



CLASS IX
POLITICAL SCIENCE
CHAPTER 4
CITIZENS' RIGHTS AND DUTIES IN DEMOCRACY

NOTES

To make a government **democratic, elections and institutions** need to be combined with a third element i.e., **enjoyment of rights**. Even the most properly elected rulers working through the established institutional process must learn not to cross some limit. Citizen's democratic rights set many limits in a democracy.

To have an idea what would happen to our lives in the absence of rights, let us read the following case histories.

Case Study I - Prison in Guantanamo Bay:

- The United States forces secretly picked up about 600 people from different countries and put in prison in Guantanamo Bay, an area near Cuba.
- It was under the control of US Navy.
- The American government said that these prisoners were enemies of US and linked to the attack on New York on September 11, 2001.
- Families of the prisoners were not informed of the arrest but they came to know it through media only.
- No one including the UN representatives were allowed to meet the prisoners.
- There was no judicial trial nor could these prisoners approach courts in their own country.
- The Amnesty International, an international human rights organisation got the information and produced condemned reports on the conditions of the prisoners.
- The UN Secretary General said the prison should be closed down while the US Government refused to accept these pleas.
- After criticisms from various sections, the US government agreed to close the prison.

Case Study II - Citizens' Rights in Saudi Arabia:

- The country is ruled by a hereditary king and people have no role in electing or changing the ruler.
- The king selects the legislature as well as the executive. He appoints the judges and can change any of their decision.
- Citizens cannot form political parties or any political organizations.
- Media cannot report anything that the monarch does not like.
- No freedom of religion.
- Women are subjected to many public restrictions.

Case Study III - Ethnic Massacre in Kosovo:

- Kosovo was a province of Yugoslavia before its split.
- In Kosovo, Albanian population was overwhelming. But, in the entire country, Serbs were in majority.
- Milosevic, a narrow minded Serb nationalist won the election and his government was very hostile to ethnic Albanians.
- Thousands of Albanians were tortured and killed in 1999.
- This massacre was being carried out by the army of their own country.
- This was the worst instances of killings based on ethnic prejudices.
- Milosevic lost power and was tried by International Court of Justice for crimes against humanity.
- Recently, Kosovo became an independent country recognised by the US and some other countries.



Conclusions drawn from the above case studies:

- Desire for a system where security, dignity and fair play are assured to everyone.
- No one should be arrested without proper reason and information.
- If someone is arrested, he or she should have a fair chance to defend themselves.

Rights in Democracy:

- According to Harold Laski, "The excellence of a state can be judged by the right it makes available to its citizens."
- In democracy some assurances must be enforced and those who violate these assurances must be punished.
- There should be a system where at least some assurances are guaranteed to everyone---powerful or weak, rich or poor, majority or minority.
- The possession of rights has been regarded as an essential characteristic of citizenship in all ages and times.
- Rights define the position of the individual in a state.

What are Rights?

- Rights are claims of a person over other fellow beings over the society and over the government.
- A right is possible when we make a claim that is equally possible for others.
- A right comes with an obligation to respect other's right.
- Rights are reasonable claims of persons recognised by society and sanctioned by law.

Basic elements of Rights:

- Right is a claim.
- Claim should be just and reasonable.
- Social recognition.
- Rights imply duties.
- Rights change with time and place.

Why are Rights needed in a democracy?

- Rights are necessary for the very existence of democracy.
- Every citizen must have right to elect and the right to be elected to government.
- While participating in political party he must have right to express, to form unions, to strike against the government policy, to criticise etc. which are very much essential in a democratic state.
- The minority should have right to protection from the oppression of the majority
- Rights need to be placed higher than the government otherwise the government may even attack the rights of their own citizen.

Rights in the Indian Constitution:

In democratic countries, fundamental rights are enshrined in the constitution of the state. The Indian constitution provides six fundamental rights.

Right to Equality

The constitution says that the government shall not deny to any person equality before the law or the equal protection of the laws. The government shall not discriminate against any citizen on the grounds of religion, race, colour, status etc.



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Right to Freedom

Freedom means absence of constraints. It means absence of interference in our affairs by others and government. Under the Indian Constitution all citizens have six freedoms.

- i) to freedom of speech and expression.
- ii) to assemble peacefully without arms.
- iii) to form associations and unions.
- iv) to move freely throughout the territory of India.
- v) to reside and settle in any part of India.
- vi) to practise any profession or to carry on any occupation, trade or business.

Right against Exploitation

The constitution mentions three specific evils and declares these illegal.

- i) It prohibits 'traffic' in human beings.
- ii) The constitution prohibits forced labour or beggar in any form.
- iii) The constitution also prohibits child labour.

