



PSIR Answer Writing Module 2023

Test 7

Time Allowed: 1 Hour 30 Minutes

Max Marks: 120

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Test Submission Date: 17/July

Email Address: _____

Instructions:

1. All questions are compulsory.
2. All questions are for 15 marks each.
3. Word limit for each question is 200 words.
4. Answers must be written in the medium authorized in the admission Certificate, which must be stated clearly on the cover of the booklet in the space provided.
5. Content of the answer is more important than its length.
6. Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.
7. All parts of the question should be written at one place itself.
8. Filling all the details in BLOCK LETTERS is mandatory.

Q. No.	Marks	Q. No.	Marks
Q1		Q5	
Q2		Q6	
Q3		Q7	
Q4		Q8	
Total Marks:		Evaluator Code:	

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	Poor	Average	Good	Very Good	Excellent
Understanding of Questions					
Structure & Flow					
(a) Introduction					
(b) Conclusion					
(c) Overall					
Subject Knowledge					
Presentation					
(a) Underline					
(b) Paragraph					
(c) Overall					

Overall Remarks:

Dear Student,



Que.1

The basic structure doctrine is one of the most potent tools of judiciary for maintaining the checks and balances for smooth functioning of democracy. Comment. (200 words, 15 Marks)

The basic structure doctrine emerged in the historic Keshvanand Bharati Case, 1973. The context of the case was executive's zest to rewrite the constitution as per its wishes (24th & 25th amendment act).

In this case, SC ruled that Parliament is not equal to constitutional assembly as the former represent political will and latter represent 'GENERAL WILL' - which is always right.

Basic Structure doctrine protects the fundamental ideas of the

Founding fathers of Indian
constitution and protects democracy
from turning into tyranny - SC
ruled that

"Amendments should be such that
we can trace original Constitution."

How it helped in maintaining Check
& balances —

- 1) It checked authoritarian tendency
of parliament to change constitution,
attempting to rewrite it.
- 2) In Munerva Mills case; SC struck
down 42nd Amendment's clauses
which were making Fundamental
Rights subservient to DPSP.



3) Similarly, in SR Bommai Case, SC said Secularism & federalism are part of Basic Structure & checked parliament's power in this regard.

4) GR Coelho case and NIAC case also showed how this doctrine saved Judicial review and maintained check & balance.

Critics argue that it was unprecedented and wrong on behalf of SC to propound this doctrine as it's nowhere mention in constitution (PB Mehta).

But, as Zia Modi points out
"With this doctrine, India choose uncertain democracy over certain dictatorship"



Que.2

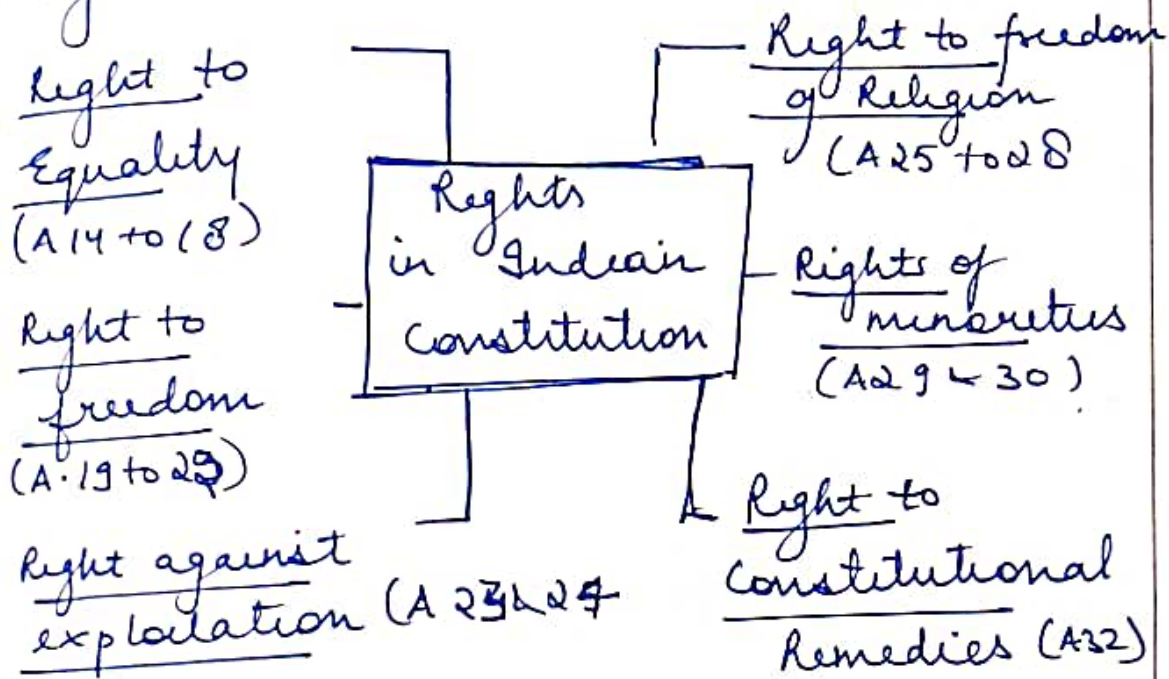
Individual obligation is meaningful only when rights are guaranteed by the state. Comment. (200 words, 15 Marks)

