



GS Advanced Program 2023

Generic Booklet

Test Name/Code/No. : 25

Name

Email ID.

Roll No.

Mobile No.

Date

Allotted Time : 60 Minutes

Instructions to Candidates -

- There are 7 Questions in this Question paper.
- All Questions are Compulsory.
- For all updates, please visit the noticeboard -
<https://noticeboard.forumias.com/gsap-2023/>

Important -

- Answers must be attempted in the QCA Booklet only.
- To upload the Answer Copies please visit to "My Course" section on -
<https://academy.forumias.com/>
- Only those copies will be evaluated which will be submitted before the next class.

Q. No.	Grade/Score
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Overall Grade/Score	

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 **ForumIAS**

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Q.1)

Most significant achievement of modern law in India is the Constitutionalisation of environmental problems by the Supreme Court. Discuss with case laws.

Answer :

With increased economic development, there is increasing environmental degradation. Supreme Court (SC) has developed certain initiatives which has made environmental problem the most significant problem in contemporary India such as :

- Municipal Corporation Ratlam vs Wardhi Chand Gax, 1980. SC held that corporation failed to maintain roads in safe & sanitary conditions and directed it to make efforts for environment protection.
- Rural Litigation & Entitlement Kendra, Dehradun vs State of UP, 1985. SC directed for closure of limestone quarries near Mussoori and emphasized the need of safeguarding the right of people to live in a healthy environment.

- Mc Henta vs UOI case, 1986. SC said people deserved the right to live in a pollution free environment.
 - Taj Trapezium Case, 1986. 292 industries shifted to Natural gas as fuel to prevent discoloration of Taj Mahal.
 - DTC buses in Delhi changed fuel to CNG on orders of Delhi HC bench.
 - In Subash Mahajan Case, 2020. SC interpreted Right to environment as part of Art-21.
 - In Law Society of India vs Fertilizers & Chemicals Travancore Ltd., 1994, SC gave a very broad meaning of Art-21 by including Right to environment in it.
- Thus Supreme Court used various provisions of DPSP (48(A)), Fundamental duties (51(A)(g)) to spell out whole some environment as a part of Right to life (Art-21).

Overall Grading (✓)

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Q.2) India needs a duty-based approach instead of a right based approach. Examine this statement.

Answer

Indian Constitution tells us both about our rights & duties mentioned in Part-3 & Part-4(A)
(Ar-12 to 35) (Ar-51(A))

There is a growing debate of the approach which India needs to be adopted which can be analyzed as duty based approach over rights based approach.

→ Universally more emphasized on citizens' duties

Ar-29(1) of UDHR states "Everyone has duties to the community in which alone the free & full development of his personality is possible."

→ Principle of "Responsible citizenship" was adopted by many nations across the world to get transformed into developed economies.

→ citizen's Almanac by US is given to every citizen about their responsibilities on becoming citizens.

→ our Ancient Kartavya principle, Gandhi's ideal emphasized that if we perform our duties, rights will not be far to seek.

Right based approach over Duty based approach:

- It may lead to more autocratic tendencies where state could suppress the citizens
- citizens are already performing duties like abiding by the law, paying taxes, fine and also one did not have to successfully perform duty to qualify as a rights bearer
- Rights act as check against rigid hierarchy of caste, religion etc.
- It may overburden the already burdened (duties) vulnerable & marginalised.

Rights & Duties are to be in conjunction, Complementary just like freedom & responsibility as our rights are dependent on duties performed by others.

Overall Grading (✓)

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Q.3) Are Fundamental rights complementary to (or)
(FR)
contradictory to the DPSPs? What has been the
position of Supreme Court on this issue?
(SC)

Answer

FR are mentioned in Part-3 (Ar-12 to 35)
and DPSP in Part-4 (Ar-36 to 51) of the
Indian Constitution.

FR are Complementary to DPSP: SC view:

→ SC brought the Principle of Harmonious
Construction in Minerva Mills case where
(1980)
FR and DPSP exist in harmony.

→ They both are complementary & supplementary
to each other.

→ They both form an integrated scheme
which is elastic enough to respond to
changing needs of society.

