

**GS Advanced Program 2023****Generic Booklet**Test Name/Code/No. : **692038**

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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Q.1)

Discuss the role of Vice President as Rajya Sabha Chairperson.

Article 64 of the Constitution says the Vice President will be the ex-officio Chairman of the Rajya Sabha.

As the Presiding officer of the Rajya Sabha, the Vice President is not a member of the Rajya Sabha, unlike the Speaker of Lok Sabha. But like the Speaker of the Lok Sabha, the Vice President has casting vote in case of a tie.

Role as Chairperson of Rajya Sabha

- (i) As Rajya Sabha Chairperson, the Vice President interprets the Constitution and Rules of Procedure of the House and no one can enter into any argument with the Chairperson over such interpretation.
- (ii) The Vice-President can adjourn the House or suspend its sitting in the absence of a quorum.

- (iii) The Vice President maintains order in the House
- (iv) The 10th schedule empowers the Vice President to disqualify a member of Rajya Sabha on grounds of defection
- (v) The Vice President allows motions and controls the Secretariat of Rajya Sabha.
- (vi) The Vice President allows voice votes but as Chairperson of the Rajya Sabha, he/she cannot preside over joint sitting of the Houses

As said by Mr. Chakshu Roy, the Chairman of the Rajya Sabha should preside over the House and not 'lord' over it. By performing in dual capacity, the Vice President acts as a connecting unit between the Union and States.

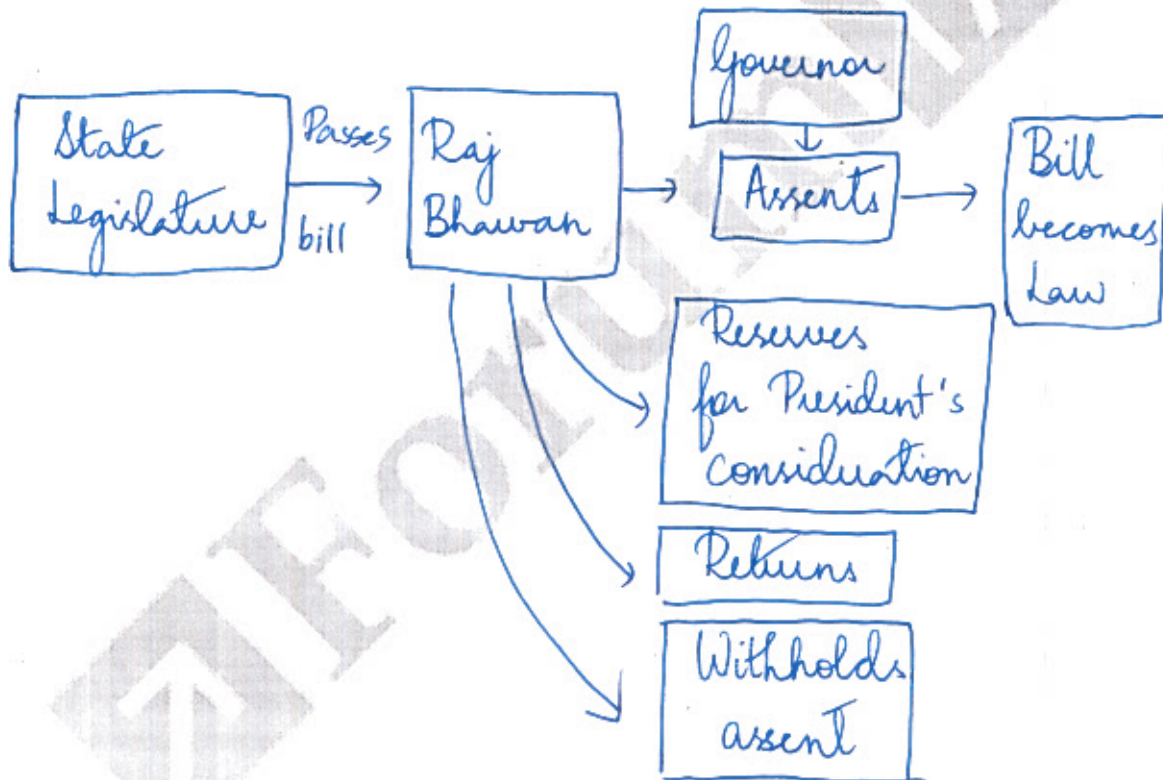
Overall Grading (✓)

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Q.2)

Can the Governor withhold his assent to Money Bills passed by State Assembly? Mention the constitutional provisions regarding this.

