

GS SCORE

An Institute for Civil Services

IAS TOPPER'S

TEST COPY

SIDDHARTH ATTRI

AIR - 882

(CSE 2022)

GENERAL STUDIES

 **8448496262**  **iascore.in**

VALUES IN THE CONSTITUTION

Time Allowed: 3 hrs.

Max. Marks: 250

Q.	Marks	Instructions to Candidate
1.		<ul style="list-style-type: none"> There are 20 questions; all questions are compulsory.
2.		
3.		
4.		
5.		
6.		<ul style="list-style-type: none"> The number of marks carried by a question is indicated against it. The paper contains 3 Sections; First Section has direct questions for NCERT text books, while Second Section has questions from wide range of books and study material and the Third Section has inter-disciplinary and application based questions that require knowledge and information of other subjects as well.
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		<ul style="list-style-type: none"> Answers to questions no. 1 to 5 should be in 150 words, answers to questions no. 6 to 15 should be in 200 words, whereas answers to questions no. 16 to 20 should be in 250 words. Keep the word limit indicated in the questions in mind.
17.		
18.		
19.		
20.		
		<ul style="list-style-type: none"> Answers must be written within the space provided. Any page or portion of the page left blank in the Question-cum-Answer Booklet must be clearly struck off.

1. Invigilator Signature



2. Invigilator Signature

Name Siddhant Arora

Roll No. _____

Mobile No. _____

Date _____

Signature _____

REMARKS

GS SCORE

GS MAINS Q&A TEST SERIES 2019

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Section - A (NCERT)

Q1. Although, the Constitution of India does not use the word federation, yet the Indian Union is based on the principles of federalism. Discuss. (10 Marks)

Constitution of India describes India as a 'Union of states' instead of federation. However, it is based on principles of federalism which implies -

1. It is a form of govt in which power is shared between central authority & subnational govt i.e. states.
2. India represents a form of competitive and cooperative federalism.
3. Competitive, in the sense, states have their individual jurisdiction and they compete with each other.
4. Cooperative federalism implies states gets support from centre time to time eg - backward states gets more share of revenue, support during natural calamity etc.

Remarks

Constitution of India codifies certain provisions which aim to uphold federalism.

1. A-281 : Finance Commission gives revenue share of states w/ centre and grants provided to them.

2. There is a separate chamber i.e. Rajya Sabha, which has representation of various states and works in their interests.

3. Strict Constitution amendment laws which require ratification of half of states in case of major changes.

4. Separate state list to give more powers to states.

5. Independent Judiciary. Hence, federalism is elegantly maintained in Indian Union.

Federal features have been dismissed well you also need to lead about Ambedkar's element of unitary bias in this regard.

Remarks

3/2

Q2. Our interest in and fascination for democracy often pushes us into taking a position that democracy can address all socio-economic and political problems. Critically analyze. (10 Marks)

Neo liberals advocates that democracy is the ultimate form of govt. Winston Churchill once remarked,

"Democracy is worst form of govt until you get any better form"

The supporters of democracy believes that it is the answer to all socioeconomic & political problems.

However, democracy is not always in consonance with development

Singapore's former president, Lee Yew, said that we should look towards Chinese model for third world instead of Indian democratic model because

1. Though democracy is not there, with development, it has given better life to citizens.

2. Democracy has not ~~been~~ always successful in poverty alleviation.

Remarks

3 Democracy has not been fully able to uplift social status of back ward classes.

4 Due to freedom of expression, important projects gets delayed as many stakeholders comes forward.

However, Amartya Sen suggests that people should be made fit for democracy & that it should not be abandoned.

1 He gives eg of Kerala which has shown us tremendous progress in all human indicators.

2 He suggests investing in human capital.

3 As democracy & free media is there, there is no major case of famine after independence.

Hence, democracy, if properly applied can be a solution to many socio-economic problems.

