

## FUNDAMENTAL RIGHTS AND DUTIES

### Short-Answer Questions

① Explain the term Fundamental Rights.

**Ans.** **Meaning of Fundamental Rights:** The Fundamental Rights are those basic conditions which are considered essential to be provided to a person for his all-round development. After the inclusion of the Bill of Rights in the U.N. Charter, it has become obligatory for all the member-states of the United Nations to ensure these basic rights to their respective citizens. These conditions, which are recognised as the primary requirements for the balanced development of a person, are commonly called the Fundamental Rights.

② Name the different Fundamental the Rights guaranteed to the citizens of India.

**Ans.** Our Constitution in the beginning bestowed seven Fundamental Rights on us. They were :

- (a) Right to Equality.
- (b) Right to Freedom.
- (c) Right against Exploitation.
- (d) Right to Freedom of Religion.
- (e) Cultural and Educational Right.
- (f) Right to Property.
- (g) Right to Constitutional Remedies.

3. Explain the term the Right to Equality.

**Ans.** Article 14 establishes *equality before law* and equality in protection by law irrespective of status, caste, creed, religion, sect, sex or colour.

4. Name the Fundamental Right that was deleted by the 44th Amendment Act.

**Ans.** By the Amendment (Forty-fourth Amendment in 1978) of the Constitution, the Right to Property was withdrawn from the list of the Fundamental Rights and has since been made a legal right

5. Mention one limitation to the exercise of the Right to Freedom of Speech and Expression.

**Ans.** This right allows the citizens to discuss freely all matters concerning public as well as national well-being orally or through the press. But this right cannot be used for slandering others, for jeopardising the safety and integrity of the State or for inciting violence.

6. Name the Fundamental Right that prohibits forced labour. **Ans.** The Constitution under Articles 23 and 24 puts a firm end to such exploitation as forced labour, beggary, traffic in women and children and unjustified under-payment. This right also prohibits employment of children below 14 in mines, factories and other occupations fraught with danger.

7. Name the Fundamental Right that aims at the preservation of culture, language and script of the minorities in India.

**Ans.** Articles 29 and 30 of the Constitution of India promote the Cultural and Educational Right of the citizens of India.

8. Mention what you understand by the Right to Freedom of Religion.

**Ans.** India is a Secular State. Articles 25 to 28 of the Constitution confer on the people of India the freedom :

- (i) to follow any religion of their choice,
- (ii) to practise it according to their specific ways,
- (iii) to preach it,
- (iv) to manage religious affairs,
- (v) no religious instructions can be imparted in institutions maintained out of State Fund.

9. **Mention two Fundamental Rights granted to the citizens of India which bring out the secular nature of the state.**

**Ans.** Right to Freedom of Religion (Articles 25-28) and Cultural and Educational Right (Articles 29 and 30) bring out the secular nature of the State.

10. **What is the meaning of Right to Constitutional Remedies?**

**Ans.** Article 32 of the Constitution of India confers upon the citizens the Right to Constitutional Remedies which implies that every citizen is entitled to move the Supreme Court, any of the High Courts or any other court authorized by the Parliament for that purpose if his or her Fundamental Right/Rights are encroached upon, abridged or snatched away by the State, a person or a body of persons. The courts have been vested with the power to issue orders, directions and writs in order to protect the rights of the complainants. The writs act as check on arbitrary actions of the state.

11. **Name the Fundamental Right which protects the interests of the linguistic minorities in India.**

**Ans.** Cultural and Educational Rights under Art. 29 & 30.

12. **Mention one important provision given in the Constitution which gives protection against exploitation.**

**Ans.** The Constitution under Articles 23 and 24 puts a firm end to such exploitation as forced labour, beggary, traffic in women and children and unjustified under-payment. This right also prohibits employment of children below 14 in mines, factories and other occupations fraught with danger.

13. **Mention two rights of an individual who is arrested under ordinary circumstances.**

**Ans.** (i) A person, who is arrested under ordinary circumstances, has got the right to be informed about the ground of his or her arrest.

(ii) Such an accused shall have the right to defend himself by a lawyer of his choice.

14. **Why has the practice of according titles been abolished by the Constitution?**

**Ans.** Article 18 puts an end to all titles like 'Rai Sahib', 'Khan Bahadur', 'Sardar Bahadur', etc. This article prohibits the State from awarding such titles. This has been done because conferring such titles goes against the spirit of social equality. Only military and academic degrees can be conferred.

