

UPSC Prelims- 2019

Indian Polity



Questions Asked



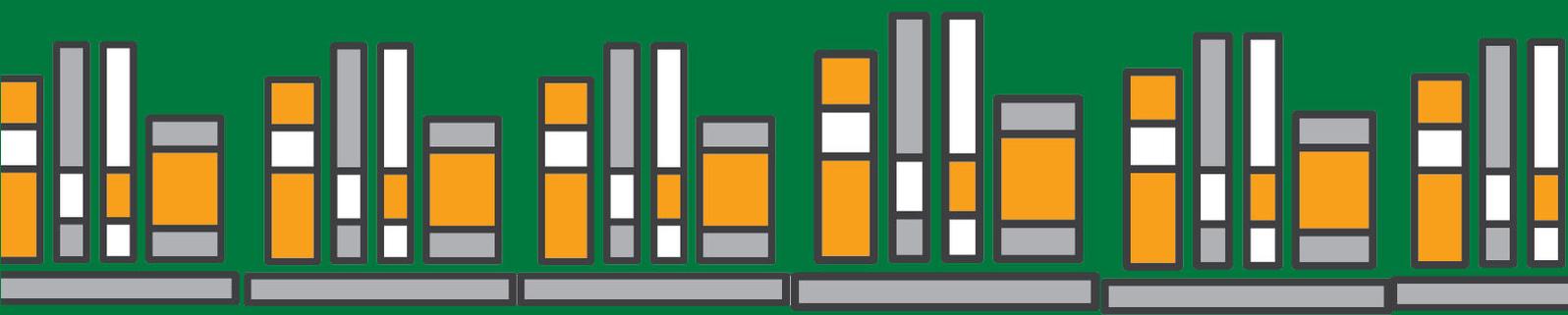
Detailed Solutions



Right Approach



PrepMate Indian Polity
Book Performance



1. In India, which of the following review the independent regulators in sectors like telecommunications, insurance, electricity, etc.?

1. Ad Hoc Committees set up by the Parliament
2. Parliamentary Department Related Standing Committees
3. Finance Commission
4. Financial Sector Legislative Reforms Commission
5. NITI Aayog

Select the correct answer using the code given below.

- (a) 1 and 2
- (b) 1, 3 and 4
- (c) 3, 4 and 5
- (d) 2 and 5

Sol.1 (a) 1 and 2

Source: PrepMate Polity book, Chapter 8, Page 143 and 144

This is an indirect question. This question requires understanding about the functioning of the mentioned bodies.

Statement 1 is correct: Ad Hoc Committees of parliament can be established to advice and enquire on particular matter. Thus, they can be established to review the independent regulators.

Ad hoc committees are of two types:

1. **Inquiry committees:** These are constituted from time to time either by the two houses or by the Presiding officer to enquire on particular subjects. For example, Bofors Contract, 2G Spectrum, etc. Inquiry committee can be a Select Committee or Joint Committee. Select Committee comprises members of one particular House and Joint committee or Joint Parliamentary committee consists of members of both the Houses. The representation in Joint Committee is given to various political parties based upon their representation in Parliament.
2. **Advisory committees:** These are constituted to report on particular matter. These committees provide detailed analysis of the matter. Advisory committee can also be Select or Joint Committee.

Statement 2 is correct: Parliamentary Department Related Standing Committees undertake review of functioning, accounts and bills of particular ministry/ department. Thus, they can also review the independent regulator pertaining to that particular department.

2. Departmental Standing Committees

There are 24 standing committees related to various ministries and departments of the Central Government. Each committee consists of 31 members (21 from Lok Sabha and 10 from Rajya Sabha). The members of Lok Sabha are nominated by Speaker and the members of the Rajya Sabha are nominated by Chairperson from amongst respective members of both the houses.

A Minister is not eligible to be a member of Departmental Standing Committee. Tenure of a member of Departmental Standing Committee is 1 year (same as that of a member of financial committees).

Departmental Standing Committee performs the following functions:

- (a) It **considers the demand for grants** made by particular department/ministry.
- (b) It **examines bills** related to a particular department/ministry.
- (c) It **considers annual report of ministry/department etc.**

Statement 3 is incorrect: Finance commission recommends division of funds between Centre and States. It does not review the independent regulators.

Statement 4 is incorrect: Financial Sector Legislative Reforms Commission make recommendations to bring reforms in financial sector.

Statement 5 is incorrect: Niti Aayog has undertaken various tasks such as adoption of best practices in government machinery, oversee performance of certain tasks, recommendations on certain issues, etc. However, it is not involved in review of independent regulators.

