

All-Inclusive GS-2 & GS-3 MAINS 2022

Class-61

Classes 1-60 are repetition of Mains 2021

Rights and Duties

Right is an entitlement हक Duty is an obligation कर्तव्य	<p style="background-color: yellow;">Original Constitution</p> <ul style="list-style-type: none"> → Gave Rights to people (FR) (justiciable rights of people) → Directions to govt (DPSP) (non-justiciable rights of people)
Citizenship is a blend of rights and duties	<p style="background-color: yellow;">42nd amendment during Emergency</p> <ul style="list-style-type: none"> → Gave Duties to people. → Govt pushed the idea that Duties are more important than Rights.
Part-3: FR 1950 Part-4: DPSP 1950 Part-4A: FD 1976	
<p style="background-color: yellow;">Can Rights exist without Duties?</p> <ul style="list-style-type: none"> <input type="checkbox"/> FRs are in Constitution since 1950, FDs were added only in 1976. <input type="checkbox"/> USA, UK don't have FDs for citizens. 	<p style="background-color: yellow;">Rights are claims of citizens against State, because rights are essential for survival.</p>
<p style="background-color: yellow;">Right vs Luxury:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Right is different from luxury: <ul style="list-style-type: none"> ▪ Availability of water is right. ▪ 24x7 piped water is luxury. <input type="checkbox"/> People demand rights, not luxuries. 	
<p style="background-color: yellow;">Rights can be:</p> <p>Human rights Right to life</p> <p>Fundamental rights Right to equality</p> <p>Constitutional rights Right to vote</p> <p>Legal rights Right to Information Act 2005</p> <p> Right to Work (MGNREGA 2005)</p> <p> Right to Food (NFSA 2013)</p>	<p style="background-color: yellow;">Duty can be towards:</p> <p>Humanity help road accident victim</p> <p>Family education to children, geriatric care for parents</p> <p>Society promote harmony and brotherhood</p> <p>Nation protect sovereignty, unity and integrity of India</p>
<p style="background-color: yellow;">Examples for People not performing their duties:</p> <ul style="list-style-type: none"> <input type="checkbox"/> People don't help road accident victims <input type="checkbox"/> Old parents are often expelled from house by their children <input type="checkbox"/> Instead of promoting brotherhood, people forward social media posts that promote hatred. <input type="checkbox"/> Instead of protecting unity of India, politicians give hate speech that creates social divisions. <input type="checkbox"/> Instead of developing scientific temper, people spread pseudo-science (cow dung gives oxygen to patient) <input type="checkbox"/> Instead of protecting heritage, there are campaigns to pull down monuments like Taj Mahal 	
<p style="background-color: yellow;">Should enjoyment of rights be made dependent on performance of duties?</p> <p>Yes, because we can't demand our rights if we don't do our duties</p> <ul style="list-style-type: none"> <input type="checkbox"/> Media has Right to free speech, and also duty to respect people's privacy. <input type="checkbox"/> If it does not respect people's privacy, its right to free speech may be taken away. <p>No, because rights are not dependent on duties.</p> <ul style="list-style-type: none"> <input type="checkbox"/> If media is violating privacy, or spreading fake news, then laws should be used to punish it, for that particular offence. 	
<p style="background-color: yellow;">MK Gandhi:</p> <ul style="list-style-type: none"> ▪ The true source of rights is duty. ▪ Real rights are a result of performance of duty. ▪ If we all discharge our duties, rights will not be far to seek. 	<p style="background-color: yellow;">JF Kennedy (former US Prez):</p> <p>Do not ask what the country can do for you but ask what you can do for the country</p>
<p style="background-color: yellow;">Conclusion:</p> <ul style="list-style-type: none"> <input type="checkbox"/> As per various SC judgements, FR have been given primacy over DPSP and FD. <input type="checkbox"/> Any shift in policy, giving primacy to duties of people, will be a disservice to millions, for whom realisation of even FRs is still a work in progress. 	

