



APPROACH – ANSWER: G. S. MAINS MOCK TEST - 2349 (2024)

1. *Discuss the differences between affirmative action in India and the United States. (Answer in 150 words)* 10

Approach:

- Introduce with a brief definition of affirmative action.
- Discuss the differences between affirmative action in India and the USA.
- Conclude accordingly.

Answer:

Affirmative action refers to policies and practices designed to address historical and on-going discrimination, against marginalized groups, such as racial and ethnic minorities, women, etc. The purpose of affirmative action is to promote equal opportunities and reduce disparities in employment and education.

Differences between affirmative action in India and USA:

- **Genesis:**
 - **India:** Affirmative action in India, through the reservation policy, is meant to address socio-economic inequalities resulting from historical discrimination based on factors like caste etc.
 - **USA:** Affirmative Action was introduced in the USA to counter historical patterns of prejudice against individuals with certain identities based on race, ethnicity etc.
- **Scope and Implementation:**
 - **India:** Reservation in India is extensive and applies to education, employment, promotion, and even legislature and is implemented through reservation of seats based on socioeconomic factors like caste, annual income, gender etc.
 - **USA:** Affirmative action in the USA primarily applies to educational and employment sectors. It provides preferential treatment in admissions, scholarships, and hiring practices and the scope, extent varies across states and institutions.
- **Targeted Groups:**
 - **India:** In India, the reservation system primarily targets Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).
 - **USA:** Affirmative action in the USA targets African Americans, Hispanics, Native Americans, and other minority groups.
- **Quota**
 - **India:** According to the *Indra Sawhney & Others v. Union of India* judgment of 1992, the quotas are fixed at 50% for SCs, STs and OBCs in both employment and education.
 - **USA:** Quotas in the USA are not fixed and vary across states and institutes.
- **Legal Framework:**
 - **India:** The Indian Constitution is clearer and provides for reservation under Articles 15(4), 16(4), and 46 under which the government has the authority to provide reservations.
 - **USA:** Affirmative action in the USA is not explicitly mandated by the Constitution and has been shaped by legislation such as the **Civil Rights Act of 1964**, the **Equal Employment Opportunity Act of 1972**, or through judicial interpretation etc.
- **Emerging changes:** While India is expanding its reservation system by including economic criteria through 103rd amendment act in its reservation policy, the United States is limiting its

policy of affirmative action as its Supreme Court has pronounced that affirmative action in college admissions did not comply with the equal protection clause.

Considering the recent changes in the United States, it can be inferred that India's reservation policy can also be periodically evaluated and reformed to ensure it remains effective and equitable. By doing so, India can create a society that upholds the principles of social justice and inclusivity.

2. ***There has been a demand to give more teeth to the Lokayuktas in states to enable them to fulfill their envisaged roles. Comment. (Answer in 150 words)*** **10**

Approach:

- Introduce by writing about Lokayuktas and their role in brief.
- Mention the factors hindering the functioning of Lokayuktas towards realizing their mandate.
- Suggest measures that can be taken to give more teeth to the Lokayuktas to enable them to fulfill their envisaged roles.
- Conclude accordingly.

Answer:

Lokpal and Lokayuktas Act, 2013 provides for establishment of the institution of Lokayuktas at the state level to inquire into allegations of corruption against public functionaries and for related matters.

Lokayukta is envisaged as an **anti-corruption ombudsman**, which is responsible for addressing **citizens' grievances** pertaining to **corruption, nepotism, favoritism** arising out of maladministration. However, the institution has not been able to fulfill its roles effectively due to the following reasons:

- **Lack of separate legislation and detailed provisions:** The Lokpal and Lokayuktas Act 2013 has one section on Lokayukta, which mandates that states must pass the Lokayukta Act within one year and there is no information about their powers, composition or other features.
- **Conflict of interests:** Considering that the Lokayuktas are responsible for investigating complaints of corruption against public officials, including politicians, presence of members from political parties in the nominating committee creates conflict of interest.
- **Delayed appointments:** Many Lokayukta and Uplokyukta in different states of India face prolonged vacancies and delays in appointments.
- **Lack of consistency in jurisdiction of Lokayukta:** There is no consistency in case of the jurisdiction of Lokayukta. For example, the Chief Minister is included within the jurisdiction of Lokayukta in Himachal Pradesh, Andhra Pradesh, Madhya Pradesh or Gujarat, but not in Uttar Pradesh, Rajasthan or Bihar.
- **No protection to whistleblowers:** The Lokpal & Lokayukta Act, 2013 lacks any kind of concrete immunity to the whistleblower. Further, the provision related to the initiation of inquiry against the complainant, if the accused is found innocent, leads to people being discouraged from filing complaints.
- **Dependency on other institutions:** Most of the Lokayuktas are dependent on other bodies like CBI and CVC to conduct investigations, even for preliminary stages.

Following measures can be taken to give more teeth to the institution to enable them to fulfill their envisaged roles:

- Lokayuktas should be set up in the states on the **lines of the Lokpal** with all state government employees, employees of local bodies and the state corporations under their purview.
- Appointment of Lokayukta must be done in a transparent manner to **minimize the chances of political interference**.
- In order to improve the performance of Lokayuktas, it is necessary to provide it with **managerial and financial autonomy** to carry out their duties. Also, Lokayukta should have **dedicated police and prosecution wings** to be able to initiate investigations on their own.
- Monitoring and ensuring **protection of whistleblowers** can be a part of the mandate of Lokayukta, which needs a comprehensive statutory backing.

- While rejecting any recommendations of Lokayuktas, the state government should give reasons for such rejections in writing.

Providing more teeth to the institution would enable the Lokayukta to act as an avenue for the anti-corruption movement and establish good governance in India.

3. Discuss the evolution of trade unions in India. How is their role changing in the present times? (Answer in 150 words) 10

Approach:

- Introduce by briefly discussing the origin of trade unions in India.
- Trace the evolution of trade unions in India.
- Explain their changing role in the present times.
- Conclude accordingly.

Answer:

The evolution of trade unionism in India began with the passage of the **Factories Act in 1881**. Workers in the Bombay textile industry initiated demands for reduced working hours, weekly holidays, and compensation for injuries. In **1890**, the **Bombay Mill Hands Association**, led by **N. M. Lokhande**, became the **first** union established for workers.

The evolution of trade unions in India can be traced as under:

- **Early 20th century:** The formation of the **International Labour Organization (ILO)** contributed to the growth of trade unions. In **1920**, under **Mahatma Gandhi's** guidance, the **Ahmedabad Labor Textile Association** was established. Further, the **All India Trade Union Congress (AITUC)** was formed in 1920, serving as the **first national-level** trade union federation in India.
- **Post-independence period:** The **Indian Trade Union Act of 1926** provided for voluntary registration of trade unions, but compulsory recognition by employers was not guaranteed.
- **1970s to 1990s:** Trade unions became more active and organized strikes, protests, and negotiations. Economic changes such as the **LPG reforms** introduced in 1991, led the government to **shift from labour-friendly to investor-friendly approach**.
- **Early 21st century:** In 2001, the **Trade Unions Act** was **amended** to facilitate recognition of trade unions at the Central and state levels. Additional amendments are being considered to provide for compulsory recognition of trade unions at the Central and state levels.

