

Test - 05



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	Poor	Average	Good	Very Good	Excellent
Understanding of Questions					
Structure & Flow					
(a) Introduction					
(b) Conclusion					
(c) Overall					
Subject Knowledge					
Presentation					
(a) Underline					
(b) Paragraph					
(c) Overall					

Overall Remarks:

Dear Student,

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Ans

Justice refers to moral and psychological analysis of system of allocation of benefits and burdens of a society.

John Rawls in his 'Theory of Justice' revives the normativism in political theory through a social liberal approach to distributive justice.

To give his political system, Rawls rekindles the centuries old social contract theory, furnishing it with the concept of original position. He gives a heuristic tool called veil of ignorance to ensure that all the participants in social contract are rational negotiators.

Having been inspired by Locke's individualism

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and Kantian notion of human dignity, Rawls gives primacy to individual in his theory of justice. Every individual participating in the contract would come to a common ground using maximin principle, thus validating the difference principle.

However, in continuity of the liberal tradition, Rawls does not recognise the role of community in shaping the notion of right and wrong.

Communitarians like Robert Putnam have accused Rawls of ignoring the importance of social capital. Moreover, Alasdair MacIntyre in his book, "After virtue" calls Rawls as an abstract individualist.

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Michael Sandel in his work, "Liberalism and Limits of Justice" says that the conception of right and wrong evolves through traditions. Hence theories of justice must be culturally relative & historically contingent.

Michael Walzer in "Spheres of Justice", calls Rawls' theory as fundamentalist and totalitarian which seeks to give a grand idea of justice. Justice is one sphere according to him shall be detached from other spheres.

Rawls, however, in his second book 'Political Liberalism' gives the concept of overlapping consensus in context of communitarian critique. Hence he gives leeway to merit through individualism but does not completely ignore the role of community in his second book.

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Ans²

Equality is the central concept of normative political theory. Dworkin defines equality as the sovereign virtue.

Dating back to ancient Greek philosophy, Aristotle identifies inequality as the general cause of revolution. However he ends up establishing a hierarchical order with master & slave class.

However, in modern political thought, "Equality of what" has been a highly contested question & many schools of thought have answered it in their own way.

Marxist notion of equality of outcomes seeks to eliminate possession differences and establish a classless society. Inequality, in their terms leads to oppression

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of the dependent class depriving them of true liberty.

On the other hand liberals like Rawls and ~~no other~~ Adam Smith give equality of opportunity in their theories. Being social liberals, they account for natural disadvantages at the stage of initial distribution only.

Dworkin however focusses on resource egalitarianism. He seeks to establish equality of estates through a political system of auction which is ambition sensitive & endowment insensitive.

According to Dworkin, the state shall come in existence for maintaining & ensuring equality to maintain social stability.

Feminists like Iris Marion Young give the notion of differentiated equality. In her words, "what is equal for men may not be equal for women". Hence the concept of equality must be gender specific.

Michael Walzer, a communitarian gives the concept of complex equality, which ends up in a siloed approach of equality. In his political system, inequality in one sphere shall not lead to inequality in another sphere. Hence, exchanges between the spheres shall be blocked.

The notion of equality is a highly contested concept in political science. The end goal however remains social and political stability.

Ans 3

Affirmative action refer to the steps taken by a state for advancement of hitherto disadvantaged sections of the society.

In modern societies, the relevance of affirmative action has been highly debated. With multiple nations, especially in the third world going for affirmative action policies, the justice versus merit debate remains heated up.

The roots of affirmative action seem to lie in Rawls' concept of difference principle. According to his inequality is justified only if it favours the least advantaged.

Dworkin, adds the insurance mechanism to his resource egalitarianism, using

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the symbol of pooled clamshells to do away with the differences arising out of any natural endowments.

Elizabeth Anderson

favours affirmative action by saying that equalisation of outcomes would lead to true liberty.

In the third world countries including India, reservation policies generate as much heat as light, as rightly pointed out by RC Guha. The unfilled quota of SC/ST/OBC and questions on meritocracy as well as inclusion of new communities in the scheduled lists leads to huge political and intellectual debates.

