

INDIAN CONSTITUTION

UNIT-I

Important Sources of the Indian Constitution

- The Constitution of India is the backbone of democracy in our country. It is an umbrella of rights that gives the citizens an assurance of a free and fair society.
- The Constituent Assembly adopted the Constitution on 26th November 1949 and it came into effect on 26th of January 1950.

Sources:

Government of India Act 1935

The Constitution of 1950 was a by-product of the legacy started by the Government of India Act 1935. This was the longest act passed by the British government with 321 sections and 10 schedules. This act had drawn its content from four sources – Report of the Simon Commission, discussions and deliberations at the Third Round Table Conference, the White Paper of 1933 and the reports of the Joint select committees.

This act abolished the system of provincial dyarchy and suggested the establishment of dyarchy at the centre and a 'Federation of India' consisting of the provinces of British India and most of the princely states.

Most importantly, the act established the office of the Governor; all the executive powers and authority of the centre was vested in the Governor.

Some features of the Government of India Act 1935 were:

- **Federal Legislature:** The act suggested that the legislature will have two houses, i.e., the Council of States and a Federal Assembly. **The Council of States** was the upper house which was a permanent body with a tenure of three years and composed of 260 members of which 156 were representatives of British India and 101 of the Princely Indian states. **The Federal Assembly** was the lower house with a tenure expanding up to five years and its composition included 250 representatives of British India and 125 members from Princely states.
- **Provincial Autonomy:** This act enabled the Provincial Governments to be responsible only to Provincial Legislatures and helped them break free from external control and intrusion. It was with the establishment of this act that the powers between the centre and provinces were divided in terms of **three lists** – Federal list (59 items for the Centre), Provincial list (54 items for Provinces) and Concurrent list (36 items for both). The Residuary powers were handed over to the Viceroy.

The United Kingdom

A lot of concepts and features of the Indian Constitution have its roots in Great Britain. Some of those are:

- **Parliamentary form of government:** In such form of government, the country is governed by a cabinet of ministers led by the Prime Minister. The Prime Minister is the head of the government whereas the President i.e. the nominal head, is the head of the state. The main feature of the parliamentary form of government is the availability of one or more opposition parties that exists to keep a check on the ruling party and its functioning.
- **Rule of Law:** This basically states that a State is not governed either by the representatives or by the people but only by the law of that country. The concept of rule of law states that everyone is equal before the law; even the ones making it. **Article 14** of the Indian Constitution codifies the rule of law.

Article 14: Right to Equality; The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

- **The idea of a single citizenship:** This implies that a person born or migrated to Indian Territory can enjoy the political and civil rights of India alone and no other country at the same time. Therefore, India does not allow dual citizenship. Indian state also does not recognize state citizenship implying that there should not be any demarcation made between the citizens of two or more states within the territory of India.
- **Writs:** The Supreme Court and High Courts in India has the power to issue writs in order to make the **Right to Constitutional Remedies** [Article 32 to 35] available to the citizens. There are five writs – **Habeas Corpus** (produce

the detained person before the court and release him if detention is found illegal), **Mandamus** (an order from the Supreme Court or the High Court to a lower court to perform public duty), **Certiorari** (SC or HC issues the writ for quashing the order already passed by an inferior court), **Prohibition** (issued by the SC or the HC to a lower court to stop the latter from continuing with the procedures) and **Quo-Warranto** (restrains a person from holding a public office he is not entitled to hold). The Indian Constitution provides for these writs in Articles 32 and 226.

