

MODULE – 2

Fundamental Rights & Duties, Directive Principles of State Policy (DPSP)

Fundamental Rights

- The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35.
- Part III of the Constitution is rightly described as the *Magna Carta* of India.
- It contains a very long and comprehensive list of 'justiciable' Fundamental Rights.
- Inspired from the Constitution of USA (i.e., Bill of Rights).
- The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination.

Nature of Fundamental Rights

- **The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination.**
- **They uphold the equality of all individuals.**
- **The dignity of the individual.**
- **The larger public interest.**
- **Unity of the nation.**
- **Prevent the establishment of an authoritarian and despotic rule in the country.**
- **They are defended and guaranteed by the Supreme Court.**
- **They are ‘fundamental’ also in the sense that they are most essential for the all-round development of the individuals.**
- **They can be suspended during the operation of a National Emergency.**

Classification of Fundamental Rights

- **Originally, the Constitution of India provided for seven Fundamental Rights,**
 - 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.

Right to Equality (Articles 14–18)

It implies:

- 1. Equality before law and equal protection of laws (Article 14) : It means absence of any special privileges in favour of any person.**
- 2. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15)**
- 3. Equality of opportunity in matters of public employment (Article 16): It means equality of opportunity for all citizens in matters of employment or appointment to any office under the State.**
- 4. Abolition of untouchability and prohibition of its practice (Article 17).**
- 5. Abolition of titles except military and academic (Article 18).**

Right to Freedom (Articles 19–22)

It implies:

- 1. (Article 19) guarantees to all citizens the six rights:**
 - (i) Right to freedom of speech and expression.**
 - (ii) Right to assemble peaceably and without arms.**
 - (iii) Right to form associations or unions or co-operative societies.**
 - (iv) Right to move freely throughout the territory of India.**
 - (v) Right to reside and settle in any part of the territory of India.**
 - (vi) Right to practice any profession or to carry on any occupation, trade or business.**

- 2. Protection in respect of conviction for offences (Article 20).**
- 3. Protection of life and personal liberty (Article 21).**
- 4. Right to elementary education (Article 21A): It implies that state shall provide free and compulsory education to all children of the age of 6 - 14 years**
- 5. Protection against arrest and detention in certain cases (Article 22).**

Right against Exploitation

(Articles 23–24)

- (a) Prohibition of traffic in human beings and forced labour (Article 23): It prohibits traffic in human beings, forced labour. The ‘traffic in human beings’ include**
 - **Selling and buying of men, women and children like goods;**
 - **Immoral traffic in women and children, including prostitution;**
 - **Devadasis and**
 - **Slavery**

- (b) Prohibition of employment of children in factories, etc. (Article 24). Article 24 prohibits the employment of children below the age of 14 years in any factory, mine or other hazardous activities like construction work or railway.**

Right to freedom of religion

(Article 25–28)

- 1. Freedom of conscience and free profession, practice and propagation of religion (Article 25): It implies the inner freedom of an individual to declare one's religious beliefs and faith openly and freely.**
- 2. Freedom to manage religious affairs (Article 26).**
- 3. Freedom from payment of taxes for promotion of any religion (Article 27). It means that no person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination.**
- 4. Freedom for attending religious instruction or worship in certain educational institutions (Article 28)**

Cultural and Educational Rights

(Articles 29–30)

- (a) Protection of language, script and culture of minorities (Article 29): Article 29 provides that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.**
- (b) Right of minorities to establish and administer educational institutions (Article 30).**

Right to constitutional remedies

(Article 32)

- **Right to move the Supreme Court for the enforcement of fundamental rights including the writs (writs as extraordinary remedies to uphold the rights and liberties) of**
 1. **Habeas corpus**: It is a Latin term which literally means ‘to have the body of’. It is an order issued by the court to a person who has detained another person, to produce the body of the latter before it.
 2. **Mandamus** : It literally means ‘we command’. It is a command issued by the court to a public official asking him to perform his official duties that he/she has failed or refused to perform.

