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## GS Advanced Program 2023

## Generic Booklet

Test Name/Code/No. : 692037 (#37)

Name

Email ID.

Roll No.

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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 |
|---------------------|-------------|
| 1                   |             |
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| Overall Grade/Score |             |

## Start Writing Here

Q.1) Constitutionalism of environmental problems refers to aligning the environmental problem with violation of Fundamental rights and implementation of Directive Principles taking environmental protection as motive.

Case laws and SC verdicts

Case lawsS.C verdict

- ① Municipal Corporation, Patna vs Vardichand Case, 1980 → Safe, sanitary maintenance of roads part of environment protection and responsibility of municipality.
- ② Rural Litigation & Entitlement Kendra, Dehradun vs State of UP 1985 → directed closure of limestone quarries in Haridwar.
- ③ Subb M.C Mehta v. S. U.O.I 1986 → Polluters pay principle. S.C introduced "principle of absolute liability", hazardous industries liable for environment damage.



- ④ Subhash Kumar vs State of Bihar (1991) → Right to pollution free environment part of Article-21 under right to life. (elaborated in Subhash Mahajan in State of Maharashtra Case)
- ⑤ M.C Mehta V.S U.O.I case 2000 → S.C introduced Graded Response Action Plan for Delhi & NCR region to curb industrial activities during pollution level peaks.

Apart from these through taz trapizium case & CAMPA fund utilization & S.C gave directives for protection of environment.

Legislature has taken environment protection as an important agenda through addition of Article 48(A) (protection and improvement of environment task of state) and Article 51A(g) (duty of citizen to protect environment) through 42nd Constitutional Amendment Act 1976.

Overall Grading (✓)

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



Q.2)

Duty based approach steps its where pursuit of duty by individuals is given primacy over rights while rights based approach is the one where rights of individuals is given primacy.

Arguments for duty based approach

- Ancient India's 'Kartavya' doctrine.
  - one's duty towards society, nation, parents - most significant.
- Crandiji's emphasis on duties.
  - discharge of duty will ~~help~~ help realise rights.
- Global examples.
  - UNHCR UDHR - Article 29(1) - only through fulfillment of duties full development of personality possible.
  - developed nations. emphasis on principle of 'responsible citizen'.
    - Citizen's Almanac (U.S)
    - Singapore - relentless pursuit



of duties by citizens.

Arguments for rights based approach over duty based approach

- ① Autocratic tendencies  
- might lead to this as states can suppress citizens without their rights.
- ② Only after guaranteeing full rights under constitution - state can ask to the citizens to fulfill duties.
- ③ Rights of vulnerable section important and only duties can end up entrenching existing power structure.
- ④ Dr Ambedkar - puts individual as the fundamental unit of constitution.
- ⑤ Rights acts as check and instrument against <sup>rigid</sup> hierarchies like caste, class etc.

There is a direct connection between rights and duties as our rights directly depends on the duties performed by others. So it is important to see them as complementary and are only meaningful in conjunction.

Overall Grading | ✓

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



Q.3) Fundamental rights (Part III) provide civil and political rights to citizens while DPSP (Part IV) are instruction to State to ensure socio-economic welfare of people.

FRs vs contradictory to DPSP

F. R

DPSP

→ puts check on State's power.

→ instruction to State on measures to be taken.

→ justiciable under Article 32 (S.C) & Article 226 (H.C)

→ Non-justiciable

→ Civil & political rights

→ Social and economic rights.

FRs and DPSP as complementary

→ DPSP provides for the expansion of F.R. e.g. - Article 21A, Part XI & XII

2) DPSP broaden scope of Article 21, a bundle of rights have been derived from A-21 (e.g. - right to pollution free environment).

3) Both together helps realise distributive justice (Article 46 → Article <sup>15(4), 15(5)</sup> 15(6))

Position of S.C with regard to FR & DPSP

Minerva Mills case.

→ both are complementary and supplementary to each other.

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

To realise the ideals of political, social, economic justice it is important to see DPSP & FR as 'principles of harmonious construction'.

Overall Grading (✓)

| Poor |   |   | Average |   |   | Good |   |   |
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Q.4)

Globalisation refers to free flow of goods, services and people across nations and demand driven economy. While DPSP promote the idea of a welfare state.

