

Unit-2

Indian Constitution

Fundamental Rights

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA (i.e., Bill of Rights). Part III of the Constitution is rightly described as the Magna Carta of India.¹ It contains a very long and comprehensive list of 'justiciable' Fundamental Rights. In fact, the Fundamental Rights in our Constitution are more elaborate than those found in the Constitution of any other country in the world, including the USA.

The Fundamental Rights are meant for promoting the ideal of political democracy. They prevent the establishment of an authoritarian and despotic rule in the country, and protect the liberties and freedoms of the people against the invasion by the State. They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature. In short, they aim at establishing 'a government of laws and not of men'.

The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals.

Originally, the Constitution provided for seven Fundamental Rights viz,

1. Right to equality (Articles 14–18)
2. Right to freedom (Articles 19–22)
3. Right against exploitation (Articles 23–24)
4. Right to freedom of religion (Articles 25–28)
5. Cultural and educational rights (Articles 29–30)
6. Right to property (Article 31)
7. Right to constitutional remedies (Article 32)

However, the right to property was deleted from the list of Fundamental Rights by the 44th Amendment Act, 1978. It is made a legal right under Article 300-A in Part XII of the Constitution. So at present, there are only six Fundamental Rights.

FEATURES OF FUNDAMENTAL RIGHTS

The Fundamental Rights guaranteed by the Constitution are characterised by the following:

1. Some of them are available only to the citizens while others are available to all persons whether citizens, foreigners or legal persons like corporations or companies.
2. They are not absolute but qualified. The state can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the courts. Thus, they strike a balance between the rights of the individual and those of the society as a whole, between individual liberty and social control.
3. All of them are available against the arbitrary action of the state. However, some of them are also available against the action of private individuals.
4. Some of them are negative in character, that is, place limitations on the authority of the State, while others are positive in nature, conferring certain privileges on the persons.
5. They are justiciable, allowing persons to move the courts for their enforcement, if and when they are violated.
6. They are defended and guaranteed by the Supreme Court. Hence, the aggrieved person can directly go to the Supreme Court, not necessarily by way of appeal against the judgement of the high courts.
7. They are not sacrosanct or permanent. The Parliament can curtail or repeal them but only by a constitutional amendment act and not by an ordinary act. Moreover, this can be done without affecting the 'basic structure' of the Constitution
8. They can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21. Further, the six rights guaranteed by Article 19 can be suspended only when emergency is declared on the grounds of war or external aggression (i.e., external emergency) and not on the ground of armed rebellion (i.e., internal emergency).
9. Their scope of operation is limited by Article 31A (saving of laws providing for acquisition of estates, etc.), Article 31B (validation of certain acts and regulations included in the 9th Schedule) and Article 31C (saving of laws giving effect to certain directive principles).
10. Their application to the members of armed forces, para-military forces, police forces, intelligence agencies and analogous services can be restricted or abrogated by the Parliament (Article 33).

11. Their application can be restricted while martial law is in force in any area. Martial law means 'military rule' imposed under abnormal circumstances to restore order (Article 34). It is different from the imposition of national emergency.

12. Most of them are directly enforceable (self-executory) while a few of them can be enforced on the basis of a law made for giving effect to them. Such a law can be made only by the Parliament and not by state legislatures so that uniformity throughout the country is maintained (Article 35)

DEFINITION OF STATE

The term 'State' has been used in different provisions concerning the fundamental rights. Hence, Article 12 has defined the term for the purposes of Part III. According to it, the State includes the following:

(a) Government and Parliament of India, that is, executive and legislative organs of the Union government.

(b) Government and legislature of states, that is, executive and legislative organs of state government.

(c) All local authorities, that is, municipalities, panchayats, district boards, improvement trusts, etc.

(d) All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL, etc. Thus, State has been defined in a wider sense so as to include all its agencies. It is the actions of these agencies that can be challenged in the courts as violating the Fundamental Rights. According to the Supreme Court, even a private body or an agency working as an instrument of the State falls within the meaning of the 'State' under Article 12.