3. **Prohibition** : Literally, it means 'to forbid'. It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction that it does not possess
4. **Certiorari**: It means 'to be certified' or 'to be informed'. It is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in a case.
5. **Quo warranto** (Article 32): In the literal sense, it means 'by what authority or warrant'. It is issued by the court to enquire into the legality of claim of a person to a public office.

DEFINITION OF STATE

- **Article 12 has defined the term 'State'.
According to it, the State includes the following:**
 - 1. Government and Parliament of India.**
 - 2. Government and legislature of states.**
 - 3. All local authorities, that is, municipalities, panchayats, district boards, improvement trusts, etc.**
 - 4. All other authorities, that is, statutory or non-statutory authorities like LIC, ONGC, SAIL, etc.**

Directive Principles of State Policy **(DPSP)**

- **The 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.**

FEATURES OF THE DPSP

- **It denotes the ideals that the State should keep in mind while formulating policies and enacting laws.**
- **The Directive Principles resemble the 'Instrument of Instructions'**
- **It promotes the concept of a 'welfare state' and not that of a 'police state'**
- **They are not legally enforceable by the courts.**

CLASSIFICATION OF THE DPSP

3 broad categories

- 1. Socialistic Principles**
- 2. Gandhian Principles**
- 3. Liberal-intellectual Principles**

Socialistic Principles

- **These principles reflect the ideology of socialism.**
- **Aims at providing social and economic justice**
- **To promote the welfare of the people (Article 38)**
- **To promote equal justice and to provide free legal aid to the poor (Art 39)**
- **Equitable distribution of material resources of the community for the common good (Art 39)**
- **Prevention of concentration of wealth (Art 39)**
- **Equal pay for equal work for men and women (Art 39)**
- **To secure a living wage, a decent standard of life (Art 43)**
- **To secure the right to work, to education (Art 43)**

Gandhian Principles

- **These principles are based on Gandhian ideology.**
- **To organise village panchayats to function as units of self-government (Article 40)**
- **To promote Village and cottage industries (Art 43)**
- **To promote the educational and economic interests of SCs, STs, and other weaker sections of the society (Art 46)**
- **To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article 47)**

Liberal-Intellectual Principles

- **This principles represent the ideology of liberalism.**
- **Uniform Civil Code throughout the country (Article 44)**
- **To provide early childhood care and education for all children until they complete the age of six years (Article 45)**
- **To protect and improve the environment and to safeguard forests and wild life (Article 48 A)**
- **To protect monuments, places and objects of artistic or historic interest (Article 49)**
- **To promote international peace and security and maintain just and honourable relations between nations (Article 51)**

NEW DPSP

- **The 42nd Amendment Act of 1976 added four new Directive Principles to the original list.**

They require the State:

- 1. To secure opportunities for healthy development of children (Article 39).**
- 2. To promote equal justice and to provide free legal aid to the poor (Article 39 A).**
- 3. To take steps to secure the participation of workers in the management of industries (Article 43 A).**
- 4. To protect and improve the environment and to safeguard forests and wild life (Article 48 A).**

Fundamental Duties

- **The original constitution contained only the fundamental rights and not the fundamental duties.**
- **Later in 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.**
- **The Fundamental Duties in the Indian Constitution are inspired by the Constitution of USSR.**
- **Swaran Singh Committee suggested the incorporation of eight Fundamental Duties in the Constitution, the 42nd Constitutional Amendment Act (1976) included ten Fundamental Duties.**

LIST OF FUNDAMENTAL DUTIES

- **According to Article 51A, it shall be the duty of every citizen of India:**
 - 1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.**
 - 2. To cherish and follow the noble ideals that inspired the 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 the people of India.**

- 6. To value and preserve the rich heritage of the country's composite culture.**
- 7. To protect and improve the natural environment including forests, lakes, rivers and wildlife.**
- 8. To develop 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. To provide opportunities for education to his child or ward between the age of 6 - 14 years. This duty was added by the 86th Constitutional Amendment Act, 2002.**