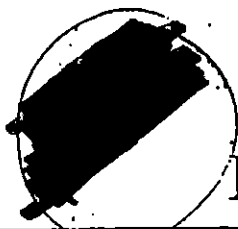


**GS SCORE***Good Effort***POLITICAL SCIENCE**

Time Allowed: 3 hr.

Max. Marks: 250

**Instructions to Candidate**

- There are EIGHT questions. Candidate has to attempt FIVE questions in all.
- Question no. 1 and 5 are compulsory and out of the remaining, THREE are to be attempted.
- Answers must be written in the medium authorized in the Admission certificate which must be stated clearly on the cover of this Question-cum-Answer (QCA) booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.
- Word limit in questions, wherever specified, should be adhered to.
- Attempts of questions shall be counted in chronological order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in the answer book must be clearly struck off.

1. Invigilator Signature

2. Invigilator Signature

Name

GAURAV VATS

Mobile No.

Date

15/10/2016

Signature

GS SCORE

~~REMARKS~~


1. All questions are compulsory to attempt: (125-150 Words)

(125 × 4 = 50)

- (a) Ambedkar and Indian Marxism had a major points of difference not only on the importance of caste in Indian politics but also its treatment. Comment.
- (b) Toleration and support for a cultural group is conditional. Explain.
- (c) The Idea of active and differentiated Citizenship culminated in the idea of Civic Republicanism. Discuss.
- (d) Feminist understanding of 'modern state' is in line of their criticism to Patriarchy. Discuss.

(a) Ambedkar and the Indian Marxists both criticized the Indian National Movement led by Gandhi. However, they differed on the importance of caste in Indian politics.

Ambedkar	Indian Marxists
<ul style="list-style-type: none"> <li>• Caste is embedded in Indian Hindu Society, based on ancient literature such as <u>vedas</u>.</li> <li>• Caste based on concept of "purity &amp; pollution", and ascription.</li> <li>• Social in Nature</li> <li>• Enclosed system based on ascription, endogamy etc.</li> <li>• Caste discrimination (of Dalits) due to Brahmanical rule and society arrangement.</li> <li>• Considered Indian Marxists do not understand Indian society.</li> </ul>	<ul style="list-style-type: none"> <li>• Ignored the importance of caste, rather believed them to be part of proletarian class.</li> <li>• Class based on similar market situation and life chances.</li> <li>• Economical in Nature</li> <li>• Mobile system, one person can change his class.</li> <li>• Discrimination exists because of the evil of Capitalism.</li> <li>• Considered Ambedkar as an opportunist.</li> </ul>

Remarks

& petty bourgeoisie

It emerged that there were differences between the two on the mode of treatment of caste & Indian society's

Ambedkar	Indian Marxists
<ul style="list-style-type: none"> <li>Believed that the legitimacy of Ancient Hindu texts should end. Vedas should be burnt.</li> </ul>	<ul style="list-style-type: none"> <li>Believed that the end of Capitalism will liberate the exploited class.</li> </ul>
<ul style="list-style-type: none"> <li>Social revolution based on peaceful methods leading to egalitarian society.</li> </ul> <p style="text-align: center;">major point</p>	<ul style="list-style-type: none"> <li>Violent revolution to change in dictatorship of proletariat leading to change in economic system &amp; egalitarian society.</li> </ul>
<ul style="list-style-type: none"> <li>Leave Hinduism as the last resort and convert to Buddhism (as Ambedkar did)</li> </ul>	<ul style="list-style-type: none"> <li>Did not believe in religion at all. Only change in relations of production will bring change.</li> </ul>
<ul style="list-style-type: none"> <li>Believed in positive role of State.</li> </ul>	<ul style="list-style-type: none"> <li>Believed state will wither away</li> </ul>

As we see, Ambedkar was to be proved right with his remark that Indian Marxists do not have a clear understanding of Indian society.

Remarks

Why don't he believe that Buddhism is an complete alternative to Marxism? 7

⑥ Will Kymlicka, while supporting his theory of Multiculturalism, has argued for conditional support & toleration for a cultural group.

According to him there are mainly two distinct: cultural group, different from mainstream culture :-

what role does value pluralism play?

→ Natives :-

They exist before the civilization spread here.

They are financially, socially, technologically and politically backward.

• They should receive support & toleration culturally and <sup>un</sup>conditionally

• They lost their political space involuntarily & cultural.

→ Migrants :-

They have voluntarily travelled & migrated from their homeland to other places.

Remarks

Not accurate understanding Refer to notes

②

- Therefore, they have knowingly entered a land of different culture.
- So there should be minimum support & toleration for this cultural group.

Remarks

C) Civic Republicanism arose as a critique of representative democracy & liberalism.

Democracy was alleged to be elitist (circulation of elites); and some said major powers in corporates (Robert Dahl - Deformed polyarchy)

Therefore, the Civic Republicanism called for active participation of citizens into political affairs of a state.

This will lead to participative & deliberative democracy (Habermas).

Differentiated citizenship emerged due to different civic roles of different citizens in respect of a their different cultural & community identity.

Some even contributed to the emergence of a

Remarks

How does Civic Republicanism confirm both types of citizenship (4)

a true democracy with stakeholders approach

Remarks



(d) Feminists have criticized the 'modern State' as an institution that promotes 'subjugation of women'. It can be found in the works of Frieden, Simone de Beauvoir and Susan Moller Okin (Human Moral Value).

Feminists argue that 'State' is modern only in the formal sense, i.e. it provides democratic rights to everyone, but is in itself a patriarchal institution dominated by men. Women are not given equal representation in the true sense.

- Feminists define State in terms of 'power' and 'military force', which are the masculine characteristics promoting the hegemony of men and subjugation of women.

- State is a mere reflection, i.e. State is society-wit-larged. Society is discriminatory right from the institution of family, which is patriarchal. Therefore State is also discriminatory.

Remarks

How do they  
critique each  
form of state  
- liberal  
- socialist  
- Post colonial  
etc

57

• Feminists criticized Rousseau's social contract where women were not allowed to participate, and also often criticized Rawls's theory of Justice.

• Feminists criticized the aggressive foreign policy of states, as war only results in women sufferings. This is because of masculine character of state.

Thus, feminists have criticized the modern state in line with their criticism of patriarchy.

However, they ignore the other crucial functions of state:

- Law & Order
- Welfare state - education, old age, maternity, disabled benefits etc.
- Security from foreign aggression etc.

That is why it is said that feminists' critique of 'modern state' is a biased one.

Feminism is a new school of thought, and will take time to evolve in its true form.

Remarks

2. Attempt all questions: (250-300 Words)

(25 × 2 = 50)

- (a) How is social contract theory of John Locke significantly different from that of Thomas Hobbes? Illustrate with special emphasis on Locke's social contract. Why is his doctrine of resistance considered the most important part of his theory?
- (b) Does Multiculturalism in its ideal sense gives more liberty to the individual than liberalism can offer since it also encompasses the social aspect of human freedom? Also illustrate the challenges and criticisms being faced by multiculturalist perspective?

(a) John Locke and Thomas Hobbes have both given the 'social contract theory'. However, they differ to a large extent because of the different contexts they both faced.

Thomas Hobbes, 'in his State of Nature', describes men as greedy, ~~avaricious~~ and fearful. There is a condition of insecurity of life and violence everywhere.

Therefore, men, to safeguard their own life, are forced by fear to enter into a contract with each other, and give power to a third party (state), which is outside the terms of contract.

Here, men submit all their rights except the right to life, to the sovereign. Therefore, it

Remarks

becomes the duty of the State to protect the life of each and every man.

