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Name : SANSKRITI TRIVEDY

Test DATE : 15-07-2022

PSIR TEST - 02

	POOR	AVERAGE	GOOD	VERY GOOD	Excellent
QUESTION UNDERSTANDING					
STRUCTURE & FLOW		—			
SUBJECT KNOWLEDGE					
PRESENTATION					

Remarks:

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SECTION-A

Q1
(a)

Nationalism according to Walker Connor has been tough to understand because it is an illusory and psychological concept. Many ideological strands have tried to understand Nationalism. Marxist historiography comes under the constructionist idea of Nationalism.

Key IDEAS

For Marxists Nations is essentially something totally constructed. Benedict Anderson calls the nations as imagined communities.

The nations are sustained through various myths and truths that are constructed by the bourgeois class.

Western marxist theories have understood Indian Nationalism as a derived discourse and denies its vibrancy. Partha Chatterjee; another marxist contends this and says that Indian Nationalism was autonomous.

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Marxists ~~are~~ have criticised the
Nationalist school of Indian National Movement
because it ~~is~~ has left behind any
consideration of class.

For R. Palme Dutt, National
movement and Gandhi were essentially
Bourgeois in nature and didn't work
for classes and their difference.

E. Nambudripad also says
that mass movement has been
missing because national movement
represent bourgeois interest.

Bypan Chandra warns
against such causal approach.

National movement indeed
is understated critically through
marxist lens

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1. (b)

Indian Independence was result
of long fight movement of liberation
for a prolonged period of time with
sacrifices and solid development.

Indian independence was
different :

- ① It was driven mostly by Gandhian
mass movement which was delivered
from transcendental position of movement.
It was not revolutionary but a slow
gradual process unlike seen in Africa
- ② The role of masses is more important
here because masses led the
British raj to its end by its sheer
resolve.
- ③ The movement was not homogeneous
and led by various different
strands of thought - liberal,
marxist, socialist
This Indian struggle was
indeed different.

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2 1(c)

Fundamental rights are set of rights given to the citizens for their complete development as Nehru had envisaged.

For some they consist of social values ~~has~~ of existing societies. Granville Austin in this direction had suggested that fundamental rights are actually extension of civil rights movement seen during the Indian National Movement.

This can be seen through?

- ① Right to Equality was long accepted rights as the nationalist had pushed against any kind of racial superiority.
- ② Right to freedom was the most vied for rights during the national movement. The value of 'liberty' was considered essential. This could be seen in movements against curbs of press freedom.

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(3) Value of 'Justice' - Ambedkar had said that only political justice would be empty without social and economic justice thus articles 15 and article 16 which give rights to the marginalised are representative to that.

But there has been an alternative opinion like Sarvepalli Radhakrishnan who says that our fundamental rights are break from the past and represent something entirely new, C. V. Balakrishnan also suggests that fundamental rights give us new understanding of liberty.

Nevertheless fundamental rights form the backbone of our constitution.

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1(d)

Fundamental Rights are the set
of rights given in part three of the
constitution. They are essentially human
rights which are guaranteed by ~~the~~ the
article 32.

Right to Privacy was recognised
as a fundamental right under article 21
by the Supreme court under the
Puttaswamy case (2017).

It given ~~an~~ right to privacy of
one's identity; one's body and to live
one's life anonymously, It is so
fundamental that supreme court
has proposed the proportionality test
to ~~be~~ be the only reason to
restrict the right.

One's right to privacy
is taken away when there is a law
saying that and the law should be in
proportional to the rights taken away.

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Right to privacy ensures that one's personal information data is restricted to those spaces that one consents to. This saves the individual from undue exploitation by the powerful.

Right to privacy comes into prominence in cases of rising state surveillance as seen in the Pegasus spyware case.

But Right to privacy empty without rights of freedom, equality and personal liberty would be empty.

Thus rights need to be read together rather than creating a hierarchy among them.

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Q1

UPSC is the constitutional body concerned with appointments for various government offices. It also has counterparts at state level (SPSC), It was first seen in Government of India Act (1919).

Powers & Function :

- ① Conduct recruitment to various India and Central Services in IAS, IPS, IFS.
- ② Decide the rules of appointment with consultation with Ministry of Personnel.
- ③ It also conducts screening for those state government officers that are to be appointed at all India level.

