

# Democratic Rights

Rights are the reasonable claims of a person over other fellow beings, the society and the government. The claims should be such that they can be made available to others in an equal measure. Thus, a right comes with an obligation to respect other's rights. When the socially recognised claims (rights) are written into law in a democracy, they are called democratic rights.

## **Life Without Rights**

The importance of rights can be judged by the one whose life has absence of rights. The following three examples state what it means to live in the absence of rights.

## **Prison in Guantanamo Bay**

About 600 people were secretly picked up by the US forces from all over the world and put in a prison in Guantanamo Bay, near Cuba. According to the American Government, they were enemies of the US and linked to the attack on New York on 11th September, 2001. As a result, there was no trial before any magistrate in the US, nor could these prisoners approach courts in their own country.

## **Protest Regarding the Imprisonment**

Amnesty International, an International Human Rights Organisation reported that the prisoners were being tortured in ways that violated the US laws. Despite the provisions of international treaties, prisoners were being denied the treatment.

Many prisoners tried to protest by going on a hunger strike, They were not released even after they were declared not guilty.

Amnesty International An international organisation of volunteers, who campaign for human rights. The organisation brings out independent reports on the violation of human rights all over the world.

## **Citizens' Rights in Saudi Arabia**

Many countries like Saudi Arabia, Yugoslavia denied citizens' rights.

The position of citizens in Saudi Arabia can be understood by the following facts

- The country is ruled over by a hereditary king and the people have no role in electing or changing their rulers.
- The king selects the Legislature as well as the Executive. He appoints the judges and can change any of their decisions.
- Citizens cannot form political parties or any political organisations. Media cannot report anything that the monarch does not like.
- There is no freedom of religion. Every citizen is required to be Muslim. Non-Muslim residents can follow their religion in private, but not in public.
- Women are subjected to many public restrictions. The testimony of one man is considered equal to that of two women.

Note There are many countries in the world where conditions like Saudi Arabia exist.

### **Ethnic Massacre in Kosovo**

In Yugoslavia, Serbs were in majority and Albanians were in minority. A democratically elected Serb leader Slobodan Milosevic wanted to dominate the country. Serbs thought that the Albanians, (the Ethnic Minority Group) should leave the country or accept the dominance of Serbs.

A brutal massacre took place in Kosovo in which thousands of Albanians were killed. Finally, several other countries intervened to stop the massacre. Milosevic lost power and was tried by the International Court of Justice for crimes against humanity.

As a result, Kosovo with the majority population of Albanians declared independence in February 2008.

### **Rights In A Democracy**

In the discussed examples, the victims are the prisoners in Guantanamo Bay, women in Saudi Arabia and Albanians in Kosovo. So, in these positions, everyone would desire a system where security, dignity and fair play are assured.

Everyone wants a system where at least a minimum assurance is guaranteed to all, whether he/she powerful or weak, rich or poor, majority or minority. No one, should be arrested without proper reason and information. If it happens then he/she should have a fair chance to defend themselves. This assurance should not only be on paper. There should be someone to enforce them and to punish those who violate them. This is real spirit behind the rights.

### **Meaning of Rights**

Rights are reasonable claims of persons recognised in society and sanctioned by law. When fellow Citizens or the government do not respect their rights, we call it violation of our rights. In such situations, citizen can approach courts to protect their rights.

### **Need of Rights**

Rights are necessary for the very sustenance of a democracy. In a democracy, every citizen has to have the Right to Vote and the Right to be Elected to government.

Rights protect minorities from the oppression of majority. They ensure that majority cannot do whatever it wishes to do. Rights are like guarantees which can be used when things go wrong. Specially when some citizens may wish to take away the rights of others. In most democracies, the basic rights of the citizen are written down in the Constitution.

'Ethnic minority group An ethnic minority group is a human population whose members usually identify each other on the basis of a common ancestry. People of an ethnic group are united by cultural practices, religious beliefs and historical memories.

## **Rights In The India Constitution**

Some rights which are fundamental to our life are given a special status in Indian Constitution. They are called Fundamental Rights. These are the basic human rights, which are given to every citizen in a democracy for the development of his/her personality. These rights are guaranteed by the Constitution. They promise to secure for all its citizens equality, liberty and justice. Hence, they are an important basic feature of India's Constitution.

**The six [Fundamental Rights](#) recognised by the Constitution are**

1. Right to Equality
2. Right to Freedom
3. Right against Exploitation
4. Right to Freedom of Religion
5. Cultural and Educational Rights
6. Right to Constitutional Remedies

### **1. Right to Equality**

The Constitution says that the government shall not deny the equality before the law or the equal protection of the laws to any person in India. It means that the laws apply in the same manner to all, regardless of a person's status. This is called the rule of law.