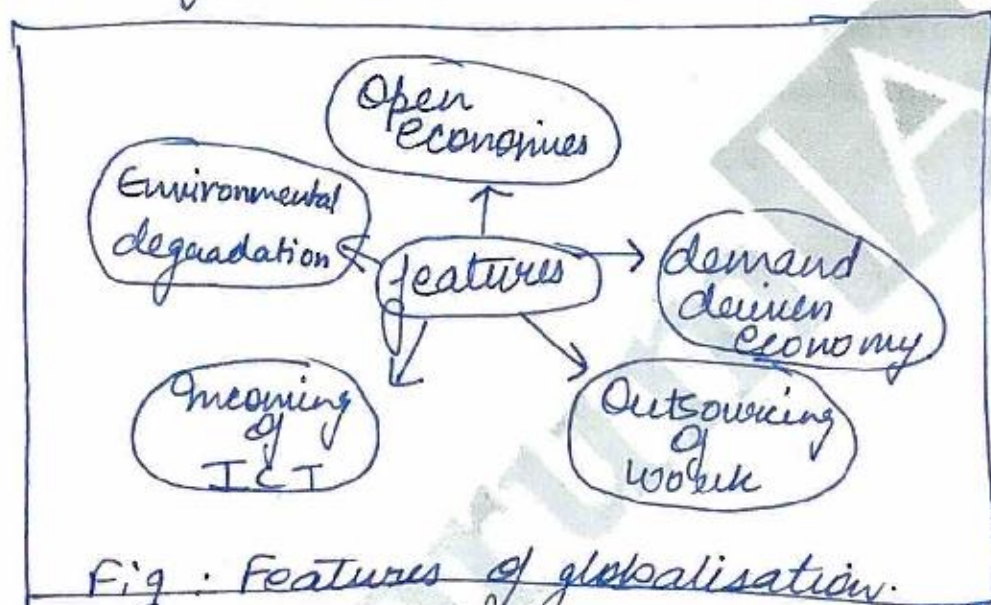


Fig : Features of globalisation.

Impact of  
globalisation  
on India.

Relevance of  
DPSP

1) Increased inequality  
Post LPO (1991)  
Oxfam Report →  
top 1% people have  
more than 50%  
resources.

Article 38

- duty of state  
to minimise  
inequality



2) Exploitation of workers - informalisation and contractual nature of work.

→ Article 42 - maternal benefit.  
Article 43 -  
living wages to workers.

3) Inequality in income leading to hunger & malnutrition  
 (107/121 → GHT 2022)

→ Article 47 -  
duty of State to raise nutritional level & standard of living

4) Environment degradation and climate change  
 → 8/10 cities of India in Air quality Index

→ Article 48 A  
 - protection and improvement of environment, forest and wildlife.

Era of Globalisation has led to an overall growth and rapid enhancement in living standard of people all over the world but this has remained highly uneven.  
 Therefore relevance of DPSP increases to ensure 'need driven growth & development'

Overall Grading (✓)

| Poor |   |   | Average |   |   | Good |   |   |
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- Q.5) In Janhit Abhiyan V.S U.O.I Case 2022, SC upheld the validity of 103<sup>rd</sup> CAA which provided 10% reservation to Economic weaker section. (EWS).

Janhit Abhiyan Case & S.C.'s Observation

→ upheld the validity of 103<sup>rd</sup> CAA with 3:2 majority judgement.

Questions raised

Majority ruling.

- 1) Is economic criteria valid for reservation → Economic criteria is a separate criteria from caste.
- 2) Exclusion of SC/ST & OBC valid? → Yes, as it will lead to double inclusion.
- 3) Breach of 50% criteria? (Indira Sawhney Case 1992) → No breach as 50% ceiling is for SEBC and class is a different criteria.
- 4) Reservation in private institution → cannot be ruled out.



## Repercussions on Socio-Economic aspects of justice in India

### Positive repercussions

- Move from caste based to class based reservation.
- Step towards distributive justice to ensure equity.
- Will help in reduction of stigma associated with reservation (as around 98% Indian population under EWS criteria)
- from community based to individual based. — help in intra-generational mobility.
- Counter <sup>increased</sup> inequalities created due to LPG — logical extension of current political & economic situation.

