

CURRENT ISSUES WRITING PRACTICE

POST-TEST MATERIAL FOR CIWP – F

- 1. Highlight the significance of the essential commodities Act with respect to the socialist orientation of India. Discuss the rationale behind the recent amendment of the existing Act? (200 words, 10 marks)**

What is the Essential Commodities Act, 1955?

The Essential Commodities Act, 1955 has since its enactment been used by the Government to regulate the production, supply and distribution of a whole host of commodities it declares 'essential' in order to make them available to consumers at fair prices. The list of items under the Act include drugs, fertilisers, pulses and edible oils, and petroleum and petroleum products. The Centre can include new commodities as and when the need arises, and can remove, once the situation improves.

Why Essential Commodities Act is important?

The ECA gives consumers protection against irrational spikes in prices of essential commodities. Government has invoked the Act umpteen times to ensure adequate supplies. It cracks down on hoarders and black-marketeers of such commodities. On the other hand, almost all crops are seasonal, ensuring round-the-clock supply requires adequate build-up of stocks during the season. So, it may not always be possible to differentiate between genuine stock build-up and speculative hoarding. As well, there can be genuine shortages triggered by weather-related disruptions in which prices will move up. So, if prices are always monitored, farmers may have no incentive to farm. With too-frequent stock limits, traders may have no reason to invest in better storage infrastructure. Food processing industries need to maintain large stocks to run their operations smoothly. Stock limits curtail their operations. In such a situation, large scale private investments are unlikely to flow into food processing and cold storage facilities.

Significance of the essential commodities Act with respect to the socialist orientation of India

Ever since the Right to Food campaign has approached the Supreme Court, in what is commonly revered to as the right to food security petition, the relevance of the Essential Commodities Act, 1955 has become more apparent. Food procurement and MSP to the agriculturists are one of the finest examples of what a socialist state should do. India is a market economy where prices are ostensibly decided by demand and supply, certain laws empower the Centre to intervene in the market to protect consumer interests. The ECA is one such key law.

Socialistic imprint could be found in most of the post-independence legislation enacted in our country and the Essential Commodities Act (ECA), 1955 was one of them. The ECA, 1955 aims at ensuring the availability of essential food items, drugs and other products to the public at large by preventing and penalising any kind of hoarding and black-marketeering of the "essential items" listed in the Schedule to the Act.

Without the ECA the common man would be at the mercy of opportunistic traders and shopkeepers. It empowers the government to control prices directly too. The recent amendment to the Legal Metrology (Packaged Commodities) Rules 2011 is linked to the ECA. The Government can fix the retail price of any packaged commodity that falls under the ECA.

Why was an amendment needed in the ECA?

The ECA was legislated at a time when the country was facing scarcity of foodstuffs due to persistent abysmal levels of food grain production. The country was dependent on imports and assistance (such as wheat import from US under PL-480) to feed the population. In that scenario, to stop the hoarding and black marketing of foodstuffs, The ECA was enacted

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in 1955. But now the situation has changed. A note prepared by the Ministry of Consumer Affairs, Food and Public Distribution shows that production of wheat has increased by 10 times (from less than 10 million tonnes in 1955-56 to more than 100 million tonnes in 2018-19); during the same period, the production of rice has increased more than four times from around 25 million tonnes to 110 million tonnes. The production of pulses has increased by 2.5 times, from 10 million tonnes to 25 million tonnes. In fact, India has now become an exporter of several agricultural products. With these developments, the EC Act has become anachronistic.

What will be the impact of the amendments?

The amendments will remove commodities such as cereals, pulses, oilseeds, edible oils, onion and potatoes from the list of regulated essential commodities. The move is expected to attract private investment in the value chain of these commodities. While the purpose of the Act was originally to protect the interests of consumers by checking illegal trade practices such as hoarding, it has now become detrimental for investment in the agriculture sector in general, and in post-harvesting activities in particular. The private sector has so far hesitated investing in cold chains and storage facilities for perishable items as most of these commodities are under the ambit of the ECA, and can attract sudden stock limits. But now the situation has changed.

