

CHAPTER -2

FUNDAMENTAL RIGHTS & DUTIES

PART-1 (Short Answer Questions)

1. Explain the term “Fundamental Rights”

ANS- Fundamental Rights are those basic conditions of social life which are essential for an individual for his/her all-round development. These Rights are basic to the principle of democracy. They constitute a number of freedoms which enable citizens to develop their talents by giving them opportunities for self development.

2. Enumerate the Fundamental Right guaranteed to Indian citizens.

ANS- Fundamental Rights guaranteed to Indian citizens are as follows:

- i. Right to Equality;
- ii. Right to Freedom;
- iii. Right against Exploitation
- iv. Right to Freedom of Religion;
- v. Cultural and Educational Rights; and
- vi. Right to Constitutional Remedies.

3. Which Fundamental Right was deleted from the Constitution by the 44th Amendment Act?

ANS- Right to Property was deleted from the Constitution by the 44th Amendment Act, 1978. It was done so due to the bridge the gulf/gap between the rich and the poor.

4. What is meant by the term ‘Right to equality’?

ANS- The term ‘Right to Equality’ refers to the equality in which all people are treated equal. The right to equality seeks to secure for all the citizens of India, the same human rights- legal, civic, economic and social.

5. The government of India is committed to bring social equality among the citizens of India. Mention two steps taken by the government to this effect.

ANS- The government of India is committed to bring social equality among the citizens of India;

- I. Article 15 provides to that the state shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth.
- II. Article 17 states that untouchability is abolished and its practices in any form is forbidden.

6. Why did the Constitution abolish the old system of conferring titles and honours?

ANS- Article 18 abolishes the titles such as *Rai Sahib*, *Khan Bahadur*, *Maharaja* etc. these were the old system of conferring titles and honours. It is because the system goes against the spirit of social equality.

7. What provisions are there to make an exception to right equality as guaranteed by our Constitution?

ANS- The 42nd Amendment Act, 1976 puts certain restriction on the Right to Equality. A person cannot move the Court if his right to equality is restricted to implement the Directive Principles of the State Policy.

8. What is the significance of the ‘Right to Equality’?

ANS- The significance of the Right to Equality are as follow:

- a) Equality before Law (Article14);
- b) Prohibition of Discrimination (Article15);
- c) Equality of opportunity(Article16);
- d) Abolition of Untouchability(Article17);
- e) Abolition of Titles(Article18);

9. Mention three rights of a citizen arrested under ordinary circumstances.

ANS- In the case of arrest under ordinary circumstances, the arrested person has the following rights:

- a) To be informed of his/her defence.
 - b) To be presented before a magistrate within 24 hours from the time of arrest. Such a person cannot be kept in custody for more than 24 hours without the permission of the magistrate
 - c) The right to consult a lawyer and prepare for defence at the trial.
10. Give six Freedoms which are included in the right to freedom and mention one limitation in the exercise of the 'Right to Freedom'.

ANS- Article 19 guarantees the following six freedoms to the citizens of India:

- a) Freedom of speech and expression;
 - b) Freedom to Assemble Peacefully without Arms;
 - c) Freedom to form Associations or Unions;
 - d) Freedom to Move Freely Throughout the Territory of India;
 - e) Freedom to Reside and Settle in any part of the Territory of India;
 - f) Freedom to Practise any Profession or to Carry on any Occupation, Trade or Business;
11. Mention the circumstances under which the right to move the courts of the enforcement of Fundamental Rights can be suspended.

ANS- Fundamental Right which is exercised in the following:

- a) Emergency: Fundamental Rights can be suspended during emergency.
 - b) For the security of the State and the national interest reasonable restrictions on the Fundamental Rights can be imposed.
12. Mention the Fundamental Right which is exercised in each of the following cases:

ANS- Fundamental Right which is exercised in the following:

- a) A group of citizens holding a meeting
ANS- Right to Freedom;
 - b) A citizen goes to worship to a place of his/her choice
ANS- Right to freedom of Religion;
 - c) A citizen moves a Court for the enforcement of any of his/her Fundamental Right
ANS- Right to constitutional Remedies
13. What is meant by the 'Right to Freedom of Religion'?
- ANS-** Articles 25 to 28 speak on the Right to Freedom of Religion which means all persons are entitled to freedom of conscience and the right to freely profess, practice, and propagate their religion.

