

Fundamental Rights and new Social Ordering:

Role	Name	Affiliation
Principal Investigator	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University
Content Reviewer	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University

Description of Module

Items	Description of Module
Subject Name	Law
Paper Name	Social Transformation and Social Engineering
Module Name /Title	Fundamental Rights and new Social Ordering:
Module No.	II

Fundamental Rights and new Social Ordering:

Objective: After reading this module, the learners will have a clear picture of:

- (i) The objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities.

Learning Outcomes:

- (ii) It sets out the Directive principles of State Policy and fundamental right to the governance of the country and spells out a social order in which, Social Justice, economic Justice and political Justice, shall inform all the Institutions of National life.

Introduction:

Social ordering is a new concept which provides the real meaning of life and makes the rule of law dynamic. When Indian Society seeks to meet the challenge of socio-economic inequality by its Legislation and with the assistance of the rule of Law; it seeks to achieve economic Justice without any violent conflict. The Indian constitution is an illustration for social ordering. It sets out the Directive principles of State Policy and fundamental right to the governance of the country and spells out a social order in which, Social Justice, economic and political, shall inform all the Institutions of National life.

Economic Inequality: Social ordering is a new concept which provides the real meaning of life and makes the rule of law dynamic. When Indian Society seeks to meet the challenge of socio-economic inequality by its Legislation and with the assistance of the rule of Law; it seeks to achieve **economic Justice** without any violent conflict.

The Indian constitution is an illustration for social ordering. It sets out the **Directive principles** of State Policy and fundamental right to the governance of the country and spells out a social order in which, Social Justice, economic and political, shall inform all the Institutions of National life.

Objective Social Justice: takes within its sweep the objective of **removing all inequalities** and affording equal opportunities to all citizens in social affairs as well as economic activities. The term "Justice means Justice to the deprived and weaker sections of society bringing an equal order.

Social Ordering under the constitution of India:

The Constitution of India has solemnly promised to all its citizens to give-social justice, economic justice and political; liberty of thought expression, belief, faith and worship; equality of status and of opportunity; and to promote among the all the dignity of the individual and the unity of the nation. The Constitution has attempted for socio-economic justice and of individual liberty and fundamental rights by putting some relevant provisions. Part III of the Constitution confers certain Fundamental Rights on the citizens. The Fundamental Rights (Articles 12 to35) assure individual freedom to the people. They focus mainly on guarantee against State action on interference. Rights are claims that are essential for the existence and development of individuals. In that sense there will a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justiciable. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are provided for social ordering in Part III of the Indian Constitution.

The Constitution guarantees six fundamental rights to Indian citizens as follows:

- (i) Right to equality,
- (ii) Right to Freedom,
- (iii) Right against exploitation,
- (iv) Right to freedom of religion,
- (v) Cultural and educational rights, and
- (vi) Right to constitutional remedies.

Right to Equality

Right to equality is very important in a society like ours. The purpose of this right is to establish the rule of law where all the citizens should be treated equal before the law. It has

five provisions (Articles 14-18) to provide for equality before law or for the protection of law to all the persons in India and also to prohibit discrimination on the grounds of religion, race, caste, sex or place of birth.

Equality before Law (Article 14): The Constitution guarantees that all citizens will be equal before law. It means that everyone will be equally protected by the laws of the country. No person is **above law**. It means that if two persons commit the same crime, both of them will get the same punishment without any discrimination.

No Discrimination on the basis of Religion, Race, Caste, Sex or Place of Birth (Article 15): The State cannot discriminate against a citizen on the basis of religion, race, caste, sex or place of birth. This is necessary to bring about social equality. Every citizen of India has equal access to shops, restaurants, and places of public entertainment or in the use of wells, tanks or roads without any discrimination. However, the State can make special provisions or concessions for women and children.

Equality of Opportunity to all Citizens in matter of Public Employment (Article 16):

The State cannot discriminate against anyone in the matter of public employment. All citizens can apply and become employees of the State. Merits and qualifications will be the basis of employment. However, there are some exceptions to this right. There is a special provision for the reservation of posts for citizens belonging to Scheduled Castes, Scheduled Tribes and Other

Backward Classes (OBCs)

Abolition of Untouchability (Article 17): Practicing untouchability in any form has been made a punishable offence under the law. This provision is an effort to uplift the social status of millions of Indians who had been looked down upon and kept at a distance because of either their caste or the nature of their profession. But, it is really very unfortunate that despite constitutional provisions, this social evil continues even today.

Abolition of Titles (Article 18): All the British titles like Sir (Knighthood) or Rai Bahadur which were given to the British loyalists during the British rule, have been abolished because they created distinctions of artificial nature.

Right to Freedom: freedom is the most cherished desire of every living being. Human beings definitely want and need freedom. You also want to have freedom. The Constitution of India provides Right to Freedom to all its citizens. This Right is stipulated under Articles 19.

Six Freedoms: Article 19 of the Constitution provides for the following six freedoms:

- (a) Freedom of speech and expression
- (b) Freedom to assemble peacefully and without arms
- (c) Freedom to form Associations and Unions
- (d) Freedom to move freely throughout the territory of India
- (e) Freedom to reside and settle in any part of India
- (f) Freedom to practice any profession or to carry on any occupation, trade or business.

The purpose of providing these freedoms is to build and maintain an environment for proper functioning of democracy.

Protection in respect of conviction for offences: Article 20 of the Constitution provides for the protection in respect of conviction for offences. No one can be convicted for an act that was not an offence at the time of its commission, and no one can be given punishment greater than what was provided in the law prevalent at the time of its commission. Also, no one can be prosecuted and punished for the same offence more than once and can be forced to give witness against his or her own self.

Protection of life and personal liberty: As provided in Article 21, no one can be deprived of his or her life or personal liberty except according to the procedure established by law.

Right against Exploitation

You might have seen a small child working in a tea shop or a poor and illiterate person being forced to work in the household of a rich person. Traditionally, the Indian society has been hierarchical that has encouraged exploitation in many forms. Which is why, the Constitution makes provisions against exploitation. The citizens have been guaranteed the right against exploitation through Articles 23 and 24 of the Constitution.

Prohibition of traffic in human beings and forced labour: Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any breach of this provision shall be an offence punishable in accordance with law.

Prohibition of employment of children in factories, etc.: As the Constitution provides, no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. This right aims at eliminating one of the most serious problems, child labour, that India has been facing since ages. Children are assets of the society. It is their basic right to enjoy a happy childhood and get education. But as you also may have observed, in spite of this constitutional provision, the problem of child labour

is still continuing at many places. This malice can be eliminated by creating public opinion against it.

Article 25 to 28 incorporating the right to freedom of religion and Arts. 29 and 30 which protect the rights and interests of minorities.

Right to Constitutional Remedies

Since Fundamental Rights are justiciable, they are just like guarantees. They are enforceable, as every individual has the right to seek the help from courts, if they are violated. It provides legal remedies for the protection of our Fundamental Rights. This is called the Right to Constitutional Remedies stipulated in Article 32. When any of our rights are violated, we can seek justice through courts. We can directly approach the Supreme Court that can issue directions, orders or writs for the enforcement of Fundamental Rights.