In the COVID19, it becomes clear that the importance of socialism is unquestionable, and it is more evident during a situation of extreme crisis. Socialism becomes the last resort when the whole arsenal of the previous fails to save mankind.

2. List the factors behind the rise in custodial deaths and suggest remedial measures to curb this problem. Do you think that the need of the hour is police reform? Substantiate your views. (200 words, 10 marks)

Preventing torture in custody and ensuring strict compliance of its guidelines in custodial deaths is one of the important agenda of India's National Human Rights Commission. Sudden and unexpected death in custody is commonly associated with allegations of torture against law enforcement agencies. Custodial violence means violence in police custody and judicial custody. Besides rape, torture and death are the forms of custodial violence. Sections 25 & 26 of the Indian Evidence Act, 1872; Sections 330, 331 & 348 of Indian Penal Code, 1860; Section 76 of the Code of Criminal Procedure, 1973 and Section 29 of the Indian Police Act, 1861 were enacted to curb the tendency of policemen to resort to torture to extract confessions etc. The factors behind the rise in custodial deaths are as follows: -

Greed for Money: - It is the most hateful reason for custodial torture and one that seems to be on the increase. At the level of Police Station, a number of Policeman use brutality to extract money from suspects and innocent persons. The legal situation and the nature of evidence facilitate the process of making SHO very powerful and giving what he does an air of finality, which gives him the unintended power to extract money and escape the corrective process of supervision.

Punitive Violence: - There are few honest but misguided policemen who believe in not letting the criminal get away with it. It is genuinely believed by them that except for a sound beating, there is no other way of controlling criminals. The whole tenor of the criminal justice system is punitive, hence a subsystem of it expected to be of service to the people cannot so operate. On account of the constraints of the system, the nature of the police function also becomes punitive, and many policemen see their brutality as extension of the punitive role of the organisation.

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Positive re- enforcement: -No matter what the constraints are, results have to be produced. As things are, a policeman, who is brutal, operates only on short cuts and is unscrupulous about the means he uses, produces results. The production of result ease the pressure on his superiors, even wins the acclaim of all and sundry, with the result that all his sins are and have to be forgiven.

Police Sub- culture: -The police sub-culture is strengthened by alienation, cynicism, law-esteem in society, a degree of pariah feeling, conflicting demands made of policeman, inconsistent judgment of their work, all forcing them into a corner. In this situation, a policeman finds succour among others of his community with whom he identifies, leading to group solidarity, which in turn provides a sense of security against the hazards of his occupation, and a basis for a medium of self-esteem and some social affiliation in spite of the irregular hours of work. Thus, develops the culture of group which demands greater conformance to threats, tortures, rather than rules, regulations, orders etc.

Lack of Proper Training: - The utterly inadequate training given to constables, the general absence of any attention to the necessity for keeping temper, being civil and respectful to the public, avoiding brutality or unnecessary harshness, are the factors that which leads to violence.

Other factors: -The other reasons for custodial torture can be sexual weakness, sadism etc. Male police personnel may have a tendency of attraction towards opposite sex prisoner. For satisfaction of this lust he may use force and commit rape in the custody or he may use his official position to obtain consent for sexual intercourse. The third-degree methods are also applied for 'teaching a lesson' or 'vomiting out anger'. It is the stage, where professional competence of the individual policeman surrenders before a situation and then he almost goes out of his mind. In our country, we are accustomed to think in terms of 'an eye for an eye' and 'tooth for tooth'. Therefore, the Society tacitly expects and approves the use of violence on suspects to get the truth.

Remedial measures to curb rise in custodial deaths

1. REDRESSAL MECHANISM: A redressal mechanism needs to be introduced consisting of a three-tier system - Grievance Cell in every police circle, Complaint Board in all the districts and a State Security Commission at the State level. For the smooth functioning of the mechanism and for a popular representation, a civilian control mechanism be included in the form of Custodial Justice Committee at the cutting-edge level. Reputed human rights activists and social workers preferably from the locality, media men, nominees from the bar and nominees from the police department should be the members of the Committee to ensure custodial justice of arrested persons.

