

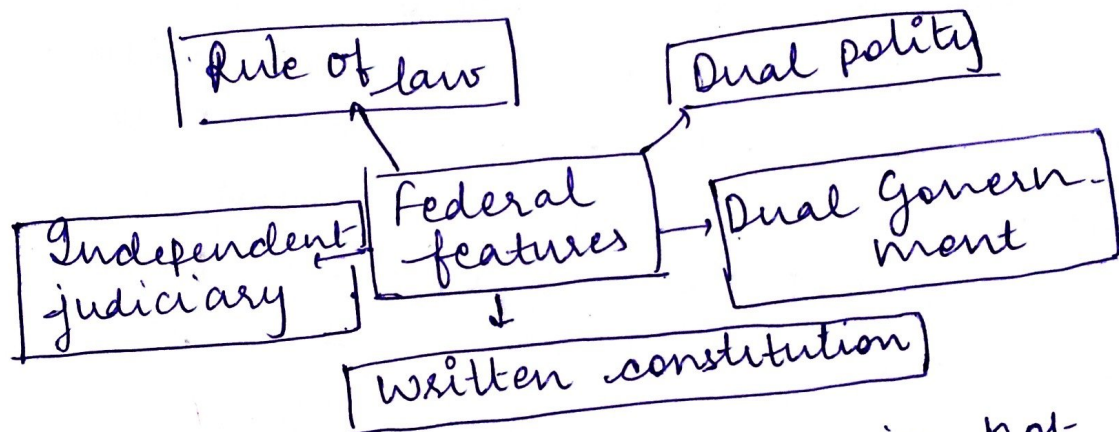
Student Name - Midhi SinghTopic - Polity - Mock-2Date - 17/01/2022

IAS Mentorship

By Revasat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

Ans- 1.) As per SR Bommai judgement (2019), Federalism is the basic structure of the constitution. Federalism is an arrangement of power & branches of governments between governments.

Federal features of Indian Constitution:-



However Indian constitution is not considered to be perfectly federal which led some scholars such as KC Wheare to call it Quasi federal. This is because there are prominent unitary features which are:-

Student Name -

Topic -

Date -

IAS Mentorship

By Revanasi Abhishek & Team | 8090528260 Call Telegram WhatsApp

- (I.) Single citizenship
- (II.) Single constitution for states and centre
- (III.) Emergency provisions (A-352, 356, 360)
- (IV.) All India Services.
- (V.) Residuary powers with the centre
- (VI.) Integrated judiciary.
- (VII.) Single electoral body (EC)

Despite these unifying features, Indian constitution is federal in nature which was made keeping in mind indigenous conditions. This led scholar Granville Austin to call Indian federalism as sui-generis.

Student Name -

Topic -

Date -

IAS Mentorship

By Reyasat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

(2.) Sedition can be defined as an attempt to incite enmity against the state or to overthrow the government. ~~The~~ ^{law} was made during Britishers' time against Wahabi insurgency.

Need and Relevance:-

(I.) To curb the secessionist ~~voices~~ voices. India's NE region is marred with same.

(II.) To uphold the government. Sometimes fringe elements pose difficulty for govt.

(III.) To reduce domino effect. One case of sedition will inspire others to do the same which will impact India's sovereignty.

(IV.) India is nestled between hostile neighbours from both the sides. It is important to keep seditious activities at check.

Student Name -

Topic -

Date -

IAS Mentorship

By Revanat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

Why it is harmful for democracy:-

(.) The law is a colonial relic. All democracies such as US, UK, Australia have already repealed the law.

(.) Democracy rests on debate, dissent and discussion. If they constantly live in fear, growth of nation will stop.

(.) SC court in its 1964 (Kedar Singh) judgement said the law should be used sparingly.

(.) Law commission report has asked for repealing the law.

It's clear that people have right to speech and expression (1A, 19). Though there are restrictions, but they can't be as per whims and fancies of government.