Right to Equality is the foundation of any democracy. It means that no person is above the law. The government shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

Every citizen shall have access to public places like shops, restaurants, hotels and cinema halls. Similarly, there shall be no restrictions with regard to the use of wells, tanks, bathing ghats, roads, playgrounds and places of public resorts maintained by government or dedicated to the use of general public.

### **Reservations**

The Government of India has provided reservation for Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). But these reservations are not against the Right to Equality.

Equality does not mean giving everyone the same treatment, no matter what they need. Rather it means giving everyone an equal opportunity to achieve, whatever one is capable of. Sometimes, it is necessary to give special treatment to someone in order to ensure equal opportunity. Thus, the reservations of this kind are not a violation of the Right to Equality.

Untouchability, The principle of non-discrimination extends to social life as well. The Constitution directs the government to put an end to the practice of untouchability. It is the extreme form of social discrimination.

Untouchability does not mean refusal to touch people belonging to certain castes. Rather it refers to any belief or social practice which looks down upon people account of their birth with certain caste labels.

Such practice denies their interaction with others or access to public places as equal citizens. That's why the Constitution made untouchability a punishable offence.

### **Many Forms of Untouchability**

In 1999, P. Sainath wrote a series of news reports in 'The Hindu' newspaper describing untouchability and caste- discrimination that was still being practised against Dalits or persons belonging to Scheduled Castes.

P. Sainath travelled to various parts of the country and found that in many places, Tea stalls kept two kinds of cups, one for Dalits one for others.

- Barbers refused to serve Dalit clients.
- Dalit students were made to sit separately in the classroom and drink water from the separate pitcher.
- Dalit grooms were not allowed, to ride a horse in the wedding procession.
- Dalits were not allowed, to use common handpump or if they did, the handpump was washed to purify it.

## **2. Right to Freedom**

Freedom means the absence of constraint (restrictions). In practical life, it means the absence of, interference in our affairs by others—be it other individuals or the: government. Under the Indian Constitution, all citizens have the right to

- Freedom of speech and expression
- Assembly in a peaceful manner
- Form associations, unions and cooperative societies
- Move freely throughout the country
- Reside in any part of the country
- Practice any profession or to Carry on any occupation, trade or business.

One cannot exercise his freedom in such a manner that violates others' Right to Freedom. A person is free to do everything which injures or harms no one else. Freedom is not an unlimited license to do what one wants. The government can impose certain reasonable restrictions on our freedom in the larger interests of society.

### **Freedom of Speech and Expression**

It is one of the essential features of any democracy. Even if a hundred people think in one way, you should have the freedom to think differently and express your views as you wish. You may express your views through pamphlets, magazines, newspapers, paintings, poetry or songs. However, you cannot use this freedom to stimulate violence against others and excite people to rebel against the government. Neither can we use it to defame others by saying false and mean things that cause damage to a person's reputation?

### **Assembly in a Peaceful Manner/Form Associations**

Citizens have the freedom to hold meetings, processions, rallies and demonstrations on any issue. But such meetings should be peaceful and people participating in these should not carry weapons. Citizens also can form associations to promote their interests.

### **Freedom to Travel/Choice of Occupations**

The citizen have the freedom to travel to any part of the country and are free to reside or settle in any part of the territory of India. This right allows lakhs of people to migrate from villages to towns and from poorer regions of the country to prosperous regions and big Cities.

The same freedom extends to choice of occupations. No one can force you to do or not do a certain job (especially women). Even people from deprived caste cannot be forced to keep their traditional occupations.

### **Personal Liberty**

The Constitution says that no person can be deprived of his life or personal liberty except according to the procedure established by law. It means that no person can be killed unless the court has ordered a death sentence. It also means that a government or police officer cannot arrest or detain any citizen unless he has proper legal justification.

Even when police arrests someone, they have to follow some procedures like.

- A person who is arrested and detained in custody will have to be informed of the reasons for such arrest and detention.
- Such as person shall be produced before the nearest magistrate within a period of 24 hours of arrest.
- Such a person has the right to consult a lawyer or engage a lawyer for his own defence.

### **3. Right Against Exploitation**

Once the Right to Liberty and Equality is granted, it follows that every citizen has a right not to be exploited. Still the Constitution makers thought it is necessary to write down certain clear provisions to prevent exploitation of the weaker sections of the society. The Constitution mentions three specific evils and declares these illegal.

