GSSCORE

An Institute for Civil Services

MAINS TEST SERIES 2023

GS MAINS Q&A

TOPICAL TEST - 16

(5 QUESTION)

POLITY

Union executives and legislature

POLITY - 4

Time Allowed: 50 Mins. *Max. Marks: 75*

1. **Parliamentary Standing Committees allow Parliament to scrutinize the executive more effectively, making it more responsible to the people. Elaborate the statement with reference to the role of Parliamentary Standing Committees in India. Also, explain how they make the executive more accountable to the legislature.**

2. **'Upper Chamber of the Parliament across the world is generally considered to be less powerful than the Lower Chamber. However, they are also vested with certain functions and powers, which enable them to play a decisive role'. Critically analyze the above statement with special emphasis on India.**

3. **The principle of individual responsibility in the Indian Parliamentary System is used through the instrumentality of the Prime Minister to secure the principle of collective responsibility. Analyse.**

4. **Although the Attorney General of India does not enjoy the right to vote in Parliament, he plays a vital role both inside and outside the house with respect to the role played in governance. Analyze.**

5. **Parliamentary privileges often come in conflict with freedom of expression of citizens. Discuss the issues arising out of conflict between privileges and fundamental right of expression. Also, suggest remedies for the same.**

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POLITY - 4

1. Parliamentary Standing Committees allow Parliament to scrutinize the executive more effectively, making it more responsible to the people. Elaborate the statement with reference to the role of Parliamentary Standing Committees in India. Also, explain how they make the executive more accountable to the legislature.

Approach

1. ***Introduction about of parliamentary committees (40 words)***
2. ***About the role of parliamentary committees (90 words)***
3. ***Discuss how they make executive more accountable to legislatures (80 words)***
4. ***Conclusion (40 words)***

Hints:

Parliament has another forum through which a considerable amount of its work gets done. These are known as Parliamentary Committees. Parliament deliberates on matters that are complex, and therefore needs technical expertise to understand such matters better. Committees help with this by providing a forum where Members can engage with domain experts and government officials during the course of their study.

Role of Parliamentary Committees

- The Parliamentary standing committees are representative bodies composed of parliamentarians who go in the details of executive activities and examine them under the light of propriety, efficiency, economy etc.
- These committees are like the eyes and ears of the legislature which oversee the working of the executive and submit their report to the legislature for discussion thereby extracting accountability from the executive. If the report mentions any discrepancies the legislature is empowered to question the executive by debating it on the floor of the house.
- Various parliamentary committees are constituted and assigned different tasks under different categories so as to streamline and expedite the work of the legislature. The Standing Committees cover areas which come under the purview of different Ministries.
- For example, the Committee on Health and Family Welfare studied the Surrogacy (Regulation) Bill, 2016 which prohibits commercial surrogacy, but allows altruistic surrogacy. As MPs come from varying backgrounds, they may not have had the expertise to understand the details around surrogacy such as fertility issues, abortion, and regulation of surrogacy clinics, among others.
- The Committee called upon a range of stakeholders including the National Commission for Women, doctors, and government officials to better their understanding of the issues, before finalizing their report. This way these parliamentary committees play a crucial role in parliament work.

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Parliamentary committees work as check on executives in following ways

- The executive matters are thoroughly scrutinized by the parliamentary committees which makes the executive more accountable to the legislature.
- Committees also provide a forum for building consensus across political parties. The proceedings of the House during sessions are televised, and MPs are likely to stick to their party positions on most matters. Committees have closed door meetings, which allow them to freely question and discuss issues and arrive at a consensus. This way these parliamentary committees keep a check on executives.
- Thus, Parliamentary Committees help with this by providing a forum where Members can engage with domain experts and government officials during the course of their study. There is a need to strengthen the parliamentary committees rather than bypassing them for the betterment of the parliamentary democracy.
- The RBI governor was summoned by a parliamentary committee on finance to ask questions about raising scams in the banking sector. This way committee ensure executive answerable to parliament and public at large for their actions under office.

Conclusion:

Hence parliamentary committees are considered as parliament at work while parliament at cession is considered as parliament at display. They strengthen the voice of people by making executives more accountable. There needs to be strengthening of committees in order to make parliamentary democracy more resilient.

2. 'Upper Chamber of the Parliament across the world is generally considered to be less powerful than the Lower Chamber. However, they are also vested with certain functions and powers, which enable them to play a decisive role'. Critically analyze the above statement with special emphasis on India.

