

**PSIR Answer Writing Module – Target 2025****Test - 07****Time Allowed: 1 Hour 30 Minutes****Max Marks: 120**Name: **MINAL NEGI**Test Submission Date: **06/09/2024**

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 :			

	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, 					

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Ans:

The Constitution (First Amendment) Act, 1951 was brought by the Jawaharlal Nehru government in the backdrop of SC judgement revoking reservation policies of Madras state govt in Champakam Dorairajan vs. State of Madras.

Holding the sanctity of fundamental rights over actions of state to give effect to directive principles, the SC invalidated the 40% reservation in Madras.

In response to this judgement of Supreme court, the central govt added A.15(4) and A.16(4) which allowed ~~an~~ exception state to make special provisions for SC/ST in educational institutions and employment opportunities respectively.

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The first constitutional amendment act opened the scope of affirmative action policies by the state. These policies set the precedent of social revolution in India which led to expansion to other vulnerable sections such as EWS, socially and economically backward classes (Mandal commission), women through 106th amendment etc.

The amendment also added ninth schedule to protect the land reforms acts from judicial scrutiny. However, Mani Patkhiwala calls it as the blackhole of Indian constitution. This step was undone by the supreme court in IR Coelho case 2007.

The act also added three reasonable restrictions to freedom of speech & expression

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namely public order, friendly relations with foreign states and incitement to an offence. It gave legal and constitutional sanctity to sedition law under IPC which Gandhiji calls as prince among the laws to suppress Indians.

The first amendment set off the conflict between fundamental rights and directive principles of state policies which culminated in harmonious construction between both being declared as basic structure in Minerva Mills case.

The first amendment led to the policies of positive discrimination which have come a full circle with latest EWS reservation and women reservation. Social identities once used for marginalisation are now used for empowerment.

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Q2.

Basic structure doctrine is a principle that empowers judiciary to review legislations and amendments by Parliament going against the core philosophy of the constitution.

The framework of basic structure is deeply rooted in constitutional contradictions between fundamental rights and directive principles. First highlighted by Supreme court in Champakam Dorairajan case, 1950, followed by Shankari Prasad and Sajjan Singh case where judiciary took a restrictive position.

The Golaknath case judgement protecting sanctity of fundamental rights was a major milestone. While, the Keshwanand Bharati case, 1973 restored the amenability of Part III. Minerva Mills case finally declared harmonious construction between both as basic

structure.

The second contradiction was between Part XX and the Parliament's amending powers. Before 1967, with a strong central government led by congress party, the judiciary took a hesitant stance. The parliamentary superiority in constitutional amendments was prioritised over sanctity of constitutional philosophy.

However, the judicial stand took a turn in Golaknath judgement when supreme court restricted Parliament from amending fundamental rights. In Waman Rao Case, 1982 and IR Coelho case, 2007, even the 9th schedule was rendered ineffective.

The basic structure doctrine also emerged from the RC Cooper case where the court

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invalidated the ordinance giving effect to nationalisation of 14 banks & Indira Gandhi vs. Raj Narain case where SC listed free and fair elections as a part of basic structure.

Although scholars like Zia Modi call the basic structure doctrine as safety valve of Indian democracy protecting us from uncertain tyranny, Jaideep Shankar calls judiciary as a most elitist and least accountable institution because of this doctrine.

Anur Taitely after NJAC judgement calls basic structure as a tyranny of the unelected. All things considered, Suhoith Parthasarathy gives a wholesome understanding by recommending limited use. According to him, removing basic structure doctrine is like throwing the baby with bathwater.

Q3.

The Quit India movement, 1942 came in the backdrop of failure of Cripps mission, 1942 and economic hardships as well as British response after the second world war.

The quit India movement is often seen as the most un-Gandhian event of Indian freedom struggle due to its militant characteristics, uncontrolled nature and reactive knee jerk reactions.

Mahatma Gandhi, the tallest figure of Ahimsa and Satyagrah justified violence when the aggressor is stronger and armed. Gandhiji refused to condemn violence justifying it as an expression of mass discontent.

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INC in its resolution stated that, "It is not the time to bow your heads and suffer strokes. Instead pull out your sticks and defend yourselves."

