

Specialisation Paper-I: Fundamental Rights and Directive Principles

Objectives:

The Indian Constitution envisages to establish egalitarian society by securing fundamental rights in Part III of the Constitution. The concept of welfare state and social justice derive their strength from Part IV of the Constitution. Over the period, through judicial interpretations many un-articulated rights have been added to the bunch of fundamental rights. The status of Fundamental Rights, Directive Principles of State Policy and their interrelationship is studied in detail in this paper.

Course Content:

Unit I

Fundamental Rights - Concept - Nature - Necessity and justification - Definition of State - Other authorities - Enforceability of Fundamental Rights - Judicial Review - Distinctions between pre and post Constitutional laws - Doctrine of eclipse - Doctrine of Severability - Doctrine of waiver - Right to equality - Equality before law and equal protection of laws – Reasonable classification - Absence of arbitrariness - Prohibition against discrimination - Equality of opportunity in Public employment - Concept of protective discrimination - Prohibition of untouchability.

Unit II

Right to Freedom - Freedom of Speech and expression and its territorial Extent - Right to Information - Right to silence - Freedom of Press - Commercial Advertisements - Reasonable restrictions - Freedom to assemble peacefully - to form association and cooperative societies - to move freely throughout the territory of India - to reside and settle in any part of India - to practice any profession or occupation, trade or business – reasonable restrictions - Rights of the accused - *ex post facto laws* - Double jeopardy –right against self Incrimination - right to life and liberty - scope and contents.

Unit III

Protection against arrest and detention - Constitutional validity of Preventive Detention Laws in India - Judicial review of preventive detention laws - Freedom of Religion - Concept of Religion - Freedom of Conscience and right to profess, practice and propagate religion - freedom to manage religious affairs - freedom from payment of tax for promotion of religion - restriction on religious instructions in certain educational institutions - Rights of Minorities -

Right to conserve language, script and culture - Admission to educational institutions - Minorities right to establish and administer educational Institutions.

Unit IV

Right to Property - Constitutional policy before and after the Forty fourth Amendment - Right to Constitutional Remedies – General principles of Writ Jurisdiction under Art. 32 - Concept of *locus standi* - Judicial Activism and Judicial Restraint- Public Interest Litigation – Comparison between Arts. 32 and 226 – Emergency and Fundamental Rights.

Unit V

Directive Principles of State Policy- Nature and Contents - Principles of Governance – Enforcement of directives through judicial interpretation-Importance of Directive Principles of State Policy -Inter relationship between Fundamental Rights and DPSP - Justiceability of Directive Principles of State Policy – Mechanisms for realization of DPSP.

Selected Bibliography

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