

— Focus more on translation,
Precis writing and legal GK

103.5

250

UPSC

For
Practice
only

Name of candidate - Vidushi Garg

Date of examination - 7th May 2022

Title of paper - DJS mains mock test - 1

Paper 1, General Legal knowledge
and Language.

11) All-India Judicial Services

Judiciary is one of the three main pillars of the Indian Constitution. Within judiciary, the judicial services are the services referring to the post of ~~district judge~~ and other civil judges in the subordinate courts.

The provision of all India judicial services was introduced in the constitution by

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	<p>the 42nd amendment by amendment of Section 31 Article 312.</p> <p>As per Article 312, the Rajya Sabha has exclusive power to create all-India Judicial Services which will be common for Union and States. Though currently there is no such provision in India, our law minister, Kiren Rijju recently stated that creation of all India Judicial Services is will soon be introduced formulated and is on the cards.</p> <p>Ans</p>	

Arguments in Favour

↳ An all India judicial services exam is a much required step towards homogenization and more effective justice delivery system.

↳ The current system witnesses a distribution of talent pool with respect to the states that conduct the examination.

A common examination will ensure that capable judges are posted in each state

↳ The various stakeholders,

↳ It will also aid in filling up the vacancies.

Arguments against

↳ Dilution of states' powers. -

Many state High Courts are opposed to the move as they

believe it will usurp their power ^{Now?} of the states.

↳ Local laws. - The judiciary apart from dealing with central legislations also deals with local laws. These local laws require a specialization which will be diluted by AJS

↳ Local language. The subordinate courts also function at the grass-root level and many courts use the local language as their official language for conducting their business. Further, many provision in Code of criminal Procedure, etc also provide use of language that the accused understands. Therefore, dilution of local recruitment may ultimately hinder justice delivery

Good!
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Conclusion - It is yet to be seen how the govt addresses these issues while enforcing All India Judicial Services

(1)(2)

Alternate Dispute resolution is a mechanism to settle disputes between parties without entering into trial. ("outside court")

Need for ADR

- ↳ The high cost of litigation makes delivery of justice a ~~privilege~~ than a right.
- ↳ Pendency of cases in the court make the process ~~lengthy~~ and time consuming ~~going against~~
- ↳ ~~The~~ the cardinal rule of "Justice delayed is justice ~~denied~~"
- ↳ Rigidity of rules and procedures further ~~complicate~~ the process

Benefits of ADR

- ↳ Flexibility of rules, procedure make the process party friendly.
- ↳ Quick delivery system. not only ensures convenience of parties but also plays a role in ease of doing business status of India.
- ↳ It aids the judiciary of India by taking off some of its burden.
- ↳ It provides greater confidentiality to parties.

Types of ADR

Alternate dispute resolution may be conducted in various forms -

↳ Mediation - Parties try to resolve their dispute ~~through~~ with help of a neutral mediator

↳ Conciliation and Arbitration - a neutral third party provides decision ~~on~~ the issue.

↳ Lok adalats - established under the aegis of Abdul Kalam. It delivers justice ~~through~~ ~~justice~~ summary procedure ~~is~~ emphasis of

Bank Ombudsman - Even certain organisation appoint ombudsmans to facilitate ADR. Eg in 2020 RBI proposed a common ombudsman to look into banking issues of NBFCs and other banks.

LODR - A recent concept of Online Dispute Resolution has been emerging. It uses technology to facilitate dispute resolution.

Legislation

↳ Sec 89 of the Civil procedure code

mandates that if in the opinion of the judge, there is a scope of settlement - the judge must refer the parties to ADR.

↳ Arbitration and conciliation Act, 1996 - streamlines the rules to be followed in arbitration process. It even provides for establishment of Arbitration Council of India to oversee the arbitration in the country.

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4(3) Marital Rape has been in news recently over the plea in Supreme Court to criminalize it.

Section 375 of the Indian Penal Code, 1860 defines the term 'rape'. However exception 2 of the section provides that when a man commits sexual intercourse on his wife who is above the age of 15 years it will not be considered rape.

Though this age has been increased to 18 years by the virtue of Youth Bar Association v Union of India case, marital rape still remains an exception.