Article 32 (1): *The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.*

Article 32 (2): *The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.*

Article 226 (1): *Notwithstanding anything in Article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.*

The United States of America

Some of the features borrowed from the USA are:

- **Fundamental Rights: Articles 12 to 32** of the Indian Constitution contains all the fundamental rights. Fundamental rights are the basic human rights given to the citizens of the country to assure them an equal stance in society. **The six fundamental rights are** – Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights and Right to Constitutional Remedies.
- **Judicial Review:** The provision of Judicial Review gives the judiciary an upper hand in interpreting the Constitution. The judiciary can thus nullify any order by the legislature or executive if that order is in conflict with the Constitution of the country.
- The Basic Structure Doctrine, is an **Indian judicial principle** asserting that the power of the Parliament to amend the Constitution is limited by the Constitution.
- It means that the **Constitution has several basic features that cannot be amended**.
- This applies **only to Constitutional amendments** and not to ordinary acts of the Parliament.
- The initial stand of the Supreme court, that any part of the Constitution is amendable, whilst in compliance with the article 368, including the Fundamental Rights and the Article 368 was first challenged by Justice JR Madholkar in the year 1964, in his dissent of the Sajjan Singh vs State of Rajasthan judgement.
- The Kesavananda Bharati vs State of Kerala proceedings (1973), a landmark ruling, answered one main question: Was the power of the Parliament to amend any part of the Constitution unlimited? **This judgement ruled that the Constitution cannot be amended so as to affect the basic structure**, in contrast to the earlier judgement in the 1967 Golaknath case, which had concluded that the Parliament cannot amend so as to take away the Fundamental Right of a citizen.
- **Indira Gandhi violated the Doctrine with Emergency in 1975** and tried to prevent her prosecution by the 39th amendment . Chief Justice Ray attempted to review the Kesavananda Bharati judgement by calling a bench of 13 Judges, including himself, but within two days, he was narrowed down by a majority of 12:1; and the **39th and 41st amendment were struck down**.
- **Impeachment of the President and Removal of Judges:** Article 61 of the Indian Constitution provides for the impeachment of the President through legislative procedures carried out by the two houses of the Parliament. **Article 124 (4)** of the Indian Constitution and the provisions of the **Judges Inquiry Act of 1968** deal with the removal of judges.

Article 124 (4): *A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.*

Ireland

The main feature borrowed from the Irish Constitution is the provision of the **Directive Principles of State Policy (DPSP)**. The DPSP are listed in the **Part IV** of the Indian Constitution and it clearly states that it is the duty of the State to apply these principles in the process of law making. There are mainly three categories of these principles – Socialist Directives, Gandhian Directives and Liberal Intellectual Directives. The procedure for the nomination of members to the Rajya Sabha is also borrowed from Ireland.

Canada

The provisions of a Federation with a strong centre, Residuary powers of the Centre, appointment of State governors by the Centre and the advisory jurisdiction of the Supreme Court, have all been borrowed from the Canadian constitution. **Article 248** of the Indian Constitution states that the Parliament has the sole power to make laws regarding any item not mentioned in the Union and State lists respectively. **Article 143** provides for an advisory jurisdiction for the Supreme Court. Under this provision, the President may seek opinion of the Supreme Court on public matters and the Supreme Court may then further give its opinion after studying the case properly.

France

The Indian Preamble borrowed its ideals of **Liberty, Equality and Fraternity** from the French Constitution. The Indian state came to be recognized as the 'Republic of India' in the lineage of the Constitution of France.

Australia

The Constitution of Australia lent us the provisions of **Freedom of Trade and Commerce** within the country and between the states. The provisions of the same are laid down in the **Articles 301-307** of the Indian Constitution. We also received the provisions of the Concurrent list and the joint sitting of both the houses of Parliament from Australia.

South Africa and Germany

While the Constitution of South Africa gave us the provisions of the procedure of the amendment and the Election of the Rajya Sabha members, the German Constitution, gave us the provision of suspension of fundamental rights during emergency.

