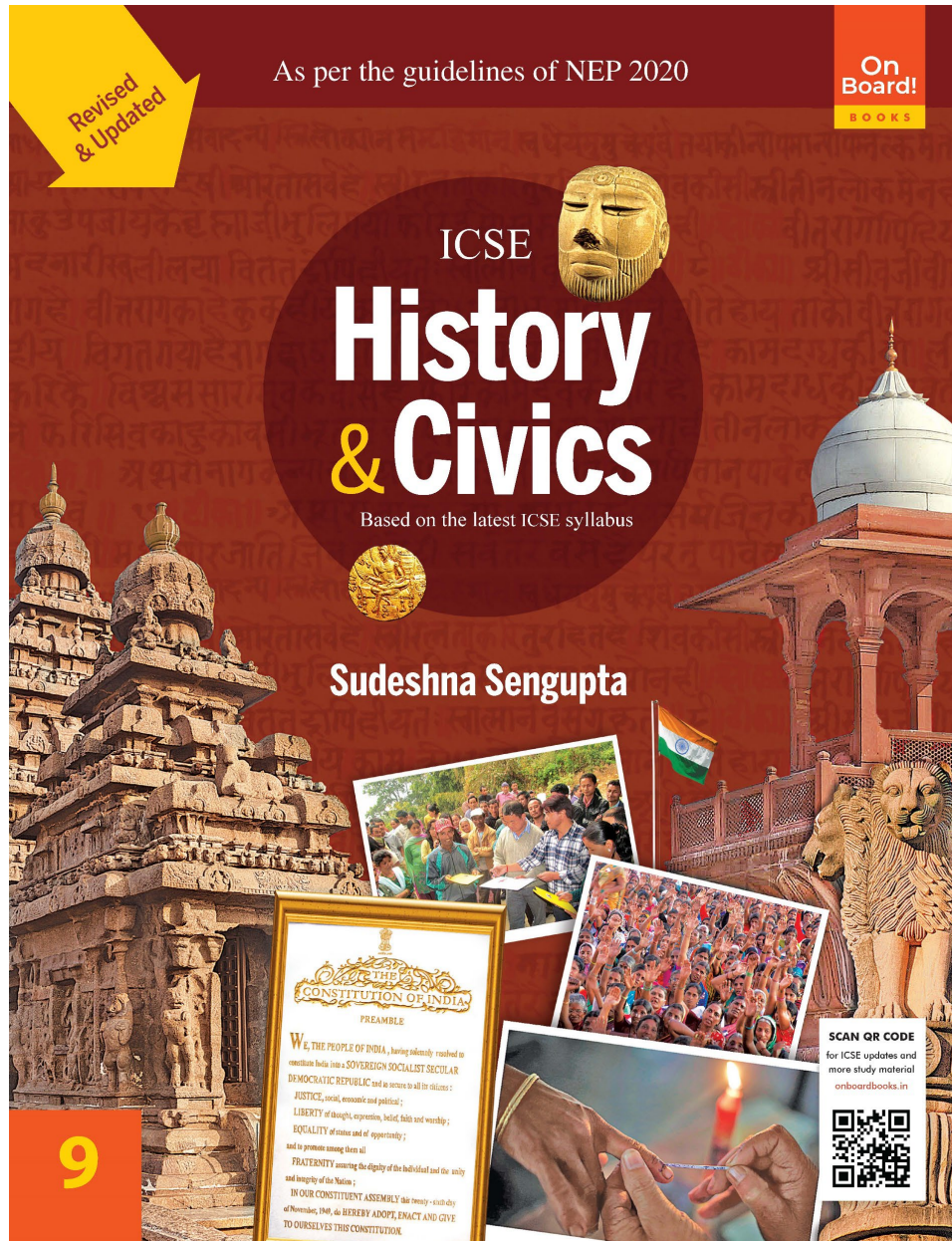


On Board!