Trade unions have diversified, representing various industries and occupational groups, which is the manifestation of their **changing role** in the present times. **This is evident from the following:**

- **From individual to collective representation:** In the past, trade unions primarily focused on addressing the individual grievances of workers. However, they now focus on **collective bargaining**, emphasizing on negotiations for better wages, working hours, holidays, etc.
- **From economic to socio-political advocacy:** Traditionally, trade unions mainly concentrated on economic issues. Presently, they have broadened their scope to address various concerns faced by workers, including workplace safety, gender equality, health benefits, job security, and social security.
- **From reactive to proactive:** Recognizing the demands of the **21st-century** job market, trade unions are now actively involved in helping workers develop and upgrade their skills to ensure the competitiveness of workers.
- **From local to global:** In today's globalized world, trade unions are increasingly engaged in international forums exchanging best practices, experiences, and building **solidarity** among workers across borders about global rights, such as acceptable conditions of work with respect to minimum wages, hours of work, occupational safety and health, etc.
- **From traditional to digital:** With the advent of technological advancements, trade unions are harnessing **digital tools** and platforms to connect with a **wider audience**, organize activities, and disseminate relevant information.

The significant functions performed by the trade unions make their existence essential for achieving social justice in the workplace. In this regard, the '**right to form associations or unions**' is a **Fundamental Right** under **Article 19 (1) (c)** of the Indian Constitution.

4. *"Improving the administration of justice at the lower level of the judiciary is crucial for enhancing justice delivery in India." Discuss. (Answer in 150 words)* **10**

Approach:

- Outline the role of the lower judiciary in the introduction.
- Mention the challenges faced by the lower judiciary in delivering justice.
- Highlight the measures and reforms needed to improve the functioning of the lower judiciary.
- Conclude accordingly.

Answer:

At the lower level of the judiciary, the District and Sessions Courts, the Metropolitan Magistrate Courts and the Civil Judge Courts, serve as the initial point of contact for citizens seeking justice. Besides interpreting laws and adjudicating civil and criminal matters, they play a vital role in reducing the caseload of the higher courts, thereby streamlining the justice delivery process.

Challenges faced by the lower judiciary:

- **High pendency of cases:** As per the data from the Department of Justice, there is a massive backlog of 4.15 crore cases in subordinate courts. This coupled with a slow disposal rate, creates a vicious cycle of delay and backlog, adding to the woes of the litigants.
- **High vacancy and delay in judicial appointments:** There is a substantial vacancy of 23% for judges at the district level. Further, the process of appointing judges is time-consuming and frequently gets delayed due to administrative or political reasons.
- **Administrative burden and poor staffing:** The substantial administrative burden borne by the judges due to poor staffing in lower courts detracts them from their primary role of adjudicating cases. Essential yet time-consuming tasks like granting adjournments and checking document filing statuses significantly impede their ability to concentrate solely on delivering judgments.
- **Infrastructural issues:** From inadequate courtrooms to lack of facilities for record-keeping and management, the crumbling infrastructure poses a severe challenge to the effective functioning of the lower courts.
- **Technological gaps:** The lower judiciary has limited access to technological tools, thereby hampering case management and digitization of records.

Measures to improve the functioning of the lower judiciary include:

- **Streamlining the appointment process:** To mitigate judicial vacancies, it is crucial to accelerate the appointment process of the judges. Implementing definitive guidelines and curtailing administrative or political impediments can aid this process. Moreover, the introduction of an **All India Judicial Service** could be a transformative measure.
- **Improving infrastructure:** Ensuring adequate funding for the maintenance and improvement of court facilities can lead to a more efficient justice delivery system.
- **Legislative reforms:** Procedural law amendments to discourage frivolous litigation, promoting settlements, and expediting case resolutions can address the issue of backlog of pending cases. The establishment of the **Committee on Criminal Law Reforms** by the Ministry of Home Affairs is a positive step in this direction.
- **Encouraging Alternative Dispute Resolution (ADR) mechanisms:** ADR methods like arbitration, mediation, and conciliation can offer quicker and cost-effective solutions to disputes, thereby easing the pressure on lower courts.
- **Implementing technological solutions:** The **eCourts Mission Mode Project** for computerization of district and subordinate courts is a positive step forward. Additionally, leveraging technology through the use of **case management software** can enhance the scheduling and monitoring of cases, and improve efficiency in the judicial process.

By **adopting a bottom-up approach** and implementing reforms focused on strengthening the lower judiciary, India can contribute to achieving **SDG 16** by ensuring access to justice and enhancing the efficiency of the justice delivery system.

5. ***Discuss the role of the Commissioner for Linguistic Minorities in safeguarding the constitutional rights of linguistic minorities in India. (Answer in 150 words)*** **10**

Approach:

- Define linguistic minorities and discuss the genesis of the Commissioner for Linguistic Minorities.
- State the roles and responsibilities of the Commissioner for Linguistic Minorities.
- Outline the shortcomings and provide a way forward to strengthen the functioning of the Commissioner for Linguistic Minorities.
- Conclude accordingly.

Answer:

Linguistic minorities are groups or collectivities of individuals residing in the territory of India or any part thereof having a distinct language or script of their own. The Indian Constitution, recognizing the need to protect the rights and interests of these groups, provides for various safeguards, one of them being the provision for the Special Officer for Linguistic Minorities (also known as the Commissioner for Linguistic Minorities) under **Article 350B**.

Roles and responsibilities of the Commissioner for Linguistic Minorities (CLM):

- **Investigation:** The CLM investigates all matters related to the safeguards provided for linguistic minorities, and ensures that their constitutional rights are not violated.
- **Reporting:** The CLM submits detailed reports on the status and treatment of linguistic minorities to the President of India, who then presents them to the Houses of Parliament.
- **Advice and recommendations:** The CLM provides recommendations on vital issues affecting linguistic minorities to the Union government and state authorities, thereby influencing policies and decisions.
- **Representation:** The CLM represents the interests of linguistic minorities, and ensures that their voices and concerns are heard at the highest levels of government.

However, there remain certain shortcomings in the working of the Commissioner for Linguistic Minorities, which are as follows:

- **Inadequate outreach:** The CLM struggles to address the concerns of all linguistic minorities across the vast geographical and cultural expanse of India, leading to insufficient protection for some groups.
- **Resource constraints:** The CLM faces resource constraints, both in terms of personnel and finance, hindering its ability to effectively investigate matters and implement recommendations.
- **Lack of enforcement power:** The CLM can investigate and report issues, but lacks the power to enforce its recommendations, which diminishes its effectiveness.
- **Low awareness:** Many linguistic minorities are not aware of the existence of the CLM or how to reach out for assistance, reducing the office's potential impact.
- **Delayed reports:** There are significant delays in the presentation and discussion of the CLM's reports, slowing the resolution of identified issues. In this context, the last annual report was presented to the President in 2016.

Faced with the above-mentioned shortcomings, the following measures can aid in strengthening the functioning of the Commissioner for Linguistic Minorities:

- **Enhanced autonomy:** Increasing the CLM's autonomy ensures impartiality and effectiveness in safeguarding the rights of the linguistic minorities.
- **Capacity building:** Investing in capacity building, including the establishment of more local offices and the launch of digital initiatives, will expand the CLM's reach.
- **Public awareness:** Using multilingual public campaigns and linguistic media to disseminate information about the CLM will enhance its visibility and accessibility to linguistic minorities.

- **Timely discussion:** Mechanisms could be put in place to ensure timely discussion of the CLM's reports in the Parliament and expediting action on the identified issues.

