



SHUBHRA RANJAN

Always Ahead

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PSIR Answer Writing Module 2023

Test 7

Time Allowed: 1 Hour 30 Minutes

Max Marks: 120

Name: Snakti Dubey

Test Submission Date: 8/11/2022

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,

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be from a notebook or a standard ruled sheet of paper. The lines are thin and black. The background is plain white. There is no handwriting or other markings on the paper.



Que.1

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

The doctrine of Basic structure is a judicial review doctrine used to check the constitutional validity of amendment acts.

The basic philosophy behind the doctrine is to establish the difference between amending and re-writing the constitution, because Amendments are made by the Parliament which represents Political sovereignty while Constituent Assembly which wrote the constitution represented popular sovereignty and General will.

This Doctrine of Basic structure came into picture because of the debate over amendability powers of parliament under A-368.

Supreme court through series of judgement had tried to define the amending powers of parliament like Shankari



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Prasad Judgement, IC Golaknath Case, 1967, etc

Finally in Keshavanand Bharati Case 1973, Supreme Court held that the Parliament under A-368 can amend any and every part of the constitution, which is subjected to the Basic Structure doctrine.

Hence, the Basic Structure doctrine is an Innovation of Judiciary which goes beyond just the written part & i.e., the metaphysical part of constitution.

Indian democracy is based on 3 pillars - the Executive, Legislature and Judiciary, who work in conjunction to ensure it's smooth functioning. India does not follow the model of strict separation of power, rather establishes Checks and Balances.

That is the reason why the bill proposed by executive must



be passed by the legislature in order to become an act which can further be challenged in the Judiciary on grounds of its constitutional validity.

Supreme court has used this doctrine several times to strike down the overreaching steps of executive eg:- The 99th constitution Amendment Act, 2015 & the NJAC Act has been struck down on violating the principle of Basic structure i.e. the Independence of Judiciary.

The court hasn't provided a list of fixed elements constituting the Basic structure but has went for creative interpretation when and if required.

This step has been criticised as an example of Judicial activism or overreach but one must understand that this doctrine ensures the smooth functioning of democracy by avoiding tyranny of majority.



Que.2

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

India is a constitutional democracy. The constitution provides for both Rights (Part III) and Duties (Part IVA - added by 44th constitutional Amendment Act 1978)

Rights are the claims / entitlements of individuals against the state which is essential for their holistic development while duties are moral obligations of an individual to perform certain actions for welfare of the society.

The evolution of democratic nations is centered around the expansion of rights be it - civil, social, cultural, etc for empowerment of people, and these rights are respected because of moral and instrumental reason



while the duties are cherished for reinforcement of rights.

Though rights and duties seem to be two different concept but are functionally related. To quote Manatama Gandhi (Hind Swaraj)

"Real rights are the result of performance of duties and the rights are present in the duties in embryonic form"

Guarantee of rights by the state excite people to fulfil their duties, ~~but~~ ~~also~~ because rights are meaningful only with social ~~ack~~ recognition.

Hence, the individual obligation towards collective pursuit of society only makes sense when the rights are provided by the state itself



Hence, In Indian constitution not just the rights are fundamental but also their enforcement is also a fundamental right (A-32) which guarantees its protection

There has always been debates around making the fundamental duties also enforceable but in nature, which hasn't been yet considered, because duties are performed by people by virtue of enjoyment of rights

Eg:- People have right to use the roads and hence have duty to obey the traffic rules.

Hence, Duties and rights ~~at~~ must be seen in conjunction which has been summed up by Harold Laski - "Rights are claims not free from duties"



Que.3

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

In december 2021, a controversy erupted in a government college of karnataka where group of students submitted a memorandum to the principle asking permission to wear hijab in the classrooms which they were denied to and according to them this was violation of their Fundamental rights under A-25 (Right to practice, profess and propagate their religion) A-19(1) (Freedom of speech & expression) and A-21 (Right to privacy)

If we look at this case it is purely religious in nature and as the Indian Preamble clearly state that India is a - SECULAR Democratic republic - it means India is a secular nation.



India follows positive concept of secularism which is based on principled Distance Model i.e., there is no strict separation b/w the state and the religion, instead there is a porous boundary between the two which provides space of state's intervention in religious matter.

