

Introduction

In the previous chapter we have studied Indian Constitution, Preamble and Important Pillars as well as the specific characteristics. In this Chapter, we will study about other important characteristics of Constitution that is Fundamental Rights, Fundamental Duties and Directive Principles of State Policy.

Human Rights

Human Rights are those rights which not only give a person his/her basic existence but also overall development in which society helps to construct an environment which enables him/her to grow. In every democratic country, the citizens are conferred with basic rights. A person is not discriminated on the basis of caste, can experience the basic rights, the protection of these rights are assured by society and nation as well. The person by his birth, owns rights, which are his /her basic rights which are known as Human Rights.

United Nations General Assembly has declared Human Rights on 10th of December, 1948 and 10th December is celebrated as 'Human Rights Day'. From the global announcement of Human Rights, certain basic and important Human rights are added in the Constitution of India and thereby these rights are protected in a dignified way. Thus, those Human Rights which are included by Constitution of India are known as Fundamental Rights.

These Human Rights proclaim the human beings to live in a dignified way. For the existence of human being the basic needs (Food, Clothes, Shelter, Education and Health) should be received in a dignified and respectable way. Democratic country allows its citizens to enjoy equal rights for multifaceted development. The State guarantees such a conducive environment wherein one has protection of Fundamental Rights, a true identity of democratic system.

Fundamental Rights

The nation's stability, protection of citizen's freedom and democracy are protected through fundamental rights :

(1) Right to Equality (2) Right to Freedom (3) Right against Exploitation (4) Right to Freedom of Religion (5) Cultural and Educational Rights (6) Right to Constitutional Remedies.

(1) Right to Equality : 'Equality before Law' and 'Equal protection of Law' are included in Right to Equality. This fundamental right is the major foundation of all other rights and privileges guaranteed to Indian citizens. It is one of the chief guarantees of the Constitution of India. Thus, it is imperative that every citizen of India has easy access to the courts to exercise his/her Right to Equality. According to this Right, no person shall be shown favouritism on the basis of colour, caste, creed, language, etc. Law is equal to all, i.e., from the peon to the Prime Minister if they act against Law, they are treated equally and are bound to the general court of Law. However, the President and Governors have certain privileges..

In each and every circumstance the Law should prevail equally. There should be no discrimination or specific favouritism shown to any particular person or class. Every Law should be equally disseminated. Every person shall have equal admittance to public places like shops, restaurants, hotels, public entertainment places, have equal access to roads and lakes and use of public wells and bathing ghats. However, the State has the right to make any special arrangement for women and children or for the development of any socially or educationally backward class or scheduled castes or scheduled tribes. No citizen shall be discriminated on the basis of race, caste, religion, creed, descent or place of birth in respect of any Government services and higher education under the State. In matters of state public services equal opportunities have to be offered to all the citizens. However, the state is given permission to make decision regarding required qualifications for said services.

As a guarantee to social justice and personal dignity, untouchability is abolished and its practice in any form is prohibited and a punishable offence.

Titles and epithets which create artificial discriminations in the society have been removed. The adjectives used before names like Sir, Diwanji, Raibhadur are removed. After independence the Government in order to felicitate special contributions and achievements of individuals in various fields gives special awards like Bharatratna, Padmavibushan, Padmabhushan, Padmashree. 'Paramveer Chakra' is awarded in military services. Adjectives like General, Major, Chief Marshall, Field Marshall are added before names in military services which is not considered as a violation of Right to Equality. The aim of this Right is to form an equitable society and thereby establish 'Rule of Law' in India.

To provide specific services to different types of groups or classes, there can be different types of provisions under law for example, there are different laws for Advocates, Doctors, Teachers, Insurance Agencies, Women, Juveniles. The principle of 'Equal Pay for Equal work' is also a part of this article.

(2) Right to Freedom : The Constitution of India provides the citizens of India, six types of Freedom which are as under : (1) Freedom of Speech and Expression (2) to assemble peacefully without Arms (3) to form associations or unions (4) to move freely throughout the territory of India (5) to reside and settle in any part of the territory of India (6) to practise any profession, or to carry on any occupation, trade or business.