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According to PB Mehta, affirmative action policies without making those communities capable of availing such policies is of no use. They must be able to recognise the functionality of reservation policies.

However, the ever increasing reservations with no sunset clause raises questions on effectiveness of such policies. Libertarian thinkers like Nozick call such actions as bonded labour & aggression on personality. Hayek on the other hand calls social justice as a mirage.

Affirmative action can prove to be highly effective in increasing representation of vulnerable sections in all societies. However, they must be supplemented with capability approach (Sen) and skill development.

Ans 4

"Theory of justice" is a social liberal notion of justice given by John Rawls in 1972 to revive normativism in political theory.

Rawls aimed to give a grand theory of ~~#~~ justice encompassing all spheres of a society. Hence he calls his theory as purely procedural theory.

Unlike the preceding end state theories, Rawls theory aims at fairness in procedure of framing a political system without pre-defining the end goal of the process. Hence he defines justice as fairness which seems to be in line with deontological approach of Kant.

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According to Rawls, arriving at a purely procedural theory is possible only in a liberal society where people are free to deliberate and come to a common ground. Only when such rational negotiators deliberate from an original position, they can frame a just political system.

Unlike equal treatment, social liberals ~~to~~ consider fair treatment as justice in true sense. Taking into consideration the outcomes of natural endowments & unchosen circumstances remains their fundamental concern.

However, this notion of justice is challenged by Marxists with their notion of justice. According to them, equalisation of outputs and abolishing class based society will be justice in its real sense.

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Amartya Sen also criticises the procedural approach of Rawls by countering it with his realisation focussed approach. As opposed to Rawls' rational choice, he gives his social choice where real persons negotiate in real circumstances.

Hence, justice must be based on fairness of procedure, however it must be supplemented with a basic equality of outputs to maintain social stability.

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Ans

The 'United Nations' defines human rights as the fundamental freedoms and protection available to a person by virtue of being a human irrespective of class, caste, gender or status in society.

The concept of human rights emerged in the interwar period because of Hitler's atrocities which led to framing UDHR in 1948. The debate between human rights and state sovereignty was consolidated by atrocities in Rwanda and recent NATO's interventions in middle east and central asia.

Various international organisations have been constantly working to reach a common ground for legal enforcement of human rights standards. Geneva convention during a war has been in highlights because of the conflicts in Ukraine and Israel.

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The abortion rights debate in USA has raised a fresh question, "whether human life begins in the womb or after birth".

Moreover the indigenous rights of aboriginals in Africa and Asia have been brought forth by environmentalists in response to encroachment of their habitat.

The minority rights have been highlighted by ~~or~~ multi-culturalists like Will Kymlicka & Bhikhu Parekh. They believe that human rights must be contextualised with respect to minority communities.

Moreover, the feminists have advocated for a gendered notion of human rights. In the words of Hillary Clinton, "human rights are nothing but women rights".

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The recent concerns about human rights in digital sphere with the advent of generative AI have been huge. International efforts such as "AI for Good" have been in the right direction but technology is fast outpacing laws.

The responsibility to protect i.e. R2P principle adopted in 2005 world summit has been modified by Brazil as Responsibility while protection (RwP). It has been significant especially in recent war affected zones.

Human rights have been global community's one of the major concerns. However in modern world, states cannot ignore the importance of human rights by hiding the atrocities behind the veil of sovereignty.

Ans 6

Lasti has defined rights as those conditions of social life without which no man can be his best.

The neo-liberal school of thought which emerged in 1990s advocates for overtly individualistic conception of rights. Locke's nightwatchman state is in consonance with the neo-liberal theory of rights.

Nozick, in his entitlement theory of justice or right based theory maintains absolute right of individual over his body and labour. He despises the patterned theory of justice given by Rawls and considers progressive taxation as bonded labour as man has full rights of his entitlements.