In order to do so, the sovereign has large amount of power, superseding ~~the~~ morality, religion etc. and becomes a 'Leviathan State', controlling every aspect of life. Thus Hobbes consistently moved from individualism to Totalitarianism, thus ending anarchy.

He was ~~inspired~~ influenced by the Bloody Puritan Revolution, and the fear of Spanish Armada. This influenced his understanding of man.

John Locke, in his 'State of Nature', defines man as a good human being. There is peace and order, along with prevailing of 'Natural Law'.

However, due to some 'deviants', ~~the~~ order may break and anarchy may prevail, preventing others from enjoying their 'natural rights' of life, liberty

and property.

Therefore, to end anarchy, and punish the wrongdoers, the people enter into a social contract, where they submit all their rights except the right to life, liberty and property.

The third party (state) is included and subjected to the terms of contract. Therefore, if the state fails to secure the life, liberty or property of an individual, according to his "doctrine of resistance", people can change the state.

Locke gives in details the different powers of state, both domestic and federative, and also different rules regarding property. But the most important remains his "doctrine of resistance".

It places power in the hands of people, which becomes the basis of a democratic government.

Remarks

He was inspired by the Glorious Revolution of 1688, where there was peaceful transition of power from monarch to Parliament. This inspired his rational character of man, and placed ultimate power in the hands of people to check government from arbitrary power.

Thus, Locke is called the father of liberalism, as he gave an ideological push to Capitalism in European States.

Also, he is called the father of <sup>Constitution</sup> American Revolution, and his "doctrine of resistance" enshrined in the Bill of Rights.

Why does he provide people with power of resistance? who has the importance of this power?

13

⑥ Multiculturalism emerged as critique of Liberalism for its equal treatment to all groups and individuals, irrespective of some glaring differences, which should be respected. It could be found in the works of Will Kymlicka.

Liberalism believes in 'equality of treatment' and meritocracy. It believes in equal rights for everyone. However, Multiculturalism believes that every culture is unique, has demands special rights because it has its own sphere, which demands its own goods (Walzer - Spheres of Justice).

Multiculturalists say they give more liberty to individual than liberalism as it also encompasses the social aspect of human freedom.

• Man is an embedded self, instead of atomistic self.

The value system is shaped by the culture, so the liberty has meaning only when it is aligned with

Remarks

the inherent values. This is present only in Multiculturalism.

- Talent and Skills of man are largely shaped by the community and culture. Therefore, liberty is meaningful only in substantial terms, when it allows development of an individual based on those talents and skills, which is present only in Multiculturalism.

- Specific culture has some specific needs. Unless those special needs are fulfilled, an individual's rights and liberty will lose its meaning.

Very poor analysis

- Cultures are shaped in thousands of years. Therefore, an individual is a mere reflection of it. Liberty has to find its way through his cultural identity in order to benefit him in true sense.

Thus, Multiculturalism provides an individual an identity, on which he can build and develop by using rights & liberty.

Remarks



However, Multiculturalism is criticized for actually subjugating the rights & liberties of an individual behind the veil of culture. This is evident from the following criticisms:

- Liberals criticize them for discarding the value of 'merit' and 'free competition', thus besieging talent and meritorious skills <sup>destruction of neutral space</sup>
- Binding someone to its culture is preventing him from expressing himself and developing his true potential.
- HR activists criticize culture to suppress the Human Rights violation in the veil of culture presentation.
- Feminists criticize ~~Multiculturalists~~ Multiculturalists of promoting 'women subjugation' through institutions of family etc. & denying them rights.
- Breaking unity & integrity of Nation.

Remarks

The following are the current challenges of ~~Multicultural~~ Multiculturalists:

- Aligning culture with current trends of democracy and human rights, and finding a common ground.
- Forces of globalization including foreign products and ideas.
- Feminism demanding women liberation from patriarchal cultures.
- Aligning cultural goals with ~~States & National~~ goals.
- Peace, Harmony & Co-existence with other dominant and small cultures.

15

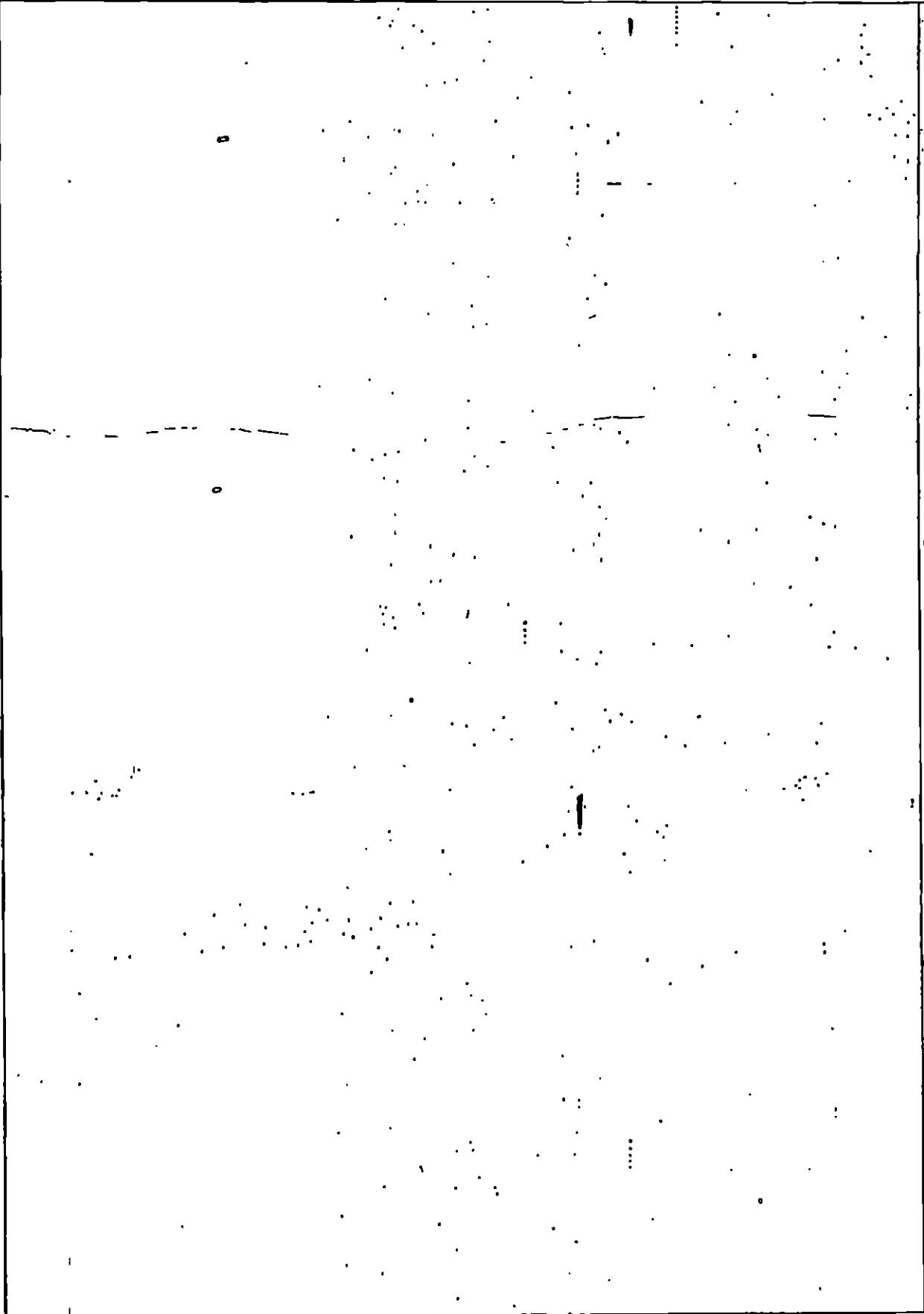
Brilliant & balanced analysis.  
 Also provide a glimpse of multiculturalism. ~~Chandrasekhar~~ ~~from~~ ~~any~~ ~~submers~~ ~~ensure~~ ~~me~~ ~~order~~ ~~Admission~~ ~~panel~~