15. **Explain the term writ.**

**Ans.** Writ is a legal document issued by a court telling some body to do or act to do something.

16. **Name the writ that is issued against illegal arrest.**

**Ans.** Habeas-Corpus is issued against illegal arrest. It means 'to have a body'. By issuing such a writ, the court can get the body of any person released if it has been unlawfully captured by any person or a group of persons or by the State. This writ is thus a great safeguard for the personal freedom of a citizen.

17. **What is meant by Preventive Detention?**

**Ans.** Under the Preventive Detention Act a person can be detained for a period of three months even without trial in a court of law. But the arrested person must be informed about the ground on which he has been detained.

18. **Which part of the Constitution contains the Fundamental Rights?**

**Ans.** The Fundamental Rights are enshrined in the Part III of the Constitution.

### **Structured Essay-Type Questions**

1. **There is a list of Fundamental Rights that is given in the Constitution of India. In this connection explain the following:**

- (a) Name the seven Fundamental Rights.
- (b) What is their importance?

**Ans.** (a) Our Constitution in the beginning bestowed seven Fundamental Rights on us. They were:

- (i) Right to Equality.
- (ii) Right to Freedom.
- (iii) Right against Exploitation.
- (iv) Right to Freedom of Religion.



- (v) Cultural and Educational Right.
  - (vi) Right to Property.
  - (vii) Right to Constitutional Remedies.
- (b) Significance or Importance of Fundamental Rights. Fundamental Rights have a special significance or importance of their own, especially for the Indians who remained under foreign rule and oppression for a long time.
- (i) Fundamental Rights provide those conditions which are essential for the all-round development of human personality.
  - (ii) They ensure all such freedoms to an individual which make his life happy and worth living.
  - (iii) They provide equality of status and opportunity to every citizen.
  - (iv) They save him/her from exploitation on the part of any individual.
  - (v) Lastly, they act as a check on the arbitrary actions of the state. Any citizen can approach the Supreme Court or any of the High Courts if his Fundamental Rights are encroached upon, abridged or snatched by the State. [For more details see the Right to Constitutional Remedies discussed later.]
- In short, we can say that the Fundamental Rights offer the best fruits of democracy and provide the best opportunities for self-development.

**Q. 2. "The Right to Freedom is actually a cluster of several rights." In this context explain the following**

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- (a) How far do you agree with this view?
- (b) Explain the different rights incorporated in the Right to Freedom.

**Ans.** (a) It is true it is indeed a cluster of several rights. Various kinds of individual and collective freedoms have been guaranteed to the citizens of the Republic of India under Articles 19 to 22 of the Constitution. Although the freedoms guaranteed under these Articles are regulated through certain restrictions for the sake of public interest and safety of the State, yet they go a long way in making India a really democratic polity. The Right to Freedom is actually a cluster of several rights. Some of the most important rights guaranteed under the Right to Freedom are as follows.

- (b) (i) **Right to Freedom of Speech and Expression:** This right allows the citizens to discuss freely all matters concerning public as well as national well-being orally or through the press. But this right cannot be used for slandering others, for jeopardising the safety and integrity of the State or for inciting violence.
- (ii) **Freedom to Assemble Peacefully and without Arms:** This right is necessary for the exchange of views and propagation thereof. But the assembly should invariably be peaceful and should not pose a danger to law and order.
- (iii) **Freedom to Form Associations or Unions:** To safeguard individual as well as collective interests of the citizens, this right has been guaranteed by the Constitution. Restrictions, however, can be imposed against such unions or associations if they tend to pose a danger to the safety of the State or indulge in immoral and illegal activities.
- (iv) **Freedom to Free Movement:** Every citizen of India is entitled to free movement throughout the territory of India with the exception that this freedom does not apply to private buildings and estates. This right further implies that no person can be detained or imprisoned without the express sanction of law. Restrictions, however, can be imposed on this freedom by the State in public interest.
- (v) **Freedom to Reside and Settle in Any Part of the Territory of India:** A citizen of the Indian Republic can choose to reside in any part of the country with the only limitation



that it should not go against the interests of the weaker sections of the society. He can purchase, keep, transfer or dispose of property in any part of the country except in the State of Jammu and Kashmir where it is prohibited for citizens other than those of the state itself. Further, the State can acquire the property of any citizen for public use.

