

Name of Candidate	Mansi Gupta				
Roll No.	AIM24GCL1025				
Mobile Number					
Email ID	mansigupta2105@gmail.com				
Test No. /Name	TEST TC 305			Date	18/07/2023

(For filling by Examiners only)

S.No.	Max. mark	Max. Obtained	S.No.	Max. mark	Max. Obtained
1.	10		11.	15	
2.	10		12.	15	
3.	10		13.	15	
4.	10		14.	15	
5.	10		15.	15	
6.	10		16.	15	
7.	10		17.	15	
8.	10		18.	15	
9.	10		19.	15	
10.	10		20.	15	

Total Marks Obtained:

Mentor's Comments:

- Note:**
1. This booklet is to be used for attempting assessment tests and revision tests only.
 2. This page needs to be attached as first page of every uploaded test.

Q1. There is a need to resolve ambiguity in disqualification provisions u/s 8 of RPA 1951. Discuss (10)

Disqualification under Representation of People Act, 1951 occurs in various instances to censure the candidates and members of house from wrongful acts. Under Act 8, 8A, 9, 9A, 10, 123 etc. members / candidates can be disqualified.

Disqualification under S-8

- 1) S. 8 (1) and (2) provides list of specific offences which are punishable u/act.
- 2) S. 8(3) states that if any candidate is convicted for offence and imprisoned for 2 years / more - he stands immediately disqualified for period of term and 6 years after that.
- 3) S. 8(4) provided for automatic stay in cases for of members of House for 3 months to file appeal. This was

struck down in Uly Thomas v/s UOI (2013)

Ambiguity :-

- 1) Under 8(3), member gets immediate disqualification - yet there is no clarity on :-
 - i) what if order is reversed in appeal - will order against disqualification to happen retrospectively?
 - ii) Whether the said MP will be re-instated / can he participate in by-election
 - iii) Will the stay order reverse the speaker's order of disqualification already passed? [As in Lok Brahmi case, it was held to have only prospective application]

These ambiguities came to light recently in Rahul Gandhi's case. In absence of s. 8(4), it is difficult to resolve these conflicting interpretations. Thus, Supreme Court should resolve this immediately.

Q2. Highlight key differences in scope of freedom of speech and expression as provided w/ Parliamentary privileges vis-a-vis FR. Why is it necessary to maintain a balance between Parliamentary privilege and FR? (10)

Parliamentary privileges are rights of members of the Parliament to speak and express freely in Parliament while fundamental rights are available to all citizens.

KEY DIFFERENCES IN SCOPE OF TWO:

FR to speech & expression	Parliamentary privilege
1) Applicable to all citizens (Art 19(1)(a))	2) only members of House (Art 105, 194).
2) Cannot curtail others' rights to speak	2) Can be used to curtail FR of others such as press, citizens in interest of confidentiality
3) Do not include protection from defamation etc.	3) Protection of defamation and other offences.

4) Adjudicated by SC/
HC

4) Speaker has the
power to decide

5) judiciary can interfere
in case of executive
excess / Basic structure

5) No judicial
intervention
allowed.

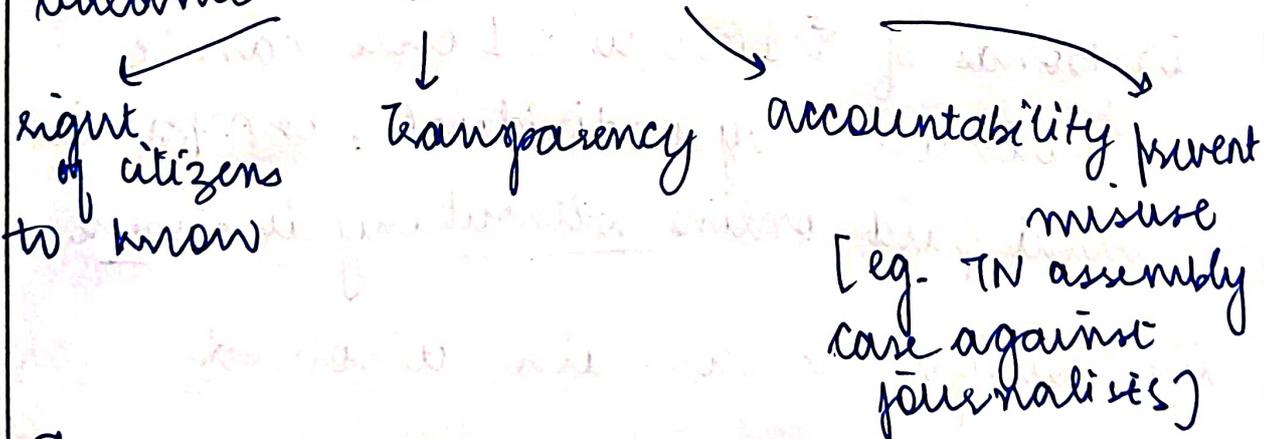
Balance between parliamentary privilege and FR

i) In Re Keshav Singh and State of
Kerala vs Ajith Singh - it was held

that parliamentary privilege are subject
to general law and cannot derogate FR

ii) Even though FR can be overridden in
some instances (MSM Sharma case),

balance to be maintained as



Thus, a balance needs to be
maintained between two rights for
essential functioning of democracy.

