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VYOM BINDAL

RANK - 141

**INDIAN POLITY +
CONSTITUTION & PIC
TEST - 4**



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INDIAN POLITY + CONSTITUTION & PIC

Time Allowed: 3 hrs.

Max. Marks: 250

Q.	Marks	Instructions to Candidate
1.		<ul style="list-style-type: none">There are 20 questions.
2.		<ul style="list-style-type: none">All questions are compulsory.
3.		<ul style="list-style-type: none">The number of marks carried by a question is indicated against it.
4.		<ul style="list-style-type: none">Answers to questions no. 1 to 10 should be in 150 words, whereas answers to questions no. 11 to 20 should be in 250 words.
5.		<ul style="list-style-type: none">Keep the word limit indicated in the questions in mind.
6.		<ul style="list-style-type: none">Answers must be written within the space provided.
7.		<ul style="list-style-type: none">Any page or portion of the page left blank in the Question-cum-Answer Booklet must be clearly struck off.
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1. Invigilator Signature

Name VYOM BINDAL

Roll No. _____

Mobile No. _____

Date _____

Signature

2. Invigilator Signature

REMARKS

Section - A

- Q1. 'Upper Chamber of the Parliament across the world is generally considered to be less powerful than the Lower Chamber. However, they are also vested with certain functions and powers, which enable them to play a decisive role'. Critically analyze the above statement with special emphasis on India. (10 Marks)

Indian constitution establishes Rajya Sabha as second chamber of Parliament with the following important roles

- 1) It is slated to be balancing wheel of Indian federalism, protecting the interests of state governments.
- 2) It helps to prevent passage of hasty legislation by the Lok Sabha.
- 3) Since Lok Sabha is popularly elected House, Rajya Sabha by virtue of being indirectly elected provide scope for more reasoned discuss under less populist pressure.
- 4) It is equal to Lok Sabha in all matters except financial matters, which clearly points out vision of constitution makers to make

Remarks

it second chamber not secondary chamber.

- 3) Constitution gives two special powers to the Rajya Sabha:
 - a) Under article 299, only Rajya Sabha can authorise Parliament to legislate on state subject in national interest by pass resolution by $\frac{3}{4}$ th majority.
 - b) Under article 312, only Rajya Sabha can authorise Parliament to create new All India service.

There are some criticisms against Rajya Sabha like corruption in elections, serving as parking ground for defected politicians, obstructing govt. legislative agenda etc.

however, the spirit of constitution demands reforms to solve these issues, overall Rajya Sabha remains as relevant as ever.

(7)

what extra powers are available to Lok Sabha?

Exemptions -

Remarks

- Q2. Examine the need for establishing a permanent Inter-state Council. Discuss the main functions of Inter-state Council as envisaged under Article - 263 of the Indian Constitution. Highlight the recommendations of the Sarkaria Commission in this regard.
(10 Marks)

Inter-state council is forum headed by Prime Minister. It contains the Chief Ministers of all the states as well as Lieutenant Governors and administrators of all the Union Territories.

Main functions of the inter-state council include :

It helps in fostering the centre state and inter state co-operation.

It provides a forum for mutually acceptable resolution of disputes like inter-state river water disputes.

Its role is supplementary to that of Supreme Court in resolving federal disputes.

Remarks

However, its decisions are only
recommendatory in nature, unlike the
court whose decision is binding.

Hence, Inter-state Council
provides a great forum to nurture
co-operative federalism, therefore it
should be made a ~~not~~ permanent
body with regular meetings.

③

Read more about problems
faced by ISC and
suggest specific remedial
measures -

Remarks

- Q3. Political participation by women in the popular struggles from 1920s onwards opened up new vistas of possibilities that a century of social reforms could not. Highlight the role played by women since Independence in the issues related to peasants, tribals, farmers, trade unions and environment. (10 Marks)

Women had been at forefront of various movements both in pre and post independence periods. Their role in various movements.

Environment: They played important role in Chipko movement, Narmada Bachao Andolan giving them a mass character.

Trade Unions: They are important participants in various strikes, sit-in occupations held by the trade unions.

Peasant and farmers: Women were backbone of peasant movements like Telangana Movement, Sabha movement demanding the

Remarks

rights of peasants.

