



# SHUBHRA RANJAN

Always Ahead

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## PSIR Answer Writing Module 2023

### Test 7

Time Allowed: 1 Hour 30 Minutes

Max Marks: 120

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Test Submission Date: 27-01-2023

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 no margins, text, 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)

Democracy is the best practicable form of government, ensuring freedom to individuals and emancipation of masses. The doctrine of basic structure was expounded by judiciary to protect and preserve the values of democracy.

Basic structure doctrine is a judicial innovation to maintain checks & balances and constrain excesses of legislature or executive.

The debate regarding the same began with the Sajjan Singh & <sup>Shankari Prasad</sup> judgement of Supreme Court. Supreme Court adjudicated the unrestricted power of legislature to amend constitution as legal.



This stand was overturned in Golaknath case (1964) wherein the court held the inviolability of Fundamental rights.

The legislature in return passed 31<sup>st</sup> and 32<sup>nd</sup> Constitutional amendments.

Finally, in Keshavananda Bharti case (1973) Supreme Court held that legislature can amend any part of the constitution as long as it does not alter the very nature of Constitution.

Supreme Court held that amending power can not be the same as the power of destruction. There has to be certain aspects of Constitution which when amended destroys the essence of the Constitution.



Though the list is not exhaustive, certain features include ; Fundamental Rights, Secularism, Separation of powers, Independence of judiciary, etc.

Criticism of the doctrine is based on the grounds that this is an undefined tool in the hands of judiciary, not originally envisioned by the makers of Constitution. Further, it is considered as an 'overstep' on the powers of legislature.

However, the experiences of the past have validated the doctrine as ensuring and strengthening democracy in India.



Que.2

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

The contested relationship between rights and duties had been an integral part of democratic process.

Liberal scholars emphasise on the guarantee of rights by state while socialists argue for the fulfilment of duties by citizens.

Gandhi held that only those rights are worth having that have emerged from a sense of duty. He held that the relationship is syncretic and rights are duties performed in embryonic sense.



Modern democratic scholars have opined that rights and duties both are necessary for a smooth functioning of democracy. They put an onus on the state to guarantee variety of rights if they expect individual obligations.

In Indian Constitutional framework, fundamental ~~to~~ rights are a part of the original constitution while duties ~~to~~ were added by 42<sup>nd</sup> Amendment Act, 1976 on recommendations of - Swaran Singh Committee.

Fundamental rights are enforceable while duties are not. They remain



voluntary and dependent on the practices of citizens. Thus, the scales are tilted in the favor of former.

Supreme Court have held that the duties were intrinsic in Constitution and explicit ~~and~~ after the amendment. The duties are important in the sense that the state can formulate a law that prohibits violation of duties even if it infringes on the fundamental rights.

Scholars like DD Basu and Granville Austin have upheld the duties while arguing that rights have priority over them.



Que.3

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

The recent headscarf controversy in France emerged due to banning of wearing headscarf in public places. This order is based on the French model of secularism (Laicite) adhering to strict separation between state & religion.

The Indian model of secularism, however, is grounded on the principles of 'principled distance'. The state provides freedom of religion (Art 25, 26) while also interferes to root out dogmatic practices. It ensures negation of inter-religious domination as well as intra-religious oppression.



Constitutional secularism emphasizes on ensuring freedom to religious minorities to practice, profess & propagate their religion. It also provides financial aids to set up educational institutions.

However, there have been state intervention in cases of untouchability and Triple Talak wherein a section of religious community was being oppressed by traditional practices.

Scholars like Rajeev Bhargava have argued that with increasing globalisation and ~~exist~~ emergence of multicultural communities, 'west' should learn from Indian model of secularism.



A heterogenous community where religion has become a part of a person's identity and dignity should not not be guided by outdated principles of strict separation.

There should be an increasing recognition to individual's rights about religious freedom and cultural practices while at the same time maintaining neutrality of state.

Thus, it is being argued by Bhargava, Neera Chandoke and Amartya Sen that the future of secularism ~~is~~ seems to be guided by the model of Constitutional secularism in India.



Que.4

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

The subaltern and Dalit perspective on Indian national movement has been aimed at improving the socio-political status of Dalits in modern sense.

Jyotirao Phule is regarded as the first ideologue of depressed classes. He argued in his book "Yugangiri" that Dalits have been oppressed by upper classes ~~for~~ since time immemorial and that the modern society should take their rights into cognizance.

Ambedkar has argued in "What Congress and Gandhi have done to Untouchables"

that there seems to be a fault in Gandhian ~~for~~ perception of Swaraj.



Ambedkar highlighted that the movement for 'political democracy' without 'social democracy' is unsustainable.

~~the~~ He therefore called on the depressed classes to "Agitate, Educate & Organise".

E.V. Ramaswami Naicker (Periyar) himself was a part of Congress but left it due to the treatment of lower classes within the party. He formed the "Self-respect movement" to achieve equality of treatment for dalits.

Scholars like Gail Omvedt have argued that the main concern of self-respecters was to achieve an opportunity of to get rid of historical injustices.



Critics like Arum Showrie however termed these groups as 'anti-national' due to factional tendencies and loyalty towards British.

Gandhi himself wanted no ~~more~~ more divisions in the society in order to achieve freedom from the Raj.