Q5) Electoral bonds are double edged sword providing anonymity to donors while raising concern about transparency in political funding. To what extent have EBs legitimized opacity in electoral funding? (10)

Electoral bonds were introduced in Union Budget 2017-18 to curb the problem of black money in elections. It provides a power to ECI to get disclosure of all cash transactions above ₹2000 and pushed for ~~electro~~ online payments.

LEGITIMIZED OPACITY IN FUNDING

1) Anonymous donations allowed

i) Bonds of ₹1000 to ₹1 crore can be purchased by individuals, companies and paid online without any disclosure

ii) Foreign co. are also allowed.

2) No cap on donations - 7.5% profit ceiling on corporates ~~can be removed.~~

- 3) Harms small parties as only ~~small~~ parties with 1% vote share can utilize it.
 - 4) Foreign influence in election without any control - increase in shell co.
 - 5) Tax-free donations - route for corporates to convert black money (eg- 90% of donations are over 1 cr. indicating greater corporate donations).
 - 6) No requirement on political party to declare sources to ECI or IT dept.
 - 7) Ruling party - through hidden alphanumeric code, enforcement agencies and SBI has means to find out donors.
 - 8) Increase in rent - seeking and anti-democratic steps (eg- free/cheap lands to corporate players)
- Thus, ECI though set with well intentions have increased opacity instead of curbing it. As per SC, RBI, it should be made more transparent.

Q4) The Indian consti not only served as political blue-print but also provides a social framework. In this context discuss changing contours of socialism in last 75 years. (10M)

The Preamble to the constitution declares it as 'socialist' which indicates the nature of our polity. Even though it was added in 1976 (42nd CAA), the socialistic values have always underpinned our constitution.

CHANGING CONTOURS OF SOCIALISM

1) Our ~~const~~ socialism resonates democratic socialism instead of marxist socialism.

↳ ensure equality of opportunity and social justice.

2) Pre-1991 era: socialism as tool

of passive Revolution (Partha Chatterjee)

i) Govt used it to transform power without any revolt.

- eg: Land ceiling laws and IX schedule
- ii) Laws such as Monopolies and Restrictive Trade Practice Act, 1969 and Essential Commodities Act, 1955 - prevented hoarding of goods and concentration of capital.
- iii) Reservation in jobs and education provided to marginalized - Art 15(1A), 15(3)
- (iv) Schemes such as Grameen Swarozgar Yojana etc.

3) Post 1991 :- Neoliberal markets, yet stronger state protections :-

- i) Even though markets were open, state protected vulnerable - such as EWS reservation (103rd CAA)
- ii) labour codes enacted - to provide women, children and other labour benefits.

Therefore, even though modes of protection changed with time, socialism in the governance, remains fundamental.

Q5) Discuss key fxn of PAC. What steps should be taken to revamp PAC to ↑ its effectiveness as true guardian of public funds? (10 M)

Public accounts committee formed under Art 105 and 118 of constitution is one of the key financial safeguards in our democracy which keeps exercise of power by govt in check.

Key Functions of PAC

- 1) Audit expenditure of central govt arising out of various funds.
- 2) CA G reports on :
 - state undertakings
 - expenditure and grantsare scrutinized and reports presented before Parliament.
- 3) Grants in Budget along with expenditure - as per its use, rules

of reappropriation and competence of authority measured.

4) Demand accountability from govt based on unaccounted / unexplained expenditure.

Steps to increase effectiveness :-

- 1) Work should be made contemporary instead of post-mortem
- 2) Recommendations be made binding.
- 3) Mandatory reference of certain items - eg: Money Bill (similar to UK)
- 4) Increase working and attendance
- 5) Should have more public consultation and expert opinion.

PAC have truly played role as 'mother of all committees'. Its position should be further strengthened to improve its working.

Q6.) The Indian party system is going through a phase of transition which looks to be full of contradiction and paradoxes. Discuss (10)

Indian party system evolved over years to a vibrant multiparty system wherein each state sees a mix of national, state and local parties - making democracy more choice based.

TRANSITIONAL PHASES: CONTRADICTION AND PARADOX

- 1) Recent decade saw rise of one-party leaderships in parties.
- 2) Nepotism and family based politics.
- 3) Lack of internal democracy:
 - i) no timely elections
 - ii) no decision making by all
 - iii) only top leadership decides.
 - iv) no accountability and proper record-keeping.

- 4) Constant fight b/w national and state parties - eg: BJP and Shiv Sena
- 5) Nationalization of state parties which often forgo state interests.
- 6) Multi-party coalitions without clear agenda and leadership - leading to fall of govt [Vajpayee in 1996] and slow decision making

There is an imminent need to

instil
internal
party
democracy

follow
US like
model
where
member of
political party
gets say

make political
parties more
accountable
to ECI.

Thus, to increase strength of our democracy, indian party system should be made more transparent and accountable.

