



16

FUNDAMENTAL RIGHTS AND FUNDAMENTAL DUTIES

Now-a-days, terms like ‘right to education’, ‘right to information’ and ‘right to protest peacefully’ are being used quite frequently. Many a time, you also feel that you have certain rights. Simultaneously, you may have been told by some one, may be your teacher, that you have certain duties towards other individuals, society, nation or the humanity. But do you think that every human being enjoys the rights or everyone performs the duties? Perhaps not. But everyone will agree that there are certain rights that must be enjoyed by individuals. Particularly, in a democratic country like ours, there are rights that must be guaranteed to every citizen. Similarly there are certain duties that must be performed by democratic citizens. Which is why, the Constitution of India guarantees some rights to its citizens. They are known as Fundamental Rights. Besides, the Indian Constitution also enlists certain core duties that every citizen is expected to perform. These are known as Fundamental Duties. This lesson aims at discussing the details about the Fundamental Rights and Fundamental Duties.



OBJECTIVES

After completing this lesson, you will be able to:

- explain the meaning of rights and duties and critically evaluate their need and importance in our day to day life;
- assess the importance of Fundamental Rights given in the Constitution of India and analyse their exceptions and restrictions;
- appreciate the implications of recently added Right to Education;
- compare between Fundamental Rights and Human Rights;
- understand the process of seeking justice through constitutional means in case of violation of Fundamental Rights; and
- appreciate the importance of Fundamental Duties and the need to perform them as a good and law-abiding citizen of India.



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16.1 MEANING AND IMPORTANCE OF RIGHTS AND DUTIES

We often talk about rights, but do you know what does the term ‘rights’ mean? Rights are rules of interaction between people. They place constraints and obligations upon the actions of the state and individuals or groups. For example, if one has a right to life, this means that others do not have the liberty to kill him or her. Rights are defined as claims of an individual that are essential for the development of his or her own self and that are recognized by society or State. These are legal, social, or ethical principles of freedom or entitlement and are the fundamental normative rules about what is allowed to people or owed to people, according to some legal system, social convention, or ethical theory. Rights are often considered fundamental to civilization, being regarded as established pillars of society and culture.

But the rights have real meaning only if individuals perform duties. A duty is something that someone is expected or required to do. Parents, for example, have a duty to take care of their child. You have duties towards your parents. A teacher has a duty to educate students. In fact, rights and duties are two wheels on which the chariot of life moves forward smoothly. Life can become smoother if rights and duties go hand in hand and become complementary to each other. Rights are what we want others to do for us whereas the duties are those acts which we should perform for others. Thus, a right comes with an obligation to show respect for the rights of others. The obligations that accompany rights are in the form of duties. If we have the right to enjoy public facilities like transport or health services, it becomes our duty to allow others to avail the same. If we have the right to freedom, it becomes our duty not to misuse this and harm others.



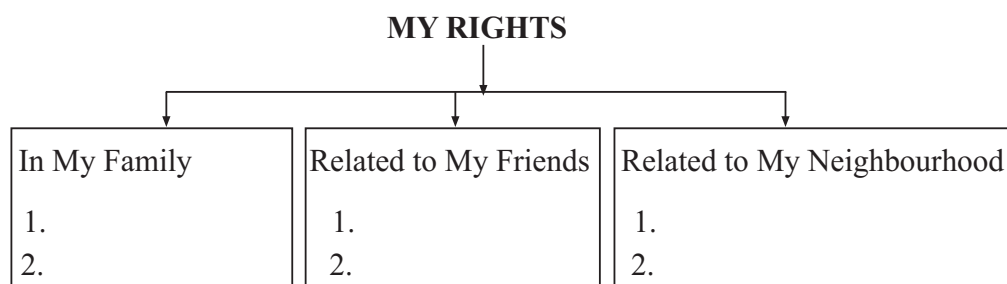
ACTIVITY 16.1

Write down in the boxes given below your rights and your duties towards family, friends and the neighbourhood.

MY DUTIES		
Towards My Family 1. 2.	Towards My Friends 1. 2.	Towards My Neighbourhood 1. 2.



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What do you think are the differences between your duties and rights? Do you think they are interrelated? How?

