

Q1 'India is more closer to Canada than USA if the relation between Union and States is to be seen'. Do you agree? Critically examine. (10)

Q2 Union Public Service Commission is a sufficiently powerful body, yet it lacks certain powers. Elucidate. (10)

Q3 What is a Pressure Group? How can pressure groups impact the economy of a country. Elaborate, by specifically focusing on India. (10)

Q4 Fundamental rights and DPSPs, although seen in conflict with each other, complement each other. How far do you agree with this. Justify with the help of examples and relevant judicial pronouncements. (15)

Q5 What are the different Alternate Dispute resolution mechanisms in India? Explain them. Also, mention the features and importance of Arbitration and Conciliation Act 2021. (15)

(Ans. 1)

Indian constitution has borrowed its features from different countries. Though, it has <sup>distribution of power</sup> states and the union, but is not an ~~actual~~ <sup>true</sup> federation.

In this concept of 'sui-generis' model of federation, it has is more closes to Canada in following ways:-

- 1) A strong centre and weaker states is a concept taken from Canada.
- 2) Its federation is a clubbing together of states as of Canada unlike that of USA which is a 'coming-together' federation.
- 3) ~~The~~ India is "a indestructible union with destructible states" as that of Canada whereas USA is "a destructible union of destructible states".  
The states do not have secessionist

power.

(4) The power of centre in residuary subjects in India just like Canada, however this is not in the case of USA.

(5) The appointment of Governor as a link between centre and state is also similar to Canada.

However, despite all these, we still have features similar to USA in terms of federal relations :-

(1) President office : ~~to~~ similar to USA. and states have a say in President's election.

(2) Judiciary and judicial interventions to preserve federalism like judicial review and judicial activism is a concept originated in USA.

(3) ~~It~~ 'Distribution of powers' in the ~~to~~ lists mentioned in Schedule 7.

Since, it's a mixture of both Canada and USA and neither a complete unitary or federal, that's why India is known for its 'sui-generis' model of federalism.



Ans. 2

Union Public Service Commission is a constitutional body which derives its powers under Article 315, 316, 317, etc. One of the highest institution known for its prerogative, it is a powerful body.

Powers of UPSC :-

- 1) Highest Body to Conduct exams  
It conducts higher level exams like UPSC CSE, NDA, etc which selects higher public officials.
- 2) Guide for Joint Public Service Commission  
It is to act, guide and conduct exams ~~for this~~ whenever the states make requests for JPSC formation.
- 3) Selection of Bureaucrats  
known for its selection of public civil servants through interviews.
- 4) Advisory Body  
act as an advisory body to President in terms of ~~any~~ any relevance changes.

Despite being a sufficiently Powerful body, it lacks certain Power :-

① Advises only recommended in nature  
It is not necessary that Centre will adhere to UPSC ~~advice~~ recommendations as they are not binding.

② Not consulted in promotions, vacancies

The body is not consulted while increasing vacancies, or backlog vacancies, or promotions which making changes into it.

③ Under the influence of Central Govt

Many times issues of such Political Pressure.

④ Not consulted while making reservations.

Therefore, in order to strengthen UPSC, the recommendations should be made binding, it should be consulted with in matters related to promotions and other reservation-related areas.

By such provisions, the 'waterdog' i.e.

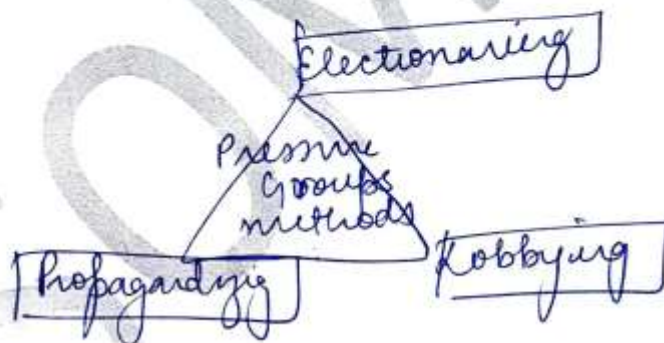
UPSC can function in its true letter and spirit



no. 3

Pressure Groups are the organisations which seek to achieve its members/ sections interests without striving for Political Power.

There has been growing influence of Pressure Groups in India, which is actually good as it strengthens the political, social and economic areas of the country.



Impact of Pressure Group on economy

- 1) It serves the interests of its sections like Bhartiya Mazdoor Sangh. → so it can help in laws and reforms related to labours in order to achieve the full potential of labour in the workspace.

(2) groups like ~~SEWA~~ SEWA - Self Employed Women's Association → employment and empowerment of women.

It can help in increasing demands of jobs for women → hence contributing to GDP.

(3) It seeks to work for the farmers' interests like Bharatiya Kisan Union acted as a frontier in farm protests. It can help boost the production of agriculture and increase the economy of the country.