The success of former co-operatives like Amul was largely dependent on women contribution.

(3) Tribal Movements: Women were central to protests in Niyamgiri project fighting for their traditional rights. Naga women led struggle for equality in representation in local bodies.

Hence women across the divide of class, caste had been active participants in almost all social movements of independent India.

Remarks

- Q4. There has been controversy over the Article 35(A) and its legality. In this background, elaborate on Article 35(A) and its implications. (10 Marks)

Article 35(A) to the constitution was added by Presidential Order, 1954 under the powers conferred by article 370(1)(d). It empowers legislature of Jammu and Kashmir to define "permanent residents" of the state and extend to them special privileges like:

- Right to purchase property
 - Preference in public employment
 - Extension of welfare schemes, scholarships etc.
- This provision is being criticised

on following grounds:

- 1) It was not added by the constitutional amendment procedure prescribed in the Constitution article 368.
- 2) This article violates the right to equality under article 14 by denying equal treatment

Remarks

to Indian citizens from outside the state.

- 3) This article prevents J&K from fully tapping the potential of investment, economic development.
- 4) The article says that if J&K women marries someone from outside the state, her children will not get status of 'permanent residents', hence it is gender discriminatory in nature.

However, article 35(1) is result of Indian Union's unique political position vis-a-vis Kashmir due to extraordinary situation of its accession and provision of article 370.

This article 35(1) was added with the wishes of people of J&K, hence it is also imperative that if its abrogation is needed, there is need to ascertain wishes of people of J&K

(5)

Remarks

comprehensively addressed
the demands of the
question

Q5. Paucity of Judges, especially in lower courts is critically affecting the Judiciary and Justice delivery system, discuss. How the situation can be improved? (10 Marks)

India has acute shortages of judges as our courts has only around 19 judges per million people, against the accepted norm of 50 per million.

This is severely impacting the justice delivery system:

- 1) This leads to high pendency of cases. As per National Judicial Data Grid, more than three crore cases are pending in the lower judiciary.
- 2) It violates the fundamental right to speedy justice as guaranteed under article 21. It also endangers liberty of under trials which unfortunately constitutes around 68% of total jail inmates.
- 3) It also puts brakes on economic development,

Remarks

Economic Survey estimates that \$3,000 crore worth of infrastructure projects are stuck due to court injunctions.

- 9) Due to inordinate delays in justice delivery system, people's trust in judiciary is lowered.

This is one of the reason people taking recourse to mob lynchings rather than following rule of law.

- 5) Poor and the marginalised sections are disproportionately impacted by repeated delays, adjournments.

To improve situation following steps can be taken:

- 1) Enhancing the retirement age of judges.
- 2) Early finalisation of Memoranda of procedure for appointments in higher judiciary.
- 3) Creation of All India Judicial Services to fill lower level court vacancies.

4

Remarks

meets about alternate
dispute resolution
also!

- Q6. The actual working of the State Finance Commissions (SFC's) have not been as effective and efficient as the Union Finance Commission. Critically examine. (10 Marks)

State Finance Commission (SFC) is a constitutional body established by 73rd constitutional amendment Act. their objective is to

- 1) Recommend the horizontal distribution of tax revenues between state and local governance bodies i.e. Panchayats and municipalities.
- 2) Its recommendations are necessary for Union Finance Commission while recommending to Union government the resources to be given to states to supplement resources of local bodies.

However, despite its vital constitutional role, SFCs has not been effective because:

- 1) They are not regularly constituted by the state governments.
- 2) The persons appointed on SFC usually lack

Remarks

the specialised knowledge and expertise required.

- 1) They had much bigger task than Union Finance Commission, as they have to deal with thousands of local bodies, whereas Union Finance commission body deal with only 29 states and 7 UTs.
- 2) Reports of SFCs are not given adequate publicity, neither receive sufficient discussion in state legislatures unlike those of Union finance commission.

The role of SFCs is in no way inferior to Union Finance Commission, they constitute an important pillar in empowering local bodies which are agents of democratic decentralisation. Hence above lacunae needs to be removed and make SFCs an empowered institution.

