

Indian Polity

Q1. “Constitutionally guaranteed judicial independence is a prerequisite of democracy”. Comment.

Introduction

- Define Judicial Independence.

Body

- Mention the Importance of Judicial Independence in a Democracy.
- Mention constitutionally and other ways Judicial Independence is preserved.

Conclusion

- Conclude accordingly.

Introduction

Judicial independence refers to the freedom of the judiciary from external pressures and influences that might threaten its impartiality. For a democracy to function effectively, it is essential that the judiciary remains independent and functions without any prejudice. The Constitution of India provides several provisions to ensure the independence of the judiciary.

1. Importance of Judicial Independence in a Democracy

- **Upholding the Rule of Law:** The rule of law is crucial in a democracy. An impartial application of the law is guaranteed by an independent judiciary.
- **Protection of Fundamental Rights:** The courts serve as a defender of citizens' fundamental rights. The very liberties that the judiciary is supposed to defend may be in jeopardy if it lacks independence.
- **Power Distribution Among the State's Organs:** A democracy's fundamental tenet is the division of powers between the legislative, executive, and judicial branches. A separate judiciary ensures that no one institution gains excessive power.

2. Provisions in the Indian Constitution Ensuring Judicial Independence

- **Appointment Process:** Articles 124 and 217 deal with the appointment of the judges of the Supreme Court and the High Courts. The process ensures a certain level of independence by not leaving the appointment entirely in the hands of the executive.

- **Security of Tenure:** Judges can be removed from office only by a process of impeachment and only on grounds of proven misbehavior or incapacity, ensuring that they are not easily influenced by other branches of government.
- **Salary and Allowances:** The salaries, allowances, and pensions of judges are charged on the Consolidated Fund of India, ensuring that they cannot be altered to the disadvantage of the judges during their term.
- **Bar on Practice after Retirement:** Judges of the Supreme Court and High Courts are prohibited from practicing in any court of law or before any other authority in India post-retirement. This eliminates potential biases that could arise from future employment prospects.

3. Indian Examples Emphasizing the Importance of Judicial Independence

- **State of Kerala v. Kesavananda Bharati (1973):** This significant decision affirmed the theory of the Constitution's fundamental design. Despite significant pressure, the Supreme Court maintained its independence by declaring that Parliament cannot change the Constitution's fundamental framework.
- **Judges' Transfer Case (1982):** The Supreme Court's decision that the Chief Justice of India should have priority in appointing judges strengthened the judiciary's independence.
- The Supreme Court invalidated the National Judicial Appointments Commission (NJAC) Act, 2014, and the 99th Constitutional Amendment in 2015, highlighting the significance of maintaining the independence of the judiciary.

Conclusion

The judiciary's independence is not merely required by the constitution; it is essential to the health of a dynamic democracy like India. **It protects against potential power abuses and guarantees that justice is administered impartially.** The example of India amply underscores the necessity of a free and independent judiciary, as mandated by the Constitution, for the health of a democracy.

Q3. "The states in India seem reluctant to empower urban local bodies both functionally as well as financially." Comment.

Introduction

- Begin your answer while defining 73rd and 74th constitutional amendment Act.

Body

- Discuss about the 73rd and 74th Constitutional Amendment and PESA.
- Discuss the challenges in implementing the CAA.

Conclusion

- Conclude accordingly.

Introduction

The 74th Amendment to the Constitution of India in 1992 sought to provide a framework for the **devolution of powers and responsibilities** to urban local bodies (ULBs) to function as effective units of local governance. However, more than two decades later, ULBs in many parts of India remain inadequately empowered both functionally and financially.

Functional Reluctance

1. **Limited Devolution:** Despite the constitutional mandate, many states have been slow in transferring functions listed in the Twelfth Schedule to ULBs.
2. **Bureaucratic Control:** In numerous states, the functioning of ULBs is heavily influenced by the state-appointed bureaucracy, undermining the decision-making powers of the elected representatives.
3. **Parallel Bodies:** The establishment of parallel bodies (like development authorities, water boards) which oversee significant urban functions weakens the role and significance of ULBs.

