

UNIT-1

1) What is the importance of fundamental rights in Indian constitution and what are the sources of Indian constitution??

Ans)

A right of a citizen may be described as the certain freedoms and privileges accorded to an individual, by the constitution, which enables them to live a life of dignity, respect and to contribute positively in the growth and development of the society and country at large.

Fundamental rights are those rights which are deemed absolutely essential. These are the rights without which the essence of true human development and survival cannot be guaranteed. These rights are deemed so 'fundamental' in their nature, that is, if they are violated (either by any other private citizen or even the government), the affected person can request the highest court of the land to intervene and protect him from discrimination.

The fundamental rights ensured in the Indian 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. (Referred to as the 'heart and soul' of the Indian Constitution. This right guarantees an individual that the highest court of the land will ensure that these fundamental rights will be protected and its interpretation remains valid with the changing norms.)

Fundamental rights thereby ensure a just, equitable, compassionate and orderly society where the growth of the individual is not inhibited by lack of opportunities, oppression or lack of resources. It ensures basic dignity and instills a sense of confidence and brotherhood in the society.

Sources of Indian constitution:

The framers of the Indian Constitution were in a happy position to examine the experience of a variety of constitutions from different parts of the world to select the appropriate rights to be safeguarded as fundamental rights. Out of them, the Bill of Rights of American Constitution, French declaration of Rights of Man and the Irish Constitution of 1935 were most important.

These three were from pre WW-II era. Among those from post WW-II era, these three were from pre WW-II era. Among those from post WW-II era, the Constitution of Japan and Myanmar attracted them most. Then, at the same time, the Universal Declaration of Human Rights was on the final stage of drafting at the United Nations.

Example:

Directive Principles of State Policy	Ireland
Presidential Election	
Nominating the members of Rajya Sabha	
Republic	France
Liberty, Equality, and Fraternity in the Preamble	
Fundamental Duties	Russia
Idea of Social, Economic, and Political Justice in Preamble	
Procedure for amendment	South Africa
Election of Rajya Sabha members	
Emergency powers to be enjoyed by the Union	Germany
Suspension of Fundamental Rights during emergency	
Procedure Established by Law	Japan

2) What is the history of fundamental duties in Indian constitution? Explain about fundamental duties in constitution briefly?

Ans) In 1976, during the course of the internal emergency (1975-77) as the need and necessity of fundamental duties was felt the Congress Party formed the Sardar Swarn Singh Committee to make the recommendations about it.

The Committee, while recommending the incorporation of a separate chapter on Fundamental Duties in the Constitution, emphasized that citizens should become conscious that in addition to the enjoyment of fundamental rights, they also do have certain duties to perform.

However, in the process of enactment of 42nd Amendment the government did not accept all recommendations of the Swarn Singh Committee. The recommendations not accepted by the then government were:

- The parliament may provide for the imposition of such penalty or punishment as may be considered appropriate for any non-compliance with or refusal to observe any of the duties.
- No law imposing such penalty or punishment shall be called in question in any court on the ground of infringement of any Fundamental Rights or on the ground of repugnancy to any other provision of the Constitution of India.
- Duty to pay taxes should be a Fundamental Duty of the citizens.
-

Our parliamentarians finally inserted the fundamental duties through the enactment of 42nd Constitutional Amendment Act in 1976. This amendment incorporated a new part – Part IV A to the Constitution that comprises of only one Article, namely Article 51 A, which specifies a code of ten fundamental duties of the citizens. One more fundamental duty was added in 2002. This was deliberately done on the part of the then parliamentarians, especially the party in the power the Congress party, as our original constitution contained only fundamental rights and not fundamental duties. The then ruling party, declaring the non-inclusion of fundamental duties in the constitution as a historical mistake, made the claim that what the framers of the constitution failed to do was being done then.