Rights are independent of duties: (Rights don't depend on duties)

- Rights come from birth, duties need capability:**
 - Everyone has rights, but only capable people can perform duties
 - Every child has right to education, but every parent is not capable to provide it.
- Rights are precursor to duties**
 - Duties can be performed only after basic rights are given
 - Duty to develop scientific temper can be performed only if one gets education
- Rights are justiciable, duties are not:**
 - People can approach courts to get their rights enforced.
 - Non-fulfillment of duties cannot be the reason for non-enforcement of rights

Some examples that indicate link between rights and duties

Rights	Duty	Interlink
Children have Right to education (Article 21-A)	Parents have Duty to provide education (Article 51-A k)	Poverty does not allow parents to get children educated.
People have Right to vote (Article 326)	Govt has Duty to conduct free & fair elections (Article 324)	If elections are not free & fair, they lead to pseudo-democracy
People have Right to equality (Article 14: Equality before law and equal protection of law)	Govt has Duty to apply law in similar manner to everyone. (Article 14)	When govt applies laws selectively , people lose right to equality

Right to vote (in China):

- **Constitution** gives Right to vote to citizens above **age 18**.
- **Officially**, 9 political **parties exist**.
- **Practically**, only **one party** holds effective power.

If there is no opposition to chose, its not democracy.

Prelims 2021
A legislation which confers on executive or administrative authority an unguided and uncontrolled **discretionary power** in matter of **application of law** violates which of the following Articles?
(a) **Article 14** (b) Article 28
(c) Article 32 (d) Article 44

Article 14
Equality before law
The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Points to ponder:

- What makes a nation strong? Rights of its people, or duties of its people?
- Why do thousands of students migrate to USA and Europe every year, and settle there?
- Because **people** enjoy **rights**! Because **govt** there performs its **duties**!

Frequent protests, through which people demand their Rights, makes India weak. Do you agree?

- People **elect** govt, so that govt can **protect their rights**.
- When People **demand** their rights, govt comes under pressure to **perform**.
- When govt **performs** better, country becomes **stronger**.

Think: why do we elect MP/MLA?
So that our favourite MP/MLA can enjoy luxuries, or so that he can protect our rights?

Remember: Govt/Bureaucrats are given power, not as a reward to enjoy, but as tool to serve

Question:
Who 'needs' Rights the most: The weak or the powerful?
Who 'must' abide by Duties: The weak or the powerful?

Hint:
A sweeper did not notice national flag in garbage. Hence he was fired from his contractual job. What will help him feed his family: rights or duties?

Way forward:

- ❑ **Deliver basic rights to people**, so that they become capable enough to perform their duties.
- ❑ **Implement existing laws impartially**, so that people get motivated to perform their duties.
- ❑ **Address real issues like casteism**, communalism, regionalism which hinders rights of people.
- ❑ **Follow Rule of Law** (class-27) in true spirit, so that rights don't depend on party in power (West vs India)

Remember:

- ❑ **Rights** are claims of citizens against the State
- ❑ **Right to Constitutional remedies** is the **heart and soul** of the Constitution - Dr B.R. Ambedkar
- ❑ The purpose of including **DPSP** in Constitution is to establish **social and economic democracy**.

Food for thought: Govt derives its powers from people, not the other way round.

- ❑ **In dictatorship**
 - **people depend on ruler** for their rights.
- ❑ **In democracy**
 - People have inherent rights, not dependent on anyone's benevolence.
 - **Govt is bound** by the Constitution to protect people's rights.

Remember at least this:

- ❑ Both are important as
 - Constitution mentions both FR and FDs
- ❑ One is not dependent on the other as
 - Constitution does not link FRs and FDs

Example to show inter-relation between FR, FD, DPSP:

86th
Amendment
2002

- | | |
|-------------|---|
| FR | 21A: State to provide free & compulsory education to all children of 6-14 age |
| FD | 51A: To provide education to children of 6-14 years age |
| DPSP | 45: Care & education to all children till 6 years of age |

Some laws to quote:

- ❑ **Good Samaritan** rules notified under Motor Vehicles Act, 1988
- ❑ Maintenance and Welfare of **Parents** and Senior Citizens Act, 2007
- ❑ Prevention of Insults to **National Honour** Act, 1971
- ❑ **Flag** Code of India, 2002
- ❑ SC and ST (Prevention of **Atrocities**) Act, 1989
- ❑ **Dowry** Prohibition Act, 1961
- ❑ IPC section 509: Word, gesture or act intended to insult the **modesty** of woman.

Free Speech

Also see:

Class-28 page-2 Censorship
Class-26 page-10 Sedition

What is free speech?