16.2 FUNDAMENTAL RIGHTS

As we have seen, rights are claims that are essential for the existence and development of individuals. In that sense there will be a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justiciable, i.e. enforceable through courts. Being justiciable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are provided in Part III of the Indian Constitution. The Constitution guarantees six fundamental rights to Indian citizens 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. While these fundamental rights are universal, the Constitution provides for some exceptions and restrictions.



Do you know

Originally, there were seven Fundamental Rights in the Constitution. Besides the above mentioned six rights, there was the Right to Property also. Since this Right created a lot of problems in the way of attaining the goal of socialism and equitable distribution of wealth, it was removed from the list of Fundamental Rights in 1978 by 44th constitutional amendment. However, its deletion does not mean that we do not have the right to acquire, hold and dispose of property. Citizens are still free to enjoy this right. But now it is just a legal right and not a Fundamental Right.

16.2.1 Right to Equality

Right to equality is very important in a society like ours. The purpose of this right is to establish the rule of law where all the citizens should be treated equal before



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the law. It has five provisions (Articles 14-18) to provide for equality before law or for the protection of law to all the persons in India and also to prohibit discrimination on the grounds of religion, race, caste, sex or place of birth.

- (i) **Equality before Law:** The Constitution guarantees that all citizens will be equal before law. It means that everyone will be equally protected by the laws of the country. No person is above law. It means that if two persons commit the same crime, both of them will get the same punishment without any discrimination.
- (ii) **No Discrimination on the basis of Religion, Race, Caste, Sex or Place of Birth:** The State cannot discriminate against a citizen on the basis of religion, race, caste, sex or place of birth. This is necessary to bring about social equality. Every citizen of India has equal access to shops, restaurants, places of public entertainment or in the use of wells, tanks or roads without any discrimination. However, the State can make special provisions or concessions for women and children.
- (iii) **Equality of Opportunity to all Citizens in matter of Public Employment:** The State cannot discriminate against anyone in the matter of public employment. All citizens can apply and become employees of the State. Merits and qualifications will be the basis of employment. However, there are some exceptions to this right. There is a special provision for the reservation of posts for citizens belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes (OBCs)



Figure 16.1 Working in Office Without Gender Based Discrimination

- (iv) **Abolition of Untouchability:** Practising untouchability in any form has been made a punishable offence under the law. This provision is an effort to uplift the social status of millions of Indians who had been looked down upon and



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kept at a distance because of either their caste or the nature of their profession. But, it is really very unfortunate that despite constitutional provisions, this social evil continues even today. Can you find any difference when you see a nurse cleaning a patient, a mother cleaning her child and a lady cleaning a toilet in the illustration? Why do people consider the cleaning of a toilet in a derogatory manner?

- (v) **Abolition of Titles:** All the British titles like Sir (Knighthood) or Rai Bahadur which were given to the British loyalists during the British rule, have been abolished because they created distinctions of artificial nature. However, the President of India can confer civil and military awards to those who have rendered meritorious service to the nation in different fields. The civil awards such as Bharat Ratna, Padma Vibhushan, Padam Bhushan and Padma Shri and the military awards like Veer Chakra, Paramveer Chakra, Ashok Chakra are conferred. Do you know that these awards are not titles? Educational and military awards can be prefixed with one's name?



(Bharat Ratna, Padma Vibhushan, Pramvir Chakra, Veer Chakra, Ashok Chakra)

Figure 16.2 Medals Showing Civil and Military Awards



ACTIVITY 16.2

Gather the opinion of at least 5 of your classmates, friends or adults in your family and neighbourhood on the following questions:

1. Do you think that reservation of posts for Scheduled Castes, Scheduled Tribes and Other Backward Classes is proper?
2. Do you think that the people still avoid drinking water given by an individual of Scheduled Caste?
3. Do you agree that there is equality before law for all the citizens in the real sense of the term?

Put their responses in the table given below and draw conclusions. What opinion do you have regarding these questions?