1/2
away from

Addressed the demand

Need to discern

strengths and weaknesses in

democratic decision making

Remarks

Contrast with authoritarian approach

Q3. We cannot live in a world where there are no constraints. We need some constraints or else society would descend into chaos. Elaborate. (10 Marks)

To live in a world where there are no constraints means to live without a state.

Hobbes, the great philosopher, held that life of a man in a stateless society is brutal, nasty & short. It means that if there is no state, there is no law & order, hence there is threat to life. Hence it transgresses to an anarchical society in which man always fear that one's desires might conflict with his desires and in absence of any constraints, that person could harm me for fulfillment of his desires.

write in relatively short paragraphs

state with state of nature

Remarks

Hence, some limitations are necessary. A person gives away some of his liberty to state/govt in exchange of security of life.

Hence, state is a ^{social} contract. However,

Locke states that state cannot act in an arbitrary manner and therefore

contract is provided individual rights to prevent exploitation.

3

Locate this analysis in text of Constitution of India -
 Section instances of abuse of freedom as well as clause of reasonable restrictions also -

Remarks

Q4. The champions of democracy support the idea that equality is a necessary condition for social development. In this reference, elaborate on types of equality guaranteed by Indian constitution. (10 Marks)

Equality, is the crum of democracy and constituent assembly adopted to achieve this goal via keeping the right to equality as a fundamental right.

There are various types of equality guaranteed by Indian constitution

1. Right against discrimination - No citizen shall be discriminated on the basis of caste, race, gender, sex or religion.

2. Right to religion - Every citizen will be treated equal in public sphere despite the religion he/she profess.

father from
equality
examples,
social, economic and
political equality
add examples

Remarks

3 Right to Affirmative Action -
 State sponsored action is necessary to
 make those equal to others who
 suffered from historical discrimination
 eg - women, SC, ST.

4 Against untouchability - Statutory
 law demands to ban any type

of untouchability to give all

right to equality

After 70 yrs of independence,
 conditions are far better than they
 used to be. However, - still

they certain steps should be taken
 so that every one is
 equally

Bring out a clear
 relation between
 idea of equality and
 social development.

Remarks

Q5. Examine the similarities between the position of British Crown and Indian President. (10 Marks)

As our democracy is derived from westminster model & many provisions are taken from 401 Act, 1935

Hence there are many similarities between British Crown & Indian President good

Some of these are -

1 Both are only constitutional head of state i.e. for name sake. The real powers are with PM.

2 ^{However,} Foreign matters or other laws are made in the name of British Crown & Indian President.

3 Both hold the highest stature in the country.

4 Both enjoy immunity from prosecution.

5 For both the salaries are non-votable.

Remarks

6 Both derive their powers from constitution.

However there are certain differences too.

1 Indian president can be impeached

whereas British crown cannot be

2 ~~Indio~~ British crown is hereditary

whereas Indian President is not.

Despite the differences, both have highest stature & it is a part of great honour & responsibility.

(K)

neatly and adequately addressed the demand of the question -

Section - B

Q6. Under Indian setup, the president's job is restricted to rubberstamping the decisions of the central government, faithfully. In this context, analyse the functions, roles and responsibilities of President and why he doesn't need to be a rubber stamp. (12.5 Marks)

In India, President is the nominal head of state whereas Prime Minister holds the real executive powers. His powers are limited as -

- 1 PM is head of cabinet whereas President is just the ceremonial head.
- 2 He cannot return a constitutional amendment bill.
- 3 He has to act as per the aid & advice of the Cabinet ministers.
- 4 He is not the direct representative of people. Hence his powers are limited.

However, he doesn't need to be a rubber stamp of central govt. He has the highest status in the list and plays important functions -

- 1 Defends rights of states - Eg States recommendations for creation of states, passage of state bills reserved for his recommendation, main affairs federal balance.