(Q7) The lack of effective functioning of local bodies partly results from their capability to generate independent financial resources. Discuss (10)

Local self governance was constitutionalized through 93rd CAA [Panchayats] and 94th CAA [Municipal Bodies] to take governance

and participatory democracy to grassroots

Lack of capability to generate financial resources :-

- 1) no proper taxes for local govt to levy - many subsumed under GST.
- 2) Collection of property tax is often improper - due to lack of data and collection.
- 3) Difficult to collect taxes from own community.
- 4) Insufficient nature : eg :- 70% revenue collected in Ut went for only day to day expense and

only 30% left for capital expenditure.

5) Tied nature of grants:

i) centre and states give funds as per scheme which cannot be utilized elsewhere

ii) Approval needed from district admin.

6) non-formation of State Finance Commission (243 I & 243 Y) - Even

though 5th FC should have been formed by now, not even 3rd or 4th in many states.

7) Even if formed, non-recognition or adherence to findings.

The Fifteenth Finance Commission

have taken steps to improve the

gap and suggested more funds

[4,30,000 cr for ULBs] for local

self governance with more funds

for performance linked grants.

Q8) The harmonious coexistence of FR and DPSP lay the foundation for just and equitable society, where individual liberties and collective welfare complement each other - Ambedkar. Discuss harmonious relⁿ b/w FR & DPSP in light of SC judgements (10)

FR Fundamental Rights (Part III) [FR] and Directive Principle of state Policy (Part IV) [DPSP] are tools in the constitutional governance, which are inter-dependant and fundamental.

Harmonious relationship between two:-

- 1) Fundamental in Governance of the country [Keshavananda Bharati vs S/O Kheala (1973)]
- 2) Interdependence - In Minerva Mills vs UOI (1980), it was held that FR and DPSP cannot be given primacy over one another but are interdependent on each other.
- 3) Codification of DPSP u/Art 21 - SC

used its powers u/ Art 21 and expanded its meaning to include right to equal pay, right to work as part of Right to life.

4) Minimizing Equality inequality - Constitution has provided power under Art 31 C that Art 39 (b) & (c) can override Art 14, 19, 21 therefore laws can be made to ensure inequality, social justice and progress of backward classes.

(5) In IR Coelho's case, it was held that importance of both are Equal and they are complementary to each other as FR protect civil and political rights while DPSP ensure constitutional rights.

Therefore, over years, the Court has helped reconcile differences between two and in fact used, justiciable provisions of FR to implement DPSP.

(Q9) In spirit of unity and efficiency, one nation one election stands as a powerful step towards streamlining our democratic process. Comment.

'One Nation, One Election' has been the demand put forth by various electoral reform committees such as - Velra committee, Dinesh Goswami Committee etc. but still hasn't found its place in our democracy.

POWERFUL STEP IN STREAMLINING DEMOCRATIC

PROCESS :->

1) Reduce Election Expenditure :

- i) Average elections of state per year \rightarrow 4
- ii) Money spent by BJP on 5 states \rightarrow ₹ 250 cr.
- iii) Lok Sabha elections in 2019 costed - \$ 7 bn while only \$ 6.7 bn in USA.

Moving to simultaneous ~~expensive~~ elections, will reduce these costs.

2) Increased time for productive work

- i) Reduction in no. of rallies.
- ii) More focus on governance reforms.

3) Help increase Voter Turnout

- i) as similar schedules will motivate them to be present and vote.
- ii) Political parties can also approach them only once at a time.

4) Administrative Machinery

- i) Wouldn't have to deploy security forces and teachers and other govt employees repeatedly - increase in productive work

However, this has significant hurdles :-

↳ voter bias [77% chance that voters ^(IPEC) repeat vote for same parties in both elections]

↳ favouring national issues over regional issues.

↳ Difficult to arbitrarily induce timelines of existing legislatures

↳ Problem of nonconfidence and untimely dissolution of Lok Sabha.

↳ More than 70000 polling booths require security personnel one time.

Even though simultaneous elections are potentially important for democracy, many challenges lie in their implementation.

Q10) Under what circumstances can a governor use discretion w/ Art 200? Discuss its impact on role and authority of governor in federal setup. (10)

Governor can use constitutional and situational discretion provided to him as per constitution as and when situation arises. Under Article 200, he can reserve a Bill for President's assent before it can become law.

Circumstances w/ A. 200 :-

1) Specific cases :-

- i) change in power of judges of HC
- ii) Imposition of tax on inter-state goods travelling from the state.
[Art 301-307]

2) Other cases : Any law which :-

- i) goes against tenets of constitution
- ii) Deprives rights of individuals.
- iii) Goes against directive principle of state policy.

(iv) impacts Basic structure of constitution
v) any other related case
can be reserved for Presidential assent.

Impact on Role and Authority of Governor:-

- 1) Create federal tensions - eg. NEET Bill as President can reject any Bill multiple times.
- 2) Against values of constitution as Governor one year uses discretion without advice of Council of Ministers [eg: Rajasthan Farm Law Bill against central law, never sent for discussion]
- 3) Unelected members overrides authority of elected representatives.
- 4) Reservation of multiple bills wampers governance and delay in measures.