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Fundamental Rights and Fundamental Duties

Questions	Responses of Persons				
	Person 1	Person 2	Person 3	Person 4	Person 5
Question 1					
Question 2					
Question 3					



INTEXT QUESTIONS 16.1

1. What do you mean by rights and duties? How are they interrelated?
2. Which of the following statements do not conform to the Right to Equality and why?
 - (i) Reservation for the Scheduled Castes and Scheduled Tribes provided only in a case of discrimination.
 - (ii) A former Union Minister facing charges of corruption is exempted from attending the Court.
 - (iii) Access to public places is open to all.
 - (iv) Eligibility for employment is based on religion.
 - (v) Rai Bahadur Sohan Singh is a candidate in Lok Sabha elections.
3. Which one of the following is not a form of untouchability?
 - (i) There are separate doors for entry in a sacred place, one for Dalits and one for others.
 - (ii) A Gym refused to admit Dalit clients.
 - (iii) Dalits share the village hand pumps for water with others.
 - (iv) A Dalit bride was not allowed to wear a bridal dress on her marriage day.

16.2.2 Right to Freedom

You will agree that the freedom is the most cherished desire of every living being. Human beings definitely want and need freedom. You also want to have freedom. The Constitution of India provides Right to Freedom to all its citizens. This Right is stipulated under Articles 19-22. The following are the four categories of Rights to Freedom:

- I. Six Freedoms:** Article 19 of the Constitution provides for the following six freedoms:
- (a) Freedom of speech and expression
 - (b) Freedom to assemble peacefully and without arms



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- (c) Freedom to form Associations and Unions
- (d) Freedom to move freely throughout the territory of India
- (e) Freedom to reside and settle in any part of India
- (f) Freedom to practise any profession or to carry on any occupation, trade or business

The purpose of providing these freedoms is to build and maintain an environment for proper functioning of democracy. However, the Constitution has authorized the State to impose certain ***reasonable restrictions*** on each of them:

1. Restrictions may be put on the Right to Freedom of speech and expression in the interests of the sovereignty, integrity and security of India, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
2. Right to assemble peacefully and without arms may be restricted in the interests of the sovereignty and integrity of India or public order.
3. Right to form associations or unions may have restrictions in the interests of the sovereignty and integrity of India, public order or morality.
4. Right to move freely throughout the territory of India and to reside and settle in any part of India may also be restricted in the interest of the general public or for the protection of the interests of any Scheduled Tribe.
5. Right to practise any profession or to carry on any occupation, trade or business may have restrictions in the interests of the general public. The State is also permitted to lay down the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

II. Protection in respect of conviction for offences: Article 20 of the Constitution provides for the protection in respect of conviction for offences. No one can be convicted for an act that was not an offence at the time of its commission, and no one can be given punishment greater than what was provided in the law prevalent at the time of its commission. Also, no one can be prosecuted and punished for the same offence more than once and can be forced to give witness against his or her own self.

III. Protection of life and personal liberty: As provided in Article 21, no one can be deprived of his or her life or personal liberty except according to the procedure established by law.

IV. Protection against arrest and detention in certain cases: It is provided in Article 22 that whenever a person is arrested, he or she should be informed, as soon as it is possible, of the grounds for arrest and should be allowed to consult and to be defended by a legal practitioner of his or her choice. Moreover, the

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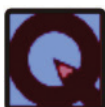
Fundamental Rights and Fundamental Duties

arrested person must be produced before the nearest magistrate within 24 hours of such an arrest excepting a person who has been arrested under preventive detention law. The case of the person arrested under preventive detention law has also to be referred to an Advisory Board within a period of three months of his or her arrest.



Do you know

1. What will happen if the State misuses its power in the name of reasonable restrictions? Who will decide the reasonableness? According to the Constitution, only the courts can decide this issue and not the government.
2. Only some of the Fundamental Rights are enjoyed by the foreigners and not all. For example, the Right to Equality before Law and Right to Freedom of Religion are enjoyed by the foreigners also, but most other Fundamental Right are exclusively for the Indian citizens only.



