

1. What are quasi judicial bodies? What purpose do they serve? Discuss. How successful have quasi judicial bodies been to address the problem of excessive litigation? Critically examine.

Approach

In Introduction, explain what are quasi-judicial bodies. Then, the purpose these serve, i.e. their role in the overall judicial structure. You must also provide both positives and limitations of these bodies in checking excessive litigation.

Introduction

A quasi-judicial body is a body which has powers and procedures resembling those of a court of law or judge such as an arbitrator or tribunal board. It is obliged to objectively determine facts and draw conclusions from them so as to provide the basis of an official action. Their powers are usually limited to a very specific area of expertise and authority, such as land use and zoning, financial markets, public standards etc. National Human Rights Commission, National Commission for Women, National Commission for Minorities, etc. are examples of quasi-judicial bodies.

Body

Judicial decisions consist of finding facts and applying law where as a quasi-judicial decision consists of finding facts and applying administrative policy. Quasi-judicial body is the executive body with some judicial characteristics, in which the power of adjudication is entrusted to person or body outside the system of ordinary courts. 'Duty to act judicially' is the principle behind it. These bodies can inquire, investigate, summon & award legal penalties to any administrative agency. Generally, these bodies have limited judiciary power in specialised areas.

Purpose served by the Quasi- judicial bodies:

- Flexible nature: To bring flexibility and adaptability as they are not restrained by rigid rules of procedure. E.g., simplified procedure to apply RTI application under Central Information Commission.
- Less expensive: They are set up to be less formal, less expensive, and a faster way to resolve disputes than by using the traditional court system.
- Reduce burden: The system also gives the much needed relief to ordinary courts of law, which are already overburdened with numerous suits. E.g. NCLT reduces the burden of financial cases from judiciary.
- Technical expertise: They play an important role and part in the sphere of the adjudication of disputes especially when the subject demands technical expertise. E.g., National Green Tribunal avail expertise to deal with environmental issues.
- Public Awareness and suo moto powers: They enjoy some of the powers of a civil court, viz., issuing summons and allowing witnesses to give evidence. Its

decisions are legally binding on the parties, subject to appeal. E.g., National Human Rights Commission can take suo moto cognizance of human rights violations. It also did awareness campaign for sensitisation towards LGBTQ community and HIV infected people.

Successful in addressing excessive litigation:

- Administrative matters: Administrative tribunals have lowered the burden of litigation from the government servants regarding internal complaints.
- Financial matters: Bodies like National Company Law Tribunal, Banking ombudsman, Income Tax Appellate Tribunal have reduced burden related to fiscal cases.
- Legally binding: Decision of tribunals is legally binding meaning parties are compelled to follow the judgement. This makes the process formal and fair.
- Cost-efficient: They are a cheaper alternative to courts and parties represent themselves so no lawyer fees making them cost efficient in the sense that the claimant is likely to keep more of any money awarded.
- Quick disposal: Hearings are much faster than in courts and most cases can be dealt with in a day which saves time for everyone involved.

However, there are few lacunae that have in fact added to the judicial burden:

- Recommendatory nature: Many bodies like NHRC are mainly recommendatory in nature and it has no power to punish the violations of human rights or to award any relief to the victim.
- Increasing Pendency: Average pendency across tribunals is 3.8 years with 25% increase in the size of unresolved cases while pendency in high courts is 4.3 years. It proves inefficient in delivering quick justice.
- Appeal in judiciary: For almost all the cases, the appeal lies in High Courts and Supreme Court that increases the burden of court.
- Special Leave Petition: Use of SLP by Supreme Court in certain cases like inter-state water disputes again increase the burden on judiciary.
- Add to cost and delays: A person can again appeal in the court against the decision of the Quasi Judicial body. This fades away the advantage of cost and time provided by the Quasi Judicial body.
- Poor efficiency: People if not satisfied with the decisions of the body always move to courts and hence low administrative efficiency and poor functioning of quasi judicial bodies further increase the burden on courts.
- Partial justice: Many members of these bodies are ex-bureaucrats without any training of law, this hampers the proper way of justice. Also, there is always a possibility of executive interference in their functioning which may result into partial decisions sometimes.
- Multiplicity: Now a days multiplicity of bodies and mushrooming of tribunals have made the judicial functioning complex.