2. SCIENTIFIC RECRUITMENT, TRAINING, WORKSHOPS, ORIENTATION, AND REFRESHER PROGRAMME: The recruitment policy of the government should be based according to the latest scientific developments in the concerned field which should be fair but strict to assess the suitability of the candidate for the post. Scientific method of recruitment be adopted to obtain candidates of professional aptitude, sound character, political neutrality, above-average intelligence and emotional stability. By taking into consideration the raising educational standard and financial standard of the society, qualification of the constabulary must be raised to graduate level and their pay scale be revised periodically. Persons with criminal nexus or background should not be selected for national service.

3. GENERATION OF AWARENESS FOR PROTECTION OF HUMAN RIGHTS: Indian criminal justice system must be based on respect for human rights, in particular the rights of the victims and the rights of the accused. The criminal justice system should be in

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conformity with the international human rights obligations of India. The reform should take into account and seek to eradicate the root causes of its malfunctioning. The government of India promulgated the Protection of Human Rights Act, 1993 and National Human Rights Commission was thereby set up in 1993 which plays an important role in protecting the rights of detained persons. The law should be made stringent so that all chances of human rights violations in the custody of law enforcing agencies are reduced and the efforts at least to minimize it to the maximum possible extent be at least thereby made.

4. SEPARATION OF DEPARTMENTS: The authority conducting the investigation should be separate and independent from the detention authority. An independent investigating agency may be entrusted with adequate power, to investigate complaints of custodial violence against police personnel and take stern and speedy action followed by prosecution, wherever necessary.

5. GOOD WORKING ENVIRONMENT: There is a need to make a conscious effort by all the internal and external bodies towards bringing much needed attitudinal changes in the police and other governmental agencies. The need to create an environment where they can perform their duties with a sense of pride and fulfilment without feeling hamstrung either on account of legal hurdles or due to administrative and financial problems can hardly be over emphasized.

6. ACCOUNTABILITY AND SUPERVISION BY SENIORS: The functioning of lower level police officers should be continuously monitored and supervised by their superiors to prevent custodial violence and adherence to lawful standard methods of investigation be followed.

7. AMENDMENT OF LAWS: Law commission in its 113th report recommended amendment to the Indian Evidence Act so as to provide that in the prosecution of a police officer for an alleged offence of having caused bodily injuries to a person while in custody, if there is evidence that the injury was caused during the period when the person was in police custody, the court may presume that the injury was caused by the police officer having the custody of that person during that period unless, the police officer proves to the contrary. The onus to prove the contrary must be discharged by the concerned police official. The recommendation, however, appears to have gone unnoticed and the custodial violence and custodial deaths is flourishing unabated. The legislature must immediately take notice of the Law Commission Report and give effect to it by amending the Indian Evidence Act.

Why we need Police Reforms?

- To enhance the quality of Criminal Justice System in the country.
- To secure professional independence.
- 24% vacancies in state forces; 7% in central forces.
- To enable the Government to oversee the police performance.
- Transparent procedure for the appointment.
- To reflect the democratic aspirations of the people.
- To strengthen the intelligence gathering ability.
- To separate investigation work from law and order.
- To modernize the police force.
- Most importantly to make police people friendly

Police Reforms: Need of the Hour

If ever there was a need as well as an opportune moment to push through police reform and improve policing, it is now, when both the public and, hopefully, the government, are seized of the need to improve law and order. While chronic and severe manpower deficits, the problem is not of numbers alone. It is also about their disconnect with ordinary people.

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Various reports and the Supreme Court's directives of 2006 seek to achieve two main objectives: functional autonomy for the police, through security of tenure, streamlined appointment and transfer processes, and the creation of a 'buffer' between the police and the government, and enhanced police accountability. The main recommendations include setting up of State Security Commissions to select DGPs from a panel recommended by the UPSC and a National Security Commission at the Centre that will follow a similar procedure for Central police organisations; fixing the tenure of top police officers for a minimum of two years to ensure independence from political interference and setting up a Police Complaint Authority under a retired Supreme or High Court judge in every district to hear public complaints against policemen up to the rank of DSP.

These directives remain on paper. Police accountability cannot be left solely to professionalism, the executive or the law. We need multiple lines of accountability; internal, to the executive, to the courts, specific oversight bodies including rights agencies; to ensure efficacious yet responsible operations. These oversight bodies must, in turn, be accountable to the citizens through the legislature and media scrutiny. A vigilant citizenry is the ultimate bedrock of good policing.

