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**ROLE OF FUNDAMENTAL RIGHTS AND FUNDAMENTAL
DUTIES AS A SHIELD OF PROTECTION**

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ABSTRACT:

Fundamental Rights are very important for the growth of individuals, and this is the reason why they are included in the Constitution. There are six Fundamental Rights for the citizens provide by the Constitution and if violation of any of these rights occur, the citizens have the right to move to court against it. There are eleven Fundamental Duties in the Constitution, every citizen should morally fulfill these duties and be aware of them.

KEYWORDS:

Rights, Fundamental, citizens, remedies, Constitution, Preamble, race, justiciable, guarantees.

INTRODUCTION:

Fundamental Rights and Fundamental Duties has played a very crucial role in inculcating humanity among citizen, and has reduced the number of inhuman activities, has protected the

dignity of many people and also give its citizens a dignified and respectful life. It also provides the people with moral support.

HISTORY:

Fundamental Rights developed when people felt that in this way, they can preserve human dignity and develop the personality of every human being. The Fundamental Rights and duties originate during the time of independence, with the desire to achieve goals of an independent state such as to achieve the values of social welfare and liberty. Historical documents like United States Bill of Rights, England's bill of Rights inspired India to develop such rights.

FUNDAMENTAL RIGHTS:

Rights act as claims which are important for the development and existence of people. So there are a lot of rights but some of the most important rights are enshrined by Constitution and recognized by the State, these rights are called as fundamental rights and has two reasons for it. First, they are written in the constitution and it guarantees them and second, they are very well recognized by courts i.e. Justiciable. Justiciable refers to the approachability to courts, in case of any violation of these rights, for protection. Any law will be declared invalid by the courts if it restricts any of these rights. The Fundamental Rights are provided in the Part III of the Constitution. There are six Fundamental Right as follows:

- 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

As these Fundamental Rights are universal, the Constitution provide for some restrictions and exceptions.

Before an amendment there were originally seven Fundamental Rights, other than the above mentioned six rights there was one more Fundamental Right which was Right to Property. It was removed from the list of Fundamental Rights in 1978 by 44th Constitutional Amendment

the reason being, it created a lot destruction in achieving the goal of equitable distribution of wealth and socialism. But its removal does not mean that now the people do not have the right to dispose, acquire and hold property. All the citizens of India are still free to enjoy this right as it has been removed from the list of Fundamental Rights but is still a legal right.

- 1) **Right to Equality:** It is very important in a society like ours. The purpose of this right is that all the citizens should be treated equally before law. It occupies the space of five provisions in the Indian Constitution i.e., from *Article (14 to 18)*. It protects all the person in India from discrimination on the basis of caste, place of birth, sex, race or religion.
- 2) **Right to Freedom:** It is one of the most cherished desires of every living being either it is human or animal. It is the need and even want of every human being and the constitution fulfils this desire of people by providing this 'Right to Freedom' to all its citizens. This right occupies *articles (19 to 22)* of the Indian Constitution.
- 3) **Right against Exploitation:** Due to the Indian Tradition, there is an hierarchy between people and it has encouraged exploitation in many ways. This is the reason what the Indian Constitution has a provision against exploitation. The citizens of India through this right have been guaranteed the Right against Exploitation, it occupies *Article 23 and 24* of the Indian Constitution. For an example we might have seen small children under the age of 14 working or doing child labour or a poor and illiterate person being forced to do work and not given enough wages for it.
- 4) **Right to Freedom of Religion:** It is one of the objectives of the Preamble i.e. "to secure to all its citizens liberty of belief, faith and worship". India is a multi-religious country where many communities like Hindus, Muslims, Sikhs, Christians and many more religions and communities live together. Hence the Indian Constitution declares India a Secular country, which means that the country does not have its own religion. Also, it allows all its citizens freedom to worship or have faith in any religion but in a manner that it should not interfere others religious beliefs and way of worship. Even the foreigners can enjoy this right. There are four provisions of Right to Freedom in our Constitution i.e., from *Article 25-28*.
- 5) **Cultural and Educational Rights:** India being the largest democracy in the world have various cultures, languages, scripts and religions. Democracy is a rule of the majority but also for a successful working equality of minorities are also important thus the protection culture, religion and language of the minorities are also important to ensure

that minorities may not feel neglected. It occupies article 29 and 30 of the Indian Constitution.