- They help in guaranteeing
- FR ⇒ Civil & Political rights
 - DPSP ⇒ Social & Economic rights
- } as per Ashok Kumar Thakur vs UOI 2008.
- DPSP helped in broadening the scope of Art-21 from which a bundle of rights have been derived (right to privacy, right to sleep etc.)
- DPSP helped in obtaining reasonableness of restriction under Art-19 (1)(2) to 19(1)) and SC held that any restriction promoting DPSP would be reasonable.

Contradictory: Initial judgments of Sajjan Singh Case, Shankar Prasad Case, Golak Nath Case by SC pronounced a rift between FR & DPSP. But with later Kesavananda Bharati Case, Minerva Mills Case, SC adopted a harmonious view. FR & DPSP's harmonious construction is part of

Overall Grading (✓) Basic Structure of Supreme Court.

Poor			Average			Good		
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Q.4)

Examine the relevance of DPSPs in the era of globalisation?

Answer)

DPSPs are the non justiciable Constitutional instructions (Ar-36 to 51) to the state which aim to uphold ideals of justice, liberty, equality, fraternity

Relevance of DPSPs in the era of globalisation :

- They promote the idea of welfare state and also act as a restraint on those in power
- With the advent of globalisation, there has been an increase in consumerism, privatisation, disinvestment which is leading to environmental damages, rise in pollution, exploitation of workers in private factories,

Constitutional directions through DPSP -

Ar-48(A) → Protection of environment

Ar-43 → Protection of workers

helps in relieving from the ill effects of globalization.

→ It helps in meeting our SDG through 48(A),

39(b), (c) → for no poverty, zero hunger through
(SDG-1) (SDG-2)

prevention of pollution, concentration of wealth

Ar-47 → Nutrition etc.

→ Check monopolistic tendencies and ^{promotes} Competition and
Consumer Welfare

→ Ar-40 → Panchayats help in Good governance by
people participation

→ Ar-41, 42, 43, 46 promotes maternity relief,
^{protection and} equal wages, employment to weaker sections
true bio economic justice

Thus DPSP are still relevant in era of globalization and also helping Courts in dealing with Constitutional validity of a law.

Overall Grading (✓)

Poor			Average			Good		
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Q.5)

Supreme Court of India upheld the validity of 103rd Amendment. Analyse the repercussions of this judgement on the socio-economic reality of justice in India.

Answer

SC in Janhit Abhyaan vs UoI Case upheld the validity of 103rd Amendment i.e. Ar-15(b), 16(b)

SC observations in upholding 103rd Amendment:
Repercussions

- State can address the deprivation by poverty through reservation.
- The will ^{and needs} of people are expressed by legislators
- Separate reservations are not barred by the constitution.
- 50% ceiling was for backward classes and is independent to the current EWS as different class.

- This ceiling limit is flexible
- Also, SC held that there cannot be competition of claims for affirmative action based on disadvantages.
- The new 103rd Amendment introducing economic criteria for reservation is separate & distinct from Ar-16(4)
- Exclusion of classes^{of Ar-15(4), 16(4)} from EWS quota does not violate equality and basic structure of the Constitution.
- Shadows of repercussion on this judgement:
 - to deny the recognition of social factors and to recognise economic factors alone to mark discrimination may perpetuate deprivation & untouchability
 - Reservations can only be about Community & not

individual. EWS as a community is not constituted.

→ Reservation in promotion (17th Amendment) is yet to see the light of the day.

→ As per Professor of Yale University Owen M. Fiss, "economic criteria" is artificial and has no basis for discrimination in social life.

→ Use of economic criteria for marginalisation can result in subjugation of historically disadvantaged groups.

Way Forward : State to take long term view & work to improve education, health abating competition of communities to get classified as backward.

→ Matrix system from weighted categories as per Justice Ranjan Gogoi.

Improvement in human, skill is need of hour

Overall Grading (✓)

for SDG.

Poor			Average			Good		
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Q.6) Examine the Scope of Ar-32 with respect to the recent judgements of Supreme Court.

Answer

Ar-32 of the Constitution is the heart & soul of the Constitution as per Dr. B.R. Ambedkar providing for "Right to Constitutional remedies."

