

UPSCprep Free Daily Answer Writing Initiative

Subject: GS 2

Syllabus: Indian Polity and Constitution

Questions

Q1. Though the anti-defection law was brought in to prevent overnight defections and instability in governments, it has in effect become against the spirit of democracy. Comment.

(150 words)

10

Q2. Election commission of India is the sole institution responsible for conduct of free and fair elections. Discuss the challenges faced by this body. (150 words)

10

Model Structures

Q1. Though the anti-defection law was brought in to prevent overnight defections and instability in governments, it has in effect become against the spirit of democracy. Comment. (150 words)

10

Model structure

Introduction

- Anti-defection law under the **tenth schedule** was introduced through the **52nd constitutional amendment act** providing for disqualification of members on the grounds of defection.

Main body

- **Anti-defection law was brought to:**
 - Bring **stability in government** formation and continuation for its tenure of 5 years.

- Ensure the party carrying **public mandate** stays in power and not bought down just due to money or muscle power.
- Ensure a party member doesn't violate directions of the party like voting on important issues.
- Anti-defection law **against the** spirit of democracy:
 - Though created to prevent all defections, it has **prevented retail defections only** and allowed wholesale defections. It means that 2/3rd members can decide to merge with another party.
 - **No time frame** provided within which the presiding officer must decide on disqualification. The Supreme Court in Jagjit Singh versus the State of Haryana highlighted allegations about confidence in the role of the Speaker regarding impartiality.
 - Even **expressing opinion** inside the house, **contrary to party** stand can be construed as defection.
 - Also, voting has to be based on **party whip**. This means that the will of the party prevails over the will of the constituency that the lawmaker represents.

Way forward

- To further induce corrections in the 10th schedule, several committees and their recommendations can be looked into.
 - Eg. The **Dinesh Goswami Committee** called for disqualification only for cases when a member gives up the membership of his political party voluntarily and votes against the party line.
- **Law Commission** called for deleting exemption in case of splits and mergers and considering **pre-poll alliances** as one party under the 10th Schedule.
- The Election Commission called for President/Governor as the decision-maker in disqualification cases based on binding advice from the Election Commission.

Conclusion

- Even after decades of anti-defection law, the issue is rampant. This needs to be addressed by electoral reforms to prevent money and muscle power in politics and promote internal party democracy.
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Q2. The Election Commission of India is the sole institution responsible for the conduct of free and fair elections. Discuss the challenges faced by this body.

150 words

10

Model Structure

Introduction

- Use of money, violence and electoral malpractices has increased with time which has resulted in criminalization of politics. Free and fair elections are a part of the basic structure of the constitution and the Election commission is responsible for it. OR
- Election commission of India is a constitutional body formed under Article 324 of Indian Constitution.

Main Body

- There is a rampant use of money and muscle power and the Election commission of India has been unable to prevent this challenge due to reasons like-
 - There are cases of unattended voting machines which spring up after every election and create trust deficit between voters as a whole and the election commission as an institution.
 - Appointment of Chief Election Commissioner and other two commissioners is not robust and transparent which affects independence of the institution.
 - Inner-party democracy and financial regulation of parties is a big issue which the ECI has not been able to address due to lack of powers.
 - There is no bar on post retirement appointments of election commissioners and they can also join any political party after retirement. This affects independence and decision making of the body.

- Before elections, there is abuse of power by the state government which makes many transfers to post corrigible officials in key positions for getting advantage.

Conclusion

- To ensure elections are conducted in free and fair manners, Voter Verifiable Paper Audit Trail System or VVPATS must be there in all constituencies and their model code of conduct must have a legal backing for proper punishment in case of violations.

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