In states like Tamil Nadu, West Bengal and Telangana, the bills passed by the State legislature has not been given assent or signed by the Governor in recent times.



Constitutional provisions

→ Article 200 ^{about} says, the Governor's powers with regard to assent given to bills passed by State legislature

→ Constitution has not provided any grounds for withholding assent

Withholding assent

→ Purushottam case - The court held that there is no timeline on the governor to give assent but the governor must honour the will of the Legislature and act in harmony with Council of Ministers

→ Sarkaria Commission - The government should consult with governor prior to the introduction of the bill.

The State legislature reflects the will of the people. The Constitution does not aim at providing for a parallel administration. Therefore the governor must make timely decisions to ensure the smooth implementation of laws.

Overall Grading (✓)

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Q.3)

What do you understand by Ordinance making power? What are the conditions under which promulgation of Ordinance is justified and when it is not justified?

Article 123 and 213 of the Constitution grants the President and the Governor ordinance-making powers.

Ordinance Making Powers

The President and Governor have certain law-making powers to promulgate ordinances to deal with urgent situations.

Conditions for Promulgating an Ordinance

- Recess of the Parliament
- Any one House is not in session
- To take immediate action
- Only on subjects on which Parliament can make law
- Must be laid before both houses when it reassembles

Conditions not justified

(i) Deliberate bypassing of legislative
Ordinances are no substitute for legislative power - Krishna Kumar case

(ii) Repromulgation of ordinances
This is considered as a fraud & violation of the Constitution - D.C. Wadhwa case

(iii) Malafide grounds

R.C Cooper case - Ordinances are subject to judicial review on malafide grounds

Ordinance making power is not a parallel power of legislation. Therefore it must be used sparingly as per the Constitution for urgent matters only.

Overall Grading (✓)

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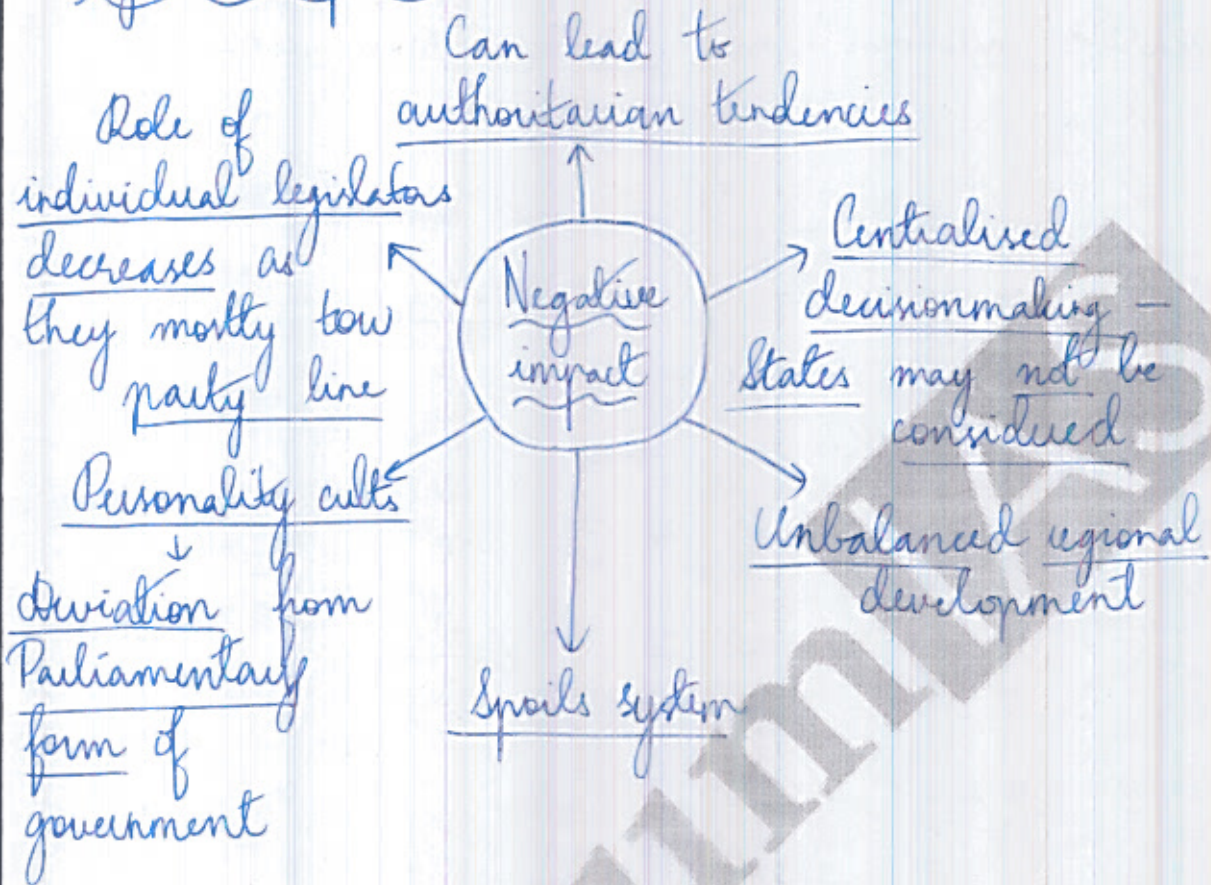
Q.4) Examine the impact of a strong PMO on the legislative business and Parliamentary democracy in India.

