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GENERAL STUDIES (TEST CODE : 1143)

Name of Candidate	Umakarathi Nookala		
Medium Eng./Hindi	English	Registration Number	362399
Center	ORN	Date	13/7/18

INDEX TABLE		
Q. No.	Maximum Marks	Marks Obtained
1	10	
2	10	
3	10	
4	10	
5	10	
6	10	
7	10	
8	10	
9	10	
10	10	
11	15	
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16	15	
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18	15	
19	15	
20	15	

Total Marks Obtained:

Remarks:

INSTRUCTIONS

1. Do furnish the appropriate details in the answer sheet (viz. Name, Registration Number and Test Code).
उत्तर पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक आदि)।
2. There are **TWENTY** questions printed in **ENGLISH & HINDI** इसमें बीस प्रश्न हैं अंग्रेजी और हिन्दी में छपे हैं।
3. **All questions are compulsory.**
सभी प्रश्न अनिवार्य हैं।
4. The number of marks carried by a question/part is indicated against it.
प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।
5. Answers must be written in the medium authorized in the Admission Certificate, which must be stated clearly on the cover of this Question-Cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.
प्रश्नों के उत्तर उसी माध्यम में लिखे जाने चाहिए जिसका उल्लेख आपके प्रवेश पत्र में किया गया है और उस माध्यम का स्पष्ट उल्लेख प्रश्न-सह-उत्तर (क्यूसीए) पुस्तिका के मुख्य पृष्ठ पर अंकित निर्दिष्ट स्थान पर किया जाना चाहिए। उल्लिखित माध्यम के अतिरिक्त अन्य किसी माध्यम में लिए गए उत्तर पर कोई अंक नहीं मिलेंगे।
6. Word limit in questions, if specified, should be adhered to.
प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।
7. Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.
उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।

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103, 1st Floor, B/1-2, Ansal Building, Behind UCO Bank, Dr. Mukherjee Nagar, Delhi – 110009

EVALUATION INDICATORS

1. Alignment Competence
2. Context Competence
3. Content Competence
4. Language Competence
5. Introduction Competence
6. Structure - Presentation Competence
7. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

1. Concerns regarding the wide formulation and indiscreet application of discretionary powers of the Governor need closer attention. Discuss. (150 words) (10)

राज्यपाल की विवेकाधीन शक्तियों के व्यापक निरूपण एवं अविवेकपूर्ण अनुप्रयोग संबंधी चिंताओं के संदर्भ में सावधानीपूर्वक ध्यान केंद्रित करने की आवश्यकता है। चर्चा कीजिए।

The discretionary powers of governor came under question in the recent Karnataka ^{assembly} elections-hung assembly.

As constitutional head of the state governor acts on the aid & advice of the state Council of ministers except where he's allowed discretion.

> However whether a matter falls under discretion or not is up to governor to decide (art. 163) — Shows the width of discretion given.

The following discretionary powers are prone to misuse & therefore need attention. :-

→ Power w.r.t bills (201) : There is no time limit to the bills reserved for presidential assent.

> Despite not being an elected representative, he can effectively undo the will of democratically elected.

→ power to recommend : Experience has shown that it is widely prone to misuse especially during difference of opinion between Centre & State.

President's rule under art. 356

- सर्वो
- It has been used over 100-times since independence
- Servoi calls it an attack on federalism.

Role in a strong assembly :- Best unlike in case of Goa & Manipur, in Karnataka governor invited the single largest party to form the government.

> serious questions on governor's autonomy have been raised because the so invited party was also the party in power at centre.

What should be done:

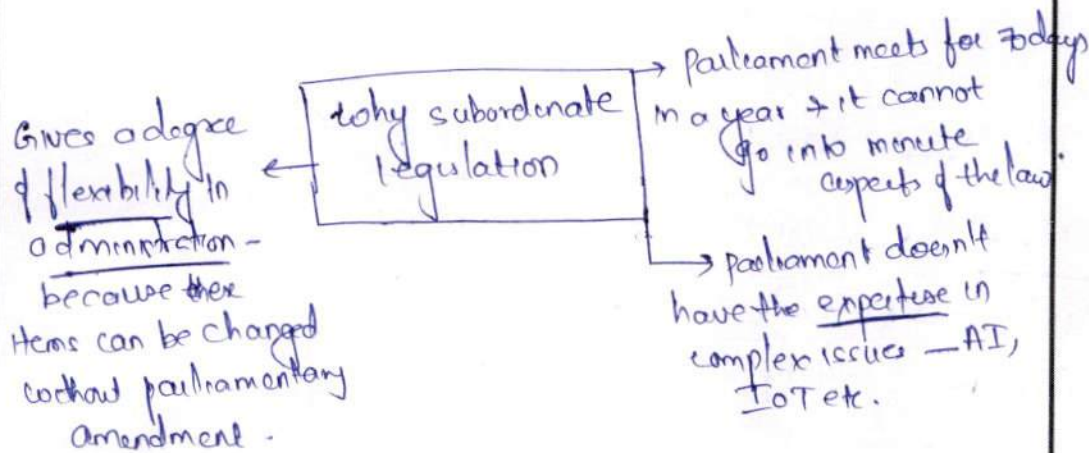
- shield the governor's office from undue interference of centre.
 - Security of tenure be provided
 - Make appointment & removal representative
- People should have remedy against governor's excesses
 - Impeachment process for removal.

Governor must remain true to his oath. SC has time and again said that governor's discretion is subject to Constitution. Strictly adhering to various guidelines of Sarkaria commission → Punchi commission will help reduce controversies & further the spirit of cooperative federalism.

2. Explain the concept of subordinate legislation in India. Also discuss the mechanisms for their scrutiny and control. (150 words) (10)

भारत में अधीनस्थ विधान की अवधारणा की व्याख्या कीजिए। साथ ही, उनकी संवीक्षा और नियंत्रण की क्रियाविधियों की भी चर्चा कीजिए।

subordinate legislation or delegated legislation means legislature outsourcing the lawmaking power to the executive. The legislature gives a skeletal framework of the law, while executive fills up the working details.



Mechanisms for scrutiny & control

Legislative scrutiny → The committee of subordinate legislations looks if the powers of ~~legislat~~ delegated legislation are misused.

Judicial scrutiny → Judiciary can strike down these aspects of law if

- They are ultra vires of constitution
- If they go against the intent of primary law.

However, we often see orders coming through delegated legislation contravening the original law.

For ex; penning of cow slaughter case under
* prevention of cruelty to animals act.