But concerns ① Opinion on reservation is not taken.

- ② only a recommending body.
- ③ Role stops after recruitment.

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04

(a)

Governor is defined under the article 153 of our constitution. It ~~is~~ is the chief executive of the parliamentary form of the government at the state level. It also is representative of the central government at the state level, thus plays a DOAR role.

Despite playing a ^{role of} lynchpin in the centre - state dynamics its office is one of the most controversial in the Indian political system as —:

- ① It is a directly appointed body by the centre with no opinion from the states thus is considered the centre's agent.
- ② Its discretion is very wide and ~~it~~ is most of the times outside the purview of Judicial review. It decides on formation of government at state and dissolution if there ^{Page} is lack of majority.

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It is his decision that is final in his discretion

(3) Under article 200, it can also reserve ~~a~~ a bill for presidential assent and there is no time limit for it to respond to it

(4) The most controversial element in this is the use of article 356 by the centre ~~of~~ on the advice of the governor.

These lead to governor office being a point of contention between the centre and state. In this direction several suggestions and decisions have been passed to smoothen relation between centre-state in terms of office of governors -

(1) Both Sarkaria and Punchhi commission suggest to take the opinion of chief minister before appointment of governor. They also suggest that governor should be someone neutral, non partisan and outside.

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② Supreme Court in Nargobhai Pant v/s
Raghunath Zilari ⁽¹⁹⁷⁹⁾ Specify that the office
is sui generis. This means; the
governor is a constitutional body and
not just appointment by the centre.

③ In Nobam Rabia case and Sarkaria
Commission (1994), the role of governor
in promulgating article 356 is checked.
They said that the courts can ask
for material evidence to see if
the decision of the governor was
malafide. In 2016, Arunachal government
was restored.

④ Sarkaria and Pithchi commission
also suggest that the floor of
the house is the place to decide the
majority in the house. In Karnataka
in 2018, the BJP government was
asked to form the government
even though it was not the largest
majority.

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Thus the office of governor has been indeed uncontroversial and seen with suspicion by the states.

In this direction Sri

Serfaty, in Sax and Sasbeteurs say that governors have the scope of playing role of change makers if they are independent.

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84 (b)

Basic structure doctrine is a judicial innovation that was given by the Supreme Court in the historic Kesavananda Bhathi case 1973 when the amending power of the parliament was limited to conditions of 'Basic structure'.

Amendments are allowed in the Indian constitutional scheme under article 368, it keeps the constitution as a living and dynamic document. The amendment power became centre of controversies in early political history of the country which gave shape to Basic structure.

Basic structure doctrine emerges from the conflict between fundamental rights that are justiciable and DPSP, that are not justiciable in Article 37.

In the Champakam Surai Ryan (1951) when states action of giving reservation was questioned as violation of right to equality, Supreme court asked the

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government to amend the constitution
to bring such change.

Government brought in the 1st
Constitutional amendment Act which was
upheld in the Shankari Prasad Judgement.

This balance was disturbed
when in Golaknath case; SC said that
fundamental rights can't be taken away even
by way of amendment and ~~prior~~ broke
the harmony and balance ~~sp~~ between
rights and DPSPs.

The government brought in
24th and 25th amendment acts to
overcome this limitation which was
challenged under the Kesavananda Bharati
case (1973).

In this case, judiciary showed
extreme activism and said that the
parliament can indeed amend the constitution
but under the doctrine of Basic structure.
Constitution can be amended
but not re-written by any powerful.

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This was seen in practice in
the Munierwa Mills case where the 42nd
amendment Act was questioned, the SC
held many provisions as unconstitutional as
violation of the basic structure. Here the
harmony between right and duties
were restored.

Basic structure Doctrine are
not codified ^{and} are given by judiciary from
to time. Thus are considered by
some as case of Judicial over-reach.

But some are appreciative.
Like Zia Mudi says that it has
ensured that constitution stays relevant.
It has ensured adherence to
Constitutional morality.

Basic Structure Doctrine ^{is} ~~also~~ is
thus an indeed watershed moment in
the constitutional history of India.

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4(c)

S.Y. Quareishi, an ex chief election Commissioner calls Indian elections as an undocumented wonder. They have ensured that people maintain trust and legitimacy of the government.