Approach

1. *Introduce with status of Upper house (40 words)*
2. *Highlight certain powers and status enjoyed by UC across the world (60 words)*
3. *Discuss the powers of both Lok Sabha and Rajya Sabha including some special powers enjoyed by Rajya Sabha (Article 249 and 312) (90 words)*
4. *Conclude with importance of upper chamber (50 words)*

Hints:

Upper Chamber (UC) is one of the two chambers of the bicameral legislature. It is based on regional or state representation. Apart from other key differences, they are prominently distinguished in terms of their powers. Under the Indian constitution, **Rajya Sabha (Council of state) is the upper house of the Parliament**. Fitting the pattern across the globe, it has limited powers in most cases when compared to Lok Sabha (Lower house).As exceptions to the general practice, Upper chambers in the US and Bosnia and Herzegovina are one of the strongest in the world.

Following are certain powers and status enjoyed by UC across the world:

- **Ordinary Legislation:** For most countries, ordinary legislation can be introduced in both houses like in the UK. For Spain and Poland, it can be introduced only in lower house signifying weaker upper house. Germany requires introduction first in upper house then passage to Bundestag.
- **Financial Legislature:** Quite common for upper houses to have limited financial legislative powers. UK has similar set up. In Italy and Switzerland, the chambers have equal powers over all legislation.
- **Resolving disputes:** There are different practices to resolves disputes over legislation with lower house. Suspensive veto power (Time period that must pass after which lower house has the last

word) of UK, Austria, Japan, Joint session as in France and Switzerland. In Canada, bill shuttles between the houses until agreement is reached.

Upper house being less powerful than lower house

- Lower house gets directly elected while the upper house is indirectly elected. Hence the lower house has higher say in certain parliamentary proceedings.
- A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha. Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
- A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
- The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
- The Speaker of Lok Sabha presides over the joint sitting of both the Houses. The Lok Sabha with greater numbers wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties.
- Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
- A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
- The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticise the policies and activities of the government.

Following ensures some parity of UC with Look Sabah:

- In Indian polity too, Raja Sabah exercises limited powers in ordinary and financial legislature. Lok Sabha gets upper hand even in terms of size and composition of the house, electoral method and more.
- Constitutional amendment bill can be introduced in either of the houses and passed separately in both (Article 368)
- Proclamation of national emergency requires approval from both the houses.
- Deadlock over the passage of a bill is ended through a joint sitting of two houses. (Article 108)

Following provisions ensures some special powers to Rajya Sabha:

The Constitution has laid down many clauses while listing powers of Rajya Sabha which curtails its power. Acknowledging the bottlenecks which a weaker upper house would bring to Indian polity, framers of Indian constitution has vested Rajya Sabha with following special power to ensure balance of power and smooth function of the parliament.

- It can authorise the Parliament to make a law on a subject enumerated in the State List (Article 249).
- It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

- It alone can initiate a move for the removal of the vice president. In other words, a resolution for the removal of the vice-president can be introduced only in the Rajya Sabha and not in the Look Sabah (Article 67)

Conclusion:

Overall, power balance between upper and lower chamber has always remained a subject of debate. Across the world, upper house plays a crucial role in creating legislation beneficial to public and in keeping a constitutional check on another house. In a diverse country like India, its role has added responsibilities.

3. The principle of individual responsibility in the Indian Parliamentary System is used through the instrumentality of the Prime Minister to secure the principle of collective responsibility. Analyse.

Approach

1. ***Briefly introduce the meaning of individual responsibility and collective responsibility separately. (70 words)***
2. ***Explain the ways in which they are ensured in our polity. (75 words)***
3. ***Elaborate on the role of the office of PM in linking the two. (75 words)***
4. ***Conclusion (30 words)***

Hints:

The fundamental principle underlying the working of parliamentary system of government is the principle of collective responsibility. **Article 75** clearly states that the council of ministers is collectively responsible to the Lok Sabha. This means that all the ministers own joint responsibility to the Lok Sabha for all their acts of omission and commission. They work as a team and swim or sink together.

When the Lok Sabha passes a no-confidence motion against the council of ministers, all the ministers have to resign including those ministers who are from the Rajya Sabha. Alternatively, the council of ministers can advise the president to dissolve the Lok Sabha on the ground that the House does not represent the views of the electorate faithfully and call for fresh elections. The President may not oblige the council of ministers that has lost the confidence of the Lok Sabha. This is one of the basic features of the **Parliamentary form of government**.

Concept of collective responsibility:

The principle of collective responsibility also means that the Cabinet decisions bind all cabinet ministers (and other ministers) even if they differed in the cabinet meeting.

