

Q.1) What are liberal-democratic principles enshrined in the Directive Principles of State Policy? Why are they important for a constitutional design? Examine.

Introduction

The Constitution of India in Part IV (articles 36-51) lays down certain provisions known as Directive Principles of State Policy (DPSP) which though not justifiable are fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws.

Body

As the constitutional design of the Directive Principles suggests, the underlying political ideals as contained in the Directive Principles are mainly three in nature: Socialistic ideals, liberal-democratic ideals and the Gandhian ideals.

Liberal-democratic principles enshrined in DPSPs are:

- **Article 44:** To secure for all citizens a uniform civil code throughout the country.
- **Article 45:** To provide early childhood care and education for all children until they complete the age of six years.
- **Article 48:** To organise agriculture and animal husbandry on modern and scientific lines.
- **Article 48-A:** To protect and improve the environment and to safeguard forests and wild life.
- **Article 49:** To protect monuments, places and objects of artistic or historic interest which are declared to be of national importance.
- **Article 50:** To separate the judiciary from the executive in the public services of the State.
- **Article 51:** To promote international peace and security.

Why are they important for a constitutional design?

- **To establish a socio-political system:** The aim of these principles is to establish a liberal socio-political system in India and to make the state an instrument of socio-economic welfare.
- **National integration:** A common civil code will help the cause of national integration by removing contradictions based on ideologies.

- **To promote education to children:** Janani Sishu Suraksha Yojana (2005), Pade Bharat Bade Bharat, Anganwadi schools, Article 21-A, Right to Education Act 2009, etc., are some of the schemes and policies introduced by the government to promote early childhood care and education to the children.
- **To modernise agriculture:** Agriculture has been modernised by providing improved agriculture inputs, seeds, fertilisers and irrigation facilities. Various steps have been taken to organise animal husbandry on modern and scientific lines. Cow and calf slaughter have been banned in certain areas.
- **To protect the environment:** Action has been taken by the Government of India in this regard by implementing some of the acts such as Wild life (Protection) Act (1972), Forest Conservation Act (1980). Further the Water and Air Acts have been provided for the establishment of central and state pollution control boards, which are engaged in the protection and improvement of environment.
- **To promote and protect our national heritage:** Incredible India programme has been launched for this purpose. The Ancient Monument and Archaeological Sites and Remains Act have been enacted to protect the monuments and places of national importance.
- **Promotion of international peace:** India follows this principle in letter and spirit and has been following the principles of Non Alignment and Panchsheel to promote international peace and security. It is a member of SAARC, BIMSTEC, IORA, SCO, etc., for these purposes. Furthermore the Indian Army has participated in 37 UN peace-keeping operations.

Conclusion

Directive principles are the moral precepts with an educative value and stand for the ideals of this great nation. The directives will help find the perfect way to a bright future through balanced inclusion of both individual liberty as well as public good.

Q.2) Colonialism remained a significant force in India's constitutional democratization. Do you agree? Critically examine.

Introduction

The Preamble provides for a democratic form of government in India. It ensures people are governed by their own elected representatives and are guaranteed some basic rights and freedom known as fundamental rights.

Body

Democratization as a legacy of colonialism:

- **Rule of law:** Colonial bureaucratic structures maintained order through the rule of law rather than through arbitrary authority.
- **Political representation-** Colonial government provided for limited representation through various acts like Indian Councils Act, 1909, which was extended through the constitution.
- **Franchise-** Colonial government provided limited franchise to less than 10% of the population. 1931 Karachi session of Congress thus adopted a resolution for universal adult suffrage, which ultimately found a place in our constitution.
- **Parliamentary system-** It has been a legacy of Britain and is a borrowed feature in our constitution.
- **Human capital-** Though for their own benefit, British introduced the logical learning and scientific education in Indian society.

Democratization as an indigenous process:

- **Decentralization-** India had a long tradition of village panchayats from ancient times, for example sabha and samitis in Chola period.
- **International influence-** Ideals of French revolution found space in Indian system, for example Tipu sultan setup Jacobian club in India.
- **Fundamental rights-** After years of suppression, Indians demanded fundamental rights through 1931 Congress resolution and which finally became the basic feature of our constitution.
- **Freedom struggle-** Development of democratic values was a result of prolonged suppression and denial of rights by the colonial government. It was the struggle of our moderate leaders to introduce democratic elements in the way British governed Indian society.

Conclusion

Thus, our present form of constitutional democracy is partly an inheritance from the British, and partly the result of the genius and foresight of the founding fathers of our Constitution.

Q.3) The constitution of India is a perfect example of a creative blending of nationalist voice and the Colonial system of governance which drew on a series of legal stipulations. Elucidate.

Introduction

The constitution of India, while being formed, was inspired and incorporated from both, the pre-existing colonial set-up and the national movement. The best provisions suitable for the diverse Indian population were amalgamated into what is now the longest written constitution.

Body

Inputs reflecting the Nationalist voice:

- Directive Principles of State Policy (DPSPs): Inspired by Gandhian philosophy; Co-operative societies, women participation and empowerment, socio-economic equality etc.,.
- Fundamental Rights: Inspired by the Karachi Resolution-Article 12 to Article 35 of Part-3 of the Constitution.
- Preamble: Secularism, Socialism, Unity and Fraternity of Indians.
- Universal Adult Suffrage: Article 324 incorporated as against the limited franchise during the Colonial rule.
- Decentralization: Keeping Mahatma Gandhi's principle of 'Swarajya' in mind to strengthen grass root administration.
- Economic framework: Socialistic basis propagated by the Congress leaders.