Financial Reluctance

1. **Dependency on State Grants:** A large portion of the funds for ULBs comes from grants and allocations from state governments, limiting their financial autonomy.
2. **Limited Taxation Powers:** While ULBs have the power to levy taxes, the range of taxes and the rate at which they can be levied is often determined by the state government.
3. **Inefficient Collection:** Even within the existing ambit, the collection efficiency for property taxes and other local dues by many ULBs is low, further straining their resources.
4. **Untapped Potential:** Many ULBs have not fully explored or leveraged avenues like public-private partnerships, municipal bonds, or user charges to enhance their financial position.

Factors for the Reluctance

1. **Political Considerations:** Empowering ULBs may lead to a shift in local power dynamics, something state-level politicians might not be comfortable with, especially if the ULB leadership is from a rival political faction.
2. **Administrative Overreach:** State-level bureaucracy might perceive strong ULBs as a challenge to their authority and control.
3. **Capacity Concerns:** There are concerns about the capacity and expertise of ULBs to handle devolved functions, especially in smaller urban areas.
4. **Fiscal Concerns:** States might be apprehensive about granting greater financial autonomy fearing potential fiscal mismanagement at the local level.

Conclusion

The vision behind the 74th Amendment was to create robust urban governance systems that address the unique challenges and opportunities of urban areas. Empowering ULBs both functionally and financially is critical to realizing this vision. While there have been successes in some states and cities, a broader, more consistent approach to empowerment is essential. This requires political will, capacity building, and a collaborative framework wherein both state governments and ULBs work in tandem to achieve urban development goals.

Q4. Compare and contrast the British and Indian approaches to Parliamentary sovereignty.

Introduction

- Define Parliamentary Sovereignty.

Body

- Difference between the Parliamentary Sovereignty of India and Britain.
- Discuss the history of the 1935 Act and parliamentary Sovereignty of India and the constitutional provision for it.

Conclusion

- Conclude with a way forward to overcome the challenges of India's sovereignty.

Introduction

Parliamentary sovereignty means an absolute and supreme authority of a country's legislative body to make, amend, and repeal laws without any interference or constraint from other organs of the state.

Parameters	India	Britain
Supremacy of Parliament	In India, there is a blend of Judicial Supremacy and Parliamentary Sovereignty. The powers of Parliament are limited by the constitutional provisions.	In Britain, the supreme law-making authority lies with the Parliament. The laws enacted by Parliament cannot be questioned.
Nature of	The written Constitution limits	The unwritten constitution in

Constitution	the authority of the Indian Parliament. E.g. A.13, Fundamental rights limits the authority of parliament.	Britain and parliamentary functioning based on conventions and precedents allows larger discretion to the British Parliament.
Nature of polity	The federal nature of polity in India demands the sharing of power between Union and State governments. Indian Parliament cannot legislate on state list matters in normal times.	The unitary nature of polity in Britain favors the principle of sovereignty of the British Parliament in making laws for the country.
Limited Amending Powers	The amending powers of the Indian Parliament are restricted by judicial review. The Judiciary can declare any legislation unconstitutional if it goes against the basic features of the Constitution. E.g. NJAC.	The power of the British Parliament is not only legally unrestricted but it can even change the well-established Constitutional principle through the legislative process.
Limited by Veto Power	In India, the Presidential Veto also acts as a limitation on sovereignty of Parliament. E.g. Pocket Veto by former President Giani Zail Singh on Indian Post Office (Amendment Bill).	Though the British Monarch is head of state, the real powers to make legislation lies with Parliament. While the monarch can refuse Royal assent it has not been witnessed since 1708.

Conclusion

Therefore, overhauling of the existing system needs necessary actions to take for making the system robust and provide them sufficient avenues to fulfil their objectives.

Q5. Discuss the role of presiding officers of state legislatures in maintaining order and impartiality in conducting legislative work and in facilitating best democratic practices.

Introduction

- India, with its expansive geography and diverse environmental tapestry, stands as a testament to diversity.

Body

- Write India's remarkable diversity of natural vegetation can be attributed to several factors.
- Highlight significance of Wildlife Sanctuaries in Rainforest Regions.

Conclusion

- While negative impacts are evident, socialization, family, and educational institutions can collaboratively mitigate these effects.

Introduction

The presiding officers of state legislatures play a crucial role in maintaining order and impartiality in conducting legislative work and in facilitating best democratic practices. They are the **custodians of the rules and procedures of the house** and are responsible for ensuring that the business of the house is conducted in a fair and orderly manner.