- Ability to express opinion without fear
- Article 19 of Universal Declaration of Human Rights:
 - Everyone has the right to freedom of opinion and expression
- Article 19(1) (a) of Indian Constitution:
 - All citizens shall have the right to freedom of speech and expression

Differentiate between Free Speech, and its misuse:

- Free speech is about asserting our rights, its not about supressing other's rights
- Free speech is about spreading real news, its not about creating fake news
- Free speech is about expressing our opinion, its not about threatening others for their opinion

Restrictions on free speech:

CONSTITUTION reasonable restrictions under Article 19 (2)

- India's sovereignty, integrity, security
- Friendly relations with foreign states
- Public order, decency, morality
- Defamation, Incitement to offence
- Contempt of Court

LAWS: (from class-55)

- **Section 124A of IPC (Sedition law):** to suppress disaffection against British govt.
- **Section 295A of IPC (Blasphemy law):** against actions that insult religious feelings.
- **Section 499/500 of IPC (Defamation law):** it makes defamation a criminal offence.
- **Official Secrets Act 1923:** discretion to decide what is 'secret document' lies with govt.

Benefits of Free speech:

- Free speech is essential for democracy
 - It allows people to call for change of govt
- Free speech is basis for other rights
 - Freedom of Press, Right to fight elections
- Media can highlight problems in administration
 - mid-day meal benefits not reaching children
 - Aadhaar authentication issues
- People can speak about issues facing their community
 - day-to-day discrimination faced by weaker sections
 - #MeToo movement exposed silent suffering of women

For what purpose do people misuse Free speech: (learn by chronology)

- To spread misinformation through social media:
 - Cow dung releases oxygen to treat Covid
- To spread fake news through social media
 - class-45 page-10
- To create hate on basis on caste, religion, region
 - WhatsApp forwards against Brahmins, Dalits, Muslims, Biharis, etc.
- To promote secessionist tendencies: (create separate country for self, or for others)
 - Demands for Khalistan

If left unchecked, misuse of Free speech can create problems like:

- ❑ **Erode people's faith in govt**
 - As per I&B ministry, Sudarshan TV's "UPSC Jihad" programme showed UPSC in poor light
- ❑ **Impact friendly relations with foreign states**
 - Indian diplomacy faced issues in Middle East after June 2022 hate speech episode
- ❑ **Reinforce social divisions**
 - Some Panchayats openly call for social/economic boycott of Dalits/Muslims
- ❑ **Create Law and order problem**
 - When Hate is left unchecked, it grows into violence/riots



Way forward:

- ❑ **Reasonable restrictions** on free speech must be imposed.
- ❑ **Educate people** about importance of free speech, and consequences for its misuse.
- ❑ **Encourage fact-checking** of free speech that spreads fake news and misinformation.
- ❑ **Punishment for misuse** of free speech should be impartially implemented

Right to Dissent

Dissent: expressing opinion at variance with those officially held.

Right to Dissent: entitlement to disagree; implicit part of free speech u/a 19(1)

Importance of dissent:

- Dissent helps **check abuse of power** by people in power
- **Elections have no meaning** if government can't be criticized

Issues:

- **Arresting dissenters** has chilling effect on free speech (process is punishment).
- **Diversion of investigative agencies** to tackle dissenters, weakens national security.
- **Use of anti-terror tools** like Pegasus, to suppress dissent weakens democracy.

"**I may disagree** with what you say, but **I shall defend** to death, **your right** to say it"

(*The Friends of Voltaire*, by Evelyn Beatrice Hall)

Students are advised to get more points from:
Free speech (class-61)
Censorship (class-28)
Sedition (class-26)

Enforcement of FDs

News: A petition in SC seeks to enforce FDs by law

Steps taken to make people obey FDs:

- Schools:** FDs are part of school curriculum
- Awareness:** In 2020, Dept of Justice launched awareness drive about FDs
- Law:** Certain laws enforce some fundamental duties

THE HINDU

In Supreme Court, AG says no need to enact specific laws to 'enforce' fundamental duties on citizens

Krishnadas Rajagopal

NEW DELHI APRIL 04, 2022 14:23 IST
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Enforceable/Justiciable by courts:

One can move court against their violation

✓ FR ✗ FD, DPSP

Enforceable by law:

Parliament can make law to enforce them

✓ FR, FD, DPSP

Should FDs be enforced by law?

Yes:

- Rights and duties are **corelative**.
 - If people want to enjoy rights, they must perform duties.
- They **strengthen the nation**
 - To protect unity and integrity of India.
- They **protect the environment, which benefits entire humanity**
 - To protect and improve natural environment.
- They **help govt maintain law and order**
 - Duties promote discipline in society.
 - Duties act as warning against anti-social activities.