"Rights are those conditions without which no man can seek to be at its best"
— Laski

Legal theory of rights as put forward by Hobbes, Bentham says that 'individual obligations' are themselves weak if rights are not guaranteed by State/Law. Hobbes calls 'Rights are properly child of Law.'

Recognising the essentiality of guaranteeing fundamental rights to every citizen without any discrimination, Indian Constitution

entailed a long list of justiciable Rights.



These rights ensue 'Dworkin's principle of Rights as Trumps', means supremacy of Rights. It's based on liberal idea of Rights as prior to good.

Rights are based on individual obligation to be realised in a



substantial manner. For instance, Right to life entails individual's obligation to respect others right to life also.

Similarly, individual obligation like not to practise untouchability can only be meaningful when State gives Rights against untouchability.

Contrary to legal theory of Rights, natural rights theory suggest 'Reason in man teaches him to not harm others' (Locke). Thus, State's guarantee is not prerequisite.

In Modern times, Democratic State do guarantee fundamental Rights to citizens

Que.3

Analyse the recent controversy on Muslim women's headscarf from the perspective of constitutional secularism in India. (200 words, 15 Marks)

Secularism is a western concept originated in the age of enlightenment and modernity in Europe. As a result of modernisation & protestant movement, religion got separated from public sphere and got confined to private sphere.

In India, we follow different model of Secularism, suited to our diversity and society. As Professor Rajiv Bhargava explains, Indian Model of secularism is based on idea of 'Principled distance' and boundary between state & religion.



are porous, to allow state to enter religious sphere for reforms.

Muslim women's headscarf controversy has again sparked debate over Indian secularism. The issue emerged when Karnataka college banned scarf in classrooms, as it violates uniform code.

From constitutional angle, Article 25 guarantees right to freely practise one's religion. This means headscarf is not prohibited as India doesn't follow hyper substantive model of France, which bans public display of religious symbols.



But in various judgements, SC has held that article 25 is not absolute and articles 14 & 19 have supremacy, to ensure equality to all.

In this context, SC has given Doctrine of Essentiality (Srinivasa Murthy Case). It means only those essential practices fundamental to religion are protected. So, headscarf are not essential practice & school has the right to implement uniform dress code on students.

Indian Secularism allows freedom of religion on one hand, while balancing it with equality on the other.



Que.4

Dalit perspective represents an alternative imagination of India based on the views of Phule, Ambedkar and Periyar. Discuss (200 words, 15 Marks)

Indian national movement was multicaſte, multicaſſ movement with maſſ participation in every ſtage. Thus, it's analysed from different angles to underſtand its nature.

While the metanarrative is of liberal diſcourſe which maintains that freedom movement was inſpired by ideas of nationalism & unity of all, Dalit perſpective paints a different picture.

Phule argued againſt formation of Congreſſ as he believed 'Britiſh



"Raj is better than Peshwa Raj."

He said India represent hegemony
of Brahmins & oppression of Dalits.

Till the time, dalits don't get
socio-political rights, no real
national movement is possible. His
view was based on Aryan Invasion
theory.

Taking Bhule's ideas forward, Dr.
[Ambedkar] presented an alternative
imagination of India. He said
India is a fragmented land and
Hinduism is a warring tribes fighting
against each other.

According to him, nation survive



when feeling of nationalism, fraternity and collectiveness emerge. His ideas were inspired by French Revolution's Liberty, Equality & Fraternity.

'Periyar' or Ramaswamy Naicker started Self-respect movement in South India to counter hegemony of Brahmins.

All these dalit leaders imagined India as a land of equality and dignity of all, ensuring emancipation of Dalits. According to Jhambhakar, 'a just society is where there is rising sense of reverence & declining sense of contempt'.



ue.5

Compare the nature of peasant movements in India before 1857 and after. (200 words, 15 Marks)

Peasants movements have a long history in India. Due to British rule and policies such as land revenue policy (Zamindari, ryotwari), peasants suffered a great deal of oppression. Thus, many times, they raised their voice & arms against British exploitation.