- It is the duty of every minister to stand by cabinet decisions and support them both within and outside the Parliament.
- If any minister disagrees with a cabinet decision and is not prepared to defend it, he must resign.
- Several ministers have resigned in the past owing to their differences with the cabinet.
  - For example, Dr BR Ambedkar resigned because of his differences with his colleagues on the Hindu Code Bill in 1953.
  - CD Deshmukh resigned due to his differences on the policy of reorganisation of states.
  - Arif Mohammed resigned due to his opposition tothe Muslim Women (Protection of Rights on Divorce) Act, 1986.

Concept of individual responsibility:

Article 75 also contains the principle of individual responsibility. It states that the ministers hold office during the pleasure of the president, which means that the President can remove a minister even at a time when the council of ministers enjoys the confidence of the Lok Sabha.

- However, the President removes a minister only on the advice of the Prime Minister.
- In case of a difference of opinion or dissatisfaction with the performance of a minister, the Prime Minister can ask him to resign or advice the President to dismiss him.
- By exercising this power, the Prime Minister can ensure the realization of the rule of collective responsibility.

Role of Prime Minister in upholding above:

Collective responsibility can be achieved only through the **instrumentality of the Prime Minister**. Therefore, unless and until we create that office and endow that office with statutory authority to nominate and dismiss ministers, there can be no collective responsibility. The **key to 'collective responsibility'** is the **Prime Minister's right to choose and dismiss his Ministers**.

When the draft provision 61 (later to become Article 74) about "the Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions" came up for discussion in the Assembly, Ambedkar pointed out the important role and the responsibility of the Prime Minister:

"All members of the House are very keen that the Cabinet should work on the basis of collective responsibility and all agree that is a very sound principle. But I do not know how many members of the House realise what exactly is the machinery by which collective responsibility is enforced. Obviously, there cannot be a statutory remedy. Supposing a Minister differed from other members of the Cabinet and gave expression to his views which were opposed to the views of the Cabinet, it would be hardly possible for the law to come in and to prosecute him for having committed a breach of what might be called collective responsibility. Obviously, there cannot be a legal sanction for collective responsibility. The only sanction through which collective responsibility can be enforced is through the Prime Minister."

Collective responsibility is enforced by the enforcement of two principles.

- One principle is that no person shall be nominated to the Cabinet except on the advice of the Prime Minister.
- Secondly, no person shall be retained as a member of the Cabinet if the Prime Minister says that he shall be dismissed. It is only when members of the Cabinet both in the matter of their appointment as well as in the matter of their dismissal are placed under the Prime Minister, that it would be possible to realise our ideal of collective responsibility.

Collective responsibility can be achieved only through the instrumentality of the Prime Minister. Therefore, the Prime Minister is really the keystone of the arch of the Cabinet and unless and until we create that office and endow that office with statutory authority to nominate and dismiss Ministers, there can be no collective responsibility.

Conclusion:

However, in times of coalition governments, the Prime Minister doesn't command that authority as happens in ordinary times. The actions of the PM are governed more by the need to defend the existence of the government and less by the constitutional principles. Hence, there is a need to ensure that the PM has enough leg room to ensure that idea of collective responsibility can be upheld.

4. Although the Attorney General of India does not enjoy the right to vote in Parliament, he plays a vital role both inside and outside the house with respect to the role played in governance. Analyze.

Approach

1. ***Briefly introduce with office of Attorney general of India (50 words)***
2. ***Mention role he plays both in and out of Parliament (90 words)***
3. ***Explain how changing governance requires role modification (70 words)***
4. ***Conclude with some positive remarks to AG (40 words)***

Hints:

The Attorney General of India derives its power from Indian constitution from Article 76. He is the highest law officer in the country appointed by the president and his duties include, to give advice to the government of India upon such legal matters which are referred to him by the president, to perform such other duties of a legal character those are assigned to him by the president, to discharge the functions conferred on him by the constitution or any other law.

Role played by Attorney General inside the parliament:

- He has the right to speak and take part in the proceedings of both the houses of Parliament.
- He enjoys all the privileges and immunities that are available to a Member of Parliament.
- Thus he enjoys all the rights available to the members of Parliament except the right to vote. This makes him an important part of parliamentary proceedings whereby he can analyze and comment on the day to day perspective of the parliament based on the legal perspective of bills and discussions. This constitutes an important aspect of democracy when viewed through the legal prism of an expert.

Role played outside Parliament:

- To appear on behalf of the government of India in all cases in the Supreme Court and High Court in which the government is concerned.
- To represent the government of India in any reference made by the president to the Supreme Court under Article 143 of constitution.
- Thus he is the chief legal advisor to the government of India whereby the government consults him on issues related to legal matters. Although he is not a full time counsel for the government, doesn't fall under the category of government servants and is not debarred from private legal practice.