Free & Fair election : Soul of Democracy

According to M. Banerjee in why India votes; elections are the test for common Indian to raise in prominence and convey its will. ●

It is a way deliberative democracy as Sejla Benhabib describes is practised in India. It keeps the people as stakeholder in the entire development process.

Criminalization in Indian Politics

This can be seen through :

- ① composition of the houses of legislature - around 43% have criminal cases against them.
- ② Criminals are law makers and this reduces trust of the youth and public spirited person from the democracy.

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③ There is ^{lack of} transparency in funding of elections. There is widespread use of muscle and money power.

This has led to the public disillusionment from democracy. Pew Research says that people increasingly feel that their voice doesn't matter.

Role of Election Commission

Election Commission is the constitutional body set up under article 324 to conduct the elections in free and fair manner.

Step that have been taken in checking criminalization

① It asks the ~~to~~ candidates to file details about their educational qualification, criminal records and assets in public platforms.

② Model Code of Conduct at place so that there is no speech that is driven by identity politics.

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- (3) Role of Observers : These observers ensured that there is no abnormal activity during polling or during any election valies.
- (4) RPA 1951 : Election Commission has used provisions of RPA 1951 to curb corrupt electoral practice.
- (5) Voter Education Programmes like SVEEP so that they know about the candidates etc.

But concerns are that election commission is only under the government and lacks full autonomy. It can't also cancel party's registration. The Model Code of Conduct is also informal thus tough to implement. Also with instruments like e-bonds; money power is tough to check.

But Election Commission must be appreciated for its multi-faceted role.

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Q5 (a)

National Human Rights Commission (NHRC)
is a statutory body under human rights
Act of 1993. It is laid down along the
line of Paris Principles that forms an
independent body for protection of rights
of citizens.

Though it has played a role
in multiple cases like prison reforms,
undertrial justice, for Chakma refugees certain

limitations are :

① NHRC is not a constitutional body
thus is not given that prominence.
Also its judicial rulings are mostly
non binding in nature.

② NHRC also has a limit of one
year, older than that cases
can't be entertained.

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- ③ It takes less issues on suo moto basis which shows the non-active approach.
- ④ It is also a body that depends on the government for staff, finances thus takes up cases that are favoured by government.
- State led violations of human rights are not dealt seriously, for ex— NHRC on AFSPA hasn't been implemented well.
- ⑤ It takes up issues of date and meets the connection with human rights movement at the grassroot.

NHRC can be a potent tool for attaining social justice and thus it should be revived as per best international standards

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5 (b)

Rights and Duties have been considered by many thinkers of going hand and hand. Laski and Gandhi believe that rights are duties are complementary and empty without each other.

Fundamental rights are the set of rights that are guaranteed against State's excesses on individuals. They are legally enforceable and fruits for Granville Austin forms a part of soul of constitution.

Duties on the other hand are set of 10 duties that put responsibility on the citizens for the transformation of a highly traditional society to a modern one. They are not legally binding though there are some legislations that describe them for ex - National Honours Act.

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In times of monarchy, 'it
was considered that @ 'subjects' only
had duties and the king had divine
rights to rule.

Modern nation states give
rights to its citizens as a key feature.
Duties further embellish those rights.

If duties are followed by all,
rights would be easy to attain for ex-
if a parent sends their 6-14 year child
to school (a duty); the child can attain
the fundamental right to education
(article 21A)

Thus rights and duties
can't be viewed in isolation to
~~and~~ one another rather both
increase value of the other.

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5(c)

Ethnicity according to Kortenitz refers to a set of ideas of shared history, religion, caste and community that helps us identify with others. Ethnicity in politics is part of larger identity politics which is driven by passion.

Ethnicity has been always a feature of Indian politics and SD Muni says our ethnic identification is not that rigid and keeps changing.

For Neera Chaudhary the various exercises of ethnic mapping like surveys enhance the importance of ethnicity and Charles Taylor it is the feeling of marginalised that pushes ethnic politics.

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If we look at caste as a metric
of ethnic politics then Yogendra
Yadav's two democratic upsurges
explain the rise of OPSC and Dalits.