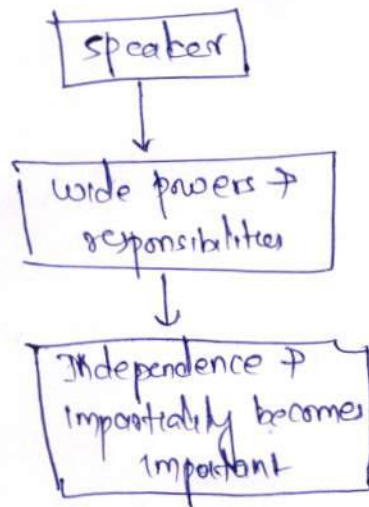
- The amended rules in this case were not put up for parliamentary approval.

Subordinate legislation is considered useful + legitimate world wide. However there is need to ensure proper legislative + judicial scrutiny so that executive doesn't escape accountability to parliament.

3. The crucial position accorded to the Speaker in Indian legislatures, makes it imperative to protect them from undue political pressures. Examine. (150 words) (10)

भारतीय विधान-मंडलों में अध्यक्ष को प्रदान की गई महत्वपूर्ण प्रस्थिति वस्तुतः उन्हें अनुचित राजनीतिक दबावों से सुरक्षित करना अनिवार्य बनाती है। परीक्षण कीजिए।

Speaker is the head of the ~~state~~ ~~legislature~~ → its representative. It is an office of trust with wide powers to uphold the dignity of democracy.



Crucial position of speaker can be assessed from the following:

- He is the sole authority to certify a money bill
 - > If misused, it compromises the functioning of Panchsabha. (Very relevant when ruling party lacks majority in RS)
- He decides disqualification on grounds of defection.
 - > If misused it adversely affects the freedom of speech & expression of legislature.
 - > Impartiality becomes important here

→ His acceptance is necessary for resignation to be valid
 > He can prevent forced resignations & related malpractices

→ He can suspend unruly MPs — key power in regard to disciplinary matters
 > If misused the democratic space of opposition shrinks.

→ He is the final interpreter of constitutional rules of procedure within the House.

However certain instances in the recent times raised questions.

> Passage of Aadhar ^{bill} as money bill & political interference thereof.

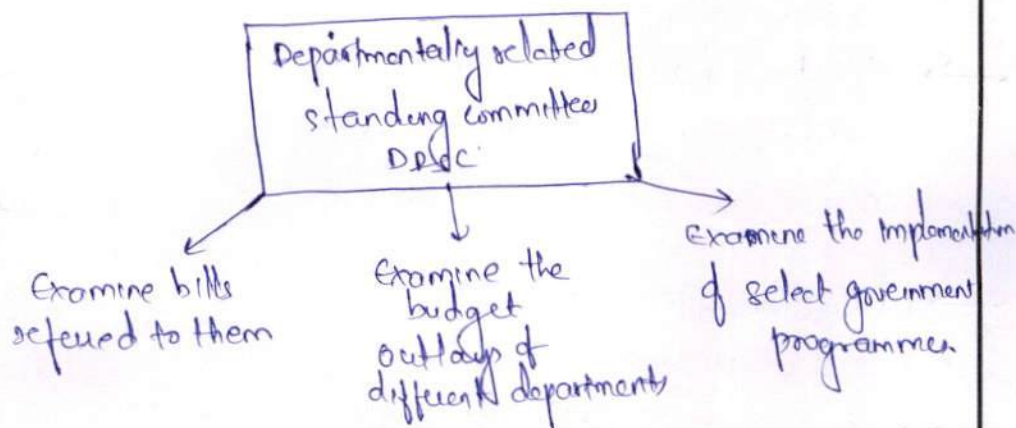
> The convention of speaker resigning as MP not followed anymore.

In the light of above discussion, it is important to ensure independence & autonomy of speaker. The ruling party & opposition should understand the crucial role of speaker in democratic polity & enable him to function without ^{political} pressure.

4. The Departmentally-Related Standing Committees have been referred to as mini-parliaments in India. Highlight their relevance in a democratic polity and discuss, with examples, how they improve the overall effectiveness of the Parliament. (150 words) (10)

विभागों से संबद्ध स्थायी समितियों (विभागीय स्थायी समितियों) को भारत में लघु-संसदों के रूप में संदर्भित किया गया है। लोकतांत्रिक राज्यव्यवस्था में उनकी प्रासंगिकता पर प्रकाश डालिए और उदाहरण सहित चर्चा कीजिए कि वे संसद की समग्र प्रभावकारिता में किस प्रकार वृद्धि करती हैं।

Departmentally related standing committees are constituted to support functioning of parliamentary democracy. They help Parliament secure accountability better from executive.



Relevance of DRSC

→ Parliament barely meets for 70 days in a year → it is not possible to discuss all aspects in detail.
→ DRSC do this job

→ DRSC equip legislature to better secure accountability in a majority government

→ In multiparty dynamics DRSC provides a platform for consensus building.

→ As issues to legislate get more complex day by day (AI, IOT, cyber security) DRSC expert opinions as well as public opinion can be taken through DRSC.

How do DRSC improve effectiveness: —

- It much easier for DRs with 30 members to go into details of an aspect than it is for 300 parliamentarians together.
- The taken in expert opinion → also public opinion via townhall meeting — so that the law reflects the will of people.
- DRSC are outside defection rules — so decisions not made on party lines
- DRSC are outside public glare — no constituency pressures.

Thus the DRSC has been a fairly successful experiment in India. It can however be improved through :-

- > Mandatory examination of bills
- > lateral entry for experts with of citizenship, as in Canada
- > Transparency in regard to inputs received from experts → public.

5. Explaining the rationale for setting up of tribunals in the dispensation of justice, enumerate the issues associated with their functioning in India. How can these issues be addressed? (150 words) (10)

न्याय वितरण हेतु अधिकरणों की स्थापना के औचित्य की व्याख्या करते हुए, भारत में उनकी कार्य पद्धति से संबद्ध मुद्दों को सूचीबद्ध कीजिए। इन मुद्दों को कैसे हल किया जा सकता है?

Tribunal is an administrative body established to discharge quasi judicial duties. It is therefore neither a court nor an administrative body, but some where between the two.