Remarks

2 All ^{foreign policy matters} bills and laws are passed in the name of President.

3 Veto Powers - He is the ultimate authority whose assent is required for passage of bills.

4 Introduction of Bills - Various bills, Constitutional amendment bills, joint sitting happens with his permission only.

5 He has an obligation to preserve & protect the constitution. Hence, his oath holds very much importance.

6 He is the ^{top} commander of all the these defense forces of India.

7 He enjoys immunity from criminal prosecutions, has security of tenure & impeachment process is - very strict and his salary is non-votable.

8 He enjoys additional mercy powers. Hence, President plays an important role in proper functioning of democracy.

(4) though

under powers delineate you need to know
that are those exercise his
under and council of mins.
discretion

Remarks -

Then draw a suitable conclusion.



Q7. What is direct democracy? Is it time for India to adopt a measure of direct democracy as is being practiced to some extent in Switzerland and some states of the United States of America? Examine critically. (12.5 Marks)

Direct democracy is a form of government where people govern ~~not~~ directly ^{not through} that is - representatives and there is mass representation. It is done through

referendum or plebiscite + Initiative/Recall } explain briefly
(Catalonia)

Whereas in India, there is indirect democracy i.e. people choose their representatives who then form the govt & make policies. There is no direct rule.

Adv. of direct democracy -

1. It is Democracy in true sense as the decision making is directly delegated to people.
2. It prevents authoritarianism, corruption & nepotism.
3. There is more democratic consciousness and people can take decisions which suits their economic interests.

Can also relate with problems of democracy.

Remarks

Why direct democracy is not suitable for India -

1. Population of India is huge. Hence, it doesnot have the resources for people's vote at such a mass level for every decision.

2. Direct democracy in India can retard decision making as it is a very slow and expensive process.

3. Due to widespread ignorance & illiteracy, there is ^{high} great probability of decision making going wrong as not everyone can have knowledge of a particular field.

4. India has a very successfully implemented indirect democracy, hence it should continue with that.

Moreover, regular elections increases accountability of the representatives.

5

Why the whole debate then?
Idea of direct democracy
Panchayati Raj
amendment -
Rebate with

Remarks

-
=

Q8. Right to expression is guaranteed by the Indian Constitution, however, to ensure that citizen find proper avenues to express themselves, we need to evolve mechanisms. Elaborate. (12.5 Marks)

Although Right to freedom of speech & expression is a constitutional right provided by A-19 of the constitution.

In case of any violation of the right, the aggrieved can directly move to the SC.

Benefits of the right -
1. It gives people right to speech & peaceful protest.

2. Right to expression is fundamental tenet of dignity of an individual.

3. For democracy to flourish, constitutional status of FR is quintessential.

However, there should be more safeguards for proper exercise of the right.

Lead J.S. will to better appreciate the significance of right to expression
unwise about reasonable restrictions

Remarks

Q9. What are parliamentary privileges? Under what circumstances, they can have a conflict with civic liberties. Elaborate. (12.5 Marks)

Parliamentary privileges are those immunities which legislatures of centre & state enjoy under constitution. They are necessary for maintaining dignity of law enforcing agency, obedience to acts & proper functioning of legislature.

Some of these are -

1. Power of contempt of Parliament
2. Freedom from arrest, 60 days before or after the session
3. Freedom of enjoyment of FRs

However, all the privileges have not been penned down because of fear of judicial review.

It has raised many constitutional questions over its rightful enjoyment & alleged misuse.

1. It has been regularly provoked to curb right of freedom of expression in name of contempt.
- Eg: Karnataka assembly issuing

relevant articles -
 Separately with individual or collective privileges

Remarks

imprisonment notices for journalists.

2 Some privileges provide undue immunity to its members & punishment

is not based on 'procedure established by law'. Eg: HC staged arrest of

Govind Lankesh.

These privileges justify FR's of the legislators to be over & above

FR's of citizens which distorts basic features of constitution.