Thus, the power of discretion needs to be a guided one and should be used only in exceptional cases.

Q.11) The office of CBI has faced criticism and challenge, primarily due to concerns around its autonomy, transparency & susceptibility to external influences. Desires & request reforms to uphold its credibility & effectiveness (15)

CBI as an institution has been created under an Executive Order ⁽¹⁹⁶³⁾ and derives power from Delhi Special Police Establishment Act, 1946. It has been an important central agency in promoting the interest of country and investigating all high-staked cases.

CRITICISM AND CHALLENGES

- 1) No statutory/ constitutional power - allows centre to misuse the body as per whims & fancies and overlapping jurisdictions of CBI, Lokpal
- 2) Creates federal tensions :-
 - i) Even though states' consent required for investigations, overridden by states lowest in many cases (Eg - West Bengal)

3) autonomy and Transparency

- (i) The body works as per direction of Executive
- ii) no power to appoint its own staff.
- iii) Appointment procedure mysterious.
- iv) Reports only to Executive - no parliamentary scrutiny.
- v) pendency of more than 1000 cases - because of lack of power and resources.
- 4) Allegation of external influences - including some ministers eg Bofors case.

REFORMS TO UPHOLD CREDIBILITY AND EFFECTIVENESS :-

- 1) Providing statutory/constitutional status with defined powers.
- 2) Evolve power of CBI as per:
 - needs of time, technology
 - expectations of citizens.

3) Clarification on jurisdiction of SC

↳ when can it order CBI enquiry overriding state's consent.

4) Clarifying overlapping jurisdiction of various bodies and provide for a concrete chain of authority.

5) Increase in Budget, resources and trained manpower.

6) Following reports of Parliamentary Committee on CBI [9, 14] to provide it a new statutory status.

F) Clarifying its power and directional jurisdiction vis-à-vis state police.

Therefore, improving CBI's status will provide it much needed credibility as top investigative agency. It has already helped solved cases such as Talwar murder case, Burai's death etc. and reform will improve its functioning further.

Q 12) How has ADL impacted relⁿ b/w political parties and individual legislators in India? In light of recent examples also discuss the unintended consequences it has on fnⁿ of democracy in India.

Anti defection law [ADL] was introduced in 1985 through 52nd CAA under X schedule.

It was brought to prevent individual / groups from defecting mid-way through Assembly and causing fall of the govt. in centre / state.

IMPACT ON RELATIONS BETWEEN POLITICAL PARTIES AND INDIVIDUA LEGISLATORS

1) Requirement of party allegiance

- ↳ cannot vote against party lines
- ↳ cannot switch party / leave party after election.

2) Nominated and individual elected :-

- ↳ nominated members cannot join a political party after 6 months.
- ↳ Independent members cannot join any political party.

3) No right of individual to express his opinion against party decision in assembly and has to abide by it.

4) Group defections:-

i) Before 91st amendment Act, 2003 → $\frac{1}{3}$ rd of the group could split from the party without penal consequences. But this was removed.

ii) $\frac{2}{3}$ rd of members could still merge / form a new political party. [eg: 10 out of 15 legislators in Goa quit Congress to join BJP]

5) Speaker to decide on issue and once disqualified, member loses all rights and cannot appear for by-election.

6) The relationship ensured that continuity in governance through elected members of political parties and no recurring fall of govt [Aaya Ram Gaya Ram syndrome].

UNINTENDED CONSEQUENCES OF LAW ON DEMOCRACY

- 1) Party supremacy - Even though political parties are not constitutionalized and have no accountability, they are still squished under law to have full power.
- 2) Lack of vote representation as the MP/MLA cannot vote as per interests of demography.
- 3) Still doesn't prevent defections leading to regular fall of govt (2 rows in Maharashtra in last 3 years)
- 4) Speaker emerges as the partisan player as the speaker → does not list the matter before the assembly and effectively giving free pass to defectors.
- 5) Quit and return - Candidates resign and join other political party when they get re-elected in by election. Thus, anti-defection law while curbing one mischief, is still incomplete to deal with unintended consequences on democracy which needs to be improved.

Q13) SR Bommai vs UOI signified a paradigm shift in judicial interpretation of union's authority to assume control of a state's admin. In this context discuss the significance and impact of the judgement cementing federal structure (15)

SR Bommai vs UOI (1994) was a landmark judgement defining relations between centre and state govt. It was limited

to scope of discretion which governor has and also which President can exercise

Major findings of case :-

- 1) 'Federation' and 'rule of Law' - part of Basic structure.
- 2) Art 356 cannot be arbitrarily used by President
 - (i) needs to be satisfied that such condition has arisen.
 - (ii) The material on which such satisfaction is based can be

subject to judicial review

iii) The emergency can't be operated indefinitely, unless approved by both houses within 2 months, it ceases to operate.

3) Governor cannot merely suggest the imposition based on maladministration and he is bound by the advice of Council of Ministers.