### Negative repercussion

- Over and above 50% to SC/ST/OBC — violates rule of equality (minority judgement statement)



- May further the demand for reservation from states (MH, Jhark).
- demand for caste census might get a push.
- Exclusion of SC/ST is discriminatory - violates principle of equality (minority judgement)
- may lead to compartmentalisation of reservation.

EWS judgement is a step towards realising socio, economic, political justice however, minority judgement needs to be taken into consideration. As 'Reservation is not an end, but a means to ensure social, economic justice'

Justice J.B Pardiwala.

Overall Grading (✓)

| Poor |   |   | Average |   |   | Good |   |   |
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Q.6)

Article 32 of Part IV of Indian Constitution provides for 'Right to constitutional remedies' ~~by~~ through writs.



As Article - 32 relevance & importance

- Dr. B.R Ambedkar → Article 32 is the very soul and backbone of F.R.
- it protects the F.R from Article 12-31 also 32.  
i.e it also protects itself.
- Through writs → are extraordinary judicial powers which are utilized by S.C & H.C to protect F.Rs.



## Scope of Article-32 with respect to recent judgements of S.C.

- In civil and criminal matters first remedy to an aggrieved party is trial court followed by H.C & then S.C.
- However, in constitutional violation of fundamental rights a person can approach H.C <sup>or</sup> S.C directly under A-226 & A-32 respectively.



### Cases.

- Sidique Kaplan and Sameet Tharekar Case 2020.
- both approached S.C and invoked article 32 for their arbitrary arrest by govt.
- S.C → asked petitioners to move to ~~the~~ respective H.C under A-226.
- Reason given by S.C.
- increase in "spate of petitions under article 32"



→ Romesh Thappa Case 1950.

- S.C held that Article 32 is a guaranteed remedial for enforcement of F.R.

→ Chandra Kh. Case 1997.

- S.C ruled that writ jurisdiction of both H.C & S.C constitute part of basic structure.

⇒ The scope of Article 32 is wide however according to some constitutional experts it is the discretion of SC & each individual judge to take a case under A-32 or to shift it to H.C.

Overall Grading (✓)

| Poor |   |   | Average |   |   | Good |   |   |
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Q.7)

Constitution is the fundamental law of the land and by nature it is supposed to be rigid but Indian Constitution is a Transformative and evolving document which meet the aspiration of the people through constitutionally reconciling between FRs with DPSP.

Reasons for <sup>at times</sup> conflict between FRs & DPSP

① Objective

F.R.

→ to ensure civil and political rights  
↓

② provide liberty to individual

② Effect on state

→ puts limitation of state's power

③ Justiciable in Courts (S.C-32  
H.C - U/A-226)

D.P.S.P

→ to ensure socio-economic welfare  
↓

→ for dignity to individual.

→ provide constitutional instruction on state.

→ Non-justiciable in court of law



## ForumIAS

Reconciling FRs with DPSPs through amendments of the constitution

1) ~~86th~~ <sup>86th</sup> Constitutional Amendment Act 2002 gave effect to Article 45 (provision for free and compulsory education b/w 6-14 years).

→ ~~Amend~~ Added Article 21A - Right to Education.

2) Promotion 1st CAA 1951

added 15(4) → state can make special provisions for SC/ST & other backward classes.

↓ to give effect to Article 46 (promotion of educational & economic status of SC/ST).

Also 103rd CAA added 15(6) & 16(6) for economic weaker section (EWS).

3) ~~73rd~~ <sup>74th</sup> CAA 1992

↓ to include part XI <sup>(Panchayat)</sup> & part XII (municipality)

↓ to give effect to Article 40 of DPSP (organisation of village panchayat)



Judicial interventions

1) Champakai Dorairajin case -  
Right to Equality Vs Reservation.

→ SC held that if DPSP can be  
implemented by amending the  
F.Rs then it should be done  
 through Constitutional amendment.

2) Minerva Mills case.

— FRs and DPSP are complementary  
 and supplementary to each  
 other.

— they <sup>(FR & DPSP)</sup> form an integrated scheme

3) Ashok Kumar Thakur Vs U.O. 12008

— FRs represents Civil and political  
rights & DPSPs represent social  
 & economic rights.

Both FR & DPSP are important  
 for ensuring distributive justice in  
Indian society. And a principle  
 of harmonious construction needs  
 to be followed (Minerva Mills case.).

Overall Grading (✓)

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