14. Mention two Fundamental Rights which bring out the secular nature of the State.

ANS- The Fundamental Rights which bring out the secular nature of the state are as follow:

- a) Right to Freedom;
 - b) Right to Freedom of Religion;
15. Name the Fundamental Right that prohibits *begar*.

ANS- Right Against Exploitation prohibits *begar*. *Begar* means the services of members of backward communities and weaker sections of society were used without payment of any kind is known as the practice of *begar*.

16. Mention one important provision given in the Constitution which is the safeguard against exploitation.

ANS- Constitutional provision to safeguard against exploitation:

- a) Article 24 prohibits the employment of children below the age of 14 years in factories, mines and other hazardous occupations. The practice of bonded labour has also been declared unlawful.
 - b) Trafficking of human beings which means buying and selling of human beings which is prohibited. It also prohibits the use of women or girls for immoral purposes.
17. Name the Fundamental Right that aims at the preservation of culture, language and script of the minorities.
- ANS-** Cultural and Educational Rights aims the preservation of culture, language and script of the minorities.
18. How are the minorities protected by the Fundamental Right?
- ANS-** Fundamental Rights protect the interests of minorities. Such rights include:

- a) Protection of Interests of Minorities and to enable them to conserve their distinct language, script and culture and to enable them to conserve their distinct language, script and culture.
- b) Right of Minorities to Establish and Administer Educational Institutions.

19. Explain clearly what is meant by 'Cultural and Educational Rights.'

ANS- Cultural and Educational Rights is one the Fundamental Rights of the constitution. This right is incorporated in the constitution with a view of minorities:

- a) Article 29 mentions the culture and the interests the minorities possess such as language, script or culture of their own have the right to conserve them. The fundamental right must take care of it.
- b) Article 30 gives all minorities, whether based on religion or language, has the right to establish and administer the educational institutions of their choice.

20. What does the Constitution stipulate regarding the language and culture of the minorities in India?

ANS- In Article 29 the constitution stipulates/states clearly regarding the language and culture of the minorities in India. All groups of citizens possessing a distinct language or culture of their own have the right to conserve them. It has also laid down that: no person shall be denied admission into any educational institution run by the state or aided by the state on grounds of language.

21. What is the meaning of "Right to Constitutional Remedies"?

ANS- Right to Constitutional Remedies: Article 32 safeguards and enforces the Fundamental Rights by a constitutional method. This Article of the constitution confers upon the citizens of India the right to constitutional remedies.

22. Describe how the Fundamental Rights are affected in an Emergency.

ANS- Though Fundamental Rights are justifiable but it's not absolute. When there is emergency or threats to security, and peace is in danger to the country Right to Freedom (Article 19) can be suspended or curtailed.

23. Explain the term writ. What is meant by the following writs:

ANS- Writ- A writ is a formal written order issued by the Supreme Court and High Courts to provide legal remedies to individuals who do not obtain adequate protection under ordinary laws. The writs make the Right to Constitutional Remedies the most important and an effective tool for the enforcement of the Fundamental Rights.

- a) **Habeas Corpus:** - It is a Latin term which means 'to have the body'. This writ is issued either by the High Court or the Supreme Court in case of an illegal arrest or wrongful detention of a person by the government or a private individual. By doing so the Court orders the person (have the body) to be before the Court to know the reason for itself why he/she has been arrested.
- b) **Mandamus:** - In Latin it means 'we order' or 'command'. It is a command or an order from a Superior Court to a lower or an administrative authority to perform a certain duty.
- c) **Writ of Prohibition:** - The writ of prohibition is an order issued by a superior court to a lower court to stop proceedings in a case which might be in excess of the jurisdiction of the lower court.
- d) **Writ of Certiorari:** - This writ is issued by a superior court to a judicial authority desiring "*to be informed what is going on*". It is different from Writ of Prohibition. Writ of Prohibition is issued when the certain proceedings are going on. The Writ of Certiorari is issued after the order has already been passed by the lower court.
- e) **Quo-Warranto:** - It means 'by what order'. The Writ is issued to a public servant to enquire into the legality of his/her holding a public office. This writ is meant to prevent an unlawful claimant from holding a public office.