INTEXT QUESTIONS 16.2

1. What are the freedoms provided in the Indian Constitution?
2. Which freedom has been violated in the following cases?
 - (i) The state policy did not allow the leader of a particular political party to cross its border and enter the state without any reason.
 - (ii) Workers were not allowed to unite and highlight their demands.
 - (iii) People forced to leave their own state and go elsewhere.
 - (iv) The son of a shoemaker was not allowed to open a sweet shop in the village.
 - (v) A political party was not accorded permission to hold a public meeting.
3. What are the provisions in the Constitution for the protection of citizens in respect of conviction for offenders, the protection of life and personal liberty and the protection against arrest and detention?



ACTIVITY 16.3

Below are stated Freedoms granted to citizens by the Constitution and the reasonable restriction that the State can impose. Match the Freedom with appropriate Reasonable Restriction. Do you think these restrictions are appropriate? Give reasons for your view.



Notes

Freedoms	Reasonable Restrictions
1. Freedom of speech and expression	(a) Restriction on the movement of a person/group to prevent spread of violence.
2. Freedom to form Associations and Unions	(b) Not allowed to run trades like gambling, prostitution, selling of narcotic drugs.
3. Freedom to assemble peacefully and without arms.	(c) Not allowed to reside too close to aerodrome
4. Freedom to move freely throughout the territory of India	(d) Restriction on the use of language that may instigate people for communal violence
5. Free to reside and settle in any part of India	(e) Not allowed to form an association to help terrorist activities
6. Freedom to practise any profession or to carry on any occupation, trade or business	(f) Should be peaceful and participants should not carry any weapon.

16.2.3 Right against Exploitation

Have you ever thought how many ways exploitations take place in our society? You might have seen a small child working in a tea shop or a poor and illiterate person being forced to work in the household of a rich person. Traditionally, the Indian society has been hierarchical that has encouraged exploitation in many forms. Which is why, the Constitution makes provisions against exploitation. The citizens have been guaranteed the right against exploitation through Articles 23 and 24 of the Constitution. These two provisions are:

- 1. Prohibition of traffic in human beings and forced labour:** Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any breach of this provision shall be an offence punishable in accordance with law.



Do you know

- 1. Traffic** in human beings means selling and buying of human beings as material goods. Trafficking, especially of young women, girls and even boys is continuing as an illegal trade.
- Earlier especially in the feudal Indian society, people belonging to the poor and downtrodden sections were made to do work free of charge for landlords and other powerful people. This practice was *Begar* or forced labour.



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3. **Prohibition of employment of children in factories, etc.:** As the Constitution provides, no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. This right aims at eliminating one of the most serious problems, child labour, that India has been facing since ages. Children are assets of the society. It is their basic right to enjoy a happy childhood and get education. But as shown in the illustration and as you also may have observed, in spite of this constitutional provision, the problem of child labour is still continuing at many places. This malice can be eliminated by creating public opinion against it.



Figure 16.3 *Children working in hazardous situation*



ACTIVITY 16.4

Gonu and Sonu aged 9 and 11 respectively belonged to a remote village in the State of Jharkhand. Their father sold them to a bangle manufacturer of Firozabad in Uttar Pradesh for Rs. 2,000 each. They were made to work in a factory where many more children were already working under extremely unhealthy and hazardous conditions. They were not given enough food to eat and they hardly got time to sleep. In case they got hurt or burnt or fell ill, they were beaten up, tortured and forced to work for more than 18-20 hours. Some children who managed to escape from there, went to other cities and took to begging, stealing or some other menial jobs. They always dreamt of meeting their parents, but they could never do so.

Read the above news story and answer the following questions :

1. Which Fundamental Rights are violated in this story.
2. What action should be taken against the parents who sell their children or make them work in such conditions?

3. What measures may be taken to save such children from exploitation?

Put yourself in the shoes of Sonu and Gonu being made to work for long hours in a bangle factory. What can you do to seek help and change your circumstances?