If we take religion as metric, then
the 1990s are communal. Zoya Hasan
writes that in times of coalition
politics; the ideologies among parties
are not much different thus
social cleavages deepen.

Enmity is also seen in
concerns of separate state states
raised by states of North East and
also seen in tribal state formation
of Charkhand.

Ethnicity in politics can
be positively dealt by more
democratisation and development
as suggested by Azul Kohli.

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5(d)

Pressure Groups according to Grinner are invisible empires which work behind the mainstream party politics to shape policy outcomes. R. Kothari also calls them non party forces of modernisation.

Among the many types, Business pressure groups have been prominent in —

- ① Pressure groups like FICCI and ASSOCHAM have strong lobbies that shape the policy processes in the parliament.
- ② Many members of these pressure groups are big industrialists. State today is run by neo liberal agenda of free market and thus can't ignore the demands of those who shape the market.

- ③ In view of business pressure group also shapes the foreign trade policy, FICCI and ASSOCHAM hold investor summits where ministers and business groups of world over meet.
- ④ Government is also taking the help of business groups to form the Skill Development Module under the Skill India Mission.
- But calling business groups as most important is a biased approach as other pressure groups like peasant groups have strongly made their presence felt as seen in Farm Law Agitation.

Thus an array of pressure groups are shaping the policy outcomes today

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5 (e)

~~Water~~
"Whisky is to drink, water is to fight"

Mark Twain had made this
satirical remark about the status of
water as the reason of many disputes, which
is also seen in Indian scenario. As the
country is vast with many inter state
rivers; it becomes a fertile spot for
Inter state Water Dispute.

§ ISWD Act 1956 is formed under
article 262 of our constitution to
resolve the disputes but

CREATES MORE PROBLEMS :

① Some points of concern remain
outside the act ex - height of Dam hasn't
been brought under this; this was
seen in Mullaperiyar argument between
Tamil Nadu & Kerala.

② Tribunals under the act weren't
formed on time. It took 20 years
to form Cawery tribunal. Later the
act was amended in 2002 to solve this.

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③ Political will to actually implement the award of tribunals ~~are~~ is not coming under the act. for eg the unilateral action by Punjab in dereversing the law for SYL canal.

④ The award has been necessarily published in a gazette. This creates a law. for eg Karnataka used this law to not implement the ruling in case of Cauvery river.

But this act has also helped in resolving and settling disputes involving rivers like Mahadayi; thus can't be dismissed.

NCRWC in this direction suggests to relook into Inter state water disputes and form a fresh legislation, ~~and let~~ Thus an objective assessment is needed.

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Q 60

Local bodies in India in the form of PRIs and urban development bodies are the representative of grassroot democracy and decentralization. They have been given constitutional status under 73rd and 74th constitutional amendment acts after a prolonged time. 73rd amendment act lays down the powers, bodies and officials under the articles 243-243D in the part constitution.

The role that they have played in economic development and social Justice

- ② Panchayats now have access to resource from self generated sources, grants from both centre and state finance commissions.

This has been used to stimulate economic development through SHGs, cooperatives.

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- (2.) It has provided ~~for~~ for schedule 11
which clearly demarcates the functions
under its control,
- (3.) It creates a number of provision
for the empowerment of the
marginalised — The SC, ST and women
have got reserved seats. ~~as~~
- It also raises importance of
the deliberative democracy by
strengthening the Gram Sabha. It
also provides for social audit for
accountability -
- (4.) It also provides for State Election
Commission for timely elections.
It also brings in State Finance
Commission so that the revenues
of state can be reoriented towards
Panchayats too.

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But certain concerns

① 2nd ARC says that there is serious
constraints in finance of the PRIs.
They don't ^{raise} ~~reserve~~ their own
resources; the grants from states are
often not enough.

② Mani Shankar Aiyar committee says
that there is "just a skeleton given"
by the 73rd amendment Act.

The Gram Sabhas are not
aware about their powers. There is
great sense of disillusionment.

③ Neeraj Jayal also says that PRIs
are not empowering in terms of
social justice.

Women seats rotate and
they are given less than full term
as chairperson (20 months in Karnataka)

Even SC, ST seats are
rotated too often.

