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Question No.
प्रश्न संख्या

U.P.S.C.

for practice use only
सिर्फ अभ्यास के लिए

PSIR Test -03

NAME- SANJEEV KUMAR

Roll No- OAC 24 PIT N030

Mobile No- [redacted]

Date- 27-07-024

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1.(a).

RC Pradhan describes Indian national movement's analysis is like 4 blind men analysis the elephant.

There are various perspective, one of them is Radical Humanist perspective which has been given by MN Roy. He wrote a pamphlet "A Radical Humanism: a manifesto" which puts human at the centre of life.

MN Roy criticised the national movement led by congress by saying that congress want to end the british rule but want to establish congress rule.

Therefore, he provided his own model where there will be emphasis on morality, rationality and freedom

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whose ultimate aim will be emancipation of masses.

These were missing under Gandhian's strategy because he even criticised Gandhi as weak and watery man - always looking for viceroy's appointment.

eg: Gandhi-Irwin pact (1931)

Therefore, he left congress and formed his own party - Radical Democratic Party in 1939 to establish cosmopolitan world of such free man.

Ram Manohar Lohia also supported his meta-narrative by saying that labour was done by proletariat and fruits were eaten by bourgeoise.

Thus, MN Roy's perspective provided a unique analysis of Indian national movement rooted in humanity.

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1.(b). PB Mehta calls Indian constitution is a consensus document aimed at social justice..

It was created by 299 constitution framers over a period of 2 years 11 months 18 days. As Paul Brass noted that Indian constitution was not made in an environment of hope, but in fear.

Thus, Indian constitution focused much on Indian unity by giving more power to centre that shaped the India's political structure.

It gave over-arching power regarding country's bifurcation into several new states without altering the union under Article 1 and Article 3.

It created a office

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of governor as constitutional sentil (sarkaria commission) to prevent the secessionist trends.

eg: secessionist demands from Nagaland, Mizoram that was tackled through strong governors.

It even gave extra-ordinary powers like Article-356 under which governor can recommend president rule. several Articles like 249, 250, 252 and 253 have been provided where parliament can make laws to maintain uniformity and unity.

However, these powers have been criticised as quasi-federal (ie where) and unitary trends where states have become just satellites.

Yet, Indian unity was the key during framing which is still intact.

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16c). Socialist perspective on Indian national movement is based on marxist ideology that explains on economic basis. They have interpretated the movement through marxist lens. As Marx himself claimed that Indian freedom movement of 1857 was not just a feudal uprising.

socialists like MN Roy have criticised liberal perspective because they did not talk about emancipation of masses. They consider peasant movements like Tebhaga and Telangana movements as real movements.

RP Dutt criticised Gandhi for being a mascot of bourgeoise because there was no peasants in decision making.

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EMS Namboodiripad called Gandhivam and Gandhisavam which means Gandhian movements were restricted mass struggle and he was a conscious tool of bourgeoise.

Jai Prakash Narayan in his "Why Socialism" argued that Gandhi ignored the masses for the bourgeoise

eg: Trusteeship favours capitalists.

However, Sumit Sarkar criticise socialists for calling Gandhi just a tool of bourgeoise. He called them to take a broad view.

Thus, Socialist perspective provided a meta-narrative of national movement..

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1(d). Constitutional amendment procedures are provided in Article-368 to amend the constitution.

JL Nehru favoured the flexible constitution because constitution is a living document. If it will be rigid, it will stop the nations growth.

Indian constitution can be amended through 3 methods ie simple majority, special majority, and special majority with consent of half of the states.

However, the amendment procedures have been criticised because there have been given unitary power to centre.

States can not initiate

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the amendment procedure unlike USA. The states' consent is based on simple majority and also just half. But in USA, it is 3/4th of the majority.

The amendment procedure is similar to a normal legislative procedure. There is no separate body to amend constitution.

Thus, a proper guidelines for amendment must be provided to ensure the transparent amendment.