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16.2.4 Right to Freedom of Religion

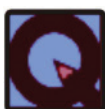
As you know, one of the objectives declared in the Preamble is “to secure to all its citizens liberty of belief, faith and worship”. Since India is a multi-religion country, where Hindus, Muslims, Sikhs, Christians and many other communities live together, the Constitution declares India as a ‘secular state’. It means that Indian State has no religion of its own. But it allows full freedom to all the citizens to have faith in any religion and to worship, the way they like. But this should not interfere with the religious beliefs and ways of worship of other fellow beings. This freedom is available to the foreigners as well. In respect of the Right to freedom the Constitution makes the following four provisions under Articles 25-28:

1. **Freedom of conscience and free profession, practice and propagation of religion:** All persons are equally entitled to freedom of conscience and the right to profess, practise and propagate religion freely. However, it does not mean that one can force another person to convert his/her religion by force or allurements. Also, certain inhuman, illegal and superstitious practices have been banned. Religious practices like sacrificing animals or human beings, for offering to gods and goddesses or to some supernatural forces are not-permissible. Similarly, the law does not permit a widow to get cremated live with her dead husband (voluntarily or forcibly) in the name of *Sati Pratha*. Forcing the widowed woman not to marry for a second time or to shave her head or to make her wear white clothes are some other social evils being practised in the name of religion. Besides the above stated restrictions, the State also has the power to regulate any economic, financial, political or other secular activities related to religion. The State can also impose restrictions on this right on the grounds of public order, morality and health.
2. **Freedom to manage religious affairs:** Subject to public order, morality and health, every religious group or any section thereof shall have the right (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.
3. **Freedom as to the payment of taxes for promotion of any particular religion:** No person shall be compelled to pay any tax, the proceeds of which are specifically used in payment of expenses incurred on the promotion or maintenance of any particular religion or religious sect.



Notes

4. **Freedom as to attendance at religious instruction or religious worship in certain educational institutions:** (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds. However, it will not apply to an educational institution which is administered by the State but has been established under any trust which requires that religious instruction shall be imparted in such an institution. But no person attending such an institution shall be compelled to take part in any religious instruction that may be imparted there or attend any religious worship that may be conducted there. In case of a minor, the consent of his/her guardian is essential for attending such activities.



INTEXT QUESTIONS 16.3

1. What is the main objective of making 'right against exploitation,' a fundamental right?
2. Write one term for the following statements:
 - (a) A practice where a person is compelled to serve without any payment
.....
 - (b) Selling and buying of a human beings
.....
3. Mention any four real life-situations of exploitation being openly practiced in your neighbourhood.

16.2.5 Cultural and Educational Rights

India is the largest democracy in the world having diversity of culture, scripts, languages and religions. As we know the democracy is a rule of the majority. But the minorities are also equally important for its successful working. Therefore, protection of language, culture and religion of the minorities becomes essential so that the minorities may not feel neglected or undermined under the impact of the majority rule. Since people take pride in their own culture and language, a special right known as Cultural and Educational Right has been included in the Chapter on Fundamental Rights. In Articles 29-30 two major provisions have been made:

1. **Protection of interests of minorities:** Any minority group having a distinct language, script or culture of its own shall have the right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
2. **Right of minorities to establish and administer educational institutions:** All Minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice. In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, the State shall ensure that the amount

fixed by or determined under such law for the acquisition of such property would not restrict or abrogate the right guaranteed under that clause. The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

**Do you know**

Minority does not mean minority at the national level. There can be minorities at the state level also. For example, the Sikhs are a majority community in Punjab, but they are a minority community in Delhi, Rajasthan, Haryana and many other States. Similarly Telugu, Kannad and Bangala speaking people are in minority in most of the States in India except in their own, i.e. Andhra Pradesh, Karnataka, West Bengal.

**Notes****16.2.6 Right to Constitutional Remedies**

Since Fundamental Rights are justiciable, they are just like guarantees. They are enforceable, as every individual has the right to seek the help from courts, if they are violated. But in reality it is not so. Encroachment or violation of Fundamental Right in our day to day life is a matter of great concern. Which is why, our Constitution does not permit the legislature and the executive to curb these rights. It provides legal remedies for the protection of our Fundamental Rights. This is called the Right to Constitutional Remedies stipulated in Article 32. When any of our rights are violated, we can seek justice through courts. We can directly approach the Supreme Court that can issue directions, orders or writs for the enforcement of Fundamental Rights.