To fortify the constitutional protections for linguistic minorities and ensure that every voice is heard and valued in the Indian democratic framework, it is essential to strengthen the office of the Commissioner for Linguistic Minorities.

6. *To what extent, do you think, asymmetry in India's federalism is a necessity? (Answer in 150 words)* 10

Approach:

- Mention about asymmetric federalism in introduction.
- Give arguments in favour of the necessity of asymmetry in India's federalism using examples.
- Bring out how the necessity of asymmetric federalism in India is under question.
- Conclude accordingly.

Answer:

Asymmetric federalism means federalism based on unequal powers and relationships in political, administrative and fiscal spheres between the units constituting a federation. Asymmetry in the arrangements in a federation can be viewed in both vertical (between centre and states) and horizontal (among the states) senses.

Necessity of asymmetry in India's federalism

- **Historical factors:** Asymmetric features in Indian federalism seemed necessary to integrate and unify the country, comprising regions directly ruled by the British and 216 princely states and territories. For example, under article 370, Jammu and Kashmir was provided with special status to integrate it with India.
- **Ensuring national security:** The founding fathers of the Indian Constitution wanted to form a federation with a stable union government to hold together against fissiparous tendencies. For example, the Sixth Schedule of the Constitution of India is credited for transforming former tribal 'rebels' as important stakeholders of India's polity.
- **Ensuring unity in diversity:** By granting certain powers, rights, and privileges to individual states with diverse linguistic and cultural entities, asymmetry in federalism acknowledges their unique circumstances and ensures that policies and decisions align with the local realities and aspirations of the people. For example, special provisions under Article 371 of the Indian Constitution.
- **Strategic and administrative reasons:** The union territories created for varied strategic and administrative reasons are also a representation of asymmetry in Indian federalism. For example, Andaman and Nicobar Islands are designated as union territory due to their strategic location.
- **Economic factors:** Varying sizes of states in terms of area and population, demographic compositions, different terrain and topography cause significant variations in the unit cost of providing public services varying expenditure needs. Thus, asymmetric fiscal federalism through mechanisms like the Finance Commission is important.

Though asymmetric federalism has thus been an unavoidable feature of Indian polity, its necessity is questioned due to the following issues:

- **Discrimination among regions:** Concentration of fiscal and financial resources with the centre opened up vast scope for inter-state discrimination in the allocation of resources. For instance, the states ruled by regional parties with significant strength in the parliament have been able to secure substantially higher resources relative to other states.
- **Strong focus on regional interests:** The emergence of strong regional parties has shifted their perspective towards strongly safeguarding regional interests even at the cost of national interest.
- **Sense of injustice:** Despite special provisions provided under Article 371 of the Constitution of India to various regions, in most of these areas, there is a prevalent feeling of injustice and betrayal due to issues like inadequate finances, governor's omnipresent intervention etc.

Despite these challenges, asymmetrical federalism continues to hold relevance because to pave the way for cooperative federalism in India we must be able to accommodate various groups and provide them with a share in governance.

7. ***Although created to de-burden the judiciary, tribunals in India have evolved with their own set of challenges. Discuss. (Answer in 150 words)*** **10**

Approach:

- Give a brief introduction about tribunals.
- Discuss the key issues that tribunals face in India.
- Conclude accordingly.

Answer:

Tribunals are quasi-judicial institutions established by law and were added through the **42nd Amendment Act** in the Constitution of India (under **Article 323A and Article 323B**). They were set up to reduce the workload of courts, to expedite decisions and reduce pendency of cases.

As they work on principles of natural justice and are not bound by the Code of Civil Procedure, 1908 (CPC), they are able to provide swift, cost-effective, and decentralized resolution of disputes across various issues.

However, they have been plagued by various issues and challenges:

- **Against separation of powers:** The central government appoints the Chairperson and other members of a Tribunal. The lack of judicial dominance in the selection committees of tribunals violates the doctrine of separation of powers and is an encroachment on the judicial domain.
- **High pendency:** The tribunals suffer from high pendency owing to various reasons such as systemic issues, absenteeism by members, presiding officers being overworked etc. As many as 80,545 cases are pending in different Benches of the Central Administrative Tribunal as on December 31, 2022.
- **Issue of vacancy:** They do suffer a great number of vacancies rendering the majority of their benches dysfunctional. As of March 3, 2021, there were 23 posts vacant out of the total 34 sanctioned strength of judicial and administrative members in the Armed Forces Tribunal.
- **Against principle of justice:** The Executive is often a party in litigations. Despite this, the mechanism for appointment and removal of members in tribunals, and tenure of their employment does not have adequate protection from legislative and executive interference. Tribunals are entirely dependent on their nodal ministries for their day to day functioning, provision of resources and filling up of vacancies.
- **Impact judicial independence:** A particularly worrying trend noticed in the staffing of tribunals is selection of retired judges and bureaucrats to head these institutions, thereby potentially compromising the independence of the judiciary.
- **Non-uniformity:** Lack of non-uniformity across tribunals with respect to service conditions, tenure of members, issue of reappointment etc. has significantly affected the functioning and administration of tribunals. These inconsistencies occur due to tribunals operating under different ministries.

In order to propel tribunals towards achieving their objectives, it is imperative that they are provided due autonomy with proper funding mechanisms. The appointments to members should be apolitical and it should be done by an impartial and independent selection committee. Further, National Tribunals Commission (NTC) can be established to regulate the matters of tribunals without compromising their independence.

8. ***Assess the effectiveness of the Central Vigilance Commission (CVC) as an organization mandated for tackling corruption in India. (Answer in 150 words)*** **10**

Approach:

- Introduce by highlighting the mandate of the Central Vigilance Commission (CVC).

- Explain how far it has been effective in curbing corruption.
- Mention the issues related to its functioning.
- Conclude accordingly.

Answer:

The Parliament enacted the Central Vigilance Commission Act, 2003 (CVC Act) conferring **statutory status** on the CVC. It is the apex agency that oversees and supervises the vigilance administration of the organizations owned or controlled by Union of India and covered under the advisory jurisdiction of the Commission.

CVC has been functioning as an effective organization in tackling corruption as evident in the following ways:

- The Central Vigilance Commission (CVC) **in 2019 received 35,649 cases, of which 34,813 were disposed of**. The anti-corruption body recommended initiation of criminal proceedings in 72 cases.
- The CVC, having supervisory power over the CBI, has played a **key role in the investigation and prosecution of several high-profile corruption cases**, such as the 2G spectrum scam and the Coalgate scam.
- The CVC has **launched the Integrity Index**, which assesses the integrity and ethics of organizations. This index helps in identifying areas for improvement and promotes a culture of integrity in government organizations.
- The CVC has even been successful in **organising “Vigilance week” every year to create awareness** against the menace of corruption in the society.
- Since the enactment of **the Whistleblowers Protection Act, 2014**, the CVC has been working as the competent authority to receive complaints relating to disclosure on any allegation of corruption or wilful misuse of power or wilful misuse of discretion against any public servant and to inquire or cause an inquiry into such disclosure.

However, the effectiveness of the CVC as an organization mandated for tackling corruption in India is being questioned due to the **issues related to its constitution and powers as follows**:

- When it comes to the **appointment of the Chief Vigilance Officer, the system is not transparent and procedure is not clear**. The prominent example of this is the appointment of PJ Thomas as the Chief Vigilance Commissioner in 2010, which was later quashed by the Supreme Court for not considering the relevant material.
- The **conviction rate of CVC is also very low**, which has reduced the impact of CVC and its effectiveness, leading to often being criticised as a “toothless tiger”.
- It does **not have any sort of adjudicatory powers** as it is not the competent authority to sanction criminal prosecutions for offences committed by the officials. Thus, it has to wait for the sanctions, which diminishes its effectiveness.
- CVC **neither has the resources nor any investigation mechanisms**. It cannot investigate any complaints and has to depend on other bodies for their investigation report.

