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POST-TEST MATERIAL FOR CIWP – K

1. The economic slowdown has lauded the demand of economic reforms in India. In the light of the statement suggest the measures required for India's path to economic recovery post covid-19. Trace with justification the structural reforms needed to boost the Indian Economy.

Answer

After the 1991 economic reforms, the Indian economy reached a higher growth plateau of 7% compared to a prior rate of 3.85%. India witnessed a high growth momentum during 2003-04 and 2010-11 with a period average of 8.45% (GDP with base 2004-05) or 7% (base 2011-12). The momentum lost steam in 2011-12 and 2012-13, gradually picked up again gradually to reach the 8% mark in 2015-16, and then started falling consistently to reach 6.63% in 2018-19. This trend suggests that India's current growth challenge has a structural dimension as it began in 2011-12.

Despite these fluctuations from 2011-12, on average, India clocked a growth rate of 7.07% from 2011 to 2019, a decent figure compared to China's and the world's economic growth rates. Whereas, like India, the growth of the world economy was fluctuating since 2011, China's growth declined consistently from 10.64% in 2010 to 6.60% in 2018.

Why couldn't India's growth momentum be sustained after 2010-11?

- Compared to 2003-2011, investment and savings rates and exports-GDP ratio declined in the 2011-2019 period.
- The investment rate declined from 34.31% of GDP in 2011-12 to 29.30% in 2018-19, caused mainly by the household sector and to some extent by the public sector, but not the corporate sector.
- The savings rate declined almost consistently from 34.27% of GDP to 30.51% between 2011 and 2018. This was also caused by a significant fall in the savings of the household sector in financial assets.
- The fall in household financial savings is alarming and needs to be arrested. Savings are required to meet the requirements of those who want to borrow for their investment needs. Lower household savings imply lesser funds available in the domestic market for investment spending.
- India's exports-GDP ratio declined from 24.54% to 19.74% during 2011-2019. The decline started from 2014-15, coinciding with a similar trend in the world export-GDP ratio. However, the drop in India's exports was significantly larger than the world, a cause for concern.

Other reasons for slow down:

- High NPAs in the banking system leave less space for credit mobility.
- Twin balance sheet problem.
- Low private sector investment.
- Tepid primary sector activities which involve most of the populace.

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- Poor demand in consumption driven economies like India.
- The immediate cause of the demand slowdown may have been the twin blows of demonetization and the new indirect tax regime, as well as the collapse of shadow banking credit last year.
- Obsolete labour laws.
- Lack of a skilled population is one of the major hindrances in progression of economic activities.

The already slowing Indian economy is now faced with COVID-19, a global pandemic which is fast turning into an economic pandemic. The economic impact of the COVID-19 will be a function of the magnitude and speed at which it spreads and duration over which it lasts within India and across the globe.

As per official data released by the Ministry of Statistics and Programme Implementation, the Indian economy contracted by 23.9% in the April-June quarter of this fiscal year. This is the worst decline ever recorded since India started compiling GDP statistics on a quarterly basis in 1996.

India's GDP contraction was worse than any of the world's biggest economies. Except for China, most major economies witnessed GDP contraction in the April-June quarter of 2020, but India posted the steepest quarterly decline, far worse than the US (9.1%) and Italy (17.7%) — two countries severely hit by the coronavirus pandemic. The GDP calculations in India do not fully capture the economic activity in the informal sector — which accounts for more than 50% of gross value added. As informal sectors of the economy have been worst hit by the pandemic, India's GDP contraction during April-June could well be above 35% if informal sectors are taken into account.

For the Indian economy, private consumption and investment are the two biggest engines for growth. During the first quarter of 2020, private consumption — accounting for 59% of India's GDP — declined by 27%, while investments by private businesses fell by 47%. India's net exports turned positive due to sharp compression in imports. During the quarter, government spending increased by 16%, but it was not adequate to compensate for the decline suffered by other engines of growth. Except for agriculture, all the major sectors of the economy were badly hit. Significantly, labour-intensive sectors such as construction, real estate, retail trade, transport and manufacturing contracted sharply during this quarter.