Student Name -

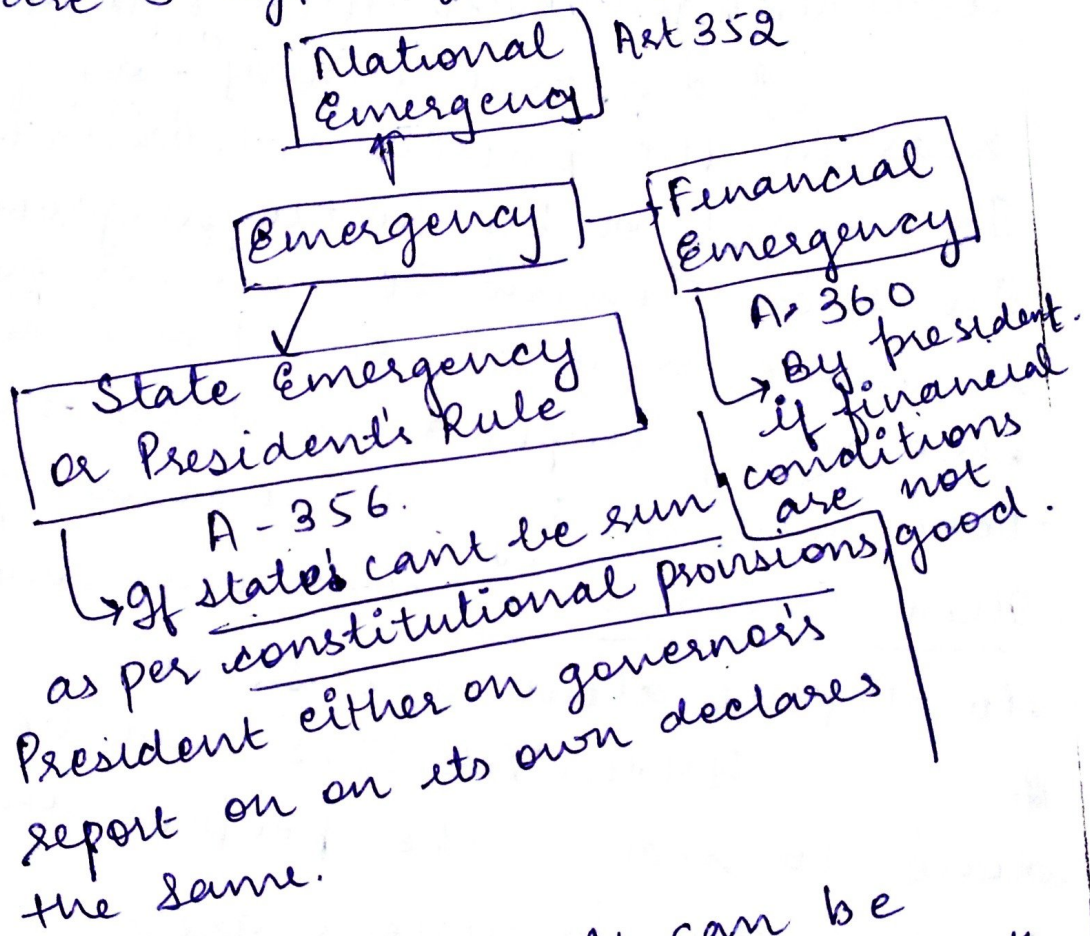
Topic -

Date -

IAS Mentorship

By Revanah Ali Sir & Team | 8090528260 Call Telegram WhatsApp

(4.) Emergency provisions are defined under part-18 of our constitution which ranges from Art 352-360. There are 3 types of emergencies:-



National Emergency → It can be declared under A-352 on the grounds

of

(o) war

(o) external threat

Student Name -

Topic -

Date -

IAS Mentorship

By Rev. Dr. V. S. S. & Co. 8090528260

(.) Armed rebellion.

Initially in the constitution, there was Internal disturbance phrase used in place of Armed rebellion which was changed with 44th CAA 1978.

India, as a country, has faced wars in the past (1962, 1965, 1971). It is engulfed by hostile neighbours. In such scenario it becomes necessary to have some cushion. However the emergency imposed in 1975 has been criticised by all including Shah Commission which was constituted to enquire about the same.

44th CAA, 1978 had been done to secure the people's interest. Some of the provisions are:-

(.) National Emergency (NE) can be proclaimed only after written advice of council of ministers by the President.

IAS Mentorship

Student Name -

Topic -

Date -

By Reyasat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

(.) It has to be passed by the parliament with in a month of its proclamation by special majority.

(.) It can go on till any such time as per the need however there must be repeated approval by both the houses.

(.) It must be repealed if 1/10th of Lok Sabha members move such a proclamation and it was agreed upon by Lok Sabha.

38th CAA, kept emergency out of judicial review. However it was deleted later.

So It becomes important to have NE provisions for unforeseen circumstances but at the same time checks and balance must be followed.