Therefore, Granville Austin praised the Indian constitution for this unique blend of rigid and flexible amendment procedure.

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1. (e).

Judicial activism and Judicial over-reach are tools for judiciary to provide social justice by entering into other organs' functions.

eg: Vishaka guidelines ⇒ Zia Modi noted that this was the pinnacle of Judicial activism.

There is a slight difference between both!

Firstly, Judicial activism is a positive connotation when judiciary gives a judgment for social transformation.

eg: Lily Thomas case

whereas, Judicial over-reach includes mis-using the power by crossing the "Laxman rekha" that leads to judicial adventurism.

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eg: scrapping the NJAC in 4th Judges case (2015).

secondly, Judicial activism is supported by PN Bhagwati, Justice RC Lahoti, Lord Reed as judicial statesmanship.

where, Judicial over-reach has been criticised as against separation of power, and Justice Barucha called judiciary has neither resources nor expertise.

eg: Liquor ban Highways by Supreme court - against separation of Power.

Thus, Judicial restraint must be maintained while doing Judicial enthusiasm to fill the political vacuum.

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2. (a) Indian national movement is the biggest mass movement for freedom in the world with the inclusion of various groups.

There is sharp changes in the functioning of the movement before Gandhi and after Gandhi. Before the arrival of Gandhi, Indian national movement was completely based on elites participation with few women engagement. It was generally confined to cities only.

However, after Gandhi, it was totally transformed into a mass movement. Bipin Chandra analysed Gandhian movement and claimed that Gandhi was a mass psychologist. He knew when to start the movement and when to stop it. This led to two

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phases ie active phase and passive phase. Gandhi's techniques of satyagraha, non-violence ensured the huge participation of women in his all 3 major movements like non-cooperation, civil-disobedience and quit India movement. Several women included Sarojini Naidu, Kamala-devi chhatopdhay, Usha Mehta, Aruna Asaf Ali, etc.

It also included various sections of society such as peasants, workers, dalits and even business man like Jamna lal Bajaj who donated land for Gandhi's asharam in wardha.

These participations ensured the standard of life of women - increases. It indicated the

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efficacy in Gandhian method which can provide them freedom.

However, MN Roy criticised Gandhi for weak and watery man who always looked for viceroy's appointment. He cited an example of withdrawal of non-cooperation because Gandhi was afraid that masses would capture power.

BR Ambedkar criticised Gandhi for not working for dalit as he never fast for removal of untouchability.

Despite this, Gandhi was a saint (Arundhati Roy) whose struggle- True- struggle proved strong enough to free India

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2. (b). Article-52 of the constitution provides the Office of president and Article-72 provides the pardoning power.

This has been inspired from British King authority who can forgive the criminals. In India, it has been divided into 5 categories.

First, Pardon refers to the complete removal of all charges and requit him freely. eg: suspending the death sentence.

Second, Commute refers to changing the character of sentence to reduce the charges.

eg: changing death sentence into life imprisonment.

Third, Remission refers to reducing the time-period

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of a sentence.

eg: reducing 10 years Imprisonment into 5 years.

Fourth, Respite refers to reducing the sentence in any extra-ordinary situations like disability, pregnancy

eg: releasing a pregnant woman early than prescribed time period.

Fifth, Reprive refers to put stay on the order until farther notice.

eg: stay on execution of a death sentence until verification.

These 5 pardoning powers are also given to governors but with certain

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Limitations Supreme Court has analysed the pardoning power through various judgements. It has led that the power of pardoning is under judicial review, if it is misused.

It has also held that president has no discretionary power in this regard, they have to act on the advice of cabinet generally home ministry.

However, it has been criticised for using it as a political tool. Recently, Gujrat riots criminals had been pardoned by Gujrat later on supreme court reversed the decision.

Thus, pardoning power is an extra-ordinary device and must be used rationally.

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2.(c).

Article 21 is the most important fundamental right which ensures right to life and liberty.