(4) These can enhance the working conditions of the industry like by raising the concerns of workers like FICCI, CII.

(5) Can put pressure on government to bring reforms and create jobs and increase employment.

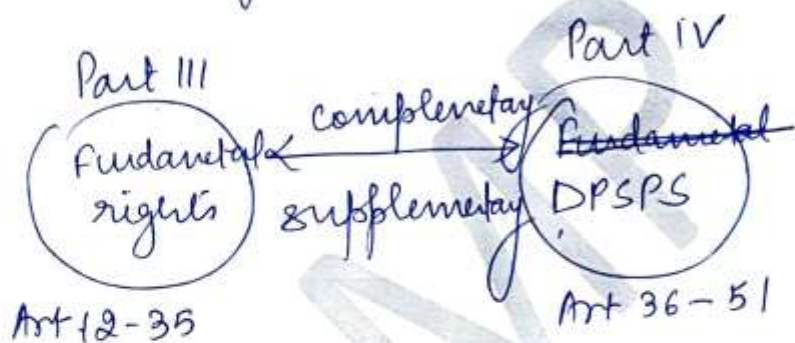
These Pressure Groups, if not radicalized can actually have a great impact on economy through democratic means.



Ans. 4

Fundamental rights are the rights and claims of citizens guaranteed by the constitution.

DPSPs are the moral obligations on the state to make laws according to these rules.



Often in conflict with each other :-

1) Difference in their nature.

Fundamental rights are justiciable and enforceable by law whereas DPSPs are non-justiciable and non-enforceable.

2) Fundamental rights are rights of the citizens against the state.

DPSPs are the obligations of the state, not a compulsion on the executive and legislative.



There have been various Supreme Court ruling with regard to both of their relationships -

(1) Champakam Durairajam case, 1951

↳ It was upheld that in times of conflict Fundamental rights shall prevail over ~~fundamental~~ or DPSPs.

(2) Re-Kerala Education Bill

↳ It was upheld that - DPSPs can overrule fundamental rights -

(3) Homeri / Kesavananda Bharati Case, 1973

upheld the Parliament's right to amend any part of the constitution.

As such Parliament-made amendments in which it enacted that in 24th

Amendment Act, that, made while

while making any law for article 39(b), 39(c), there would not be any question with respect to Art 14, ~~14 and~~ and Article 19.

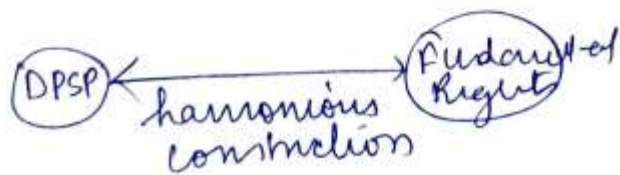
Keshavnanda Bharati case, 1973

upheld the above amendment constitutionally.

However in Minerva Mills Case, 1980,

there was a view that both are equally important and are complementary to each other, so state while have to make any law, need to consider both.

So. held that DPSPs and fundamental rights exist in a harmonious construction.



Therefore, Supreme Court with its successive Interpretations have made sure that both are seen together and both exist in harmony with each other.



Ans-5

The growing pendency in the courts and inability to give justice to the citizens is in conflict with the DPSP which says "every person should have fair legal aid".

This has crossed the concept of alternate Dispute Resolution mechanisms in India. It's a growing trend.

Different Alternate Dispute Resolutions are:-

(1) Lok Adalat :- It provides free and fair justice to the poor and underprivileged sections who cannot go to courts over any other issue.

(2) e-courts :- This has become an alternative especially in recent COVID Pandemic times when every one requires online resolutions.



(3) Arbitration :- It is a process of dispute resolution in which a person acts as an arbitrator and tries to settle both parties' contention without involving courts. Arbitration is binding on both the parties.

(4) Mediation : It is also an alternative mechanism where there is a friendly mediator who tries to resolve disputes. However, his decision is not binding in nature.

(5) Fast Track Courts :- These are the recent innovations in Indian scenario which are set up for certain issues. Like fast track courts for women issues, ~~elder~~ child delinquency, etc.

These alternative mechanisms have helped in disposal of the cases by delivering justice to the people.

## Arbitration and Conciliation Act 2021

### Features:

- 1) A comprehensive law of arbitration and conciliation -
- 2) Grievance Redressal authority is also there.
- 3) There have been proper qualifications for the arbitrators and conciliators.

### Importance

- 1) It will help to ~~fast~~ disposal of cases which are pending in the courts for long.
- 2) It will strengthen the arbitration mechanism.
- 3) It gives it legal backup to the arbitration mechanism which will now instill faith in people for opting this route.

Therefore, with the coming of this act, we can actually reduce the burden on courts and ensure timely justice to all!