SIGNIFICANCE OF JUDGEMENT:

- 1) Removes the arbitrary power in hands of executive. [more than 120 Prez rule in 75 years show gross misuse]
- 2) Governor cannot act as agent of centre. [Nabam Rebia case (2016)]
- 3) Power to approach the courts for judicial review is intact.
- 4) Federal structure - as a part of basic structure - cannot be kept in abeyance [For eg in 1980s in Punjab]

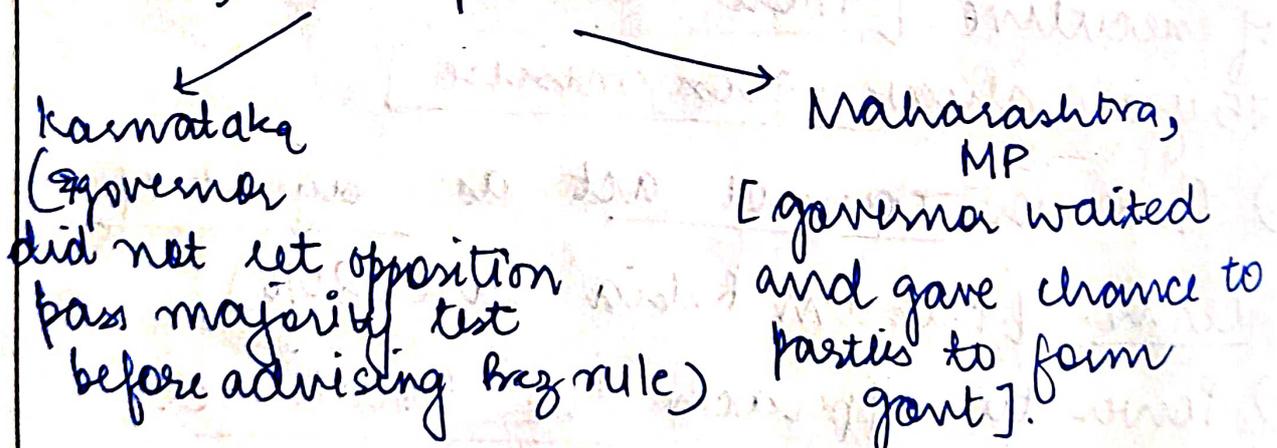
and Kashmir, Prez rule was imposed for several years.]

IMPACT

- 1) Reduce in numbers of usage over the last 2 decades.
- 2) Power change in centre / state would not amount to falls of state govts [eg- 1977 and 1980 - Morarji Desai and Indira Gandhi did so].

3) creates federal supremacy and sole of constitution.

4) Yet, still prone to misuse



Thus, the judgement played significant role in ~~limiting~~ ^{increasing} the restrictions of on the power of executive to misuse an extraordinary power.

(Q14) The doctrine of Parli sovereignty and judicial supremacy has exerted considerable influence in shaping consti framework of India & US. Cite relevant case laws and discuss role of judiciary in influencing constitutions in these countries. Is the scope of FR wider in India? (15 M)

The USA and India contrary to the UK do not follow Parliamentary sovereignty. While the US has judicial supremacy, India takes a middle path and believes in constitutional supremacy. Yet in both the countries, judiciary has made considerable progress in achieving the balance between Parliament and judiciary.

ROLE OF JUDICIARY IN INFLUENCING CONSTITUTIONS OF THESE COUNTRY

1) Evolution of Basic structure doctrine in India :- starting from Shankari Prasad to Keshava nanda Bhargati case (1973), judiciary has played

a crucial role in protecting the inviolable core of constitution.

2) Use of Due process in USA :- In famous trials such as OJ simpsons case etc. US SC have followed due process in ensuring rights of citizens.

3) Enhancing individual rights :-

i) In Menaka Gandhi case, the SC of India used the standard of 'due process' and included right to travel abroad as part of right to life, thus, curbing power of Parliament.

ii) In Obergefell case, the US SC decriminalized homosexual relations and allowed for, ^{marriage &} civil unions - using due process law and curtailing right of legislators to deny the right to marry according to one's choice.

iii) Evolution of other rights → Privacy, Livelihood etc.

SCOPE OF JUDICIAL REVIEW IN USA and INDIA :-

1) The scope of JR is limited in India compared to USA as :-

(i) judges cannot go into the merits of the provision such as its impact on rights.

ii) The enquiry is limited to only procedural violations such as - whether process followed, if constitution explicitly violated and whether remedy to go to court exist or whether the delegated legislation violates its parent law etc.

2) Even though US SC can only look into federal laws, its scope of scrutiny is wider.

Therefore, over the years India has tried to achieve a balance between Parliamentary sovereignty and judicial supremacy.

Q15) Delimitation of seats is essential to ensure fair representation and uphold 'one vote one value'. Highlight challenges posed by misrepresentation in constituencies analyze ramifications of population based delimitation in creating federal tension. [15M]

Delimitation (Art 82) is an exercise to be conducted every 10 years to adjust the boundaries of each constituency for state and national elections. So far 4 delimitation commissions have been formed and the process has been frozen till 2026. [83rd CAA, 2002]

CHALLENGES POSED BY MISREPRESENTATION

IN CONSTITUENCIES :-

- i) Population needs not accounted for
 - ↳ the true representation of people suffers as there is a disimbalance in no. of people in constituencies.