These rights are of utmost importance for the overall development of personality and expressions of Indian Citizens, for harmonious working of democracy, and a healthy life-style. Any individual cannot exercise these freedom autonomously or irresponsibly. The State can control and limit this right to freedom if they go against the welfare, peace and security of the society. This has been clearly mentioned in the Constitution. It has been stated in the Constitution how the rights are exercised.

Indian citizens have been given the Freedom of Speech and Expression. This can be expressed either orally, verbally and through gestures but that does not provide for exercising these rights in unlimited and unrestrained manner. Certain necessary control and limitation have been stated in the Constitution. The State can put required control through law and order for maintaining the unity and integrity of India, safety of the state, for amicable relation with foreign nations, public management and public peace, compromise and safety, morality, discipline, contempt of court defamation and provoking violence for crime. It is the authority of the Judiciary whether these many limitations are appropriate or inappropriate. The purpose behind the freedom of Press through which ideas and opinions put forth for public welfare has not been separately mentioned. It can be included in the Right to Expression.

The latest amendment of 2009 in Constitution of India confers Free and Compulsory Primary Education for the children between 6 to 14 years. If a person is not convicted for a crime, then he cannot be sentenced to punishment or more punishment than the one prescribed by the law, cannot be given the punishment more than once, cannot be given to the same convicted person. No individual can be deprived of his life and liberty except by the procedure of law. No one can be arrested without being told the ground for such arrest. If arrested, the person has the right to defend himself/herself by a lawyer of his/her choice. An arrested person has to be brought before the nearest magistrate within 24 hours. Without the permission no individual can be kept

in custody. As per the Prohibition Act, the person under arrest will not be applicable to the aforesaid matters.

Preventive Detention: If the State anticipates any criminal deed or activity from any person then as a precautionary measure that person can be detained by the State under an Preventive Detention Act. . The purpose of this Act is not to punish a convict, but to stop him from doing any criminal activity against State, Society or any individual. Under this Act, a person can be detained not more than 3 months. The Detention or order can be cancelled based on the opinion of the Judges of Supreme Court or Members of the Advisory Board. The State can decide the term of detention.

(3) Right Against Exploitation : The main objective of the Constitution is to see any person does not suffer exploitation at the hands of other person and exploitation free society is established. That is objective of the Constitution through this Right. Human Trafficking, drudgery, slavery and forced labour are banned. The violation of this Right is a punishable offence. Illegal trade of children and women, forced labour or imposed slavery, work without pay and the old drudgery system has to be ended through this right. To take work from any person without paying them or paying them less than minimum wages, forced or imposed labour is a punishable act.

Any child under the age of 14 cannot be made to work in a factory, mine, or any dangerous profession, garage, hotel or cannot be employed as a house-hold servant.

Under the Prohibition of Child Labour Act, all these are punishable offences.

Mandatory services can be sought, from any person for the purpose of public welfare of the State Military Services in any fields irrespective of religion, gender, caste or class with or without remuneration.

(4) Right to Freedom of Religion : Any Citizen of India can follow any religion of choice, can promote and propagate the same is mentioned in the provision of the Constitution of India. But this right is to be enjoyed within permissible limits so that it does not affect the freedom of public Administration, Morality and Health of the society. The religious gatherings, offerings or prayers are not included in this.

The State of India does not have any religion of its own or the Indian State is not run as per the principles of any religion or sect. The State cannot interfere in the religious matters or religious beliefs of any group. The religious groups have been given the freedom to establish any religious organisation and can manage and administer them for religious and philanthropic aims. The State cannot use the funds collected through public taxes or public fund for the benefit and development of any specific religion and sect. The Educational Institution running on Government Grant cannot impart religious education or compel the students to participate in any religious education or attend any religious meet.

(5) Cultural and Educational Rights : People of various religions ,various languages and cultures live in India. The people of India have a right to preserve their language, script, cultural identity and ethnicity. Any educational institution which rely on the Government Grant cannot deny admission on the grounds of religion, caste, creed, language or any other reason.