Remarks

(3)
 not affected
 out. been
 covered

- Q7. Write a short note on the different sessions of Indian Parliament. Why do you think parliamentary disruptions by Members of Parliament are on the rise, during last two decades? Examine the causes. (10 Marks)

Constitution of India prescribes that there cannot be a gap of more than six months between two Parliamentary sessions, however, by convention there are three sessions in a year:

Budget session: Perhaps the longest and most important. It starts in around March and in this session annual financial statement is presented as mandated under article 112.

Monsoon session: This is mid year session to discuss public issues, legislations.

Winter session: This is the last session of the year. Apart from that government is authorised to recommend to President special session during any part of the year.

Parliamentary disruptions are on the rise, as sittings had decreased from around

Remarks

120 per year in 1950, to around 70 days/year at present, Budget Session 2018 ~~saw Lok Sabha~~ sitting only for 21% of its "available time".

Reasons for disruptions -

- 1) Breakdown of relationship between the govt. and opposition to a hyper-polarised political environment.
- 2) Minimisation of Parliament also leads to disruptions, as per IDR, 39% of MPs have criminal cases pending against them.
- 3) Disruptions of Parliament also happen due to MPs raising local issues of fixing drains, nursery admissions rather than issues of vital national interest.
- 4) Sometimes the adamant attitude of govt. to ignore issues raised by opposition also leads to disruption. As vice-President of India said, it is people of India who loose most due to disruptions hence political consensus is needed to end these.

Remarks

- Q8. Did the Government of India Act, 1919 introduced responsible Government in India and ended 'benevolent despotism' in India? Analyze. (10 Marks)

The Government of India Act, 1919 was a landmark step in constitutional governance in pre-independent India because :

- 1) It gave the opportunity for an elected provincial Assembly, hence enhancing popular participation.
 - 2) It divided the Union and State budgets, introduced bicameralism at the Union level.
 - 3) It divided state legislation subjects into two - reserved and transferred under the dyarchy system. Transferred subjects were to be administered by popularly elected ministers.
 - 4) This Act gave the right to vote to women for the first time.
- Hence, Government of India Act, 1919 was a step towards introducing responsible

*gapage
deatax*

- = Govt. in India, but it cannot be claimed
 - that it ended "benevolent despotism" because:
- 1) Central Govt. continued to remain completely despotic under Governor General.
 - 2) Even at provincial level the illogical division of subjects still severely curtailed power of elected representatives.
 - 3) By vague provision of "special responsibility", Governor routinely interfered even in reserved subjects.
 - 4) Despite extension of voting, less than 10% of adult Indians were eligible to vote.
 - 5) The Act consolidated and extended the divisive communal electorates introduced in 1909.
 - 6) Princely states continued to be ruled by irresponsible monarchs. Therefore, only with independence in 1947, truly popular, responsible Govt. was introduced in India.