The Consumer Pyramids Household Surveys carried out by the Centre for Monitoring Indian Economy show a sharp rise in unemployment rates in the range of 8.35% to 23.52% during April-August 2020. Out of work and facing an uncertain future, an estimated 10 million migrant workers returned to their native places after the imposition of lockdown. According to a survey carried out by National Statistical Office, India's unemployment rate touched a 45-year-high of 6.1% during 2017-18.

Measures required for India's path to economic recovery post covid-19:

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- To support the livelihoods of the rural poor, the government must strengthen the rural employment scheme — the Mahatma Gandhi National Rural Employment Generation Scheme (MGNREGS) — by allocating more funds and increasing workdays guaranteed under the scheme.
- Need to improve urban infrastructure and services. In this regard, a proposal made by Jean Drèze for a Decentralised Urban Employment and Training Scheme is worth exploring.
- Need to stimulate domestic demand by raising wages of those at the bottom of the economic pyramid besides strengthening health and social protection systems to mitigate the social and economic fallout of the COVID-19 pandemic.
- Given the magnitude of the health, humanitarian and economic crises stemming from COVID-19, policymakers should not shy away from higher public spending and an expansionary fiscal policy that will boost the aggregate demand for goods and services, which in turn would restore output and create employment.
- There is an urgent need to increase public health spending in India. The financial allocations made for the public health sector under the Rs 20 trillion relief package are inadequate to meet the health challenges posed by the COVID-19 pandemic.
- Need to boost logistical infrastructure (such as refrigerated storage and transport facilities) to deliver coronavirus vaccines at subzero temperatures across the country.
- The fair and equitable distribution of the vaccine is equally important. The government must bear the entire expenses of distributing vaccines for poor citizens.
- Need to focus on ‘vocal for local’ or Atma Nirbhar Bharat Abhiyaan which will give boost to all round development of Indian economy.
- **To meet capital shortage challenges:**
 - One option is to seek grants and loans from bilateral development agencies and multilateral financial institutions to meet rising health and social protection expenditures. In May, the World Bank approved a fast-track \$1 billion support to provide social assistance to poor households. India could also seek similar concessional loans from other development banks and IFIs to finance health and social protection programs.
 - A second option is to issue rupee-denominated government bonds as both Central and state governments heavily rely on this instrument to meet operational and developmental expenditures. If need be, the Central government could also issue rupee-denominated debt instruments (COVID Bonds) in offshore markets and use the proceeds to finance health and social protection measures in India.
 - A third option is to introduce a wealth tax and impose higher taxes on the super-rich individuals. We have discussed elsewhere how substantial revenues could be raised fairly and efficiently by introducing wealth taxes on wealthy individuals to meet COVID-19-related costs.
 - The proposal made by Indian Revenue Service Association to introduce an additional one-time COVID-19 relief cess of 4% on taxable income of over Rs 1 million is worth considering as the Central government could mobilise an additional revenue of Rs 150 billion (\$2 billion) on this account.

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Structural reforms tackle obstacles to the fundamental drivers of growth by liberalising labour, product and service markets, thereby encouraging job creation and investment and improving productivity. They are designed to boost an economy's competitiveness, growth potential and adjustment capacity.

Structural reforms need to include policies that:

- Make labour markets more adaptable and responsive
- liberalise service sectors, boost competition in product and service markets, specific sectors, or improve the overall business environment
- encourage innovation
- improve the quality of public taxation systems like challenges pertaining in GST regime
- address the challenges of population ageing on the welfare state
- Targeted public investment funded by monetisation of assets in steel, coal, power, land, railways
- privatisation of major ports by the Central and state governments under an independent regulator can be the way forward to revive and crowd in private investment
- Need to address the crisis in financial market and shadow banking system
- Some public companies -such as those in telecom and aviation -are supported by the federal budget for years while making losses, rendering it difficult for private players in their sector to survive. That sector concern also need to be addressed

2. The constitution of India conceived a powerful Supreme Court but with great power comes great responsibilities and for carving this responsibility it needs to have some weapons. Discuss how the power of the Supreme Court protected? Do you think the apex judiciary in India needs to change for enjoying continued confidence and legitimacy? Substantiate your views.

Answer

Unlike the American Constitution, the Indian Constitution has established an integrated judicial system with the Supreme Court at the top and the high courts below it.