No:

- Duties need **capability**:
 - poverty violates basic human rights. Expecting poor to perform duties is impractical.
- Duties are **difficult to enforce**:
 - prosecuting someone for not promoting "brotherhood" is difficult
- Law could be **misused**:
 - violation of FDs can be used as excuse to curtail people's rights
- Vague and **ambiguous**:
 - words like "noble ideals" and "humanism" are difficult to define

Ranganath Mishra judgment 2003:

- SC **did not order** that FDs should be enforced by law.
- SC **merely mentioned** that it was brought to the notice of the court that Justice Verma Committee 1998 recommended "FDs should be enforced by legal and social sanctions"

<https://indiankanoon.org/doc/504576/>

Netizen = Net Citizen (Citizen of the Net)
Actively involved in online communities

Digital Citizen

Also see:

- Class-48 pg-05, Right to Internet
- Class-16 pg-02, Presidio Principles

Digital citizen: People who use internet, to engage in society, politics and government

Digital citizenship: People's role in society by use of digital technologies

How to be a good digital citizen:

- Communicate **respectfully** (raise your issues, politely)
- Stand up against **cyberbullying** (of self and others)
- Respect other's **privacy** (don't share pic without consent)
- Respect **IPR** intellectual property rights (because digital content is easy to copy)

What are Digital rights:

- Digital rights are extension of **human rights in digital world**.
- People have **same** rights in **digital** world as in **physical** world.
- e.g. freedom of expression, right to privacy

Should Digital Rights be framed separately? Yes

- **People** become **aware** of their rights.
- **Policymakers** and **companies** get **guidelines** while dealing with new technology e.g. blockchain.



Some basic digital rights and principles:

- **Inclusive:** Everyone should have **access to internet** and digital skills.
- **Law:** What is **illegal** offline should also be illegal online.
- **Rights:** Technology should **protect people's rights**, not inhibit them (Free Speech vs Surveillance/Censorship)
- **Choice:** People should have freedom to choose between different **service providers**
- **Privacy and Data security:** Users should have **control** over their own data
- **Society:** Technology should **unite**, not divide people
- **Sustainability:**
 - People must know the **environmental impact** of energy consumed by their devices
 - Blockchain transactions consume lot of **electricity** (Bitcoin uses > 110 Terawatt Hours/year)
- **Democracy:**
 - Tech must **support** democracy (enable people to voice their concerns)
 - Tech must **not weaken** democracy (Russian interference in 2016 US elections)

Challenges in protecting Digital rights:

- Easy access to technology makes it easy to violate law**
 - a single college student was able to violate privacy of thousands of women through Bulli bai app
- Vastness of internet makes it difficult to monitor illegal content**
 - social media is full of hate content, but taking down all of it is impractical
- Digital divide worsens economic inequalities**
 - People with internet have better access to health, education, jobs
- Digital illiteracy makes people vulnerable to fraud**
 - Lack of safe surfing habits makes people fall prey to phishing, OTP scams, etc

Initiatives:

- **GDPR** General Data Protection Regulation by EU
- **Presidio Principles** by WEF's Global Blockchain Council
- **Christchurch Call** by New Zealand to eliminate online extremist content
- India's National **Cyber Crime Reporting Portal**
- India's National policy on **universal electronic accessibility**

Way forward:

- Clearly lay down digital **rights**
- Establish a dedicated data protection **regulator**
- Increase **international** cooperation with like-minded democracies

Fundamental Rights

Articles 14-18: Right to **equality**
 Articles 19-22: Right to **freedom**
 Articles 23-24: Right against **exploitation**
 Articles 25-28: Right to freedom of **religion**
 Articles 29-30: **Cultural and educational rights**
 Article 32: Right to constitutional **remedies**

Equality before law and equal protection of laws	14	Equality
Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth	15	
Equality of opportunity in matters of public employment	16	
Abolition of untouchability and prohibition of its practice	17	
Abolition of titles except military and academic	18	
Freedom of: (i) speech & expression (ii) assembly (iii) association (iv) movement (v) residence (vi) profession	19	Freedom
Protection in respect of conviction for offences	20	

Freedom	21	Protection of life and personal liberty Right to elementary education (Article 21A)
	22	Protection against arrest and detention in certain cases
Exploitation	23	Prohibition of traffic in human beings and forced labour
	24	Prohibition of employment of children in factories , etc
Religion	25	Freedom of conscience and free profession, practice and propagation of religion
	26	Freedom to manage religious affairs
	27	Freedom from payment of taxes for promotion of any religion
	28	Freedom from attending religious instruction or worship in certain educational institutions
Cult & Edu	29	Protection of language, script, culture of minorities
	30	Right of minorities to establish and administer educational institutions

Fundamental Duties

It shall be the duty of every citizen of India:

- 1) To abide by the **Constitution** and respect its ideals and institutions, the National **Flag** and the 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 so;
- 5) To promote **harmony** and the spirit of common **brotherhood** amongst all the people of India transcending religious, linguistic and regional or sectional diversities; 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 **environment** including forests, lakes, rivers, wildlife and to have compassion for living creatures;
- 8) To develop the **scientific temper**, humanism and the spirit of inquiry and reform;
- 9) To safeguard **public property** and to abjure **violence**;
- 10) To strive towards **excellence** in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
- 11) Who is a parent or guardian, to provide opportunities for **education** to his child, or as the case may be, ward between the age of **six to fourteen years**.