16.2.7 Right to Education (RTE)

The Right to Education is added by introducing a new Article 21A in the Chapter on Fundamental Rights in 2002 by the 86th Constitutional Amendment. It was a long standing demand so that all children in the age group of 6-14 years (and their parents) can claim compulsory and free education as a Fundamental Right. It is a major step forward in making the country free of illiteracy. But this addition remained meaningless, as it could not be enforced until 2009 when the Parliament passed the Right to Education Act, 2009. It is this Act which aims at ensuring that every child who is between 6-14 years of age and is out of the school in India, goes to school and receives quality education, that is his/her right.

**INTEXT QUESTIONS 16.4**

1. What are the major cultural and educational rights guaranteed by the Constitution?

**Notes**

2. Tamil, Kannad and Telugu speaking people living in Delhi are amongst the many minority communities. What can they do to conserve their distinct language and culture?
3. Which one of the following situations is not covered under the Cultural and Educational Rights:
 - (a) To conserve one's distinct language.
 - (b) No discrimination in granting funds to the minorities.
 - (c) Right to establish institutions of their own choice.
 - (d) The Minority school must admit children belonging to the majority community.
4. "The right to constitutional remedies is the most important fundamental right." Do you agree with this statement? Give justification to your answer.

16.3 FUNDAMENTAL RIGHTS AS HUMAN RIGHTS

You have already read that Fundamental Rights are indeed very essential for the well being of every citizen. We also know that people have always struggled against injustice, exploitation and inequality for the creation of better surroundings, better living conditions and preservation of the human dignity. Efforts to avail such rights to all human beings have been made at the international level also by recognising various rights which are popularly known as Human Rights. The General Assembly of the United Nations adopted Human Rights in 1948 and enshrined them in Universal Declaration of Human Rights about which you will study later. Some of the Human Rights are: Equality before Law, Freedom from Discrimination, Right to Life, Liberty and Personal Security, Right to Free Movement, Right to Education, Right to Marriage and Family, Freedom of Thought, Conscience and Religion, Right to Peaceful Assembly and Association and Right to Participate in the Cultural Life of the Community. If you carefully examine the above mentioned rights, you will realise how important the Human Rights are.

That is why, many of the Human Rights have found place in the Chapter on Fundamental Rights in the Indian Constitution. The Human Rights which could not find place under the Fundamental Rights have been included in the Chapter on Directive Principles of State Policy. Moreover, keeping in view the importance of Human Rights, the National Human Rights Commission was founded in 1993 by the Government of India to guarantee that the Indian citizens also enjoy those rights.

**Do you know**

Human rights are universal, fundamental and absolute : universal because they belong to all humans everywhere; fundamental because they are inalienable; absolute because they are basic to a real living.

**Notes**

1. Fundamental Duties

After going through the Fundamental Rights, you must have observed and realized that in return for every right, the society expects the citizens to do certain things which are collectively known as duties. Some such important duties have been incorporated in the Indian Constitution also. The original Constitution enforced on 26th January, 1950 did not mention anything about the duties of the citizen. It was expected that the citizens of free India would perform their duties willingly. But things did not go as expected. Therefore, ten Fundamental Duties were added in Part-IV of the Constitution under Article 51-A in the year 1976 through the 42nd Constitutional Amendment. However, whereas Fundamental Rights are justiciable, the Fundamental Duties are non-justiciable. It means that the violation of fundamental duties, i.e. the non-performance of these duties by citizens is not punishable. The following ten duties have been listed in the Constitution of India:

1. to abide by the Constitution and respect its ideals and institutions, the National Flag, National Anthem;
2. to cherish and follow the noble ideals which inspired our 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;
5. to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women;
6. to value and preserve the rich heritage of our composite culture;
7. to protect and improve the natural environments including forests, lakes, rivers and wildlife;
8. to develop the scientific temper, humanism and the spirit of inquiry and reform;
9. to safeguard public property and not to use violence; and
10. to serve towards excellence in all spheres of individual and collective activity.

Besides, a new duty has been added after the passage of Right to Education Act, 2009. “A parent or guardian has to provide opportunities for the education of his child/ward between the age of six and fourteen years.