The Supreme Court of India was inaugurated on January 28, 1950. It succeeded the Federal Court of India, established under the Government of India Act of 1935. However, the jurisdiction of the Supreme Court is greater than that of its predecessor. This is because the Supreme Court has replaced the British Privy Council as the highest court of appeal.

Articles 124 to 147 in Part V of the Constitution deal with the organisation, independence, jurisdiction, powers, procedures and so on of the Supreme Court. The Parliament is also authorised to regulate them.

The Constitution has conferred a very extensive jurisdiction and vast powers on the Supreme Court. It is not only a Federal Court like the American Supreme Court but also a final court of appeal like the British House of Lords (the Upper House of the British Parliament). It is also the final interpreter and guardian of the Constitution and guarantor of the fundamental rights of the

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citizens. Further, it has advisory and supervisory powers. Therefore, Alladi Krishnaswamy Ayyar, a member of the Drafting Committee of the Constitution, rightly remarked: "The Supreme Court of India has more powers than any other Supreme Court in any part of the world."

The **jurisdiction and powers of the Supreme Court can be classified into the following:**

- Original Jurisdiction.
- Writ Jurisdiction.
- Appellate Jurisdiction.
- Advisory Jurisdiction.
- Power of Judicial Review.
- Constitutional Interpretation
- Other Powers.

These are the weapons used by the Supreme Court in order to act as the custodian of the Constitution and guarantor of the fundamental rights of the citizens.

Some other weapons used by the Supreme Court to carve out its responsibility of ensuring justice is 'Public Interest Litigation' and 'provision of legal aid'.

1. Original Jurisdiction- As a federal court, the Supreme Court decides the disputes between different units of the Indian Federation. More elaborately, any dispute:

- (a) Between the Centre and one or more states; or
- (b) Between the Centre and any state or states on one side and one or more other states on the other side; or
- (c) Between two or more states.

In the above federal disputes, the Supreme Court has exclusive original jurisdiction. Exclusive means, no other court can decide such disputes and original means, the power to hear such disputes in the first instance, not by way of appeal.

2. Writ Jurisdiction- The Constitution has constituted the Supreme Court as the guarantor and defender of the fundamental rights of the citizens. The Supreme Court is empowered to issue writs including habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of the fundamental rights of an aggrieved citizen. In this regard, the Supreme Court has original jurisdiction in the sense that an aggrieved citizen can directly go to the Supreme Court, not necessarily by way of appeal.

3. Appellate Jurisdiction- The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned under Article 132(1), 133(1) or 134 of the Constitution in respect of any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution. Appeals also lie to the Supreme Court in civil matters if the High Court concerned certifies : (a) that the case involves a substantial question of law of general importance, and (b) that, in the opinion of the High Court, the said question needs to be decided by the Supreme Court. In criminal cases, an appeal lies to the Supreme Court if the High Court (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to imprisonment for

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life or for a period of not less than 10 years, or (b) has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or (c) certified that the case is a fit one for appeal to the Supreme Court. Parliament is authorised to confer on the Supreme Court any further powers to entertain and hear appeals from any judgement, final order or sentence in a criminal proceeding of a High Court.

The Supreme Court has also a very wide appellate jurisdiction over all Courts and Tribunals in India in as much as it may, in its discretion, grant special leave to appeal under Article 136 of the Constitution from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in the territory of India.

- 4. Advisory Jurisdiction-** The Constitution (Article 143) authorises the president to seek the opinion of the Supreme Court in the two categories of matters:
- (a) On any question of law or fact of public importance which has arisen or which is likely to arise.
 - (b) On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, sanad or other similar instruments.

In the first case, the Supreme Court may tender or may refuse to tender its opinion to the president. But, in the second case, the Supreme Court 'must' tender its opinion to the president. In both the cases, the opinion expressed by the Supreme Court is only advisory and not a judicial pronouncement. Hence, it is not binding on the president; he may follow or may not follow the opinion. However, it facilitates the government to have an authoritative legal opinion on a matter to be decided by it.

5. Power of Judicial Review- Judicial review is the power of the Supreme Court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments. On examination, if they are found to be violative of the Constitution (ultra-vires), they can be declared as illegal, unconstitutional and invalid (null and void) by the Supreme Court. Consequently, they cannot be enforced by the Government.

