

CHAPTER - II

RIGHTS IN THE INDIAN CONSTITUTION

- Rights are essential factor to lead a better social life and it helps to fulfil the needs of individual. Besides this, it brings personal development and the progress of society.
- The democratic government will ensure the equal rights to its people or citizen without any discrimination.

BILL OF RIGHTS

In a democratic country the rights of citizens are listed in the constitution itself. This list of rights laid down and protected by the constitution it is called bill of rights.

FUNDAMENTAL DUTIES

- Swaran Singh Committee recommended the fundamental duties.
- It included in the Indian constitution through the 42nd Amendment in 1976.
- Part – IV-A of Indian constitution deals with fundamental duties.
- Article 51-A of Indian constitution deals with fundamental duties.

There are 11 duties should followed by Indian citizen.

1. To obey and respect the constitution ad national flag and national anthem.
2. To cherish and follow the noble idea of our freedom struggle.
3. To protect the sovereignty of India.
4. To defend the nation.
5. To protect public property.
6. To protect natural resources.
7. To promote the common brotherhood among people.

8. To provide the rich heritage of India.
9. To develop scientific awareness and humanism among the people.
10. To strive all excellent in all individual and collective for development of nation.
11. Parents should provide education for their children belong the age between 6 to 14.

DPSP (Directive Principles of State Policy)

- Part IV of Indian constitution deals with D.P.S.P.
- From Article 36-51 deals with D.P.S.P.

Aim of D.P.S.P.

- Welfare of state
- To ensure socio- economic and political justice for all.

D.P.S.P. classified in to three

1. Socialist principle
2. Gandhian principle
3. Liberal principle

1. SOCIALIST PRINCIPLE

- Equal pay for equal work
- Right to work
- Fair distribution of resources
- Prevention of wealth concentrated in the hands of a few individual
- Removal of inequality

2. GANDHIAN PRINCIPLE

- The formation of Grama Panchayath
- To encourage cottage industries

- Protect the weaker section from the social inequality. (provided education for weaker section)
- Eradication of alcohol and other drugs.
- Organise agriculture and animal husbandry.

3. LIBERAL PRINCIPLE

- To form a secure uniform civil code
- To provide compulsory education between the age of 6 – 14.
- To maintain international peace and security.
- To separate judiciary from executive

RIGHT TO PROPERTY

- In 1978 the right to property deleted from the list of fundamental right.
- Right to property removed through the 44th amendment.
- Now right to property became legal right.
- It comes under Article 300-A.

The difference between fundamental rights and D.P.S.P.

Fundamental rights	D.P.S.P.
▪ Avoid the government from doing certain things	▪ Allow the government to do certain things
▪ Protect the rights and interest of individual	▪ Protect the interest and welfare of state or society
▪ Fundamental rights are justiciable	▪ D.P.S.P. are non-justiciable
▪ Fundamental rights emphasis on civil liberty	▪ D.P.S.P. emphasis on social, economic, political justice
▪ The scope of fundamental rights is narrow	▪ The scope of D.P.S.P. is wide

NATIONAL HUMAN RIGHTS COMMISSION (N.H.R.C.)

- Human rights is the right of human being to live as a human.
- UNHRC – United National Human Rights Commission
- Human rights declaration took place on 10th December 1948.
- As part of this on 10th December celebrated as ‘Human Rights Day’.
- In 1993 the NHRC was started in India.
- The first chairman of NHRC – Ranganadha Mishra
- The present chairman – K.G. Balakrishnan
- In NHRC there are 5 members.
 - The former chief justice of Supreme Court
 - The former judge of Supreme Court
 - The former chief justice of High Court
 - Two members who have knowledge and practical experience in matters related to human rights.

MAIN FUNCTIONS OF HUMAN RIGHTS COMMISSION

- To make awareness about human rights
- To conduct study about human rights
- To investigate about the human rights violation
- To receive petition from the victims of human rights violation
- To visit different place of human rights violation and make report.
- To encourage non-governmental organisation (NGO) to involve the human rights activities.

Article 21 of the national human right commission argue that each state should have form their own human right commission. As a result, in 1998 state human rights commission was formed (Kerala).

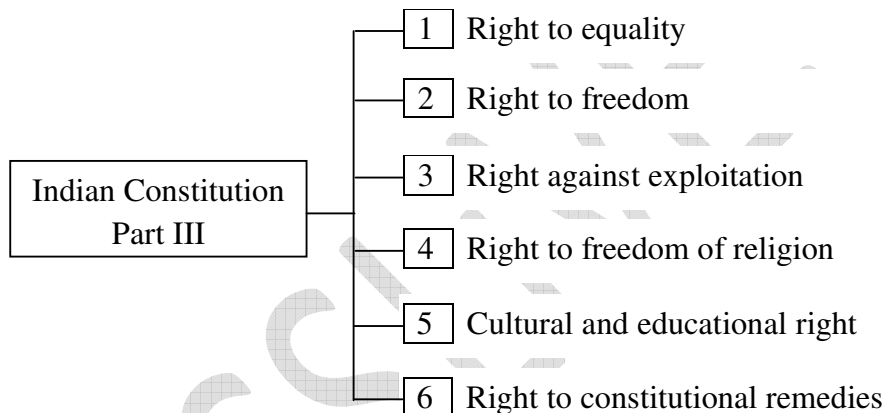
Major NGOs

- People's union for civil liberty (PUCL)
- People's union for democratic right (PUDR)

FUNDAMENTAL RIGHTS IN INDIAN CONSTITUTION

- Part III of the constitution deals with fundamental rights.