Body

Role of Presiding Officers in Maintaining Order

- **Enforcing rules and procedures:** It includes ensuring that bills are properly introduced and debated, that votes are conducted fairly, and that the rights of all members are respected.
- **Ensuring Decorum:** They have the authority to call members to order if they engage in disruptive behavior or violate parliamentary rules. **P. Dhanapal, the Speaker of the Tamil Nadu** Legislative Assembly, who suspended 80 DMK MLAs in 2017 due to their unruly conduct during the budget presentation.
- **Managing Debates:** They preside over debates, giving members an opportunity to express their views while ensuring that discussions remain respectful and on-topic. This includes managing time limits for speeches and controlling interruptions.

Role of Presiding Officers in Impartiality in Conducting Legislative Work

- **Maintaining Neutrality:** They abstain from participating in debates or voting on legislation except in cases where their vote is necessary to break a tie. This neutrality is essential to uphold the integrity of the legislative process.
- **Equal Recognition:** They recognize members from different parties and regions equitably, allowing for a balanced representation of diverse viewpoints as exemplified by the Speaker of the Haryana Legislative Assembly.

- **Casting Votes:** In case of a tie vote, the presiding officer typically casts the deciding vote, which can be vital in reaching legislative decisions.

Facilitating Democratic Practices

- **Committee Assignments:** Presiding officers play a role in appointing members to various legislative committees. In 2023, the **Speaker of the West Bengal Legislative Assembly**, Biman Banerjee, initiated a **series of workshops to train members** on the rules and procedures of the house.
- **Ensuring Transparency:** They oversee the recording of legislative proceedings and maintain transparency by making official records and minutes of legislative sessions accessible to the public.
- **Upholding Rules:** Presiding officers are responsible for interpreting and upholding parliamentary rules and procedures, which are essential for the smooth functioning of the legislature and the protection of democratic norms.
- **Protect the rights of minorities:** This means that the presiding officer should ensure that minority members have an opportunity to speak and to participate in the business of the house. The presiding officer can also use their powers to prevent the majority party from abusing its power.
- **Facilitate consensus-building:** The presiding officer can facilitate consensus-building by working with members from all parties to identify common ground and to develop compromise solutions.

Conclusion

Presiding officers in state legislatures, through their impartiality, **fair management of proceedings, and adherence to democratic principles**, play a pivotal role in ensuring that the voices of all elected representatives are heard and that the legislative process effectively serves the interests of the public.

Q13. Account for the legal and political factors responsible for the reduced frequency of using Article 356 by the Union Governments since the mid-1990s.

Introduction

- Describe Article 356.

Body

- Discuss the legal and political factors responsible for the reduced frequency of using Article 356 by the Union Governments.

Conclusion

- Conclude accordingly.

Introduction

Article 356 of the constitution says that if the President, on receipt of a report from the Governor of the State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be continued per the provisions of the Constitution, the President may impose President's Rule over the state.

Body

Dr. Ambedkar had observed that Article 356 would remain a 'dead letter' as he believed that Union and States will function harmoniously under the constitution. But unfortunately, Article 356 has been invoked more than 100 times and has been often subjected to political abuse. But due to several legal and political factors its frequency has drastically reduced.

Legal Factors

- **SR Bommai case (1994) Judgement** Decision to impose president's rule was subjected to judicial review. The President's satisfaction has to be based on objective material and the court will review the objective material to establish whether grounds were sufficient or not.
- The power of dissolving the Legislative Assembly shall be exercised only after the Proclamation is approved by both Houses of Parliament. Until such approval, the President can only suspend the Legislative Assembly.
- If the court strikes down the Proclamation, it has the power to restore the dismissed Government and revive the Legislative Assembly wherever it may have been dissolved or kept under suspension.
- By this the Court put an end to the arbitrary dismissal of State governments under Article 356. Ex. Former President K.R. Narayan returned the cabinet's recommendation in 1997, to impose President's Rule in the State of U.P.
- **Rameshwar Prasad Vs Union of India (2006):** Power under Article 356 is an emergency power and not the absolute power. This interpretation has limited the arbitrariness in imposition of Article 356.