Fundamental duty #11 was added by 86th constitution amendments in 2002

Directive Principles of State Policy

- Constitution divides rights into **justiciable** and **non-justiciable** (as advised by Sir B N Rau)
- Source: **Instrument of Instruction** of 1935 Gol Act and Irish Constitution
- Article 37**: DPSP are **fundamental to governance** and it shall be the duty of the state to apply them in making laws.
- 1971 25th Amendment**:
 - No law for DPSP **article 39 b&c** shall be void for violating FR of articles 14, 19, 31
- 1976 42nd Amendment:
 - extended scope of 25th Amendment to all DPSP
- 1980 Minerva Mills case:
 - extension given by 42nd amendment held unconstitutional by SC.
 - SC also said that absolute primacy of one over other will disturb harmony of Constitution
- Present position is that FR enjoy supremacy over the DPSP. Parliament can amend the FR for implementing DPSP (without damaging basic structure of Constitution)

Features of Fundamental Rights

- ❑ All FRs are available against actions of **State**
 - State is defined in Article 12
 - It includes Govt and all its agencies, even private companies working on behalf of govt
- ❑ Some FRs are also available against actions of **private individuals**
 - 15(2), 17, 23, 24
- ❑ FRs are **not absolute** but qualified
 - State can impose restrictions. Courts can decide if its reasonable.
- ❑ They are **not permanent** or sacrosanct
 - **Parliament** can amend or repeal FRs, but without affecting basic structure
- ❑ Negative and positive in character:
 - Some are negative i.e. they impose **restriction** on State, e.g. 22
 - Some are positive i.e. they give **privileges** to people, e.g. 26
- ❑ **Supreme Court** is defender and guarantor of fundamental rights
 - Under **Article 32**, one can directly move SC
 - To enforce FRs, jurisdiction of SC is **original, but not exclusive**. (concurrent to HC u/a 226)
- ❑ **Article 13**: laws inconsistent with FRs shall be void.
 - Hence, it provides for judicial review. SC has this power u/a 13, and HCs have this power u/a 226
- ❑ Their application to **armed forces** etc. can be restricted by Parliament (**Article 33**)
- ❑ Their application can be restricted during **martial law** (**Article 34**)
- ❑ Some are self-executory, some can be **enforced by law**
 - **Parliament**, not states can make law to enforce FRs (**Article 35**)

Features of Fundamental Duties

- ✓ FDs are **non-justiciable** (Justiciable: One can move court against their violation)
- ✓ FDs are **enforceable by law** (Parliament can make law to enforce them)
- ✓ Our Constitution says nothing about their enforcement.
- ✓ FDs help courts in examining constitutional **validity of law**.
- ✓ FDs apply only to citizens, **not foreigners**.
- ✓ FDs were introduced by Indira Gandhi govt on recommendation of **Swaran Singh** Committee
- ✓ FDs are inspired by **USSR** constitution.
- ✗ Enjoyment of FRs is dependent on fulfilment of FDs

Rights outside part-III:

(aka constitutional rights or legal rights or non-fundamental rights)

- ❑ **265** → No **tax** except by authority of law
- ❑ **300-A** → No person shall be deprived of his **property** save by authority of law
- ❑ **301** → **Trade**, commerce and intercourse throughout the territory of India shall be free

In Conjunction (TH) (25-01-2022)

Context: PM said that India has wasted lot of time fighting for rights and neglecting one's duties

- ❑ Emphasis on duty more than rights was a feature of pre-republican times
 - Think of rights and duties before we became Republic
- ❑ As republic nations evolve, rights of people expand
 - e.g. Right to information, Right to Education, Right to Privacy.
- ❑ In reality, there is **no dichotomy or hierarchy** between the Rights and Duties.
 - Rights and Duties are two sides of same coin. One is meaningless without the other.
- ❑ There is right to **education**, and also a duty to develop **scientific temper**
 - Education without scientific temper is just literacy
- ❑ There is right against **discrimination**, and also a duty to promote **brotherhood**
 - When one person spreads hatred, many people have to suffer discrimination.