These were the major sources of the Indian Constitution. As the father of our Constitution and the Chairman of the Drafting Committee, Dr. B.R. Ambedkar said, **“As to the accusation that the Draft Constitution has [re]produced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution....”**

Major Sources of Indian Constitution	
Provisions	Source/country
<i>Constitution of the United States</i>	<ul style="list-style-type: none"> ▪ Preamble ▪ Fundamental Rights ▪ Federal structure of government ▪ Electoral College ▪ Independence of the judiciary and separation of powers among the three branches of the government ▪ Judicial review ▪ President as Supreme Commander of Armed Forces ▪ Equal protection under law
<i>British constitution</i>	<ul style="list-style-type: none"> ▪ Parliamentary form of government ▪ The idea of single citizenship ▪ The idea of the Rule of law ▪ Writs ▪ Institution of Speaker and his role ▪ Lawmaking procedure

	<ul style="list-style-type: none"> ▪ Procedure established by Law
<i>Canadian constitution</i>	<ul style="list-style-type: none"> ▪ A quasi-federal form of government — a federal system with a strong central government ▪ Distribution of powers between the central government and state governments ▪ Residual powers retained by the central government
<i>Irish constitution (Ireland)</i>	<ul style="list-style-type: none"> ▪ Directive Principles of State Policy ▪ Nomination of members to Rajya Sabha ▪ Method of Election of President
<i>French constitution</i>	<ul style="list-style-type: none"> ▪ Republic and the ideals of Liberty, Equality and Fraternity in the Preamble
<i>Australian constitution</i>	<ul style="list-style-type: none"> ▪ Freedom of trade and commerce within the country and between the states ▪ Power of the national legislature to make laws for implementing treaties, even on matters outside normal Federal jurisdiction ▪ Concurrent List
<i>Constitution of Soviet Union (USSR)</i>	<ul style="list-style-type: none"> ▪ Fundamental Duties under Article 51-A ▪ A Constitutionally mandated Planning Commission to oversee the development of the economy
<i>Constitution of South Africa</i>	<ul style="list-style-type: none"> ▪ Procedure for amendment ▪ Election of Rajya Sabha members
<i>Constitution of Germany</i>	<ul style="list-style-type: none"> ▪ Emergency powers to be enjoyed by the Union ▪ Suspension of Fundamental Rights during emergency.
<i>Constitution of Russia</i>	<ul style="list-style-type: none"> ▪ Fundamental Duties ▪ Idea of Social, Economic, and Political Justice in Preamble
<i>Constitution of Japan</i>	<ul style="list-style-type: none"> ▪ Procedure Established by Law

Government of India Act 1935	<ul style="list-style-type: none">▪ Federal Scheme▪ Emergency Provisions▪ Public Service Commissions▪ Office of Governor▪ Judiciary▪ Administrative Details
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Important Features of Indian Constitution

Every written constitution in the world has its own unique characteristics, and no exception is the Indian Constitution. But the Indian Constitution has many prominent features that distinguish it from the other Constitutions. This article clearly explains the Indian Constitution's 8 key features.

1. World's Longest Constitution

The Indian Constitution contains 395 articles and 12 schedules, making it the world's longest written constitution. Just compare it with other countries Constitutions. For example, the UK has no written constitution, while the US Constitution contains only seven articles.

Not only this but since 1951 about 90 articles and more than 100 amendments have been added. However, since the articles are not added separately as part of an existing article (e.g. Article 21A, 35A etc.) the total number of articles remains the same at 395.

2. Taken from various sources

The Indian Constitution was framed from multiple sources including the 1935 Government of India Act and Other Countries Constitutions.

Feature of Indian Constitution	Borrowed From (Source)
Basic structure (Federal scheme, Judiciary, Governors, Emergency powers, Public Service Commissions, Administrative details etc.)	Government of India Act 1935
Fundamental Rights	American Constitution
Directive Principles	Irish Constitution
Cabinet form of government	British Constitution

In addition to these, the Constitutions of Canada, Australia, Germany, the U.S.S.R., and France also adopted various provisions.

3. Federal System with Unitary Features

Federal System with Unitar The Indian Constitution includes all the federal characteristics of governance such as dual government system (center and state),division of powers between the three state organs (executive, judiciary and legislature), constitutional supremacy, independent judiciary and bicameralism (lower and upper house).