Remarks

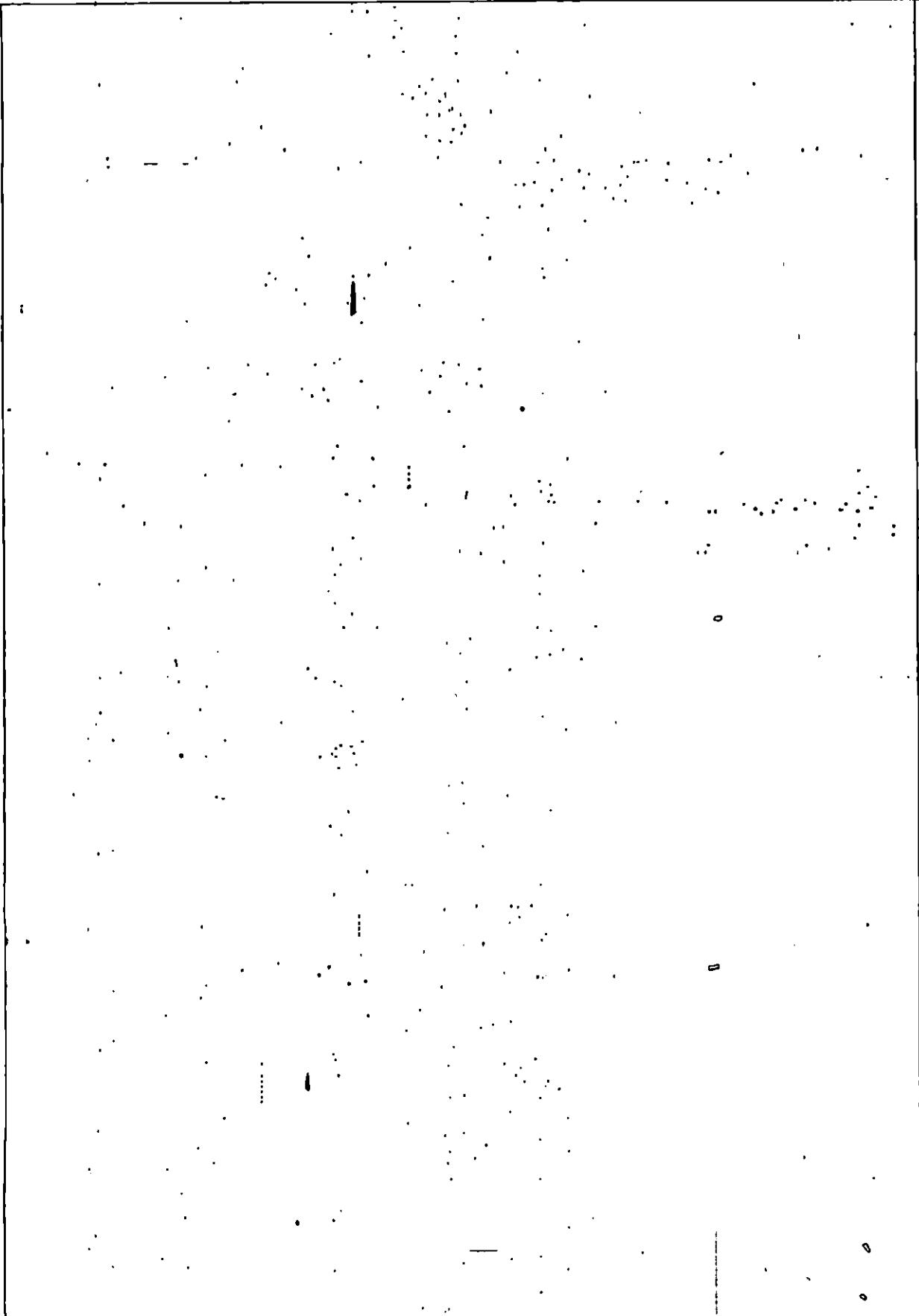
3. Attempt all questions:

- (a) What do you understand by 'spiritual nationalism' by Aurobindo Ghosh? Why was the Congress according to him not able to gain Swaraj? (200 Words) (15 Marks)
- (b) Generally believed to be the equivalents of each other, there exist deep differences between Machiavelli and Kautilya it would be unjust to replace one with another. Discuss. (250 Words) (20 Marks)
- (c) What are the major arguments given by Marxist school against the notion of liberal democracy? Critically analyse Marxist notion of democracy as a substitute. (200 Words) (15 Marks)