Arguments in favour of non-criminalization

- ↳ marriage has been considered to be a private affair by the society.
- Preservation of the institution of marriage
 - ↳ In many laws, personal laws, it is the duty of wife to accept to the wishes of her husband. For instance, in muslim law, one of the responsibilities of wife is to grounds of divorce is non-establishment of conjugal relations.
 - ↳ Misuse of law is a possibility.

Arguments in favour of criminalization

↳ Rape is a crime against dignity of women and ~~cannot create a~~ discriminate on the basis of marital status.

↳ ~~In K. Puttaswamy case.~~

↳ In Navtej Singh Johar v UoI case, right to dignity ~~was~~ held to be included in right to life under ~~Sec 21~~ Article 21 of the Constitution, and should be available to women.

↳ In Joseph Shine v Union of India

Case, which ~~said~~ held that section 497 of Indian Penal Code is unconstitutional - also said that women are not property of their husbands. ~~and cannot be treated~~

The same reasoning should be extended to marital Rape.

↳ Social reasons - Violent households are overall harmful for children ~~and~~ and affect the equality legⁿ

Analysis

↳ The Indian mindset is progressing towards rights of ~~married~~ women.

Not only the legislation but the judiciary is ~~also~~ recognizing these rights.

Legⁿ: Domestic Violence Act recogni^t

Sexual violence as a form of violence and ~~criminalizes~~ the act along with providing protecⁿ

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Judiciary: Recently, the Madras HC

in a marital rape case held

"Rape is rape" while convicting husband for ~~marital~~ rape of wife.

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There are continuous demands to criminalize the act.

(2) SP Gupta v Union of India, 1981

(2) 9 judges bench ✓

(3) Gujarat ✓

(6) Liberman commission ✓

(8) A personal ^{right of} action dies with a person ✓

(10) Canadian constitution ✓

(12) CK Daphtary ✓

(13) 52nd amendment 1985

(15) State Reorganisation Act ✓

(14) Ratio ^{decidendi} ~~decidendi~~ & Obiter dicta ✓

(17) NA Palkhivala ✓

(18) Rajiv Kumar ✓

(19) Writ of Prohibition ✓

(20) 105 times ✓

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(22) Karnataka ✓

(24) Mumbai ✓

(25) Nagaland ✓

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4(1) Interpol = International Criminal Police Organization ✓

(2) Foreign Contribution (Regulation) Act ✓

(3) United Nations Conference on Trade & Development ✓

(5) Nation Commission to review ^{the} working of Constitution ✓

3

PART-B(ii) FREEDOM OF PRESS

"Freedom of conscience, education, speech, assembly are among very fundamentals of democracy and all of them will be nullified should freedom of press ever be challenged"

- Roosevelt

The importance of press in a democracy cannot be undermined. Often called the forth pillar of democracy, press is a heart and soul of a participative government in today's time.

This essay discusses the relevance of press, the need of freedom of press by discussing its relevance first, then it discusses the
discusses

need for imposing restrictions It then discussed the two Indian scenarios & the way forward. — How freedom of press is fundamental?

Political Relevance

How it impacts society

Time and again, it has been seen that press has played a very important role in shaping the political scenario of a country.

It has been said that in the Indian National movement, the press had a major role to play in ~~expressing~~ awakening the national sentiment among the common people.

Again during the time of Emergency imposed by Indira Gandhi, it was seen that the tool to regulate the political scenario

was the ^{regulⁿ} of press houses.

Even internationally, it is seen that press plays a role in all major revolutions.

Be it the American civil war or the in one nation or religious persecution in other country (eg Yazidi genocide during which fatwa pamphlets) were distributed to justify the killing.) - press has played a huge role. The importance also needs to be assessed in the judiciary point of view

Judiciary relevance

In multiple cases, the role of press in bringing out the culprits has been seen.

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Be it the Jessica Lal murder case, or multiple sting operations by the press. It has been instrumental in bringing justice.

Legal Position

Article 19(1)(a) - guarantees freedom of speech and expression. In the case of Bennett Coleman v Union of India, it was held that freedom of press is also guaranteed under Art 19(1)(a).

However, it may be noted that this freedom is subject to reasonable restriction.

While the constitution provides reasonable restriction on grounds of sovereignty, defamations etc

etc. It is important to understand the need to regulate ~~press~~.

Regulation of Press

Today, the press while being a source of information has also become a source of mis-information.