CVC is a valuable institution in the fight against corruption in India. Thus, it should be strengthened with investigative powers, financial independence and transparent appointment procedures to establish it as a strong mechanism in India’s fight against corruption.

9. ***The institution of CBI needs revitalisation and redefining of its status, powers and functions. Discuss in the light of the recent parliamentary panel recommendations. (Answer in 150 words)*** **10**

Approach:

- Write about Central Bureau of Investigation (CBI) in introduction.
- Highlight the need for revitalisation and redefining of status, powers and functions of CBI.
- Briefly mention the recommendations of the parliamentary panel.
- Conclude accordingly.

Answer:

The Central Bureau of Investigation (CBI) is governed by the **Delhi Special Police Establishment (DSPE) Act, 1946** enacted to regulate the functioning of the special police establishment set up in 1941 to investigate cases of bribery and corruption involving purchases and supplies during World War II.

According to the Parliamentary Committee on Personnel, Public Grievances, Law and Justice, the CBI suffers from many limitations. The institution of CBI needs revitalisation and redefining of its status, powers and functions due to reasons given below:

- **Consent of the State government:** Considering the provisions of the DSPE Act, the consent of the State government is a prerequisite for any investigation by the CBI and as on date, nine States have withdrawn the general consent, which hampers its role in various cases.
- **Vacant posts:** The Parliamentary committee found that the vacancies in executive ranks, law officers and technical officers of the CBI are not being filled up at the required pace. A total of 1709 posts are vacant in the CBI against its sanctioned strength of 7295 as of March 2023.
- **Political interference:** There are issues of political interference in the functioning of the CBI, which hampers its independent and autonomous functioning.
- **Lack of transparency:** Details of cases registered with the CBI, the progress made in their investigation and the related final outcome are not available in public domain, highlighting the issues of transparency.

Considering these issues, following recommendations of the Parliamentary committee can be considered:

- **Need for a new law:** It stressed the need to **enact a new legislation** to define the status, functions and powers of CBI. It recommends strengthening the CBI in terms of legal mandate, infrastructure and resources.
- **Fill the vacancies:** It further recommended that the Director of CBI should monitor the progress made in **filling up of vacancies** on a quarterly basis and take necessary measures to ensure that the organisation is sufficiently staffed.
- **Updating the training module:** **Training module** should be upgraded and modernised taking cue from the best in the world, and a sound research base should be developed in this regard.
- **Cases in public domain:** The details of the cases with the CBI, progress in investigation and the final outcome should be put in public domain to the extent possible in order to ensure **transparency and accountability**.

The CBI is not only a premier anti-corruption investigative agency in India but it also has the experience of handling high profile conventional crimes, economic offences, banking frauds and crimes with international linkages. By taking these measures, the institution of the CBI will get revitalised and redefined in terms of status, powers and functions.

10. "Lack of effective functioning prevents the Parliament from fulfilling its role of deliberative lawmaking and holding the executive accountable." Discuss. (Answer in 150 words) 10

Approach:

- Briefly mention the role of Indian Parliament in the introduction.
- Discuss the issues pertaining to the functioning of the Parliament.
- Conclude accordingly.

Answer:

The Indian Parliament comprising of **the President, the Lok Sabha, and the Rajya Sabha** is the supreme law-making body in the country. It also ensures accountability of the executive through motions, discussion, and debates over important bills, parliamentary committees etc.

However, there has been a decline in parliamentary functioning over the past few years, thus impacting its role of law-making and holding the executive accountable:

- **Declining hours of sitting:** According to the PRS, the number of sitting days in the Lok Sabha has reduced **from an annual average of 121 days during 1952-70 to only 56 days in 2022**. It leaves parliamentarians with little time to discuss important bills and question the government's actions.
- **Increasing speed of passing legislation:** The Lok Sabha, on average, **took less than 10 minutes to pass a law, and the Rajya Sabha less than half an hour** in 2020. Such hasty passage of bills without providing adequate time for members to discuss makes executive less accountable and often leads to withdrawal of bills passed as seen with the Farm Acts.
- **Increasing trend of Ordinances:** Increasing trend of ordinances often shrinks space for opposition to question the bills. This undermines the Parliament's role as a law-making body. Between 2014 - 2021, 76 ordinances were passed, at around ten per year.
- **Lack of scrutiny:** The Parliament's Standing Committees play an important role in holding the executive accountable by scrutinizing the bills. But they are being side-lined as bills are not being referred to them. **For instance**, only 27% of the bills were referred to these committees in the 16th Lok Sabha (2014-19) as compared to 71% and 60% in the 15th and 14th Lok Sabha respectively.
- **Shrinking opposition role:** One of the mechanisms to raise matters of urgent national/public importance on the floor of the house is short duration discussion. But only 6 short duration discussions have been held in the Parliament since 2019.
- **Reduced role of the Rajya Sabha:** The frequent use of the money bill route in recent years has weakened the Rajya Sabha and its potential for being an important tool for accountability in the Parliament.
- **Private members bills:** One of the essential functions of the Indian Parliament is to allow non-government members to introduce bills i.e., **private members bills**. However, it has been **over fifty years since a private member bill has been passed in the Parliament**.

To ensure that the Parliament works on the established rules, norms and parliamentary conventions, it is important to strengthen the accountability mechanism in the Parliament. Increase in the number of sittings, opportunity for the opposition parties to raise their issues without disrupting government business would be important steps towards it.

11. *"Poverty is an adequate marker of deprivation that the state can address through reservations to give effect to the constitutional ethos of equality and empowerment." In light of this, critically examine whether the 103rd Constitutional Amendment Act can redefine welfare in India. (Answer in 250 words)* 15

Approach:

- Introduce by writing briefly about the 103rd constitutional amendment of the Indian Constitution.
- Critically examine how the 103rd constitutional amendment can redefine welfare.
- Conclude accordingly.

Answer:

Deprivation is the consequence of a lack of income and other resources, which cumulatively can be seen as living in poverty. The State can address this poverty through reservation to give effect to the constitutional ethos of equality and empowerment. In this context, 103rd Constitutional Amendment Act, which provides reservations to Economically Weaker Sections (EWS) on the basis of economic backwardness, can redefine welfare as given below:

- **Promoting inclusive development:** The amendment broadens the scope of welfare measures of the State by including economically weaker sections as beneficiaries and reinforces the principle of inclusive development.
- **Addressing economic inequalities:** Hitherto the reservation policy was only perceived as an instrument for historically-marginalised castes but now is being seen as an emancipatory tool to battle economic inequalities.
- **Emerging criteria:** Although caste continues to be the primary category of discrimination, the norms of deprivation could also include socio-economic aspects like poverty, gender, regional

backwardness etc. This amendment can promote deliberations on such additional criterion of deprivation and thus, redefine welfare in India.