Rationale behind setting up of tribunals :-

- To reduce the burden on judiciary, which has resulted in huge pendency
- To directly incorporate & subject specific professional/technical expertise into judgement.
For example environmentalists in NGT
- To provide speedy justice by using principles of natural justice rather than CrPc + IPC.
- Adjudication in cases where strict application of law may not be appropriate
ex: water disputes tribunal.
- welfare legislation - disputes about meagre amount
Tribunals have been fairly successful with 94% disposal rate. However pendency remains. Besides, the following are the issues faced by tribunals

- Under administrative control of parent ministry —
Compromises independence
- Fewer benches — access becomes problem
ex: NCT has only 4 regional benches
- In chandra kumar case has allowed appeals to
the SC — appeals even in small cases
defeat the purpose.

Measures to address these issues! —

- SC has recommended nodal ministry to take
care of administrative needs of all tribunals
- Nodal agency to ~~take~~ undertake appointments
in a transparent manner — to prevent government
political interference.
- Infrastructural needs should be met → case management
be applied in tribunals as well.

Addressing these issues is important to prevent
tribunalisation of justice becoming tribulation of justice

6. Examine the significance of Gram Sabhas, as mentioned in Article 243A of the Indian constitution, in the development process with special reference to Fifth Schedule areas. (150 words) (10)

पांचवीं अनुसूची के क्षेत्रों के विशेष संदर्भ के साथ विकास की प्रक्रिया में, भारतीय संविधान के अनुच्छेद 243A में वर्णित ग्राम सभाओं के महत्व का परीक्षण कीजिए।

Gramsabha is the foundation of Panchayati Raj or local self government in India. It consists of all persons whose names are enrolled in the electoral rolls of Panchayat in a village.

Significance of Gramsabha in developmental process:-

Although the powers of Gram Sabha vary from state to state, broadly, with 73rd constitutional amendment.

- > Gram Sabha approves the developmental plans before implementation by Panchayat
- > Identification of beneficiaries → monitoring of programmes
- > Social audit to provide continuous feedback
- > Platform to mobilize → generate awareness
ex: LPG Panchayats to raise awareness about LPG usage.

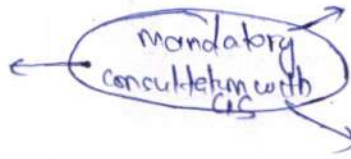
Panchayat extension to scheduled areas (PESA) act makes Gram Sabha the nucleus of all activities in 5th schedule areas.

→ ensures administration takes in accordance with traditional customs → practices

→ prevents exploitation of tribals, land alienation in the name of development

→ for ex,

preparing tribal sub plans (TSP)



to divert land for developmental purposes

to grant leases for minor minerals

→ It regulates money lending, sale & purchase of land, sale of immovables.

The 73rd constitutional amendment has strengthened gram sabha to great extent. But grant of powers & responsibilities is under to GC is under the discretion of states, resulting in non uniformity across states.

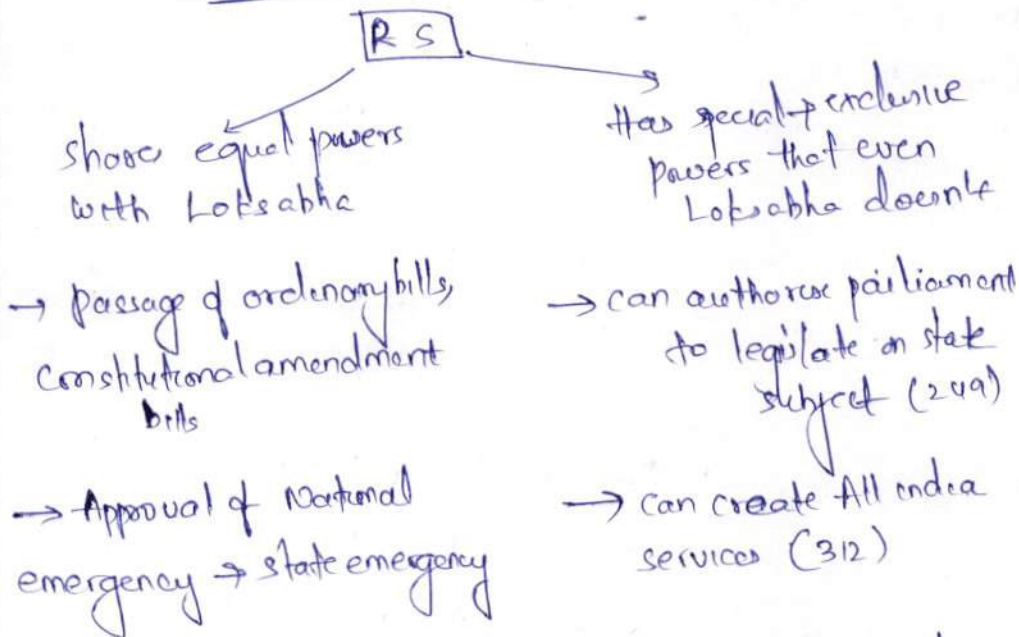
Meghalaya has greatly strengthened the power of Gramsabha by making social audit mandatory & this sets an example for other states to follow.

7. The Rajya Sabha is merely a secondary house rather than a second house in the Indian Parliamentary system. Critically analyze the statement. Also, compare and contrast the position of the Rajya Sabha vis-à-vis the State legislative councils. (150 words) (10)

भारतीय संसदीय प्रणाली में राज्यसभा वस्तुतः दूसरा सदन होने के स्थान पर एक द्वितीयक सदन मात्र है। इस कथन का आलोचनात्मक विश्लेषण कीजिए। साथ ही, राज्य विधान परिषदों के मुकाबले राज्यसभा की स्थिति की तुलना कीजिए और अंतर बताइए।

Unlike the state legislative council which is a secondary chamber, Rajya Sabha is a truly second chamber of parliament sharing ~~equal~~ powers with Lok Sabha in ordinary → extraordinary circumstances.