B O O K S

History and Civics 9



Civics 9

Chapter 3: Fundamental Rights and Duties

Inside the Chapter

The meaning of Fundamental Rights

The characteristic features

Classification of the Fundamental Rights

Critical evaluation and significance

FUNDAMENTAL DUTIES

To Remember

Chapter 3: Fundamental Rights and Duties

The Meaning of Fundamental Rights

In a democracy where the ultimate power of governance lies with the people, it is imperative that the well-being of the people is always taken care of. The Fundamental Rights incorporated in our Constitution ensure the common good. The laws dealing with these rights are above the ordinary laws of the land as they check the misuse of power by the executive and legislative wings of the government and are enforceable by courts. Although the Fundamental Rights are not absolute rights, the Constitution guarantees that they cannot be taken away under normal circumstances.

The Characteristic Features

The following are the main characteristics of these rights:

- The Fundamental Rights, by nature, are civil and political rights which safeguard the citizens against any oppression by those in authority. The process of amending these rights is very rigid, which in turn ensures the freedom of the individual in this country.
- The Supreme Court and the High Courts in the country can issue writs to enforce those rights, which have been taken away by either the government or any individual (see Box Right to Constitutional Remedies in the next slide.)
- The Fundamental Rights are universal in nature. All rights are granted to every Indian citizen irrespective of differences in class, creed, colour, sex and religion.

RIGHT TO CONSTITUTIONAL REMEDIES

Article 32: Remedies for enforcement of rights conferred by this Part.

- ◆ The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- ◆ The Supreme Court shall have power to issue directions or orders or writs,... for the enforcement of any of the rights...
- ◆ The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

- The Fundamental Rights are not absolute. In every society the rights enjoyed by individuals have to be balanced with the need of the society to enhance the common good. As the aim of the Constitution is the establishment of a 'welfare state', individual rights at times have to yield to the common good. The Constitution attempts 'to strike a balance between individual liberty and social control'.
- All Fundamental Rights, except the rights conferred by Articles 20 and 21 (protection against conviction for offences and protection of life and personal liberty) remain suspended when a proclamation of Emergency, made by the President under Article 352, is in force.

Classification of the Fundamental Rights

The Constitution itself classifies the Fundamental Rights under these categories: 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.

Right to Equality (Articles 14–18)

Article 14 of the Constitution states, ‘The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.’

Article 15 prohibits discrimination against any citizen in any matter at the disposal of the State on any of the specified grounds, namely, religion, race, caste, sex and place of birth.

Limitations:

- The Parliament may require a candidate to be a resident of the State for particular classes of appointment.
- The State may reserve any post in favour of a citizen of a backward class who, in the opinion of the State, is not adequately represented in the State services.
- Certain offices may be reserved for a particular religious community if the institution belonged to that religious denomination.
- There could be a relaxation in qualifications, age and experience for candidates belonging to the Scheduled Castes and Tribes to give them opportunities for growth.

Article 17 abolishes untouchability and the practice in any form is forbidden. Any case arising out of this is an offence punishable by law.

Article 18 abolishes the practice of the State conferring special titles on individuals. The Act seeks to promote equality among the citizens and to prevent abuse and corruption in public life.

Article 19 guarantees the following six freedoms to all the citizens.

Freedom of speech and expression

- To assemble peacefully without arms
- To form associations or unions
- To move freely throughout the territory of India
- To reside and settle in any part of the territory of India as per professional or personal requirements
- To practice any profession, or to carry on any occupation, trade or business

Article 20 guarantees protection with respect to conviction for offences:

1. 'No person shall be convicted of any offence except for violation of a law in force. . . nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.
3. No person accused of any offence shall be compelled to be a witness against himself.'

Article 21 provides that no person shall be deprived of his life or personal liberty except as per the procedure established by law.

Article 21A states that the State shall provide free and compulsory education to all children of the age of 6–14 years in such manner as the State may, by law, determine.

Article 22 imposes the following restrictions on the powers of the government in the interest of individual liberty when a person is arrested under normal circumstances.

- i. The person shall be informed of the grounds of his detention except those facts, which are considered against public interest to disclose. He shall not be denied the right to consult a lawyer of his choice.
- ii. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within 24 hours of the arrest, except in cases where they have to travel longer to do so.