Remarks

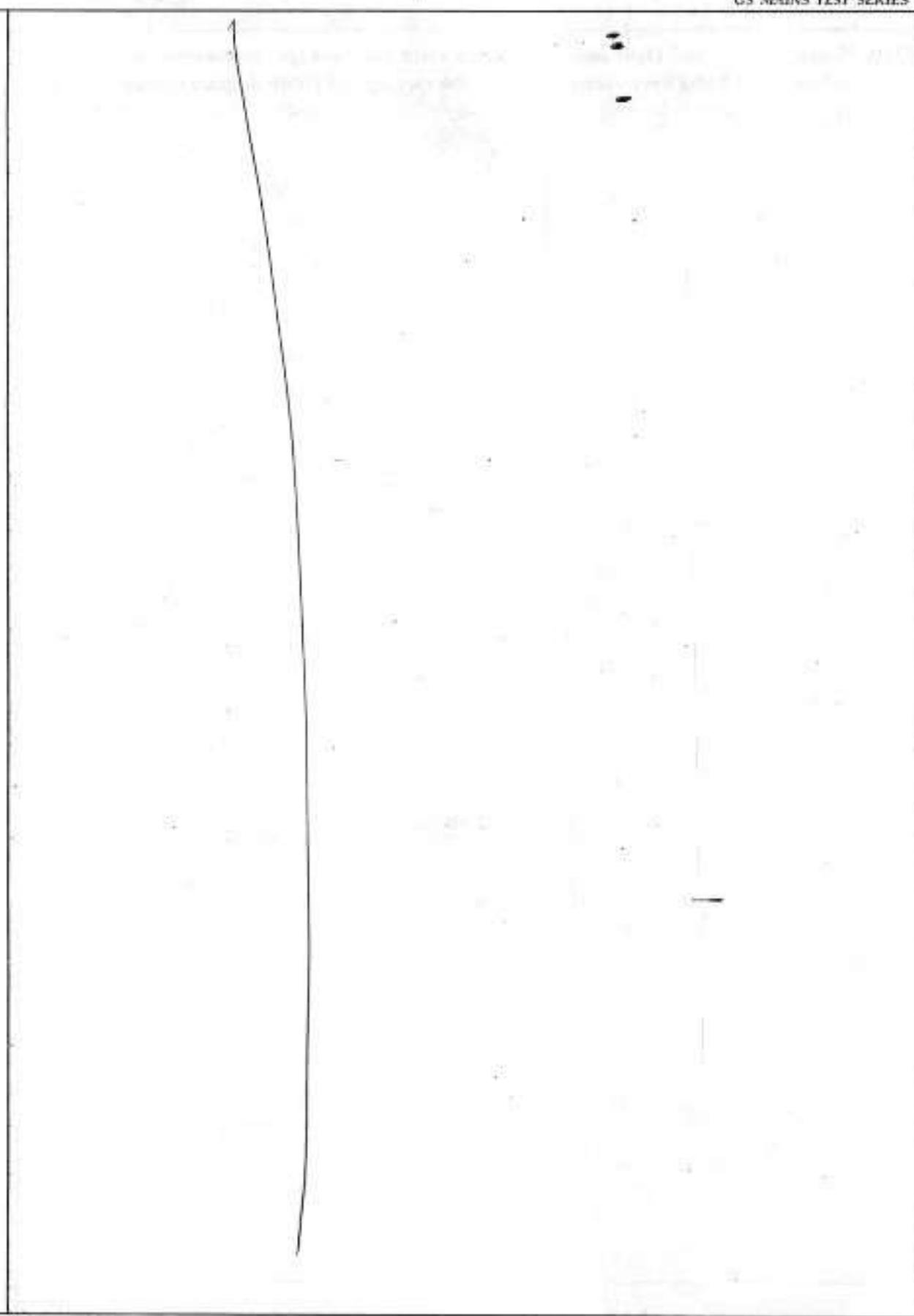
(5)

knowledge and critical analysis both are appreciable.

- Q9. Rajendra Prasad was a man of courage, dedication, conviction and utmost sincerity. Highlight the role played by Dr. Rajendra Prasad in India's freedom struggle and in laying the foundation of a modern India. (10 Marks)

Rajendra Prasad played a very prominent role in India's freedom struggle as well as in post independent India. His contributions include

- 1) He accompanied and helped Gandhiji in his Champaran Satyagraha, hence fought for the rights of oppressed indigo farmers.
- 2) He was the President of constituent Assembly and ensured its smooth conduct, gave his inputs in constitution formation and made every attempt to make assembly as representative as possible.
- 3) As the first President of India, he played



Remarks

Section - B

- Q11. In Higher Judiciary, no Judge has been removed so far, despite the prima-facie evidence in several cases. In this context, critically analyze the procedure to remove the Judges and how to bring the judges to the justice; after all they are not above the Constitution? (15 Marks)

Currently the procedure to remove the judges as laid down under article 124 is very elaborate and complicated and involves following steps:

- 1) At least 50 MP, (in case of Rajya Sabha), or 100 MP, (in case of Lok Sabha) present a motion for removal of judge to Presiding officer on the charges of "proved misbehaviour" or "impartiality".
- 2) Presiding officer may or may not admit the motion, if rejected matter comes to end.
- 3) If accepted, an enquiry committee consisting of two judges had to be constituted to investigate the charges.
- 4) Then report of this committee is discussed and resolution had to be passed by majority

Remarks

of not less than two-thirds of members present and voting, and also constituting at least half the strength of House.

- 3) Then resolution goes to other House and had to be passed by same majority in same session of the Parliament.
- 4) After this, President issues order removing the judge.