The militant activities during Quit India movement can be justified by the maxim of JS Mill, "People have the right to resist when ruler is unjust".

Martin Luther King in his concept of two kingdoms justifies militancy by saying, "Revolting and disobeying the command of secular authority is justified when it deviates from higher moral law."

critics like MM Roy condemn the militant nature of the movement as it may lead to

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uprising of fascist forces. Ambedkar calls it ~~to~~ as a mad venture of Gandhi. C Rajgopalachari fears that it may lead to anarchist tendencies in future.

However, Francis Hutchins justifies Gandhian stance. According to him, "Gandhi was after all a politician. He used non-violence to bring masses into the struggle; once its role was over, he set the masses free to choose their own methods."

Although Quit India movement is called un-Gandhian in form an intention due to its violent nature. However, Gandhi when seen as a strategist makes sense of his moves. Infact the movement was the only instance where Gramscian theory of war was brought into practicality.

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84.)

Indian National movement was a series of social and political activities between 1857 and 1947 aimed to end British imperialism.

Different schools of thought have seen the movement from different perspectives. Marxist perspective reflects the lens of relatively under privileged section whose role is often overshadowed by Indian national congress and leaders like Gandhi and Nehru.

The marxist school's analysis of Indian freedom struggle starts with Karl Marx himself who calls it as a national revolution rather than a sepoy mutiny.

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MN Roy in his book "India in Transition" calls the movement as a movement of bourgeoisie and Congress as a bourgeoisie party ~~with~~ with Gandhi as the mascot of elites.

AR Desai highlights the contribution of peasants and workers in freedom struggle through movements like Telangana movement, Bombay mill workers strike etc. However, he accuses congress and Gandhi of never considering causes of underprivileged as core issues and using them as resources for mass movements.

However Sumit Sarkar counters this perspective. According to him, the intention was not to protect the interests of upper class or secure concessions

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of government. But the nature of activities was such that it favoured the elites.

While communists accuse Gandhi of halting key movements at their peak as he was fearful of masses taking over the power. Bipan Chandra takes a sympathetic view and calls the Indian national movement as the only example of a widespread mass movement, yet very peaceful and controlled in nature.

Partha Chatterjee aptly concludes that Indian national movement cannot be seen as a binary between the elites and proletariats. It shall be seen from multifaceted view to get a holistic perspectives.

Q.5.

The Preamble is defined by Joseph Story as a key to open the minds of constitution makers and the participants of national movement.

The starting line of ~~the~~ Preamble, "We the people of India ..." reflects that the constitution derives its power from the people of the nation. It is well reflected in the governance structures and democratic polity of India with people as the source of legitimacy.

The popular sovereignty gives legitimacy to the universal adult franchise which was inculcated ~~in~~ in the constitution from its very commencement. The general elections, held every five years gives the power to people

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of India to re-legitimise ~~of~~ the government in power or show discontent.

The grassroot democracy given constitutional validity through 73rd and 74th amendment act further strengthens the affirmation given in preamble. The devolution of power and direct democracy at panchayat level, makes people direct participants of the decision making process.

The supreme court re-iterated that the constitution's authority comes from people of India in Keshavanand Bharti case, 1973.

Pt. Thakurdas Bhargava states that preamble is the guiding light for constitution makers as well as the judiciary

for interpretations.

In Berubari Union case, the Supreme court declared that the constitution shall be interpreted in the light of preambular duties. It allows the Supreme court to verify parliamentary actions in the light of non-enforceable parts of the constitution for welfare of all.

The constitutional provisions such as right to vote, fundamental rights etc which put restrictions on government authoritarianism validate that power and authority lies in the hands people. The Preamble only affirms the same by explicitly mentioning it.

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Indl rights.
coll. welfare. - eg.

Q6.

The constitution of India has liberal features which give primacy of individual rights and freedom as well as social features which focus on collective welfare.

The Supreme court has been instrumental in maintaining a balance between both. The seminal example of the role of court in this aspect is the Minerva Mills Case where the supreme court declared harmonious construction between fundamental rights (Part III) and directive principles of state policy (Part IV) as basic structure.