Rajya Sabha is not merely a secondary house because :-



However RS enjoys lesser powers in case of

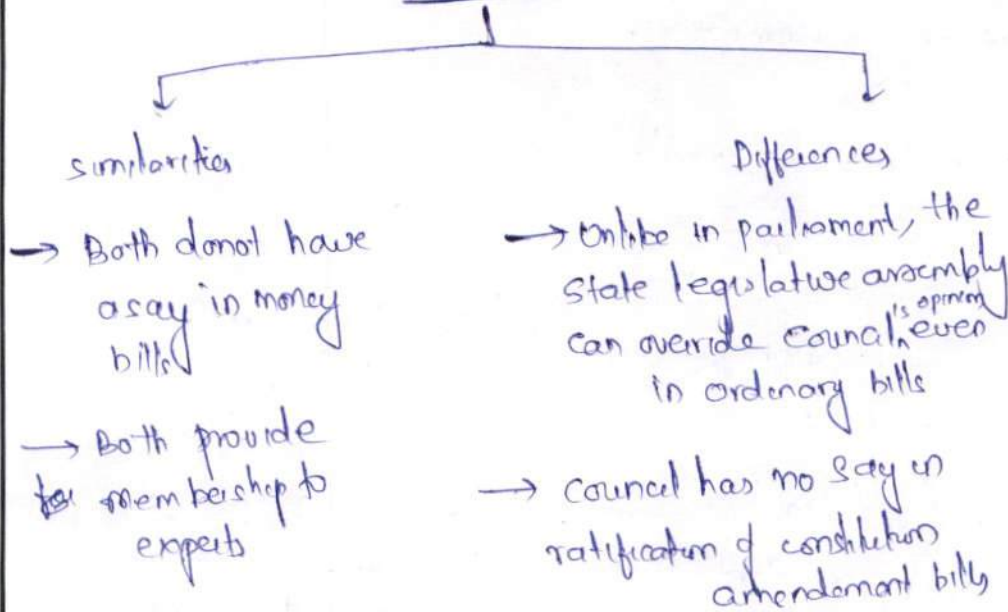
> Money bills

> Securing accountability of executive for ex) NCM cannot be passed in RS.

- Despite not having equal powers in few instances, P.C. acts as a scrutiny house → prevents hasty legislation
- It ensures federal spirit in the constitution is not trampled with.

Difference between

Rajya Sabha vis-a-vis State Legislative Councils



clearly the constitution gave fewer powers to Council compared to P.C. → therefore it acts as more of an advisory house rather than a scrutiny house.

8. A major shift is needed in the institutional framework of the Central Water Commission (CWC) and the Central Ground Water Board (CGWB) to make water management more holistic and multidisciplinary. Discuss in the context of Mihir Shah Committee recommendations. (150 words)

(10)

जल प्रबंधन को अधिक समग्र और बहु-विषयक बनाने के लिए केंद्रीय जल आयोग (CWC) एवं केंद्रीय भूमि जल बोर्ड (CGWB) के संस्थागत ढाँचे में महत्वपूर्ण परिवर्तन की आवश्यकता है। मिहिर शाह समिति की अनुशंसाओं के संदर्भ में चर्चा कीजिए।

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कुछ ना लिखें)

9. On what grounds can a person be denied the right to contest elections to the Parliament in India? Will a lifetime ban on those convicted of heinous crimes address the problem of criminalization of politics? Discuss in light of recent judgments by the Supreme Court. (150 words) (10)

किसी व्यक्ति को भारत में संसद हेतु चुनाव लड़ने के अधिकार से किन आधारों पर वंचित किया जा सकता है? क्या जघन्य अपराधों के दोषी व्यक्तियों पर आजीवन प्रतिबंध से राजनीति के अपराधीकरण की समस्या हल होगी? सर्वोच्च न्यायालय द्वारा दिए गए हाल के निर्णयों के आलोक में चर्चा कीजिए।

Criminalization of politics means anti-social elements entering electoral system, contesting elections & even holding public offices. The problem of criminalization of politics in India is highlighted by the fact that 34% of winners of 15th LS elections had criminal cases against them.

Disqualification grounds :-
under article 102,

→ lost citizenship

→ unsound mind

→ undischarged insolvent

→ holding office of profit

→ disqualified under any law made by parliament

Accordingly, RPA, 1951 — disqualifies persons convicted for crimes with sentences greater than 2 years

> The disqualification stands for 6 years after completion of jail term.

The SC has ^{recently} asked the stand of EC on imposing life time ban ~~of~~ on convicted persons (heinous crimes).

> Life time ban may act as a deterrent, but it is against our system of jail ~~for~~ reformation.

> Further, people are wise enough to note for a person who has been to jail ~~to~~ served sentence.

Further way, the important issues to be addressed are:-

→ Low conviction rate because of poor investigation + prosecution

→ Delayed trials

→ Scope for ~~of~~ never ending appeals

→ Bringing political parties under PFI

Addressing these may act as better deterrent,

10. Directive Principles can be considered as even more important than the Fundamental Rights because they provide a positive thrust towards welfare. Examine. (150 words) (10)

निदेशक तत्वों को मूल अधिकारों से भी अधिक महत्वपूर्ण माना जा सकता है क्योंकि निदेशक तत्व कल्याण की दिशा में एक सकारात्मक प्रेरणा प्रदान करते हैं। परीक्षण कीजिए।

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11. In light of demands for replacement of the FPTP (First Past the Post) system with other alternatives, compare the merits and enumerate the challenges associated with replacing the current system. (250 words) (15)

FPTP (फर्स्ट पास्ट द पोस्ट) प्रणाली को अन्य विकल्पों से प्रतिस्थापित किए जाने की मांगों के प्रकाश में, वर्तमान प्रणाली के लाभों से तुलना करते हुए इसे प्रतिस्थापित करने से संबंधित चुनौतियों को सूचीबद्ध कीजिए।

First past the post (FPTP) refers to an electoral system where in a constituency candidate with the maximum votes wins. Recently various political parties told a parliamentary panel to replace FPTP.

Why has there been a demand to replace FPTP?

→ The will of the people is not well represented through the popularity of votes. For ex,

2014 elections		
	vote share	seat share
BJP	31%	52%
BSP	4%	0

→ In the above example 69% of voters who didn't vote for want BJP ~~can't~~ have to accept BJP coming to power as a majority government.

Why did we choose FPTP in the first place?

relatively stable governments ← FPTP → simplicity
familiarity with the electorate

Advantages offered by alternatives

PR (Proportional representation)

- Voters vote for political parties & parties get represented as per their vote share
- vote share gets exactly reflected as seat share
- Diverse groups & political parties get represented
- It makes power sharing visible.

Mixed system

- It is a combination of FPTP and PR - some seats filled through FPTP & others through PR
- It has dual benefits, ensures stability & also well representation of political parties

Challenges in replacing FPTP :-

- Low ^{public} awareness about alternatives
- Complex procedures of PR may adversely affect the voter share turnout.
- PR may worsen the existing vote bank politics & encourages divisions on various lines

In the era of multiparty dynamics, the way forward should be slowly moving away from FPTP and adopting mixed system to give due ensure due representation of diverse groups & communities

12. Despite long-term recognition of the problem of pendency of cases in the courts, limited progress has been made in reducing their number. What are the possible reasons for such a scenario? Suggest a framework of measures that can be taken to address this issue. (250 words) (15)

न्यायालयों में मुकदमों के लंबित रहने की समस्या की बहुत समय से पहचान होने के बाद भी इनकी संख्या को कम करने की दिशा में सीमित प्रगति ही हो पाई है। ऐसे परिदृश्य के लिए संभावित कारण क्या हैं? इस समस्या को हल करने के लिए विभिन्न उपायों की एक रूपरेखा का सुझाव दीजिए।

~~The~~ the past few years the issue of pendency has taken centre stage in deliberations between centre and judiciary. And yet about 3 cr cases continue to be in pending before various courts of the country.