Since the inception of constitution, it has gone through various interpretation. In the present scenario, it has transformed also.

MC Mehta case - 1988 held that right to live in clean environment is a fundamental right under Article-21. It ensured the protection of ecology and biodiversity.

PUCL case-1972 uphed the view that right to information (RTI) is a fundamental right which can't be denied to citizens. It has led to emergence of RTI Act-2005.

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Hussain - Ara Khatoon case held that speed trial and speedy justice is a fundamental right that is premised on the idea that "justice delayed is justice denied". It prompted fast track courts and lok-adalats.

Ogla Tellis case of Supreme court ensured the right to life in a broader sense.

Puttaswamy case - 2017 provided right to privacy and right to deletion of personal data under fundamental right.

Further, Unnikrishan case and Mohini Jain case ensured right to education as fundamental right. It ensured it would be added under A-21A through

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~~86th~~ constitutional amendment act.

Recently, common cause case vs Union of India (2018) provided right to die with dignity as a fundamental right.

eg: Euthanasia was legalised

This Article-21 was transformed through these judgements but the major change occured in Meneka Gandhi case-1978 when Supreme court used judicial activism to broaden the view.

"Due process of law" based on natural justice was included under Article-21, which were earlier restricted to only "Procedural established by law".

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"Due process of law" ensured that supreme court moves beyond its procedural intepretation to a very wide interpretation.

In this Maneka Gandhi case itself, SC held that right to life does not mean living in poverty but to live with dignity like a human being, and not like animals.

However, PB Mehta criticised judiciary for its paradoxial in nature and its judicial barbarism while mis-using the power of judicial activism as judicial adventurism.

Thus, Article 21 was changed for good to include new dimensions of life.

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3 (a). Non-co-operation movement was the first all India Gandhian movement started during 1920s.

It was started after Jallianwagh massacre and its hunter report. It also get the advantage of Khilafat agitation.

It highlighted the potential of mass participation because it was the first time women, workers, students, middle-class labourers, peasants, dalits ie every section of society participated in huge numbers.

There was huge Hindu Muslim unity during this movement which was unprecendental in a communal society where divide-and rule was prevalent.

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In the initial 2 years of the movement, it also merged with various peasants movements like Awadh and UP Kisan sabha movement, Ekta movement and Mappila movement.

This was a strategy of Gandhian's satyagrah which was based on Gramscian method of war of position to develop a counter-hegemony (Bipin Chandra).

However, it also highlighted the limitation of mass movement because masses could not resist themselves from violence during Chauri-Chaura when Bhagwan Ahir was beaten. This was termed by Gandhi as

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demerit of masses because they have not yet understand the meaning of non-violence completely. This led him to withdraw the movement.

Also, masses have low capacity, there was sign of fatigue because the promise of Gandhi to get within a year could not achieved.

However, it is important to note that it is tough to continue such high pitch movement for long period. This was also known and considered by Gandhi.

Thus, masses became more aware during this period that helped Gandhi in next two movement.

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3(b). Granville Austin considers Fundamental rights and DPSPs are two cornerstone of Indian constitution.

Fundamental rights under Article 12-35 and DPSPs under Article 36-51 based on providing political and socio-economic rights respectively. However, only fundamental rights are justiciable in nature.

This has led to various interpretations by our judiciary such as:-

In Champak-dorairajan case -1951, SC held that fundamental rights can be taken away for the implementation of DPSPs.

But in the next judgement of Golaknath case- 1967, SC held that fundamental

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rights are sacrosant in nature and it can't be sub-dued under DPSPs. It reversed it earlier position.

However, in Keshav-nanda Bharti case-1973, SC held that though parliament can take away any fundamental rights but it should not disturb the basic structure of the constitution.

Further, in Minerva Mills case-1980, SC provided a balanced view that both fundamental rights and DPSPs are two wheels of same chariot. Both have to be implemented for common good equally.