Due to this reason Supreme Court has time and again interfered and upheld the Basic Structure of the Constitution eg:- Sabarimala Judgement, Triple Talaq, etc

In the "Muslim Hijab Controversy" - The Supreme Court has pronounced that ban on wearing of hijab in school premises is not violative of fundamental rights because Religious rights protected under A-29 are those



which are considered to be essential religious practices & according to Holy book of Quran hijab is not an essential religious practice.

Secondly on matter of dress code in school - SC held that it cannot be considered as discriminatory rather it ensures equality because it is imposed on all the students irrespective of their caste, religion etc. and hence cannot be considered as violation of rights of students.

This is considered as an example of Judicial activism to ensure that the basic structure of the constitution guides the people of this nation and India being religiously diverse equally respects all the religion and takes active steps which is bound to lead it's people towards empowerment.

Que.4

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

Dalit perspective of Indian National movement is represented by BR Ambedkar who has also incorporated the philosophy of Jyotibha Phule and EV Ramaswamy Naicker

The end goal of the Indian national movement for Dalit intelligensia is not just attainment of freedom rather to lead to a creation of qualitatively different society free from caste antagonism which the Indian National Congress has clearly not been able to do

To Quote Ambedkar -

"Brahmin rule is worse than the British rule"



Ambedkar was inspired by the ideals of French revolution i.e., liberty, equality, fraternity. According to him fraternity & social unity is must for the unification of nation because without social unity - India would be a state without nation.

Hence, he was of the view that Freedom from British is needed but only freedom from British is irrelevant, because there are other evils that have badly affected the lives of Dalits.

He was critical of the role of upper caste brahmins in the congress and has written in his editorials (Bal'skrit Bharat) that if Tilak would have been an untouchable he would have demanded - "Annihilation of caste as his birth right".

because swaraj without abolition of caste is too mechanical and worthless

The emphasis of dalits on socio-economic movement is rooted in their sufferings owing to unjust society, hence they favoured freedom of Dalits from Brahminical dominance as well because freedom of a country is incomplete without freedom of its people.

Dalit perspective has been criticised by Arjun Shourie because it keeps interest of a section over national interest, yet Gail Omvedt states that dalit movement was more democratic & nationalistic than one lead by elites of INC

strength of Dalit perspective lies in its understanding that basis of nationalism is fraternity and social unity with equal rights for all.



Que.5

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

One of the worst sufferers of British rule and the most exploited section were the peasants. The improvement of ~~British~~ peasants was direct result of change in the agrarian structure during British due to —: colonial economic policy, colonial administrative and judicial system, change in land revenue policy and ruins of handicraft industry leading to crowding up of land.

All this culminated in form of revolts & peasant movements. Based on the nature of movement we can classify them into two phases —
Revolts before 1857 eg! — Indigo Revolt, Deccan revolts, Pabna agricultural crisis etc and revolts after 1857 eg! — Kisan Sabha movement, Eka movement, Mappila revolt, etc.



If we look at the nature of revolt after 1857 it was not directed against the British rule nor had aim to end the subordination or overthrow colonial government. Instead were directed against immediate enemies eg:- Foreign planters, Moneylenders, Zamindars, etc.

Their demands and needs were centered around economic issues and had a very constricted territorial reach. These movements were not militant or revolutionary rather spread over decades and they arose depending on the resources & abilities they had.

Thus 19th Cent peasants had no ideological, social, economic program and had nothing



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to do with the India's National movement

But moving forward to 20th century we do find the impact of India's National freedom movement on peasant revolt and in return even they impacted the National movement eg:- Champaran Satyagrah, Khedda Satyagrah, etc

Fighting against all odds the peasants were ultimately able to give a wake up call to the British which finally led to enactment of - Bengal Tenancy Act of 1885, Deccan Agriculture Relief Act 1879.

Hence their role in freedom struggle has been instrumental and cannot be ignored



Que.6

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

Affirmative action which is known in India as reservation was an earnest effort by the framers of constitution in order to ensure socio-economic equality, because India has had a history of caste based discrimination.

Though Backward classes are nowhere explicitly mentioned in the constitution but A-15(4), 15(5) & 16(4) confers power on the state to prepare a list of OBC which will be used for providing them a reservation of 27%.