Nevertheless, the Indian Constitution is unique in that it includes many unitary features such as a strong centre, all India services common to the center and the states, emergency provisions that can transform the

Constitution into a unitary one if necessary, appointment of governors by the president on the advice of the center, etc.

Indeed, Article 1 clearly states that India is a ' Union of States ' rather than a federation of States. In India, the states did not come together to form the centre (or Union) like in the case of the USA which is the purest form of a federation. Rather, for administrative convenience, it is the center that created the states. Article 3 of the Indian Constitution makes Parliament the sole authority to create new states clearly indicating that the Indian Constitution is of a unitary nature with certain federal characteristics.

4. Parliamentary Form of Government

On the pattern of the British parliamentary system of government, the Indian Constitution has opted for the parliamentary form of government. The key characteristics of the parliamentary form of government are:

1. Executive are members of the legislature
2. Collective responsibility to the legislature of the Council of Ministers
3. Rule of the majority party
4. Prime Minister's or chief minister's leadership in the state
5. Lower house dissolution (Lok Sabha and state assemblies)
6. Government form of the Cabinet

5. Balance between the Sovereignty of Parliament and Judicial Supremacy

A fine balance has been struck between parliamentary sovereignty and judicial supremacy by the Indian Constitution. The Supreme Court is vacuumed by Articles 13, 32 and 136 with the power of judicial review. By its power of judicial review, it can strike down any parliamentary law as unconstitutional.

On the other hand, the Parliament, being the representative of the people's will, has the authority to make laws, and it can also amend the major part of the Constitution through its video vested powers under Article 368.

6. Independent and Integrated Judicial System

In India, unlike the United States where there is a two-tiered judiciary, a single judicial system prevails with the Supreme Court at the top, the State and District High Courts and other subordinate courts below and subject to the supervision of the High Courts.

It is the duty of all levels of courts in India to enforce both central and state laws unlike in the US, where federal courts adjudicate on federal matters and state courts on state matters.

Not only is the judiciary system well fully integrated in India, but because of the following provisions it is also independent

1. Appointment of judges of Supreme Court and High Courts by collegium system
2. Removal of judges in Parliament through an impeachment procedure that is very difficult to pass
3. Supreme Court judges salaries, pensions, and allowances are charged to India's Consolidated Fund
4. Power to punish for self – disregard
5. Ban on judges practice after retirement...etc

7. Directive Principles of State Policy

In Part IV of the Constitution, the Directive Principles of State Policies (DPSPs) aims to make India a welfare

state. Therefore, Dr. B.R. Ambedkar calls the Directive Principles as the Indian Constitution's novel feature. The Principles of the Directive are inherently unjustifiable, that is, they are not enforceable for their violation by the courts.

Their usefulness, however, lies in their moral obligation to apply these principles to the state in making laws. As such, the principles of the directive are fundamental to the country's governance.

8. Combination of rigidity and flexibility

The Indian Constitution strikes a fine balance between rigidity and flexibility when it comes to ease of modification. Article 368 lays down two types of modifications:

1. Some provisions may be amended by a special parliamentary majority, i.e. a 2/3rd majority of the members of each House present and vote and majority (i.e. more than 50 %) of each House's total membership.
2. Some other provisions can be amended by a special parliamentary majority and with half of the total states ratifying them. This ensures that with the widest possible majority, the Constitution is amended.

At the same time, in the manner of the ordinary legislative process, certain provisions of the Constitution can be amended by a simple majority of Parliament. Such amendments are not within the scope of Article 368.

FUNDAMENTAL RIGHTS-ARTICLE 12-35 PART –III OF CONSTITUTION

Articles 12-35 of Indian Constitution deal with Fundamental Rights. These human rights are conferred upon the citizens of India for the Constitution tells that these rights are inviolable. Right to Life, Right to Dignity, Right to Education etc. all come under one of the six main fundamental rights.