This Liberal Interpretation provided that

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DPSPs can be implemented for greater good.

eg: Article 39(b) and (c) is considered as above Article 14 and Article 19.

Even, 73rd and 74th constitutional amendment act that established local bodies also premised on DPSPs Article 40.

However, judiciary has been criticised for inter-gering into other organs. Kalpana Kannibaran called judiciary as political institutions.

Thus, the balanced approach of Fundamental rights and DPSPs provided a basis of liberal inter-pretation of various DPSPs.

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3(c). Demands of autonomy refers to the secession of region or state from Indian union to form their own country.

Regionalism in India has become the basis to ensure autonomy from India. It is rooted in various factors such as:-

Firstly, Historical region of north-east, Morphaland demands autonomy on the basis of different cultures as they are different from mainstream society.

eg: Cooch Bihar region (west Bengal)

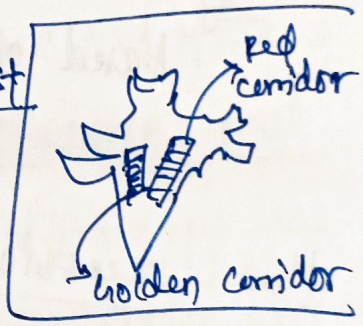
secondly, sociological perspective where people are under-represented in political level

eg: Sikkim ⇒ just 1 seat in Lok-Sabha.

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Thirdly, Political-economy perspective (Atul Kohli) where states with huge natural resources but still under-developed. They demand secession to ensure economic autonomy

eg: Red corridor and Golden corridor



Forthly, Terrorist groups demands autonomy to carve out new state outside union.

eg: Khalistani terrorists in Punjab to create Khalistan.

Fifthly, political basis explained by Louise Tillin in "Remapping India" where states are divided on the basis of political factors.

eg: Recent bifurcation of Jammu and Kashmir.

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Another reason is geographical and linguistic where people di-associate themselves on the basis of language.

eg: Demand of Drawi-nadu based on Southern-languages.

To tackle all this secessionist trend, Indian constitution has provided several safeguards such as:-

BR Ambedkar explained Article-1 (India ie Bharat is a union of states) where India is not a result of federation. It means no state can secede from India. It only allows bifurcation of state under Article 3 which has to remain within Union.

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Another provision is Article-356 ie president rule in case of such trends. During 1980s, such situation had occured in Punjab.

That's why governor has been made a lynch-pin (Sarkaria commission) between centre and state to act as an agent of centre. Paul Brass described, this extra-ordinary was given because Indian constitution was made not in the environment of hope but fear.

Thus, Unlike USA constitution where USA is indescrubtible along with indestructible state. Indian states are destructible but Indian union is in-destructible.

Section-B

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5. (a) Bipin Chandra calls Indian national movement as most inclusive movement whose warmth can be felt even today.

Peasant movements started during early 18th century when new land revenue system, ruin of handicrafts and ruralisation of economy happened.

eg: Sanyasi rebellion, Fairazi movement etc

Peasant movements expanded the scope of Indian national movement by questioning the British authorities and its loyals such as moneylenders and zamindars.

eg: Deccan riots and Pabna revolts.

They started participating directly

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in the national movement after the arrival of Gandhi. Movements like Champaran Satyagraha, and Kheda satyagraha became the starting point.

Even during 1920s, several movements like Eka, Mappila, Awadh movements coincided with non-co-operation movements.

They helped Gandhi to develop the counter-hegemony via war of position (Gramscian method).

However, they were localized in nature that could not become widespread.

Yet, these peasant movements united masses and helped to realize the land reforms in post-independent India.

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5(b). There are 3 organs of democracy namely executive, legislative and judiciary.

There is a check and balances in the Indian parliamentary system via legislative control namely parliamentary devices such as:-

Question hour refers to the first hour of the session where MPs can ask questions to the ministers (executive).

eg: Onstarred, starred questions.