Right To Equality

The Right to Equality is one of the chief guarantees of the Constitution. It is embodied in Articles 14–18, which collectively encompass the general principles of equality before law and non-discrimination and Articles 17–18 which collectively encompass further the philosophy of social equality.

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India, on grounds of religion, race, caste, sex or place of birth

Article 15: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Article 16: There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

Article 17: Abolition of untouchability

Article 18: Abolition of all titles except military and academic

Equality before the law (Article 14)

Article 14 treats all people the same in the eyes of the law.

- This provision states that all citizens will be treated equally before the law.
- The law of the country protects everybody equally.
- Under the same circumstances, the law will treat people in the same manner.

Prohibition of discrimination (Article 15)

This article prohibits discrimination in any manner.

- No citizen shall, on grounds only of race, religion, caste, place of birth, sex or any of them, be subject to any liability, disability, restriction or condition with respect to:
 - Access to public places
 - Use of tanks, wells, ghats, etc. that are maintained by the State or that are meant for the general public

The article also mentions that special provision can be made for women, children and the backward classes notwithstanding this article.

Equality of opportunity in matters of public employment (Article 16)

Article 16 provides equal employment opportunities in State service for all citizens.

- No citizen shall be discriminated against in matters of public employment or appointment on the grounds of race, religion, caste, sex, place of birth, descent or residence.
- Exceptions to this can be made for providing special provisions for the backward classes.

Abolition of untouchability (Article 17)

Article 17 prohibits the practice of untouchability.

- Untouchability is abolished in all forms.
- Any disability arising out of untouchability is made an offence.

Abolition of titles (Article 18)

Article 18 abolishes titles.

- The State shall not confer any titles except those which are academic or military titles.
- The article also prohibits citizens of India from accepting any titles from a foreign State.
- The article abolishes the titles that were awarded by the [British Empire](#) such as Rai Bahadur, Khan Bahadur, etc.
- Awards like Padma Shri, Padma Bhushan, Padma Vibhushan, Bharat Ratna and military honours like Ashok Chakra, ParamVir Chakra do not belong to this category.

Right to Freedom

The right to freedom guarantees freedom for citizens to live a life of dignity among other things. These are given in Articles 19, 20, 21A and 22 of the Indian Constitution.

The freedom right includes many rights such as:

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

Article 19 guarantees six freedoms. They are:

1. **Freedom of speech and expression:** The State guarantees freedom of speech and expression to every person of India. However, the State can impose restrictions on the freedom of speech and expression in the interests of the integrity, security and sovereignty of the country, friendly relations with foreign nations, for public order, with respect to defamation, incitement to offence or contempt of court
2. **Freedom to assemble:** The State guarantees every person the freedom to assemble peacefully without arms. However, as above, reasonable restrictions can be imposed in the interests of the sovereignty and integrity of the country and public order.

3. **Freedom to form associations/unions/cooperative societies:** Again, the State can impose restrictions in the interests of the integrity, security and sovereignty of the country, friendly relations with foreign nations, for public order, with respect to defamation, incitement to offence or contempt of court. This freedom gives workers the right to form trade union, which is thus a fundamental right.
1. The Police Forces (Restriction of Rights) Act, 1966 prohibits police personnel from forming trade unions.
 2. The Constitution also allows the Parliament to pass a law restricting the right to form political association to members of the armed forces, intelligence bureaus, persons employed with telecommunication system.
4. **Freedom to move freely:** A citizen of India can move freely throughout the territory of India. But this right can also be restricted on the grounds of security, public order or for protecting the interests of the [Scheduled Tribes](#).
5. **Freedom of residence:** Citizens of India have the right to reside in any part of the country. Although restrictions can be imposed on the grounds of security, public order or for protecting the interests of the Scheduled Tribes.
6. **Freedom of profession:** All citizens have the right to carry on any trade or profession/occupation, provided the trade or occupation is not illegal or immoral. Also, the law does not prevent the State from making laws related to technical or professional qualifications required for practicing the occupation or trade

Article 20

Article 20 deals with the protection of citizens in respect of conviction for offences. This provides for three types of protection of the individual against the State.