How changing governance requires role modification:

The office of Attorney General was created decades back when the role of government was majorly to manage day to day aspects of governance. But the changing times has brought new aspects to the governance like multiplicity of stakeholders, increased role of private players, increased role of e-governance and need for better public service delivery to promote good governance to aware citizenry.

Conclusion:

Thus, it should be ensured that the office of Attorney General is free from political influence and it discharges its duty as per mandates of constitution. What else could be done is to create multiple organs within the body of the Attorney General so as to deal with legal aspects of matters individually for better expert advice. Thus the Attorney General's role should be adaptive with changing nature of governance and whichever party is in government.

5. Parliamentary privileges often come in conflict with freedom of expression of citizens. Discuss the issues arising out of conflict between privileges and fundamental right of expression. Also, suggest remedies for the same.

Approach

1. *Introduction about parliamentary privileges and their importance. (40 words)*
2. *Discuss how they are violative of Article 14. Give reasons for this. (50 words)*
3. *Discuss misuse of parliamentary privileges. (70 words)*
4. *Give some remedies to resolve conflict. (50 words)*
5. *Conclude on futuristic grounds. (40 words)*

Hints:

Parliamentary privilege refers to rights, immunities and exemptions enjoyed by Parliament as an institution and MPs in their individual capacity, without which they cannot discharge their functions as entrusted upon them by the Constitution.

Article 105 of the constitution talks about freedom of speech available to the parliamentarians and other parliamentary privileges available to the members of the parliament and importantly it mentions that no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

Importance of Parliamentary privileges:

- Among the three pillars of the Indian government (Legislature, Executive and the Judiciary) Parliament is the most important one. Commanding a superior position over others due to the nature of the work it is associated with it is imperative to enable the members to perform in a free and frank atmosphere.
- Powers and privileges make an important part of the law and customs of the Parliament. They tend to preserve the relationship between the legislature and the judiciary and with the press as well.

Privileges as violation of Article 14:

- These privileges are exclusively available to the parliamentarians and not to ordinary citizens therefore appear to be a violation of the article 14 of the constitution. The parliament is a forum of discussion and deliberations where the process of creation of law is carried out and if discussions in such a forum are restricted by the authority of law in any manner, it will impede the very process of creation of law.
- Secondly as the legislature is itself one of the three vital organs of democracy along-side the executive and the judiciary, it is important to maintain its independence vis-à-vis other organs of the State, particularly the judiciary. Here legislature becomes judge in its own cause.
- The questions privileges arise when it is seen that on several occasions the parliamentarians are crossing the line of decency and remain protected by parliamentary privileges. Moreover there have also been instances when the parliamentarians have been saying those things in the parliament which they cannot say in public.

Misuse of parliamentary privileges:

- If a publisher published a report omitting all the defamatory statements in his publication on his own, the publication used to become a tempered and incomplete reporting which itself is subjected to breach of privilege or contempt of legislature in India.
- Breach of privilege laws allow politicians to become judges in their own cause, raising concerns of conflict of interest and violating basic fair trial guarantees.
- Various instances in recent times show how the privileges are being misused, raising the question of violation of the equality before law (Article 14).
- Gross misbehavior on the part of members, violence, throwing chairs, using unparliamentary language within the house go unpunished.
- The room for misuse has led to emergence of elitist mentality among the members since they will go unpunished for anything said or done in the House

Reforms suggested in Parliamentary Privileges:

- The privileges of legislators should be defined and delimited for the free and independent functioning of Parliament and state legislatures.

- Article 105 may be amended to clarify the extent of immunity enjoyed by members under parliamentary privileges.
- Accused should be given the opportunity of a fair trial before declaring him guilty.
- In Britain, privileges were last used in the 19th century against their citizens. We adopted British model of governance, hence parliamentarians should follow self restraint in taking the actions unless the violator is directly and sharply undermining proceedings of the house.

Conclusion:

Despite misuse of Parliamentary privileges, we should refrain from removing it as this would be detrimental to the environment of deliberation which is so important in a democracy. Instead we should try to create a mechanism by which we can regulate the unruly behavior of the parliamentarians. For example enacting a code of conduct, adherence to which can be enforced by the presiding officer of the house and violation of which may attract penalties ranging from temporary suspension to permanent expulsion depending upon the severity of the violation. Such measures may go a long way in maintaining the sanctity of the Parliament.

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