Political factors

- **Rise of Coalition Politics:** National Parties at the union needed support of regional parties (in power at the states) to maintain a majority. Political alliances and break ups were occurring across parties as such National parties were accommodative towards regional parties in the hope for future alliances.
- **Aware Citizenry & Media:** Rise in awareness due to greater political awareness due to technology and the rise of media Cooperative Federalism. LPG reforms and attracting global investment required a stable political set up at the states. Union appreciates the role of States in meeting national planned targets.

Conclusion

Apex court regarding the **issue of 'federalism'** held in the Bommai case, that the Constitution of India has created a federation with a bias in favor of the Centre. But within the sphere allotted to the States, they are supreme. The federal structure of the Indian state is a basic structure of the Indian Constitution.

Q15. Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism?

Introduction

- Introduce by explaining 101st amendment.

Body

- Write about significance of the 101st Constitutional Amendment Act (GST).
- Highlight How GST is Accommodative Spirit of Federalism and its challenges.

Conclusion

- Conclude by writing GST is a reminder that federalism can work effectively.

Introduction

The 101st Constitutional Amendment Act, 2016, is a significant piece of legislation that has had a profound impact on Indian federalism. The Act introduced the Goods and Services Tax (GST), which is a unified tax system that replaced a complex system of indirect taxes at the central and state levels.

Significance of the 101st Constitutional Amendment Act (GST):

- **Economic Integration:** The GST Act subsumed various central and state taxes into a single, unified tax regime. This integration streamlined taxation across the country, promoting ease of doing business and fostering a more cohesive national market.
- **Simplification:** GST replaced a complex and cascading tax structure with a simplified and comprehensive tax system. **This simplification reduced tax evasion and compliance costs for businesses.**
- **Enhanced Revenue Collection:** By creating a transparent and efficient taxation system, the GST Act led to increased tax compliance and revenue collection for both the central and state governments.
- **Boost to Exports:** GST introduced the concept of Integrated GST (IGST), facilitating the smooth flow of goods and services across state borders. This boost to exports and inter-state trade has strengthened India's economic competitiveness.

- **Consumer Benefits:** The GST framework aims to benefit consumers by reducing the tax burden on goods and services. The **"One Nation, One Tax"** principle resulted in more affordable and uniform pricing of products across states.
- **Fiscal Federalism:** The GST Council, a constitutional body comprising representatives from the central and state governments, was established to make key decisions on GST rates, exemptions, and other related matters. This reflects a cooperative federal structure where states have a say in national economic policy.

Accommodative Spirit of Federalism:

- **Collaborative Decision-Making:** The GST Council provides a platform for central and state governments to work collaboratively, ensuring that key decisions on taxation are made collectively. States are actively involved in shaping GST policies.
- **Flexibility for States:** States have the flexibility to levy additional taxes on certain goods and services (e.g., petroleum products and alcohol) outside the GST framework, allowing them to retain some fiscal autonomy.
- **Compensation Mechanism:** To address potential revenue shortfalls for states during the initial years of GST implementation, a compensation mechanism was established, demonstrating a commitment to safeguarding states' financial interests.
- **Uniformity and Coherence:** While GST harmonizes taxation across states, it respects the unique needs and demands of individual states. Different GST rates are applied to various goods and services, allowing for differentiation based on states' economic realities.
- **Dispute Resolution:** The GST Council also addresses disputes between states and the center regarding tax collection or distribution, ensuring a mechanism for conflict resolution.

The GST, while demonstrating federalism's accommodative spirit, faces criticism in several areas:

- **Uniform Tax Rates:** Uniform rates don't accommodate variations in states' economic capacities.
- **Loss of Fiscal Autonomy:** States lost some fiscal autonomy, limiting their ability to set tax rates independently.
- **GST Compensation Issues:** Delays in compensation disbursement strained the cooperative spirit.
- **Lack of State Representation:** Smaller states might feel marginalized in decision-making.
- **Complex Compliance:** The GST framework's complexity can burden businesses.

Way forward

- **Enhanced Dialogue:** Encourage continuous dialogue between the central government and states to address concerns and streamline GST implementation.

