

POLITY - 2

Time Allowed: 90 min.

Max. Marks: 150

Q.	Marks	Instructions to Candidate
1.		<ul style="list-style-type: none"> • There are 10 questions. • All questions are compulsory. • The number of marks carried by a question is indicated against it. • Answer the questions in 250 words each. All questions carry equal marks. 15 x 10 = 150 Marks • Keep the word limit indicated in the questions in mind. • 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.
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55

1. Invigilator Signature _____
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Name Mayank Rathale
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REMARKS

GS SCORE
GS MAINS TEST SERIES 2021

- Focus upon to the point answer writing throughout.
- Whenever you talk of SC judgement you must mention some of them there.

Q1. The theory of Basic Structure of the Constitution has not only put constraints on excessive use of powers by the executive, but it has also prevented the legislature to subvert or deviate from any fundamental principles of the Indian Constitution. Discuss.
(15 Marks) (250 Words)

Basic structure of Constitution refers to set of fundamental and sacrosanct principles which are considered vital for smooth functioning of democracy.

Basic structure is not originally found in Indian Constitution, it has emerged in judicial pronouncements.

In Keshavanand Bharti vs Union of India case, Supreme court upheld 24th and 25th constitutional amendment that parliament has right to amend any provision of Constitution, but on same hand, it propounded 'Basic structure of Constitution'. parliament can not amend constitution if it violates 'Basic structure'.

Come to the point directly

Remarks

Basic structure is not a set or fixed template, but it changes and principles are updated by Supreme Court.

Some principles are -

- ① Secular nature of state
- ② parliamentary form of govt
- ③ Rule of law
- ④ federal structure
- ⑤ Judicial review
- ⑥ Independence of judiciary
- ⑦ Free and fair election.

Basic structure of Constitution put constraints on excessive power of executive in the manner that it does not violate basic principles upheld by SC.

Also discuss applications of basic structure doctrine

Remarks

Basic structure also prevents excessive use of ~~par~~ legislation to subvert from fundamental principles.

42nd Constitutional amendment that tries to curtail power of Supreme court was invalidated upto extent of violation.

99th Constitutional amendment was also held invalid as it tries to jeopardise the independence of judiciary.

Basic structure, thus, forms a bedrock of constitutionalism. It ~~pres~~ helps in protecting original spirit of Constitution.

Sound analysis

6

Remarks

Q2. Why is the Constitution of India considered to be a living document? Explain the challenges to this 'living legacy'.
(15 Marks) (250 Words)

Constitution of India is the fundamental law of land. It is used to govern the nation on whole. It is set of values, principles and administrative rules.

As a living body, changes its form according to requirements of external environment. Constitution of India is also considered as living document.

Article 368 of Constitution provides procedure of amendment. Amendments are the way that Constitution modifies itself according to needs of society.

Satisfactory
intro

Remarks

Constitution is a blend of rigidity and flexibility. Rigidity is for those provisions that are essential for functioning of federal system.

Flexibility is a quality of constitution, that it acts as living documents.

flexibility provides it increased ability to act as cater to needs of society and secure a see just order.

More rigid constitution hampers the growth of nation, as it did not change according to needs of society.

Various challenges are now facing by this living document.

- ① Excessive amendments due to political interests

Remarks

Discuss other features apart from amendment which show its living nature.

② Continuation of old and archaic laws that didn't fit with new society.

③ Judicial activism has led to disbalance in separation of power, parliament less eager to amendments.

For a nation to prosper and achieve the vision as propounded by Constitution → Constitution should be remained as living document.

Also discuss aspirations of diverse population amounts to challenge to living legacy

5/2

Remarks

Q3. The Indian constitution guarantees the fundamental rights of both individuals and communities. However, in recent years, the Indian judiciary has given more primacy to individual rights over community rights. Do you agree with the view? Justify your answer with suitable examples. (15 Marks) (250 Words)

Part-3 of Indian Constitution has provided fundamental rights to Indian citizens and as well as to foreign citizens (only selected).