Zero hour is an unique device used just after question hour till the start of the agenda of the house.

Third, calling attention motion to ask important questions from

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ministers on public importance issues like paper leak (NEET-UG).

Adjournment motion is a tool given to only Lok Sabha that lasts for more than 2 hours. Another are censure motion and no confidence motion to ensure accountability of ministers and even remove them.

Others devices are motion of thanks, Closure motions, resolutions, No Day yet named motion and so on.

Thus, these legislative control over executive reduces the pre-ponderances of power which can be mis-used.

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5(c).

42nd constitutional amendment act-1976 ie during emergency is famously called as mini-constitution.

It has changed a lot of provisions which hold several significances such as :-

First, provided duties for the citizens based on Swaran Singh committee. Article 51A was added as Fundamental duties.

Second, 3 new keywords were added in the preamble to explicitly provide clarity:-

eg: Socialist, secular and integrity.

Third, a new quasi-judicial authority were provided to adjudicate the cases faster and cheaply.

eg: Tribunals under Article 323A and 323B.

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Fourth, addition of 4 new DPSPs that aimed to ensure socio-economic justice to the citizens.

eg: Article 39A- free legal aid.

Fifth, more subjects were added to concurrent list to ensure the uniformity in law making

eg: Education, forests-wildlife were shifted from state list to concurrent list

However it has criticised as mis-using the power and finally several provisions were reversed or deleted by the 44th CAA when Janata government taker over after emergency

Thus, 44th CAA saved the constitution from becoming more centrilized in nature

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5. (d). Secularism refers to separation between religion and politics. Term was coined by GJ Holyoke in 1851.

India is a country of "Sarv-dharma Sambhava" where all major religion resides. In this context, it was necessary to provide secularism in Indian constitution.

Under various provisions, it is implicitly and explicitly mentioned.

Article 14 mentions Equality before law and equal protection.

Article 15 provides no discrimination on the basis of religion. It ensures all are equal.

Separate provision under Right to religion (Article 25-28).

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Article 25 ensures right to follow own conscience in the matter of religion at individual level.

Article 26 provides management of religious affairs at community level.

eg: Vivekananda's Anand Math.

Article 27 prohibits the levy of any taxation from any specific religion. However fees can be levied to provide services.

Article 28 provides visit of religious places in educational institutions as per choice.

Even, our preamble explicitly mentions secularism as the nature of state (Added by 42nd CAA).

Thus, secularism is the basic structure of the constitution.

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5(e). Indian constituent assembly was created on the basis of ~~constituent~~ Cabinet Mission Plan - 1946.

Its nature was indirectly elected by the provincial assemblies. Even criticised as non-sovereign body because it was appointed by British government.

Its composition includes diverse leaders from all parties. SC Chaubey classifies into 4 categories :- First, congressmen on the seat of congress ticket.

Second, independent on the congress ticket.

Third, muslim league on their own ticket. Fourth, independent on non-congress ticket.

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Wiston Churchill criticised this assembly by calling as body of Hindus (because 25% were brahmins and 75% were upper castes).

However, Granville Austin countered by saying, "India was congress and congress was India" ie congress represents whole India and not just upper castes.

Role of constituent assembly was to study the 60 different constitutions over 2 years of time to draft a time-tested constitution to ensure a progressive future for India.

Thus, PB Mehta calls constitution a revolutionary document aims to transform India.

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8(a). Article 52-58 provides the office of president and its tenure, procedure of election, functions etc

Indian president is the de-jure ie Head of the state which is a ceremonial position in India as a Republic.

Constitutional provisions include the election of president as indirect by the elected MPs and MLAs.

The electorate of president includes only elected MPs of Lok Sabha and Rajya Sabha, also elected MLAs of State Legislative assemblies of states and UTs.

This does not include the nominated members of either Parliament or states.