The 102nd constitutional Amendment Act of 2018 inserted two articles in the constitution i.e., 338 B and 342 A.



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while A-338B provided constitutional status to the National Commission of backward classes which enhanced both its status and power, on the other hand A-342A restricted the power of preparing OBC list with the centre only.

With this change almost $\frac{1}{5}$ th of the community was badly impacted as almost 671 communities which were present in state list did not find mention in the central list.

This issue arose during the Maratha Reservation Judgement where the Apex court struck down Maratha Reservation by Maharashtra Govt on grounds of Breaching the 50% ceiling (MR Balaji v/s State of Mysore).

This led to challenging of A-342A of 102nd amendment act which ultimately led to 105th constitutional amendment

act restoring power to the States in charting the OBC list as it was done previously.

Both these amendments have led to strengthening the position of backward classes because the constitutional status of NCBC on lines of NCSC & NCST has increased its power and authority to act towards the betterment of the Backward classes.

While the 105th Amendment Act by restoring power to the State for preparing the OBC list has helped the communities which would have been

deprived of benefits of reservation despite being backward because they couldn't find place in centre list.

Reservation have acted as a light for empowerment of backward classes.



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Que. 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 conferred on judiciary to examine the constitutionality of legislative enactments & executive order put forward by both the Centre as well as the state government.

If they are found to be violative of principles mentioned in constitution (ultra vires) they are declared as illegal, unconstitutional and void.

The importance of judicial review is — It ensures federal equilibrium, preserves fundamental rights of individual & ensures that laws and orders are in conformity with the provisions of the constitution. Though the term judicial

Review is nowhere explicitly mentioned in the constitution. There are several articles that confer powers of review on Judiciary eg:- A-13, 32, 131, 143, etc.

The ideological basis of Judicial Review can be understood through the statement given by the Apex court which reads

"In India constitution is supreme and All the Law / statutes / orders must be in line with the principles mentioned in the constitution and Judiciary is vested with the powers to check the legality & validity of such statutes."

Supreme Court has time and again used this power to preserve the supremacy of the constitution
eg:- Golaknath case (1967), Bank



Nationalisation case (1970), Keshavnand Bharti case (1973), Minerva Mills case (1980) etc

Recently in 2015 SC has also struck down 39th amendment act, and NTAC Act on grounds of being violative of Basic structure of constitution

One of the special case of Judicial review is the "Basic Structure doctrine" which is an innovation of Judiciary to uphold the rule of law in the country

Indian democracy is based on checks and balances on the three organs i.e. legislative, executive and judiciary. In order to ensure smooth functioning of democracy and power of judicial review is one such check on the powers of legislative & executive



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 Independence^{den} is a unique case of Transfer of power, there was no overthrow of the colonial rule and hence we see the legacy of British rule in several spheres of life.

According to Bipin Chandra "India has legacy of British rule unlike China because India did not start as a clean state"

If we apply Gaussian philosophy legacy of British is evidence of its continuing wage many of the British which has impact the constitution, political system, economic system, educational system and even the foreign policy of India impacting the structural as well as functional pattern of Governance

If we look at the Indian constitution it has borrowed most of its provisions from Govt. of India Act of 1919 and 1935, even the parliamentary system of Govt. with supremacy of lower ~~house~~ house over the upper house is also an example of British legacy.

The centrality of Indian bureaucracy in the administration is also on lines of colonial rule and hence here we can apply Manza Alvi's concept of overdeveloped state.

The Indian criminal justice system still finds its linkage to British say eg:- the preventive detention rule, sedition, etc.

Only recently supreme court has acted to curb the colonial legacy in some fields by striking down sec 377 of IPC & 497 that dealt with homosexual.



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lity and adulatory
Looking at economic sphere India
is still an agrarian economy acting
as a source of raw material &
hub of finished goods

The British legacy of divide
& rule fuels its place in India's
society in form of class & caste
politics

Even the Indian education
system is based on Macaulay's
education system which focussed on
rote learning which is against
rational thinking & scientific develop-
ment

The partition of Indian subconti-
nent is the worst legacy of British
which makes South Asia the
least integrated region only
after middle east.

Hence in India we find
more of continuity than change
and there is a need to examine
the Victorian era legacy to ensure
progressive development of India