Complexity of above procedure had ensured that no judge had been impeached so far. Supreme Court in Aravali Gof Club case, itself held that the above procedure is inadequate to ensure judicial accountability.

This had created a judiciary which is most elitist and least representative, least accountable, which goes against the spirit of democracy, to bring judicial

accountability following steps can be taken

- 1) In-house mechanism by judiciary to remove errant judges as Supreme Court recommended for removal of Allahbad High Court judge, this will also prevent charge of political bias on the legislators.
- 2) Bringing the judiciary under the ambit of Right to information Act to make it more transparent.
- 3) Bringing the reformed National judicial accountability Bill, which balances judicial accountability with judicial independence.
- 4) Need for restrictive interpretation of power of "Contempt of court", to promote constructive criticism of judiciary. Independence of judiciary is cardinal constitutional principle, however the very basis of democracy is public accountability, hence judiciary needs to come under it.

Remarks



Good
comprehensive and
systematic.

Q12. There have been divergent views over creating an All India Judicial Services (AIJS) while Centre and the Supreme Court is favoring AIJS, several States and High Courts are in opposition to it. In this context, critically examine the creation of AIJS.

(15 Marks)

44th Constitutional Act provides for the creation of AIJS. The need to create it was also affirmed by Law Commission in its 116th report and also by the Supreme Court in All India judges association case.

Creation of AIJS is being favoured on following grounds:

- 1) It will help timely fulfilment of judicial vacancies in lower courts through a centralised recruitment process.
- 2) This will enable lower judiciary to attract best talent from all across the country into judicial services.
- 3) It will break narrow regional outlook and

Remarks

bring about all India perspective among the judges of lower judiciary.

It will bring the prestige and status of judges in lower courts at par with those of other All India Service officers like IAS, IPS.

However the proposal is being opposed by several states and High Courts on following grounds:

1) Interpretation of law made by States require knowledge of local cultural context and practices, which may be lacking in IITs officers.

2) There will be issue of disciplinary control over the IITs officers. whether it will be with the corresponding High Court or recruiting agency.

- 3) It will also interfere with federal structure by taking away the power of state governments with regards to appointment in lower judiciary.
- 4) There is need to ensure independence of judiciary from the executive, a central recruitment agency, therefore, has to be outside the influence of government.

~~(+ve good)~~ However, given the paucity of judges in India, leniency in present recruitment procedure time is perhaps safe for bringing ATJs into existence after addressing the concerns of various stakeholders. It is necessary to ensure timely justice delivery and to prevent situation of "justice delayed, justice denied".

Remarks

- Q13. Recently the issue of Parliamentary Secretaries occupying Office of Profit has been the bone of contention between Centre and Delhi Government. In this context, elaborate on the concept of Parliamentary Secretaries and Office of Profit. Also discuss the ruling of Supreme Court over determining the status of the Office of Profit. (15 Marks)

~~Parliamentary Secretaries is a post for legislatures envisaged to assist the Ministers in discharge of their Parliamentary duties.~~

~~Recently, Central govt raised objection over the Delhi government appointing more than 20 Parliamentary secretaries as it held that this post constitutes office of profit, hence is liable to be disqualified under article 105 of the constitution. see relevant articles~~

~~Office of Profit~~. The term is one of the ground for disqualification of the legislators. It is not defined in the Constitution. However, Supreme Court in Patgat Bordoloi case had laid following criteria to determine an office of profit.

Remarks

- 1) If the person is appointed by the government.
- 2) If government also has power to remove that person from that post.
- 3) If there is any pecuniary or monetary gain attached to the office.
- 4) The nature of duties performed by that functionary is executive in nature.

In Rao Bachan case, Supreme Court held that even provision of pecuniary gain leads to disqualification, even if not actually used.

Office of profit is made disqualification because:

- 1) It is to ensure separation of power between the legislature and executive
- 2) It enables the legislators to keep the executive

Remarks

accountable, as they will be free from conflict of interest.

- 2) Office of Profit leads to wastage of public resources.
- 3) Many a times office of Profit is misused to circumvent the constitutional limit on number of Ministers set up by 91st Amendment Act and by 69th Constitution Amendment Act (in case of Delhi).

