



Fundamental Rights in India

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Agenda

- ▶ Definition of Fundamental Rights
- ▶ Fundamental Rights in Detail
- ▶ Right to Equality
- ▶ Right to Freedom
- ▶ Right against Exploitation
- ▶ Right to Freedom of Religion
- ▶ Cultural and Educational Rights
- ▶ Right to Constitutional Remedies
- ▶ Status of Right to Property
- ▶ References

Definition of Fundamental Rights

- ▶ The Fundamental Rights, embodied in Part III of the Constitution, guarantee civil rights to all Indians, and prevent the State from encroaching on individual liberty while simultaneously placing upon it an obligation to protect the citizens' rights from encroachment by society.
- ▶ The purpose of the Fundamental Rights is to preserve individual liberty and democratic principles based on equality of all members of society.
- ▶ They act as limitations on the powers of the legislature and executive.
- ▶ The Fundamental Rights are not absolute and are subject to reasonable restrictions as necessary for the protection of public interest.

Fundamental Rights in Detail

- ▶ Seven fundamental rights were originally provided by the Constitution.
 - ▶ The right to property was removed from Part III of the Constitution by the 44th Amendment in 1978.
1. Right to Equality
 2. Right to Freedom
 3. Right against Exploitation
 4. Right to Freedom of Religion
 5. Cultural and Educational Rights
 6. Right to Constitutional Remedies



Right to Equality

▶ Equality before Law

1. Article 14 guarantees equality before law as well as equal protection of the law to all persons within the territory of India.
2. This includes the equal subjection of all persons to the authority of law, as well as equal treatment of persons in similar circumstances.

▶ Social equality and equal access to public areas

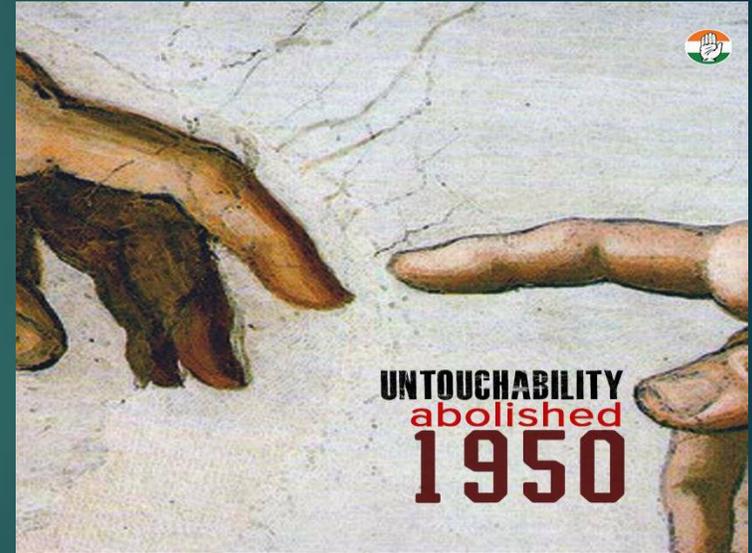
1. Article 15 prohibits discrimination on the grounds only of religion, race, caste, sex, place of birth, or any of them.
2. This right can be enforced against the State as well as private individuals, with regard to free access to places of public entertainment or places of public resort maintained partly or wholly out of State funds.



RIGHT TO EQUALITY BEFORE THE LAW

Right to Equality

- ▶ Equality in matters of public employment
 1. Article 16 guarantees equality of opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or any of them.
- ▶ Abolition of untouchability
 1. The practice of untouchability has been declared an offence punishable by law under Article 17, and the Protection of Civil Rights Act, 1955 has been enacted by the Parliament to further this objective.



Right to Equality

▶ Abolition of titles

1. Article 18 prohibits the State from conferring any titles other than military or academic distinctions, and the citizens of India cannot accept titles from a foreign state.
2. Thus, Indian aristocratic titles and title of nobility conferred by the British have been abolished.
3. However, awards such as the Bharat Ratna have been held to be valid by the Supreme Court on the ground that they are merely decorations and cannot be used by the recipient as a title.

