

THE PHILOSOPHY OF CONSTITUTION

Q1: The following are certain laws. Are they connected with any value? If yes, then what is the underlying value? Give reasons.

- a. Both daughters and sons will have share in the family property.
- b. There will be different slabs of sales tax on different consumer items.
- c. Religious instructions will not be given in any government school.
- d. There shall be no begar or forced labour.

Q2: Which of the options given below cannot be used to complete the following statement?

Democratic countries need a constitution to

- i. Check the power of the government.
- ii. Protect minorities from majority.
- iii. Bring independence from colonial rule.
- iv. Ensure that a long-term vision is not lost by momentary passions.
- v. Bring social change in peaceful manner.

Q3: The following are different positions about reading and understanding Constituent Assembly debates.

- i. Which of these statements argues that Constituent Assembly debates are relevant even today? Which statement says that they are not relevant?
- ii. With which of these positions do you agree and why?
 - a. Common people are too busy in earning livelihood and meeting different pressures of life. They can't understand the legal language of these debates.
 - b. The conditions and challenges today are different from the time when the Constitution was made. To read the ideas of Constitution makers and use them for our new times is trying to bring past in the present.
 - c. Our ways of understanding the world and the present challenges have not changed totally. Constituent Assembly debates can provide us reasons why certain practices are important. In a period when constitutional practices are being challenged, not knowing the reasons can destroy them.

Q4: Explain the difference between the Indian Constitution and western ideas in the light of

- a. Understanding of secularism
- b. Articles 370 and 371
- c. Affirmative action
- d. Universal adult franchise

Q5: Which of the following principles of secularism are adopted in the Constitution of India?

- a. that state will have nothing to do with religion
- b. that state will have close relation with religion
- c. that state can discriminate among religions

- d. that state will recognise rights of religious groups
- e. that state will have limited powers to intervene in affairs of religions

Q6: Match the following.

a.	Freedom to criticise treatment of widows	i.	Substantive achievement
b.	Taking decisions in the constituent assembly on the basis of reason, not self interest	ii.	Procedural achievement
c.	Accepting importance of community in an individual's life	iii.	Neglect of gender justice
d.	Article 370 and 371	iv.	Liberal individualism
e.	Unequal rights to women regarding family property and children	v.	Attention to requirements of a particular region

Q7: This discussion was taking place in a class. Read the various arguments and state which of these do you agree with and why.

Jayesh: I still think that our Constitution is only a borrowed document.

Saba: Do you mean to say that there is nothing Indian in it? But is there such a thing as Indian and western in the case of values and ideas? Take equality between men and women. What is western about it? And even if it is, should we reject it only because it is western?

Jayesh: What I mean is that after fighting for independence from the British, did we not adopt their system of parliamentary government?

Neha: You forget that when we fought the British, we were not against the British as such, we were against the principle of colonialism. That has nothing to do with adopting a system of government that we wanted, wherever it came from.

Q8: Why is it said that the making of the Indian Constitution was unrepresentative? Does that make the Constitution unrepresentative? Give reasons for your answer.

Q9: One of the limitations of the Constitution of India is that it does not adequately attend to gender justice. What evidence can you give to substantiate this charge? If you were writing the Constitution today, what provisions would you recommend for remedying this limitation?

Q10: Do you agree with the statement that “it is not clear why in a poor developing country, certain basic socio-economic rights were relegated to the section on Directive Principles rather than made an integral feature of our fundamental rights”? Give reasons for your answer. What do you think are the possible reasons for putting socio-economic rights in the section of Directive Principles?

Answers

Answer 1:

- a. Idea of equality and social justice. It treats both children equally by giving inheritance to them irrespective of their gender.
- b. Economic justice as it reflects the importance of certain consumer items for people and seeks to discourage the consumption of other items deemed as non-essential.
- c. Secularism as it shows that the government does not give importance to any religion in particular.
- d. Idea of social justice as it strives to end forced labour and protect workers from exploitation.

Answer 2:

- iii. Bring independence from colonial rule.

Answer 3:

- i The statement that argues that Constituent Assembly debates are relevant event today is c.
- c. Our ways of understanding the world and the present challenges have not changed totally. Constituent Assembly debates can provide us reasons why certain practices are important. In a period when constitutional practices are being challenged, not knowing the reasons can destroy them.

The statement that argues that Constituent Assembly debates are not relevant today is b.