~~The~~ Case in study - Media trial - Eg in the Nanavati case or more recently the Sushil Singh Rajput case, it was seen that press in the wrong direction can be more harmful than beneficial.

Further, it is also seen that to commercialize news, ~~if~~ the press often exaggerates the facts leading to unproportional sentiments.

Political affiliations of press houses also result in circulation of biased information hampering democracy.

Current position of Indian Press

Currently, India stands at 150 rank in world press index report released by Reporters without borders. [It has slipped 8 places since 2021] The supreme court has expressed its disapproval with respect to the increasing number of sedition cases filed against the press simply because of expressing its dissent with government.

Word!

Way forward

↳ Therefore, it is evident that while freedom of press is an indispensable need of a democracy, it also needs to be checked for mis-use. For such check the following recommendations are proposed

- ↳ Practice of revealing sources and reasons over mere opinion should be encouraged.
- ↳ Strengthen the institutions eg - Press Council with respect to regulation of press.
- ↳ Promotion of ethics, self-regulation bodies
- ↳ Non-interference of political leaders & strict guidelines in this regard.

↳ guidelines regulating freedom of press along with reasonable restrictions

- Some points could be elaborated.
- Instead of focusing on length or adding many heads, try to be focused if topic is broad.

Precis

Caste in Politics

Caste has played

Caste plays a very important role in Indian democracy by increasing mobilization and participation of masses in electoral process.

Self-interested politicians have been using caste to appeal to people sentiments since long before

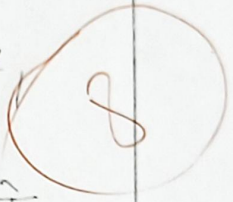
- write in one single passage/paragraph.

Casteism has reshaped political parties as well as their manifestos. Various caste groups have been formed for the same purpose.

(3) शास्त्रों में बढ़ती संख्या ~~के~~ में दिये जाने वाली दृष्टापूर्वक घोषणा ~~को~~ अन्देखी नहीं गई है। उच्चतम न्यायालय ने दिल्ली में द्विचक्र युग वाहिनी द्वारा आयोजित घटना एवं दरिद्वार में यति नरसिंहानन्द द्वारा आयोजित घटना में मुसलमानों के खिलाफ हिंसा को पुकारते हुए घटनाओं के उपर आवेदन सुनने को स्वीकृती दी। परन्तु दृष्टापूर्वक घोषणा से सम्बन्धित कानून अप्रभावी एवं कम हैं। इसलिये उच्चतम न्यायालय से दृष्टापूर्वक घोषणा सम्बन्धित कानून को समीक्षित करने और उच्च न्यायालय को घोषणा कानून के अंशों को व्याख्या करने के लिए बोला गया है।
कदा

विद्यार्थी

स्पष्ट विधानिक मार्ग दर्शन कि ~~वर्धनी~~ कमी का ~~बल~~ सत्त्व यह है कि इसे न्यायिक परिणामों से आना बनी मिल रही है। इसके उपर से, दृष्टापूर्वक धोषणा के बढ़ते विस्से, खास कर की वृद्धि जो अप्रसंगिकों को बिश्ाना बना रही है, न्यायिक अस्पष्ट के साथ मिलकर विधानिक बदलाव की का अवसर प्रदान कर रही है।



- Focus on tense used in given paragraph.

4) According to natural ~~law~~ rules, ^{world of life} nothing is unnecessary, bad or scary ^{in life-society} in essence. The cycle wheel of nature which has been rotating since time immemorial, has indeed been rotating taking into consideration the natural rules of convenience and inconvenience of all beings.

But sometimes we ourselves or through our exploration make it ~~scary~~ by introducing certain obstacles issues in it.

Rotation of season is also indeed ~~rate~~ one of nature's well-thought sequence.

Winter-summer, rain, ^{etc.} spring etc. are all essential for living world and the Earth.

This only maintains balance between nature, ~~Earth~~, and microbial life. We are able to achieve what is conditional

to life, growth and progress. Yet

~~Some~~ ~~a~~ many a time, the characteristic of season increases to the extent that a it

Common man becomes ~~is~~ hard for a man and beings to tolerate it.

Description of
1 One such day of a similar unbearable
summer is being presented here.