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④ Political Decentralization is achieved
to some extent but administrative
decentralization is slow to come.
en IAS
Deepak Sanon says that
the bureaucrats don't want to loosen
their grip over the PRIs to elected
officials.
Even a number of parallel
non elected bodies are created
to take power from the elected PRIs.
Thus in this direction,
Mani Shanker Aiyaz committee and
2nd ARC in its 6th report
suggests for strong push towards
decentralization ~~for~~ for good governance

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46 (b)

Reservation in India are strong affirmative action policies that are taken to ensure that most marginalised is able to lead a good life. This is reflective of Social Justice as enshrined in our parliament.

As an instrument of Governance

Reservation has been an instrument of governance because ~~it has~~ demands for reservation has made government more alert and aware about issues that Block delivery of good governance.

Demands for reservation coming from backward regions help government orient goal towards these regions.

As Social & Political Representation

Indian constitution provides for reservation ~~as~~ in the state and National Legislatures. Even local bodies

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provide reservation for SC, ST, OBC,
women. This makes our democracy
truly representative and ~~good~~ people
from diverse social backgrounds
help in deepening of democracy.
योगदान is appreciation
of this rule of reservation

Social Justice

In our constitution, reservation
has been given under the chapter
of fundamental rights. Under Article 15, Article 16
special provisions for SC, ST, women,
children ^{later in educational institutions} is sanctioned. This is
in line with Ambedkar's push for
Social Democracy.

But Concerns Raised

Reservation and related
politics according to Guthe "generates
more heat than light"

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Reservation has indeed led to secularization of caste difference (R-Kothari) but they produce a new race to the bottom.

There are new demands for reservation from even prominent communities like Jats in Haryana and Patidas in Gujarat.

Supreme Court also has said that reservation is not a fundamental right (NEET case). It has looked for new ways to understand reservation for ex- Narsa judgement provides for reservation of transgender community.

Thus reservation politics is very sensitive because of the electoral agenda attached to it.

Scholars of Indian politics
since need to engage with it
meaningfully without any bias.

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Q.1)

Welfarism refers to politics which
is driven by betterment of people and
not driven by politics of identity alone.

In the 1970s, we see rise of
coalition, caste cleavages were strong.
Thus it led to greater identity
politics. (Zoya Hasan).

This was a time when religion
based and caste based politics
peaked in form of Mandal & Kamander.
Reservation post Indira Sawhney case
became a key plank of welfare politics.

Even liberalisation of the 1990s
led to greater focus on the rising
middle class and its basic needs (Rahul
Mukerjee)

The 2000s were a mix of
BSP and Congress led coalition government.
Here welfarism was focus ~~on~~ through
meeting basic needs.

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The politics of appeasement and identity was not that prominent

In 2010s Congress brought in various reform oriented policies and MGNREGS took shape. But at the end of its tenure it was accused of being corrupt and BJP led government came in 2014.

Yogendra Yadav says that our politics is now identity plus one. It means people are concerned about welfare.

NDA brought in digitisation, promised doubling of farmers income and promised jobs in manufacturing (Make in India)

Thus welfare has changed considerably today and no government can rely on identity politics alone

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Q7.

(a)

The issue of appointment to judiciary formed an important area of concern since the times of constitutional assembly debates. It was decided that executive and judiciary will provide for the appointment.

If we look at the constitution, it just says that the president would appoint judges to the higher judiciary.

Over many court cases like the Sekelchand case (1980); 1st Judge (1983); 2nd judge (1991) & 3rd judge case (1998); Supreme court has devised the collegium system of appointment.

Here the court comprising the CJ and four senior most judges will decide on the names and this would then be approved by the executive.

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CONCERNS RAISED

- ① Ambedkar had warned of "state appointing the state"; but this has come to practise when judiciary itself is deciding.
- ② Judiciary seen as black box - lack of transparency in this decision.
- ③ There is no clear central pool of names out of which nominations are made. This gives rise to Uncle Judge syndrome or nepotism.
- ④ Lack of gender representation - only eight women Supreme court justices till date.
- ⑤ Governments ~~are~~ ~~not~~ ~~also~~ have been slow to give acceptance to names forwarded by judiciary; this causes rising vacancies in the context when there are 2.9 Cr pending cases (NCRJ)
- ⑥ Judiciary using garb of independence to function in an opaque manner.