- Also, in **Ram Singh and Ors. Vs. Union of India case, 2015**, SC suggested the need for a non-caste based identification of backward classes.
- **Attempt to elevate poor among general category:** EWS quota provides **economic justice** to those who have not been the beneficiaries of affirmative action like reservations. By reading caste alongside class, it reconfigures India's affirmative action policy by offering an expansive view.
- **Fulfilling the constitutional mandate:** Article 46 of the Constitution enjoins the State to promote with special care the educational and economic interests of the weaker sections of society, and 103rd constitutional amendment aims to redefine welfare by fulfilling this constitutional mandate.

However, there are some concerns related to EWS reservations in redefining welfare in India as given below:

- **Reservation is for social upliftment:** Reservation cannot be used as a poverty alleviation measure. Poverty can be alleviated by other means as well like providing scholarships, subsidies, etc.
- **Violates principle of equality:** By excluding OBCs, SC/ST communities from this reservation, there is a violation of equality in their eligibility to avail of a part of the open competition opportunities.
- **Issues with income criteria:** Income criterion of Rs. 8 lakh a year has already been questioned as it is liable to result in excessive coverage of socially advanced classes.
- **Bringing in an artificial criteria:** Economic criteria as the sole basis for understanding discrimination has been rejected by scholars as there are no observed instances of deprivation or discrimination solely on the ground of economic standing. However, caste based discrimination still persists in India.

Considering the potential of the 103rd constitutional amendment in redefining welfare in India, more detailed data and guidelines for identifying the most genuine target groups are crucial to ensure that extremely needy individuals get benefits of this policy. Continuous evolution of conceptual framework is necessary to ensure that affirmative actions are increasingly inclusive in capturing backwardness.

12. To what extent, in your opinion, do India's federal inter-governmental institutions provide a crucial platform of communication and dialogue for the Center and states to address the outstanding issues of governance? (Answer in 250 words) 15

Approach:

- Introduce by writing briefly about federal inter-governmental institutions.
- Bring out the role of federal inter-governmental institutions in addressing the outstanding issues of governance.
- Highlight the challenges being faced in this regard.
- Conclude accordingly.

Answer:

Federal inter-governmental institutions refer to the mechanisms and channels of communication between the different levels of government in a federal system- Central, state and local governments, essential for coordinated governance. These institutions provide a crucial platform of communication and dialogue for the federal actors in India to address the outstanding issues of governance as given below:

- **Foster cooperative federalism:** Such institutions create a strong institutional framework to promote and support cooperative federalism in the country. They facilitate consideration of all pending and emerging issues of Centre State and Inter-State relations. For example, role of the **Inter-State Council** in facilitating dialogue and discussion towards resolving interstate water disputes.

- **Provide the strategic policy vision:** Some institutions play a key role in drafting a shared vision of national priorities and strategies, with the active involvement of States and in shaping the development narrative. For example, the role of **NITI Aayog** in preparing a 15-year road map, 7-year vision, strategy, and action plan.
- **Regional development:** Such institutions ensure balanced socio economic development of the respective zones and provide a common meeting ground in each zone for ensuring resolution of inter-state problems and building harmonious union-state relations. For example, the role of **Zonal councils**.
- **Fiscal federalism:** Institutions like the **GST Council** meet periodically to deliberate and decide on various issues such as tax rates, exemptions, thresholds, and administrative procedures related to GST. For example, resolution of the issue of compensation mechanism to address the revenue loss due to GST rollout.

Despite this, there are some challenges which inhibits the role of federal inter-governmental institutions in addressing the outstanding issues of governance as given below:

- **Lack of regular meetings:** Since its constitution in 1990, the Inter-State Council has met only 11 times, although its procedure states it should meet at least three times every year.
- **Lack of political will:** Differences in political interests and ideologies often lead to a lack of consensus and cooperation, making it challenging to address federal issues effectively.
- **Lack of proper debates and discussions:** Some opposition-ruled states raised concerns over the recent inclusion of Goods and Services Tax Network (GSTN) under the purview of the Prevention of Money-laundering Act (PMLA) without any formal discussion in the GST Council.
- **Trust Deficit:** Trust Deficit among the Centre and opposition ruled states often undermine the effectiveness of such institutions and can hinder cooperation and lead to confrontations rather than collaborative problem-solving. For example, CMs of 11 states didn't attend NITI Aayog's 8th Governing Council Meeting.

For utilizing the potential of these institutions, efforts should be made to fix the time interval for the meetings, providing clarity in mandate of these institutions, forming groups on the lines of Empowered group of ministers, bringing these bodies under direct supervision of Rajya Sabha and ensuring political will to transcend political differences to resolve outstanding issues of governance.

13. ***"The PESA Act of 1996 established the Gram Sabha as the primary vehicle of local governance in Scheduled Areas." Discuss the challenges faced by Gram Sabhas in Scheduled Areas. What steps need to be taken to improve their functioning? (Answer in 250 words)*** **15**

Approach:

- Define Grama Sabha under the PESA Act in the introduction.
- Briefly outline the roles and responsibilities of the Gram Sabha under the PESA Act.
- Mention the various challenges faced by the Gram Sabha and suggest ways to improve its functioning.
- Conclude accordingly.

Answer:

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA Act) extends the Constitutional provisions in Part IX concerning the Panchayats to Scheduled Areas specified in Article 244(1). Governed by the Fifth Schedule, these areas are given the right to self-governance through Gram Sabhas. The Act defines Gram Sabha as a body of individuals listed in the electoral rolls of a village or group of villages within the area of the Panchayat.

Gram Sabhas as the primary vehicles of governance in Scheduled Areas:

- The PESA Act **empowers Gram Sabhas to approve development plans** for their village and identify beneficiaries for various schemes, ensuring local participation and targeted welfare.
- The Act **grants Gram Sabhas control over minor (non-timber) forest resources**, minor water bodies, and minor minerals, promoting sustainable and equitable utilization of natural resources.

- The Act **enables Gram Sabhas to prevent land alienation, safeguarding the rights of tribal communities** over their ancestral lands and preserving their cultural heritage.
- The Gram Sabhas have the **power to manage local markets, promoting fair trade practices, protecting local producers**, and regulating the manufacture, storage, and sale of intoxicants in the village, prioritizing public health and safety.

Despite their significance, the Gram Sabhas face several challenges with regard to their functioning in Scheduled Areas. **These include:**

- **Lack of awareness:** Low level of awareness among Gram Sabha members about their rights and responsibilities frequently leads to diminished participation and underutilization of powers, especially in matters concerning land acquisitions and conservation of forest.
- **Geographical isolation:** The geographical spread and lack of connectivity in tribal areas present significant challenges for people belonging to less populated areas to participate in Gram Sabha meetings, as they are typically held in areas with higher populations.
- **Resistance from the bureaucracy:** The entrenched bureaucracy often resists devolving power to Gram Sabhas, making it difficult for the latter to fully exercise their functions and powers under the PESA Act.
- **Inequality in participation:** Grama Sabha meetings are generally male-dominated and undocumented, leading to irregular gatherings and exclusion of women's voices.
- **Political interference:** Political interference often impedes the autonomous functioning of Gram Sabhas, particularly in aspects such as fund availability, utilization, and identification of beneficiaries.
- **Poor implementation of resolutions:** Lack of clear guidelines and lack of dedicated push by the state governments often lead to poor implementation of Gram Sabha resolutions.

