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Q92

In India, Judicial Review implies (a) the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders. (b) the power of the Judiciary to question the wisdom of the laws enacted by the Legislatures. (c) the power of the Judiciary to review all the legislative enactments before they are assented to by the President. (d) the power of the Judiciary to review its own judgements given earlier in similar or different cases. Official key: A.

UPSC Civil Services Prelims 2017 · General Studies · 2 marks · Polity and Governance

Indian Constitution, polity, rights, governance - Prelims GS Paper I.

Explanation**(a) Official key**

Judicial review in India is the power of constitutional courts to strike down laws and executive acts that violate the Constitution. Constitutionality, not legislative wisdom, is the test. That is the official key.

(b)

Courts do not sit in appeal over whether a policy is wise if it is otherwise constitutional. Questioning wisdom is the political process. This option is not the key.

(c)

There is no routine pre-enactment judicial clearance of every Bill before the President's assent. Review is ordinarily after a law exists and is challenged. This option is therefore wrong.

(d)

A court revisiting its own earlier rulings is prospective overruling or a larger bench, not the definition of judicial review of legislation. This option is not the key.

Summary

Official key is (a) the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders. Indian judicial review rests on a written Constitution, fundamental rights and **Articles 13, 32 and 226**. Wisdom of policy, prior assent-vetting of all Bills, and intra-court overruling are different ideas. Only (a) is judicial review as asked.

Related possible facts

These can be asked in a future Prelims paper.

Article 13

Laws inconsistent with Fundamental Rights are void

Kesavananda Bharati

Basic structure; limits even constituent power

Articles 32 and 226

Writ jurisdiction of SC and High Courts

Marbury v. Madison

Classic US statement of judicial review (comparative)

Due process / procedure established by law

Indian rights review evolved through Maneka Gandhi and later cases

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