It has power to review its own judgement or order. Thus, it is not bound by its previous decision and can depart from it in the interest of justice or community welfare. In brief, the Supreme Court is a self-correcting agency. For example, in the Kesavananda Bharati case (1973), the Supreme Court departed from its previous judgement in the Golak Nath case (1967).

6. Constitutional Interpretation- The Supreme Court is the ultimate interpreter of the Constitution. It can give a final version to the spirit and content of the provisions of the constitution and the verbiage used in the constitution.

'Public Interest Litigation'- Although the proceedings in the Supreme Court arise out of the judgments or orders made by the Subordinate Courts including the High Courts, but of late the Supreme Court has started entertaining matters in which interest of the public at large is involved and the Court can be moved by any individual or group of persons either by filing a Writ

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Petition at the Filing Counter of the Court or by addressing a letter to Hon'ble the Chief Justice of India highlighting the question of public importance for invoking this jurisdiction. Such concept is popularly known as 'Public Interest Litigation' and several matters of public importance have become landmark cases. This concept is unique to the Supreme Court of India only and perhaps no other Court in the world has been exercising this extraordinary jurisdiction. A Writ Petition filed at the Filing Counter is dealt with like any other Writ Petition and processed as such.

Provision Of Legal Aid- If a person belongs to the poor section of the society having annual income of less than Rs. 18,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee. The aid so granted by the Committee includes the cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case.

Amicus Curiae

If a petition is received from the jail or in any other criminal matter if the accused is unrepresented then an Advocate is appointed as amicus curiae by the Court to defend and argue the case of the accused. In civil matters also the Court can appoint an Advocate as amicus curiae if it thinks it necessary in case of an unrepresented party; the Court can also appoint amicus curiae in any matter of general public importance or in which the interest of the public at large is involved.

How is the power of the Supreme Court protected?

The Supreme Court has been assigned a very significant role in the Indian democratic political system. It is a federal court, the highest court of appeal, the guarantor of the fundamental rights of the citizens and guardian of the Constitution. Therefore, its independence becomes very essential for the effective discharge of the duties assigned to it. It should be free from the encroachments, pressures and interferences of the executive (council of ministers) and the Legislature (Parliament). It should be allowed to do justice without fear or favour. The Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the Supreme Court:

- **Mode of Appointment** -The judges of the Supreme Court are appointed by the President (which means the cabinet) in consultation with the members of the judiciary itself (ie, judges of the Supreme Court and the high courts).
- **Security of Tenure**-The judges of the Supreme Court are provided with the Security of Tenure. They can be removed from office by the President only in the manner and on the grounds mentioned in the Constitution.
- **Fixed Service Conditions**-The salaries, allowances, privileges, leave and pension of the judges of the Supreme Court are determined from time to time by the Parliament. They

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cannot be changed to their disadvantage after their appointment except during a financial emergency.

- **Expenses Charged on Consolidated Fund**-The salaries, allowances and pensions of the judges and the staff as well as all the administrative expenses of the Supreme Court are charged on the Consolidated Fund of India.
- **Conduct of Judges cannot be Discussed**- The Constitution prohibits any discussion in Parliament or in a State Legislature with respect to the conduct of the judges of the Supreme Court in the discharge of their duties, except when an impeachment motion is under consideration of the Parliament.
- **Power to Punish for its Contempt**-The Supreme Court can punish any person for its contempt. Thus, its actions and decisions cannot be criticised and opposed by any body. This power is vested in the Supreme Court to maintain its authority, dignity and honour.
- **Freedom to Appoint its Staff**-The Chief Justice of India can appoint officers and servants of the Supreme Court without any interference from the executive. He can also prescribe their conditions of service.
- **Separation from Executive**-The Constitution directs the State to take steps to separate the Judiciary from the Executive in the public services. This means that the executive authorities should not possess the judicial powers.
- **Its Jurisdiction cannot be Curtailed**-The Parliament is not authorised to curtail the jurisdiction and powers of the Supreme Court. The Constitution has guaranteed the Supreme Court, jurisdiction of various kinds. However, the Parliament can extend the same.