Why hasn't there been much progress: —

- The main issue of lack of adequate number of judges remains unsolved
 - > 27% of posts are vacant at subordinate judge level
 - > 30% vacancy at the judge level
 - > The Mop for appointment of SC & HC judges hasn't been finalized yet
- Poor action by government: The largest litigant
 - > Nothing effective has been done to reduce compulsive litigation from government side
 - > Legal information & management briefing system (LIMBS) to check pendency in

government departments hasn't picked up.

> National ~~Legal~~ Litigation policy, 2010 not well implemented

→ National judicial accountability → standards bill hasn't been passed

→ Appeals from fast track courts end up at HCs - defeating the purpose

→ Despite agreeing in theory with Aijs (All India judicial services) it hasn't been implemented

↳ It would help streamline the process of appointment of district judges - which in turn would make appointments quicker.

→ Integrated case management system hasn't ^{yet} been implemented at subordinate judiciary.

what measures can be taken?

→ Besides addressing the above glaring supply & demand issues, the productivity of courts have to be improved

> implementing recommendations of Law Commission

→ Strict guidelines for adjournments

→ Clearer judgement to prevent further litigation

→ curtailing long vacation of ~~the~~ higher judiciary

- > NitiAayog has proposed judicial performance index to track the pendency at lower courts.
- > judicial accountability & standards bill should include the pendency issue
- > Use of ICT and capacity building at lower courts where the maximum pendency lies

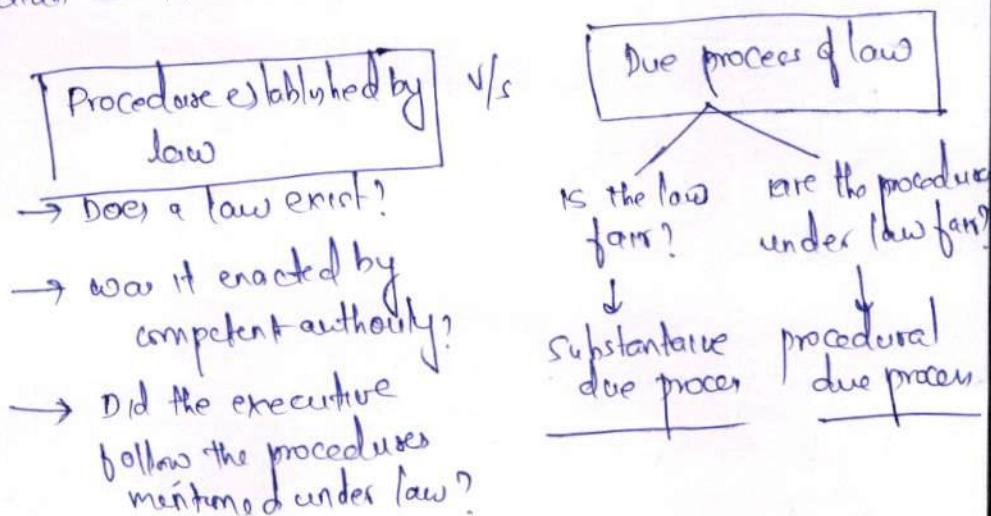
Reducing pendency is important to maintain constitutional democracy, rule of law, stability & security.
 India's progress depends on effective judiciary which provides justice in time. After all, justice delayed is justice denied.

13. Despite the phrase 'due process of law' (not being mentioned in the Constitution, the Supreme Court, over the years, has adopted the doctrines of 'procedural due process' and 'substantive due process' into Indian constitutional law. Comment. (250 words) (15)

संविधान में 'विधि की सम्यक् प्रक्रिया' पद का उल्लेख नहीं होने के बावजूद, सर्वोच्च न्यायालय ने विगत वर्षों में भारतीय संवैधानिक कानून में 'प्रक्रियात्मक सम्यक् प्रक्रिया' और 'सारवान सम्यक् प्रक्रिया' का सिद्धांत अपनाया है। टिप्पणी कीजिए।

Due process of law is a concept that tests the fairness reasonableness of law, while procedure established by law assumes good sense of legislator.

Although Indian constitution explicitly provides for procedure established by law (Art 21), Indian judiciary has effectively incorporated the essence of due process into Indian constitution.



→ In Maneka Gandhi's case, SC said that the law or procedure ~~are~~ taking away life & liberty must be fair & reasonable

→ In Selvi v/s State of Karnataka (2010) the court said that compelling ^{for} narco analysis is violative of right to privacy (21) & right against self incrimination (20)

> Effectively it struck down a law being substantive due process

→ In P. Gandhi v/s UOI, Supreme court faulted the procedure in establishment law establishing National Company Law Tribunal.

> Citing that appointment procedures are violative of "independence of judiciary", it asked procedural due process

→ In 2014 SC struck down 99th C.A. establishing NJAC because it was violative of doctrine of Judicial Supremacy in judicial appointment process

> Effectively striking down using substantive due process

However recently Payabala v/s UOI case the court argued against due process usage in Indian constitution.

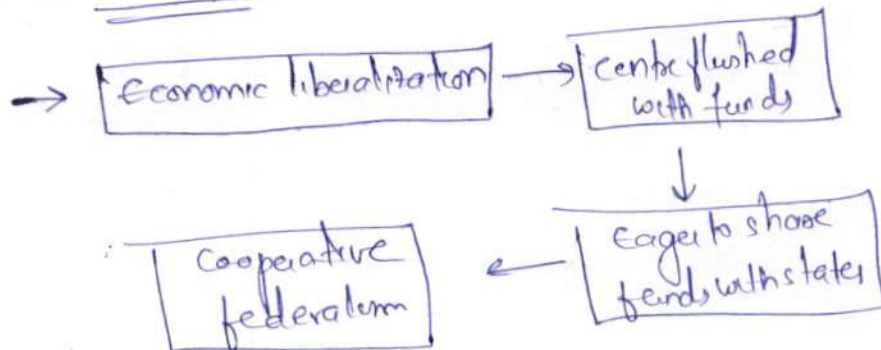
Nevertheless, this dynamic approach of judiciary has helped criminal justice system — better safeguard, stricter procedures of arrest, right against solitary confinement etc.