1. **Retrospective criminal legislation:** This is also known as ex-post facto criminal legislation. Under this, a person cannot be convicted for an act that was committed at a time when the act had not been declared by law as an offence.
 1. This means that criminal legislation cannot be given a retrospective effect.
 2. This immunity cannot be used against the provision of preventive detention, and also does not cover the trial.
 3. The law also provides that a person cannot be subject to a punishment greater than what is prescribed by law for the offence committed.
2. **Double jeopardy:** This indicates that a person cannot be convicted for the same offence more than once.
3. **Prohibition against self-incrimination:** This implies that no person accused of an offence shall be compelled by the State to bear witness against himself.

Article 21

Article 21 states that no person shall be deprived of his life and personal liberty by the State except as per the procedure established by law. This article has a wide scope and its interpretation has undergone many changes over the decades.

- The Supreme Court has interpreted the right to life as the right to a dignified life.
- This is the most important right in one sense, because, without this right to life, all other fundamental rights would be meaningless.
- It is this article that differentiates between a police state and a constitutional state.

Article 21(A)

This article was introduced by the 86th Constitutional Amendment in 2002. It provides that the State shall provide free and compulsory education to all children between the ages of 6 and 14.

Article 22 deals with the protection against arrest and detention in certain cases.

- This article is applicable to both citizens and non-citizens.
- This provision extends certain procedural safeguards for individuals in case of an arrest.
- It comes into the picture after a person has been arrested. It is not a fundamental right against detention and arrest.
- The idea behind this right is to prevent arbitrary arrests and detention.
- The article provides the following safeguards:
 - Article 22(1) – Any person who is in custody has to be informed as to why he has been arrested. Further, he cannot be denied the right to consult an advocate.
 - Article 22(2) – The arrested individual should be produced before a judicial magistrate within 24 hours of his arrest.
 - Article 22(3) – No individual who has been arrested can be kept in custody for more than the period determined by the judicial magistrate.

These safeguards are, however, not applicable to

- Enemy aliens
- People arrested under preventive detention laws

What is Preventive Detention?

There are two types of detention:

1. Punitive

2. Preventive

Punitive detention is detention after a trial. Preventive detention is detention without trial. The idea behind this is to prevent an individual from committing a crime. This means that persons can be detained on grounds of suspicion. The rights of people arrested in this manner are governed by preventive detention laws.

Right against Exploitation

Article 23 – Prohibition of traffic in human beings and forced labour

Article 23(1): Traffic in human beings and the beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.

Article 23(2): Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

- Exploitation implies the misuse of others' services by force and/or labour without payment.
- There were many marginalized communities in India who were forced to engage in manual and agricultural labour without any payment.
- Labour without payment is known as begar.
- Article 23 forbids any form of exploitation.
- Also, one cannot be forced to engage in labour against his/her will even if remuneration is given.
- Forced labour is forbidden by the Constitution. It is considered forced labour if the less-than-minimum wage is paid.
- This article also makes 'bonded labour' unconstitutional.

- Bonded labour is when a person is forced to offer services out of a loan/debt that cannot be repaid.
- The Constitution makes coercion of any kind unconstitutional. Thus, forcing landless persons into labour and forcing helpless women into prostitution is unconstitutional.
- The Article also makes trafficking unconstitutional.
- Trafficking involves the buying and selling of men and women for illegal and immoral activities.
- Even though the Constitution does not explicitly ban 'slavery', Article 23 has a wide scope because of the inclusion of the terms 'forced labour' and 'traffic'.
- **Article 23 protects citizens not only against the State but also from private citizens.**
- The State is obliged to protect citizens from these evils by taking punitive action against perpetrators of these acts (which are considered crimes), and also take positive actions to abolish these evils from society.
- Under Article 35 of the Constitution, the Parliament is authorized to enact laws to punish acts prohibited by Article 23.
- Clause 2 implies that compulsory services for public purposes (such as conscription to the armed forces) are not unconstitutional.
- Laws passed by the Parliament in pursuance of Article 23:
 - Suppression of Immoral Traffic in Women and Girls Act, 1956
 - Bonded Labour System (Abolition) Act, 1976

Article 24 – Prohibition of employment of children in factories, etc.

