation & uphold the principle of 'one vote, one value'. Highlighting the challenges posed by misrepresentation in Constituencies analyse the ramifications of population based delimitation in creating federal tension.

Ans Article 32 gives power to parliament to create delimitation act.

Challenges posed by misrepresentation in Constituencies :-

- ① 89th CAA : It froze the allocation ^{till 2026} of seats to 1971 Census. Current population & total MLs/MLAs are mismatched.
- ② 87th CAA : It prescribed for delimitation of Constituencies on basis of 2001 Census. Not using 2011 data does not give true picture.

③ Violates Article 81 : which says that ~~the~~ ratio of population to seats across states should be same.

④ ~~More~~ for Higher burden on free MPs than others

eg: Outer delhi $\rightarrow$ 3.1 mn

Chandani chok $\rightarrow$ 0.35 mn

Ramifications

① ~~States~~ Population Control :

States that take measures for family planning suffer more

for eg: Southern states viz ^{eg: TN} Northern states (UP)

② Political importance

More focus on those states with more seats

for eg: UP vs Tamilnadu

- ③ No inclusive development : It violates SDG goal 10.
- ④ Against equality principle b/w States (unequal representation in Legislature).
- ⑤ Finance Commission devolution based on outdated population does not give true picture & creates Conflict.
- ⑥ Difficulty in identifying beneficiaries & creating estimates for Socio-economic planning (based on untrue picture).

Way forward

Chairman of 2002 Delimitation Commission stressed on need of carrying Delimitation after every 5 years.

India has lowest MP & MLAs viz population. Reforms in delimitation exercises should be initiated to reflect true picture of Country.

Q-16

Rajya Sabha has been transformed from a useless Stepney type to the most useful supporting organ in the past few decades. Highlight the factors as well as the areas in which this transformation is visible.

Ans

Rajya Sabha represents the interest of states in Indian federalism.

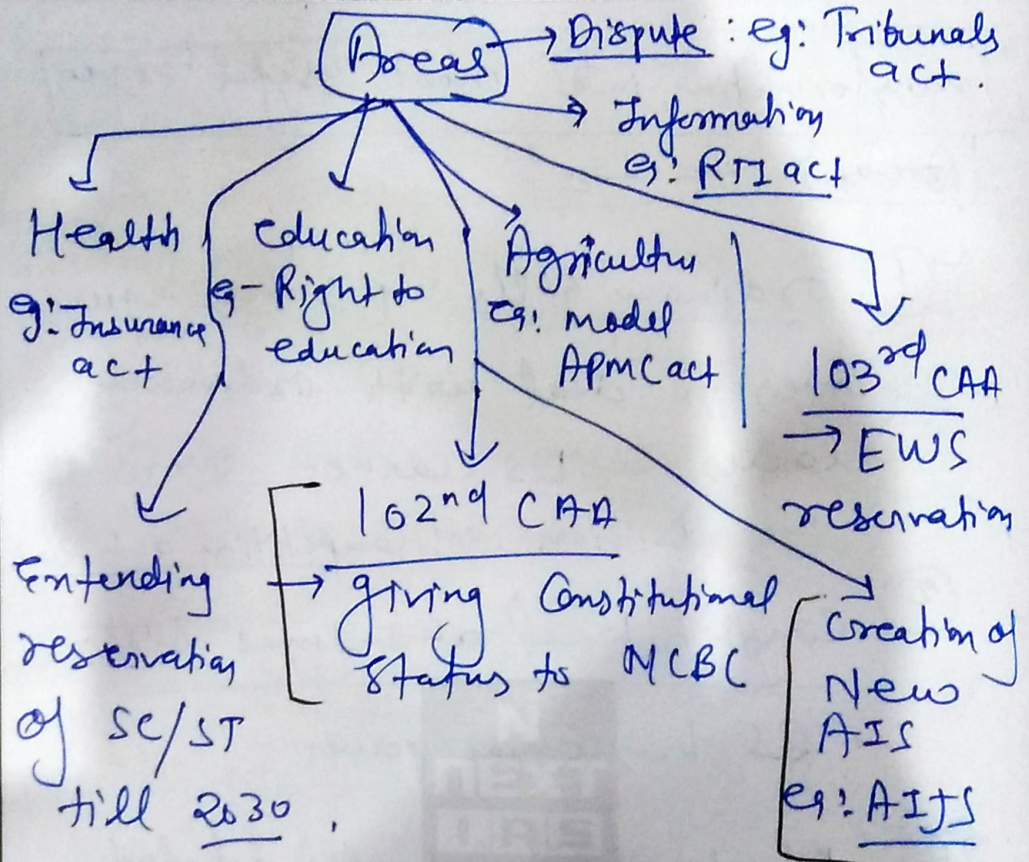
Useless Stepney type

- (1) No power w.r.t money bills
- (2) Very less power w.r.t budget
- ↳ (3) In joint sitting - chairman of L.S presides & Rules of L.S is followed undermining R.S
- ↳ (4) Used to fulfill political aspirations of candidates through nominations.
- ↳ (5) Chairman mostly favouring ruling party.