2. With reference to the Constitution of India, consider the following statements:

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

Which of the statements given above is / are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Sol. 2 (d) Neither 1 nor 2

This question can be answered by reading either PrepMate Indian Polity, Chapter 5, Page 43 or PrepMate Current affairs.

Statement 1 is incorrect: The Indian Constitution has established an integrated judicial system with the Supreme Court at the top and the state high courts below it. This single system of courts enforces and reviews both the Central laws as well as the state laws. Thus,

Courts including High Courts have the jurisdiction to declare any central law to be constitutionally invalid.

Alternately, there have been many instances in recent times when high courts have declared central law as constitutionally invalid.

Why are parties in Tamil Nadu against 10% quota? (Relevant for GS Prelims, GS Mains Paper II; Polity & Governance)

February 4, 2019

By Admin

What is their stand?

The **103rd Constitution Amendment**, through which the Centre has introduced a 10% quota for the economically weaker sections among communities that do not enjoy any other form of reservation, has drawn near universal opposition from almost all major parties in Tamil Nadu. When it was introduced as the 124th Constitution (Amendment) Bill in Parliament, the AIADMK, the ruling party in the State, and considered to be friendly towards the BJP, spoke out against it in both Houses of Parliament. Its MPs walked out during the vote. Kanimozhi, DMK MP, moved a motion to refer the Bill to a select committee, but it was defeated. R.S. Bharathi, organising secretary of the DMK, has challenged the amendment in the Madras High Court. The Viduthulai Chiruthaigal Katchi (VCK), an ally of the DMK, has moved the Supreme Court against it. D. Veerasekaran, an advocate who belongs to the Dravidar Kazhagam, has also **approached the High Court**.

Statement 2 is also incorrect: Supreme Court held in the Kesavananda Bharati case (1973) that a Constitutional amendment can be challenged on the ground that it violates the 'basic structure' of the Constitution and hence, can be declared as void.

Source: PrepMate Polity, Chapter 5, Page 43

6 AMENDABILITY OF FUNDAMENTAL RIGHTS

Supreme Court held in Kesavananda Bharati case (1974) that **Parliament can amend any part of the constitution including fundamental rights subject to 'Doctrine of Basic Structure' of the Constitution.**

Supreme Court has neither defined basic structure nor given any exhaustive list as to what comprises the basic structure of constitution. However, Supreme Court, in its various judgments, has mentioned that following provisions are a part of the basic structure of constitution:

1. Sovereignty of India
2. Secularism
3. Democracy
4. Republic
5. Free and fair elections
6. Judicial review, etc.

This list is inclusive and non-exhaustive in nature.

Further, Supreme Court has held that there can only be additions to the basic structure and no deletions can be made.

Even recently, Supreme Court has held 99th Constitutional amendment act which provided for NJAC as unconstitutional and void.

Source: PrepMate Polity, Chapter 8, Page 150

Present Status of NJAC

Supreme Court has held the 99th Constitutional Amendment Act as 'unconstitutional and void'.

The SC said that the appointment of judges cannot be shared with political-executive. The expectations from judiciary to safeguard the rights of citizens can only be ensured by keeping judiciary absolutely independent and insulated from other organs of governance.

SC stated that collegium system would again become operative. But it admitted that all is not well with the collegium system of 'judges appointing judges,' and that time is ripe to change the old system of judicial appointments.

3. In the context of polity, which one of the following would you accept as the most appropriate definition of liberty?

- (a) Protection against the tyranny of political rulers
- (b) Absence of restraint
- (c) Opportunity to do whatever one likes
- (d) Opportunity to develop oneself fully

Sol. 3 (d) Opportunity to develop oneself fully

Topic: Polity

There has been question on concept of liberty in prelims 2017 and 2018 as well. PrepMate Polity book contains detailed explanations to these questions. These explanations and understanding of fundamental rights are useful to solve the above question. However, we don't claim this question to be appearing from our study material because this question demands deeper theoretical knowledge of concepts. Let us examine the answer options.

Option (a) is incorrect: It fails to express the complete idea of liberty. Protection against the tyranny of political rulers does not express complete idea of liberty. Liberty not only confers protection but it also grants multifaceted freedoms.

Option (b) is incorrect: If there is no restraint, then the actions of people may erode other's liberty. Thus, restraint is essential to enjoy liberty. For instance, even fundamental rights have restrictions. There are 8 limitations on freedom of speech and expression.

Option (c) is incorrect: It also attempts to grant freedom without any restraint. The explanation given for proving option (b) as incorrect, is also applicable for option (c).