Fundamental rights are a very important topic in the polity section of the UPSC exam. It is a basic static portion of the syllabus but it is highly dynamic in the sense that it is featured in the daily news in some form or the other. Hence, it is highly important.

In this article, you can read all about 6 fundamental rights of India:

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**

What are the Fundamental Rights?

Fundamental rights are the basic human rights enshrined in the Constitution of India which are guaranteed to all citizens. They are applied without discrimination on the basis of race, religion, gender, etc. Significantly, **fundamental rights are enforceable by the courts**, subject to certain conditions.

Why are they called Fundamental Rights?

These rights are called fundamental rights because of two reasons:

1. They are enshrined in the Constitution which guarantees them
2. They are justiciable (enforceable by courts). In case of a violation, a person can approach a court of law.

List of Fundamental Rights

There are six fundamental rights of Indian Constitution along with the constitutional articles related to them are mentioned below:

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to Freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Article 32)

Why Right to Property is not a Fundamental Right?

There was one more fundamental right in the Constitution, i.e., the right to property.

However, this right was removed from the list of fundamental rights by the 44th Constitutional Amendment.

This was because this right proved to be a hindrance towards attaining the goal of socialism and redistributing wealth (property) equitably among the people.

Note: The right to property is now a legal right and not a fundamental right.

Introduction to Six Fundamental Rights (Articles 12 to 35)

Under this section, we list the fundamental rights in India and briefly describe each of them.

1. Right to Equality (Articles 14 – 18)

Right to equality guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc. This right also includes the abolition of titles as well as untouchability.

2. Right to Freedom (Articles 19 – 22)

Freedom is one of the most important ideals cherished by any democratic society. The Indian Constitution guarantees freedom to citizens. The freedom right includes many rights such as:

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practice any profession
- Freedom to reside in any part of the country

Some of these rights are subject to certain conditions of state security, public morality and decency and friendly relations with foreign countries. This means that the State has the right to impose reasonable restrictions on them.

3. Right against Exploitation (Articles 23 – 24)

This right implies the prohibition of traffic in human beings, *begar*, and other forms of forced labour. It also implies the prohibition of children in factories, etc. The Constitution prohibits the employment of children under 14 years in hazardous conditions.

4. Right to Freedom of Religion (Articles 25 – 28)

This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.

5. Cultural and Educational Rights (Articles 29 – 30)

These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture. Educational rights are for ensuring education for everyone without any discrimination.

6. Right to Constitutional Remedies (32 – 35)

The Constitution guarantees remedies if citizens' fundamental rights are violated. The government cannot infringe upon or curb anyone's rights. When these rights are violated, the aggrieved party can approach the courts. Citizens can even go directly to the Supreme Court which can issue writs for enforcing fundamental rights.

Features of Fundamental Rights

- Fundamental rights are different from ordinary legal rights in the manner in which they are enforced. If a legal right is violated, the aggrieved person cannot directly approach the SC bypassing the lower courts. He or she should first approach the lower courts.
- Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).
- Fundamental rights are not absolute rights. They have reasonable restrictions, which means they are subject to the conditions of state security, public morality and decency and friendly relations with foreign countries.
- They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.
- Fundamental rights can be amended by the Parliament by a constitutional amendment but only if the amendment does not alter the basic structure of the Constitution.
- Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.
- The application of fundamental rights can be restricted in an area which has been placed under martial law or military rule.

Fundamental Rights Available Only to Citizens

The following is the list of fundamental rights that are available **only to citizens** (and not to foreigners):

1. Prohibition of discrimination on grounds of race, religion, caste, gender or place of birth (Article 15).
2. Equality of opportunity in matters of public employment (Article 16).
3. Protection of freedom of:(Article 19)
 - Speech and expression
 - Association
 - Assembly
 - Movement
 - Residence
 - Profession

Protection of the culture, language and script of minorities (Article 29).

Right of minorities to establish and administer educational institutions (Article 30).

Importance of Fundamental Rights

Fundamental rights are very important because they are like the backbone of the country. They are essential for safeguarding the people's interests.