- (vi) **Freedom to Practise Any Profession or to Carry on Any Occupation:** The Constitution of India bestows on every citizen of India the right to practice any profession or carry on any occupation but such profession should not be detrimental to public interest or moral ethics of the society, i.e., traffic in women and children, smuggling, etc., cannot be allowed.

**3. With reference to the Right to Equality explain the following :**

- (a) Which articles of the Constitution deal with these rights?  
(b) Describe the subject matter of any two of these rights. **Ans.** (a) Right to equality seeks to undo the wrongs of caste-system, of evils untouchability etc. Articles 14 to 18 deals with the Right to equality.  
(b) Article 15 prohibits any sort of discrimination among the citizens of the Republic on all or any of the grounds mentioned in Article 14 as stated above. This provision does not prevent any State or Central Government from making provisions for the uplift of economically, socially or educationally backward sections of the society. Moreover, residence in a particular state cannot be made a condition for appointment to a particular job under the Government. Article 18 puts an end to all titles like 'Rai Sahib', 'Khan Bahadur', 'Sardar Bahadur', etc. This article prohibits the State from awarding such titles. This has been done because conferring such titles goes against the spirit of social equality. Only military and academic degrees can be conferred.

**4. With reference to Fundamental Duties explain the following:**

- (a) Mention any four Fundamental Duties.  
(b) Why have Fundamental Duties been included in the Constitution ?

**Ans.** (a) The Fundamental Duties are:

- (i) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (ii) To cherish and follow the noble ideals which inspired our national struggle for freedom;
- (iii) To uphold and protect the sovereignty, unity and integrity of India;
- (iv) To defend the country and render national service when called upon to do so;

These duties have been included to:

- (b) The above duties contained in PART IV-A of the Constitution, as cited above, merely define what the State expects from the citizens in return for the rights embodied in PART III of the Constitution.
- (i) Nothing can be got without paying a price. If we want certain rights we will have to perform certain duties also. Every right implies a duty. These duties will make us good and responsible citizens.
  - (ii) Fundamental Duties have put the Fundamental Rights in the right perspective. It has been rightly remarked, "*Fundamental Duties complement Fundamental Rights.*" They have balanced one thing with the other.
  - (iii) Fundamental Duties have been added to make the citizens patriotic and make them realise the importance of protecting the sovereignty and integrity of their country.
  - (iv) Fundamental Duties have been incorporated in the Constitution of India to promote the idea of harmony in a land of diversities and to strengthen the nation.

**5. Explain the term writ. What do you mean by the following writs?**

- (a) Habeas Corpus      (b) Mandamus
- (c) Prohibition        (d) Certiorari
- (e) Quo-Warranto

**Ans.** Writ is a Legal Document issued by a court telling somebody to do or not to do something.

Most eminent of the writs are — *Habeas Corpus, Mandamus, Prohibition, Certiorari* and *Quo-Warranto*. All these writs, in their Latin names, have been retained in the Constitution and, therefore, they require some explanation to understand them.

- (a) **Habeas-Corpus:** It means '*to have a body*'. By issuing such a writ, the court can get the body of any person released if it has been unlawfully captured by any person or a group of persons or by the State. This writ is thus a great safeguard for the personal freedom of a citizen.
- (b) **Mandamus:** It literally means '*we command*'. This writ is thus a sort of command from a superior court to a subordinate court or an administrative authority in case they refuse to exercise their jurisdiction and fail to perform their duty.
- (c) **Prohibition:** Such a type of writ is an order from a superior court — the Supreme Court or a High Court — to an inferior court to stop proceedings in a case which, in the opinion of the higher court, might be contemplated to be in excess of its jurisdiction.
- (d) **Certiorari:** This writ is issued by the superior court to the judicial or quasi-judicial authorities in order to quash its order or decision. The difference between the Prohibition and Certiorari is that while the former is issued when certain proceedings are still going on, the latter is issued only when the order has already been passed.
- (e) **Quo-Warranto:** Such a type of writ is issued by a court to a public servant to enquire into the legality of his holding a public office and to oust him if his claim is not well founded. Thus, this writ prevents an unlawful claimant from holding a superior public office.