Fundamental rights are considered as vital for growth of personality of individual. However, Indian Constitution also guarantees certain rights to community as whole.

Article 29 provides for any section of population to preserve distinct culture, script, language.

Individual rights are Article 14, 15, 16, 17, 18, 19. etc

Satisfactory
intro

Remarks

In recent judgements, judiciary has emphasized more on individual rights in comparison to community.

For ex - In case of K. S. Puttaswamy SC upheld right to privacy of individual.

In case of Shayra Bano, SC also upheld liberty of muslim women and declared Triple talaq in one go as invalid.

Thus, SC is trying to uphold the rights of individuals.

But, it does not mean that community is being deprived of his right.

Article 29 and Art 26 also provides community right on whole.

Remarks

Sound examples

Support your argument with example of relevant judgement of the SC.

It should be noted that rights are not 'atomised' concept. They are to be enjoyed in company of others. So, rights of community and of individual go hand in hand. Both provides balance and harmony in society.

5 1/2

→ Also discuss implication of such primacy aspect on Indian polity.

Remarks

Q4. The "Doctrine of Essentiality" applied by the Supreme Court on the Religious rights of Indian Citizens is ambiguous and has scope for overriding the "Doctrine of Principle Distance" of Indian Secularism. Do you agree? Justify your answer, highlighting the Supreme Courts' recent judgments. (15 Marks) (250 Words)

Also discuss background of this doctrine.

Doctrine of Essentiality is doctrine or instrument to check that any particular practise is essentially a part of religion or not.

Article 25 of Constitution provides Indian citizens freedom to practise their religion. However, sometimes it clashes with Art. 14 that promotes equality.

Focus on given doctrine

Doctrine of essentiality has some element of ambiguity as there are no clear provision of what is essential and what is not. It is upto dissection of the Supreme Court to call what is essential.

Remarks

So, it has led to ambiguous nature of judgements.

Indian secularism is very much different from western secularism. Western secularism has principle of strict separation b/w church and state. However, Indian Constitution provides for 'principled distance'. It means, all religions are equal for state.

Doctrine of essentiality tries to override that principle by interfering in particular religious practices.

Recent judgements like Navtej Singh Johar case in which SC upheld the right of women to enter temple. It is

Focus on the given context rather than comparative analysis

Discuss various examples of the Supreme Court in this regard.

Remarks

against their customs.

Some issues are still pending like opening of shrine of Haji Ali to women, shani signapur temple, and to determine loudspeakers are in essential practise or not.

Indian constitution provides for religious freedom, but it should be enjoyed along with other provision of constitution.

5

These have been already decided

Remarks

Q5. The doctrine of separation of powers is essentially what fortifies the three pillars of democracy. In this context, discuss the constitutional status of separation of powers in India and the USA. Can they learn something from each other?
(15 Marks) (250 Words)

Montesquieu, a French philosopher, gave theory of separation of power. According to him, power is misused if it lies in only one hand. So, separation of power refers to distribution of different powers to different organs of state.

Sound
intro

Legislative → law enactment / law-making
Executive → law enforcement
Judiciary → disputes settlement

These forms three pillars of democracy for a smooth functioning of democracy, it is required that all organs of state work in their domain.

Remarks

USA is perfect manifestation of strict separation of power.

- ① president i.e. head of executive is not part of legislature. He is only responsible for enactment of laws and not to legislature.
- ② Congress is body of legislation is for law-enactment. It is independent of executive.
- ③ judiciary is for redressal of disputes b/w federal units or organs of stat.

However, Indian Constitution provides for loose separation of power.

- ① Executive is also part of legislature and hence also responsible for it.
- ② Legislature (Parliament) is law-making body but it is upto executive to decide dates of session.

Remarks

Mention Constitutional provision regarding separation of power if any such exists

Good analysis

③ Judiciary that is independent, but it is upto executive to appointing judges to judiciary.

Both ~~constitute~~ countries can learn from each other. As USA frequently faces incident of shutdowns when Congress doesn't approve budget of executive.

Indian system promotes supremacy of executive as it can bring bill and get it passed having majority.