If any individual appeals to vote on the grounds of religion, caste or language then it is considered as a malpractice as per Act 123 (3). Any of the State can frame a law and provide the right to its citizen to form and manage any of the educational institute based on cultural or linguistic minority. The State shall not discriminate in giving Educational Grants or Educational Scholarship from the State Fund to any of the linguistic or religious minority institutions. If the State desires to take over or confiscate the property of minority

institutions then it can do so only after giving proper returns. In this way, important provisions in context of Education Institution have been made in the Constitution.

(6) Right to Constitutional Remedies : No matter, how many laws are framed or how many provisions are made for the Fundamental Rights if these are not implemented well, then there remains no meaning of such freedom or right. Therefore, a provision has been made in the Constitution for the implementation of these rights and under it, a writ in the Supreme Court can be made for the violation of the Fundamental Right. This Right has been accepted as the Right to Constitutional Remedies. The Supreme Court plays an important role in protecting the Fundamental Rights. And for this, if the Court finds it necessary then it can give orders, instruction or decree. The Apex Court is vested with the powers given by the Constitution. Nobody can oppose it, if any person puts a complain against any State for the violation of any Fundamental Right then the Supreme Court can exercise its right.

Dr. Babasaheb Ambedkar has considered this right as ‘Soul of the Constitution’. The Parliament can hand over the powers of giving such an order to any of the court. If the State Legislative Assembly frames any Law which violates the Fundamental Rights or not in Congruence of it then the Supreme Court can stop the State. Thus, this Right provides an opportunity to any of the citizen to approach court for the violation of Fundamental Rights.

The Constitution provides the Fundamental Rights to the Indian Citizens. These Rights are given against the Governments. (Centre And State). The Fundamental Rights are applicable to all its citizens at all the times, but can be suspended during the time of Emergency. No state can form any laws which takes away the Fundamental Rights of these citizens.

Fundamental Duties

The people of India were more aware of their Rights and Duties since ancient times. Just as the citizens are given various Fundamental Rights, various Fundamental Duties were incorporated by Constitutional amendment in 1976. The Fundamental Duty aims to inculcate love for nation, national integrity, various high ideals and value awareness among its citizens. Thereby helping in developing the nation. Every citizen of India should contribute towards the protection of Nation's unity, integrity and sovereignty, so that there remains peace, security, communal harmony and accord. The Fundamental Duties are given on the first page of textbook.

(1) to abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem;

(2) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(3) to uphold and protect the sovereignty, unity and integrity of India;

(4) to defend the country and render national service when called upon to do so.

(5) to promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

(6) to value and preserve the rich heritage of our composite culture;

(7) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(8) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(9) to safeguard public property and to abjure violence;

(10) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(11) Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

6th January is celebrated as 'Fundamental Duties Day' in India. Of all these Duties, some Duties are backed by the law. The person violating it, can be sentenced. A teacher should make efforts so that the students follow the Duties and they become aware and conscientious. It is our Duty and Responsibility as a citizen to see that various social evils and customs prevailing in the society should be eradicated like untouchability, drudgery, child-labour, women exploitation, dowry, female-foeticide, ill-customs, superstition. These Duties are directive in conveying us that what a sensible and aware citizen must do. If citizen propagates the importance and utilization of Fundamental Duties then future citizens develop the feeling of national responsibility, international brotherhood, just and exploitation free society.

Directive Principles of State Policy

Directive Principles of the State have been incorporated in the Chapter-IV of the Constitution. The objective of the Directive Principles of State Policy is to guide the present and future, Centre and State Governments in the Policy-making in various policy related field. These Principles are Directives. The State is not bound to fulfill them. But it's the moral responsibility of the State to keep these principles in the Centre for framing any policy. The main objective of this principle is to see that any political, social and economic justice should be available to all, Such a social structure should be established. For the fulfillment of the objectives and aims of the State, the Principle serve as a guideline. There is no provision in the Constitution to implement these Principles of law. These Fundamental Principles do not provide any legal support or legal right. Then also the framing and administering the laws of the States these are Fundamentals. Dr. Babasaheb Ambedkar, "To rule the regime these principles are the foundations." It means an attempt to establish political democracy in our Constitution. Political Democracy is incomplete without social and economical democracy.