Article 24 says that “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”

- This Article forbids the employment of children below the age of 14 in any hazardous industry or factories or mines, without exception.
- However, the employment of children in non-hazardous work is allowed.

Right to Freedom of Religion

The Constitution of India guarantees the right to freedom of religion to not only individuals but also religious groups in India. This is enshrined in Articles 25 to 28.

Article 25 (Freedom of conscience and free profession, practice, and propagation of religion)

Article 25 guarantees the freedom of conscience, the freedom to profess, practice, and propagate religion to all citizens.

- The above-mentioned freedoms are subject to public order, health, and morality.
- This article also gives a provision that the State can make laws:
 - That regulates and restricts any financial, economic, political, or other secular activity associated with any religious practice.
 - That provides for the social welfare and reform or opening up of Hindu religious institutions of a public character to all sections and classes of Hindus. Under this provision, Hindus are construed as including the people professing the Sikh, Jain, or Buddhist religions, and Hindu institutions shall also be construed accordingly.

People of the Sikh faith wearing & carrying the *kirpan* shall be considered as included in the profession of the Sikh religion.

Article 26 (Freedom to manage religious affairs)

This Article provides that every religious denomination has the following rights, subject to morality, health, and public order.

1. The right to form and maintain institutions for religious and charitable intents.
2. The right to manage its own affairs in the matter of religion.
3. The right to acquire the immovable and movable property.
4. The right to administer such property according to the law.

Article 27 (Freedom as to payment of taxes for promotion of any particular religion)

According to Article 27 of the Constitution, there can be no taxes, the proceeds of which are directly used for the promotion and/or maintenance of any particular religion/religious denomination.

Article 28 (Freedom as to attendance at religious instruction or religious worship in certain educational institutions)

This article permits educational institutions that are maintained by religious groups to disseminate religious instruction.

- This provides that no religious instruction shall be provided in State-run educational institutions.
- Educational institutions administered by the State but that were established under any endowment or trust which requires that religious instruction shall be imparted in such institutions are exempt from the above clause (that no religious instruction shall be provided).
- Any person who attends any educational institution recognized by the State or receiving State aid shall not be required to participate in any religious instruction that may be imparted in such institution, or also attend any religious worship in such institutions unless he/she has given consent for the same. In the case of minors, the guardians should have given consent for the same.

What is Secularism?

The word 'secularism' means separate from religion.

- It entails the separation of religion from the government, social, economic, and cultural aspects of life.
- Here religion is an entirely personal matter.
- India is a secular country with no state religion.
- However, this in India, also means that there is equal respect for all religions and faiths.
- The word is also a part of the Basic Structure of the Constitution. It was added by the [42nd Amendment](#) to the Constitution.

Cultural and Educational Rights of Minorities.

Articles 29 and 30 deals with the cultural and educational rights of Indian citizens.

1. This [fundamental right](#) intends to preserve the culture of minority groups in India.
2. Indian society is a composite heterogeneous one and its diversity is one of its strengths.
3. The Constitution guarantees these rights to minorities so that the diversity of this country is preserved and provides avenues for all groups including marginalized ones to protect, preserve, and propagate their culture.

Article 29 – Protection of Interests of Minorities

This article is intended to protect the interests of minority groups.

Article 29(1): This provides any section of the citizens residing in India having a distinct culture, language, or script, the right to conserve their culture, language and script.

Article 29(2): The State shall not deny admission into educational institutes maintained by it or those that receive aid from it to any person based only on race, religion, caste, language, or any of them

Article 30 – Right of Minorities to Establish and Administer Educational Institutions

This right is given to minorities to form and govern their own educational institutions. Article 30 is also called the “**Charter of Education Rights**”.

Article 30(1): All religious and linguistic minorities have the right to establish and administer educational institutions of their choice. (Read about [Minority Protection in India](#) in the linked article.)

Article 30(2): The State shall not, when granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Right to Constitutional Remedies (32 – 35)

What is a Writ?

Writs are written orders issued by the [Supreme Court](#) of India to provide constitutional remedies to protect the fundamental rights of citizens from a violation.