- **Fiscal Autonomy:** Grant states more flexibility in setting tax rates on certain goods and services to better reflect their unique economic situations.
- **Transparency and Timeliness:** Ensure transparency in revenue collection and timely disbursement of GST compensation to maintain trust between the center and states.
- **Simplified Compliance:** Streamline compliance procedures and provide support for businesses to navigate the complexities of GST, especially in smaller states.

Conclusion

The 101st Constitutional Amendment Act is a model for other countries that are seeking to reform their tax systems and to strengthen their federations. It **is a reminder that federalism can work effectively** when there is a commitment to cooperation and accommodation between the central and state governments.

Q16. Explain the structure of the parliamentary committee system. How far the financial committees helped in the institutionalization of Indian parliament.

Introduction

- Can introduce Parliamentary committees to draw their authority from the constitution.

Body

- Write the Structure of the Parliamentary Committee System.
- Highlight the role of Financial Committees in institutionalizing Indian Parliament.

Conclusion

- Conclude by writing parliamentary committees, have been instrumental in institutionalizing the Indian Parliament.

Introduction

The parliamentary committee system in India is a system of committees that are appointed by the **Parliament of India to examine various aspects of the government's work.** The committees are composed of members of Parliament (MPs) from both the Lok Sabha and the Rajya Sabha.

Body

The Parliamentary committees draw their authority from the constitution.

1. **Article 105:** Powers, privileges, etc., of the houses of Parliament and of the members and committees thereof.
2. **Article 118:** Each House of Parliament may make rules for regulations, subject to the provisions of this constitution, its procedure and the conduct of its business.

Structure of the Parliamentary Committee System:

Standing Committees:

- These are permanent committees that operate from one parliamentary session to another.
- They are further divided into subject-specific committees like the Committee on Finance, Committee on Home Affairs, and Committee on External Affairs, among others.
- Standing committees review bills, examine budget allocations, and undertake in-depth examinations of various government departments and ministries.

Ad Hoc Committees:

- These committees are formed for **specific purposes** and are dissolved once their objectives are achieved. For example, **Joint Parliamentary Committees (JPCs)** are often constituted to investigate specific issues or scandals.

Select Committees:

- Select committees are formed to examine bills in detail, especially when they are contentious or complex.
- They are instrumental in refining legislation and incorporating diverse perspectives.

Consultative Committees:

- These committees facilitate interaction between members of parliament (MPs) and ministers.
- Each ministry has a corresponding consultative committee that discusses policy matters and program implementation.

The following are some of the most important parliamentary committees in India:

- **The Public Accounts Committee (PAC):** The PAC is responsible for examining the accounts of the government and reporting on any irregularities or deficiencies. 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha)
- **The Estimates Committee:** The Estimates Committee is responsible for examining the estimates of the government and reporting on any areas where savings can be made. 30 members elected only by Lok Sabha.
- **The Committee on Public Undertakings (COPU):** The COPU is responsible for examining the working of public undertakings and reporting on any areas where improvement is needed. 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha)

The Role of Financial Committees in Institutionalizing Indian Parliament:

- **Financial Oversight:** These committees oversee the government's financial operations, ensuring that public funds are spent efficiently and in accordance with parliamentary approval.
- **Examination of Budget:** The PAC scrutinizes the government's expenditure as reflected in the Comptroller and Auditor General (CAG) reports. It examines the accounts and audits of the government, making sure there is no financial irregularity.
- **Accountability:** Financial committees hold the executive accountable for financial management and ensure that public money is used for its intended purpose.
- **Transparency:** By examining budgetary allocations, these committees bring transparency to the government's financial decisions and allocations.
- **Policy Recommendations:** These committees can make policy recommendations based on their financial scrutiny, contributing to more informed decision-making.
- **Audit Reports:** The CAG reports, when presented to Parliament, are referred to the PAC, which examines them thoroughly. The committee's findings and recommendations are then tabled in Parliament for discussion and action.
- **Checks and Balances:** The financial committees provide an essential check on the government's fiscal activities, helping to prevent financial mismanagement and corruption.

Conclusion

In essence, the financial committees, along with other parliamentary committees, have been instrumental in institutionalizing the **Indian Parliament by strengthening its oversight, accountability, and decision-making functions**. They contribute significantly to the efficient functioning of India's parliamentary democracy, ensuring that the government remains answerable to the people's representatives for its financial actions and decisions.

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