Measures for empowering Gram Sabhas in Scheduled Areas:

- **Enhancing participation:** Initiating comprehensive awareness programmes about their rights and responsibilities can help in promoting active participation of Gram Sabha members. Further, facilitating easy and equal access to Gram Sabha meetings by organizing them at the hamlet level will allow residents from remote areas to participate more actively and discuss their specific issues.
- **Transparency and accountability:** There should be an emphasis on record-keeping and documentation, enabling transparent governance, maintaining welfare scheme registers, social maps, and resource maps to ensure accountability.
- **Capacity building:** There should be a focus on providing training and organizing capacity-building programmes for Gram Sabha members, particularly women, to enhance their skills in conducting meetings, documentation, and assertively representing their concerns.
- **Effective implementation:** Monitoring mechanisms should be established to hold state authorities and the bureaucracy accountable for devolving power to Gram Sabhas in Scheduled Areas, ensuring transparency and compliance with the PESA Act.

Harnessing the full potential of the Gram Sabhas in Scheduled Areas can lead to inclusive and participatory local governance, can empower tribal communities, promote sustainable development and ensure "Sabka Saath Sabka Vishwas".

14. "The Supreme Court has declared access to Internet as a fundamental right but the government still imposes frequent Internet bans to maintain public order." Comment. (Answer in 250 words)

15

Approach:

- In the introduction, mention about right to access the Internet as a fundamental right.
- Briefly highlight the frequent Internet bans by the government and the rationale behind it.
- Highlight the problems with respect to internet bans.
- Suggest measures to overcome these problems.
- Conclude appropriately.

Answer:

In 2016, the **United Nations Human Rights Commission (UNHRC)** articulated access to the Internet as an **essential human right**. The Supreme Court of India has also declared the right to access the Internet as a **fundamental right under Articles 19 and 21** of the Indian Constitution in various cases such as **Anuradha Bhasin case 2020, Faheema Shirin case 2019, etc.**

Still, in the recent past, the Indian government has increasingly used Internet shutdowns to control law and order in states like **Jammu and Kashmir (J&K), Manipur and Punjab**. Between 2016 and 2022, **60% of Internet shutdowns across the world took place in India**.

Internet shutdowns are exercised by the government citing various reasons such as **maintenance of law and order, protection of national security, prevention of misinformation etc.** While these reasons behind Internet bans by government may be well-intentioned, the frequent imposition of internet bans is problematic due to following factors:

- **Impact on basic rights**
 - **Right to livelihood:** The frequent internet shutdowns are harming sectors primarily dependent on internet services such as e-commerce, tourism, and I.T. services; thus restricting fundamental rights under Article 19(1)(g) of the Indian Constitution as per the Supreme Court of India in the Anuradha Bhasin case 2020.
 - **Right to life and liberty:** According to the Supreme Court in Faheema Shirin case 2019, internet access plays a key role in accessing information and has a close link to education and knowledge. Thus internet bans restrict the fundamental right to life and liberty, as well as privacy under Article 21 of the Indian Constitution.
- **Disproportionate bans:** The Internet has often been suspended on unsubstantial grounds, such as to stop cheating while conducting examinations in Rajasthan and West Bengal. The adverse impact caused by such suspensions outweighs any speculative benefits.
- **Lack of adequate safeguards:** The lack of a sufficient framework and safeguards is the major reason for frequent internet suspension.
 - The **internet shutdowns are still being imposed under Section 144** of the Code of Criminal Procedure, 1973 despite the enactment of the Suspension Rules in 2017. Decisions under Section 144 are taken at the District Magistrate level rather than the Home Secretary level and it also does not contain the procedural safeguards provided under Suspension Rules.
 - Moreover, the oversight of Internet suspension under Suspension Rules also, is to be exercised by a Review Committee, which is empowered only to “record its findings” and not set aside an illegal suspension order, thus making it a **toothless committee**.

The frequent Internet shutdowns are a ‘drastic measure’ with high social and economic costs and are often ineffective. Hence it may be imposed only if it is lawful, necessary, and proportionate.

Following measures can be adopted in this regard:

- **Laying down a clear principle of proportionality and procedure** for lifting the shutdown to prevent any abuse of the suspension rules.
- **Making the composition of oversight review committees more inclusive** by including non-official members such as retired judges and public members.
- **Selective restriction of specific services** instead of a blanket shutdown.
- **Statutory recognition must be provided to the directions laid down by the Supreme Court in Anuradha Bhasin case 2020**, by incorporating them in Indian Telecommunications Bill, 2022.

Today, the Internet is the most widely used and accessible medium for exchanging information. Hence, the current legal regime governing internet shutdowns must be overhauled to place greater emphasis on transparency and accountability.

15. *"The presence of the anti-defection law has undermined democracy by inhibiting legislators from exercising their choice and ability to function independently, and restricted decision making in legislatures to a few who control political parties." Critically examine. (Answer in 250 words)* 15

Approach:

- Give a brief introduction about Anti-Defection Law.
- Discuss how this law has undermined democracy.
- Highlight the positive side of anti-defection law.
- Conclude accordingly

Answer:

The Tenth Schedule of the Constitution of India, also known as the anti-defection law, was added by the 52nd Amendment Act to prevent political defections. It punishes individual members of Parliament and State Legislative Assemblies for leaving one party for another.

Though the rationale to curb such defections was to bring stability to the government by discouraging legislators from changing parties and safeguarding voter mandate, **the presence of the anti-defection law has undermined democracy in the following ways:**

- **Inhibition of legislators' choice:** Anti-defection law limits a legislator from voting according to his conscience, judgement and electorate's interests. The members vote based on the decisions taken by the party leadership, and not what their constituents would like them to vote for. This breaks the link between the elected legislator and his elector.
- **Weakening of legislative independence:** As MPs/MLAs vote based on directions on political parties, it does not provide sufficient incentive to an MP or MLA to examine an issue in-depth and ponder over it to participate in the debate, making their oversight role redundant.
- **Concentration of power in party leadership:** The law has led to an increase in the concentration of power within the hands of party leadership. Since legislators risk losing their seats and being disqualified for voting against the party line, party leaders exert significant control over the decisions of individual lawmakers.
- **Controversial role of the Speaker:** There have been instances where non-impartial and partisanship role of the Speaker has been criticised for disqualification of MLAs under the anti-defection law.

However, the law has led to certain positive changes as well:

- As elected representatives are bound to vote in line with the party's decisions, it **encourages party discipline and reduces the chances of internal divisions and infighting.**
- It has to some extent **prevented defections** motivated by the lure of office or material advantages or other such considerations.
- The anti-defection law has tried to bring about a **sense of loyalty** of the members towards their own party.

The law in intent is reasonable but due to some loopholes, it has not been able to achieve its objectives. Thus, some measures need to be undertaken such as the decision to disqualify a member should be made by the President (in case of MPs) or the Governor (in case of MLAs) rather than the Presiding Officer; advice of the Election Commission of India should be sought; and defectors should be barred from holding public office or any remunerative political post for the duration of the remaining term.

16. *In what ways does the interpretation of the right to freedom of speech and expression in India differ from that in the USA? Discuss with the help of case laws. (Answer in 250 words)* 15

Approach:

- Briefly introduce by explaining the position of the right to freedom of speech and expression in both India and USA.

- Highlight the differences in interpretation of this right in the USA and India with examples of case laws.
- Conclude accordingly.

Answer:

The right to freedom of speech and expression has been provided a wide recognition as Fundamental Rights in both India and USA. The US Constitution expressly forbids Congress from abridging freedom of speech through the First Amendment. Similarly, the Constitution of India also guarantees it under Article 19.