However, it can be concluded that the main issue of Dalit perspective was to ensure socio-political emancipation of dalits and downtrodden. Ambedkar rightly pointed out that the issue of Dalits and their rights was far more important than national struggle.



Que.5

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

The peasant movements in India have never been an integral aspect of national movement due to internal divisions on grounds of caste, religion, etc.

The history of peasant struggle has roots in colonial administration of land and rights associated with land.

Before 1857, there was severe repression from Britishers to exploit more and more raw materials from the colony.

These were isolated events of peasant uprisings and rebellions but were crushed due to lack of pan-India character. Eg, Revolts in Awadh, Eastern & Central India.



The major manifestation of ~~do~~ discontent was the revolt of 1857 where ~~the~~ peasants played the major role.

After 1857, there was a coherence about recognition of colonial policies and formation of Congress (1885) was the watershed moment. Though the issues were not adequately raised but the Congress provided a platform for deliberation.

The scene changed drastically after arrival of Gandhi. He himself participated in Champaran Satyagraha. Thereafter, the issues of peasants became a central theme, though still represented by elite classes.



A major moment was the formation of All India Kisan Sabha 1936 where Sahajanand Saraswati was made president.

The issues were revolving around national movement but could not gain prime attention.

Scholars have argued that the lack of unity and emphasis of Gandhi on compromise were reasons for the same.

It is due to this autonomous, fragmented and uncoordinated approach of peasant movement that the land distribution was never completely successful even in the independent India.



Que.6

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

The recent amendments regarding issues of backward classes ~~reflects~~ on the transformative nature of Indian Constitution (Ambedkar).

The 102<sup>nd</sup> Constitutional Amendment established National Commission on Backward Classes (NCBC) for protection of rights of the section.

105<sup>th</sup> Amendment has restored powers of State governments to identify OBC (Other Backward Classes) on popular demand.

Both the amendments are highlighting the progressive nature of policy



formulation to effect empowerment of backward classes.

The identification of such classes is the first step in the process. The demand was to restore powers of state because the classification requires decentralised approach. The status of several communities differ within a state and from state to state.

Further the National Commission is an empowering decision to preserve the rights of backward classes and strict implementation of their rights.

Thus, the policies of the government have been in sync with the demand of time.



However, Prataf Bhanu Mehta have questioned the political efficacy of such decision. He also pointed out that such an attempt is towards vote-bank politics. Moreover, critics have also highlighted that such an arbitrary identification by states is ~~to~~ bound to raise demands for sub-categorisation of castes like in Bihar.

These decisions can have a detrimental impact on inclusive character of democracy in India.

Nonetheless, progressive states in developed world have also considered and extended such benefits to deprived sections. So fears can be allayed by extensive considerations.



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 as a concept<sup>is</sup> defined as the power of judiciary to declare any excessive, regressive or out-of-procedure legislative ~~act~~ and executive action as null and void.

Originally the Indian Constitution provided for judicial review in articles 13, 32, 226, 246. Supreme Court in

Keshavananda Bharati case (1973)

have declared judicial review as part of 'basic structure'.

Initially, judicial review was held to check formal, procedural aspects of a legislation.



This ensured 'procedure established by law' is ~~strictly~~ followed.

Later judgements of Supreme Court have widened the scope of judicial review to include 'due process of law'.

Thus, not just the formal procedure but also the subjective aspects of a law are checked if they are in violation of constitution.

In this way, judiciary upholds the 'rule of law' (A.V. Dicey) and strengthens the democratic structure of the country.



Scholars having judicial opinion have highlighted that the concept of judicial review is at times utilised by judiciary to over-step in the domain of legislature.

The suo-motuo cognizance of issues have also created a conflict between different organs of state.

However, it can be sufficiently concluded that the doctrine of judicial review has time and again maintained the checks and balances in the system. It has empowered, emboldened and strengthened the foundations of democracy.



Que.8

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

Marxist school of structural functional approach has expounded the concept of 'overdeveloped state'. Hamza Alvi has highlighted the colonial legacy in societies like India & Pakistan.

Colonial ideas and philosophy are evident in the political structure and governance mentality.

The Simon Commission was vehemently opposed. However, Government of India Act, 1935 based on the recommendations of the Commission is a basic aspect of our Constitution.

Many colonial laws like Promulgation of ordinances, Preventive Detention,



Official Secrets Act, etc. find place in Indian Constitution.

K Santhanam has highlighted the conventions and traditions being blindly followed in modern India.

Alagh has also pointed out the 'colonial mindset' in the bureaucrats.

Law Commission has time and again reflected on the issue of colonial mentality in framing of laws.

Many issues like Adultery (Sec 497), Homosexuality (Sec 377) have recently been ~~over~~ overturned / declared unconstitutional by Supreme Court.

Judiciary and CJI Chandrachud has also called upon the lower



courts and legislature for indianisation of judiciary.

Therefore it is argued by scholars like Yogendra Yadav, Pratap Bhanu Mehta that though Britishers have left, the colonial imprint stays.

Thus, the need of the hour is to ~~re~~examine such legislations of governance and make them suitable to Indian framework and context.

PM ~~Mohi~~ has also recently raised the issue of citizen-centric governance and last mile delivery of services.



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Space for Rough Work



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