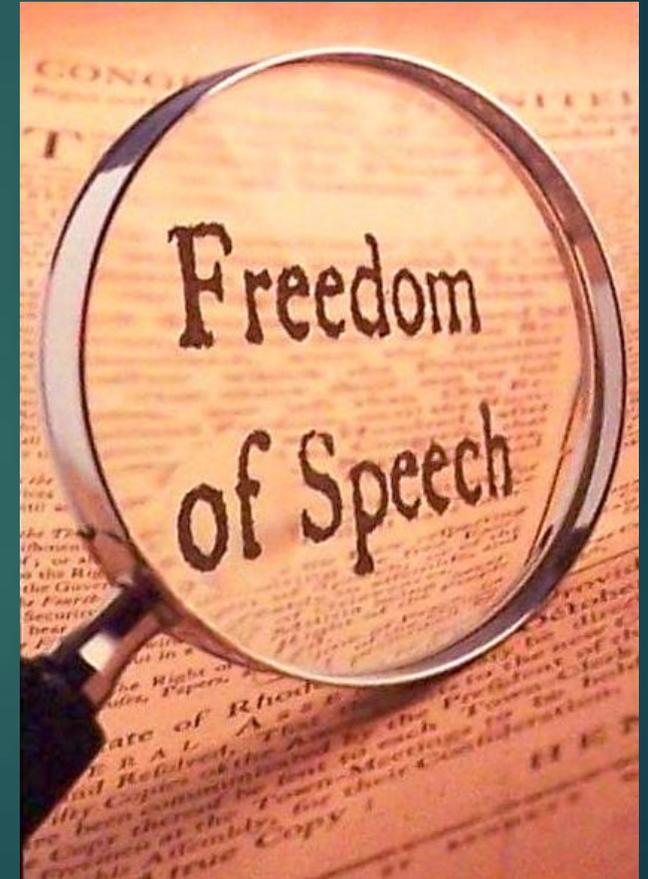
Fundamental Rights

ARTICLE 17,18

Abolition of Untouchability
Abolition of Titles

Right to Freedom -- Article 19

- ▶ Freedom of speech and expression
 1. Enables individual to participate in public activities
 2. Freedom of expression also includes freedom of press.
- ▶ Freedom of assembly without arms
 1. Provisions for assembly of people in groups without arms
 2. However, The State can impose reasonable restrictions in the interest of public order and Integrity of India



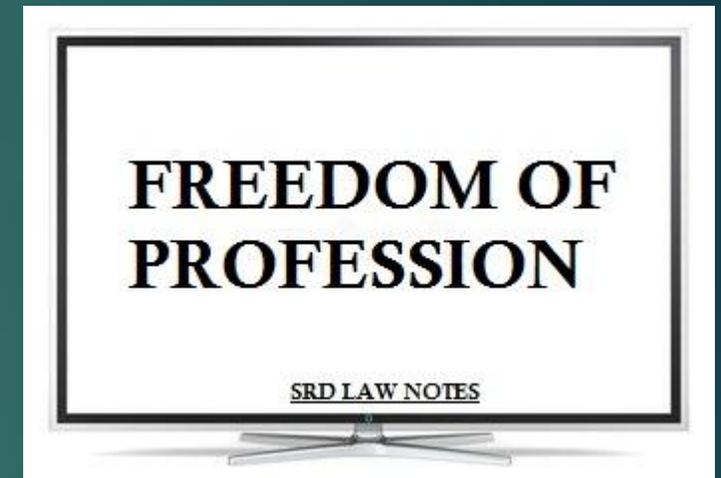
Right to Freedom -- Article 19

- ▶ Freedom of association
 1. The constitution guarantees freedom to form associations or unions.
 2. However, the State can impose reasonable restrictions in the interest of public order and Integrity of India
- ▶ Freedom of movement throughout the territory of our country
 1. The State can impose reasonable restrictions on this right in the interest of general public.
 2. For example, The State can impose restrictions on travel to prevent spreading of Swine Flu.