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.

- Article 226 empowers all the high courts of India to issue the writs. Article 32 also empowers Parliament to authorize any other court to issue these writs

The writ jurisdiction of the Supreme Court differs from that of a high court in three respects:

1. The Supreme Court can issue writs only for the enforcement of fundamental rights whereas a high court can issue writs not only for the enforcement of Fundamental Rights but also for any other purpose. The expression 'for any other purpose' refers to the enforcement of an ordinary legal right. Thus, the writ jurisdiction of the Supreme Court, in this respect, is narrower than that of high court.
2. The Supreme Court can issue writs against a person or government throughout the territory of India whereas a high court can issue writs against a person residing or against a government or authority located within its territorial jurisdiction only or outside its territorial jurisdiction only if the cause of action arises within its territorial jurisdiction.¹⁵ Thus, the territorial jurisdiction of the Supreme Court for the purpose of issuing writs is wider than that of a high court.
3. A remedy under Article 32 is in itself a Fundamental Right and hence, the Supreme Court may not refuse to exercise its writ jurisdiction. On the other hand, a remedy under Article 226 is discretionary and hence, a high court may refuse to exercise its writ jurisdiction. Article 32 does not merely confer power on the Supreme Court as Article 226 does on a high court to issue writs for the enforcement of fundamental rights or other rights as part of its general jurisdiction. The Supreme Court is thus constituted as a defender and guarantor of the fundamental rights.

Now, we will proceed to understand the meaning and scope of different kinds of writs mentioned in Articles 32 and 226 of the Constitution

Type of Writs

The Constitution empowers the Supreme Court and High Courts to issue orders or writs.

The types of writs are:

- Habeas Corpus

- Certiorari
- Prohibition
- Mandamus
- Quo Warranto

Habeas Corpus

Habeas Corpus is a writ that is enforced to protect the fundamental right to liberty of an individual against unlawful detention. This writ commands a public official to deliver a detained person in front of the court and provide valid reasons for the detention. However, this writ cannot be issued in case the proceeding is for contempt of a legislature or a court.

Certiorari

The writ of certiorari is issued to a lower court directing that the transfer of a case for review, usually to overrule the judgment of the lower court. The Supreme Court issues the writ of Certiorari in case the decision passed by the lower court is challenged by the party. It is issued in case the higher court finds it a matter of over jurisdiction or lack of jurisdiction.

Prohibition

Prohibition is a writ issued by a higher court to a lower court to enforce inactivity in the jurisdiction. It happens only in case the higher court is of the discretion that the case falls outside the jurisdiction of the lower court. Writ of Prohibition can only be issued against judicial and quasi-judicial authorities.

Mandamus

The writ of mandamus is issued to a subordinate court, an officer of the government, or a corporation or other institution commanding the performance of certain acts or duties.

Unlike Habeas Corpus, Mandamus cannot be issued against a private individual.

The writ of mandamus can be used to order the completion of a task or in other cases, it may require an activity to be ceased.

Quo-Warranto

Quo warranto is issued against a person who claims or usurps a public office. Through this writ, the court inquires 'by what authority' the person supports his or her claim.

Through this writ, the court enquires into the legality of a claim of a person to a public office. This writ prevents the illegal assumption of a public office by an individual.

Article 33 empowers the Parliament to restrict or abrogate the fundamental rights of the members of armed forces, para-military forces, police forces, intelligence agencies and analogous forces. The objective of this provision is to ensure the proper discharge of their duties and the maintenance of discipline among them.

Article 34 provides for the restrictions on fundamental rights while martial law is in force in any area within the territory of India. It empowers the Parliament to indemnify any government servant or any other person for any act done by him in connection with the maintenance or restoration of order in any area where martial law was in force. The Parliament can also validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

Article 35 lays down that the power to make laws, to give effect to certain specified fundamental rights shall vest only in the Parliament and not in the state legislatures. This provision ensures that there is uniformity throughout India with regard to the nature of those fundamental rights and punishment for their infringement.