16.3.1 Nature of Fundamental Duties

These duties are in the nature of a code of conduct. Since they are unjusticiable, there is no legal sanction behind them. As you will find, a few of these duties are vague. For example, a common citizen may not understand what is meant by ‘composite culture’, ‘rich heritage’ ‘humanism’, or ‘excellence in all spheres of individual and collective activities’. They will realize the importance of these duties only when these terms are simplified

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Fundamental Rights and Fundamental Duties

A demand has been made from time to time to revise the present list, simplify their language and make them more realistic and meaningful and add some urgently required more realistic duties. As far as possible, they should be made justiciable.



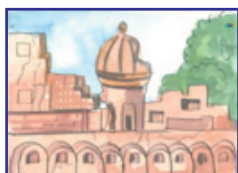
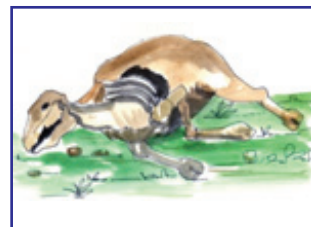
Do you know

1. Proper upbringing of the children and maintenance of the parents in their old age were included in the list of Fundamental Duties in the Soviet Constitution of 1977.
2. To educate the children, not to interfere with public welfare, to pay the taxes and the right to work have been included in the Constitution of Japan.



INTEXT QUESTIONS 16.5

1. Which international document on Human Rights was prepared and passed by the United Nations General Assembly?
2. List any four Fundamental Rights which are Human Rights also.
3. Carefully study the following illustrations and identify and list one Fundamental Duty for each illustration which can be associated with or are related to it.



Illustrations to be included: (a) Leafless trees, fallen trees, dead animals etc. (b) Some ruined monuments (c) Marchers in a procession with placards like Inqulab zinadabad, Bharat Mata Ki Jai, Hindustan Amar Rahey (d) Soldier guarding the border or patrolling on the border (e) a few places of worship representing different religions

4. If you are to take a pledge to abide by four Fundamental Duties on **the** Independence Day, which four duties, according to you are the most important ones and why?

**WHAT HAVE YOU LEARNT?**

- Rights are claims of an individual and these are essential for the development of himself or herself and that are recognized by the society or the State. A duty is something that someone is required to do for any number of reasons, including moral or legal obligations. Rights and duties are interdependent.
- Whereas all the rights are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called Fundamental Rights.
- The Constitution guarantees six Fundamental Rights to Indian citizens 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. While these Fundamental Rights are universal, the Constitution provides for some exceptions and restrictions.
- The General Assembly of the United Nations adopted several types of Human Rights in 1948 and enshrined them in Universal Declaration of Human Rights. A number of the Human Rights have been given place as Fundamental Rights in the Indian Constitution so that their implementation may become a legal duty of the government. The Human Rights which could not find place under the Fundamental Rights, have been taken care of under Directive Principles of State Policy.
- Ten Fundamental Duties have been added in Part-IV of the Constitution under Art 51A in the year 1976 through the 42nd Constitutional Amendment. Unlike Fundamental Rights which are justiceable, the Fundamental Duties are non-justiceable which means that their violation i.e. non-performance of these duties is non-punishable.

**TERMINAL EXERCISES**

1. Explain the significance of Fundamental Rights in our day to day life. Which fundamental right do you consider the most important in your life and why?
2. Enumerate the six Fundamental Rights granted to us by the Constitution.
3. How far will the Right to Education eradicate illiteracy from India? Explain.
4. Describe the main provisions of the Right to freedom of religion.

**Notes**

MODULE - 3

Democracy at Work



Notes

Fundamental Rights and Fundamental Duties

5. Highlight only three restrictions imposed on the Right to Freedom. In your opinion, are these restrictions justified? Give arguments to support your answer.
6. Do you agree that Human Rights are reflected in the Fundamental Rights of the Indian Constitution?
7. What are the fundamental duties enumerated in the Constitution? Which of these do you consider as your most important duties and why?
8. Read the following statements; identify the correct ones and rewrite the incorrect ones after necessary corrections:
 - (i) A person is not free to change his/her religion without permission from the government.
 - (ii) Every government or government-aided school can impart religious instructions.
 - (iii) Students of institutions managed by private bodies cannot be compelled to take part in religious worships.
 - (iv) As a multi-religious state, India can confer any privilege or favor on any religion.
 - (v) The government can impose taxes for the maintenance of important religious places.
 - (vi) Places of worship can be constructed anywhere even if they obstruct the national development projects.
9. Match the rights in column 'A' with their corresponding duties in column 'B'.