Student Name -

Topic -

Date -

Ans 5) The president at the centre under Art 123 and Governor under Art 213 can promulgate the ordinances when Parliament or state legislatures are not in session.

The philosophy behind ordinance is that some issue needs immediate attention and ^{it can't be waited till} parliamentary session. However Parliament/state legislatures must approve these ordinance within six weeks of their meeting. If it doesn't do so, ordinance collapses.

Dr. B. R. Ambedkar asked this article to be used sparingly and proclaimed that it will remain a dead letter. However it did not remain so."

Issues with ordinances :-

Student Name -

Topic -

Date -

IAS Mentorship

By Rev. Sat. Ali Sir & Team | 8090528260 Call Telegram WhatsApp

(.) Not undergoing parliamentary scrutiny.

(.) Against doctrine of separation of power law making being the function of Parliament.

(.) Supremacy of executive since ordinance power is not a discretionary power of President.

(.) Uproar from people's end recently a lot of Bills were promulgated as ordinances such as farm laws which government had to withdraw because there were no consensus.

In D Cooper case, SC said that President's decision can be challenged on the grounds of Malafide if proven that house was dissolved just to avoid the debate. The ordinance must be taken back in that situation.

Student Name -

Topic -

Date -

IAS Mentorship

By Dr. Anand Mishra, IAS (1980) 28260

Barring extraordinary situation
ordinance must not be issued as
they violate the doctrine of pith and
substance which says that ~~all~~ bodies
must remain in their areas.

IAS Mentorship

Student Name -

Topic -

Date -

By Reyasat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

6.) In the recent past, it is noted that the productivity of parliament has declined. In the first 2 decades of independence, it met for 120 days on an average in a year, which dropped to 70 days in the last decade

Importance of Parliament

↓
Law making

↓
ensuring executive/government's responsibility

↓
discussion/debate on various important issues

Issues in ⁱⁿ Parliament functioning

(.) less accountability → If parl doesn't meet for days at a stretch, legislature won't be able to hold them accountable

(.) Relevance of parliamentary committees → In 17th lok sabha only 16% of bill referred to the committees, where LS the % percentage was ~27%.

Student Name -

Topic -

Date -

IAS Mentorship

By Reyasat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

(.) wastage of taxpayer's money. It was estimated that ~133 cr Rs were spent last year for parliamentary functioning.

(.) Dropping of democratic culture, Debate is the main function of Parliament, if it doesn't do that who will.

(.) Ordinance Raj → less function will give way to more promulgation of ordinances which isn't good for democracy.

Causes of Parliamentary inefficiency

↳ Disgruntled MP's no participation

↳ less trust on government

↳ COVID pandemic

↳ less debate time

↳ More ordinances by Government

Way forward

(.) Proper calendar of working days must be date... workdays it happens.

Student Name -

Topic -

Date -

IAS Mentorship

By Revanat Ali Sir & Team | 8090528260 Call Telegram WhatsApp

In US, and UK, working days vary from 100 to 150.

(.) If work from home can be a possibility for other sectors, It must be the same for law makers.

(.) Opposition must hold the government accountable on this issue.

India's parliament, a temple of democracy must function properly to ensure that there is proper discussion on every issue otherwise democracy has no meaning.

Student Name -
Topic -
Date -

IAS Mentorship

By Rohit Mehta & Team | 8090528260 | Call Telegram WhatsApp

(3.) Criminal defamation refers to any libelous speech. Sedition refers to any activity which aimed at overthrowing the government by inciting the people. Blasphemy is referred to when there is an act which speaks ill of any religion.

These find mention in section 124(A), 153(A), 295(A) which deal with sedition, penalty if found inciting enmity between people and hurting religious sentiments

Issues with these laws:-

- (•) Enfringes Fundamental right.
Art 19 (Right to speech and expression),
Art 21 (Right to life).
- (•) Hampers Individuals growth and
dignity of the individual.
- (•) Colonial remnants. Started to deal

Student Name -

Topic -

Date -

IAS Mentorship

By Revsat M Sir & Team | 8090528260 Call Telegram

with various insurgencies.

(•) No such example can be found the world over.

(•) In Aparna Purohit vs State of UP case HC upheld the Blasphemy laws.

However light is not all dim. Other judgements such as Priya Ramani verdict where court said a man's reputation can't be greater than woman's dignity; Disha Ravi verdict which led her scot free shows undermining of sedition laws.

In democratic countries like India, the laws must be relooked if not totally repealed as suggested by various law commission reports.