- b. The conditions and challenges today are different from the time when the Constitution was made. To read the ideas of Constitution makers and use them for our new times is trying to bring past in the present

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- c. Our ways of understanding the world and the present challenges have not changed totally. Constituent Assembly debates can provide us reasons why certain practices are important. In a period when constitutional practices are being challenged, not knowing the reasons can destroy them.

The statement above is correct because the values that are enshrined in the Constitution are universal in nature and constitute a safeguard for the rights of the citizens. It is necessary to uphold these values as they are relevant to society in all ages. The breakdown of Constitutional values would lead to chaos and endanger the rights of the citizens as well as the integrity of the country.

Answer 4:

- a. Indian secularism is based on principled distance whereas that of western secularism is based on mutual exclusion. In India, every religion is treated equally so that every citizen can be treated equally and can enjoy a life of dignity. In the west, religion

cannot interfere in matters of State and the State cannot interfere in matters of religion.

- b. The articles 370 and 371 give special rights to the state of Jammu and Kashmir and the north-eastern states respectively according to their peculiar social and historical background. This type of provision of accommodation is not found in western countries.
- c. Affirmative action in India is based on principle of social justice without compromising on individual liberties. In India affirmative action was introduced two decades before it was introduced in U.S.
- d. Every Indian citizen whose age is 18 years or above, is eligible to vote whereas in established democratic countries right to vote was extended to women and working class in the 20th century after a long struggle.

Answer 5:

- d. that state will recognise rights of religious groups
- e. that state will have limited powers to intervene in affairs of religions

Answer 6:

a.	Freedom to criticise treatment of widows	iv.	Liberal individualism
b.	Taking decisions in the constituent assembly on the basis of reason, not self interest	ii.	Procedural achievement
c.	Accepting importance of community in an individual's life	i.	Substantive achievement
d.	Article 370 and 371	v.	Attention to requirements of a particular region
e.	Unequal rights to women regarding family property and children	iii.	Neglect of gender justice

Answer 7:

The arguments of Saba and Neha are correct that the idea of equality cannot be rejected merely because it is of western origin. The values that are a part of the Constitution are universal and thus, cannot be discriminated as Indian or Western. It is also correct that while the British were unjust in their policy of colonialism, there were certain principles of their governance that were modern and suitable as they allowed people to choose their own representatives. Thus, the positive values of British system should not be ignored on the basis of negative impact of British colonialism.

Answer 8:

It said that the making of the Indian Constitution was unrepresentative because the members of the Constituent assembly were chosen by a restricted franchise and not by universal suffrage. It does not make the Constitution unrepresentative because it

contains the aspirations and voice of every section of the nation. The Constitution has also provided for a democratic system of government with a head of the republic.

Answer 9:

It is true that there are inadequate provisions for gender justice in the Constitution. Though it is a fundamental right of every citizen to be treated equally but there is no specification of the basis of gender but specification is made on religion, caste and class.

Citizens cannot be exploited or discriminated on the basis of their caste, class, language and religion but there is no mention of gender. Respect for women has been confined to the directive principles and women's rights are not specified so that they can be interpreted and defended by the judiciary. The status of women within family has also been ignored in the Constitution. Thus, it makes no special privileges for almost half of the population while there are provisions for affirmative action for other socially backward groups and minorities.

Provisions for women

- Freedom of conscience and profession irrespective of the gender of the citizen
- Right to liberty and personal freedoms specially speech and expression irrespective of the gender of the citizen
- Move freely and safely throughout the territory of India
- Right to life and liberty
- Minimum age of marriage- 21 years for both males and females
- Making education is must for girl child
- Curbing practices like female infanticide and foeticide with harsh punishment for either
- Protection from domestic violence
- Protection from any kind of sexual harassment

Answer 10:

It is correct that basic socio-economic rights were relegated to directive principles. These rights should have been incorporated particularly for backward classes in the same manner as the cultural rights of minorities. A developing country like India requires the fulfilment of the potential of human resources. For this reason, it is essential that the socio-economic requirements of all sections of society are met and all groups have equal opportunities.

The possible reason for putting socio-economic rights in the section of Directive Principles was the lack of adequate resources in a newly independent nation. Making socio-economic rights a feature of fundamental rights would have placed a burden on the state. Besides, the economic development path of the newly independent country was already concerned with planned development whose benefits were to be made available to all sections of the society.