

8149

Question No.

प्रश्न संख्या

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UPSC

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1st Mock
Polity.

For
Practice
Use Only
सिर्फ अभ्यास
के लिए

(Q1) Though Indian constitution has been borrowed from various sources but it is unique in its content and spirit. In this context, discuss the significance of any four salient features of it with suitable egs. (250W.)

Dr BR Ambedkar, father of our constitution, proclaimed proudly that Indian constitution has been made after ransacking all the possible constitutions of the world.

It is true since a large part of our constitution is ~~base~~ borrowed or got an inspiration from Government of India Act, 1935.

Where the GOI Act 1935 gave structural part to the constitution such as Governor, emergency provisions, different constitution of the world gave it philosophical

LUX
Kap. PPT
the person
DPSP
Inland.
FR
amnesia.

and administrative part

US → President, vice president as head of upper house, Fundamental rights, separation of powers.

Britain - Republic, Prime minister and council of minister, Procedure established by law.

Ireland → Directive principle of State policy.

Australia → Concurrent list, freedom of trade and commerce.

While the concept of Republic is taken from UK, but it is not imitated wholly. In India there is elected head of state whereas in Britain there is monarchical/ hereditary.

We adopted procedure established by law from Britain but over the time, through various judgements, it has become due process of law where there is great onus

is on judiciary. (Maneka Gandhi case, 1978).

Directive principle of state
policy taken from Ireland are
made suitable for Indian context
by making a division under the
heads :- Socialist, Gandhian,
Liberal Intellectual

The Post of PM and council of
minister taken from UK differs
in the sense that PM can come
from any house in India and
minister dont have any legal
responsibility.

Hence it is clear that
although taking cue from all
over the world, our constitution
is wholly Indigenous in nature.

2) "Preamble is of extreme importance & constitution of India should be read and interpreted in the light of the grand and noble vision expressed in the Preamble. SC. Discuss (250W)

In the words of H.A. Palkhivala, eminent jurist, "Preamble is the key to the minds of constitution makers of India. Preamble is an

opening text of the constitution which contains the philosophy.

Preamble is an important document which tells us:-

(i) The source of authority. (we, the people of India)

(ii) The vision of the country. (Sovereign, socialist, secular, Republic, Democratic).

(iii) The objectives of the country.

(Justice - socio, economic and political - In India everyone has an equal access to justice which is professed in various articles.
eg: Art 14, 39(A), 39(B) etc.

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Liberty → of thought, beliefs, expression, faith and worship.
Fundamental rights and other parts of constitution reflect the same. eg:- Art 14-18, art 25-28, art 29-30. Various SC judgements have given progressive judgements from time to time to uphold the same. eg:- Triple Taluq judgement, Sabrimala judgement, Nattej Singh Johar case.

Equality → of opportunity. everyone is equal in the eyes of law and there is equal protection of law which provides for affirmative action eg:- Art 14-18, 16(4), 15(3), 15(4) etc.

Fraternity → to promote dignity of individual and nation so that the menace such as communalism, mob lynching etc don't hamper country's development.

Q) Preamble is amendable and has been amended once to insert 3 words (42nd CAA 1976) → Secular, Integrity, socialist.

Preamble is an integral part of our constitution as per LIC of India case and Keshava Nand Bharti case. which also say that recourse to preamble must be sought if there is any ambiguity in understanding the constitution.

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Q3) In recent past, many states in India has legislated anti conversion law. Critically examine the need of these laws in the light of right to marriage as a FR. (250 W)

In the recent past many states such as Uttar Pradesh, Uttarakhand, Madhya Pradesh have brought in laws related to anti conversion especially done for the sake of marriage. The basic premises behind these legislations is to stop fraudulent marriages and to protect women's rights.

However there are various In Stanis laws case, SC has observed that right to propagate doesn't meant right to convert. (Art 25)

However there are various issues which are around such laws:-

(o) State's entry into private sphere.

(o) The notice time before marriage

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is 2 months which is too much
keeping in mind the security of
couple

- (.) Laws will be used to settle
personal score with people.
- (.) Reducing women to have no
autonomy.
- (.) If weighed down against Art 21.
It would be declared unconstitution
al.
- (.) Too much authority to district
magistrates.
- (.) Marriages are an institution of
free will and choice This bill negates
that.
- (.) Assuming guilty till innocent.
Burden on person to prove that
concession done is not forceful.
- (.) Politicization of personal
issue.

