

## ④ Gender Justice

[ Sabrina Judgement  
Shayara Bano - Triple Talac ]

## ⑤ Expanding horizons of Rights

- Common Cause Case -
- Privacy Judgement

### Nature of the consti

#### - STAKEHOLDER APPROACH

- Organs of state - L, E, J.
- Individual / citizens
- Society - Women, trans, LG, LGBT, children.
- Env.

### Conclusion

may forward

#### Definition

Issues

#### Judicial overreach

↳ SOP

Top down  
Approach

↳ Excessive Excesses

↳ democracy

↳ Res. govt.

↳ Decline of par

↳ 'WZCC', Rep. demo

2022 "The most significant achievement of modern law in India is the constitutionalization of environmental problems by the Supreme Court."  
Discuss this statement with the help of relevant case laws.

Intro → Aligning Env. issues with consti. principles like A 21 (Right to life &

P.L.).

quote → [Living & revolutionary document with dynamism & adaptability] SC by expanding scope of F.R. VIA 21 by providing

Env. rights.

Constitutionalization of Env problems

① M.C. Mehta v UOI

- Polluter pays principle.

② Subhash Kumar v. Bihar

Right to healthy env  
part of P.L & P.L VIA 21.

③ Vellore Citizen welfare forum  
- 'precautionary principle'

Q.1) Freedom of speech and expression goes well beyond spoken words and written texts; however, neither the right enjoyed by citizens, nor the power of the State to impose restrictions is absolute. Analyze. (10 Marks, 150 words)

वाक् एवं अभिव्यक्ति की स्वतंत्रता बोले गए शब्दों और लिखित ग्रंथों से बहुत आगे तक जाती है; हालाँकि, न तो नागरिकों द्वारा अधिकार का उपयोग और न ही प्रतिबंध लगाने की राज्य की शक्ति अनन्य है। विश्लेषण करें। (10 अंक, 150 शब्द)

Art 19(1)(a) of Part III of the Indian Constitution stresses on the fundamental right of freedom of speech and expression as the sine qua non of a functional democracy.

It goes beyond spoken words & written texts to include :

- 1) The right to remain silent
- 2) The right to dissent - impose accountability on government  
 (Free role of media (4th Pillar of democracy))
- 3) The right to protest peacefully.

However, it can be subject to reasonable restrictions in the interest of public order, security, sovereignty, friendly relations etc (Art 19(2)).

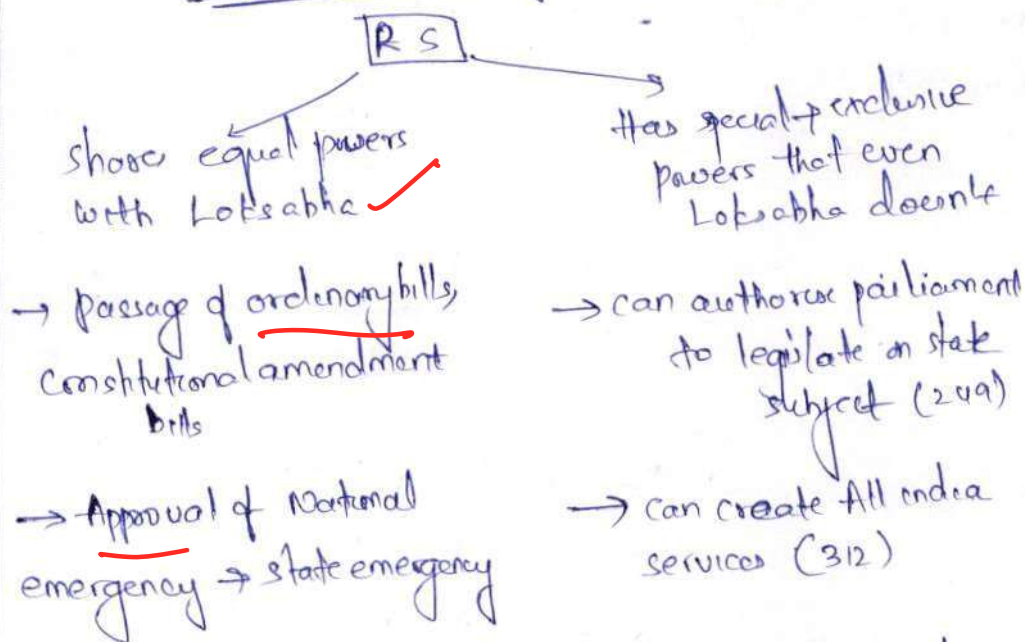


7. The Rajya Sabha is merely a secondary house rather than a second house in the Indian Parliamentary system. Critically analyze the statement. Also, compare and contrast the position of the Rajya Sabha vis-à-vis the State legislative councils. (150 words) (10)

भारतीय संसदीय प्रणाली में राज्यसभा वस्तुतः दूसरा सदन होने के स्थान पर एक द्वितीयक सदन मात्र है। इस कथन का आलोचनात्मक विश्लेषण कीजिए। साथ ही, राज्य विधान परिषदों के मुकाबले राज्यसभा की स्थिति की तुलना कीजिए और अंतर बताइए।

Unlike the state legislative council which is a secondary chamber, Rajya Sabha is a truly second chamber of parliament sharing ~~equal~~ powers with Lok Sabha in ordinary → extraordinary circumstances.