Prime Minister's Office has emerged as a powerful constituent of India polity at the wake of formation of majority governments, wherein they possess the required number of seats in the Lok Sabha while not being dependent on allies.

Positive impact



Negative impact



Although worries over the constitutional scheme of federalism being compromised is present, the presence of a strong PMO can lead to better promotion of welfare. Therefore a balance between the Executive and legislature must be maintained to ensure good governance.

Overall Grading (✓)

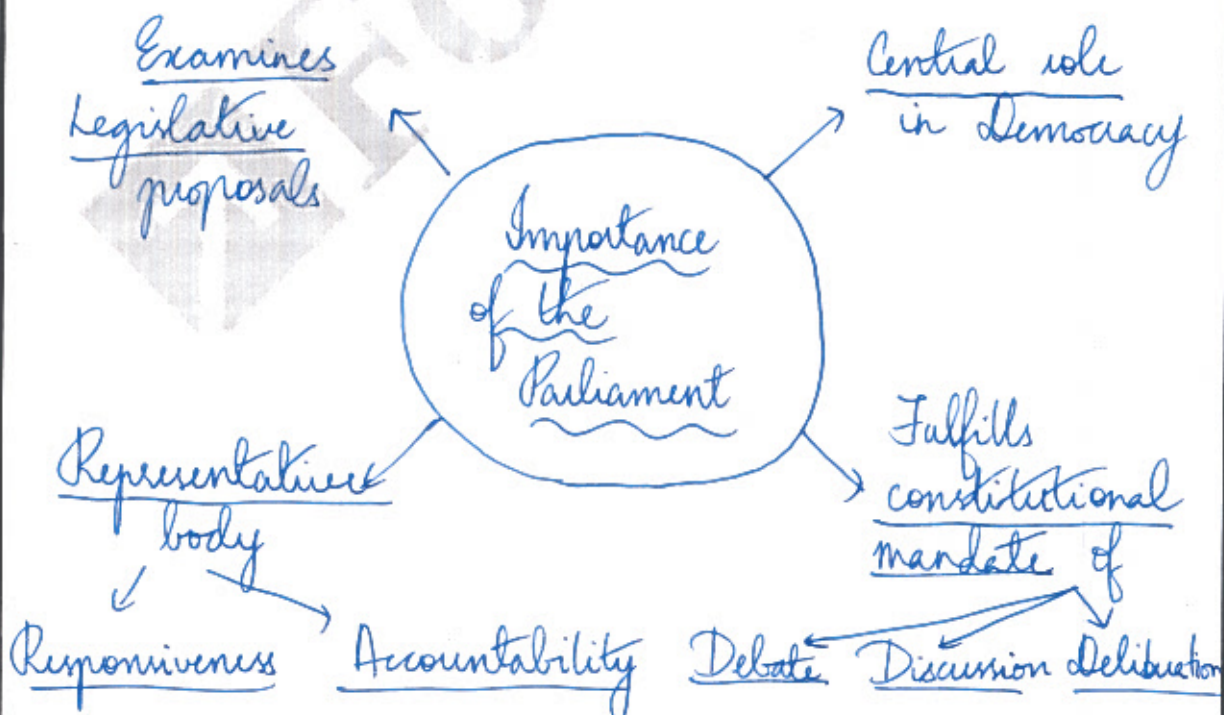
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Q.5)