The Indian Constitution has included Directive Principles of State Policy in the four sections of the Amendment. The kind of country that we want to create, the kind of society we want to construct, that vision is reflected in these Directive Policies. The Directive principles are actually directions given by the Constitution to the Union and State Governments to adopt such policies that would help to establish an unbiased society in our country.

The primary aim of these principles is to establish a social system based on social, economic and political justice. These Principles are about the implementation of the objectives and ideals presented in the Preamble. These principles are not included in the Constitution of India. These Principles do not serve legal rights or legal backing or legal utilization. For proper administration of the State, these principles are channelized. These principles incorporate such rights as are required for the overall development of mankind.

These Directive Principles are divided into various sections.

(1) Principles related to Economic Policy : For the modification of Economic Policy, there are certain principles which are given below :

- (i) Equal distribution of wealth and resources among all classes for the welfare of the citizens.
- (ii) Assets and production of resources should not be distributed to certain group or section, this should be administered by the State
- (iii) Equal pay for equal work for both men and women
- (iv) Provision for good health for labourers working at places should be created. Because of financial constraints the men, women and young children working at unhygienic places or where health matters are retorted should not be allowed to happen.

- (v) State should promote co-operation in administration of industrial units by labourers.
- (vi) Protection of children, youth against exploitation and against moral and material abandonment and to live in a healthy and dignified environment, these principles should be developed by State.
- (vii) Relief and leave at the time of delivery should be provided to women. Worker's Insurance, Bonus, Maternity leave, Gratuity, and other legal rights should be included in the policy.
- (viii) To organize agricultural and animal husbandry on modern and scientific lines and to prohibit the slaughter of cows and other useful milk-producing cattle a draft should be drawn for the livestock breed like donkeys, bullocks, cows for halting the slaughter.
- (ix) Equal legal rights to all. State should organize free legal services to the desired citizens who are financially feeble as well as incapable in getting so.

(2) Principles related to Social policy : Weaker sections of the society that is the Schedule Class, Schedule Tribe, and backward class, educational and economic rights to be conferred which should be taken in concern by the State. They should be protected against social exploitation and injustice.

Uniform Civil Code should be the concern for all the citizens of the country, thereby dispersing and administering justice to all which should be taken in concern by the State. Steps should be taken for social justice in matters of Marriage, divorces, adoptions, juvenile, assets and properties by the State.

The State should make provisions for the support and education in matters: right to employment, old age, illness or inauspicious situations, poverty etc.

(3) Principles related to the International and Political Policies :

- (i) Panchayati Raj should be established by the State. For which proper leadership, officers and financial aid should be provided to conduct the work in free way.
- (ii) The State should separate its services from corporate mindedness and it should be in liberty so that Judges can be impartial , fearless and courageous in rendering judgements.
- (iii) The State should make attempts to maintain international peace, security, to establish fair relation between nations and to increase respect of international law.

(4) Principles related to Education and Cultural Policies : Free and compulsory education for the children in the age group between 6 to 14 years is mentioned in the Constitution and it is the fundamental right to education since 2009.

To preserve and protect state heritage, artefacts, monuments, cultural places, art and buildings. The State should protect these cultural heritage places from distortion, robbery, transitioning, disposal and deterioration. The State should have the aim of preserving the cultural and historical legacies.

(5) Principles related to Health Policies :

- (i) Public wellness and hygiene should be provided along with provision for better nutrition and health amenities for the people by the state.
- (ii) Prohibition on harmful drugs, harmful soft drinks and drugs should be done by the state. These should be further banned as it will create health hazard for the public.
- (iii) To preserve the environment with latest amendments, thereby taking care of the forest and vegetation should be the policy of the state.

- (iv) Hygienic environment should be maintained in the working areas of labourers. They should have social and cultural development at the time of leisure. Entertainment provision should be there to maintain mental health. These provisions should be kept in concern by the state.