Rajya Sabha is not merely a secondary house because :-



However RS enjoys lesser powers in case of

- > Money bills ✓
- > Securing accountability of executive for ex. NCM cannot be passed in RS.

BALANCE

Context

1243

VISION IAS™

no equal  
repr

p48

Don't write  
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(इस भाग में  
कुछ ना लिखें)

13. In the light of criticism surrounding the composition and functioning of Rajya Sabha, do you think it exists merely as a secondary house of the Parliament? limitations (250 words) 15

राज्यसभा की संरचना और कार्यप्रणाली से संबद्ध आलोचना के प्रकाश में, क्या आप मानते हैं कि इसका अस्तित्व केवल संसद के एक द्वितीयक सदन के रूप में है?

Context

Vice President Venkiah Naidu expressed concern over the falling productivity of the Rajya Sabha over the years.

Importance of the Rajya Sabha

(i) Bicameral Legislature provides for checks and Balances on the hasty decisions.

(ii) House of elders rightly called, it strengthens the cooperative federalism with state's representation.

(iii) Equal powers with respect to ordinary Bills., constitution Amendment Bills.

(iv) Exclusive powers to create the ALS (A-312) and A-249 - the power to Parliament to legislate over the State List.



13. In recent times, there have been demands from various states either for the creation or abolition of legislative councils. In this context, write a note on the composition of the legislative council, and the rationale for its creation. Critically Analyse the effectiveness of legislative councils as the second house. (15 Marks, 250 Words)

उम्मीदवारों को इस  
हार्गिण में नहीं  
लिखना चाहिए  
Candidates  
must not  
write on  
this margin

13.

legislative Council are created by the Parliament on the demand of the state. Recently, West Bengal made a demand for its creation.

### Composition of legislative Council

1.  $\frac{1}{3}$ rd are elected from Municipality and Panchayats
2.  $\frac{1}{3}$ rd are nominated by the governor (on advise of executive) <sup>Teacher Body</sup>
3.  $\frac{1}{6}$ th are represented from <sup>Student organisation</sup>
4.  $\frac{1}{6}$ th are nominated on basis of Art, literature, social service, science and cooperatives.

Answer all the questions in NOT MORE THAN 200 words each. Content is more important than its length. All questions carry equal marks.

(12½ x 20 = 250 Marks)

1. What are the checks on Parliamentary sovereignty in India? Do you think judicial activism poses a threat to the free working of Parliament? Justify your answer.

Parliamentary Sovereignty refers to the independent and autonomous nature of Parliament to legislate on matters of importance. Constitution of India provides parliamentary sovereignty through:

① Articles 246, 247: They mention the extent of application of Parliamentary laws throughout territory of India. They also mention

② Schedule 7: Mentions subject list in which Parliament is competent to legislate.

Eg: Law & order → State subject; international agreements → Union subject.

Checks on Parliamentary Sovereignty

① Judicial Review — Constitution empowers Supreme Court



4. Discuss the need for codification of parliamentary privileges in India, in light of the uncertainty and ambiguity around them. (150 words) 10

भारत में संसदीय विशेषाधिकारों के बारे में अनिश्चितता और अस्पष्टता के अलावा, उनके संविदाकरण की आवश्यकता पर चर्चा कीजिए।

## PARLIAMENTARY PRIVILEGES

to MPs and MLAs provide autonomy in their actions and immunity from proceedings in legislatures.

U/A 105 and 194 → individual privileges to MPs & MLAs

↓  
Freedom of speech

and arrest from civil cases.

Further, constitution provides for addition of any privilege through statute, but hasn't been codified yet.

### Need for codification:

- ① Blatant misuse by disrupting parliamentary proceedings

(eg.) Adjournment sine die of RS in January 2022.

- ② Blanket Protection to speech used → leads to disruption of



sanctity of the house.

③ High percentage of criminals  
Criminalisation of politics → 43%  
in 17<sup>th</sup> LS → evade <sup>civil case</sup> arrest and  
disrupt judicial proceedings.