14. Can we say that cooperative federalism in India has strengthened in the post-liberalisation era? Give reasons in support of your answer. (250 words) (15)

क्या हम कह सकते हैं कि भारत में उत्तर-उदासीकरण युग में सहकारी संघवाद सुदृढ़ हुआ है? अपने उत्तर के समर्थन में कारण प्रस्तुत कीजिए।

Cooperative federalism means centre \rightarrow state working with a common purpose i.e., achieving national goals, by reducing friction and increasing cooperations. The nature of federalism has taken various turns since independence.

Cooperative federalism has strengthened ~~off~~ post liberalization because:—



→ Post 1990s has been an era of coalition parties where regional parties are having large voice in nation politics

→ Reviving of Interstate Council in 1990s helped as a platform for discussion on complex items without either having to surrender their jurisdiction

→ Addition of languages into 8th schedule — Bodo, Marathi, Santhali, Dogra in 2003.

→ The 73rd & 74th constitutional amendments have taken the cooperation to next level — central govt & local governments cooperate.

→ Increasing devolution of taxes by Finance Commission

	1st FC	14th FC
% of devolution	10%	42%

→ Replacing planning commission with NITI aayog.
↳ Replaced top down planning with idea of states as equal partners in developmental goals.

→ The enactment & implementation of GST has been successful because of 'GST Council' which provided a platform for centre state cooperation.

Increasing complex issues such as terrorism, climate change, cyber security are only increasing the need & demand for cooperation between centre & states.

To further strengthen cooperative federalism there should be efforts at

- quickly disposing bills reserved for president
- create involvement of states while signing inter-statal agreements
- Exercise caution in utilizing article 356 - president's rule.

15. Faulty regulatory policies can have a severe adverse effect on the efficient interplay of market forces and end up harming public interest. Examine in the context of systemic issues pertaining to regulatory environment in India. (250 words) (15)

दोषपूर्ण नियामकीय नीतियों का बाजार बलों की कुशल अंतःक्रिया पर गंभीर प्रतिकूल प्रभाव पड़ सकता है और सार्वजनिक हित की क्षति हो सकती है। भारत में नियामकीय वातावरण से संबंधित प्रणालीगत मुद्दों के संदर्भ में परीक्षण कीजिए।

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16. Mention the constitutional provisions to safeguard and ensure the independent and impartial functioning of the UPSC. Further, assess the limitations of UPSC in effectively performing its role as the 'watchdog of merit system' in India as envisioned by the Constitution. (250 words)

(15)

UPSC की स्वतंत्र और निष्पक्ष कार्य पद्धति को सुरक्षित रखने और सुनिश्चित करने हेतु संवैधानिक प्रावधानों का उल्लेख कीजिए। साथ ही, संविधान द्वारा प्रकल्पित 'योग्यता प्रणाली के संरक्षक' के रूप में अपनी भूमिका को प्रभावी रूप से निष्पादित करने में UPSC की सीमाओं का आकलन कीजिए।

UPSC is the central recruiting agency of centre. The Constitution envisions its role as watch dog of merit system in India, thereby providing safeguards to ensure independence & impartiality.

Constitutional safeguards for UPSC

→ The members of UPSC can be removed only by President and only on the grounds mentioned in the constitution.

→ Misbehaviour (well defined)

→ incapacity

→ undischarged insolvent

→ paid employment outside state

→ The service conditions of members can't be reduced to their disadvantage.

→ The members are not eligible for any other office under government after their tenure.

(→ members can be appointed as chairs of the commission after their tenure)

Limitations or challenges faced by upsc

→ These are main

→ It is mandatory to consult upsc on specific matters for ex - disciplinary matters. However, the role of central vigilance commission has undermined upsc to some extent.

→ Use of extra constitutional devices by government

> Appointing/recruiting on ad hoc basis → later asking upsc to regularize them.

> retrospectively changing qualification

> Delayed reporting.

↳ The government has to give explanation to legislature whenever it rejects recommendation of the commission.

↳ By delaying reporting government is escaping legislative oversight.

The SC has clearly said that these extraconstitutional measures are unconstitutional → void. The legislature must demand reporting in time. &

The government must understand the importance of upsc in maintaining standards of administration & allow it function without undue influence.

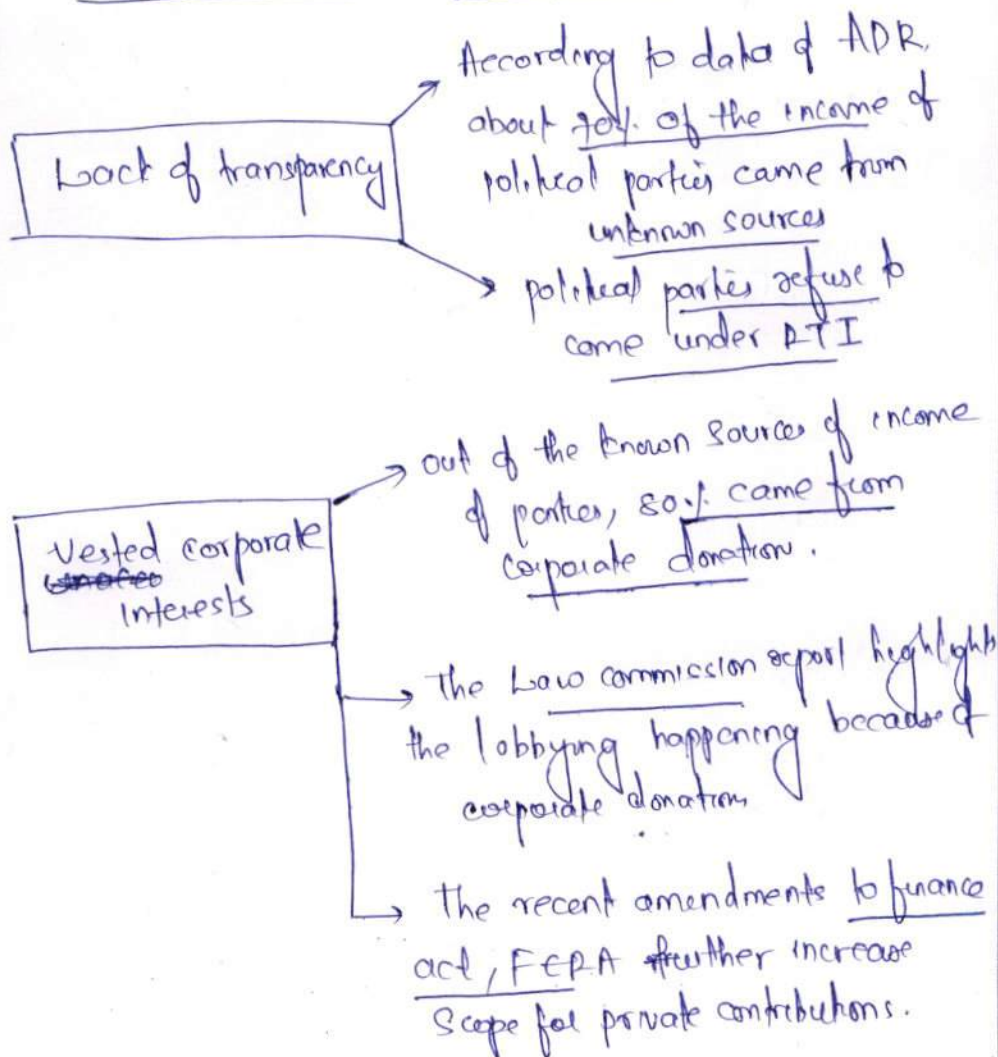
17. Identify the key issues relating to electoral funding in India. How far can the idea of State Funding of Elections address these issues? (250 words)