Both countries should strive for balanced separation of power, so that any organ of state does not encroach upon other.

6½

Remarks

Q6. The scope and ambit of fundamental rights have expanded over the years, both in terms of legal aspects, as well as on a substantive basis. Comment and substantiate the argument with relevant examples. (15 Marks) (250 Words)

Fundamental rights are provided in part-3 of constitution. It gives sets of rights to citizens that are considered vital for material and moral development.

Sound
mtd

Article 32 of constitution provides for constitutional remedy in case of violation of fundamental rights. SC has enlarged scope of fundamental rights.

In terms of legal aspects, new fundamental rights were provided by 86th constitutional amendment. Right to education to children (6-14)

Remarks

SC in its various judgements has also upheld that fundamental rights are not ~~not~~ just textual but contextual.

It means, SC interpret fundamental rights on substantive basis.

In Menaka Gandhi Case, SC has upheld due process of law, that means, parliament and executive while making law and executive that law, should follow due process of law, not just procedure established by law.

Due process of law emphasise on just, fair and reasonable law.

Discuss various other judgements

like: - Naz Foundation Vs. Govt. of NCT Delhi

- Navtej Singh Vs. UOI etc.

Mention some judgement too for clarity

Remarks

SC also upheld that right to life provided in Article 21, is not just mere survival, but a life of dignity.

6 In this context, SC also upheld the right to clean environment, right to privacy, are also fundamental rights.

Thus, scope of fundamental rights are ~~is~~ not limited to words, but it has expanded to live upto its spirit.

→ Discuss ways to strengthen FRs further.

Remarks

Q7. Do you think that the Citizenship Amendment Act goes against the secular republic nature of Indian state and violates Article 14 and Article 25 of the Constitution of India? Critically analyse. (15 Marks) (250 Words)

Citizenship amendment act (CAA) provides for attainment of citizenship for individual belonging to six religions namely Hindu, Christians, Sikh, Jains, Parsi, Buddhist, ~~living in Pakistan, Afghanistan and Bangladesh.~~

It is passed by parliament, however, it is yet to be notified.

Preamble of Constitution declared nature of Indian state as secular.

It means state will not discriminate any individuals on basis of religion.

state will protect all religion.

CAA seems to like violate this spirit.

→ Give your arguments to justify your view.

Discuss
backgr
und
of the
given
Act in
Intro

Remarks

spirit of secularism is also echoed in Article 14. It provides for Equality before law and equal protection of law. It is duty of state to protect every individual and like should be treated alike.

Article 25 also provides for spirit of secularism. It gave freedom of religion i.e. to practice, profess and propagate religion.

Secularism is also included in basic structure of Indian Constitution.

Parliament has legislated CAA on basis of that it aims to

Discuss
how these are violated by CAA

Remarks

protect persecuted communities
living in these countries. However,
leaving Muslims in the CAA has
created uproar and dents image
of India as secular country.

State should ensure equality of
all and equal protection of all
irrespective of religion.

→ Need to discuss your arguments
in favour & against the given
act elaborately.

4 1/2

Remarks

Q8. Though Directive Principles of State Policy (DPSP) are non-justiciable, the moral backing of these principles have played an important role in shaping the government policy since independence. Comment. (15 Marks) (250 Words)

Directive principles of state policy (DPSP) forms the conscience of ~~Constitution~~. Dr. B.R. Ambedkar called them as 'novel features'

Part - IV of Indian Constitution provides for DPSPs. Constitution has bestowed these principles from ~~9th~~ Constitution.

DPSPs forms bedrock for social and economic democracy.

DPSPs are kept out of justiciable nature means, any individual can not go to judiciary for non-implementation of these.

Good
intro

Remarks

Judiciary also can not direct legislature to make laws to implement these DPSPs.

However, it is moral backing of these principle, because these are aspirations, vision of constitution. It has effected in govt policies. These have become instrument of instruction

To implement the principles of DPSPs Government has made laws from time to time since independence.

Art. 38 - To secure a order of welfare state.