Parliament's role as an effective legislative body has recently come into question. What are the reasons for it? What should be done to improve the working of the Parliament?

An important feature in a Parliamentary democracy is regarding wide deliberation over legislations. In the recent times, the role of the Parliament as an effective legislative body has been questioned.

<u>Rajya Sabha</u> 2021 - 179 hrs Actual - 250 hrs	<u>Sitting hours (2021)</u>	<u>Lok Sabha</u> 2021 - 236 hrs Actual - 410 hrs
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Reasons

(i) Absence of Bill scrutiny

In 2021, Lok Sabha cleared 18 bills in 34 minutes. The Farm Laws (Repeal) bill was passed in 8 minutes in the Parliament.

(ii) Declining trend in referring bills to Parliamentary Committees

The number of bills referred keeps reducing

16th Lok Sabha - 271.

17th Lok Sabha - 111.

(iii) Private member bills declining

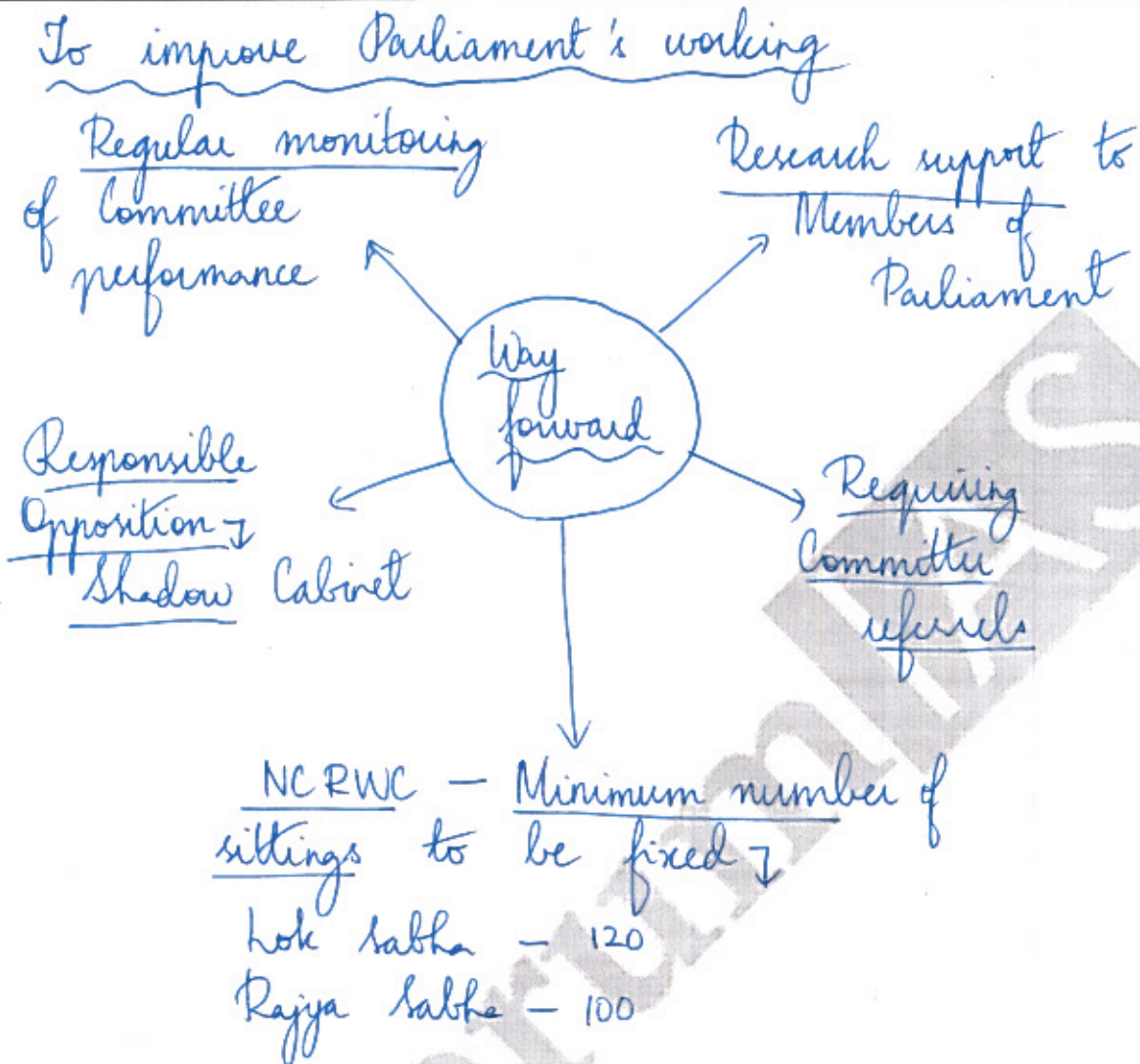
UK - 7 since 2019 } Passed into law
India - 14