Despite the similarities, the interpretation of the right to freedom of speech and expression in India differ from that in the USA in the following ways:

- **Scope of protection:** In the USA, the First Amendment to the Constitution provides strong and broad protection for freedom of speech, covering not just political speech but also commercial speech, artistic expression, and even offensive speech unless it falls under certain specific categories like incitement to violence or obscenity.
 - The landmark case of **Texas v. Johnson (1989)** exemplifies this broad protection. In this case, the US Supreme Court held that flag burning as a form of political protest is protected speech under the First Amendment.
 - However, **in India, this right is subject to reasonable restrictions** outlined in Article 19(2), which cover areas like public order, defamation, incitement to an offense, and decency and morality.
- **Press and Freedom of Speech:** In the USA, freedom of the press is explicitly protected under the First Amendment to the Constitution while in India, it flows from the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution.
 - The US legal system gives the Press absolute freedom whereas in India it is more of a right, which extends to certain levels and the restrictions are well defined.
 - In India, the judiciary has to intervene on a case to case basis to protect freedom of press against legislative or executive action. For example, the recent **Media One case** where the Supreme Court cancelled Media One Channel Ban.
- **Hate speech:** Unlike the US Constitution, the Indian Constitution allows the government to restrict hate speech especially when it comes to deliberately insulting religious beliefs.
 - The Supreme Court of India in **Amish Devgan case** refused to quash multiple FIRs against journalist Amish Devgan for his alleged defamatory remarks against Sufi saint Khwaja Moinuddin Chisti, observing that persons of influence owe a duty and have to be more responsible.
- **Obscenity:** Both nations permit restriction of obscenity. But the interpretation as to what constitutes obscenity differs in both countries. For example:
 - **In Ranjit D. Udeshi vs. State of Maharashtra**, the Supreme Court upheld a conviction for printing and selling an unexpurgated copy of Lady Chatterley's Lover, which is explicit in its graphic depiction of sex.
 - **Whereas in the USA, standard for obscenity is decided** based on whether material appeals to prurient interests and whether material lacks serious literary, political, artistic or scientific value (**Miller Case**).

Both the countries have remarkably protected this right for their citizens. The real difference in the freedom of speech enjoyed in the United States and India is a question of degree. This difference in degree is attributable to the reasonable restrictions provision and the moral standard of the communities.

17. *Discuss the role played by the State Finance Commissions (SFCs) in empowering the local governments in India. What reforms are needed to make them more effective? (Answer in 250 words)* 15

Approach:

- Write a short note on State Finance Commissions (SFCs) including their mandate in the introduction.
- List the role of SFCs in empowering the local governments.
- Mention the reforms that can be taken to make them more effective.
- Conclude accordingly.

Answer:

State Finance Commissions (SFCs), envisaged as an important vehicle of fiscal decentralization, are created under articles **243(I)** and **243(Y)** to strengthen and augment the financial resources of local bodies by addressing the problems of vertical and horizontal imbalances faced by them.

Role of SFCs in Empowering Local Governments in India:

- **Devolution of Finances:** The SFCs recommend the distribution between the State and Local Bodies of the net proceeds of Taxes levied by the State and inter-se allocation between different Panchayats and Urban Bodies,
- **Financial Powers:** The SFC recommends the determination of Taxes, Duties, Tolls, and Fees, which may be assigned to or appropriated by PRIs and ULBs.
- **Grants-in-Aid:** SFCs recommend the extent of Grants-in-Aid to be allocated to the local bodies from the Consolidated Fund of the State.
- **Strengthen the Fiscal Position:** The SFCs recommend measures to improve the financial position of the local bodies.
- **Assess the Fiscal Position of the State Governments:** As the finances are to be devolved from the State to the local bodies, the SFCs assess State Finances and suggest measures for their restructuring and make projections of revenue and expenditure of the State for the next five years.

Thus, the SFC recommendations have the potential to bring stability and predictability to the transfer mechanism and flow of resources to the third tier. However, there are various factors that impact their efficient and effective functioning:

- **Delay in the Constitution of SFCs by States:** Despite the constitutional obligations to constitute SFCs every five years, **only 9 states** have constituted their 6th SFC while another 7 have constituted their 5th SFC in 2022. These delays affect the predictable flow of resources to the local governments and the delivery of public services.
- **Lack of Quality Data:** According to the Union Finance Commission, lack of data hampers the working of SFCs and every time an SFC is constituted, it has to start from scratch to collect data.
- **Delay in Report Submission by SFCs:** An analysis of available reports in 2019 showed that the average time to submit is 32 months, resulting in an average delay of 16 months due to a lack of adequate infrastructure and supporting logistics. This leads to a delay in the submission of the Action Taken Report (ATR) and subsequent constitution of the SFCs.
- **Lack of Uniformity in distribution:** Despite more or less clear Terms of Reference, SFCs have adopted **different definitions of the divisible pool of resources** to calculate the revenue sharing between the States and the local bodies (vertical devolution). Also, the **percentages of devolved resources** vary across States and at levels of the local bodies (Horizontal devolution).
- **Lack of Implementation:** Unlike the Union Finance Commission, where the Union Government accepts nearly all recommendations, there are instances of States rejecting even basic requests. However, even when the recommendations are accepted, the States fail to implement them.

For SFCs to function as an institution to promote decentralization and empower local bodies to function as units of self-government, it is essential political willpower is displayed to devolve powers and resources to the local levels in adherence to the constitutional obligations.

18. *A democracy requires a system of checks and balances to prevent the arbitrary use of power by the elected government of the day. In this light, discuss the role played by the Comptroller and Auditor General of India. What reforms are needed to make the CAG more effective in carrying out its responsibilities? (Answer in 250 words)* 15

Approach:

- Briefly mention about the system of checks and its need in a democracy.
- Discuss the role played by the CAG in ensuring checks and balances in the Indian democratic setup.
- Highlight the issues faced by the CAG and suggest the reforms that will make the CAG more effective.
- Conclude appropriately.

Answer:

A system of checks and balances is crucial in a democracy as it prevents the arbitrary use of power, protects individual rights, promotes accountability, balances competing interests, ensures effective governance, and safeguards against tyranny. In India, the office of the Comptroller and Auditor General (CAG), under Article 148 of the Indian Constitution, plays a crucial role in checking the arbitrary use of power by the government.

CAG and System of Checks and Balances

- **Legal and regulatory audit:** CAG audits accounts are related to all expenditure from the consolidated fund, contingency fund and public account of the Union, states and Union Territories (those having such fund). It checks if the money was legally available and approved for spending by requisite authorities and spent on the activities for which it was sanctioned.
- **Propriety audits:** CAG also looks into wisdom, faithfulness and economy of government expenditure and comment on wastefulness and extravagance of such expenditure. Thus, challenging any improper exercise of discretion.
- **Performance cum efficiency audit:** The CAG makes comprehensive appraisal of the progress and efficiency of the execution of development programmes and whether social and economic objectives are met.
- **Accountability to the Parliament and people:** The CAG reports are laid before the Parliament and state legislatures respectively. These reports are extensively scrutinized by the Public Accounts Committee (PAC) and the CAG assists them with the same.

However, there are certain issues that hampers the effectiveness of the CAG. The audit of the CAG is limited to documents submitted to it, thus limiting its ability to verify the facts mentioned in the documents. It only performs the audit after the resources have been used. It cannot play a proactive role as done in the UK. Most importantly, there is no prescribed qualification for the post and the appointment process lacks transparency.