24. Name the Writ that should be issued in the following cases:

- a) To restrain a person from holding an office to which he/she is not entitled

ANS- Quo-Warranto

- b) Against an illegal arrest

ANS- Habeas Corpus

- c) To remove a suit from an inferior Courts to a superior Court for speedy justice

ANS- Writ of Certiorari

- d) To stop proceedings in a subordinate Courts on the grounds of overstepping jurisdiction

ANS- Writ of Prohibition

25. How do Fundamental Rights Check the arbitrary action of the State?

ANS- The Supreme Court employs the interpretative process to carve out the Fundamental Rights. Such as freedom of press or right to privacy etc. these rights cannot be normally violated.

26. Mention the reason why reasonable restrictions are imposed on Fundamental Rights.

ANS- Though Fundamental Rights are justifiable but it's not absolute. They can be restricted on grounds of threats to security of the state, peace in the region and danger to India's friendly relations with other states. The right to personal freedoms can be curtailed by the government under its power of preventive detention.

PART-II (STRUCTURED QUESTIONS)

1. With regard to Fundamental Rights answer the following question:

- a) In what way are they an integral part of the Constitution?

ANS- Fundamental rights are the integral part of the constitution. They are a branch of civil rights and are given higher importance in India as they are defended by the Supreme Court directly. Some Fundamental Rights are confined to citizens only while others are open to all. For example, Art. 15, 16, 19, 20 and 29 in the Chapter on Fundamental Rights in the Indian Constitution (Part III) are available to India citizen only. They are essential for human development, democracy and social progress. They can be understood in the following manner:

- i. **Enforceability of Rights:** Fundamental Rights have been made Justifiable. Justifiable rights means if any of these rights are violated by the government or anyone else, the individual has the right to approach the Supreme Court or High Courts for the protection and enforcement of his/her Fundamental Rights. Thus, the Constitution not only grants but also guarantees these rights. There are elaborate instruments to protect these rights, such as Right to Constitutional remedy, Public Interest Litigation, Human Rights Commissions.
- ii. **Right to Freedom:** this right has six essential freedoms:
 - a) Freedom of speech and expression;
 - b) Freedom to Assemble Peacefully without Arms;
 - c) Freedom to form Associations or Unions;
 - d) Freedom to Move Freely Throughout the Territory of India;
 - e) Freedom to Reside and Settle in any part of the Territory of India;
 - f) Freedom to Practise any Profession or to Carry on any Occupation, Trade or Business;
- iii. **Special Rights for the minorities:** The Fundamental Rights guarantee some special rights to the minorities of various kinds. This is apart from the guarantee of the secular nature of the Constitution. Cultural and educational rights have been granted to them. It abolishes untouchability and makes it a crime. It has also granted special protections to women, children and the weaker sections of society.
- iv. **Comprehensive and detailed:** The rights enumerated in the Part III of the Constitution are very elaborate. Each Article has been described with its scope and limitations.
- v. **Constitutional superiority of Fundamental Rights:** The Fundamental Rights of the citizens are superior to ordinary laws and the Directive Principles of State when the President withdraws it.
- vi. **Provision for the Suspension of Rights:** The Constitution provides for suspension of all or any of the Fundamental Rights during an emergency. However, such a suspension automatically ends when the emergency ceases or when the President withdraws it

b) Why are they not absolute?

ANS- Fundamental Rights are not absolute, in the sense that reasonable restriction can be placed on them. **Fundamental rights** in Indian constitution are “**Not absolute. They are Qualified**”. It means that some limitations can be imposed on them **but** these limitations are imposed only in special & Reasonable circumstances (**Qualified**). This may be the situation of emergency and the security of the State peace in the region and danger to India’s friendly relations with other states. At this situation the security of the State and the national interest being the paramount interest.

c) When can they be restricted or suspended?

ANS- The Fundamental Rights can be restricted or suspended on grounds of threats to security of the state, peace in the region and danger to India’s friendly relations with other states. The right to personal freedoms can be curtailed by the government under its power of preventive detention. The Right to personal freedoms can be curtailed by the government under its power of preventive detention.

d) State clearly their importance in a democracy.

ANS- Importance of Fundamental Rights in Democracy: these Rights are essential because they are basic to the principle of democracy.

- i. Fundamental Rights protect the liberties and freedom of the citizens against the violation of the constitution and its values. They are very essential for the all-round development of the individuals and the country.
- ii. They provide for an individual for his/her all-round development.
- iii. They constitute a number of freedoms which enable citizens to develop their talents by giving them opportunities for self development.
- iv. They are necessary for the stability of international peace and order.
- v. They give self-confidence to citizens, providing them equality of status and opportunity and protecting them from exploitation by an individual or state.