Article 39 - Distribution of material resources

- Govt. has created Planning Commission

for, Article 39(A) - Govt has implement National legal services Authority Act (1987)

Remarks

Need to emphasize more on this aspect as it's core part of the question

for Article 40 - Constitutional amendment
73rd and 74th

for Article 45 - Govt. had implemented
Right to education
by ~~66th~~ Const. amend

52

Since DPSP are not mere
pious aspirations, but it has
seen light of reality.

Addon :- Maternity Benefit Act, (Art. 42)
- Wildlife Protection Act. (Art. 48A)
etc.

Remarks

Q9. Despite being part of Indian Constitution for more than four decades, Fundamental Duties have remained mere guidelines without any legislative backing. Do you agree with the view? Justify your answer with suitable examples.

(15 Marks) (250 Words)

Fundamental Duties are set of duties to be performed by Indian citizens while enjoying fundamental rights.

Part - IV A and Article 51A provides for fundamental duties.

Fundamental duties were not part of ~~part~~ original Constitution, but it was later added by 42nd amendment, 1976. These fundamental duties are based on recommendation of Swaran Singh Committee.

Fundamental duties are not made enforceable and justiciable. So it seems like guidelines only.

Sound intro

Remarks

Objectives of FD are more than that
it can be summed up as

Better
give
examples
to
show
that
how
it
has
been
more
a
guidelines

- ① ~~Reminder~~ Reminder to Citizens for their duties towards nation
- ② deterrent against anti-national activities
- ③ acts as motivation for citizen as it gives duty to strive for excellence in all sphere.
- ④ promote scientific temper and humanism
- ⑤ more based on Indian way of life as it promotes duty to respect dignits of women, protect and promote environment, wildlife, and monuments
- ⑥ acts as beacon for judiciary to introprecation of legislation and executive actions.

Remarks

So, even without having backing of legislation, it promotes values of nation.

Its effectiveness can be judged from.

the very fact that even after 4 decades, they are still part of constitution. ~~Moreso~~

Moreover, it has been enlarged by 6th Amendment.

Fundamental rights and duties are correlative and inseparable as so, it promote whole development of society as well as individual.

2+
32

Justice Verma
Committee
findings

Better
List
out
various
steps
taken
by
state to
imbibe
sense of
duties.

Remarks

Q10. Why the 42nd Constitutional Amendment Act has been called the mini-constitution. Also, explain the relevance of recent constitutional amendments in Indian Polity. (15 Marks) (250 Words)

42nd Constitutional Amendment Act effected in 1976 by Indira Gandhi government is called as mini-constitution. *Sound intro*

It is because of the fact that 42nd amendment had done a wholesale changes in Constitution. These changes range from preamble to DPSP, to Fundamental Duties, to emergency powers, and many more.

Effects on Constitution

① On preamble

added 3 words - Socialist, Secular, Integrity

② on DPSP

added 4 more principles

Remarks

- Article 43A - participation of workers in management of industries
- Article ~~39A~~ - free and legal aid to poor
- Article 40A - for safeguarding environment and protect wildlife ..
- Art 39 - for healthy development of child.

It requires clarity.

Good analysis of changes brought

- ③ on Fundamental duties added Part IV-A
- ④ made Constitutional amendment (Art 368) beyond judicial review.
- ⑤ made president obliged to advice of Council of ministers.
- ⑥ made certain arbitrary provision related to emergency emergencies.

However, inconsistent provision of this amendment was later rectified by 44th amendment, 1978, and judiciary in different judgements.

Remarks

Several amendments of paramount importance

- ① 101st amendment - related to GST changed whole indirect tax structure of country
 - ② 103rd amendment - provides reservation of 10% to economically weaker section and made amendment in Article 16.
 - ③ 97th amendment, 2011 - made ~~prop~~ provision related to formation of co-operative societies.
 - ④ 86th amendment - Right to education
 - ⑤ 52nd amendment - anti-defection law
- So, various amendments has changed very structure of functioning of nation to greater extent.

Briefly
 Explain
 each of
 these
 amendment

6½

Remarks