To increase the effectiveness of the CAG and address the issues affecting it, the following reforms are needed:

- **Multi-Member Body:** Given the vastness of the country and the increasing size of government budgets and programs, there is a need to transform the CAG into a multi-member body, similar to the Audit Commission of Japan.
- **Technical Expertise:** Making expertise in auditing, accounting, and financial management a mandatory criteria in the recruitment rules for the CAG will ensure that individuals appointed to the role possess the necessary qualifications and skills.
- **Transparent Appointment Process:** The appointment of the CAG should be made through a transparent process through a committee similar to the CVC and NHRC.
- **Role as an Officer of the Parliament:** The CAG can be designated as an Officer of the Parliament to grant him the right to speak in the Parliament and defend his reports, elevating their position and enhancing their role in upholding accountability and transparency.
- **Greater Clarity on Auditing Powers:** Every public entity, which is controlled by the government or handles public funds and resources should be brought under the ambit of CAG audit.

Given the centrality of the office of the CAG in ensuring financial management, accountability, and transparency in the democratic system, it is critical that reforms are carried out to make the CAG more credible democratic institutions in the country.

19. Critically examine whether the measures to enhance the functioning of the Urban Local Bodies (ULBs) have been effective in improving local governance in India. (Answer in 250 words) 15

Approach:

- Outline the constitutional provisions related to ULBs in the introduction.
- Mention the measures that have been taken to improve the working of these institutions.
- Briefly mention the positive outcome of these measures
- Examine the limitations of these measures.
- Conclude accordingly

Answer:

The **74th Amendment Act of 1992** provided constitutional status to ULBs. **Article 243Q and 243W of the Indian Constitution** outline the establishment, powers, and functions of ULBs. The philosophy behind ULBs emphasizes democratic governance, citizen empowerment, and accountability.

Several measures have been implemented to enhance the functioning of ULBs:

- Provision of State Election Commissions to conduct free and fair elections on regular basis.
- The Twelfth Schedule of the Constitution of India lists 18 subjects for functional devolution.
- Provision of State Finance Commission (SFC) to determine the sharing of funds from the State Consolidated Fund.
- Establishment of Metropolitan Planning Committee (MPC) for preparing a draft development plan for the metropolitan area as a whole.
- Reservation of seats for the STs, SCs and women to ensure wider representation.
- Provision of wards committees to act as a bridge between the municipal government and citizens.

The 74th Amendment Act of 1992 have in many ways opened up the democratic spaces by bringing new voices and issues to the fore. The sheer number of elected representatives at the third tier is a testimony to the legitimisation of local governance. The most noteworthy development is significant women's representation in local bodies. Studies have shown that increase in women's representation has had a net positive impact on the delivery of local public goods to marginalised communities.

However, there exist several challenges that act as a hurdle in the effective functioning of ULBs:

- **Lack of Functional Devolution:** Devolution of functions and powers listed under the Twelfth Schedule has been inadequate in most of the states. In many states key functions like roads, water supply, and urban planning is still controlled by state governments. For example, in Karnataka, ULBs have complete control of only 3 subjects out of the 18.
- **Lack of Financial Devolution:** Despite constitutional mandate, states do not constitute SFCs in a timely manner. Even when an SFC is constituted, it faces issues like resource constraints, lack of accurate and updated data, and their reports are often ignored by states.
- **Absence of Metropolitan Planning Committee (MPC):** Though Article 243 ZE provides for the establishment of MPC, many states have not yet operationalized it. For example, in March 2023, Kerala High Court had to direct the State government to constitute an MPC within four months.
- **Overlapping Functions:** ULBs across the country lack autonomy in city management and several city-level functions are managed by parastatals (managed by and accountable to the state). Overlapping of many functions between state agencies and local government leads to erosion of autonomy at the local level.
- **Bureaucratic Control:** In States like Tamil Nadu and Gujarat, and cities like Chennai and Hyderabad the executive power lies with the Commissioner, which dilutes the role of the Mayor and violates the spirit of self-governance.

- **Non establishment of Ward committees:** They aim for citizen participation in local level planning, ensure proper utilisation of allotted funds, and maintenance of public utilities. But the Ward Committees are not constituted in most of the states.

Thus, to truly empower ULBs and strengthen local governance, concerted efforts are needed. The states governments should devolve finances, functions, and functionaries to local bodies in order to ensure decentralized and inclusive urban development.

20. To what extent, in your opinion, can the recommendations of the 15th Finance Commission contribute to fostering accountability and promoting effective governance at the grassroots level in India? (Answer in 250 words) **15**

Approach:

- Briefly mention about the 15th Finance Commission (FC) in the introduction
- Discuss the recommendations of the 15th FC that can increase accountability and good governance at grassroot level.
- Briefly highlight limitations of the 15th FC recommendations in this regard.
- Conclude accordingly.

Answer:

The Finance Commission is a constitutional body provided under Article 280 of the Indian Constitution. The 15th Finance Commission (FFC), has made important recommendations which can promote accountability and effective governance at grassroots level.

Fostering accountability and promoting effective governance:

- **Entry-level Condition for Availing the Grants:** To be eligible for grants, the urban local bodies have to mandatorily prepare and provide in public domain the duly audited accounts.
- **Timely Release of Grants:** To reduce delays and ensure efficient fund utilization at the local level it has recommended that states shall transfer grants-in-aid to the local governments within ten working days of having received them from the Union Government. Further, the grants recommended for rural local bodies shall be released in two equal instalments each year in June and October.
- **State Finance Commission (SFC):** It recommended that all States must constitute SFCs, act upon their recommendations and lay the action taken report before the State legislature on or before March 2024. No grants should be released to a State that has not complied with the Constitutional provisions in respect of the SFC and these conditions.
- **Urban Agglomerations-centric Approach:** In view of the country's differentiated urbanisation pattern, it has accorded differential treatment to the urban agglomerations with more than one million population. The states will entrust one urban local body as the nodal entity to receive the grants for all the areas within the urban agglomeration. This nodal entity will have the responsibility of achieving the performance indicators for the entire urban agglomeration.
- **Grants for creation of Shared Municipal Services centres:** It has recommended a grant of Rs. 450 crore for the creation of Shared Municipal Services Centres. It will deal with services, which can be shared among a cluster of smaller urban local bodies. For example, issue of birth/death certificate, payroll processing, etc.

While the recommendations of the FFC have several positive steps as described above, there are also some critical lacunae and limitations that need to be addressed:

- **Reduction in allocation:** It has reduced the allocation for performance-based grants (introduced by 13th FC) to just 8,000 crores, primarily for building new cities, neglecting the Panchayati Raj Institutions (PRIs).
- **Issues with reporting:** An important recommendation of the 15th FC is the entry-level criterion (online submission of annual accounts) to avail the grants. But, neither the 15th FC nor the earlier counterparts examined the issues pertaining to the financial reporting system.

- **Reliance on 2011 population figures:** The Commission has solely relied on the 2011 population figures. This would discriminate against states such as Kerala that have a better record of controlling population growth and reducing their share in the national population.
- **Failure in examining Centre's Revenue Stream:** The 15th FC's has failed to critically examine the tax record of the centre. The centre has increasingly relied on cesses and surcharges to subvert the awards of past FCs and make up for the fiscal losses it suffers. Since revenues from cesses and surcharges are not required to be shared with the states, an increasing reliance on them reduces the share of the centre's tax revenues that accrue to the states.

The recommendations of the 15th FC provide a good foundation for improving governance at the grassroots level in India. The state governments will have to ensure effective implementation of these recommendations.