Remarks



*Remarks*



*Remarks*

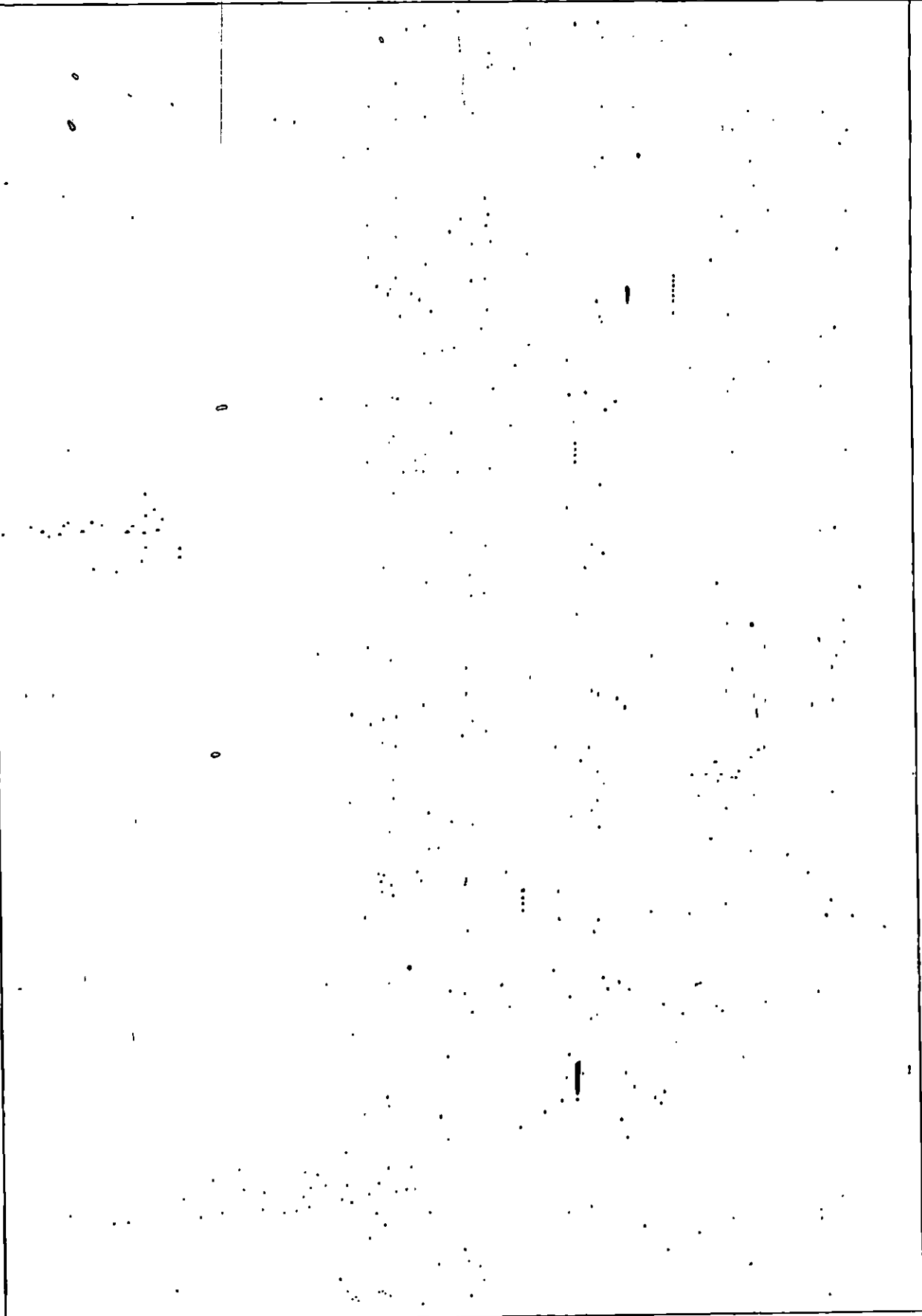
**GS SCORE**

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*Remarks*

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*Remarks*



*Remarks*



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*Remarks*

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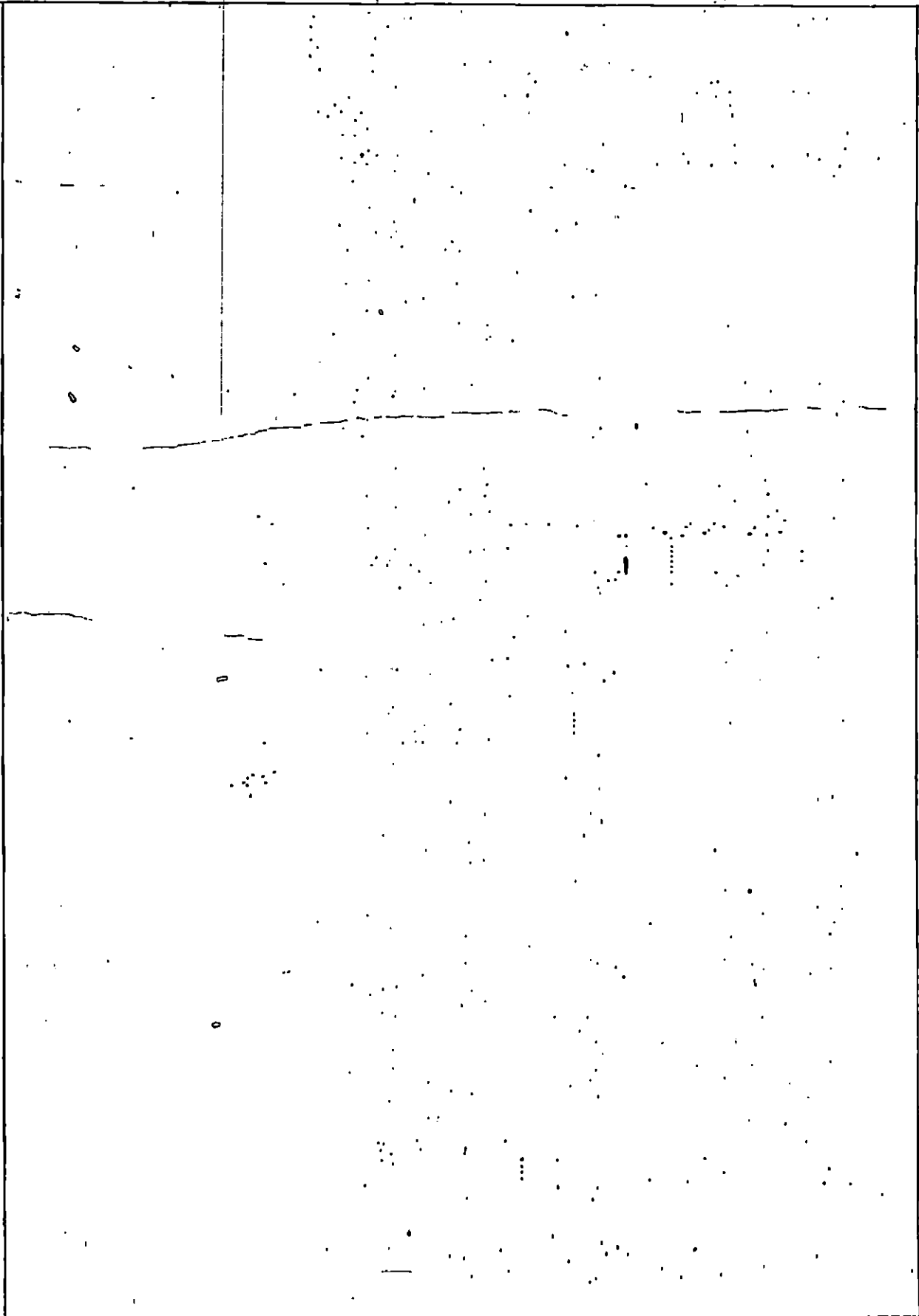
*Remarks*

4. Attempt all questions: (250-300 Words)

(25 × 2 = 50)

- (a) Hannah Ardent and Michel Foucault both define power in a non-institutional and non-coercive perspective but they differed majorly when it comes to identifying who actually holds power in a society. Elaborate.
- (b) Why does Sabine call Fascism an "adventurer's philosophy"? Inspire of their professed hatred towards communism, Fascism seemed to adopt many of the operational features of Communist states. Explain.

