STUDY NOTES · BASIC CONCEPT

Know about Judicial Review, Contempt of Court, Principle of Proportionality and related concepts

Polity & Governance

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A. What Is Judicial Review?

Judicial review is the power of constitutional courts to examine the validity of legislative and executive actions against the Constitution.

Importance:

- Protects fundamental rights.
- Checks arbitrary exercise of executive power.
- Maintains constitutional supremacy.
- Ensures government authorities act within their legal powers.

Relevant provisions: Articles 13, 32, 226 and 227, along with other applicable constitutional provisions.

B. What Is Contempt of Court?

Contempt of court refers to conduct that falls within the legally recognised categories of contempt, including wilful disobedience of a court order and conduct that substantially interferes with the administration of justice.

The Contempt of Courts Act, 1971, distinguishes between:

- Civil contempt: Willful disobedience of a judgment, decree, direction, order, writ or other court process, or willful breach of an undertaking given to a court.
- Criminal contempt: Acts or publications falling within the statutory definition, including those that scandalize or tend to scandalize a court, prejudice judicial proceedings or interfere with the administration of justice.

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Important: An allegation of contempt does not itself establish contempt. The court must assess the facts and applicable law.

C. What Is the Principle of Proportionality?

The principle of proportionality requires restrictions on rights to be appropriately related to a legitimate objective.

In the context of public protests, authorities should consider:

1. Whether the restriction has a lawful basis.
2. Whether it serves a legitimate public interest.
3. Whether it is necessary to achieve that objective.
4. Whether a less restrictive alternative is available.
5. Whether the burden imposed on citizens is excessive relative to the objective.

For example, regulating transport services or imposing targeted security restrictions may be preferable to a blanket shutdown if the former can adequately address the identified risks.

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D. Important Constitutional Articles

Article	Significance
Article 14	Equality before the law
Article 19(1)(a)	Freedom of speech and expression
Article 19(1)(b)	Right to assemble peacefully and without arms
Article 19(2)	Reasonable restrictions on freedom of speech and expression
Article 19(3)	Reasonable restrictions on peaceful assembly
Article 21	Protection of life and personal liberty
Article 32	Right to approach the Supreme Court for enforcement of fundamental rights
Article 226	High Courts' power to issue writs

Article	Significance
Article 129	Supreme Court as a court of record, including power to punish for contempt
Article 215	High Courts as courts of record, including power to punish for contempt

E. What Is the Difference Between Articles 32 and 226?

Article 32: Provides a constitutional remedy before the Supreme Court for the enforcement of fundamental rights.

Article 226: Empowers High Courts to issue writs for enforcement of fundamental rights and for other purposes within their jurisdiction.

Thus, Article 226 has a wider stated scope, while Article 32 specifically concerns fundamental rights.

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F. What Is Habeas Corpus?

Habeas corpus is a writ through which a court examines the legality of a person's detention.

It serves as a safeguard against unlawful deprivation of liberty and can require the authority concerned to produce the detained person before the court and justify the detention.

Other important writs include:

- Mandamus: Directs a public authority to perform a legal duty.
- Certiorari: Enables a superior court to quash an unlawful order of an inferior court or tribunal in appropriate circumstances.
- Prohibition: Prevents an inferior court or tribunal from exceeding its jurisdiction.
- Quo warranto: Questions the legal authority by which a person holds a public office.

7. Relevance for UPSC

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- GS Paper II: Judiciary, judicial review, fundamental rights and constitutional remedies.
- GS Paper II: Separation of powers, executive accountability and rule of law.
- GS Paper IV: Accountability, impartiality, proportionality and ethical exercise of authority.
- Essay: Liberty versus security; judicial independence and constitutional democracy.

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