Option (d) is correct: Liberty (with restraints) provide us with opportunity to develop fully in life. The development may be in different dimensions such as social, economic, intellectual, etc. Let us look at the other side. If there were severe restrictions by state on economic activity, then we may not be able to pursue our economic upliftment. It is to be noted that a developed individual has utmost respect for restraints because one's restraint enable other people to enjoy their own liberty.

4. With reference to the Constitution of India, prohibitions or limitations or provisions contained in ordinary laws cannot act as prohibitions or limitations on the constitutional powers under Article 142. It could mean which one of the following?

(a) The decisions taken by the Election Commission of India while discharging its duties cannot be challenged in any court of law.

(b) The Supreme Court of India is not constrained in the exercise of its powers by laws made by the Parliament.

(c) In the event of grave financial crisis in the country, the President of India can declare Financial Emergency without the counsel from the Cabinet.

(d) State Legislatures cannot make laws on certain matters without the concurrence of Union Legislature.

Sol. 4 (b) The Supreme Court of India is not constrained in the exercise of its powers by laws made by the Parliament.

Source: PrepMate Polity, Chapter 8, Page 153

5. **Enforcement of decrees and orders of Supreme Court: Article 142** provides that 'the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it'. Such decree or order shall be enforceable throughout the territory of India. The provisions of Article 142 form the basis of judicial activism.

This is an interesting question. This question requires combined analysis of Article 142 and information given in question stem. Article 142 grants extraordinary powers to the Supreme Court to do complete justice. For exercising powers conferred by Article 142, the SC is not bound by any law made by Parliament.

5. With reference to the Legislative Assembly of a State in India, consider the following statements:

1. The Governor makes a customary address to Members of the House at the commencement of the first session of the year.

2. When a State Legislature does' not have a rule on a particular matter, it follows the Lok Sabha rule on that matter.

Which of the statements given above is / are correct?

- (a) 1 only
 - (b) 2 only
 - (c) Both 1 and 2
 - (d) Neither 1 nor 2
- Sol. 5 (a) 1 only

Source of 1st statement: PrepMate Polity, Chapter 8, Page 128 and Chapter 9, Page 173

President's Address

President addresses both the houses of Parliament, convened together at the first sitting of every budget session and at the first sitting of newly constituted Lok Sabha. The President's address is attended together by both the houses, but it is not regarded as joint sitting of both the houses of Parliament.

Governor

Role of Governor

The office of Governor at the state level is similar to the office of President at Union level. President is the head of Union. Likewise, Governor is the head of state. However, Governor apart from being the head of the state performs multiple roles as follows:

Statement 2 is incorrect. Article 208 Rules of procedure

- (1) A House of the Legislature of a State may make rules for regulating subject to the provisions of this Constitution, its procedure and the conduct of its business
- (2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature for the corresponding Province shall have effect in relation to the Legislature of the State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

6. Consider the following statements:

- 1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
- 2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

Which of the statements given above is/are correct?

- (a) 1 only

- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Sol. 6 (b) 2 only

Source: PrepMate Polity, Chapter 25, Page 283 and Chapter 8, Page 150

Statement 1 is incorrect. PrepMate Polity, Chapter 25, Page 283

44th Amendment Act, 1978

- Reversed the amendments passed under 42nd Amendment Act which had the effect of centralizing the power in Union executive. For instance, tenure of Lok Sabha and Legislative Assemblies was reduced to 5 years.
- Introduced safeguards to prevent misuse of national emergency.
- Abolished Right to Property as a fundamental right.
- Under Article 74, it provided that President can send the advice for reconsideration of Council of Ministers.

Statement 2 is correct. PrepMate Polity, Chapter 8, Page 150

Present Status of NJAC

Supreme Court has held the 99th Constitutional Amendment Act as 'unconstitutional and void'.

The SC said that the appointment of judges cannot be shared with political-executive. The expectations from judiciary to safeguard the rights of citizens can only be ensured by keeping judiciary absolutely independent and insulated from other organs of governance.

SC stated that collegium system would again become operative. But it admitted that all is not well with the collegium system of 'judges appointing judges', and that time is ripe to change the old system of judicial appointments.

7. Consider the following statements:

1. The motion to impeach a Judge of the Supreme Court of India cannot be rejected by the Speaker of the Lok Sabha as per the Judges (Inquiry) Act, 1968.
2. The Constitution of India defines and gives details of what Constitutes 'incapacity and proved misbehaviour' of the Judges of the Supreme Court of India.
3. The details of the process of impeachment of the Judges of the Supreme Court of India are given in the Judges (Inquiry) Act, 1968.
4. If the motion for the impeachment of a Judge is taken up for voting, the law requires the motion to be backed by each House of the Parliament and supported by a majority of total membership of that House and by not less than two-thirds of total members of that House present and voting.