*Remarks*



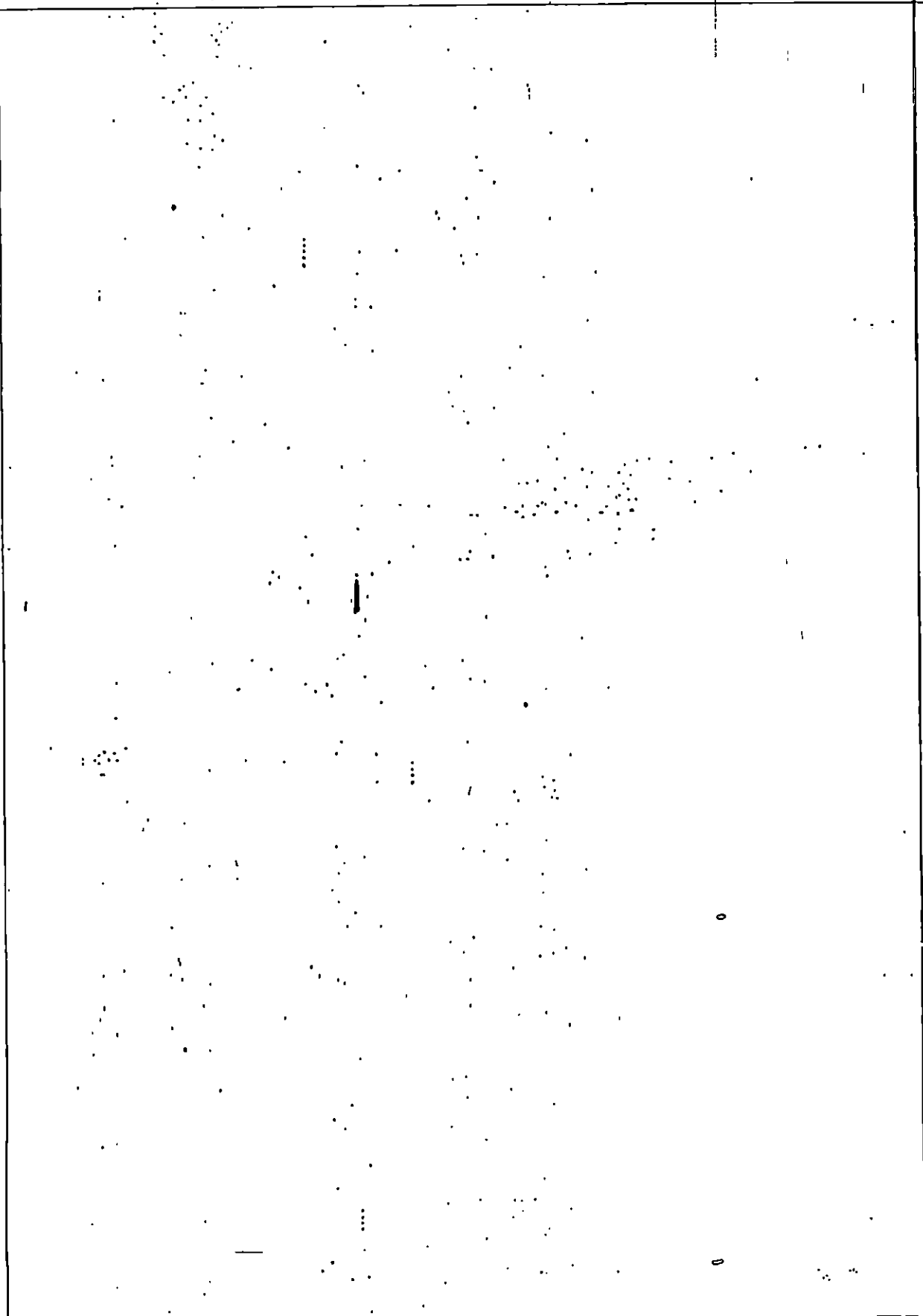
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Remarks

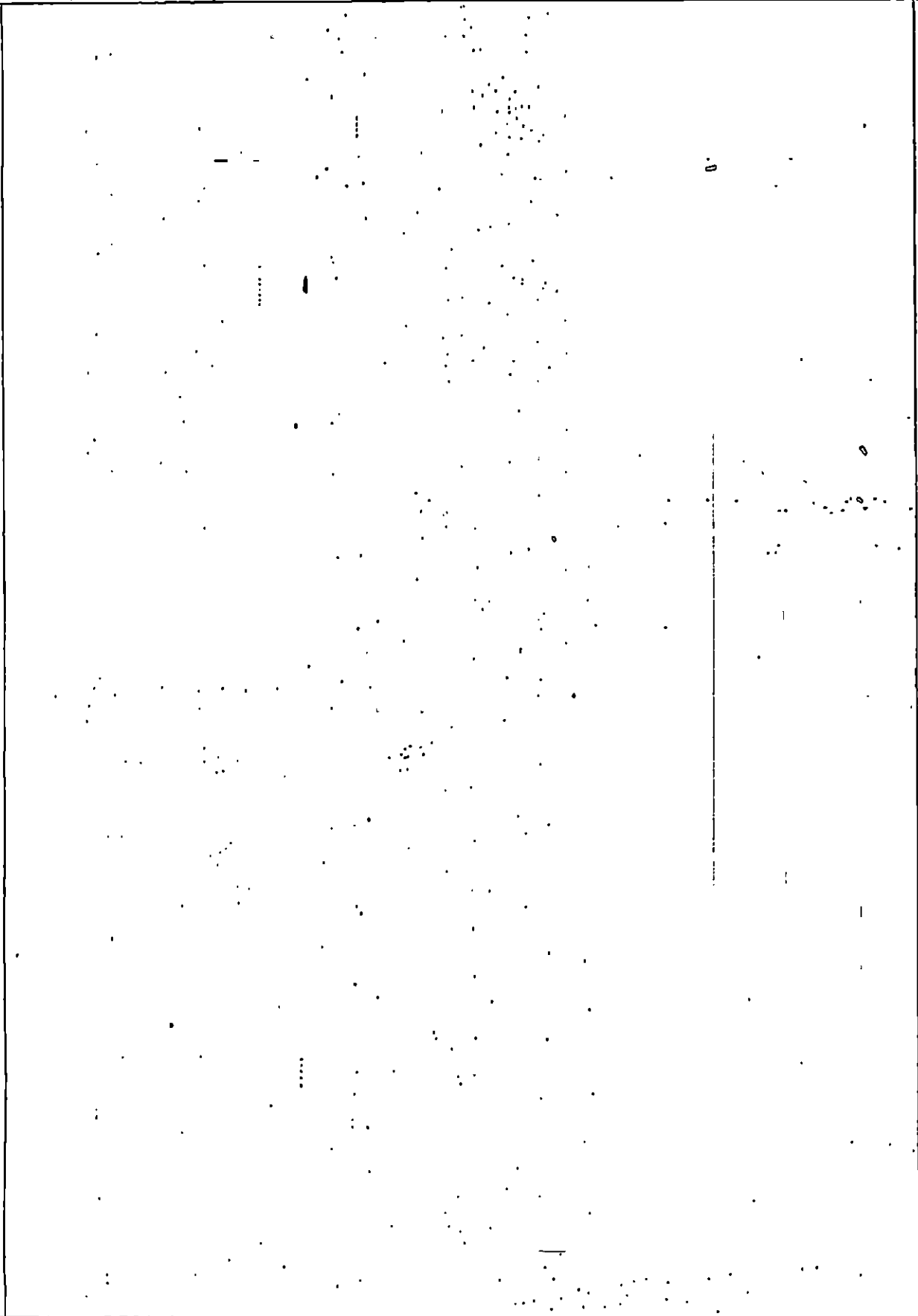


Remarks

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*Remarks*





*Remarks*

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*Remarks*

5. All questions are compulsory to attempt: (100-125 Words)

(12.5 × 4 = 50)

- Lobbying in India should be legalized. Comment.
- Electoral mobilization of Backward classes excluding Dalits in India.
- Globalisation and Farmers' Movements
- What is the political-institutional perspective of the Indian State?

Q. Lobbying is an activity of influencing the lawmakers or administrators in order to gain support from them by a particular group, NGO, civil society organization, interest groups etc.

Some people argue that lobbying should be legalized in India:

- Lobbying is already legalized in other states such as US, where Indian-American Communities lobby <sup>influence</sup> US foreign policy towards India.

- Lobbying would make the process of interaction of political, interest & other groups with government officials, institutionalized and transparent.

Remarks

- It would help the law makers & officials to better understand the specific needs of different groups.
- It would help in society becoming more aware and participate more in politics, making our electoral process more democratic.

However, others have opposed the move on following grounds:

- There is no clear cut difference in India between lobbying & Corruption.
- Indian politics has not yet matured enough for lobbying to be legalized.
- It would make our bureaucracy corrupt & inefficient.
- Groups with more money at their disposal will benefit more.

All about groups with communal sentiment



Thus, some ground rules are necessary for lobbying to be legalized here.