Right to Freedom -- Article 19

- ▶ Freedom to reside and settle in any part of the country of India
 1. The State can impose reasonable restrictions to protect tribal areas and indigenous people from exploitation.
- ▶ Freedom to practice any profession
 1. The State can impose reasonable restrictions in the interest of public order and Integrity of India
 2. There is no right to carry on a business which is dangerous or immoral



Right to Freedom -- Article 20,21,22

- ▶ Protection in respect of conviction of an Offence
 1. No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
 2. No person shall be prosecuted and punished for the same offence more than once.
 3. No person accused of any offence shall be compelled to be a witness against himself.
- ▶ Procedure established by Law
 1. No person shall be deprived of his life or personal liberty except according to procedure established by law.
- ▶ Protection against arrest and detention in certain cases

Right to Education -- Article 21A

- ▶ The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.
- ▶ The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.
- ▶ Article 21-A and the RTE Act came into effect on 1 April 2010.



Right against Exploitation

- ▶ The Right against Exploitation, contained in Articles 23–24, lays down certain provisions to prevent exploitation of the weaker sections of the society by individuals or the State.
- ▶ Article 23 prohibits human trafficking, making it an offence punishable by law, and also prohibits forced labor or any act of compelling a person to work without wages where he was legally entitled not to work or to receive remuneration for it.



Right against Exploitation

- ▶ Article 24 prohibits the employment of children below the age of 14 years in factories, mines and other hazardous jobs.
- ▶ Parliament has enacted the Child Labor (Prohibition and Regulation) Act, 1986, providing regulations for the abolition of, and penalties for employing, child labor, as well as provisions for rehabilitation of former child laborers



Right to Freedom of Religion

- ▶ The Right to Freedom of Religion, covered in Articles 25–28, provides religious freedom to all citizens and ensures a secular state in India.
- ▶ According to the Constitution, there is no official State religion, and the State is required to treat all religions impartially and neutrally.
- ▶ Article 25 guarantees all persons the freedom of conscience and the right to preach, practice and propagate any religion of their choice.
- ▶ Article 26 guarantees all religious denominations and sects, subject to public order, morality and health, to manage their own affairs in matters of religion, set up institutions of their own for charitable or religious purposes, and own, acquire and manage property in accordance with law.
- ▶ Article 27 guarantees that no person can be compelled to pay taxes for the promotion of any particular religion or religious institution.
- ▶ Article 28 prohibits religious instruction in a wholly State-funded educational institution, and educational institutions receiving aid from the State cannot compel any of their members to receive religious instruction or attend religious worship without their (or their guardian's) consent



Cultural and Educational Rights

- ▶ The Cultural and Educational rights, given in Articles 29 and 30, are measures to protect the rights of cultural, linguistic and religious minorities, by enabling them to conserve their heritage and protecting them against discrimination.
- ▶ Article 29 grants any section of citizens having a distinct language, script culture of its own, the right to conserve and develop the same, and thus safeguards the rights of minorities by preventing the State from imposing any external culture on them.
- ▶ Article 30 confers upon all religious and linguistic minorities the right to set up and administer educational institutions of their choice in order to preserve and develop their own culture.

Right to Constitutional Remedies

- ▶ The Right to Constitutional Remedies empowers citizens to approach the Supreme Court of India to seek enforcement, or protection against infringement, of their Fundamental Rights.
- ▶ The Supreme Court has been empowered to issue writs, namely *habeas corpus*, *mandamus*, *prohibition*, *certiorari* and *quo warranto*, for the enforcement of the Fundamental Rights.
- ▶ Court can also be *suo motu* or on the basis of a public interest litigation.

Status of Right to Property

- ▶ The Constitution (Forty-Fourth Amendment) Act, 1978 demolished the fundamental Right to Property.
- ▶ Before 1978, there were mainly two articles to protect private property, Arts. 19(1) (f) and 31, but they were repealed by constitutional amendments, and thus private property was left defenseless.
- ▶ After 1978, in the area of property, there were only four constitutional provisions i.e. A. 31, 31B, 31C and 300A.
- ▶ The main object of these provisions was to provide immunity to various laws curtailing property rights.

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Thank You