Day forward -

1 Codification of privileges

2 Judicial review

3 Respect - to FRs of citizens & dignity of judiciary.

elaborate these suggestions

24

Remarks

Delate with violation of FR's of independence of judiciary

Q10. What is conscription? Examine the case of conscription in India in light of the balance between Fundamental Duties and Rights. (12.5 Marks)

Conscription is when an country can call you to serve militarily. It becomes an obligation to you to serve in force even at the cost of your life.

In Indian constitution, Fundamental Duty -

→ To defend the country & render national service when called upon to do so.

Mention articles

is mentioned. However, it is placed under fundamental duty which implies that it is non-justiciable. Its non-obligation cannot be challenged in any court.

However, it does not mean that in case of war, if there is shortage of military staff, state can call you to serve compulsarily.

On the other hand, if conscription ~~does~~ conflicts with

Remarks

Your freedom of profession provided under A-19 of Fundamental Rights is still debatable.

One view suggests says that security of country is foremost. Losing a war can cause irreparable damage to territory, reputation and to citizens of the country.

Other hand view says that fundamental right of an individual cannot be compromised. The individual should be seen as a whole, not a means to an end.

Hence the line b/w FR & Duties should always be maintained.

not serious engagement with debate around FR and it is needed.

374
 need to make analysis more
 rigorous
 use bullet point format
 against range of arguments
 use bullet point format

Remarks

Q11. Examine the difference between equality and liberty as a state's objective? (12.5 Marks)

India's preamble defines it as a socialist republic. To uplift the weaker sections out of poverty, India provides 'Equality of opportunities' rather than 'equality of outcomes' (which means equal in wealth).

For this,

- Progressive taxation principle is applicable.
- Affirmative action to support the weaker section.
- Various central & state govt schemes aim to uplift the socio-economic status of deprived.

Amartya Sen, on the other hand, suggested that govt should provide 'Equality of capabilities'. It should skill the unskilled to make them competitive. Govt has therefore formed National Skill Development Corporation.

Remarks

Indian constitution also supports Equality irrespective of caste, race, gender, religion as mentioned in A-14

On the other hand, India is a mixed economy too. It gives liberty to people to have own property, make imp life decisions (right to marriage), liberty to profess any religion, liberty to choose where to settle & what profession to profess

The concept of liberty goes back to aristotle that said man is free to acquire wealth & that state is a social contract

The above content is right but do you see any tension between the ideas of equality and liberty? How they manifest differently in actions and nature of state?

Remarks

Q12. Examine the importance of elections in a modern democracy? Are they enough for working of a democracy? (12.5 Marks)

Fair elections are soul of a modern democracy. Even Constituent Assembly, particularly B.R. Ambedkar, has stressed the importance of elections saying

"Elections are the voice of people. Elections are the soul of democracy"

Our democracy is a true democracy in the sense it is a multi party system.

To come to legislators simply cannot forego the interests of people, otherwise they will be out voted.

Elections ensure bottom up approach - needs of lowest strata are communicated to the top level policy makers.

Elections ensure transparency & accountability of the government.

Elections check against nepotism and favouritism.

Elections ensure that India moves towards nation building i.e. welfare state.

well explained the importance of elections

Remarks

However, mere fair elections cant cause democracy to flourish as

1. Criminalization of politics - Around 30.2%.

of legislators face trials and around 18% face trials of heinous crime

2. Transparency is not totally guaranteed as MPs, MLAs are kept out of RTI process.

3. No. Nepotism, Favouritism is in theory but not in practice as big corporates or relatives of legislators enjoy huge privileges.

4. Voice of civil society is curbed in the name of sedition & restrictions to A-19.

5. There is lack of accountability as NCH is not easy & once in power, remains in power for yrs.

Elections should be made more transparent and accountability should be enhanced.

in the wake of above you see issues, what role do SC, ST, media, civil society?