According to Article 13, all laws that are violative of fundamental rights shall be void. Here, there is an express provision for judicial review. The SC and the High Courts can declare any law unconstitutional on the grounds that it is violative of the fundamental rights. Article 13 talks about not just laws, but also ordinances, orders, regulations, notifications, etc.

Amendability of Fundamental Rights

Any changes to the fundamental rights require a constitutional amendment that should be passed by both the Houses of Parliament. The amendment bill should be passed by a **special majority** of Parliament.

As per the Constitution, Article 13(2) states that no laws can be made that take away fundamental rights.

The question is whether a constitutional amendment act can be termed law or not.

In the Sajjan Singh case of 1965, the Supreme Court held that the Parliament can amend any part of the Constitution including fundamental rights.

But in 1967, the SC reversed its stance taken earlier when in the verdict of the Golaknath case, it said that the fundamental rights cannot be amended.

In 1973, a landmark judgement ensued in the **Kesavananda Bharati case**, where the SC held that although no part of the Constitution, including Fundamental Rights, was beyond the Parliament's amending power, the "basic structure of the Constitution could not be abrogated even by a constitutional amendment."

This is the basis in Indian law in which the judiciary can strike down any amendment passed by Parliament that is in conflict with the basic structure of the Constitution.

In 1981, the Supreme Court reiterated the Basic Structure doctrine.

It also drew a line of demarcation as April 24th, 1973 i.e., the date of the Kesavananda Bharati judgement, and held that it should not be applied retrospectively to reopen the validity of any amendment to the Constitution which took place prior to that date.

Doctrine of Severability

This is a doctrine that protects the fundamental rights enshrined in the Constitution.

It is also known as the Doctrine of Separability.

It is mentioned in Article 13, according to which all laws that were enforced in India before the commencement of the Constitution, inconsistent with the provisions of fundamental rights shall **to the extent of that inconsistency** be void.

This implies that only the parts of the statute that is inconsistent shall be deemed void and not the whole statute. Only those provisions which are inconsistent with fundamental rights shall be void.

Doctrine of Eclipse

This doctrine states that any law that violates fundamental rights is not null or void ab initio, but is only non-enforceable, i.e., it is not dead but inactive.

This implies that whenever that fundamental right (which was violated by the law) is struck down, the law becomes active again (is revived).

Another point to note is that the doctrine of eclipse applies only to pre-constitutional laws (laws that were enacted before the Constitution came into force) and not to post-constitutional laws.

This means that any post-constitutional law which is violative of a fundamental right is void ab initio.

Conclusion

To know how many fundamental rights are there in the Indian Constitution is a must-rule for an IAS aspirant. The list of fundamental rights given above will be helpful for the candidates in their UPSC preparation. Also, aspirants should know the difference between human rights and fundamental rights. The basic difference between human rights and fundamental rights is the scope of acceptance. While fundamental rights have scope within a country, human rights are accepted worldwide.

FUNDAMENTAL DUTIES ARTICLE -51A

42nd Amendment Act of 1976 added 10 Fundamental Duties to the Indian Constitution. 86th Amendment Act 2002 later added 11th Fundamental Duty to the list. Swaran Singh Committee in 1976 recommended Fundamental Duties, the necessity of which was felt during the internal emergency of 1975-77.

The Fundamental Duties are dealt with Article 51A under Part-IV A of the Indian Constitution.

Introduction to 11 Fundamental Duties in India

The fundamental duties which were added by the 42nd Amendment Act of the Constitution in 1976, in addition to creating and promoting culture, also strengthen the hands of the legislature in enforcing these duties vis-a-vis the fundamental rights.