Fundamental Duties:

- To oblige with the Indian Constitution and respect the National Anthem and Flag

- To cherish and follow the noble ideas that inspired the national struggle for freedom
- To protect the integrity, sovereignty, and unity of India
- To defend the country and perform national services if and when the country requires
- To promote the spirit of harmony and brotherhood amongst all the people of India and renounce any practices that are derogatory to women
- To cherish and preserve the rich national heritage of our composite culture
- To protect and improve the natural environment including lakes, wildlife, rivers, forests, etc.
- To develop scientific temper, humanism, and spirit of enquiry
- To safeguard all public property
- To strive towards excellence in all genres of individual and collective activities

Fundamental Duties act as a reminder to the citizens that while enjoying their fundamental rights, they must not forget the duties they owe to their country and their society. These duties function as a warning against the anti-social and anti-national activities such as burning the national flag and so on. For most of the citizens these duties are not only a source of inspiration but also promote discipline and commitment among them. The duties instigate a feeling that the citizens are not spectators only but active participants too in the process of fulfillment of national goals.

www.FirstRanker.com

Unit-2

Q1)What are the powers given to supreme court of india in Indian constitution.Explain briefly?

Ans)

The Powers of the Supreme Court:

1.Original Jurisdiction: Cases which come directly to the supreme court are under its original jurisdiction and it settles disputes between Centre and State or Between States, Disputes concerning the election of the president and vice-president and the disputes arising out of the Implementation of Fundamental Rights.

2.Appellate Jurisdiction: It hears appeals against some decisions of the High Courts, the cases concerned to civil, criminal and Constitutional matters.

The Certificate of the High Court is necessary for appeals relating to civil, criminal and Constitutional matters,Such certificates can be granted by the high courts on their own or on the request of the parties,In some criminal cases, the accused can directly appeal to the supreme court in case of death sentence or Imprisonment of more than ten years.

3.Judicial Review:

- The Supreme Court can review any judgment given by itself and also given the power to withdraw the case if it feels an important question of law is involved.
- The Power of Judicial review is to decide the Constitutionality of the acts passed by the Legislatures.

The Objectives and advantages of Judicial review are:

- To Maintain the Constitutional equilibrium between the centre and the states.
- To establish equilibrium between the legislature and the Executive.
- To safeguard the Fundamental Rights of the Citizens.

4.Guardian of Fundamental Rights:

When fundamental rights of citizens are violated either by the government or any individual, it protects the Fundamental rights of Citizens.

5. Guardian of the Constitution:

If the government passes any law against the constitution, the supreme court declares it unconstitutional.

6. Advisory Jurisdiction:

The Supreme Court gives legal advice to the president of India on matters of constitutional or legal importance.

Q2) what are the major differences between loksabha and rajyasabha?

COMPARISON TABLE

LOK SABHA	RAJYA SABHA
The Lok Sabha consists of 552 members which are elected representatives of the people.	The Rajya Sabha consists of 250 members which are elected by the elected representatives of States and Union Territories.
Leader	
The Prime Minister functions as the Leader of the House in the Lok Sabha.	The Vice President of India acts as chairman of the Rajya Sabha.
Duration	
The Lok Sabha operates for 5 years from the	The Rajya Sabha is a permanent body and doesn't have a

LOK SABHA	RAJYA SABHA
date it is appointed and is dissolved after 5 years.	dissolution.
Qualifying Age	
To become a member of Lok Sabha, The qualifying age is 25 years.	To become a member of Rajya Sabha, The qualifying age is 30 years.
Tenure of Members	
The maximum tenure of members of the Lok Sabha is 5 years only.	The maximum tenure of members of the Rajya Sabha is 6 years.
Powers	
The Lok Sabha is having supreme powers in money and financial matters related to the budget.	The Rajya Sabha is having a role in discussing only after the bill is passed in Lok Sabha.
Power of Speaker	
The Speaker of Lok Sabha enjoys wide authority and powers under the Constitution and the Rules.	The Chairperson of the Rajya Sabha also enjoys powers as of speaker of Lok Sabha, anyway, there are some limitations.

Disagreement between the two Houses on various amendments to a Bill is resolved by both the houses meeting in a joint sitting and resolutions are decided by majority vote.

But it also has some exceptions like this provision of joint sitting does not apply to Money Bills and Constitution Amendment Bills. All matters which are related to legislation demands consent and approval from both the houses of the parliament.

www.FirstRanker.com