Directive Principles of State Policy

Directive Principles of State Policy he Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The framers of the Constitution borrowed this idea from the Irish Constitution of 1937, which had copied it from the Spanish Constitution. Dr. B.R. Ambedkar described these principles as 'novel features' of the Indian Constitution. The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution.

FEATURES OF THE DIRECTIVE PRINCIPLES

1. The phrase 'Directive Principles of State Policy' denotes the ideals that the State should keep in mind while formulating policies and enacting laws. These are the constitutional instructions or recommendations to the State in legislative, executive and administrative matters. According to Article 36, the term 'State' in Part IV has the same meaning as in Part III dealing with Fundamental Rights. Therefore, it includes the legislative and executive organs of the central and state governments, all local authorities and all other public authorities in the country.
2. The Directive Principles resemble the 'Instrument of Instructions' enumerated in the Government of India Act of 1935. In the words of Dr. B.R. Ambedkar, 'the Directive Principles are like the instrument of instructions, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935. What is called Directive Principles is merely another name for the instrument of instructions. The only difference is that they are instructions to the legislature and the executive'.
3. The Directive Principles constitute a very comprehensive economic, social and political programme for a modern democratic State. They aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. They embody the concept of a 'welfare state' and not that of a 'police state', which existed during the colonial era³. In brief, they seek to establish economic and social democracy in the country.
4. The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation. Therefore, the government (Central, state and local) cannot be compelled to implement them. Nevertheless,

the Constitution (Article 37) itself says that these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

5. The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the constitutional validity of a law. The Supreme Court has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual.

Directive Principles of State Policy Classification

Although our Constitution does not expressly classify directive principles of state policy, they can be divided into three groups based on their substance and intended use, as follows:

- Socialistic Principles
- Gandhian Principles
- Liberal-Intellectual Principles

1. Socialistic Principles

These are the guiding ideas that seek to establish socioeconomic justice in society and pave the way for a welfare state. These guiding principles examine the socialist school and define the framework of a democratic socialist state. The main goal is to reduce disparities in income, position, resources, and opportunities (Article 38).

Through a number of Articles, they give the state directives, including Article 39 A, “Promote Equal Justice and Free Legal Aid to the Poor.”

- Article 42- Provide for fair and decent working conditions and maternity leave;
- Along with numerous other articles, such as Articles 38, 39, 41, 43, and 43A, Article 47 aims to improve public health through raising people’s standards of living and nutrition.

2. Gandhian Principles

These ideas, which are based on Gandhian ideology, embody the reconstruction plan put forth by Mahatma Gandhi during the national movement. Some of Mahatma Gandhi’s aspirations were incorporated into the Directive Principles of State Policy, which guide the State through Articles such:

- Article 43: Individual or corporate promotion of cottage businesses in rural areas;
- Article 47: Prohibits the use of medicines and alcoholic beverages that are harmful to health;
- Article 48: Articles 40, 43B, and 46 prohibit the slaughter of cows, calves, and other milch and draught animals and work to enhance their breeds.

3. Liberal-Intellectual Principles

These beliefs are a reflection of liberalism’s philosophy. They provide the state specific instructions under several articles, such as Article 44, which says to “secure for all citizens a uniform civil code across the country.”

- Article 48—Organise agriculture and animal husbandry on modern, scientific lines;
- Article 48A; Article 49; Article 50; and Article 51—Provide early childhood care and education for all children until they reach the age of six;

Directive Principles of State Policy Implementation

A new provision, Article 21-A, was added to the Constitution as part of the 86th constitutional amendment in 2002. It aims to provide all children between the ages of 6 and 14 with free and mandatory education. The Right to Education (RTE) is currently in effect as well.

Both the federal and state governments are implementing welfare programs for the less fortunate. The Prevention of Atrocities Act, 1989 was passed by the government to safeguard scheduled castes and scheduled tribes from atrocities and prescribed harsh penalties for such atrocities.

The Minimum Salaries Act of 1948 gives the government the authority to set minimum wages for workers in a variety of professions. Equal compensation for equal work is guaranteed under the Equal Remuneration Act of 1976 for both men and women.