- 6) Right to Constitutional Remedies: Fundamental Rights are like guarantees as they are justiciable. All the individuals have the right to seek help from courts, if any of these rights are violated, so they are enforceable. Due to the violation of our rights in our day-to-day life our Constitution provides us with the remedies for any violation, this is called Right to Constitutional Remedies which is stipulated in Article 32 of the Constitution.

FUNDAMENTAL DUTIES:

After learning about the Fundamental Rights, we have seen that against every right, the society expects something to be done which are also known as Duties. Some of these duties are listed in the Indian Constitution also. The original constitution which was enforced on 26th January, 1950 had no duties mentioned and it was assumed that the people of India would perform their duties willingly. But it did not come out the same as it was expected. Thus, ten Fundamental Duties were added in the IV parts of the Indian Constitution under Article 51-A. It was the 42nd Constitutional amendment, in the year 1976. Fundamental Rights justiciable where as Fundamental Duties are non-justiciable. It says that the non-performance of Fundamental Duties are not punishable but violation of Fundamental Rights are punishable.

There are 10 that are listed in the Constitution:

- 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.*

A new duty is added after the passage of Right to Educational Act, 2009 “A parent or guardian has to provide the education of his child/ward between the age of six to fourteen years”.

Nature of Fundamental Duties: These responsibilities are similar to those of a code of conduct. There is no legal consequence for them because they are unjustifiable. As you'll see, some of these responsibilities are ambiguous. A typical citizen, for example, may not grasp what "composite culture," "rich legacy," "humanism," or "excellence in all fields of individual and communal activities" entail. They will understand the importance of these duties only when these terms are simplified. From time to time, there has been a desire to rewrite the current list, simplify its language, and make it more practical and relevant, as well as to include certain critically needed more realistic obligations. They should be rendered justiciable as much as possible.

IMPORTANCE OF FUNDAMENTAL RIGHTS AND DUTIES AND HOW THEY PROTECT US:

Fundamental Rights are always made to protect us, the dignity of the people and also help people to develop their personality. They weave a predictable pattern into the fundamental foundation of human rights. It imposes negative obligations on the state, rather than allowing the state to impinge on individual liberty in all of its forms. They are absolutely necessary for an individual to achieve his full intellectual, moral, and spiritual potential. The goal of including them in the constitution is to construct a government based on the rule of law rather than on the rule of man. Fundamental Rights safeguard citizens' liberties and freedoms from official intrusion, as well as the creation of authoritarian and totalitarian authority in the country. They are critical for an individual's and the country's overall growth. Individual liberty and democratic principles based on equality of all members of society are protected by the Fundamental Rights. Dr. Ambedkar stated that the legislature's role is not just to provide

fundamental rights but, more crucially, to protect them. As all the citizens have the right to seek the help of courts, in case of any violation of their rights, if any of the Fundamental Rights are violated one can seek remedies against it.

Fundamental duties are meant to act as a continual reminder to all people that, while the constitution grants them certain Fundamental Rights, it also compels them to follow some basic norms of democratic conduct and behaviour, because rights and duties are intertwined. The Fundamental Duties are defined as all citizens' moral responsibility to contribute to the promotion of patriotism and the preservation of India's unity. Individuals and the nation are both affected by the duties outlined in Part IV–A of the Constitution.

CONCLUSION:

When we talk about Fundamental Rights, they play a crucial role in protecting us, till now we get to know that there are six Fundamental Rights earlier there were seven, their names itself signifies their importance and even tell us how they are protecting us and in what terms. In the absence of these rights the Constitution will lose its importance and the existence of human being would be worthless. As everyone have the right to seek the help of courts one must seek the help of court if any of their rights are violated and one must follow and respect their Fundamental Duties in Order to make a Better India.

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