The fundamental rights are:



1. RIGHT TO EQUALITY (Article 14 - 18)

- It is the basic principle of Indian constitution.
- This right includes the following things.

1. Equality before law and equal protection of law (Ar-14)

Equality before law is borrowed from British constitution. The concept equal protection of law is borrowed from American constitution.

2. Protection from discrimination (Ar-15)

3. Equality of opportunities (Ar-16)

4. Eradication of untouchability (Ar-17)
5. Abolition of titles (Ar-18)

2. RIGHT TO FREEDOM (Article 19 - 22)

- Freedom doesn't mean the permission to do anything as one pleases.
- Freedom of a person should not hurt the freedom of other persons.
- The most important fundamental right is the right to personal liberty.
- It can be considered as the backbone of all other fundamental rights.

Article 19 guarantee six type freedom. They are:

1. Freedom of speech and expression
 2. To assemble peaceably and without arms
 3. To form association or unions
 4. To move freely through out the territory of India
 5. To reside and settle in any part of India
 6. To practice any profession or to carry on any occupation
- Protection against conviction of offences (Article 20)
 - Right to life and personal liberty (Article 21)
 - Right to education (Article 21 A)
 - Protection against arbitrary arrest and detention (Article 22)

3. RIGHT AGAINST EXPLOITATION (Article 23 - 24)

In India there prevailed different forms of exploitation like slavery, beggar or bonded labour and child labour. The constitution sees a person exploiting another person as a criminal offence.

- A-23 prohibits traffic in human beings and all types of bonded labour like beggar.

- A-24 prohibits employment of children below the age 14 in factories, mines or any hazardous work.

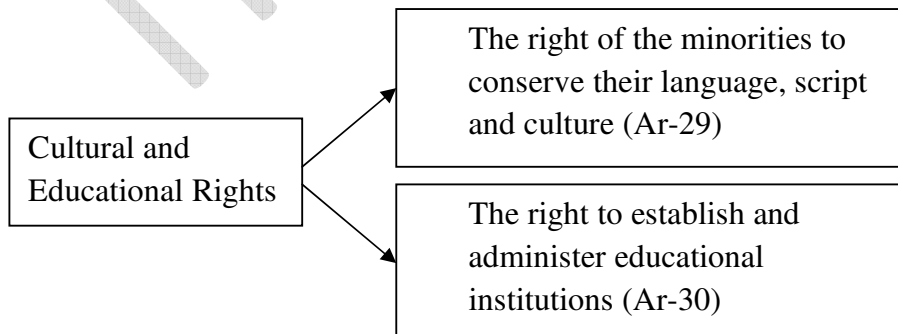
4. RIGHT TO FREEDOM OF RELIGION (Article 25 – 28)

- It ensures freedom of faith and permit to all citizen.
- It allow the persons to profess and propagate any religion.
- The constitution envisages a secular democratic republic. So it ensures the enjoyment of the right to freedom of religion.
- This freedom is given through Article from 25 – 28

1. To profess and propagate any religion (Ar-25).
2. To establish and maintain institutions (Ar-26).
3. To get expence for the promotion and maintenance of any particular religion (Ar-27).
4. To get the freedom from religious instructions in certain educational institutions (Ar-28).

5. CULTURAL AND EDUCATIONAL RIGHT (Article 29 - 30)

It is a fact that racial, religious, linguistic and cultural diversities exist in the Indian society.



6. RIGHT TO CONSTITUTIONAL REMEDIES

- Dr. Ambedkar considered this right as heart and soul of the constitution.
- The right to constitutional remedies ensures the enjoyment of fundamental right by all individuals.
- If any of the fundamental right is violated the citizens can approach the high Court/Supreme Court to get it (Ar-32 Supreme Court, Ar-226 High Court).
- The Supreme Court and High Courts can issue orders and give directions to the government for the enforcement of these rights.

WRITS

- For enforcing fundamental rights the courts can issue various types of writs. They are Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo-Warranto.

1. HABEAS CORPUS (“That you have the body”)

This is writ issued by the court to release a person who is under illegal custody and produce him in the court.

2. MANDAMUS (“We command”)

This writ is issued by the court when it finds that a particular officer is not doing his legal duty.

3. PROHIBITION (“To stop or to forbid”)

This writ is issued to an inferior court if it goes beyond its jurisdiction.

4. CERTIORARI (“To be certify”)

The court may ask any inferior court to transfer the case to other court.

5. QUO-WARRANTO (“By what authority”)

This writ the court examine the legality of claim of a person to a public office.