The Constitution's 73rd and 74th Amendments provide (1991 & 1992 respectively). Since receiving constitutional status and additional authority, [Panchayati Raj](#) has expanded to nearly all states and [Union Territories](#). In all criminal proceedings, legal help at the state's expense must be provided if the defendant cannot afford to hire an attorney.

[All States and Union Territories](#), with the exception of Jammu and Kashmir and Nagaland, have established judicial-executive separation. The DPSP has had some effect on Indian foreign policy as well. India has previously denounced all acts of violence and supported the UN's peacekeeping missions. India has supported nuclear disarmament as well.

Significance of Directive Principles

- The **Directive Principles** are a broad **economic, social, and political policy** for a contemporary democratic state.
- They strive to realize the noble principles of **justice, liberty, equality, and brotherhood** enshrined in the **Constitution's Preamble**.

- They represent a '**welfare state**,' rather than a '**police state**,' which existed throughout the colonial period. They want to achieve economic and social democracy in the country, in a nutshell.
- Despite their **non-justiciability**, the **Directive Principles** assist courts in assessing and establishing a law's constitutional viability.
- When determining the constitutionality of a law, the **Supreme Court** has ruled that if the law in question seeks to give effect to a **Directive Principle**, the court may consider the law to be reasonable' in relation to **Article 14** (equality before the law) or **Article 19** (six freedoms) and thus save the law from being declared unconstitutional.
- They are in addition to the people's fundamental rights. They are designed to fill the gap left by **Part III** by establishing social and economic rights.
- Their execution offers a favorable environment for citizens to fully and properly exercise their basic rights. **Political democracy** is meaningless without **economic democracy**.

Fundamental Duties

Fundamental Duties though the rights and duties of the citizens are correlative and inseparable, the original constitution contained only the fundamental rights and not the fundamental duties. In other words, the framers of the Constitution did not feel it necessary to incorporate the fundamental duties of the citizens in the Constitution. However, they incorporated the duties of the State in the Constitution in the form of Directive Principles of State Polity. Later in 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.

In 1976, the Congress Party set up the Sardar Swaran Singh Committee to make recommendations about fundamental duties, the need and necessity of which was felt during the operation of the internal emergency (1975–1977). The committee recommended the inclusion of a separate chapter on fundamental duties in the Constitution.

LIST OF FUNDAMENTAL DUTIES

According to Article 51A, it shall be the duty of every citizen of India:

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals that inspired the national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to 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;
- (f) to value and preserve the rich heritage of the country's composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
- (h) to develop scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) 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; and
- (k) to 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.

SIGNIFICANCE OF FUNDAMENTAL DUTIES

In spite of criticisms and opposition, the fundamental duties are considered significant from the following viewpoints:

1. They serve as a reminder to the citizens that while enjoying their rights, they should also be conscious of duties they owe to their country, their society and to their fellow citizens.
2. They serve as a warning against the antinational and antisocial activities like burning the national flag, destroying public property and so on.
3. They serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them. They create a feeling that the citizens are not mere spectators but active participants in the realisation of national goals.

4. They help the courts in examining and determining the constitutional validity of a law. In 1992, the Supreme Court ruled that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a fundamental duty, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

5. They are enforceable by law. Hence, the Parliament can provide for the imposition of appropriate penalty or punishment for failure to fulfill any of them.

Following points can be noted with regard to the characteristics of the Fundamental Duties:

1. Some of them are moral duties while others are civic duties. For instance, cherishing noble ideals of freedom struggle is a moral precept and respecting the Constitution, National Flag and National Anthem is a civic duty.

2. They refer to such values which have been a part of the Indian tradition, mythology, religions and practices. In other words, they essentially contain just a codification of tasks integral to the Indian way of life.

3. Unlike some of the Fundamental Rights which extend to all persons whether citizens or foreigners¹, the Fundamental Duties are confined to citizens only and do not extend to foreigners.

4. Like the Directive Principles, the fundamental duties are also non-justiciable. The Constitution does not provide for their direct enforcement by the courts. Moreover, there is not legal sanction against their violation. However, the Parliament is free to enforce them by suitable legislation.