First, the Constitution prohibits 'traffic' in human beings. Traffic here means selling and buying of human beings, usually, women or children, for immoral purposes.

Second, our Constitution also prohibits forced labour or Begar in any form. Begar is a practice where the worker is forced to render service to the master free of charge or at a nominal remuneration. When this practice takes place on a life long basis, it is called the practice of bonded labour.

Finally, the Constitution prohibits child labour. No one can employ a child below the age of 14 to work in any factory or mine or any other hazardous work, such as railways and ports. Using child labour as a basis, many laws have been made to prohibit children from working in industries such as bead making, fire crackers and matches, printing and dyeing, etc.

#### **4. Right to Freedom of Religion**

Every person has a right to profess, practice and propagate the religion he or she believes in. Every religious group or sect is free to manage its religious affairs. Freedom to propagate one's religion, does not mean that a person has right to compel another person to convert into his religion by means of force, fraud, inducement or allurement. However, a person is free to change religion on his or her own will. Freedom to practice religion does not mean that a person can do whatever he wants in the name of religion. For example, one cannot sacrifice animals or human beings as offerings to supernatural forces or Gods.

#### **Secularism**

It is based on the idea that the country is concerned only with relations among human beings. India is a secular state. A secular state is one that does not establish any one religion as official religion. In India no privilege or favour is provided to any particular religion.

The government cannot compel any person to pay any tax for the promotion or maintenance of any particular religion or religious institution. There shall be no religious instruction in the government educational institutions. In educational institutions managed by private bodies, no person can be compelled to take part in any religious instruction or to attend any religious worship.

#### **5. Cultural and Educational Rights**

The working of democracy gives power to majority. Thus, it is the language, culture and religion of minorities that need special protection. Otherwise, they may get neglected or undermined under the impact of the language, religion and culture of the majority.

The following cultural and educational rights for minorities are specified by our Constitution

- Any section of citizens with a distinct language or culture have a right to conserve it.
- Admission to any educational institution maintained by the government or receiving government aid cannot be denied to any citizen on the grounds of religion or language.
- All minorities have the right to establish and administer educational institutions of their choice.

#### **6. Right to Constitutional Remedies**

The Fundamental Rights in the Constitution are important because they are enforceable. We have a right to seek the enforcement of these mentioned rights.

This is called the Right to Constitutional Remedies. This right makes other rights effective. When any of the Fundamental Rights are violated, then citizens can directly approach the Supreme Court or the High Court. Both courts have the power to writs (Habeas corpus, Mandamus, prohibition, Quo warranto and Certiorari) for the enforcement of the rights. That's why Dr Ambedkar called the Right to Constitutional Remedies the heart and soul of our Constitution.

### **Right to Property**

The Constitution originally provided for the Right to Property under Articles 19 and 31. But the 44th Amendment Act of 1978 abolished this right from the list of Fundamental Rights. The Amendment made it a legal right under Article 30-A in the Constitution. This right states that no person shall be deprived of his property.

### **Right to Education**

Under Article 21-A, India joined a group of few countries in the world to make education a Fundamental Right of every child. It came into force on 1st April 2010. The Article 21-A says that state shall provide free and compulsory education to all children of the age of six to fourteen years. Thus, this provision makes elementary education a Fundamental Right.

### **Securing The Fundamental Rights**

There can be no law or action that violates the Fundamental Rights. If any act of the Legislature or the Executive takes away or limits any of the Fundamental Rights, it will be invalid. Citizens can challenge such laws in courts which enforce the Fundamental Rights against private individuals and bodies.

Any person can go to court against the violation of the Fundamental Right. If it is of social or public interest, it is called Public Interest Litigation (PIL). Under the PIL, any citizen or group of citizens can approach the Supreme Court or a High Court for the protection of public interest against a particular law or action of the government.

### **National Human Rights Commission (NHRC)**

It is an independent commission established in 1993. The Commission is appointed by the President. The Commission focuses on helping the victims to secure their human rights. These include all the rights granted to the citizens by the Constitution. The Commission also considers the Human Rights mentioned in the UN sponsored international treaties that India has signed. The NHRC makes an independent and credible inquiry into any case of violation of human rights. The Commission presents its findings and recommendations to the government.

### **Expanding Scope Of Rights**

Demands for many new Fundamental Rights have been coming up time to time. Some of these demands have been included under the scope of Fundamental Rights.

For example, Right to Freedom of Press, Right to Education and Right to Information. According to the Right to Education, every child has the right to get elementary education. According to Right to Information, anybody can demand information regarding the functions of a government department or official. Constitution provides many more rights, which may not be Fundamental Rights.: e.g. the-Right to Property, Right to Vote in Election are not Fundamental Rights, but these are Constitutional Rights.

