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Subject: Polity Batch: Submission Date: 20-10-24

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Question - The expressions "Equality before law" and "Equal protection of the laws" may be identical, but, in fact, they mean different things. Elaborate.

Ans:- Indian Constitution adheres to both of above expression. They may seem identical but are different as described below

→ Equality before the law :-

→ The concept of Equality before the law is a negative concept. And it is a British concept.

→ The concept of Equality before the law in a way prohibits the State from granting favours and treating persons equally.

It has three major dimensions :-

A) Absence of special privileges.

B) No person is above the law.

C) Equal subjection of all to the ordinary law of the land.

Equal protection of the law :-

→ The provisions related to equal protection of law have an American origin.

→ The equal protection of laws is a positive concept. It promotes a sort of affirmative action and positive discrimination.

Its major aspects include :-

A) Like should be treated alike and unlike should not be treated alike.

B) People who are placed in equal circumstances shall be treated equally and those who are not placed in equal circumstances shall not be treated equally.

C) Protective discrimination is a facet of Equality. The Mandal commission in its report quotes that "There is equality only among equals. To equate unequals is to perpetuate inequality."

→ The concept of equal protection of laws is necessary in promoting substantive Equality.

→ Thus both of above expressions mean different things and state shall not deny both within the territory of India.