However, constitution vests the legislatures to exempt certain offices from ambit of office of Profit, but this power had been misused to violate the spirit of the constitution.

Hence, there is need to re-look at this issue holistically. The recommendation of second AIC of exempting only purely advisory offices from its ambit is worth implementing.

- Q14. Quasi-Judicial bodies' role has become very significant in cost-effective speedy adjudication in India. Whether their practice can be considered as a breach of the concept of separation of powers enshrined under the Directives of the Indian Constitution? Give justification to your argument. (15 Marks)

Quasi-judicial bodies are those bodies which perform the role of adjudication but are not like courts, they are usually set up for specific purpose for example, Tribunal, Income Tax tribunal, Competition Commission of India, securities and Exchange Board of India among others.

They are significant because:

- 1) They provide a cheaper and more accessible forum to justice.
- 2) They help lower the burden of judiciary by taking up specific cases.
- 3) They help in bringing the technical expertise required in specialised matters like finance,

Remarks

stock market etc-

- 1) They are flexible and less cumbersome as they are not bound by L.P.C and C.P.C, however, they do need to adhere to principles of natural justice.
- 2) Unlike the court jurisdiction, which is adversarial in nature, the ruling of quasi-judicial bodies is conciliatory.

However, these bodies are mostly set up by the governments, hence they are criticised on several grounds:

- 1) They violate the directive under article 50 which mandates separation of executive from judiciary.
- 2) Since government and its agencies are litigant in around 96% of cases, refuse to quasi-

Remarks

judicial bodies creates a conflict of interest, as these bodies are appointed by government.

- 1) It leads to administrative adjudication and encroaches into the constitutional powers of the courts.
- 2) It creates legal confusion by setting up overlapping jurisdictions.
- 3) After L Chandra Kumar case, ruling of tribunals can be appealed in High Courts etc hence reducing their utility.

~~Access to justice in India remains far from optimal, there is huge backlog of cases, large number of undebtied. Since there is need to reform quasi-judicial bodies to make them alternate Dispute Redressal platforms rather than to abolish them.~~

(6-2)

Remarks

specifically suggest how separation of power can be maintained -

- Q15. There is a view that the five institutions such as Courts, CVC, CBI, CAG and CIC which are not representative of people have become too much active in upholding accountability of elected governments that they are not able to govern as mandated. Critically examine.
 (15 Marks)

These above mentioned five institutions are set up as bulwark of transparency, accountability of the administration are being criticised because:

- 1) **Courts**: They are violating separation of power by giving orders to impose tax, make laws which belongs to other organs.
- 2) **CVC**: It is criticised for putting hurdles in govt. work, interfering with routine functioning for example: its guidelines to adhere to Indian norms of procurement even for spending money received by international institutions.
- 3) **CBI**: It is being accused of preventing

Remarks

bold decision making, creating fear in administration. In last year only 30% of cases of CBI resulted into chargesheets in courts.

CAG: It is being accused of promoting policy paralysis, going beyond its mandate and creating obstruction in government work.

CIC: It is putting undue burden on govt. departments to provide information without locus standi.

However, such criticism overlooks the vital importance of these institutions such as:

- y They help in filling the legislative and executive vacuum when these bodies fail to perform their duties e.g. vishakha guidelines by court to prevent female harassment

Remarks

- 3) They help make governance accountable and citizen centric. Body like CIC engenders culture of transparency in govt institutions.
- 3) They help unearth the abuse of authority, corruption scandals and loss to public exchequer e.g. CIC highlighted the 2G scam, Coal block scam.
- 4) Institutions like CVC and CBI are necessary not just to punish the corrupt public servants but also bring in ethical governance by creating deterrence.

Constitution makes the parliamentary system over Presidential system as they privileged accountability of govt more than its stability. These five bodies are also bulwark of accountability.

(55)

Remarks

Still, how do you think can these bodies be made more responsible to elected government -

- Q16. Vast powers have been vested in the office of the Speaker to strengthen the democratic institutions of the parliamentary system, and not to stifle dissent or protest in the House. Comment in the context of India. (15 Marks)

The office of the Speaker is exalted one in the constitution and is entrusted with the responsibility of maintaining dignity of the House, decorum in the House and protect its privileges.