④ To act as checks and balances  
towards MPs and MLAs and ensure  
accountability measures

⑤ To preserve RTI and apprising  
citizens of their representatives  
in legislatures.

⑥ To protect and prevent misuse  
of privileges.

⇒ codification is necessary.

Privileges to MPs and MLAs must  
be tandem with SC's judgement  
as there being 'not absolute'  
and used in good and positive  
sense.

\* Challenges  
- No poll  
- open-ended  
- provided  
more power



3. Identify the issues that have contributed to a decline in the performance of Parliamentary Standing Committees. How can these issues be addressed? (150 words) 10

उन मुद्दों की पहचान कीजिए जिन्होंने संसदीय स्थायी समितियों के प्रदर्शन में गिरावट में योगदान दिया है। इन मुद्दों का समाधान कैसे किया जा सकता है?

In the recent Lok Sabha session, most of the bills passed without referring to parliamentary committees - showcases the decline in performance.

Issues contributing to the decline

- 1) Lack of Parliamentary oversight  
→ Opposition parties hardly utilise the platform to ask for committee reference of bill.
- 2) Increased absency of members  
→ hasty passage of bills
- 3) Short tenure of one year of members of committee
- 4) Lack of adequate training to parliamentarians, who are committee members
- 5) Lack of political will power  
→ very less meetings of it's



members.

ways to address the issues

- 1) Increase the tenure of committees  
- as Venkata Naidu's 15 points charter  
on parliamentary reforms
- 2) Adequate training of members - through  
presentation of facts, case studies,
- 3) Helping members with research work
- 4) Public awareness about role of  
Parliamentary committees  
↓  
Increased pressure on Government to  
pass through committee stages
- 5) Impartial discussions within the  
committee.

~~Parli com~~ Committees play an  
important role in keeping checks  
against hasty decisions and by  
including all parties in discussions.  
They must be strengthened.

3. Identify the issues that have contributed to a decline in the performance of Parliamentary Standing Committees. How can these issues be addressed?

(150 words) 10

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Parliamentary standing committees are permanent committees to scrutinise the laws of the government and help parliament in having detailed and qualitative debates.



Issues that have led to decline in performance of Parliamentary committees

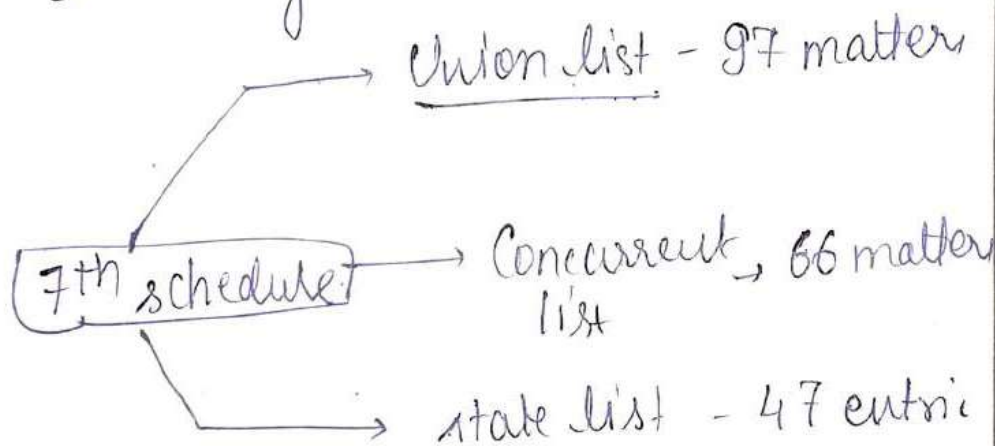
- Delay in formation of committees.
- Lack of allowances and incentives given to elected representatives who form part of committees.



13. Federal tensions in India highlight the need for reforming the Seventh Schedule through the addition, removal and appropriate placement of entries. Discuss. (250 words) 15

भारत में संघीय तनाव, प्रविष्टियों को जोड़ने, हटाने और उचित व्यवस्थापन के माध्यम से सातवीं अनुसूची में सुधार की आवश्यकता को रेखांकित करते हैं। चर्चा कीजिए।

Seventh schedule of constitution  
mentions legislative power of  
~~execut~~ state government and  
central government



42nd amendment removed entries  
from state list to concurrent  
list.

However, the present condition  
requires modification in 7th schedule  
for competitive and cooperative  
federalism

### Appropriate placement

- ① Mihir shah committee recommended to transfer water from state list to concurrent list for resolution of water disputes.
- ② land and agriculture may be shifted to concurrent list for reforms such as e-NIAM, APMC.
- ③ forests and environment can be better managed at local level so it should be shifted to state list.

### Addition

- ① Education in concurrent list should be bifurcated.