Remarks

(b) The advent of Green Revolution has benefitted the 'backward castes' the most, who had large lands at their disposal after the guided land reforms -

- Therefore, these OBC's (excluding Dalits) became the dominant castes (M.N. Srinivas) and has started political mobilizing of them.
- New leaders emerged from the rural areas from Backward Classes (or Caste).
  - New Electoral Mobilization based on caste alliances (eg. Yadav - Muslim Alliance in UP, Bihar).
  - All political parties appealing the dominant backward classes.
  - 'Principled politics' ended with the 'mandalization of politics' and personal politics.
  - New political parties based on backward classes.

Remarks

Therefore, we have seen the increasing electoral mobilization of backward classes.

However, some other things are to be kept in mind:

- Dominant-backward classes are not a majority in States.
- Every political party chooses its nominees of same caste.
- All parties appeal to same caste community.

But the backward classes are still backward in education, health etc.

Caste politics is not a healthy trend, and we should invest more in education, which would end all forms of social discrimination.

Even though Rajni Kothari has said caste has strengthened democracy, the functionalists believe the quality has degraded.

Remarks

You have to mention some more examples in answer like this



(C) Globalization ~~is~~ a 'neo-liberal' phenomena has made the national borders ~~is~~ redundant in terms of trade, investment and labour flows.

India embraced 'globalization' after the IMF endorsed LPG reforms of 1990's.

However, it has been resisted by the emerging farmers movements.

Around 50% of the population is engaged in agricultural & allied sector; and cheap agricultural imports have made their livelihood insecure.

- Farmers' movements have opposed duty-free access to food & other agri-imports.
- They have opposed the entry of foreign breeds and technologies (Bt Brinjal etc).
- They have asked for special incentives and cheap credit from government.

Remarks

The government has accepted most of their demands in the following actions:

- Granting MSP for 25 crops
- Successful subsidy negotiations going on in WTO for Doha round.
- Recent move to end monopoly of Monsanto in BT (~~Bacillus~~ Bacillus thuringiensis)
- Promotion of indigenous breeds - "Operation Flood" & Rashtriya Gokul Mission

what are conflicting views points among the farmer's movement's

6

Remarks



(A) Political-Institutional Perspective of Indian State

The institutional perspective of Indian state can be derived from the Constitution of India. We have adopted the Parliamentary form of democracy (British), with real power in Council of Ministers headed by Prime Minister, responsible to Lok Sabha. The President is a ceremonial head. The similar structure exists at the provincial level. However, if we analyze the political nature of institutions of Indian state:

• 1950 - 1967

All the states & Centre dominated by Congress.

'Congress System' as termed by Rajni Kothari.

A weak Judiciary.

• 1967 - 1989

Emergence of State governments devoid of Congress, and also the resultant domination of

Remarks

State parties by Rajya Sabha.

One of the factor was Green Revolution, led to emergence of local rural leaders. Rudolph & Rudolph says it led to caste politics.

Judiciary asserted itself & filled vacuum.

• 1989 - 1998

Political instability due to post-poll alliances. Judiciary managed vacuum.

• 1988 - 2014

Institutionalization of Coalition politics.

Regional parties dominance at Centre, but provided stability at Centre. (BJP & NDA; Congress & UPA)

Judiciary refused to go back to previous role.

Rise of Judicial Activism & overreach, and conflict b/w Legislative & Executive with Judiciary.

The new govt has majority at Centre, but it is still an NDA govt; thus signifying coalition politics.

(4)

You had to analyse the role of judiciary in India in strengthening democracy.

Remarks

6. Attempt all questions:

- (a) Organization of states on the basis of language is filled with opportunities and threats. Bring out your arguments for both sides of debate with examples. (200 Words) (15 Marks)
- (b) The debate around GST revolves around fiscal prudence versus protecting the federal spirit. Critically analyse the proposed law with special reference to its impact on fiscal autonomy of states. (250 Words) (20 Marks)
- (c) Was the deeply entrenched influence and impact of caste system a result of British rule or it was due to inegalitarian and rigid structure of Hindu society which was merely left untouched by colonial masters. Discuss. (200 Words) (15 Marks)

(a) States were organized on linguistic basis after State Reorganization Act 1956.

Opportunities to organize states on linguistic

basis:

- It will form organic & coherent states. Thus stability of states is ensured eg Karnataka, Kerala etc.
- It promotes federalism and cooperation between states. eg Maharashtra & Gujarat cooperate in trade & other matters.
- Stronger states will result in stronger India. A Bengali is a Bengali Indian. Economically powerful states (based on single official language & smooth administration) contribute to national economy.

Remarks

- Language security pacify potential revolts  
(No major language revolt since long after 1956 Andhra).

- Language autonomy leads to smooth administration.  
Official language is also the local language.

However, some say the tigers are ever present:

- We have no ~~the~~ National language, that shows linguistic states are a threat to National integration. <sup>Not very clear about your arguments.</sup>

- Strong linguistic states lead to regional politics, weakening coalition governments.

- Ugly violence between different linguistic States (TN & Karnataka on Kaveri River).

- Any federal issue assumes linguistic character (Kerala, TIT issue of Mullaperiyar Dam) etc.

Thus, we should devise mechanisms to

Remarks

Threat to national sovereignty, extreme regionalism.

Analysis  
being  
linguistic  
basis  
I should be  
not  
the sole  
criterion

Solve federal disputes, and prevent them from assuming linguistic colours.

Strong linguistic states, with pledge to National unity & integrity: will lead to Bargaining federalism (Austria) & Cooperative Federalism (Morrison Jones).

(b) The GST bill has been recently passed by the Parliament. It provides for uniform taxation of goods and services throughout the territory of India, barring liquor and some other entities. It will subsume most of the indirect taxes.

The supporters of GST say it promotes fiscal prudence on following grounds:

- GST Council that will decide the GST rate comprise of finance ministers of all states.
- GST will result in more easy accumulation & levy of tax, and more revenue in the coming years.
- Easy tax structure will invite foreign direct investments, thus increasing production & tax base.

Remarks

• GST will, in general, increase the tax base, resulting in more revenue.

• More tax revenue, will result in more devolution to States, resulting in more development.

• GST will make India a single market, and synchronized with New Trade policy, MEIS & EIS.

However, those who oppose GST say it violates fiscal federalism and fiscal autonomy of States:

• It is a destination based tax, and producing states like TN, Maharashtra will lose out on revenue.

• The IGST component is the largest of all (CGST, SGST). Thus, lion's share of tax revenue will go to centre.

• States are not fully compensated for 5 years.

• States will lose out for most of their traditional indirect taxes.

Remarks

- States cannot levy new indirect tax as an emergency measure.
- The structure of the GST can be amended only on the initiation of the Centre. (IRAs Inv. 2)
- The rules and regulations will be dictated by the Union Finance Ministry.

Thus, the insecurity of states is valid to an extent. The following measures can be applied:

- Strengthening of Centre-State & State-State interaction mechanisms like Zonal Councils, Inter-State Councils etc.

- Making Finance Commission a permanent body, with tenure of 5 years for members.

more power to states in GST Council

Remarks

Probs with GST even if it carries some economic benefits, damages spirit of federalism in India.

9

- Some representatives of States in Finance Commission.
  - Adequate compensation to States for revenue loss.
  - An institutional mechanism to be created for fiscal federalism.
- All of your rights are needed to act

(C) Whether the caste system was an old age rigid tradition in itself or it was shaped by British is a debatable issue, as the arguments on both sides are valid :

Arguments supporting the ancient structure of Hindu society :

- Since later-Vedic period, caste became ascriptive.
- Caste endogamy started, and one could not change his/her caste.
- Old traditions like Vedas are used to justify castes.