(iv) Lack of adequate representation

UK - 1 MP represents ~ 90,000 people
India - 1 MP represent ~ 25,00,000 people

(v) Others

- Lack of discussion on Union Budget
- Sitting hours - not fixed
- Absence of prompt action against disrupting MPs



To encourage People's participation, public feedback on Parliamentary functioning may be considered by the government.

The efficient functioning of Parliament is necessary to maintain the balance of power in our democracy.

Overall Grading (✓)

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Q.6)

The role of governor is very important in a federal structure like India. What steps should be taken to ensure the neutrality of this office?

The governor is the constitutional head of the state and functions as the vital link between the Union government and State government.



Issues

(i) Legitimacy

→ Since the governor is not elected, their power to undo the will of the Legislature

by withholding assent raises concerns over legitimacy.

→ Unreasonable delay in giving assent to a bill amounts to violation of Rule of Law

(ii) No time limit for granting assent

Purushottam case - No timeline for granting assent by the governor

(iii) Lack of guidelines to exercise powers

Governors have been accused of acting on behalf of partisan politics

(iv) Concerns over Discretionary powers

Shamsher Singh case - Governor should act on his discretion except exercise of power under Article 356

(v) Lack of Mechanisms to solve differences

No provision laid down on how to manage differences between the governor and the state in case of difference of opinion.

Steps to ensure neutrality

- (i) NCRWC 2000 - There should be a time limit of 6 months for governor to give his/her decision on whether to sign or reject the bill
- (ii) Sarkaria Commission - The state government can consult with the governor prior to the introduction of a bill
- (iii) In Nabam Rabia case, the court held that the decisions of governor is not beyond judicial review
- (iv) The Punchi Commission - non-political persons can be preferred for appointment as governor
- (v) As mentioned by Dr. Ambedkar, A. 163 is not a general clause that gives the power to the governor to disregard the Council of Ministers

The will of the legislature plays an important role over discretionary powers of Governor according to the Constitution

Overall Grading (✓)

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Q.7)

Constitutionally reconciling FRs & DPSPs led to frequent amendments of Constitution and judicial interventions. Analyse this statement

The Constitution is the fundamental law of the land. So by its nature, it is supposed to be rigid. But they are also seen as Evolving documents as they continue to meet the aspirations of the people.