Right to Freedom of Religion

- i) Every person has a right to profess, practise and propagate the religion he or she believes in.
- ii) Every religious group or sect is free to manage its religious affairs.
- iii) There shall be no religious instructions in the government educational institutions.
- iv) In private bodies no person shall be compelled to take part in any religious instruction.

Cultural and Educational Rights

It includes the following:

- i) Any section of the people of India having its own language, script or culture shall have a right to conserve the same.
- ii) All minorities, whether based on religion or language have the right to establish and administer educational institutions of their choice.
- iii) No citizen shall be denied admission to any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.
- iv) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Right to Constitutional Remedies

- i) Dr. B.R. Ambedkar called the Right to Constitutional Remedies 'the heart and soul' of our constitution.
- ii) The Right to Constitutional Remedies is the right to seek the enforcement of the fundamental rights. This right makes other rights effective.
- iii) In case of any violation of a fundamental right, the aggrieved person can go to a court of law for remedy.



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Public Interest Litigation (PIL)

- When fundamental rights are violated either by the government or private bodies, the aggrieved person can take the help of the courts of law for remedy.
- Public Interest Litigation (PIL) is a means provided to any citizen or a group of citizens to go to any court of law against the violation of the fundamental rights, if it involves public interest.
- One can write to the judges even on a post card. The court will take up the matter if the judges consider it to be in public interest.

National Human Rights Commission (NHRC)

- National Human Rights Commission is an independent body set up by a law in **1993**.
- The commission is appointed by the President of India and includes retired judges, officers and eminent citizens.
- The commission is there to make independent inquiry into any case of violation of human rights.
- Like any court it can summon witness, question any official paper, visit any prison for inspection or send its own team for on the spot inquiry.
- But, the commission cannot by itself punish the guilty.

Critical estimate of the Fundamental Rights

- Although the rights guaranteed by the constitution of India are important, they are difficult to obtain.
- The Right to Equality is not absolute and is subject to certain exceptions such as reservations.
- The Right to Freedom is very much restricted.
- The special rights guaranteed to the minorities also violate the principle of equality.
- No fundamental right to property.
- While a proclamation of Emergency is in operation the fundamental rights can be suspended, including the right to move any court for the enforcement of such rights.

Fundamental Duties

Rights imply duties. Duties are of two kinds- duties towards the society and duties to other individuals. Every individual has a duty i.e. to respect the rights of others. Some of the Fundamental Duties are as follows:

- The citizens of India should obey the Constitution and respect the National Flag and the National Anthem.
- They must protect the Sovereignty, Unity and Integrity of India.
- They must defend the country and render national service when the nation calls upon to do so.
- They must preserve the value of the rich heritage of the composite culture of India.
- To ensure the dignity of women and to protect the varied wild life of the country.

The Judiciary

Judiciary is one of the most important organs of the government. An independent and powerful judiciary is considered essential for democracy.

- All the courts at different levels in a country put together are called the Judiciary.
- The Indian Judiciary consists of a Supreme Court for the entire nation, High Courts for the states, District Courts and the Local Courts at the local level.
- In India, the Supreme Court is the highest court of appeal in civil and criminal cases.



- India has an integrated judiciary which means the Supreme Court controls the judiciary administration in the country.
- The Supreme Court can take up any disputes.
 - a) between citizens of the country.
 - b) between citizen and government.
 - c) between two or more state governments.
 - d) between Union and any state government.

Independence of Judiciary

Independence of judiciary means that it is not under the control of the legislature or the executive. The judges do not act on the direction of the government or according to the wishes of party in power.

Appointment:

- The judges of the Supreme Court and High Courts are appointed by the President on the advice of the Prime Minister and in consultation with the Chief Justice of the Supreme Court.
- The senior most judge of the Supreme Court is usually appointed the Chief Justice.
- In practice, the senior judges of the Supreme Court select the new judges of the Supreme Court and High Courts.

Tenure: Once appointed a judge of the Supreme Court holds office until he or she attains the age of 65 years.

Removal:

- It is nearly impossible to remove a judge from office.
- A judge can be removed only by an impeachment motion passed separately by two thirds members of the two Houses in Parliament.

Judicial Review

- Judicial review is a special power of the court to review the actions of the government officials.
- The Supreme Court and High Courts have the power to interpret the constitution of the country.
- They can declare invalid any law of the legislature or actions of the executive.

Guardian of the Fundamental Rights

- The Indian Judiciary is the guardian of the fundamental rights.
- Citizens have a right to approach courts of law to seek remedy in case of any violation of their rights.
- The courts intervene to prevent the misuse of the government's power.
- They check malpractices on the part of the public officials.