~~for this Speaker is vested with vast powers such as :~~

- 1) Speaker is final interpreter of the provisions of constitution, rules of procedure of House, and Parliamentary conventions.
- 2) Speaker is the final adjudicator in cases of deciding disqualification due to Political defection.
- 3) Speaker certifies a bill as money Bill

Remarks

and his/her decision is final in this regard.

4) Speaker has power to admit or reject motions such as adjournment motions, no confidence motion, impeachment motion among several others.

5) To preserve the sanctity of deliberations, Speaker can disqualify members for breach of privilege and punish members and outsiders for contempt of house.

However, despite the spirit of the Constitution, conduct of speakers in state assemblies and Parliament had been less than dignified as can be seen from

1) There are long delays in deciding upon the disqualification due to defections, which erodes legitimacy of govt. e.g. disqualification decision of MLAs in Telangana Assembly pending for

long.

- 4) Speakers misusing the power to certify bills as money Bills, which curbs the power of Vidhan Parishad, Rajya Sabha to discuss these Bills. e.g. certifying ADHM Bill as money Bill is being widely criticised.
- 5) Speakers using the power to disqualify members to stifle dissent, rejecting the discussion motions introduced by the opposition also violates the spirit of Parliamentary democracy.
- 6) In Jharkhand Legislative Assembly, Speaker played partisan political role which was also criticised by judiciary.

In order to maintain dignity of office of Speaker, it is important to adopt British convention of Speaker breaking all political affiliations after getting elected.

Remarks

will
be
what
can
be
done
to
end
violations

Q17. It has been often recommended that the adjudicatory power under the anti-defection law be transferred to an independent body to remove the existing partisan element. How far do you agree that such a step would strengthen the functioning of the law?

(15 Marks)

Currently, under the tenth schedule of the Indian constitution, the power to decide on the disqualification of the legislators on ground of political defection is vested with the Presiding officer of the house.

However, various experts and the National Commission for Review of Working of Constitution, suggested that this power be transferred to an independent non-partisan body.

This is justified on following grounds:

- 1) Speaker is elected by simple majority, hence he/she owes his/her position to the government of the day.

Remarks

- 2) There are instances of misuse of this power by the Speakers to inflict engineer defections and manufacture majority for example: role of Speaker in premature dissolution of state Assemblies of Sikkim, Maharashtra and Uttarakhand.
- 3) Adjudicating upon defection is highly technical matter, involves interpretation of constitution and law, hence Speaker may lack required expertise.
- 4) Speaker can be removed by effective majority of the House, which is normally possessed by the ruling government. Therefore, Speaker has tendency to act in a partisan manner.

Keeping these factors in

Remarks

mind, the suggestion of shifting power of disqualification due to defection to an independent body is perhaps need of the hour in larger interest of democracy.

(3)

abolish post
of monitor
Speaker with the
powers itself
suggest and
measures accordingly.

Remarks

Q18. The post-independence era witnessed emergence of 'New Social Movements' as a corrective measure to maladies arising from the neglect of political establishment. Discuss emergence of these movements in India. Also, examine their limitations.

(15 Marks)

New Social Movements are generally characterised by:

- 1) focus on issues of quality of life than basic necessities.
- 2) leadership coming from new elite middle class
- 3) they use methods of conferences, seminar, writing articles rather than protest, gherao, sit-ins etc.

The New Social Movement in post-independent India emerged due to failure of government to fulfil expectations of the people, social oppression.

The New Social Movement in India in general and in rural areas in particular

Remarks

is not entirely "new" and show fusion of elements of old social movement as can be seen from:

- 1) Chipko movement started on basic issue of protecting the livelihood of local people and only later it assumed dimension of protecting environment.
- 2) Narmada Bachao Andolan also started primarily to secure relief and rehabilitation of the people displaced by dam project. At later stage it raised issue of ecological devastation, threat to biodiversity.
- 3) Similarly, women rights movements in India are generally the part of labor movements or labour movements. There are some exceptions of like CNLs movement, movement against

pesticides in soft drink as examples of typical New Social Movements, but they are small in number.