2. Describe the ‘Right to Equality’ with regard to the following points:

a) **Prohibition of Discrimination**: This right comes under the Right to Equality where the Article 15 provides the following measures:

- i. The State shall not discriminate against any citizen on grounds of religion, race, caste, sex or birth place.
- ii. No citizen can be refused access to shops public places, wells, tanks, bathing ghats etc.
- iii. Special arrangements for children, women and the Scheduled Castes and Scheduled Tribes for their advancements.

b) **Equality of opportunity**: The Article 16 provides the Right to Equality of opportunity in a following terms:

- i. There shall be Right to Equality of opportunity for all citizens in relating to employment or appointment to an office under the state.
- ii. No individuals can be discriminated in public appointments against on grounds of caste, creed, religion, sex or birth place.

c) **Abolition of Untouchability**: The Article 17 provides the Right to Equality of Abolition of Untouchability in a following manners:

- i. The untouchability is abolished and its practice in any form is forbidden.
- ii. The enforcement of any disability arising out of untouchability is an offence, punishable in accordance with law.
- iii. Any person preventing the other from entering a place of public worship or using the public well, a public transport system etc. can be punished by law.

3. With regard to the ‘right to Freedom’ given in Articles 19-22 of the Constitution, state the scope and the limitations (if any) in respect to the following:

a) **Freedom of Speech and Expression and Right to Information:**

- i. The right allows the citizens of India to discuss freely all matters concerning public and national life, orally or through press.
- ii. There should be no unreasonable restrictions.
- iii. There should not be restriction on the basis of gender, religious beliefs or social conditions.
- iv. The Right to Information Act provides the right to seek information to all the citizens of India.
- v. This right is implicit in the Right to Freedom of Speech and Expression.
- vi. It seeks to empower the citizen by enabling them to ask questions, receive information from the government and other public authorities.

b) **Freedom to Assemble peacefully:**

- i. The right enables people to exchange or propagate their views.
- ii. The assembly, however should be peaceful, unarmed.
- iii. It should pose any danger to law and order.

c) **Freedom to Form Associations or Unions:** This right has been given to the citizens to safeguard their individual as well as collective interests.

Limitation: Restrictions against such unions or associations can be imposed if they pose a danger to the law and order situation in the State or if they indulge in immoral or illegal activities.

d) **Freedom to Move Freely Within the territory of India:**

- i. This right provides the citizens to move anywhere in India.
- ii. This right also implies that no person can be detained or imprisoned without the sanction of the law.

Limitation: certain restrictions may be imposed on this freedom of movement by the state in public interests for example, at the time of emergency in the country.

e) **Freedom to reside and settle in any part of India:**

- i. An Indian citizen can reside in any part of the country.
- ii. He/she is entitled to buy, keep, transfer or sell his/her property in India.
- iii. Limitation: Jammu and Kashmir was once a special state where all that was forbidden but that comes under Union Territories now.

f) **Freedom to Practice any profession or occupation:** The right gives a citizen to practise any profession or to carry on any occupation, trade or business.

Limitations:

- i. A profession or trade should damage to public interests or moral values of the society, for example, smuggling, traffic in women or children.
- ii. The interest that hamper the security and integrity of the country and its friendly relations with foreign countries
- iii. The exercise of the freedom should not affect public order, law, decency and morality in the society.

4. Write a short note on the following:

a) **Preventive Detention Act:** This right comes under the Right to Freedom. It mentions on the right to life or personal liberty. The Parliament passed this Act in 1950 and has been renewed time and again. Preventive detention means 'detention of a person without a trial'. In case a person is detained under Preventive Detention he/she can be kept in custody for a period of three months without trial. Such a person has following rights:

- i. Preventive Detention does not mean that a person stands accused. It is only a precautionary measure.