↳ Effects the meaning of One Vote
One value as some people gets.

more vote % than other.

- ii) Lack of fair resources for particular constituencies resulting in economic disparity
- iii) Regional discrimination - affects balance between states.
- iv) Particular MP/MLA would not be able to cater the needs of an increased population compared to other states.
- v) Goes against rights enshrined in Art 14 and Art 324.

RAMIFICATIONS OF POPULATION BASED DELIMITATION IN CREATING FEDERAL TENSIONS :-

- (i) Punishes the states for following population control policy - eg: The growth rate of UP, Bihar etc has been 10% over last few decades while that in Kerala, TN = 6% - 7%.
- (ii) No acomodation of talent - states in

South India have focused more on education [8% graduates in TN vs 5% in UP] or spent on health - thus, a mere population based division would not accommodate and reward these achievements.

(iii) Reflecting realities, depriving resources

If states with greater population control are deprived of their resources and re-allocation is done based on population, it will hurt the growth & investment prospects of such state.

A weighted population based measure could also reflect realities and try to curb the federal tensions. Yet, it depends upon political will. It is crucial that all states make equal progress to achieve same growth of population and curb disparity.

Q16) RS has been transformed from a useless stepney
to the most useful supporting organ in past
few decades. Highlight the factors as well as the
areas in which this transformation could be visible

Rajya sabha is known as the second
house of Parliament (Art 79, 80) which represent
interests of states and is called Upper
House. Over the years, its role in the
Parliamentary democracy has transformed
and it has proved its worth.

FACTORS and AREAS of improvement

- 1) As a revising chamber - Rajya sabha
opposes to all Bill passed by simple
majority in Lok Sabha and provides
enough discussion space on it. Eg -
Demoy Bill, 1970s, Data Protection Bill.
- 2) Provides Expertise - Presence of members
such as from science, literature, art

have contributed to the discussions and perspectives - eg - Jaya Bachchan presented matters of Bollywood's opinion on particular issue.

3) Introduction of new Bills - eg - The Transgender Bill was introduced in R.S first as a private member Bill through voice vote.

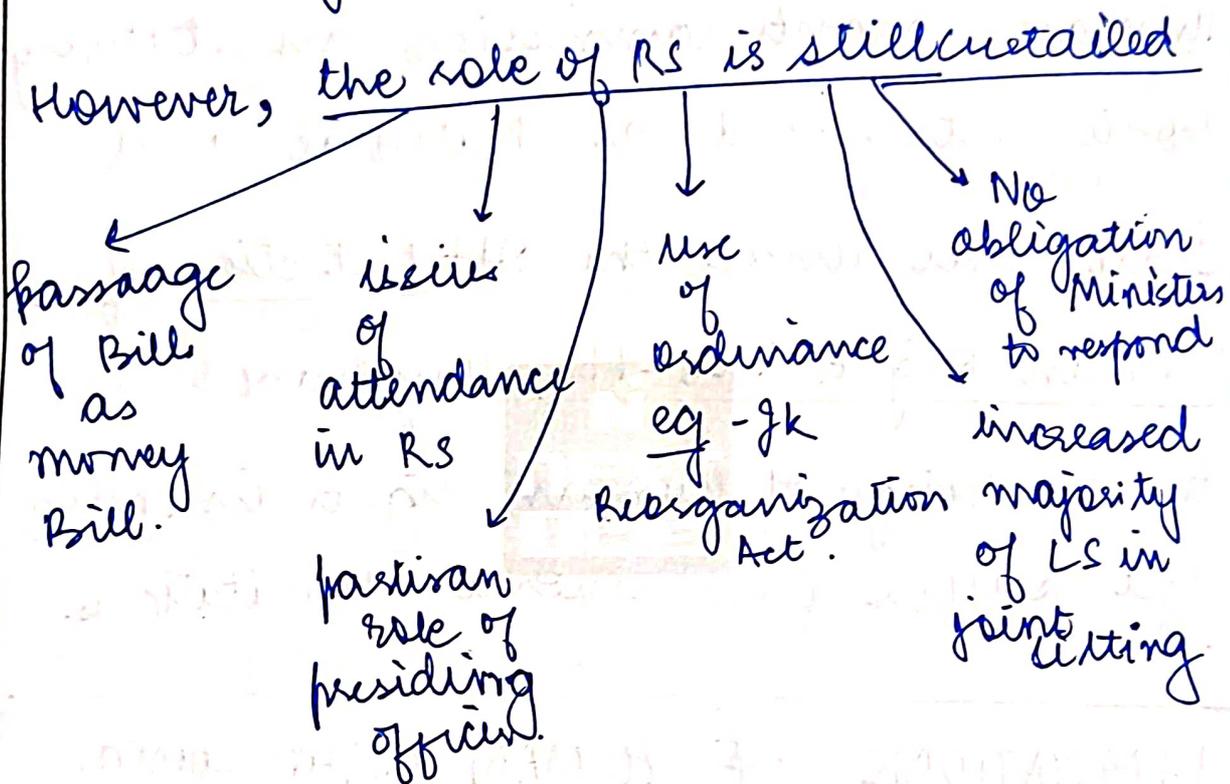
4) Improved discussion and accountability from govt :- Opposition members have constantly used Art rule 267 to draw the attention of govt towards pressing issues - eg : Manipur violence.