SUGGESTIONS :

- ① NCRWC had suggested NJAC, which was struck down by judiciary as unconstitutional without lack of much political debate.
Thus NJAC needs to be revisited.
- ② Law Commission suggests to have a central pool of names in the open.
- ③ More transparency in working of judiciary itself like burying office of CJI into RTI.
- ④ Stakeholder discussion to achieve the best solution forward - government, judiciary, bar council, civil society.
- ⑤ Government to act in fridly manner on suggestions forwarded.

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Lord Byles had said that a government
can be judged on the basis of how
its judiciary functions; thus India
needs to relate into judicial appointment
so that the public perception of
holds is continued.

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Q 7(b)

Federalism in India is described as being Quasi federal by K.C. Wheare due to its tilt towards the centre while M.P. Singh calls it more of hargaining federalism.

The constitution though envisages to put forward a cooperative federalism and demarcates powers but issues arise because :

LEGISLATIVE

① The centre has more powers as per the list in the 7th schedule. Even the more prominent role has been given to centre like defence.

② The centre can take over functions of state even in times of emergency like through article 249 (Rajya Sabha) and article 253 (international agreements).

UPSC

Candidate must adhere to the word limit specified in the question.
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FINANCIAL ① The taxes have been divided such that centre have access to greater tax revenue -

② Yashwantrao Chavan says that even CSF has failed in establishing fiscal federalism.

③ RBI state of finance report points out that states are increasingly dependent on ~~state~~ centre for finance or - Bihar 80% dependence.

ADMINISTRATIVE ① Even though India is called an executive federalism; greater administrative control ~~is~~ is under the centre.

② Article 356 can be imposed if States do not follow the instructions of the centre.

All of the above have led to strengthening of Bargaining type of federalism and the unitary axis of the federalism [M.P. Singh]

UPSC

Candidate must adhere to the word limit specified in the question.
Any page or portion of the page left blank must be clearly struck off.

But Subrata Mitra appreciates
our federalism as "Indigenisation
of federalism". He says that federalism
is now deeply ingrained in our system.

There is greater cooperative and
even competitive federalism that is
on rise. States have got greater
chance to grow post liberalisation era.

Even regionalisation of politics
have strengthened the federalism

(M P Singh)

Thus our federalism is
 sui generis, asymmetrical and
suitable for India (Balveer Aurora)

UPSC

Candidate must adhere to the word limit specified in the question.
Any page or portion of the page left blank must be clearly struck off.

Q7(c)

CAG is the constitutional body set up under article 48 of the constitution and derives its various powers from CAG Act 1971. B. R. Ambedkar famously calls it "guardian of public purse".

CAG as watchdog of finances :

- ① CAG audits account of both centre and state governments to check that parameters of effectiveness, efficiency and economy are met.
- ② It also audits various bodies under it and brings out issues in them. for ex - in its report on NDMA (Disaster) it said that the body lacked planning and finances were not managed well (2013 report)
- ③ It also conducts audit of specific cases ex - Report of 2G scam; then the redactive audit on Rafale deal.

Candidate must adhere to the word limit specified in the question.
Any page or portion of the page left blank must be clearly struck off.

④ It is also the friend, philosopher and guide to the Public Accounts Committee (PAC) and aids in its functioning.

B.P. Mathur in 'Reinventing CAG ; though appreciates the role but CONCERNS RAISED -;

① Pam Appleby says it just does post mortem but no binding regulations. It gives opinions after the expenditure has occurred.

② The secret service expenditure is not audited, lack of transparency.

③ Even CAG is purely an executive appointed body thus chance of biased report.

④ PAC itself has no binding regulations.

⑤ The Quality of Audit of CAG has been found below par by international organisation (ISOAT)

इस हाशिप
में केवल
प्रश्न संख्या
लिखें।

Only write
question
number in
this margin

Specimen Booklet

UPSC

For Practice Purpose Only

उम्मीदवारों को
इस हाशिप में
नहीं लिखना
चाहिए।
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this margin.

Candidate must adhere to the word limit specified in the question.
Any page or portion of the page left blank must be clearly struck off.

⑥ It should induce focus on financial audit
and not on performance audit like
the developed countries.

Thus CAG as the one
of the bulwarks of the constitution;
has the scope to play much more
important role and thus should
be thoroughly examined