

Fundamental Duties (FD)

FDs were not in the original constitution, introduced on the recommendations of Swarn Singh Committee by 42nd C.A. Act, 1976. FDs are also non enforceable in the court of law.

Objections against FDs

- FDs is a feature of socialist / communist Constitution, not liberal. However, Japan is an exception.
- There was no need to bring FDs when it was not to be made enforceable.
- As regarding certain duties laws are already existing.
- One should not bring ornamental parts in the Constitution.

Criticisms

- Duties are vaguely worded like it talks about cherishing the ideals which inspired the national movement. The debate is which ideals because there were different schools of thoughts. It talks about composite culture. No clarity what is composite culture. It expects citizens to ^{develop} have scientific temper. But without basic education how will they develop scientific temper.
- Timing of introduction of FDs when emergency was in operation also made is controversial.
- Introduction of FDs have not made any difference in social-political environment.

- Govt. hardly took steps to educate citizens about FDs.

Suggestions

- Varma Committee 1998 was appointed to give suggestions on FDs. It held that it is Constitutional obligation of the state to educate citizens.

- Civil society, media and educational institutions should also contribute in awareness.

The suggestions were also supported by National Commission for Review of working of the Constitution.

- There are suggestions to add new duties. One duty added by 86th C.A. Act.

- Payment of taxes, duty to vote, responsible parenthood, corp. social responsibility. 51(1)(k)

Civil Rights & Human Rights Movements

- o Differentiate betn Civil Rights & Human Rights
- o Major Human Rights issues in the country.
- o Evolution & growth of Human Rights Movement.
- o Current challenges.
- o Assessment of role of National HR Commission.

Civil Rights

It be Civil Rights belong to liberal political discourse.

Right to Life, Liberty, equality before law, protection in arrest, detention are civil rights.

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Origin of Civil Rights movement

- Indian national movement has been one of the largest Civil Rights movements in the world.
1st All-India movement against the police powers of the state was agitation against Rowlatt Act 1919.
- In 1936, 1st institutionalised attempt was made with establishment of All-India Civil Liberties Union (AICLU) in Bombay on Nehru's initiatives. Tagore of the 1st President & Sarajini Naidu was Executive President and 21 member committee had. Nehru, S. Bose, Jaiprakash Narayan, Dr. Rajendra Prasad. At the time of the inauguration, Nehru promised there will not be any black law in the country. He described Civil rights as 'right to oppose govt.'

Purpose of the organisation

- To provide legal aid to the persons detained and to have a legal route to oppose arbitrary actions of the govt.

Civil Rights Movements after Independence.

- Constitution of India establishes strong regime of FRs. After independence, we do not Civil Rights movements in initial years because of Nehru's charisma.

During initial years, there were communist led

movements. One prominent movement was Naxalbandi
Telangana. The demands of these movement
were for social & economic rights of the poor.
They were dissatisfied with govt. led land reforms.
However, Indian state used preventive detention
laws & put communist leaders behind the bars.

- Emergency

Introduction of emergency on internal grounds
have introduced new energy in civil rights
movement in the country. Besides above, there
have been reasons for Civil Rights movement

- Failure on the part of govt. to fulfil its promises.
- Excessive bureaucratisation, centralisation, corruption
- Judicial apathy towards the rights of people.
- Even media didn't have much interest.
- There was no change in the social structure.
Indian society remained feudalistic
- Anti price rise agitation.
- Call for total revolution by J.P. Narayan.

After emergency, even Judiciary started PIL
& became the supporter of human rights
in the country.

Despite this Human Rights movement in India
has not been very strong.

Reasons: In Indian situation, HR always got
overshadowed by National security concerns.

- Rise of terrorism. According to Nandita Haksar,
Zero tolerance approach towards terrorism becomes
zero tolerance approach towards HR also

HR = Civil Rights + political rights + social + economic rights.

- Another weakness: HR movement in India can function only within the permissible limit of nationalism.
- Human Right movement remains divided. For some civil rights are important & for some democratic rights are important.
- There is a rise of sectarianism in the country. Rise of communalism has impacted Human Rights.

Present challenges

- Because of forces of globalisation, new issues have emerged. e.g. conflict over natural resources. Upendra Baxi writes that a human rights industry has emerged.
- At present, we see growth of HR organisations with transnational linkages, lot of funds, professionally trained manpower. The no. & types of actors have multiplied. Today HR movement in India finds itself at a crossroads. It is unable to set its direction. It is unable to cope up with the challenges.
- The weakness of HR movement is evident when we see reports which talk about poor Human Development indicators in the country, violations of rights of minorities, violence against women, encounters, state of prison & large no. of undertrials.

The Universal periodic Review of Govt. of India does not provide a good picture. It mentions

by UNHRC)

following issues

- India is a home to half of world's hungry population and largest no. of malnourished children.
- 92% of labour force is in unorganized sector.
- Torture is a routine part of law enforcement agencies.
- State of Juvenile justice is bad.
Children are tried in adult courts.
- Judiciary is overburdened.
- Draconian act like AFSPA is a challenge to HR.
- A weak NHRC.

National Human Rights Commission (NHRC)

Origin of NHRC:

- It is a part of India's commitment to U.N.
- U.N. Directed all countries to establish the national bodies.
- NHRC was created by protection of Human Rights Act 1993.
- Act also defines Human Rights.
Human Rights means right to life, liberty, equality and dignity of the individual guaranteed under the constitution of India, & right embodied in Intⁿ covenants & enforced by courts in India.

Functions of NHRC

All commissions
watchdog bodies.

- Enquiry in case of violation of HR either on its own or on request.
- It can intervene in the courts also with the permission of the court.