A	B
(a) The constitution gives us the freedom of expression	(a) It is our duty not to deny the use of them to others.
(b) If we have the right to practise the religion of our own choice	(b) It is our duty to obey the rules and maintain discipline.
(c) If we have a right to use a public park, a well or a tank	(c) It is the duty of others not to kill us or injure us.
(d) If we have the right to live.	(d) It is our duty to allow others to practise their religion.
(e) If we have the right to be taught.	(e) It also reminds us and tells us not to hurt the feelings of others.

Project

Survey your neighbourhood or nearby places and identify 3-5 children below the age of 14 who are working in menial jobs as beggar or rag pickers. Try to know

from them the factors which have forced them to reach such a stage. Based on your observations and discussions with your elders or with some NGO, fill-in the following table:

Sl. No.	Name of the Child	Factors that led him/her to difficult situation	Ways in which I can help him/her
1.			
2.			
3.			
4.			
5.			



Notes



ANSWERS TO INTEXT QUESTIONS

16.1

- Rights are defined as claims of an individual that are essential for the development of his or her own self and that are recognized by society or State. A duty is something that someone is expected or required to do. Rights and duties are interdependent. Life can become smoother if rights and duties go hand in hand and become complementary to each other. Rights are what we want others to do for us whereas the duties are those acts which we should perform for others. Thus, a right comes with an obligation to show respect for the rights of others. The obligations that accompany rights are in the form of duties.
- Because the provision for reservation is not a case of discrimination.
 - Because everyone is equal before law and discrimination cannot be made on any basis including the status of a person.
 - Because religion cannot be made the sole basis of employment in any situation.
 - Because the Constitution of India has abolished all the Titles. Mr. Sohan Singh can not use the title of Rai Bahadur.
- (iii) Dalits share the village hand pumps for water with others.

16.2

- (a) Freedom of speech and expression; (b) Freedom to assemble peacefully and without arms; (c) Freedom to form Associations and Unions; (d) Freedom to

**Notes**

move freely throughout the territory of India; (e) Freedom to reside and settle in any part of India; (f) Freedom to practise any profession or to carry on any occupation, trade or business

2.
 - (i) Freedom to move freely throughout the territory of India
 - (ii) Freedom to form Associations and Unions
 - (iii) Freedom to reside and settle in any part of India
 - (iv) Freedom to practise any profession or to carry on any occupation, trade or business
 - (v) Freedom to assemble peacefully and without arms
3. Article 20, Article 21 and Article 22 respectively

16.3

1. Traditionally, the Indian society has been hierarchical that has encouraged exploitation in many forms. Which is why, the Constitution makes provisions against exploitation.
2.
 - (a) *begar*
 - (b) human trafficking
3. Mention the life situations based on your own experiences, like a 10-year boy working in a tea shop.

16.4

1. In Articles 29-30 two major provisions have been made: Protection of interests of minorities; and Right of minorities to establish and administer educational institutions
2. Any minority having a distinct language, script or culture of its own shall have the right to conserve the same.
3. (d) Minority school must admit children belonging to majority community
4. Encroachment or violation of Fundamental Rights in our day to day life is a matter of great concern. Which is why, our Constitution does not permit the legislature and the executive to curb these rights. It provides legal remedies for the protection of our Fundamental Rights. This is called the Right to Constitutional Remedies.

16.5

1. The General Assembly of the United Nations adopted Human Rights in 1948 and preserved them in Universal Declaration of Human Rights
2. Right to Equality, Right to Freedom, Right to Freedom of Religion and Cultural and Educational Rights

**Notes**

3.
 - (a) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
 - (b) to value and preserve the rich heritage of our composite culture
 - (c) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (d) to defend the country and render national service when called upon to do so
 - (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
4.
 - (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (b) to uphold and protect the sovereignty, unity and integrity of India;
 - (c) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
 - (d) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

These duties are focused on the central spirit of the Constitution and the goals that Indian political system tries to achieve.