### **Human Rights**

Sometimes, the expansion of rights takes place in human rights. Human rights are universal moral claims that may or may not have been recognised by laws. With the expansion of democracy, all over the world, there is greater pressure on governments to accept these claims. Some international covenants have contributed to the expansion of rights. Thus, the scope of rights has been expanding and new rights are evolving over time. New rights emerge as societies develop or as new Constitutions are made. For example, the Constitution of South Africa guarantees its citizens several kinds of new rights.

### **These are**

- Right to privacy, so that citizens or their home cannot be searched, their phones cannot be tapped, their communication cannot be opened.
- Right to an environment that is not harmful to their health or well being.
- Right to have access to adequate housing.
- Right to have access to health care services, sufficient food and water; no one may be refused emergency medical treatment.

Many people in our country think that the Right to Work, Right to Health, Right to Minimum Livelihood and Right to Privacy should be made as Fundamental Rights in India.

### **International Covenant on Economic, Social and Cultural Rights**

The international covenant recognises many rights that are not directly a part of the Fundamental Rights in the Indian Constitution.

This has not yet become an international treaty. But human right activists all over the world see this as a standard of human rights.

### **These include**

- Right to work i.e. an opportunity to everyone to earn a livelihood by working.
- Right to safe and healthy working conditions, fair wages that can provide a decent standard of living for the workers and their families.
- Right to an adequate standard of living including adequate food, clothing and housing.
- Right to social security and insurance.
- Right to health i.e. medical care during illness, special care for women during childbirth and prevention of epidemics.



- Right to education i.e. free and compulsory primary education, equal access to higher education.

Claim Demand for legal or moral entitlements, a person makes on fellow citizens, society or the government.

Covenant Promise made by individuals, groups or countries to uphold a rule or principle. It is legally binding on the signatories to the agreement or the statement.

## Fundamental Rights and Duties Summary

- Rights are reasonable claims of persons recognised by society and sanctioned by law and rights are necessary for the very sustenance of democracy.
- The importance of rights can easily be judged by the one whose life has an absence of rights, e.g. the prisoners in Guantanamo Bay and the citizen's Rights in Saudi Arabia.
- Everyone, whether he/she is powerful or weak, rich or poor, wants a system where at least a minimum assurance is guaranteed to all.
- Rights are necessary for the very sustenance of democracy.
- Every citizen has to have the Right to Vote and the Right to be Elected to government.
- Some rights are given special status in Indian Constitution which are known as Fundamental Rights.
- There are six Fundamental Rights recognised by the Constitution of India.
- The Right to Equality, means that, the government shall not deny equality before the law to any person in India.
- Reservation has been provided to scheduled castes, scheduled tribes and other backward classes by the Government of India,
- The constitution directs the government to put an end to the practice of untouchability which is the extreme form of social discrimination.
- Right to Freedom means absence of interference in our affairs by others, be it other individuals or the government.
- One cannot exercise freedom in such a manner that violates other's 'Right to freedom'.
- Freedom of Speech and Expression is one of the essential features of any democracy.
- The Constitution provides its citizens the freedom to hold meetings, processions, rallies and demonstrations on any issue.
- The citizen have the freedom to travel to any part of the country and are free to reside in any part of the country.
- The Constitution says that no person can be deprived of his life or personal liberty except according to procedure established by law.
- The Constitution provides Right against Exploitation which prohibits evils like traffic in human beings, begar and child labour.
- Every person has been granted right to profess, practice and propagate the religion he or she believes in.
- Secularism is based on the idea that the country is concerned only with relations among human beings.
- The Constitution of India provides Cultural and Educational Rights.
- Right to Constitutional Remedies provides the right to the citizen to directly approach the Supreme Court or the High Court for the enforcement of the other rights.

- Both courts have the power to writs which are Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari.
- The Right to Property under Article 19 was deleted and made a legal right under Article 30 A their 44th constitutional Amendment act of 1978.
- Article 21A inserted in 2010 provides Right to Education to provide free and compulsory education to all children of the age of six to fourteen years.
- Any person can go to court against the violation of the Fundamental Right. It is known as Public Interest Litigation if the violation is of social or public interest.
- The National Human Rights Commission (NHRC) focusses on helping the victims, to secure their human rights.
- Demands for many new fundamental rights have been coming up time to time.
- Human Rights are universal moral claims that may or may not have been recognised by laws.
- The international covenant recognises many, rights that are not directly a part of the Fundamental Rights in the Indian Constitution.