The list of 11 Fundamental Duties under article 51-A to be obeyed by every Indian citizen is given in the table below:

1.	Abide by the <u>Indian Constitution</u> and respect its ideals and institutions, the National Flag and the National Anthem
2.	Cherish and follow the noble ideals that inspired the national struggle for freedom
3.	Uphold and protect the sovereignty, unity and integrity of India
4.	Defend the country and render national service when called upon to do so
5.	Promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women
6.	Value and preserve the rich heritage of the country's composite culture
7.	Protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures
8.	Develop scientific temper, humanism and the spirit of inquiry and reform
9.	Safeguard public property and to abjure violence
10.	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.	Provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002

DIRECTIVE PRINCIPLES OF STATE POLICY, ARTICLE- 36-51

Articles 36-51 under Part-IV of Indian Constitution deal with Directive Principles of State Policy (DPSP). They are borrowed from the Constitution of Ireland, which had copied it from the Spanish Constitution. This article will solely discuss the Directive Principles of State Policy, its importance in the Indian Constitution and the history of its conflict with Fundamental Rights.

What are the Directive Principles of State Policy?

The Sapru Committee in 1945 suggested two categories of individual rights. One being justiciable and the other being non-justiciable rights. The justiciable rights, as we know, are the Fundamental rights, whereas the non-justiciable ones are the Directive Principles of State Policy.

DPSP are ideals which are meant to be kept in mind by the state when it formulates policies and enacts laws. There are various definitions to Directive Principles of State which are given below:

- They are an 'instrument of instructions' which are enumerated in the Government of India Act, 1935.
- They seek to establish economic and social democracy in the country.
- DPSPs are ideals which are not legally enforceable by the courts for their violation.

Directive Principles of State Policy – Classification

Indian Constitution has not originally classified DPSPs but on the basis of their content and direction, they are usually classified into three types-

- **Socialistic Principles,**
- **Gandhian Principles** and,
- **Liberal-Intellectual Principles.**

The details of the three types of DPSPs are given below:

Socialistic Principles,

Definition: They are the principles that aim at providing social and economic justice and set the path towards the welfare state. Under various articles, they direct the state to:
Article 38Promote the welfare of the people by securing a social order through justice—social, economic and political—and to minimise inequalities in income, status, facilities and opportunities
Article 39Secure citizens:

- Right to adequate means of livelihood for all citizens
- Equitable distribution of material resources of the community for the common good
- Prevention of concentration of wealth and means of production
- Equal pay for equal work for men and women
- Preservation of the health and strength of workers and children against forcible abuse
- Opportunities for the healthy development of children

Article 39APromote equal justice and free legal aid to the poor **Article 41**In cases of unemployment, old age, sickness and disablement, secure citizens:

- Right to work
- Right to education
- Right to public assistance,

Article 42Make provision for just and humane conditions of work and maternity relief **Article 43**Secure a living wage, a decent standard of living and social and cultural opportunities for all workers **Article 43A**Take steps to secure the participation of workers in the management of industries **Article 47**Raise the level of nutrition and the standard of living of people and to improve public health

Gandhian Principles

Definition: These principles are based on Gandhian ideology used to represent the programme of reconstruction enunciated by Gandhi during the national movement. Under various articles, they direct the state to:

Article 40	Organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government
Article 43	Promote cottage industries on an individual or co-operation basis in rural areas
Article 43B	Promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies
Article 46	Promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation

Article 47	Prohibit the consumption of intoxicating drinks and drugs which are injurious to health
Article 48	Prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds

Liberal-Intellectual Principles

Definition: These principles reflect the ideology of liberalism. Under various articles, they direct the state to:	
Article 44	Secure for all citizens a uniform civil code throughout the country
Article 45	Provide early childhood care and education for all children until they complete the age of six years
Article 48	Organise agriculture and animal husbandry on modern and scientific lines
Article 49	Protect monuments, places and objects of artistic or historic interest which are declared to be of national importance
Article 50	Separate the judiciary from the executive in the public services of the State
Article 51	<ul style="list-style-type: none"> • Promote international peace and security and maintain just and honourable relations between nations • Foster respect for international law and treaty obligations • Encourage settlement of international disputes by arbitration