Remarks



- Old Brahmanical domination of the Indian Hindu society.
  - "Manu" asked King to preserve order, that is, no one should be able to change his caste/profession.
  - Different Caste worshipped different gods.
- Arguments in favour of prominent British role:
- Though caste was a social identity, it was not the only social identity. But the British recognized only caste as the basis of Indian society.
  - British, according to their convenience, supported one caste over another.
  - British used "Divide & Rule" promoted Caste rivalry.
  - Encouraged & Used Caste differences even in military (Marhal & Non-Marhal races).
  - British in order to split National Movement,

Remarks

promoted Caste Elevator for Dalits in  
McDonald Award (1932) led to Poona Pact.

Recognized Caste leaders like Ambedkar.

Thus, even though Caste existed as a  
feature of Indian society in a rigid form,  
still there was caste mobility, as it was  
~~not~~ not the only feature of society.

But the British made Caste the most  
prominent feature of Indian society. They  
promoted inter-caste feuds & rivalry.

Today we see Caste politics. There is a  
need for development & education to  
minimize & eliminate the role of Caste in  
Indian society.

Analyze  
merits & -  
views of  
factors on both  
sides of debate

Remarks

②

7. Attempt all questions: (250-300 Words)

(25 × 2 = 50)

- (a) Uniform civil code has become the latest bone of contention between political forces in the country. Bring out the reasons behind this debate with special focus on rights of Muslim women in India. What role has the Supreme Court played in this issue?
- (b) Similar to many provisions of Indian constitution, the chapter on fundamental rights is also open to several criticisms. Discuss with examples. Also analyse the various episodes of struggle between parliament and Supreme Court on the issue of amenability of fundamental rights.

(a) Under Art 44 of the Indian Constitution, India aspires to get a Uniform Civil Code for the entire country.

Though we enforced a uniform Criminal Code of law for the entire country at the time of independence, still our leaders thought that it is not proper to enforce civil code as the society is not ready.

However, even after 66 years, ~~the~~ UCC has not become a reality, even after repeated remarks of Supreme Court.

Remarks

Today, the political forces supporting Uniform Civil Code argue that:

- British followed personal Civil Code & Uniform Criminal Code, in order to "divide & rule".

This policy should not continue in Independent India.

- The provisions like "Triple Talak" has given the sanction to legally subjugate and exploit women.

- Different Civil Codes will never allow a single uniform National Culture to emerge.

- The personal laws of almost all regions are derogatory to women in different extents. (eg payment of Alimony, polygamy)

- It will allow simple & smooth administration & adjudication of civil laws. (Hindu)

Remarks

Also there is issue of compulsory registration of marriages.

imp

- It will promote the Cultural Identity of Indian and oneness.
- Human Rights activists argue that UCC will be the best mechanism to safeguard in-family human rights.

However, the religious-conservative forces argue against the Uniform Civil Code:

- UCC is violative of the ~~the~~ secularism as the personal laws aligned with <sup>that on</sup> sharia are mandated by Islam & Koran <sup>original</sup> <sub>not for</sub>.
- 'Triple Talak' is justified ~~that~~ as due to the "absence of rationality" in women, men are given an upperhand to decide.
- UCC will result in communal violence, and imposition of majoritarian religion on others.
- UCC is a DPSP, and society is not ready to embrace it yet.

Remarks

Even Supreme Court in various cases (Reg Shah Bano) had directed the Union Govt to bring into existence the Uniform Civil Code (Reg Shah Bano).

Recently, Supreme Court has accepted a petition of muslim women regarding polygamy & triple talaq.

Centre has cited the absence of these provisions even in Muslim countries like Saudi Arabia & Pakistan, thereby arguing for UCC.

Recently, Law Commission has prepared a questionnaire, but the All India Muslim Personal Law Board decided to boycott it.

Remarks

All India Muslim Personal Law Board has held a meeting & decided to boycott it.

(15)

There should be active participation of all,  
 - and all political & social forces should try to  
forge a consensus.

The only thing that is constant is change,  
 and therefore reforms in the Civil Law system  
 is must.

(b) Fundamental rights are the essential rights  
 required by an individual to develop his  
 potential to the fullest.

These include both negative rights (absence of  
 state in individual affairs - liberty) and positive  
 rights (development nature of state - education (21A)).

Therefore, Fundamental Rights (F.R.) are called  
the soul of the Constitution.

However, F.R. are criticized by the scholars.

Remarks

How is this a negative aspect?

on the following grounds:

- They do not include many positive rights (included in DPSP instead).
  - They are not coupled with concomitant duties. ~~Rights~~ Duties are rights in embryonic form.
  - The reasonable restrictions can be used by govt to curtail them, making them meaningless.
  - They can be suspended at the time of National Emergency. They are not sacrosanct.
  - Some of the fundamental rights are discriminatory (Art 15 & 16) How?
  - Punishment for Art 17 violation not given in Article itself.
  - Art 25-28, gives authority to Supreme Court to intervene in religious matters. <sup>Quran, has</sup> <sup>if this</sup> <sup>negative point</sup> <sup>saved from</sup>
- Thus, F.R. are not criticism either.

Remarks

For many exceptions & conditions  
 Provision of preventive detention  
 negates all value!

5



Fundamental rights can be enforced under Art 32, and using the powers of judicial review, we have seen conflicts between SC & parliament on the issue of amenability of fundamental rights.

- In 1950, when Centre provided for reservation, in Shankaradharani Case, SC held FR. can be amended, upheld in A.K. Gopalan Case.

- In 1967, Golaknath Case, SC held that F.R. cannot be amended.

- In 24<sup>th</sup> Amendment Act, <sup>1971</sup> SC upheld that Art.

39(b)(c) has precedence over Art 14, 19.

- → (Right to property not a BASIC STRUCTURE-1973)

- In 1973, SC struck down the provision of

25<sup>th</sup> Amendment Act that All DPSP's have

precedence over FR. It said that "Judicial

Review" is a ~~basic~~ feature of "basic structure Doctrine". (Kesavananda Bharati Case)

- In 1980, Minerva Mills Case, SC struck

Remarks

down the provision, denying the SC power of judicial review in certain cases. (Right to property deleted by 44th CA Act 1978)

Thereafter, weakening & decline of both Parliament & Executive due to rise of regional parties & coalition politics, mandated the filling of vacuum by Judiciary.

Judiciary asserted itself, with measures like PIL, negation of 'locus standi' etc.

It gave liberal interpretation to Art 21 (rights to life & personal liberty), and incorporated many rights such as:

- Right to sleep,
- Right to legal aid
- Right against solitary confinement etc.
- Right to education (21A)

It has been said that by incorporating the rights of DPSP into Art 21, Judiciary has been doing the work which the Parliament should have done.