5) Passes various laws - eg: Untouchability Act, M.S.S etc was first passed by Rajya Sabha.

6) Propose for joint sitting when there is a deadlock.

7) Use of short answer questions, starred questions, Question Hour etc. has improved.

8) Put forth interests of states in several matters - eg: GST



RS over the years have truly evolved as a revising chamber and protector of constitution. It is necessary that role of other actors such as speaker and courts also improve to aid RS in its role.

Q17) Though HRC have contributed immensely to the protection of HR in India, yet they've failed to assert themselves against the mighty and powerful. Analyzing their structural & practical limitations, suggest remedial measures. (15)

Human Rights Commissions are statutory bodies established at National and State level under the Protection of Human Rights Act, 1992. They have been the harbinger of human rights in India, yet suffer from several limitations.

LIMITATIONS OF HUMAN RIGHTS COMM.

1) Structural :-

i) No constitutional provision - only acts as statutory body with no powers.

ii) Selection by executive - the selection

Committee comprises PM, Leader of Opposition, Speaker, Deputy Chairman of both Houses

of Rajya Sabha etc - showing more presence of executive and lack of diversity.

iii) Short tenure - 2019 amendment reduced it to 3 years with no reappointment.

iv) Vague qualification - no requirement of experience in human rights, merely 'knowledge' is enough - with no definition of knowledge.

2) Practical :-

(i) Limitation period of 1 year - cannot pursue cases after that.

(ii) The definition of 'proceeding' unclear in cases where NHRC drops investigation merely because police started investigation
eg:- Gujarat women's rape case leading to gross injustice.

(iii) Pendency of cases

(iv) No real power of binding recommendations

Remedial measures :-

- 1) Improve status to constitutional body by providing power of a civil court (summoning, getting evidence etc.)
- 2) Increase manpower and tenure of members of NHRC
- 3) Provide greater financial autonomy to the commissions
- 4) Make its recommendations binding.
- 5) Compulsory audit of NHRC at international level (UNHRC) and national level (CAG) etc.
- 6) specify jurisdiction and role.

Thus, to make NHRC and SHRC more effective they must be provided sufficient power to make impact

and protect rights.

Q18

Discuss the role of SC in India in strengthening the hands of EC in discharge of consti responsibility of conducting free and fair election in country (15)

Candidates must not write on this margin

ECI [324] has been vested with the power to conduct free and fair elections but have been supported by other pillars of democracy such as judiciary and legislature in exercise of its functions.

ROLE OF SUPREME COURT [SC]

1) Lily Thomas vs UOI (2013) - SC struck down Art 8(4) ^{RPA, 1951} which meant that political parties could no longer exploit this provision - as members of house would immediately stand disqualified on conviction for offence.

2) ADR vs UOI (2002) strengthened the right to know, made it mandatory

for ~~political parties~~ candidates to release information on assets, criminal antecedents etc.

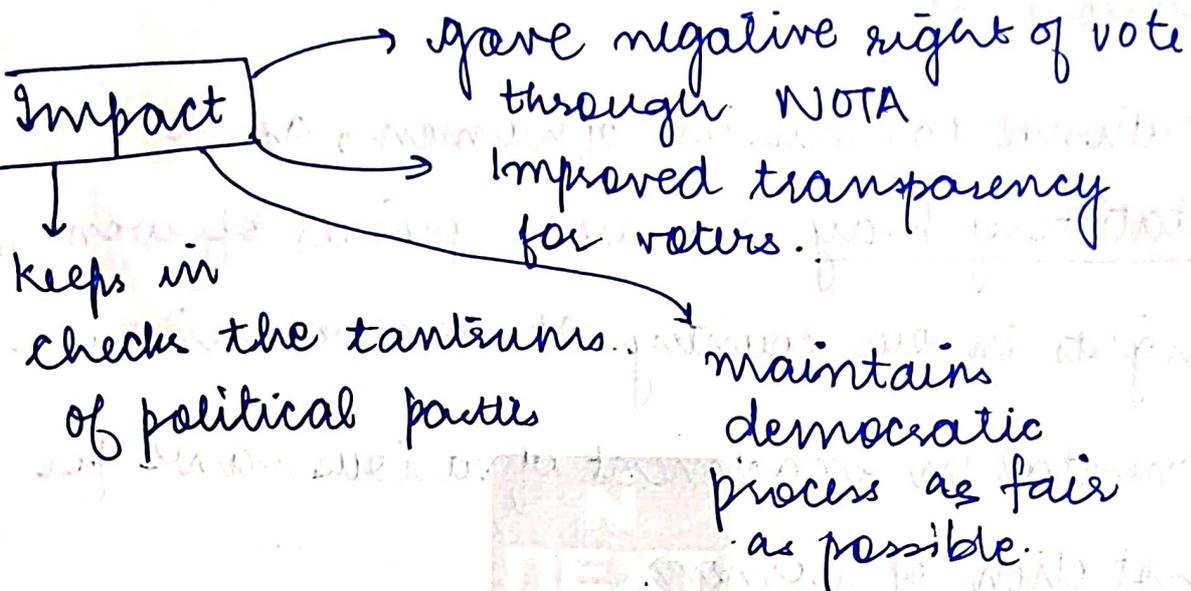
3) PULL v/s UOI → Held that NOTA is constitutional and shall be adhered to - as right to speech.

