

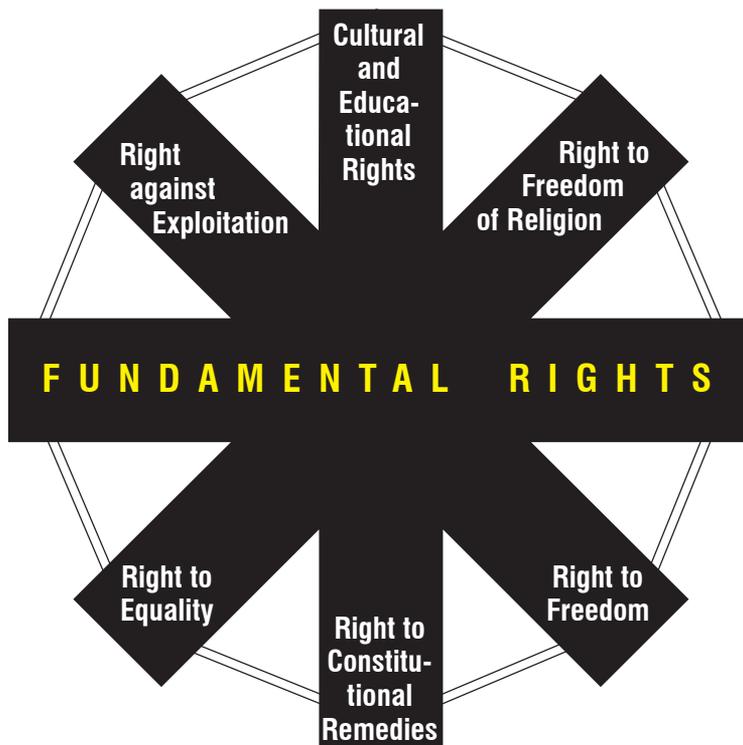
6.3 RIGHTS IN THE INDIAN CONSTITUTION

In India, like most other democracies in the world, these rights are mentioned in the Constitution. Some rights which are fundamental to our life are given a special status. They are called Fundamental Rights. We have already read in Chapter Three the preamble to our Constitution. It talks about securing for all its citizens equality, liberty and justice. Fundamental Rights put this promise into effect. They are an important basic feature of India's Constitution.



Everyone knows that the rich can have better lawyers in the courts. What is the point in talking about equality before law?

You already know our Constitution provides for six Fundamental Rights. Can you recall these? What exactly do these rights mean for an ordinary citizen? Let us look at these one by one.



Right to Equality

The Constitution says that the government shall not deny to any person in India equality before the law or the equal protection of the laws. 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. Rule of law is the foundation of any democracy. It means that no person is above the law. There cannot be any distinction between a political leader, government official and an ordinary citizen.

Every citizen, from the Prime Minister to a small farmer in a remote village, is subjected to the same laws. No person can legally claim any special treatment or privilege just because he or she happens to be an important person. For example, a few years ago a former Prime Minister of the country faced a court case on charges of cheating. The court finally declared that he was not guilty. But as long as the case continued, he had to go to the court, give evidence and file papers, just like any other citizen.

This basic position is further clarified in the Constitution by spelling out some implications of the Right to Equality. 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 restriction 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. This might appear very obvious, but it was necessary to

Let us recall the cases of threat to the most basic of all Guantnamo Bay and Kosovo. The liberties, the protection of victims in both these cases faced a individual life and personal liberty.



Are these cases instances of violation of right to freedom? If yes, which constitutional provision does each of these violate?

- The government of India banned Salman Rushdie's book *Satanic Verses* on the ground that it was disrespectful to Prophet Mohammed and was likely to hurt the feelings of Muslim community.
- Every film has to be approved by the Censor Board of the government before it can be shown to the public. But there is no such restriction if the same story is published in a book or a magazine.
- The government is considering a proposal that there will be industrial zones or sectors of economy where workers will not be allowed to form unions or go on strike.
- City administration has imposed a ban on use of public microphones after 10 p.m. in view of the approaching secondary school examinations.

Right against Exploitation

Once the right to liberty and equality is granted, it follows that every citizen has a right not to be exploited. Yet the Constitution makers thought it was 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, 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 also prohibits child labour. No one can employ a child below the age of fourteen to work in any factory or mine or in any other hazardous work, such as railways and ports. Using this as a basis many laws have been made to prohibit children from working in industries such as beedi making, firecrackers and matches, printing and dyeing.



On the basis of these news reports write a letter to the editor or a petition to a court highlighting the violation of right against exploitation:

A petition was filed in the Madras High Court. The petitioner said a large number of children aged between seven and 12 were taken from villages in Salem district and sold at auctions at Olur Nagar in Kerala's Thrissur district. The petitioner requested the courts to order the government to check these facts. (March 2005)

Children, from the age of five, were employed in the iron ore mines in the Hospet, Sandur and the Ikal areas in Karnataka. Children were forced to carry out digging, breaking stones, loading, dumping, transporting and processing of iron ore with no safety equipment, fixed wages and working hours. They handled a high-level of toxic wastes and were exposed to mine dust, which was above the permissible level. The school dropout rate in the region was very high. (May 2005)

The latest annual survey conducted by the National Sample Survey Organisation found that the number of female child labourers was growing both in rural and urban areas. The survey revealed there were 41 female child labourers per thousand worker population in rural areas as against the previous figure of 34 per thousand. The figure for male child had remained at 31. (April 2005)

governments to accept these claims. Some international **covenants** have also contributed to the expansion of

International Covenant on Economic, Social and Cultural Rights

This 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: opportunity to everyone to earn livelihood by working
- right to safe and healthy working conditions, fair wages that can provide decent standard of living for the workers and their families
- right to adequate standard of living including adequate food, clothing and housing
- right to social security and insurance
- right to health: medical care during illness, special care for women during childbirth and prevention of epidemics
- right to education: free and compulsory primary education, equal access to higher education.

rights.

Thus the scope of rights has been expanding and new rights are evolving over time. They are result of struggle of the people. New rights emerge as societies develop or as new constitutions are made. The Constitution of South Africa guarantees its citizens several kinds of new rights:

- 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 think that the right to work, right to health, right to minimum livelihood and right to privacy should be made fundamental rights in India as well. What do you think?

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

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 statement.

Dalit: A person who belongs to the castes which were considered low and not touchable by others. Dalits are also known by other names such as the Scheduled Castes, Depressed Classes etc.

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

Traffic: Selling and buying of men, women or children for immoral purposes.

Summon: An order issued by a court asking a person to appear before it.

Writ: A formal document containing an order of the court to the government issued only by High Court or the Supreme Court.