Scope of Ar-32 with respect to recent judgements of Supreme Court ;

→ Provides right to citizen to move to Supreme Court for breach of their fundamental rights and apply a writ petition.

In the year 2020, Siddique Kaplan &

Samuth Thakkar invoked Ar-32. when they
to SC
were arrested by the Government. In both
these cases, Supreme Court asked the
petitioners to move to High Court under Ar-226
as there has been an increase in "spate
of petitions under Ar-32"

Earlier.
✓ Even in Romesh Thappar Case, 1950 -
Supreme Court held that Ar-32 is a
guaranteed remedy for enforcement of
Fundamental rights.

In L. Chandra Kumar Case, 1997 - Supreme
Court held that writ jurisdiction of Supreme
and High Courts under Ar-32 & 226 constitute
a part of Basic Structure.

Earlier in 2020, Supreme Court

transferred the case involving land use for Central Vista project to itself from Delhi High Court. Sumo. even though petitioners did not sought for transfer of the case.

So, finally as per Constitutional experts it is eventually at discretion of Supreme Court and each individual judge to decide if an intervention is warranted in a case which could also be heard in the High Court first.

Overall Grading (✓)

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Q.7) Constitutionally reconciling FRs with DPSPs led to frequent amendments of the Constitution & judicial interventions. Comment.

Answer

FR provide for ^{civil &} political rights as enshrined in Part-3 (Ar-12 to 35) and DPSP provide for social & economic rights as enshrined in Part-4 (Ar-36 to 51) of the Constitution.

Constitutionally reconciling FRs with DPSPs led to frequent amendments of the Constitution & judicial interventions.

→ Shankari Prasad Case: (1950) FR vs DPSP
(Right to property) (Redistribution of wealth / Prevention of Concentration of wealth) → Land Reforms
1st Constitutional Amendment

Amendment was brought with Ar-31A (insulated Land reforms from judicial review), 31B (9th schedule)

was brought by Government. Also, Supreme Court held that Law $\neq$ Amendment.

→ Later in 1945 in Sajjan Singh Case, 17th Constitutional Amendment Act inserted 44 statutes in 9th Schedule and ^{also} Courts power diluted (Ar-226) without Ar-368 where Doctrine of Pith &

Substance was brought and Court held that impact on Ar-226 is only incidental.

→ In Golak Nath Case, 1967 Supreme Court brought Doctrine of prospective ruling & held that FR are sacrosanct. Now, Parliament passed 26th CAA - Ar-13(4) & excluded Amendment from judicial review. 25th CAA → nullified Golak Nath case judgement, said Ar-39(b), (c) can't be void on grounds of violation of FR.

→ Later in 1973 Kesavananda Bharti Case, when.

24th, 25th, 29th CAA (2 land reform & 7th sch) were brought, SC upheld except for clause that curtailed court's jurisdiction. Court brought Basic Structures which Parliament brought Art-318(4), (5) by 42nd CAA nullifying Basic Structure.

→ In Minerva Mills Case, 1980 - Supreme Court declared 318(4), (5) as unconstitutional and brought harmonious relations of FR & DPSP.

→ In IL Coelho Case, 2017 - Supreme Court held that 9th Sch laws will be subject to FR test (Judicial Review) after 26th April, 1973. Also, any law in 9th Sch should not violate Ar-14, 19, 21.

Finally a balance was brought out in between FR & DPSP, where for except 39(b), (c) DPSP not to violate FR, any law inconsistent with DPSP can be invalid but a law promoting DPSP can be valid.

Overall Grading (✓)

~~FR & DPSP are 2 wheels of a chariot for overall rights (social, economic, political) of citizen.~~

Poor			Average			Good		
1	2	3	4	5	6	7	8	9

Handwritten text, likely a letter or document, written in a cursive script. The text is written on lined paper and appears to be in a South Asian language, possibly Tamil or Telugu. The handwriting is fluid and somewhat slanted. The text is organized into several paragraphs, with some lines starting with a small mark that looks like a stylized 'S' or 'C'. The overall tone of the writing is formal but personal, suggesting a letter or a formal communication. The text is written in a dark ink, and the paper has a slightly aged appearance.