3. The centuries old historical ties between India and Nepal can remain strong only if they remain relevant to contemporary times. Comment. What steps are being taken to strengthen the relations between India and Nepal? (200 words, 10 marks).

India and Nepal share deep social, cultural, strategic, political, and economic ties that have been forged over centuries. Unfortunately, ties wither if exposed to the challenges with the passage of time. India-Nepal ties have frayed slowly as the economic bonds between the two countries have failed to keep pace with India's modernization and growth. The opportunities offered by India's prospering economy have become increasingly inaccessible, and thereby irrelevant to ordinary Nepalis.

The persistent border dispute between the two countries is an opportunity for them to modernize old ties towards a shared vision of prosperity. India and Nepal must do more than merely resolve boundary issues. They must return to the core strengths of their unique social, cultural, strategic, political, and economic bonds and modernize ties to directly connect its people, markets, finance, and technology.

Old ties fallen into state of disrepair

Thousands of people in India and Nepal cross the open border every day to work, buy, sell, and transact businesses. India remains Nepal's dominant trade partner, steadily accounting for approximately 60-65% of all trade with Nepal even as other countries, such as China have made significant inroads in the last few years. But behind the numbers on India-Nepal trade is a complex network of informal arrangements across borders that has made it possible. Cousins deal with one another across the borders; business associates with sons and daughters married into each other families; Lenders and suppliers that offered credit based on family references; Cash that moved easily across the border.

SMEs are being left behind

India-Nepal trading agreements still carry vestiges of old rules. For example, Nepali traders cannot import products from India that are not manufactured in India. Today's global scenario has changed: multi-national companies have set up in India and generally assign responsibility of the whole South Asian region to their India office. Large business work around these by routing trading agreements through third country, but small business is unable to do that. Instead, doing the equivalent business in China is much easier.

Government to government means nothing

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Once the single largest source for Foreign Direct Investments (FDIs) in Nepal, India has seen its position erode with growing Chinese investments. In 2019, for instance, China accounted for approximately 40% of new FDIs against India's 30%.

Political class is not permeable

For Nepal, this is an era of exciting change. New awakenings and aspirations have taken roots. Like other governments, India has also rushed to engage with Nepal's new government. But India's relationships with Nepal is broader than engagements with governments alone. It works, for instance, directly with many young people and communities across Nepal.

Steps taken to strengthen the relations and their impact

Sadly, the Indian development initiatives that seek to connect directly with Nepalis have been sabotaged. Consider the example of scholarships that India provides to Nepali students for higher education in Indian institutions. While technically based on merit, many of the scholarships are awarded on the recommendations of Nepal's political class. The awards fuel a network of patronage and fails to make India's growth accessible to Nepalis in need.

India also works directly with communities and local organizations supporting a wide range of development projects (e.g., building school, health centres, energy projects, providing ambulances). Most of projects, however, go to places where there is a clear political connect. While such projects provide development benefits to people in the area, the local politician harvests a much richer dividend. India's approach of connecting with the people of Nepal is being undermined by local intermediaries. The political class in Nepal, even under the new dispensation, haven't proven to be any more permeable than the ones before. Development dividends don't flow through so easily.

Way Forward

Nepali aspirations have been unshackled. India must recognize this. As an immediate priority, it must realign its geo-political and economic outlook on Nepal to craft a new approach that allows ordinary Nepalis to access the opportunities India's economic growth offers. There are many things that India and Nepal could do to modernize ties. They could create modern business hubs that enable young tech-savvy Nepali entrepreneurs to connect with India's innovations. It could offer credit lines that small and medium enterprises could directly access for cross border trade and investments. It could harmonize and ease cross border trading rules. Most importantly, it must encourage Indian and Nepali businesses to speak with each other and provide them the confidence that their governments want them to succeed.

Centuries of social, cultural, political, strategic, and economic ties can only remain strong if they can remain relevant to changing times. The governments of India and Nepal must reset the narrative, modernize their policies, and get out of the way so that the ties between people thrives again.