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Hayek on similar lines calls social justice as a mirage. According to him, "planning is a road to serfdom". Hence state should have a minimal role and its sole purpose should be protection of rights of individuals.

However, socialists and welfare state scholars such as Lasti and T.H. Green despise such notion of rights. According to them, such a notion may lead to an oppressive society where the advantaged section has no duties to follow.

The neo-liberal theory of rights is also challenged by multi-culturalists ~~who~~ such as Will Kymlicka & Bhikhu Parekh who advocate state intervention for protection of minority rights.

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In present times, the intervention by state, civil society as well as international ~~comm~~ community becomes extremely important in war affected zones.

Hence neo-liberal society may lead to collapse of social stability if individuals are left in absolute control over themselves.

In neo liberal view, "Drunkard in the gutter is where he ought to be". However a balance between individual liberty with threshold state intervention is mandatory ~~of~~ to maintain social order.

Ans 7.

Laski has defined rights as the conditions of social life without which no man can be his best.

The origin of rights is seen with emergence of natural rights which are rooted in the reason of man and are available by virtue of being a human.

The source of natural rights is intuition unlike legal rights whose source is institution.

The natural rights tradition has two schools of thought:

- a) Entitlement approach
- b) Teleological approach.

The Entitlement approach is mainly linked with the social contract tradition proposed by Locke, Hobbes and other negative liberals. According to this approach, man has absolute rights of life,

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liberty, property and state comes into existence merely for protection of natural rights of man.

Teleological approach on the other hand views development as the final cause of rights. Scholars like Thomas Paine view social contract tradition as illogical and call it as a "dead hand of the past on aspirations of the future."

On the other hand legal rights is a positive theory of rights which views state as the only source of rights. Bentham being the main proponent of legal rights traditions calls natural rights as nonsense upon stilts and compares them with chimeras, a mythical fearful character.

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Positive liberals view natural rights as anarchial fallacies. If state fails to fulfill natural rights, people would resort to protest which may lead to anarchy and chaos.

The legal rights traditions continues till second world war after which it was challenged by pluralistic theory of rights.

According to this theory, only municipal law is not law. It saw the origin of rights in multiple institutions such as schools, church, community and religion.

Natural rights have been protected in the international domain by conventions like UDHR, 1948, UN convention of socio-economic rights, UN convention on political and economic rights etc.

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However, legal rights are protected by written constitutions of the states. They can be positive laws such as right to education which need special efforts by state or can be negative rights such as freedom from untouchability which put restrictions on individuals.

The watertight compartmentalisation between natural rights and legal rights has been blurred by codification of fundamental rights on national level which are judicially enforceable.

Ans 8

Theory of justice¹ is given by John Rawls in his book published in 1972 in the wake of crisis in political theory because of behaviouralism, empiricism and scienticism.

Rawls gives his theory as a purely procedural approach to justice which aims at absolute fairness of the procedure. He rekindles the social contract tradition where rational negotiators participate from an original position. He also devises a heuristic tool called veil of ignorance so that the individuals are completely unaware of their abilities and status in the society.

However, Rawls theory has faced backlash from feminist scholars for lack of consideration for women rights. Elsan Moller Skin in her

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book, "Gender, Justice and Family", accuses Rawls of ignoring justice in personal sphere and only addressing the public notion of distributive justice.

Carole Pateman in her work "Sexual Contract" accuses all social contract scholars including Rawls for not taking women's participation in the contract. She also accuses Rawls for taking women's consent for granted in the contract. Hence the laws are framed solely by men, leading to oppression of women.

Carole Gilligan, an essentialist despises Rawls theory of justice. According to her, the building blocks of any social system must be care and compassion which are essentially feminine qualities rather than justice and rationality.

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Similarly, Iris Marion Young's concept of differentiated equality puts forward a gendered lens to justice. According to her, what is just for women may not be just for men.

Hence, feminist critique highlights a new dimension of Rawls' just social order. Even the difference principle of Rawls identifies the least advantaged section solely on the basis of economic and social criteria. Rawls fails to identify women's concerns in a patriarchal society.