The Fundamental rights guarantee civil and political rights while the Directive principles of State policy provides socio economic rights to its citizens.

Part III and Part IV of the Constitution primarily comes into contradiction because of their legal status

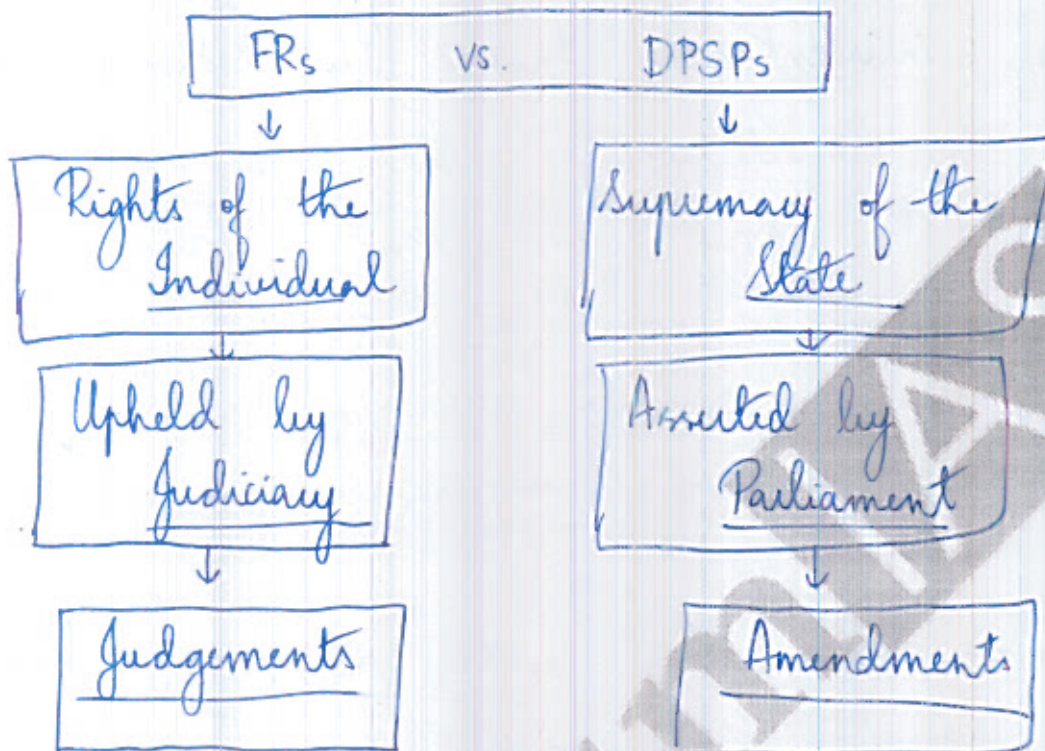
Fundamental rights

= Enforceable

DPSPs

= Non Enforceable

Reconciling FRs with DPSPs



Judgements and Amendments

① Champakam Dorairajan case

<u>Judgement</u>	<u>Amendment</u>
• <u>FR > DPSP</u> • <u>Amend FRs</u> if required to <u>implement DPSPs</u>	<u>Various FRs amended</u> that <u>conflicted with DPSPs</u>

② Shankari Prasad case

Court ruled judicial review (A.32(2))
excludes Amendment

③ Golaknath case

Judgement

FRs favoured over DPSPs

Amendment

25th Amendment (A 31C)

to give effect to A 31(b) and A 31(c)

④ Kesavananda Bharati case

Judgement

Basic structure cannot be destroyed

↓
2nd clause of A 31(C) held unconstitutional

Amendment

42nd Amendment

↓
A. 31 C can be extended to implement any DPSP

⑤ Minerva Mills case

Judgement → Extension of all DPSPs under A 31 C held unconstitutional

Since then, any conflict between FRs and DPSPs, the judiciary adjudicates. The judiciary has called for Harmonious construction between Fundamental rights and DPSPs.

Overall Grading (✓)

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