~~While~~ The supreme court in judgements like K.S. Puttaswamy case (Right to Privacy), Olga Tellis Case (Right to livelihood), Hussainara Khatoon (Right to judicial remedy) has secured individual

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rights by taking a liberal view of Part III.

At the same time, the government's actions to give effect to directive principles have been upheld by apex court inspite of contradictions with Part III. The Indira Sawhney Case (50% limit) which allows reservation with the creamy layer criteria maintains perfect balance between merit and welfare.

The court's decision to allow violation of right to privacy in case of legitimate state interest opens scope of collective welfare policies by the government.

In MC Mehta vs UOI, the court extended right to life (A-21) to right to clean environment which focuses on societal well being along with individual rights.

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On one hand, the SC secured individual rights through writ issuance while on the other hand it secured collective welfare by liberal interpretation of constitution. The court has empowered itself to validate an act if it gives way to directive principles.

former chief justice KG Balakrishnan says that A-32 makes supreme court a peoples' court of India. It ~~of~~ keeps the doors ~~of~~ the court open for the lowest rung of population.

The SC also keeps a check on parliamentary tyranny through judicial activism. For instance, right to access to internet in Anuradha Bhasin vs. UoI to check repeated internet shutdowns secures individual rights from state utilitarianism.

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Q7.

The Constituent Assembly of India is often seen as a non-inclusive, elitist body dominated by 94.6% Hindus, 80% Congress members, only one dalit woman and 5% Muslims.

However, Granville Austin justifies the reasons for not holding an elections as neither the time was conducive due to partition horrors, nor the state had adequate resources. Moreover, the first general elections validated that even if elections were held, the results would have been replicated.

The representativeness of constituent assembly is rightly presented by Rajive Bhargava who highlights multiple ideological schools in the assembly.

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- 1) The non-modernist Gandhian philosophy which emphasised on panchayat raj and small scale industries. Their demands were incorporated in Part IV. eg. A.40, (Panchati Raj institution), A.43 (cottage industries), A.47 (alcohol prohibition)
- 2) The liberal democratic philosophy led by Ambedkar which rooted for strong individual rights and affirmative action policies.
- 3) The socialist democratic view led by ~~Ambedkar~~ Nehru which wanted a mixed economy model with socialist pattern of development.
- 4) The minority view of vulnerable groups with leaders like K.T. Shah which proposed separate electorates however, it was not accepted due to strong opposition.

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5) The Hindutva view led by leaders like PD Tandon and MR Jayakar which wanted a strong centralised federation.

Hence, we can say that though congress held the house in possession (Ambedkar) but Congress itself was a rainbow coalition rather than an ideological monolith.

Madhav Khosla iterates that, "Though the assembly was ideologically as well as communally diverse, it was successful in framing a consensus document by democratic process of deliberations."

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Q 8.

The seven judge bench of supreme court headed by the chief justice D.Y. Chandrachud gave the landmark verdict of subclassification of SC/ST quota which marked a milestone in equality jurisprudence.

The CJI emphasised on substantive equality, a principle that seeks to achieve genuine equality by recognising & addressing different needs and circumstances of various groups of society.

Amartya Sen's equality of outcomes aligns with the judgement. Although the formal equality under A.14, A.15, A.16 ensure equitable opportunities but the dominant castes often extract the maximum portion of the pie.

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Sub classification would be effective in addressing systemic inequalities by addressing ~~systemic~~ and dismantling barriers that perpetuate inequalities. These include legal, economic and social structures that disadvantage certain groups.

Substantive equality through sub-classification would promote inclusive growth by addressing specific needs and challenges of disadvantaged groups.

It also creates a fair playing ground for all castes by checking the dominant castes who grab all reservation benefits, keeping the most marginalised among Dalits permanently in the background.

Justice BR Gavai aptly illustrated the need for sub-classification saying that when someone

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enters a train compartment by pushing & shoving, he first ensures that none else enters.

The dominant sections have criticised the verdict. Those who once raised slogans like, "Jiski jitni sankhya shadri, uski utni hessedari" are today protesting against the judgement.

However, the SC judgement shall be a welcome step to go beyond formal and procedural equality. The basis of sub classification shall be justified by quantifiable & demonstrable data and there is a need for an expert committee with adequate data to do so.