Remarks

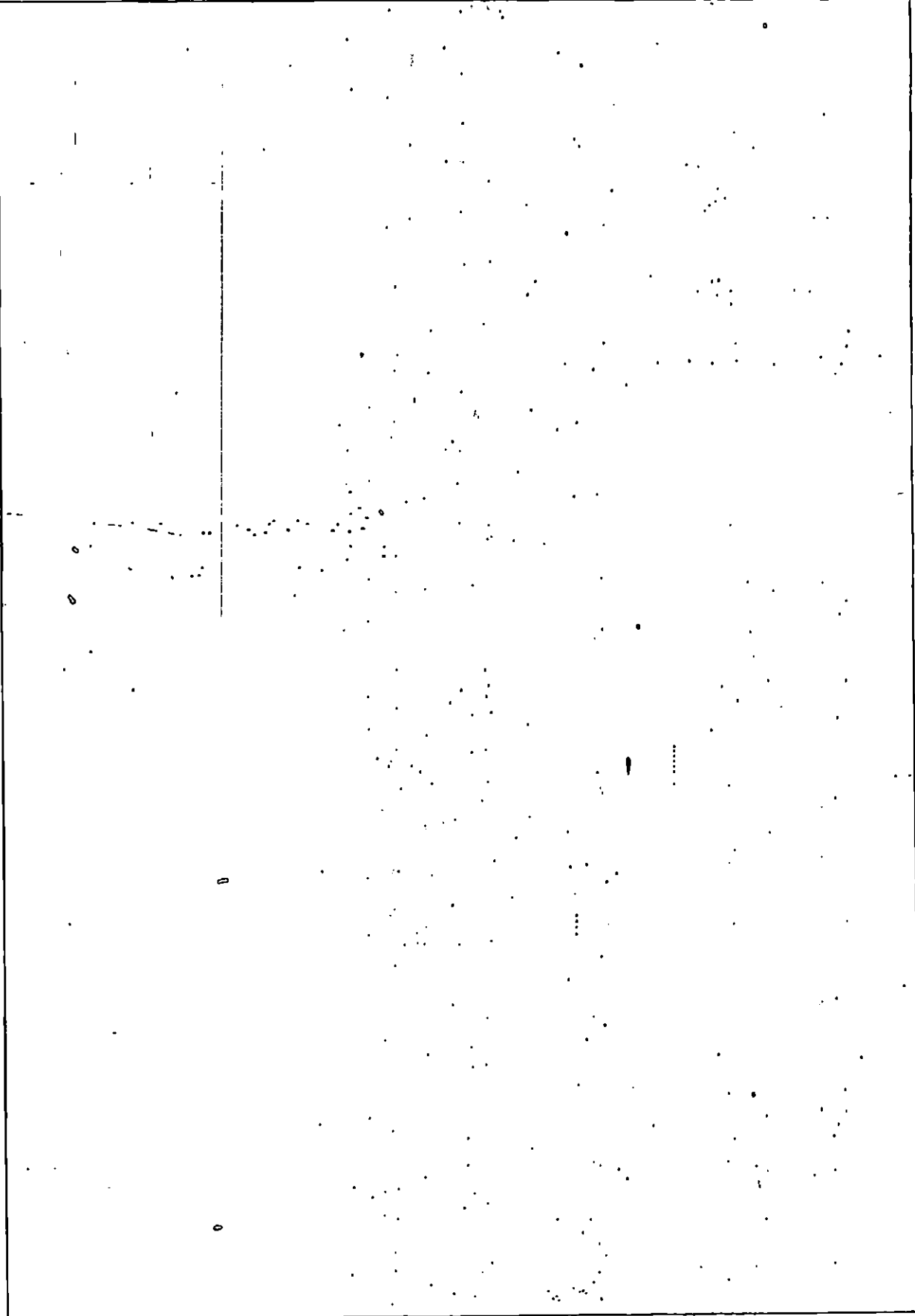
Why was there a struggle b/w Legislature & Executive of DPSP vs Judiciary  
 (14)

8. Attempt all questions: (250-300 Words)

(25 × 2 = 50)

- (a) What are the major factors contributing in decline of legislature, how far it is correct to say regular use of ' ordinance making power' is undermining constitutional legislative authorities?
- (b) Are New Social movements in India are leading towards development of radical notion of democracy? How far you endorse the view that new social movements' success in promoting the values of sustainable development and empowerment of marginalised communities is contested?

*Remarks*

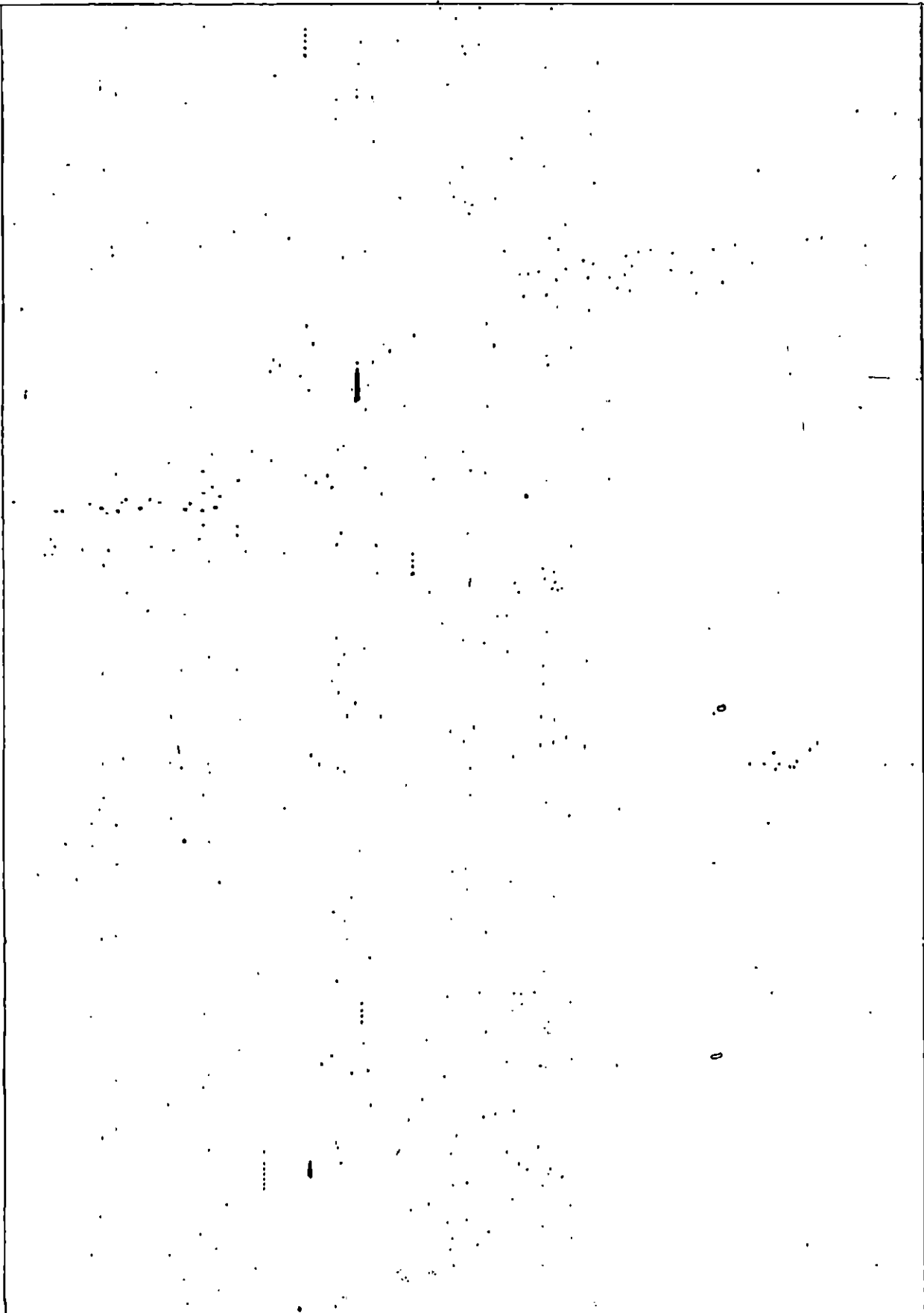


*Remarks*

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Remarks



*Remarks*

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*Remarks*



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Remarks

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Remarks