Such laws have great
propensity to be misused. and
against principle of personal
liberty of an individual.

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In a democratic country, everyone has a right to freedom of religion (Art 25-28). In Hadiya Case (2018), SC said that using the conversion as a ground to nullify marriage would be unconstitutional. Since marriage ^{institution} is an sphere which belongs to private sphere and personal liberty must be upheld.

Q 4) Describe the right to protest enshrined in Indian constitution. Do you think protesting against government amounts to anti national activity? Justify your views with suitable examples. (250w)

Right to protest is a fundamental right under 19(1)(a) of Indian constitution. It involves disagreement with governmental policies.

- Right to protest doesn't amount to anti national activity because:-
- (.) Dissent acts as a safety valve of democracy. Any democracy will get rotten without debate.
 - (.) Government often slaps sedition case (124(A)) on people who don't agree with her not realizing that it is a law of bygone era. All the revered democracies have abolished the same. (Britain, Australia etc).
 - (.) There is very low conviction rate in sedition law. As per NCRB, in 40 cases there are only 1-2 cases where people were

convicted. This shows the futility of the law.

(c) It affects India's ~~and~~ standing on global scale as well. US administration has talked about degradation of Indian democracy.

However, right to protests can amount to Anti national activity:-

(i) If the motive behind protests is to remove the government or plan a coup.

(ii) If the motive is to disturb internal peace a.

(iii) When there are secessionist tendencies.

So it is clear that Article 19(1)(a) and 19(2) → restriction on freedom of speech go hand in hand.

way forwards:-

(i) These cases must be non cognisable offences so police doesn't

- have free hand.
- (-) onus of burden of proof on government rather than people.
- (-) Bringing in discuss, dissent, debate ethos in the society.
- (-) If there is any malicious complain court must take action against those.

democracy rests on the foundation of freedom and any tempering with that will bring in the worrisome situation.

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Q3

What do you understand by concept of freedom of speech and expression?
 In the context of artistic expression, it is not state rather non state actors tend to curb this freedom of individuals (250w)
 Do you agree? Under what conditions can't be curbed. (250w)

Freedom of speech is considered to be a fundamental right under Art 19(1)(a) of Indian constitution.

It includes right to speak, write and display without any any fear. Over the years, many rights have been included under this right - to give wholesome meaning to this:-

- (.) Right to print by media
- (.) Right to be silent
- (.) Right to demonstrate
- (.) Right to publish

However there are few restrictions which a government

can impose to maintain public order, decency, sovereignty of state, friendly relations with other countries, contempt of court etc
{Art 19(2)}

Artistic expression is also ensured by Article 19(1)(a), however sometimes we see due to majoritarian culture, lack of empathy and tolerance leads to some fringe elements to disrupt others' rights. Recent controversies related to Karni Sena's protest about Padmaavat movie, cancellation of shows of comedians etc.
It can be curbed through:-

- (.) promoting inclusive education, tolerance in the society.
- (.) Strengthening law and order to ensure everyone's rights are protected.
- (.) As Supreme court observed, Onus should lie on those whose

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sentiments are hurt. No arrest or
(-) ~~Also~~ cancellation to be made
till then.

(-) Strict action against those
filing malicious complaint.

Art 14, 19, 21 are the
edifice which sustains all our
freedom. It is our paramount duty
to celebrate those rather than
willify them.

Q6) Fundamental duties enshrined in the constitution is not legally enforceable but have great impact for Indian democracy. Justify your views with suitable egs (150 w)

Fundamental duties were incorporated in Indian Constitution by 42nd constitutional amendment following Swaran Singh committee recommendations.

Although not legally enforceable they serve great purpose because:-

(.) They remind citizens that along with rights, they have duties to perform as well.

(.) They help judges in examining any law.

(.) Parliament can make a law to enforce a particular FD. eg:- Art 51(A)(k) has duty of parent to send their wards 6-14

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rights to schools it has same corresponding right as well under Art 21(A).

In the past parliament has enacted many laws to enforce these duties:-

(*) Wild life protection act, 1972.

Air and water Act, Forest Act,

1980 - which talks about our duty to conserve environment.

(*) Prevention of Atrocities Act, Preven-
tion of honour act 1978 to uphold constitutional values.

(*) Unlawful Prevention Act, 1967 to keep a check on anti national activities.

Thus part 21(A) ~~to~~ {51(A)} holds great importance. In the words of Gandhiji, the only right
I know is to do my duty.