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The method of election is based on value of votes :-

(a) MP's vote value = $\frac{\text{Total values of vote of all MLAs}}{\text{Elected MPs of Lok Sabha and Rajyasabha}}$,

(b) MLA's vote value = $\frac{\text{Total population of state}}{\text{Elected MLAs of the state}} \times \frac{1}{1000}$

This values of vote are calculated using single transferable votes through proportional representation method through secret ballot. All the voters have to choose as many options available by putting the ranking.

Eg:

Name	Preferences
Mr. A	1
Mr. B	2
Mr. C	3

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This proportional representation method reflects the nature of the Indian political system because it considers all the union territories and states voters value through its elected MLAs.

This is the evidence of Republic form of the system where head of the state is elected unlike monarchy.

Thus, President of India as the first citizen of India acts like an emergency lamp (Venkat-raman, former President).

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8(b). JL Nehru pointed out that an MP is a representative of a particular constituency but speaker is the representative of whole house-whole nation.

Speaker has been the decider in the disqualification of law-makers under 10th schedule. Anti-defection law was created under 52nd CAA to prevent the "aaya ram-gaya ram" scenarios.

In "Kihoto-Hollohan case-1993", Supreme court held that speaker is a quasi-judicial body and under judicial review for its decision under 10th schedule.

The significance of this judgement is manyfold such as:-

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Firstly, speaker now can act as a party-man to decide the defection of any member because judiciary can reverse such defection cases.

Secondly, cases of horse-trading can be stopped through this judgement. It will reduce the corruption among lawmakers.

Thirdly, speaker has to act on the basis of merit considering all the facts and data.

eg: Maharastra case of merger of Shiv-Sena

Fourthly, it will ensure transparency, accountability from the speaker side.

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However, speaker still puts the cases under-pending because there is no time limit to decide the defection. Even, in case of $\frac{2}{3}^{rd}$ merger, speaker can't do anything

eg: Jyoti-raje scindia's congress faction in madhya pradesh joined BJP.

Therefore, NCRWC recommended to give the power to decide the defection to Election commission of India and President to ensure transparency and non-politicization attitude.

Thus, speaker as the leader of the house must act as neutral to decide the quasi-judicial cases.

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Question No. प्रश्न संख्या

U.P.S.C.

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8(c). Daniel Elazer defines federalism as "self rule plus shared rule". It is not just the principle of diving power but a path to ensure co-ordinate governance.

Indian federalism is an unique example of federalism as it has been inspired by canadian federalism and not american one. It shows some unique features as well. However at a large it shows a co-operative federalism feature.

Granville Austin called Indian system as co-operative federalism that co-operates between state and centre. He even mentioned that though central powers are more but states have also given strong provincial government to

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meet its own demands.

It fosters a robust Central government with features like single constitution unlike USA, and single citizenship. It has given wide-spread unitary power to centre in case of appointment of governor, CAG, election-commissioner, and other constitutional head.

Centre has control over "All India services" and its recruitment and appointment which ensures a robust administrative cadre of the civil servants.

Its robust features include integrated judiciary, integrated election commission, integerated audit system both state and centre.

However, it still

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maintains strong provincial government by giving powers under Article-246 and seventh schedule. It divides the subject list into 3 parts.

There is also dual government ie centre and state, supremacy and rigidity of the constitution. Further, there is a bicameral legislature system where Rajya sabha represents council of states.

Further, state government has been given own taxation power, own civil servants (PSCs) and complete autonomy over their governance.

This has been explained by Paul Appleby as "extremely federal". Alexandrowicz

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calls Indian federalism as "sui-generis" to maintain its own uniqueness.

Alfred Stephan praises Indian model by saying "a demos enabling model", calling better than USA model

However, KC where criticises Indian federalism as quasi-federal due to lot of power given to centre. Morris Jones criticised by calling it as bargaining federalism. Subhas Palshikar calls Indian model is strong in theory but weak in practice.

Despite this, Bommai case declared federalism as basic structure, and called unitary features are just exception, and exception is not a rule.