Transformation into most useful organ

~~Power~~ Factors

- ① Ordinary bills : RS has equal power to deal with ordinary laws & LS cannot override its decision. ex: Competition act 2002
- ② Constitutional amendment bill :
↳ RS has equal power
- ③ Checks hasty & ill debated bills
- ④ Opinion of Experts : 12 nominated members can give their invaluable expertise
ex: Ranjan Hogoi in law matters.
- ⑤ Can delay bills for 6 months : It can give enough time to think by Lok Sabha.



Rajya Sabha is balancing wheel of federalism. Though limitation but it is of utmost importance in Indian democracy

Q.17 Though HR Commission have Contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty & powerful. Analysing their structural & practical limitations, suggest remedy.

Ans. Protection of human rights act, 1993 provides for creation of National and state human rights Commission.

Contribution to human Rights

- ↳ ① Inquire into complaints of violation of HRS.
- ↳ ② Monitor implementation of Constitution and legal measures in Country.
- ↳ ③ Advise government in policy design about Human rights.
- ↳ ④ Reports presents reports to President.

- ↳ (5) Recommends Compensation to victims. (6) visiting jails, etc.

Limitations

- ↳ (1) Only Advisory : They can't enforce their decision
- ↳ (2) 1 Year period : They can't step into case which occurred beyond this period.
- ↳ (3) funding : Totally dependent on government. So tend to favor government
- ↳ (4) Interference by political leadership
- ↳ (5) Infrastructure is very poor
- ↳ (6) Staff & personnel vacancy
- ↳ (7) Rarely uses Suo moto power & action cases brought by media

Remedial measures (2nd ARC)

↳ ① Constitutional body: Giving
NHRC & SHRC Constitutional status
will give it more credibility

↳ ② Technology usage: Using
Online Complaint filing system
/ AI etc

↳ ③ Spreading awareness about
its power & rights of people

↳ ④ Strengthening Infrastructure

↳ ⑤ Fulfilling vacancies

↳ ⑥ frequently using duo-moto power
to investigate crime.

NHRC & SHRC should be complemented
with above reforms to make it the
~~best~~ bulwark of human rights in
India.

Q-18

Discuss the role of SC of India in strengthening the hands of EC in discharge of its Constitutional responsibility of conducting free & fair elections in Country.

Ans

Article 324 gives power to Election Commission (EC) to conduct free & fair elections. But it faces several limitations & which has been helped by Supreme Court in various cases.

Cases of SC

① T.N. Sheshan V. UOI : SC held that election Commissioners & Chief election commissioners have equal power & decision to be taken by majority.

② Anoop Baranwal Case 2023 :

Recently SC held that appointment of chief election

Commission should be done by Committee consisting of CJI + PM + Leader of opposition.

(3) ADR Vs. UOI 2002: Candidates have to declare their criminal backgrounds in the affidavits.

(4) Lok prahar Vs UOI: Candidates have to declare their source of income, assets & liabilities.

(5) In February 2020 judgment SC held that parties have to publish details of candidates with criminal background on its website & also explain reasons for selecting over other candidates.

(6) Peoples Union of civil liberties Vs. UOI

SC held that 'immediate disqualification' of candidate from date of Conviction (Struck down Section 8(4) of RPA 1951).

⑦ In fauziya Intiyaz case : SC held that Bureaucrats should not be appointed as ECs. It leads to Mockery of Constitution

- Concerns** —
- ① false declaration in affidavits by candidates
 - ② No cap on party expenditure
 - ③ Not all parties publishing details of candidates.
 - ④ violation of model Code of Conduct
 - ⑤ Appointing former JAS as CEC.
 - ⑥ doubtful Independence of CEC.

Way forward →

- Legal backing to MCC
- Power to ECI to deregister party.
- bringing law to regulate parties.
- Adhering to Anoop Barnwal judgment.

Elections are festivals of democracy.
 ECI should be given more powers through above reforms to make it effective.