5

Remarks

Q13. What are some reasonable restrictions on freedom and liberty? Examine why they are needed for proper functioning of a modern society. (12.5 Marks)

Right to freedom & liberty, although a fundamental right, is not absolute as there are some reasonable restrictions on the same:

1. No Right to bandhs - as it hampers functioning of state

2. Freedom of speech & Expression is limited to the extent, as long as it does not incite violence and comes under 'sedition'

3. Right to equality does not stop state for taking affirmative action in support of women & backward classes

4. Practising religious personal laws is acceptable as long as it does not collide with rights of women

5. Contempt of court is also a reasonable restriction on liberty.

6. FRs are seen in light of DPSPs, hence they could be curbed in light of wider state interests

Point clearly align this with article providing for article reasonable restrictions of Article

Remarks

Restrictions are needed for proper functioning of a modern democracy.

1. Restrictions are a step towards more secular & uniform state
2. Law & order is maintained.
3. Ensures proper functioning of state.

Restrictions should be there, but not arbitrary. Due process should be followed to make them reasonable.

3/3

Inadequate
 wide examples of
 abuse of freedom
 who draws how state
 abuses clause of
 reasonable restrictions
 arbitrarily!

Remarks

Q14. Did the Government of India Act, 1919 introduced responsible Government and ended 'benevolent despotism' in India? Discuss. (12.5 Marks)

Govt. of India Act, 1919 provided for

1. Dyarchy i.e. reserved list
2. Bicameral legislature
3. Inclusion of 3 Indians to viceroy's Executive Council. transferred list

write with adequate explanation

The act provided for limited sharing of powers as

- Budget was to be discussed
- UAF to women for the first time
- Some power in the form of transferred list

Also, the act did not meant to complete transfer of powers as

- Budget could not be voted upon
- Transferred list contained subjects that are responsible of health education

Remarks

Whereas reserved list included critical subjects of defence & communication

- Voting power i.e. franchise pool was very limited then

- Although 3 seats in executive council were for Indians, they were still in minority in a council of 8.

Govt of India Act, 1935 was a better version not best of Govt of India Act, 1919.

(5)

Good critical evaluation

Attire if you can explain what is meant by 'benign respect'!

Q15. Triple talaq which has been banned in more than 20 Islamic countries was still a practice followed in India, until recently. What is the reason behind it? How far the judicial pronouncements in India have been successful in opposing this practice? Critically Analyze. (12.5 Marks)

Triple Talag, although against the right to equality of muslim women, was in practice in India b/c of following reasons - introduce it first of all -

1. Constitution ^{grants} ~~provides~~ A-2 Right to freedom of religion under A-25. Hence, it left the Muslim personal laws to the community itself.

2. The community asserted that Triple Talag is one of the principle feature of their Shari'a law & is an 1400yr old practice.

3. All India Muslim Personal Law Board, considers the resumption of matrimonial relationship b/w divorced couple without 'Nikah Halala' as sinful.

Remarks

Earlier Judicial pronouncements -

1 Under Shab Bano case, SC held that right to equality includes rights against arbitrariness

2 In 2002 case, two judge bench had delegitimized triple talaq.

Head about Shab Bano case

3 In 2008, Delhi HC said that three divorces at one go can be counted as a single talaq only.

By setting aside Triple Talaaq,

SC has pronounced that personal laws could not override constitutionally guaranteed rights of individuals.

which challenges the ahead in effective execution of this SC judgement?

4

Section - C

Q16. The Supreme Court issued a notice to the Centre over a public interest plea seeking direction to establish guidelines to prevent torture, cruelty, inhuman or degrading treatment of jail inmates. In this context, discuss the need of prison reforms and various measures in this direction. (15 Marks)

The living conditions of jail inmates does not comply with the global standards as there is -

1. Overcapacity - In percentage terms, it is 137% of what it should be
2. Degrading conditions - As they live in inhuman conditions, with respect to sanitation, infrastructure, hygiene, medical facility
3. Lack of women staff - which leaves ^{responsibility of} women prisoners to the male staff, which is highly undesirable
4. Women Torture - women prisoners are often tortured ^{sexually exploited} by male prisoners & other police staff
5. No post natal separate chamber.
6. High percentage of undertrials - 67.2% of all jail inmates are undertrials