(15)

भारत में चुनावी वित्तपोषण से संबंधित प्रमुख मुद्दों की पहचान कीजिए। राज्य द्वारा चुनावों के वित्तपोषण का विचार किस हद तक इन मुद्दों को हल कर सकता है ?

State funding of elections was first proposed by Dinesh Goswami Committee in 1990 as a solution to address the malpractices in electoral funding.

Issues with electoral funding in India:



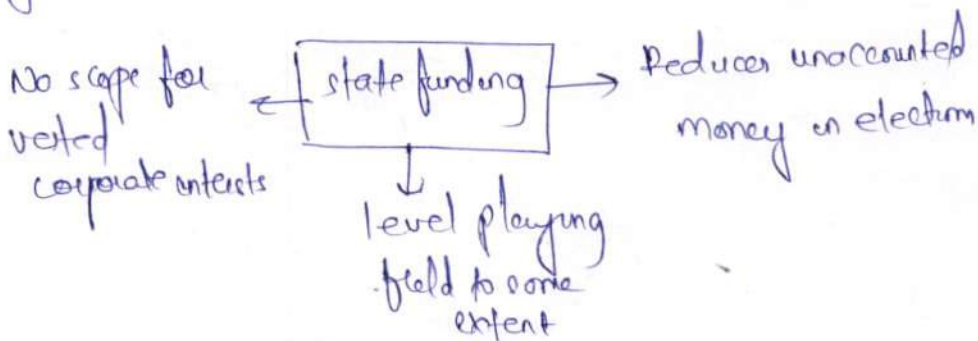
Lock of level playing field

Parties in power have access to greater avenues to garner funds.

The proposed electoral bonds ~~act~~ is a good beginning to reduce unaccounted money in elections.

State funding of elections as solution:-

State funding of election means government gives funds to candidates/parties to contesting in election.



The electoral laws → other matters bills proposed partial ^{state} funding. However Election Commission argues that partial funding doesn't solve the problem.

Complete state funding → banning contributions from elsewhere can be the way forward.

The necessary cost should be met through separate electoral fund.

Hawing said that, state funding alone cannot bring total reforms. We need to direct efforts also at decriminalization ^{of politics} bringing political parties under PFI, raising general awareness of the electorate.

18. The Constitution of India mentions the Doctrine of Separation of Powers, only in passing, yet it holds a unique status in the structural framework of the Indian polity. Discuss. (250 words) (15)

भारतीय संविधान शक्तियों के पृथक्करण के सिद्धांत का केवल संक्षिप्त उल्लेख करता है, फिर भी यह भारतीय राज्यव्यवस्था के संरचनात्मक ढाँचे में एक अद्वितीय स्थान रखता है। चर्चा कीजिए।

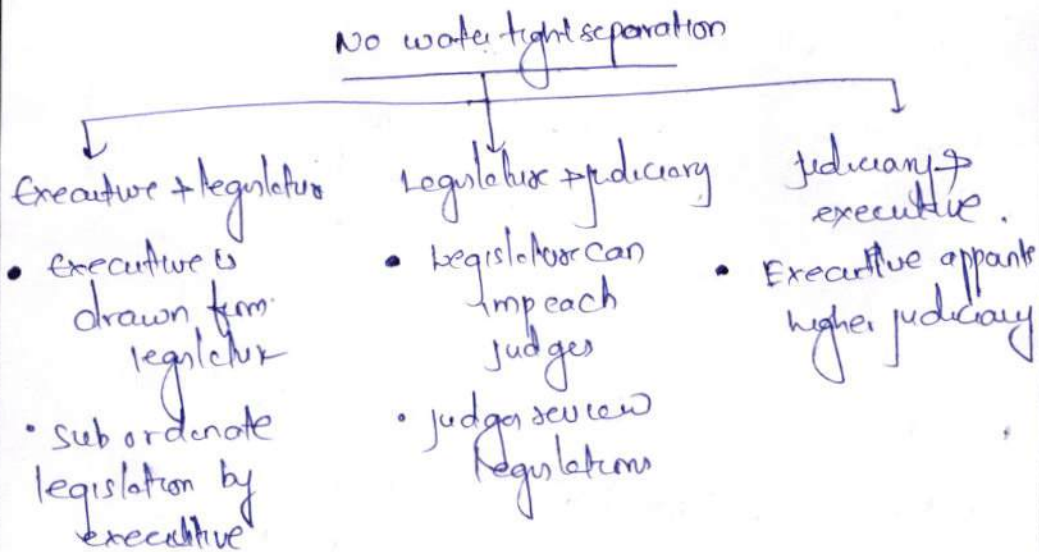
Separation of powers means dividing state power among three organs — legislature, executive & judiciary. The idea is to prevent state power from becoming despotic.

Separation of powers in Indian constitution :-
SOP

Indian constitution embraces SOP in an implied manner with out any explicit codification. However there are provisions which ensure SOP.

- > State shall keep judiciary separate from executive (A/A 50)
- > The ^{judicial} conduct of judges cannot be discussed in the legislature (A/A 121)
- > The legislative proceedings cannot be questioned in any court (A/A 122)
- > president & governor are not answerable to any court in discharge of their official duties

However, the Sop is by no means water tight and Indian polity has evolved a system of checks & balances to ensure no organ becomes despotic.