Q-19.

Discuss the crucial role played by the NCW in shaping the discourse on gender-sensitive laws in India. To what extent the elevation of NCW to a Constitutional body would reinforce its authority.

Ans.

NCW was created by National Commission for Women act of 1990 giving it statutory status.

crucial role played

① Monitoring the implementation of Constitutional & legal measures for welfare of women
for eg: Article 15(3), Domestic Violence act etc.

② Inquire into the complaints of violation of women's rights
eg: Kathua rape case.

③ Research related to policy making for welfare of women.

- ④ Spreading awareness about various rights of women
for eg: Alimony after divorce
- ⑤ Debate on crucial bills & issues like raising age of marriage, Dowry prohibition act, Maternity benefit act etc.
- ⑥ Advisory: to government about measures needed.

Concerns

- ↳ Toothless: It is only advisory & can't implement its decision.
- ↳ Political interference: As govt. appoints its members.
- ↳ Allegation that it only caters to elite section of women
- ↳ Limited resources like

funding & Infrastructure.
 ↳ Not able to bring attitudinal
 change towards women in society.

Giving Constitutional status

Positive	Negative
→ More <u>Credibility</u> & more <u>power</u> in its functioning → Giving <u>voice</u> to <u>marginalized women</u> → Power of <u>civil Court</u> to <u>carry</u> in investigation	→ Already other constitutional bodies like <u>NHRC</u> suffer from <u>many problems</u>. → <u>without independence of body</u>, It <u>can't</u> function properly → Infrastructure should be <u>improved</u>

Way forward → Complete independence in working

↳ Power + funding + resources.

↳ online medium (using technology)

NCW should be given Constitutional status but along with it inherent structural & practical reforms should also be taken.

Q → 20

Discuss the role of the election Commission of India in light of evolution of MCC

Ans

Supreme Court in Harbhajan Singh Jalal vs. UOI case introduced MCC.

MCC is a set of guidelines issued by EC to regulate the functioning of political parties & its candidates.

Evolution of MCC & Role of ECI

- ① Origin: 1st originated in assembly elections of Kerala in 1960 when State administration prepared a Code of Conduct for elections
- ② 1962: ECI circulated the Code for all recognized

political parties & governments,

③ 1991: Repeated violations of MCC, Corruption. Here EC enforces MCC more strictly for ex: Rebuk politicians postponing elections

Political parties started taking MCC Seriously.

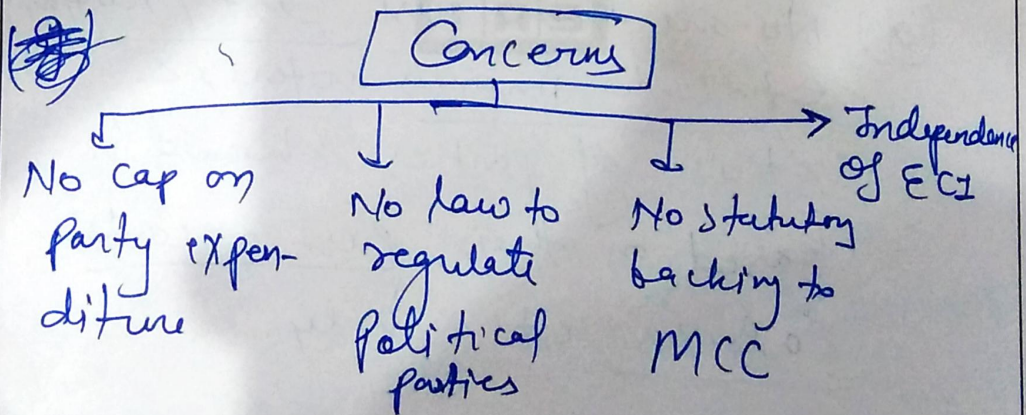
④ ECI ensures that:

(a) No one should use Caste, religion et.c to impress voters, & criticism of parties should be based on their past records, policies et.c. only.

(b) The time & venue of meetings should be communicated to local police by parties.

(c) the procession of parties/candidates passing through an area do

- not collide with other parties
- (d) On the polling day only the voters and permitted person should enter polling booth
- (e) ECJ also appoints observers.
- (f) No new policies, populist measures are announced by ruling power parties during the period when MCC is in force.



Way forward → forceful implementation of MCC is must.

→ Give ECJ power to punish for MCC violation

→ Amend RPA act

The procedural democracy of elections should be transformed into substantive one by giving more power to ECJ viz. MCC.