Conclusion

Quasi-judicial bodies are important for maintaining a healthy justice delivery ecosystem in the country. However, in order to make them effective, rationalisation of tribunals and strict guidelines for appeal need to be enforced. This will ensure that these bodies achieve their objective of reducing the pendency and speedy justice.



2. What role can the Inter State Council play in the era of cooperative federalism? Illustrate with the help of suitable examples.**Approach**

The introduction should be about what is Inter-State Council. In body, write how it can be used as a platform to enhance cooperative federalism. Try to provide examples to substantiate your point. Give a brief conclusion.

Introduction

The Inter-State Council is a constitutional body to facilitate coordination between states and the centre. It is a recommendatory body to investigate and discuss subjects, in which some or all of the states or the Central government have a common interest. It is set up on the basis of provisions in Article 263 of the Constitution of India by a Presidential Order, 1990 based on the recommendation of Sarkaria Commission.

Body**Features of Interstate Council**

- The council was envisaged to promote coordination and cooperation between the states and the Centre, thus leading to evolution of new policies and smooth functioning and strengthening of federal structure.
- The Inter-state council is not a permanent constitutional body for coordination between the states and Central government. Rather, President can establish it at any time if it appears to him that the public interests would be served by the establishment of such a council
- Co-operative federalism refers to a horizontal relationship shared between the centre and the states and among the states wherein these co-operate in the longer public interest.

Inter-state council can play an active role in enhancing cooperative federalism:

- Platform to discuss and debate: It provides a platform for all the stakeholders to come together and discuss various concerns at an equal footing, for example on legislation related to subjects like health, education etc. mentioned in concurrent list where states often feel left out.
- Resolution of disputes: Various disputes like Inter-state river water etc can be discussed in presence of other states and the Centre and an amicable solution can be reached upon. As per Article 263, it is competent to tender advice regarding the resolution of inter-State disputes including the River Dispute.
- Fiscal federalism: States can have a say based on their past performance and present their situation properly in such a council and ask for a better and fair devolution of funds from Centre.
- Loan to states: It allows for advancement of loans to the states as per 'the productive principle', thus promoting development in states.

- Discussion of common issues: For example, 11th ISC discussed internal security matters with focus on intelligence sharing and coordination for combating terrorism / insurgency , police reforms and police modernization.
- Better Policy coordination: Making recommendations upon any such subject for the better coordination of policy and action with respect to that subject. For example, alignment of Maharashtra's Jalyukta Shiwar Yojana with Centre's drought relief guidelines and fund and State's Housing schemes, developmental works in coordination with MGNREGA for effective deliverance.
- Promotes competition: A single platform of representation, dispute resolution and negotiation with the Centre based on past performance, also promotes competition among states, making them work harder to excel on the developmental parameters.
- Regional development: It can be a forum to discuss and adopt role model of best practices in each states leading to balanced regional development.
- Disaster situation: In disasters which affects the whole country such as the corona pandemic the states and centre can discuss and evolve a common policy which will do with with any uncertainty.

The ISC can thus provide a platform for periodic consultation and assessment. However, to increase its effectiveness the recommendations of Punchhi commission regarding ISC- involving experts from various domains in the meetings, three meeting a year etc.- must be implemented at the earliest.

Conclusion

Australia, Canada and German federations have established similar federal councils which have ensured better coordination in policy implementation and serving the interests of the states in an efficient manner. Therefore India also need to institutionalise this constitutional body for better cooperation and coordination between centre and state governments.

3. What role should India be playing in the evolving geopolitics in Afghanistan? What can be the possible fallouts of India's active engagement in Afghanistan? Discuss.

Approach

In introduction mention the recent agreement on withdrawal of Us troops from Afghanistan. In next part mention in brief what are India's interests in Afghanistan. Then write what role should India play and what can be fallouts of this active role in Afghanistan

Introduction

An agreement signed between the United States and the Taliban on February 29, 2020, marks a milestone in America's longest ever war. Accordingly, the majority of U.S. troops are expected to withdraw from Afghanistan by the end of 2021. Thus it makes imperative to calibrate its role to the new emerging reality of both Taliban and Afghanistan ruling simultaneously.