Under Articles 129 and 142 of the Constitution the Supreme Court has been vested with power to punish for contempt of Court including the power to punish for contempt of itself. In case of contempt other than the contempt referred to in Rule 2, Part-I of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, the Court may take action (a) *Suo motu*, or (b) on a petition made by Attorney General, or Solicitor General, or (c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Attorney General or the Solicitor General.

Contempt of court may be civil or criminal. Civil contempt means wilful disobedience to any judgement, order, writ or other process of a court or wilful breach of an undertaking given to a court. Criminal contempt means the publication of any matter or doing an act which-(i) scandalises or lowers the authority of a court; or (ii) prejudices or interferes with the due course of a judicial proceeding; or (iii) interferes or obstructs the administration of justice in any other manner. However, innocent publication and distribution of some matter, fair and accurate report of judicial proceedings, fair and reasonable criticism of judicial acts and comment on the administrative side of the judiciary do not amount to contempt of court.

Do you think the apex judiciary in India needs to change for enjoying continued confidence and legitimacy?

Though apex Judiciary has historic and landmark achievements which we have seen from time immemorial, whether it was evolution of Basic Structure Doctrine in Kesavananda Bharati Case

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or evolution of PIL concept to give the pervasive meaning of justice and not only acknowledge but ensure it, still the apex court is sometimes criticized for its lack of transparency in appointment of judges. Opaqueness in collegium system ,Judicial Overreach or contempt or court proceedings or some tepid approach in dealing with one of the worst humanitarian migrant crisis during covid-19. So in order to repose the public faith and legitimacy the constitutional court needs to look into the issues and try to rectify any issues whatsoever. It will not only increase people's faith and confidence but will strengthen democracy.

3. The civil services are the crucial pillar responsible for administering the country. It is believed that reform is long overdue in the Indian Administrative Services. Do you think “Mission Karmayogi”- National Programme for civil services capacity building (NPCSCB) is a right step in this direction? Analyse.

Ans:

- The civil service in India is recognized as a preferred vocation that allows the youth of the country to serve and create prosperity for their fellow citizens.
- They are the first point of contact with the government and have a constitutional role in providing good governance, ensuring quality service delivery and be focal instruments of policy-making.
- The Indian Civil Service functioned through most of British rule in India as the steel frame that kept the Raj aloft. It was ill famed for the issues such as corruption, favoritism etc.
- In the past two decades, the Constitution Review Commission (2002), the Second Administrative Reforms Commission (2008) and the NITI Aayog’s 3 Year Action Agenda (2017) have all noted the rising complexity of modern-day policymaking and administration and thereby pointed out the need for reforms.
- Some of the reforms needed in civil services can be pointed out as:
 - The training modules are too diverse and fragmented at present as every department functions within silos.
 - There is no common platform for the exchange of knowledge, nor is there any provision for providing officers down the hierarchy with lifelong and continuous learning, as is the norm in many leading private corporations.
 - There is also often a duplication of efforts as there is little or no coordination between departments on HR-related issues.
 - The net result of these shortcomings manifests itself in the lack of synergies in overall government functioning.

In such background Mission Karmayogi can be considered as a milestone.

Mission Karmayogi:

- It is a new capacity-building scheme for civil servants aimed at upgrading the post-recruitment training mechanism of the officers and employees at all levels.
- Mission Karmayogi aims to prepare Indian civil servants for the future by making them more creative, constructive, imaginative, innovative, proactive, professional, progressive, energetic, enabling, transparent and technology-enabled.

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- It aims to empower a civil servant with specific role-competencies so that she will be able to ensure efficient service delivery of the highest quality standards.
- The mission seeks to transform HR practices in the Indian civil services from a rules-based order to a role-based one.
- The platform will act as a launchpad for the National Programme for Civil Services Capacity Building (NPCSCB), which will enable a comprehensive reform of the capacity building apparatus at the individual, institutional and process levels.

Thus, to begin with it appears that this initiative has a capacity to bring requisite reforms in civil service that are required to fulfill the dream of New India by 75th year of its independence. It can make civil service more people centric while playing a role as a facilitator with great amount of situational flexibility as per need. It basically aims at efficient public service delivery while maintaining quality of service by making civil service more competent. Hence timing of introducing this initiative could not be better and it has great potential to achieve the desired outcomes when it comes to civil service reforms.