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Mains Practice Questions

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Q. Ordinances though were meant to be temporary, but repromulgation sidesteps this limitation and makes them permanent. Discuss.

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Approach

- Start the answer by mentioning the context of the frequent use of ordinance routes
- Mention the associated issues with the repromulgation of ordinance.
- Conclude Suitably.

Introduction

The ordinance was originally conceived as an emergency provision. However, in recent times the frequent use of ordinance routes has led to the undermining the role of the legislature and the doctrine of Separation of powers.

Body

Associated Issues with the Repromulgation of Ordinance

- **Usurpation of Legislative Power:** An ordinance “ceases to operate” six weeks after the two Houses reassemble, except if it is converted into an Act by then. Repromulgation sidesteps this limitation.
To repromulgate is to effectively extend the life of an ordinance and lead to the usurpation of legislative power by the executive.
- **Undermining the Doctrine of Separation of Powers:** In the Kesavananda Bharati v State of Kerala case 1973, the Supreme Court listed the separation of powers as a “basic feature” of the Constitution.
In this way, the repromulgation undermines the separation of powers, as it effectively allows the executive to make permanent legislation without legislative input or approval.
- **Ignoring Supreme Court’s Judgements:** Even after tough judgments on the use of ordinances, both the Centre and state governments have ignored the Supreme Court’s observations.
 - For example, in 2013 and 2014, the Securities Laws (Amendment) Ordinance was promulgated three times.
 - Similarly, an ordinance to amend the Land Acquisition Act was issued in December 2014, and repromulgated twice – in April and May 2015.

Conclusion

Indian Constitution has provided for the separation of powers among the legislature, executive, and judiciary where enacting laws is the function of the legislature. The executive must show self-restraint and should use ordinance making power only in unforeseen or urgent matters and not to evade legislative scrutiny and debates.