Body

Indian assets in Afghanistan have been targeted by the Haqqani group, a major Taliban faction. India has also been able to invest in Afghanistan's future partially because of the presence of U.S.-led troops and the relative stability it brought. With this stability at risk, India needs to urgently reposition its priorities.

Indian interests in Afghanistan :

1. Economic and Strategic Interest
 - Afghanistan is a gateway to the oil and mineral-rich Central Asian republics.
 - Afghanistan's main advantage is its geography, as anyone who is in power in Afghanistan controls the land routes connecting India with Central Asia (via Afghanistan).
2. Developmental Projects
 - The massive reconstruction plans for the country to offer a lot of opportunities for Indian companies.
 - Three major projects: the Afghan Parliament, the Zaranj-Delaram Highway, and the Afghanistan-India Friendship Dam (Salma Dam), along with India's assistance of more than \$3 billion in projects, hundreds of small development projects (of schools, hospitals and water projects) have cemented India's position in Afghanistan.
3. Security Interest
 - India has been the victim of state-sponsored terrorism emanating from Pakistan supported terrorist group operating in the region (e.g. Haqqani network).

- Thus, India has two priorities in Afghanistan: to prevent Pakistan from setting up a friendly government in Afghanistan, and to avoid the return of jihadi groups, like al Qaeda, which could strike in India.

Role India should play in Afghanistan with the evolving geopolitics

- India must also pursue opportunities to fulfil its role in the peace efforts in Afghanistan, starting with efforts to bridge the Ghani-Abdullah divide, and bringing together other major leaders with whom India has built ties for decades.
- India should take the diplomatic route to press for its inclusion in “6+2+1” dialogue, to claim its legitimate role in the Afghan peace process.
- India should leverage the United Nations’s call for a pause in conflicts during the Covid-19 pandemic to restart dialogue with Pakistan, which in turn is necessary for lasting peace in Afghanistan.
- Also, India can learn from US-Taliban talks where two opposing parties came to the negotiating table for talks on Afghanistan’s future.
- For India, given its abiding interest in Afghanistan’s success and traditional warmth for its people, making that leap should be a bit easier. Thus, India can consider the appointment of a special envoy and start Track II diplomacy with the Taliban.
- India should pursue the issue of peace in Afghanistan through Shanghai Cooperation Organisation where the neighbouring countries of Afghanistan such as China, Pakistan, Russia and India are members.

Recently India have taken steps to actively engage with Taliban for the first time. India wants to make sure that it has diplomatic channels open with Taliban. Further this also signals India’s active engagement in Afghanistan politics. This active engagement can have possible fallouts such as :

- The Taliban could go back on its promises and, with a nudge from Pakistan, target Indian interests. If not this, then the Taliban interlocutors India is engaging with (the same figures the US is talking to, such as Mullah Baradar) could be sidelined, or worse, replaced by pro-Pakistan hardliners such as the Haqqanis.
- The outreach to the Taliban could expedite Kabul’s fall, and complicate India’s relations with existing allies. This argument has been potent enough to prevent an India-Taliban channel to develop at various moments since 2010, when the idea of talking to the Taliban became internationally acceptable.
- India’s international stand on terrorism can be diluted as India has never negotiated with a extremist terrorist supporting organisation directly . Countries like Pakistan can talk about the double standards which India pursues.
- India can get embroiled in a proxy war with Pakistan in Afghanistan. This may lead to India squandering its resources as have been done by USA and USSR in past.

- India can lose the goodwill earned in Afghanistan over these years. This could make India a pariah which will hurt India's strategic interests such as regional transportation and control over development projects.
- India could face attacks in Jammu and Kashmir as faced by it in 1990's and the hijack which was done at the behest of Pakistan in 1998.

Conclusion

Despite these risks, there are compelling reasons for India to talk to the Taliban and actively engage in Afghanistan. For one, these concerns would remain valid regardless of India's outreach. If nothing else, India's absence in the Taliban's calculus would make it even more expendable if the Islamic republic collapses. Second, India will not want Pakistan to have upper-hand with Taliban. Therefore India needs to support Afghanistan in its pursuit of peace and development but also needs to engage with Taliban in the new evolving geopolitics of the region.