Before 1857, peasant movements were local and sporadic. They aimed at redressal of small grievances against local zamindars.



or moneylenders. For instance, Santhal Rebellion aimed at getting land rights.

These movements were mostly violent in nature as the peasants were unaware of legal means. (Eg) - Pagal Panthis Revolt.

Before 1857, intellectual class was also not too much vocal about peasant causes. Thus, peasant movements were on their own.

After 1857, nature and working of peasant movement changed. They fought for wider aims and could persuade British to



provide relief. For instance, Indigo Revolt and Deccan Riots, which led to Deccan Agricultural Relief Act.

They were supported by Indian Intellectuals & started using legal means, fighting in courts. Later, in 1920s & 30s, Congress under Gandhi took up peasant causes.

Communist also organised peasant movement across the country. This led to formation of All India Kisan Sabha. 1935.

Peasant movements kept on evolving and broadening in their agenda & base.



Que.6

In what way 102nd and 105th amendment acts shape India's policy towards the backward classes? (200 words, 15 Marks)

102nd amendment gave the constitutional status to National Commission for backward classes and 105th amendment Act restored the state government right to recognise socio-^{educational} ~~economic~~ backward classes (SEBCs).

How they shaped India's policy towards backward classes —

- 1) These amendments are significant for both political class and SEBCs. OBC politics in the country will further strengthen.



- 2) Constitutional Status ensures more power to NCSC, signalling government's commitment for backward classes & their cause.
- 3) In 42nd amendment, government tried to centralise power of recognising SEBCs to Union. But, 45th amendment restored state's power.
- 4) India's policy towards backward classes recognise their diversity across regions, thus state's right to recognise backward classes is essential.
- 5) At the same time, it will lead



to politicisation of reservation of OBCs as dominant castes like Jats, Marathas will demand inclusion in OBC list of states.

6) These amendments will impact reservation issue and demand for recognising most backward among SEBCs will also strengthen.

India's policy is to provide justice to backward sections and ensure their inclusion in jobs and educational institute, by recognising them under Union & states.



ue.7

Define the concept of Judicial review. Critically examine the role of judiciary towards strengthening the rule of law in the country. (200 words, 15 Marks)

Judicial review is the power of judiciary to determine the constitutionality of acts passed by legislature and executive. If they are found ultra vires, they are declared as Null & Void.

It emerged in USA and in India, judicial review is constitutionally guaranteed under Article 13, 32, 130-136. Indian judiciary exercise this power in the light of due process of law.



Role of Judiciary in strengthening Rule of law —

- 1) Using its power of Judicial Review, Judiciary ensured Rule of law is maintained.
- 2) In Keshvanand Bharati Case, Judiciary examined 24 & 25th Amendment Act which were aiming to curtail Right to property. In this case, Judiciary upheld rule of law by giving the basic Structure doctrine.
- 3) Similarly, in Minerva Mills case, SC ruled that Fundamental Rights and DPSP are complimentary in nature, both can be amended subject to Basic Structure.



4) In various other judgements such as NJAC Case, IR Behl case, SC has established supremacy of Constitution, protecting it from executive authoritarianism.

But at the same time, critics argue that judiciary overreach and misuse its power of Judicial Review, undermining Rule of Law. For eg- Basic Structure doctrine was judicial innovation, similarly collegium. Also, NJAC judgement was criticised by government.

Overall, as Upendra Baxi held, judiciary has done the chemotherapy of Indian politics and strengthened Rule of law.

Que.8

The structural functional pattern of governance in India continues to be based on colonial ideas and philosophy. Comment. (200 words, 15 Marks)

Indian Constitution, administrative structure and functional pattern are heavily based on G.O.A. Act, 1935 reflecting colonial legacy.

Grandville Austin said, Indians didn't start with a clean slate.

Freedom was just transfer of power and british legacy continues till now.

The governance pattern adopted by India was Bureaucratic Model as it was present in pre independence times. Britishers introduced a



strong, narrow minded, elitist, status quoist and rule abiding bureaucracy to maintain British Raj. This same structure continues leading to corruption and Bureaucratic apathy, failing poverty alleviation program.

Similarly, sedition law reflect colonial idea of suppressing dissent in the name of National Security. Ordinance power of Governor & President is also based on colonial ideas.

IPC reflects age old laws continuing in modern society. Eg - Sec 377



criminalising homosexuality was put aside by SC in Navtej Case.

Executive holds immense power as explained by Hamza Alvi in overdeveloped state theory. Colonial masters introduced strong executive and power is still centralised in political executive.

At the same time, colonial ideas were contextualised for Indian needs and new ideas also governed India such as Welfare State, Universal Adult franchise, DPSP, local government based on Gram Swaraj.