Blend of Colonial inputs:

- Parliamentary provisions: Ordinance making power, Parliamentary practices, Annual financial statement, separation of powers between executive and legislature but interdependence between the same.
- Rule of law: Checks the arbitrariness of executive and legislature.
- Government of India Act 1935 provisions.
- Emergency provisions: Article 352, Article 356 and Article 360.
- Nature of democracy: Parliamentary form and bicameralism.
- Indian Civil Services which Sardar Vallabhai Patel envisioned to be a strong steel frame for Indian Bureaucracy.

Conclusion

Thus a pragmatic and an inclusive constitution formed on an initial framework of governance by the British, was formed, incorporating important spheres of democratic values, rights, equality and empowerment.

Q.4) The basic structure doctrine imparts totality and philosophical integrity to the Constitution. Comment.

Introduction

The basic structure doctrine has travelled some ways since it was first articulated by the Indian Supreme Court in the case of Kesavananda Bharati v State of Kerala (1973). The doctrine imposes substantive limits on constitutional amendment powers the legislature under article 368 of Indian Constitution.

Body

The basic structure (or doctrine) of the Constitution of India applies only to constitutional amendments, which states that the Parliament cannot destroy or alter the basic features of the Indian Constitution.

In the Kesavananda Bharati case, the Supreme Court laid down the list of features that would constitute the “basic foundation and structure” of the Constitution, which are:

- The supremacy of the constitution.
- Republican and democratic form of govt.
- Secular character of the constitution.
- Separation of power.
- Federal character of the constitution.
- The dignity of the individual secured by the various Fundamental Rights
- The unity and the integrity of the nation;
- Parliamentary System.

From the above list, it is evident that the doctrine of basic structure has the intention of preserving the original ideals envisioned by the constitution-makers, which represent the core spirit of the constitution and whose protection is required at the highest level.

The basic structure protects the constitution from the arbitrary changes which may occur at the whims and fancy of government in power. So this doctrine works as the check and balances for the constitution and gives it totality.

This doctrine protects the guiding values and philosophy of the Indian Constitution which is liberal, democratic, egalitarian, secular, and federal, open to community values, sensitive to the needs of religious and linguistic minorities as well as historically disadvantaged groups, and committed to building a common national identity.

The doctrine also protects the ideals and aspirations enshrined in the preamble, Fundamental rights and DPSP such as Justice, Liberty, Equality, socialism, secularism and democratic nature of Indian polity.

A key characteristic of the doctrine is that it is judicially developed. The judiciary deduces certain core characteristics of the constitutional order from the text, underlying philosophy, and history, and declares these to be unamendable.

Conclusion

The concept of basic structure as such gives coherence and durability to a Constitution for it has a certain intrinsic force in it. However, the Supreme Court is yet to define or clarify as to what constitutes the 'basic structure' of the Constitution.

Q.5) Why has the National Register of Citizens (NRC) been in controversy lately? Are the Apprehensions concerning NRC justified? Critically comment.

Introduction

The National register of citizens is a register containing names of all genuine Indians residing in India. Assam faced influx from Bangladesh, to remove the illegal migration from neighbouring countries NRC as prepared in 1951.

Body

Controversies related to the National Register of Citizens (NRC):

- Laborious process: Adding a person to NRC is complex procedure because of presenting many documents and layers of verification.
- Document verification: "Family tree verification" has become difficult process for left out children.
- Rejection of certificate: More than 40 lakh people are rejected for panchayat residency certificates.

- Citizenship related: Failed to ensure legal clarity over the manner in which the claims of citizenship could be decided.
- Role of Supreme Court: lack of monitoring process, inability to comprehend political and policy actions in case of loss of citizenship.
- Huge population: Given the size of India's population, implementation of the NRC will be a mammoth task and demands a detailed analysis.

Benefits of NRC:

- Detection of illegal immigrants, inclusion will be a shield against harassment and a ticket to enjoying all the constitutional rights and safeguards and the benefits of government schemes.
- To safeguard the indigenous population and civilization.
- Illegal activities like terrorism, human trafficking, drug trafficking can be checked.
- To safeguard Voting rights and properties such as land and house.

Criticism of the NRC:

- The first report was announced on December 31-January 1, 2017, the removal of 40 lakh people lead to a major social and political crisis.
- The mass insecurity and social crisis stalking the 40 lakh people of Assam.
- Many people are in stake who lives in strategic and sensitive border state. Their documents are being ambiguous.
- Assam has a peculiar problem of villages getting ravaged, or disappearing, due to annual floods unleashed by the fiery Brahmaputra. Documents get destroyed, geographies shift, addresses change.
- Several cases of transparent injustice whereby families have been divided – some declared Doubtful Voters and foreigners, others as bonafide citizens.
- Widespread perception that specifically linguistic and religious minorities are being targeted - namely, Bengali speaking Muslims and Hindus.

Conclusion

- It is important and essential for the union government to proactively come out with an equitable, predictable and transparent plan on the way forward, for those who will be identified as 'foreigners'. The left out from the NRC must be handled carefully on humanitarian basis.