Right against Exploitation (Articles 23–24): Article 23 prohibits human trafficking and begging and other forms of forced labour and regards them as punishable offences under law.

Article 24 makes a special provision for the protection of children. ‘No child below the age of 14 years, shall be employed to work in any factory or mine or engaged in any other hazardous employment.’ This prohibition is absolute and no exceptions are made to it.

Right to Freedom of Religion (Articles 25–28)

- Article 25 guarantees every citizen the freedom of conscience and the right to profess, practise and preach any religion of his choice as far as it does not go against public order, morality and health.
- Article 26 allows the citizens to establish, administer and maintain institutions for religious and charitable purposes as per the law.
- Article 27 protects the citizens from being compelled to pay taxes for promotion of any particular religion or religious institution.
- Article 28 states that even if religious instructions are imparted in educational institutions recognized by the State, no person attending such an institution can be compelled to receive that religious instruction without consent.

Cultural and Educational Rights (Articles 29–30)

- Article 29 provides that the State shall not impose upon a community any culture other than its own. The minorities have the right to preserve their distinct culture, script and traditions. They will not be denied admission into any educational institution maintained or aided by the State.
- Article 30 gives the minorities the right to establish and administer educational institutions of their choice.

Right to Constitutional Remedies (Article 32)

- Article 32 of the Constitution lays down provisions for the enforcement of the Fundamental Rights.

Right to Property (Articles 19 and 31)

The Constitution in its original form provided for the Right to Property to all citizens. Article 19 gave the citizens the right to acquire, hold and dispose of property, while Article 31 provided that no person shall be deprived of his property, except by a legal authority.

Critical Evaluation and Significance

Part III of the Constitution that deals with the Fundamental Rights forms an extremely vital section of the Indian Constitution. It provides the balance between the supremacy of the Constitution and the sovereignty of the Legislature. The individual's rights have been very carefully balanced with the need for State's security. The Fundamental Rights aim at securing not merely political or legal equality but the wider goal of social equality.

There are also certain laws that limit the purview of the Fundamental Rights. The Maintenance of Internal Security Act (MISA), the National Security Act (NSA) and the Preventive Detention Act (PDA) are some of them.

FUNDAMENTAL DUTIES

As is evident from the list of Fundamental Duties, the need for the realization of personal aspirations has been linked to the development of the nation as a whole. Every citizen owes a duty to himself and to the nation. To preserve the rich heritage of one's country and the nature at large is also the intrinsic duty of every citizen. To strive towards excellence in one's chosen field of endeavour does lead to the glory of the nation he belongs to. Here the individual good is coupled with the common good.

FUNDAMENTAL DUTIES

Under Article 51A, it shall be the duty of every citizen of India—

- ◆ To abide by the Constitution and respect the National Flag and the National Anthem.
- ◆ To cherish and follow the noble ideals which inspired our national struggle for freedom.
- ◆ To protect the sovereignty, unity and integrity of India.
- ◆ To defend the country.
- ◆ To promote the spirit of common brotherhood amongst all people of India.
- ◆ To preserve the rich heritage of our composite culture.
- ◆ To protect and improve the natural environment.
- ◆ To develop the scientific temper and spirit of enquiry.
- ◆ To safeguard public property.
- ◆ To strive towards excellence in all spheres of individual and collective activity.

To Remember

The Meaning of Fundamental Rights—In a democracy, the well-being of the people is to be preserved, Rights are above the ordinary laws, enforced by the courts, protect the freedom of every citizen.

The characteristic features—An integral part of the Constitution, they are justiciable, universal in nature, they are not absolute, suspended during a proclamation of Emergency.

Classification of the Fundamental Rights—Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, Right to Constitutional Remedies: Writs (habeas corpus, mandamus, certiorari, prohibition, quo warranto), Right to Property repealed in 1978.

Critical evaluation and significance—A balance between the supremacy of the Constitution and the sovereignty of the Legislature, limitations during Emergency, MISA, NSA, ESMA, etc limit these Rights for public order and security.

Fundamental Rights—Inserted by the 42nd Amendment Act of 1976, every right has a corresponding duty, personal realization and development of the nation.

Thank You