→ The Supreme court in Keshavananda Bharati case declared that separation of powers is part of Basic structure of constitution.

→ In Indira Gandhi v/s Raj Narain, the court said that legislature cannot overturn a judicial verdict by way of constitutional amendment.
→ only courts can review their judgments
→ this is a feature of Sop.

However, to support the validity/legitimacy of Sop these emerged checks & balances

Checks & balances

To prevent other
organs from
becoming
totalitarian

ex: SC laid down
basic structure
doctrine

To prompt other
organs towards
doing justice to
their roles

Court guidelines in
Visaka case prompted
government to enact
Sexual harassment law.

Thus Indian polity has evolved a healthy trend of
respecting the powers & responsibilities of different organs,
while at the same time having in place checks & balances.

19. Highlight the extent of President's powers under Article 352. Comment on the judicial scrutiny of proclamation and the exercise of executive powers under National Emergency. How is this power different from the one bestowed under Article 356? (250 words) (15)

अनुच्छेद 352 के अंतर्गत राष्ट्रपति की शक्तियों की सीमा पर प्रकाश डालिए। राष्ट्रीय आपात की उद्घोषणा की न्यायिक समीक्षा तथा आपातकाल के दौरान कार्यकारी शक्तियों के प्रयोग पर टिप्पणी कीजिए। यह शक्ति अनुच्छेद 356 के अंतर्गत प्रदत्त शक्ति से किस प्रकार भिन्न है?

Article 352 deals with the proclamation of emergency by president. Emergency refers to a situation where the security of the state is threatened by war, external aggression or armed rebellion.

Powers of president under 352 :-

- President can declare the emergency any time
- President can modify centre-state financial relations
- President can suspend enforcement of FRs except 20, 21.

Judicial scrutiny

In Minerva Mills case (1980) the SC said that proclamation of executive powers under 352 are subject to Judicial review.

> But it would be limited judicial review to check

- whether there was presidential satisfaction
- whether presidential satisfaction was based on relevant data/information.

→ only laws related to emergency cannot be questioned on grounds of 19, and other FPS (except 292) and not any law.

Power of president under 356 :-

- > unlike in the case of 352, the president here dismisses state council of ministers → assumes the executive power.
- > He can suspend or dissolve state legislative assembly (SLA) → hands the power to parliament.
 - SLA is neither suspended nor dissolved in case of national emergency.
- > He can take any other necessary steps ~~to~~ he may deem fit
for ex, suspension of local bodies
- > He authorises expenditure from CFI when parliament is not in session.

Thus powers of president under 356 are wider than 352,
So that he can effectively ensure that the governance in
state can take place according to the constitutional provisions

20. Fiscal transfers from the Centre to States are critical in India. In this context, explain the rationale of both general and specific purpose fiscal transfers. Also highlight the problems witnessed in the design and implementation of specific purpose transfers. (250 words) (15)

भारत में केंद्र से राज्यों को राजकोषीय अंतरण अत्यंत महत्वपूर्ण हैं। इस संदर्भ में, सामान्य और विशिष्ट प्रयोजन वाले राजकोषीय अंतरणों के औचित्य की व्याख्या कीजिए। साथ ही, विशिष्ट प्रयोजन वाले अंतरणों की अभिकल्पना और कार्यान्वयन में आने वाली समस्याओं प्रकाश डालिए।

Legislative & executive authority of states make no sense if its economic viability is not ensured. In this context fiscal transfers from centre to state become important.

Rationale behind fiscal transfers from centre to states

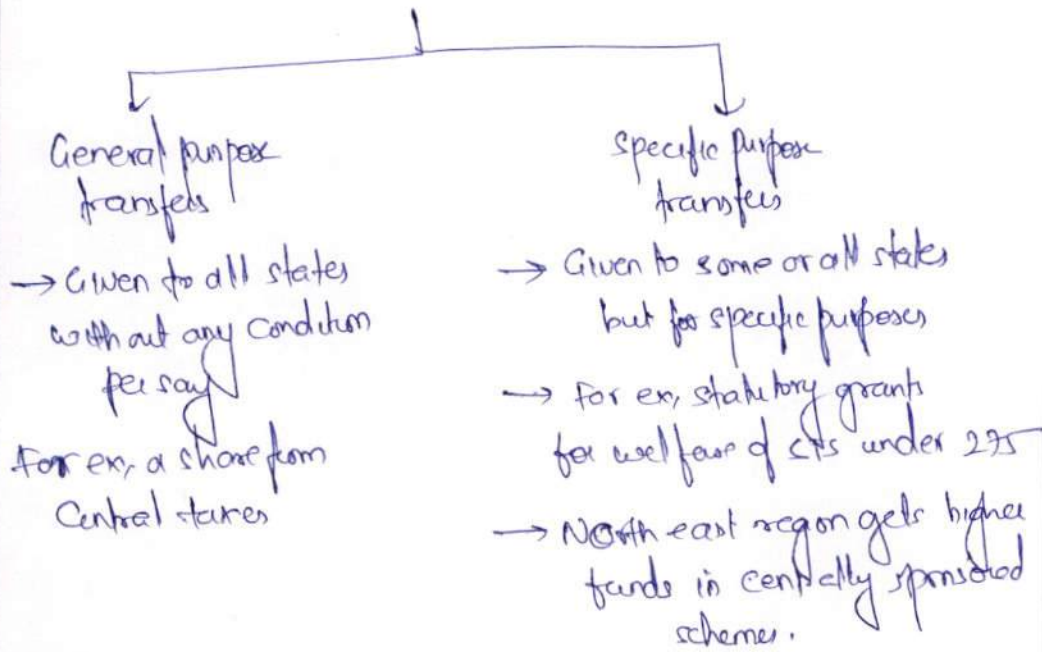
Because states revenue from taxation → other sources is not enough to provide all public services at good quality.

For ex, no state alone can manage finance for Metro rail.

Because not all state can raise tax revenue equally → efficiency.

↓
Non uniform quality of public services

↓
Therefore ~~state~~ ^{Centre} support is needed in the form of



Issues in specific purpose transfers:—

- Not outcome indexed — simply increasing amounts year after year may not ensure changes at ground level
- No flexibility because of rigid ~~scheme~~ specifically even within a single scheme.
- Mismanagement

scientifically determined amounts, outcome indexation, appropriate flexibility, ^{better} management will ensure that tax payers money is not wasted → the quality of public service improves.

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