Remarks

Hence, there is dire need of
prison reforms as -

1. Constitutional provisions - A-21 i.e. right to life applies to jail inmates also no matter how heinous crime is.
2. Global Consent Standards - India is signatory to UN convention of prevention against torture.
3. As majority are undertrials, who are often innocent, and prison reforms are need of the hour.
4. To live in unhygienic degrading conditions can make a person mentally unstable for life.
5. For women, who can keep the child only till he turns 6, ^{separation is} beyond ethical standards.

Remarks

Various measures have been taken so far.

1 Fast track courts - so that there is speedy redressal of justice.

2 Bail provisions - For crimes, which are civil, not criminal, easy bail provisions

3 There are separate wards for women inmates & more humane treatment given to them

4 More recruitment of women staff.

5 SC has time and again, advocated prison reforms & asked Centre to comply with the

same family bail for family.

However, there is more to be done.

Mathur Comm. recommendations should

be applied to further grant life to dignity to prisoners.

7/7

Comprehensively
major demands of
the prisoners addressed

Q17. Democracy is truly functioning when people have right to recall legislators and held them accountable for what they were elected for. In this reference, critically examine the need for the right to recall option in India. (15 Marks)

Right to recall is when people who have elected a legislature can revoke their support of for his candidature, if he fails to catch up with the aspirations of the people of that area. Although ^{concept is} new to Indian ~~concepts~~ ^{scenario}, it could be tested on a pilot basis.

Merits of right to recall -

1. It will ensure better accountability & transparency towards the people.
2. Democracy, in this sense is fulfilled, when the elected legislators cater to the needs of the people, the purpose they are elected for in the first place.

Remarks

3 It will cause reduction in populist policies during elections & false promises.

4 There will be less criminalization of politics & more responsibility towards the people.

5 It would lead to real development of the area & hence towards nation building.

However, the ~~course~~ execution of right to recall is not as easy as it looks. Moreover, there are many drawbacks with the system.

1 Ignorance - ~~The~~ Even if applied, there is large scale illiteracy - so it might not work as people - may not be aware of their rights.

2 Division of society - From the day legislator will hold office, there would be two sections - one in support, one against.

Remarks

3 Counter productive - As it would lead to more populist policies which could be short term & hamper long term development.

4 Breakdown of law & order - Any strict step by legislators, although right, will lead to protest from non-supporters & will cause its misuse.

5 There could be frequent use, which will lead to chaos and would sow seeds of anarchy.

It could be tested in a small area. If successful, could be extended to other parts.

6
 Critical evaluation of the proposal of Right to Recall has been done well. We should also suggest other ways of attaining accountability.

Remarks

Q15. The Supreme Court's landmark and unanimous judgment that individual privacy is a guaranteed fundamental right under Article 21 will further increase the scope of the most liberally inserted article. In this context, discuss how the judgment interprets privacy and its implications on Aadhaar and Article 377? (15 Marks)

The 9th judge bench of Supreme Court voted unanimously in favour of individual privacy.

The judgement interprets privacy as follows -

1) The SC judgement elevates privacy to the status of Fundamental Right, ^{under A-21: Right to life} & places it outside the ambit of legislative discretion.

2) SC places privacy with the right to be left alone as an inalienable part of being human.

3) However, SC has placed some restrictions on right to privacy for the sake of larger public interest.

Remarks

Implication on Aadhar -

1. With privacy as FR, the state lose privilege to ~~also~~ collect data arbitrarily & to store for indefinite period of time.
2. ~~The~~ Subsequently, SC has removed mandatory linking of aadhar with bank accounts & telephone no.
3. It has banned any private organization to store customer's aadhar data.
4. The state can also collect ~~that~~ so much data that is absolutely necessary & that too for a required period of time only.
5. The onus to protect Aadhar data lies with the state.
6. However, Aadhar use is ^{made} mandatory for the target delivery of services.