- ii. Detention beyond three months can be extended only by an Advisory Board constituted for the purpose and consisting of judge of High Court.
 - iii. Grounds of detention have to be specified and the detainee informed of these grounds. He/she has the right to make representation against the detention order.
 - b) **Prohibition of Forced Labour:** Right Against Exploitation of the constitution uploads the dignity of the individual and prohibits exploitation in the following respects:
 - i. Article 23-(a) states about the freedom from slavery, beggary or other forms of forced labour.
 - ii. Trafficking of human beings which means buying and selling of human beings which is prohibited. It also prohibits the use of women or girls for immoral purposes.
 - iii. In the past, servicers of members of backward communities and weaker sections of society were used without payment of any kind known as *begar*. Our constitution has abolished all such forms of exploitation
 - iv. Article 24 prohibits the employment of children below the age of 14 years in factories, mines and other hazardous occupations. The practice of bonded labour has also been declared unlawful.
 - c) **Prohibition of employment of children in factories:** Article 24 prohibits the employment of children below the age of 14 years in factories, mines and other hazardous occupations. The practice of bonded labour has also been declared unlawful.
5. With regard to the 'Right to Freedom of Religion' answer the following questions:
- a) To what kind of freedom are all persons entitled?
ANS- Article 25 states that all persons are entitled to freedom of conscience and the right to freely profess, practise and propagate their religion.
 - b) What kind of freedom do all religious denominations enjoy?
ANS- Freedom of Religious denominations:
 - i. Article 26 states that all religious denominations enjoy the freedom to establish and maintain institutions for religious and charitable purposes.
 - ii. Article 26 also states that such religious denominations have the right to manage their own affairs in matters of religion.
 - iii. Article 27 says that no person shall be compelled to pay any taxes, for the promotion or maintenance of any particular religion.
 - iv. All religious denominations also have the freedom to acquire movable or immovable property attached to their places of worship according with the law.
 - v. No religious instruction shall be provided in any institution wholly maintained out of state funds.
 - vi. Even though religious instruction may be imparted in educational institutions recognised by the state, no person should be compelled to receive that religious instruction without the consent of himself/herself or of his/her guardians.
 - c) What provision is there to restrain the State from discrimination against a person on grounds of religion?
ANS- In order to restrain the state from discrimination against a person on the basis of religion:
 - i. Article 15 states that the State shall not discriminate against any citizen on grounds of religion.
 - ii. Article 16 states that no individual shall be discriminated on the basis of religion for employment or appointment.
6. Explain the following:
- a) **Fundamental Rights are justifiable:**
 - i. Any citizen who feels that there has been a violation of his/her Fundamental Rights, either by another citizen or the State, can move the High Court or Supreme Court for the restoration of his/her right.
 - ii. The Court can strike down or state officially any order or part of an order if it violates the Constitution.
 - b) **Fundamental Rights are Universal:**

- i. The Fundamental Rights are guaranteed to all citizens irrespective of their caste, creed, religion, gender or social status
 - ii. All citizens are entitled to seek remedy if they feel their rights have been violated. Therefore they are universal in nature.
- c) **Fundamental Rights are not Absolute**: Though Fundamental Rights are justifiable but they are not absolute. Reasonable restrictions can be imposed on the because of the general welfare of the society.
- i. The Fundamental Rights can be suspended when the president declares a state Emergency in the country in case of war, external aggression or armed rebellion. Such a suspension of rights is temporary. As soon as the Emergency is over, the rights are restored.
 - ii. For the security of the State and the national interest reasonable restrictions on the Fundamental Rights can be imposed.
 - iii. Laws of Parliament impose certain restrictions on the Right to Freedom. The laws such as Maintenance of Internal Security Act (MISA), Defence of India Rules (DIR), Preventive Detention Act (PDA), National Security Act (NSA) etc. are made to safeguard the interests of the nation, but they curtail the use of Fundamental Rights.
7. Mention some of the Fundamental Duties given in the Constitution.

ANS- Fundamental Duties: Duties and rights go hand-in –hand; there can be no right in society where there are no duties. For example, if we have right to life, it is our duty to respect others’ life and injure them not. The Fundamental Duties were added to the Constitution by the 42nd Amendment Act, 1976 and inserted in Part-IV of the Constitution. Article-51-A states the following ten duties of a citizen:

- 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 ideas which inspired our 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 spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women;
- f) To value and preserve the rich heritage of our composite culture;
- g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and have compassion for living creatures;
- h) To develop the scientific temper, humanism and the spirit of inquiry and reform;
- i) To safeguard public property and to adjure 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.
- k) It is a duty of a parent or guardian to provide opportunities for education to his/her child or, as the case may be, ward between the age of 6 to 14 years;

Assignments:-

Que. What are Right to Information Act and Right to Education Act? Explain in detail.

THE END