Thus, these principles provide guidance to the state to take lead towards establishment of equal, just and social order without any exploitation. The Directive Principles envisage future society, they guide us to the directions that we should go and lead us to our destination. The upliftment of society and protection of society will be taken care by the State. Fundamental Rights limit the State leadership while Directive Principles extend state leadership. Fundamental rights make the existence of Democracy, while Directive Principles of society and finance imparts aims for inter-relation of democracy. There is no opposition between them. Both of them complete each other.

Self –Study

1. Answer the following questions given below :

- (1) Write in brief about Fundamental Rights being incorporated in the Constitution.
- (2) Describe the importance of Directive Principles of State Policy.
- (3) Explain the importance of Fundamental Rights.
- (4) What is reasonable control and limitation ?
- (5) Write about Preventive Detention.
- (6) Mention Fundamental duties as mentioned in the Constitution
- (7) Mention the rights under Minority Provision.

2. Write short notes on :

- (1) Right to Equality
- (2) Right to Constitutional Remedies
- (3) Right to freedom
- (4) Right against Exploitation
- (5) Directive Principles for Economic Policies
- (6) Directive Principles for Political and International Relations

3. Give reasons to the following statements :

- (1) One can go to the court of law to seek protection against violation of Fundamental right.
- (2) Right to Constitutional remedies is like the ‘Constitutional Soul’.
- (3) Freedom cannot be unlimited or absolute.
- (4) Directive Principles of Political Policies are the pre-conditions for the utilization of Fundamental Rights.
- (5) A formation of society without exploitation is the important aim of the Constitution.
- (6) Directive Principles and Fundamental rights are not against each other instead they complement each other.
- (7) Duties and Rights are the sides of the same coin.
- (8) Child labour is a punishable offence.
- (9) For the implementation of Directive Principles one cannot resort to court of Law.
- (10) Directive Principles are the foundation for the rule of a regime.

- (11) Without social and economic democracy, political democracy cannot be achieved.
(12) Preservation of Cultural and Historical heritage is the Fundamental Duty of everyone.

4. Choose the Correct Options from the below given Options :

- (1) Which 'right' is considered as a 'Soul' by Dr. Ambedkar ?
(A) Right to freedom (B) Right to Equality
(C) Cultural and Educational Rights (D) Rights to Constitutional Remedies
- (2) According to whom, Directive Principles of State policy are the principles foundation ?
(A) Narendra Modi (B) Jawaharlal Nehru
(C) Dr. Rajendra Prasad (D) Dr. Babasaheb Ambedkar
- (3) A Person detained under Preventive Detention can be kept in detention for how much time ?
(A) 24 hours (B) 6 months
(C) 3 months (D) life-long
- (4) Children under which age group have the Right of Free and Compulsory Education ?
(A) 6 to 14 years (B) Upto 3 years
(C) Above 14 years (D) 18 years of age
- (5) Children under which age group are restricted from dangerous profession ?
(A) Below 14 years of age (B) Below 18 years of age
(C) 6-14 years (D) Above 28 years of age
- (6) Which behaviour is considered as social stigma of society ?
(A) Untouchability (B) Child labour
(C) Dowry (D) Superstition

Activity

- Arrange a talk on the topic – Whether our Constitution is successful in protecting Fundamental rights. Arrange a Mock Parliament.
- Celebrate Awareness for Voters and organize quiz.
- Conduct a panel discussion by inviting member of Parliament or the official of Human Rights Commission while celebrating Human Rights day.
- A Rally having slogans to make aware of the surrounding related to fundamental rights and directive principles on Ambedkar Jayanti or Gandhi Jayanti
- Which is more important Fundamental rights or Directive principles? – On Human rights Day arrange a children parliament for teachers and students.
- Make a survey in your area to know whether there is child labour in and around the area.
- Conduct a rally, drawing competition and render application to the authorities on the prohibition of Child Labour on 14th of November 'Children's Day'.
- Conduct a project or make handwritten points on the life-sketch of Dr. Ambedkar.