Remarks

Implications on A-377 -

2 A-377 which criminalizes homosexuality has been scrapped & named constitutional.

3 The right to consensual sex forms part of right to privacy.

3 with the judgement, the SC ends the discrimination against LGBT community who have suffered a lot historically.

Like always, SC's judgement was a landmark step in ensuring dignity of individual.

5
Judgement has been explained well but you should focus more on reasoning of the court arguments and read reasoning against it.

Remarks

Q19. The indirect democracy stands on the principle that government of experts could make long-term plans for the nation's future than normal citizens. But political corruption has converted this principle to the myth. How can accountability be brought in indirect democracy? Does a qualification criterion be made for election both for election and candidate?

(15 Marks)

Due to large population & less resources, India has gone for indirect democracy. However, there are many disadvantages of the system.

1. Political corruption - It leads to nepotism & rule of capitalist class
2. Caste politics & identity politics are consequences of the game played by representatives to remain in power.
3. When every party - whether in power or in opposition is corrupt, there is no real benefit of indirect democracy.
4. Accountability & transparency gets diminished as you cannot vote out representative before term ends.

What do these mean by political corruption?

Remarks

Methods to being accountability in indirect democracy.

1 The most imp. step is that people should cast their vote rather than voting their caste. This will lead to true representation & hence decision making in favour of majority.

Why? To get better understanding of caste, read fair to caste.

2 Review the performance of your representative & vote accordingly.

3 Try to reach to your representative to bring about your demands & participate in community events.

4 Demand allocation of funds to be made public by the representative.

Additionally, a qualification criteria should also be proposed for both the candidate & for election like in the elections of Rajasthan & Haryana.

Remarks

Pros -

- 1 They would be better qualified for fund management & right decision making.
- 2 It will reduce criminalization of politics & use of money & muscle power.

Cons -

- 1 It will reduce pool ^{of candidates} to a very small level.
- 2 For Example - For Election of Sarpanch, a person should be well aware of issues faced by locals. A formal education is hardly of any help.
- 3 It will reduce percentage of women coming up for elections.

Hence, all options should be weighed on proportionately & efforts should be made to bring accountability into indirect democracy.

62
comprehensively
demands of
addressed the
the question

Remarks

Q20. The Supreme Court upheld the constitutional validity of sections 499 and 500 of the Indian Penal Code providing for criminal defamation over free speech. In this context, elaborate on the arguments of the Supreme Court to uphold the validity of these sections and significance of the judgment. (15 Marks)

Freedom of free speech has been in news for quite a some time. It is challenged by two articles of IPC -

Section 499 - Any speech or action, in written or in print, intended to defame a person is subject to criminal offence.

Section 500 - Person convicted under issue of defamation can be subject to punishment up to two years or fine or both.

Now, the question is: Should Sec 499 & 500 be scrapped?

Arguments in favour -

1. Because the charges filed are many a times arbitrary. What is defamation for one, might not be same for another.
2. Even political speech is not protected from Sec 499.
3. Charges can be filed for speaking against a dead also.
4. Person can be put to trial on allegations of conspiring with someone who had used defamatory speech also.

Remarks

But Supreme Court has upheld its validity by giving the following arguments -

1. Freedom of speech + restriction is sacrosanct but not absolute
2. The Right Against Defamation that is Right to Reputation is also an integral part of A-21 i.e. Right to life.

Significance of judgement -

1. SC has balanced right to dignity with right to express freely
2. Jagan Judgement is protection against for those who have to suffer because of hate speech of others.

3 The provision of Sec 499 & 500 will detect one from spreading hatred between diff. communities.

6
 Besides, the judgment has been explained

what alternative exists to making defamations a criminal offence?

why not civil offence?