4) TN Seshan v/s UOI (1992) - Clarified the role of ECI and the position of Chief Election Commissioner to be same as other Election Commissioners.

5) Anoop Baranwal v/s UOI (2023) - For free and impartial ECI, held that the selection committee of election Commission must consist of - PM, Leader of opposition and Speaker CSI.

6) Subramaniam Swamy v/s UOI - held that VVPAT is essential for free and fair elections.

7) One electoral bond - said that political parties should be transparent to ECI about transactions.



Therefore, SC has played a crucial role in strengthening role of ECI in elections and demanding more accountability from the candidates and parties.

Q19) Discuss the crucial role played the National Commission of Women in shaping the discourse on gender-sensitive laws in India. To what extent the elevation of NCW to constitutional body would reinforce its authority? (15M)

National Commission of Women, as a statutory body, has been pioneer of women rights in our country. It has been instrumental in enactment of various laws for protection of women.

ROLE PLAYED BY NATIONAL COMMISSION FOR WOMEN :-

- 1) Instrumental in litigation of women rights - In the Triple Talaq case (2019), (NCW) was a major participant advocating for women's rights.
- 2) Conducting enquiries into women-related crimes : eg :- In Manipal violence

NCH write constantly to state govt, demanding immediate response.

3) Presenting reports on various laws :- It conduct research and presents its findings in laws such as - Immoral Trafficking Prevention Act, 1956, Protection of women from sexual Harassment at Workplace, 2013.

4) Take suo moto action / receive complaint on any issue relating to violation of women's rights - eg:- in cases of Maternity Benefit Act, Equal remuneration act.

5) Protect women from harassment by providing shelter and counselling access eg:- Domestic violence cases in COVID-19.

ELEVATION TO CONSTITUTIONAL BODY

2) would provide more power - like

of a civil court

- 2) President will necessarily have to present report to Parliament.
- 3) Will be able to promote socio-economic advancement of women
- 4) Will have better financial resources power to have own staff, appointments will become more regular.
- 5) Cases such as National Commission for Backward Classes show how it transformed the nature of body after its elevation [102nd CAA].

Thus, NCB has the potential to be a vital figure in changing landscape for women's rights. The need is to do away with its shortcomings and improve its status.

NEXT IAS

Q20. Discuss the role of ECI in light of the evolution of MCC (15M)

Model code of conduct are guidelines or set of rules drafted by the Election Commission (ECI) to guide the conduct of all stakeholders in elections - political parties, media, candidates, voters, election staff. Although not statutorily recognized, they are binding on parties and candidates (SC).

ROLE OF ECI IN LIGHT OF EVOLUTION OF MCC :-

- 1) MCC components includes → no new announcement of new schemes by ruling party or announcement of freebies
- ↓ prohibition of campaign 48 hours before election
 - ↓ prohibition of exit poll by media from start of voting till it ends. etc.

2) POWER OF ECI TO REGULATE CONDUCT -

Starting from 1960 Kerala elections, and 1962 general election, it has provided ECI with power of supervision over elections.

3. CHECKS CONDUCT OF RULING PARTY - Prohibits

them from misusing state power, state resources, announcing new schemes. [eg:- in Indira Gandhi's election]

4. PROTECTS RIGHTS OF VOTERS

(i) Prevents offences like booth capturing, threatening etc.

(ii) Gives adequate notice in media to increase awareness.

(iii) Places safeguards to ensure voters

are not hacked by political parties eg:-

online complaints can be registered!

5. CREATES LEVEL PLAYING FIELDS AMONGST PARTIES

(i) prevents use of factors such as caste, religion etc. eg:- In UP,

57 cases of violation of MCC filed in 2022.

ii) prevents discrimination against smaller parties by providing them with same resources eg - air time etc.

6. AS ~~WATTC~~ WATCHDOG OF ELECTIONS and ensuing smooth and fair conduct
↳ also increases voter turnout.

Yet, to make it more effective certain

measures can be taken

making it legally recognizable

defining contours of powers of ECI eg -

ECI stopped Kerala from distributing ration packets.

need to increase voter awareness regarding MCC.

SC stated MCC as a great evolution in the electoral democracy in our country. It needs to be given more teeth to make it actually binding.