Limitations of New Social Movements :

- 1) They approach an antagonistic approach rather than offering an alternative e.g. environmental movements projecting the environment vs. development conflict.
- 2) They lack the technical expertise and evaluation of the issue.
- 3) Due to their fused nature, they sometimes use violent strategies, non-constitutional methods. This declines their effectiveness.
- 4) Often the leadership ~~no~~ of these movements become politically biased reducing their appeal. Hence, New Social Movements in India have unique characteristics and problems.

Remarks

(7½)

good understanding about
new social movement -

Q19. The years 1975-77 have been described as the years of the 'Test of democracy'. In light of the statement, discuss what are the factors that led to the declaration of Emergency in 1975? Why is it considered as the dark period of Indian democracy? Discuss the response to the imposition of emergency among the masses, media and political class.

(15 Marks)

Internal emergency imposed in 1975 on grounds of "internal disturbance" was outcome of several factors

i) Economic unrest: There was large scale unemployment, shortage of food, high inflation. Reasons were diversion of resources due to 1971 war, rise in oil prices, successive droughts.

ii) Student unrest: Students started protested against high prices in Gujarat, which was joined by local people & forced govt. to dismiss the state govt.
Similar protest erupted in Bihar and JP Narayan took the leadership, demanding dissolution of state government. But this was

Remarks

not accepted, leading to enhanced discontent.

- 1) Tussle with judiciary: Allahabad High Court declared the election of Mrs. Gandhi as null and void. Although she was able to get stay from Supreme Court, but lost right to participate in Parliamentary proceedings.
- 2) Political battle: There was division within Congress, the defected leaders supported JD Nayak's demand for Mrs. Indira Gandhi to resign on moral grounds. He even asked armed forces not to listen to orders of govt., fearing snarly and chaos, Indira Gandhi govt. declared emergency.
It is dark period because:-
- 3) Fundamental right of free speech was curbed, newspapers were censored.
- 4) Right to habeas corpus was suspended, govt.

Remarks

assumed dictatorial powers.

- i) Parliament met in secret without its proceedings being made public.
- ii) Ban on organisations like RSS, forced sterilizations. In short entire Country turned into a one big prison ending the democracy for that period.

Response of various sections :

i) Mosses: initially they benefitted from economic growth, efficiency. However later on they protested in total revolution, also showed their disapproval by defeating the Indira Gandhi Govt. in elections after emergency.

ii) Media: Large section of media stood for free, but there were bold journalists like RF Dinkha who stood for free speech even against severe Govt. repression.

iii) Political class: Except Communist Party, all parties protested, their leaders went to jails.

Remarks

Role of
Sardar Patel
Role of
Lala Lajpat Rai
Role of
Babasaheb Ambedkar
Role of
Mahatma Gandhi

Q20. Recently there has been controversy over "Master of the Roster". What are the issues involved? Discuss the problems with current system and consequences of it. What could be the possible way-out? (15 Marks)

Supreme Court in a constitutional bench judgement affirmed its earlier decision in Dushash Chand case, where Chief Justice is referred to as "Master of the Roster", with absolute power to allocate the benches for hearing of the cases.

This power had been questioned on the following grounds:

- 1) It violates the fundamental principle of natural justice as case was heard by bench headed by Chief Justice of India, amounting to being judge in his own case.
- 2) In E.P. Royappa case, Supreme Court held that arbitrariness is anti-ethical to

Remarks

right to equality, hence giving arbitrary power to Chief Justice of India (CJI) violates the fundamental right to equality.

3) Post of CJI is only ceremonial he is the administrative head of Supreme Court and not the head of judiciary as such.

Giving absolute power to CJI for allocating benches can have following consequences:

- 1) It will lower the public trust and credibility in independence and neutrality of judiciary.
- 2) There is possibility of CJI misusing the power to constitute benches of pliable judges in order to get a favourable decision.

3) This establishes a one man rule in supreme court which is violation of basic principle of democracy.

Hence there is need to reform the existing system by measures like:

- Allocation of benches should be decided by a collegium of senior most judges.
- greater transparency in allocation of benches and giving sensitive cases to senior judges, as they normally require complicated interpretations.

Judiciary is one of the pillars of democracy and is becoming less of a concern, hence it is important or may of not just being fair, but also seems to be fair.

Remarks