



Part IV

Directive Principles of State Policy

PYQ

Does the right to clean environment entail legal regulations on burning crackers during Diwali? Discuss in the light of Article 21 of the Indian Constitution and Judgement(s) of the Apex Court in this regard.

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PYQ

Which of the following are envisaged by the Right against Exploitation in the Constitution of India?

1. Prohibition of traffic in human beings and forced labour
 2. Abolition of untouchability
 3. Protection of the interests of minorities
 4. Prohibition of employment of children in factories and mines
- Select the correct answer using the code given below.

- (a) 1, 2 and 4 only (b) 2, 3 and 4 only
(c) 1 and 4 only (d) 1, 2, 3 and 4

Practice Question

2. Article 30 of the Indian Constitution deals with the :

- (a) Freedom of conscience
- (b) Right to propagate religion
- (c) Cultural and educational rights of the majority community
- (d) None of the above

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Practice Question

3. Which of the following statements are true with regard to the Fundamental Rights of the minorities in educational matters?

1. The minority has only the right to administer the educational institutions.
2. The minority has the right to establish and administer educational institutions.
3. The right is absolute and not subject to any restriction.
4. Reasonable restrictions may be imposed to promote efficiency and prevent maladministration.

Select the correct answer using the codes given below:

- (a) 1, 2 and 3 (b) 2 and 4
(c) 2, 3 and 4 (d) 1 and 3

Practice Question

4. In India, if a religious sect/community is given the status of a national minority, what special advantages it is entitled to?

1. It can establish and administer exclusive educational institutions.
2. The President of India automatically nominates a representative of the community to Lok Sabha.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) 1 and 2 only
- (d) None of the above

Practice Question

5. Which one of the following pairs is correctly matched?

- (a) Writ of Habeas Corpus : Available against private individuals as well
- (b) Writ of Quo-Warranto : Available against subordinate courts only
- (c) Writ of Certiorari : Available against autonomous bodies only
- (d) Writ of Prohibition : Available against public servants only

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Right to property

Art. 19(1) All citizens shall have the right:

(f) to acquire, hold and dispose of property

Art 19(5) Nothing in the above clauses shall prevent the state from making any laws in the interests of the general public or for the protection of any ST

Right to property

Art 31 Compulsory acquisition of property

(1) No person shall be deprived of his property save by authority of law.

(2) the property of a person could be acquired or requisitioned only under two contingencies viz. (i) the acquisition or requisition could be for public purpose and (ii) the law must provide for payment of compensation to the owner of the property either by fixing the amount of the compensation or by specifying the principles upon which it could be determined or fixed

Right to property

Doctrine of Eminent Domain and Right to Property

Doctrine of Eminent Domain is a concept in the American Constitution. It is the acquisition of private property by the state for a public purpose with paying certain amount of compensation. Initially when India got Independence, the legislature to abolish the Zamindari System, enacted various laws through which it took the property from various land holders and used it for public purpose. Many a times mala-fide intention could be behind the use of this doctrine.

There are two essentials of the Doctrine of Eminent Domain:

1. Property is taken for public use
2. Compensation is paid for the property taken.

Right to property

After independence govt decided to launch the abolition of Zamindari Programme in which it abolished the Zamindari system and acquired the lands of Zamindars.

But the main difficulty before the government was of paying compensation.

In A. 31(2) the word compensation was used without any adjective like just or reasonable. Thus Supreme Court interpreted its meaning as 'just compensation'.

Various land legislations were declared invalid and were challenged under Article 14, 19(1)(f) and 31.

In Kameshwar Singh v State of Bihar , the Bihar Land Reforms Act, 1950 was held invalid under A. 14 for it classified the zamindars in a discriminatory manner for the purpose of compensation.

Right to property

First amendment to the constitution

Articles 31-A and 31-B were inserted into the Constitution

Under Article 31-A Parliament defined "Estate" and continued by further amendments to extend its meaning so as to comprehend practically the entire agricultural land in the rural area including waste lands, forest lands, lands for pasture or sites of buildings. Under the said amendment, no law providing for acquisition by the state of an estate so defined or any rights therein of the extinguishment or modification of such rights could be questioned on the ground that it was inconsistent with or took away or abridged any of the rights conferred by Articles 14, 19 or 31.

Right to property

Under article 31-B the legislature made void laws offending fundamental rights and they were included in Schedule Nine and later on the list was extended from time to time. Article 31-B declared that none of the acts or regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void on the ground that they are inconsistent with Part III, notwithstanding any judgments, decree or order of any court or tribunal to the contrary. By further amendment, the list was extended

Right to property

Then came the Seventeenth Amendment Act, 1964 by which the state extended the scope of Article 31-A and Ninth Schedule to protect certain agrarian reforms enacted by the Kerala and Madras states.

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Right to property

The Twenty-fifth Amendment Act, 1971

First, it amended Article 31(2) and provided that anyone's property may be acquired on payment of an "amount" instead of "compensation." The intention was that the citizen's right to property should be transformed into the state's right to confiscation and the state should be able to deprive anyone of any property in return for any amount payable at any time on any terms; and the executive action, however arbitrary or irrational, should not be subjected to the Court's scrutiny.

Right to property

It inserted Article 31C which provides that “no law giving effect to the policy of the state towards securing the principles specified in clause (b) or clause (c) of Article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy.”

Right to property

The 42nd Amendment Act sought to expand the scope of Article 31C by extending it to any law giving effect to the policy of the state towards securing “all or any of the principles laid down in Part IV” and that is how the Article reads today. The actual scope of this Article has, however, been considerably restricted in three respects by the process of judicial interpretation and subsequent amendment

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DPSPs

Criticism/shortcomings of DPSPs

- Non-justiciable in nature
- Some of them are orthodox in nature
- Some DPSPs are vague in nature
- Some of them are in direct conflict with FRs
- Put a financial burden on the state

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DPSPs

Significance of DPSPs

- Fundamental to the governance of the country;
- Guiding principles for any Govt in power;
- Help in the interpretation of the constitution;
- Bring consistency in governance;
- Establish a social and economic democracy in India;
- Establishing accountability of the state;
- DPSPs and FRs reinforce/supplement the other;

Part IVA

Opinion of Supreme court on Fundamental Duties

- The state can make laws to prevent the violation of Fundamental duties even though they are not enforceable in the court by themselves
- FDs cannot be enforced through Writs
- They are only confined to citizens
- It is important for citizens to not demand only rights but also perform duties
- While judging the constitutionality of law the court shall uphold the law if it seeks to implement a provision under the Fundamental duties

Excuses are the rocks where our dreams are crushed.

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THANKS!

Any questions?

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