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Q5

Resorting to ordinances has always raised concern on violation of the spirit of separation of power doctrine. While noting the rationales justifying the power to promulgate, analyse whether the decision of the Supreme Court on the issue have further facilitated to resorting to this power. Should the power to promulgate the ordinances be repealed?

UPSC Civil Services Mains 2015 · GS II · 12 marks · Separation of Powers

Separation of powers between various organs; dispute redressal mechanisms and institutions.

Facts & figures for this PYQ only.

Numbers move. Confirm the latest Budget, Economic Survey or census round. This sheet is for revision, not a substitute for the model answer.

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Article 123

President may promulgate an ordinance when both Houses are not in session if immediate action is necessary; it has the force of an Act for a limited period.

Article 213

Corresponding ordinance power of the Governor, with additional limits where the Governor needs instructions from the President.

D.C. Wadhwa v. State of Bihar (1987)

Struck at the practice of re-promulgating ordinances without placing them before the legislature as a fraud on the Constitution.

A.K. Roy v. Union of India (1982)

Upheld the legislative character of ordinance power while dealing with the National Security Ordinance; merits of necessity remain closely guarded.

Re-promulgation

Issuing a fresh ordinance to continue a lapsed one without legislative approval; the core abuse Wadhwa named.

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