Which of the statements given above is/are correct?

- (a) 1 and 2
- (b) 3 only
- (c) 3 and 4 only
- (d) 1, 3 and 4

Sol. 7 (c) 3 and 4 only

Source for 2nd and 4th Statement: PrepMate Polity, Chapter 8, Page 151

Statement 2 is incorrect. The Constitution of India does not define what constitutes incapacity and proved misbehavior of the Judges of Supreme Court. It is for the Parliament to decide what constitutes incapacity and proved misbehavior.

Removal of Judges of Supreme Court

Article 124(4) A Judge of the Supreme Court can be removed by the order of President, only on address by both the houses of the Parliament supported by majority of two-third of the members present and voting and not less than the majority of the total strength of the house on the grounds of proven misbehavior or incapacity.

Further the whole procedure of removal shall be completed in a single session. The condition of single session is laid down because during pendency of removal proceedings, the Judge under question cannot function. As a result, the delay in removal proceedings hampers functioning of Judiciary. Further, the pendency of proceedings may be used to influence judges.

Statement 4 is correct. If the motion for the impeachment of a Judge is taken up for voting, the law requires the motion to be backed by each House of the Parliament and supported by a majority of total membership of that House and by not less than two-thirds of total members of that House present and voting.

Statement 3 is correct. The details of the process of impeachment of the Judges of the Supreme Court of India are given in the Judges (Inquiry) Act, 1968.

Statement 1 is incorrect. The motion to impeach a Judge of the Supreme Court of India can be rejected by the Speaker of the Lok Sabha as per the Judges (Inquiry) Act, 1968.

8. The Ninth Schedule was introduced in the Constitution of India during the prime ministership of

- (a) Jawaharlal Nehru
- (b) Lal Bahadur Shastri
- (c) Indira Gandhi
- (d) Morarji Desai

Sol.8 (a) Jawaharlal Nehru

Source PrepMate Polity, Chapter 5, Page 44

17th Constitutional Amendment Act, 1964

Parliament passed 17th constitutional amendment act in 1964. This amendment inserted certain laws passed by state legislatures under 9th schedule. As law under 9th schedule can be implemented even if they violate fundamental rights, the effect of this amendment was reduction in scope of fundamental rights.

9. Consider the following statements:

1. The Parliament (Prevention of Disqualification) Act, 1959 exempts several posts from disqualification on the grounds of 'Office of Profit'.
2. The above-mentioned Act was amended five times.
3. The term 'Office of Profit' is well-defined in the Constitution of India.

Which of the statements given above is/are correct?

- (a) 1 and 2 only
- (b) 3 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

Sol. 9 (a) 1 and 2 only

Source: PrepMate Polity, Chapter 8, Page 74

This question can be solved on the basis of Statement 3 only.

Statement 3 is incorrect. The term 'Office of Profit' is not defined in the Constitution of India. Supreme Court has defined this term.

What is 'Office of Profit'?

An office of profit means a position that brings to the person holding it some financial gain, or advantage. Supreme Court has held that even if an office bearer holds an office without deriving any financial benefit, still it constitutes office of profit.

In other words, Office of Profit refers to the executive office held under Union government, state government, or local body. Holders of office in autonomous bodies are not considered to be holding office of profit. The holder of the office of profit has worked under the respective government and, thus, may not be able to independently discharge functions without the influence of that government. As a result, office of profit is a disqualification for the purpose of election as President.

10. Under which Schedule of the Constitution of India can the transfer of tribal land to private parties for mining be declared null and void?

- (a) Third Schedule
- (b) Fifth Schedule
- (c) Ninth Schedule
- (d) Twelfth Schedule

Sol. 10 (b) Fifth Schedule

Source: PrepMate Polity, Chapter 28, Page 300

The fifth schedule grants powers to Governor of the state to ensure that the administration of Scheduled areas is in the best interest of tribals.

5 FIFTH SCHEDULE

Provisions relating to the administration and control of scheduled areas in states other than Assam, Meghalaya, Tripura, and Mizoram:

1. President is empowered to increase or decrease the size of the scheduled area or create or abolish the scheduled area.
2. President is empowered to give directions to the state for administration of scheduled area.
3. Governor is required to report to the President annually or whenever required by the President regarding the administration of the scheduled area.
4. Governor shall constitute a 'Tribes Advisory Council' to advise him over matters of welfare and advancement of schedule tribes.
5. Governor can make laws for scheduled areas in consultation with the Tribes Advisory Council.
6. Governor also enjoys the power that a law passed by central legislature or state legislature shall not apply to tribal community or apply to the community with such modifications as deemed necessary by the Governor.