



UNIVERSITY WITH A PURPOSE



UNIT IV

HUMAN RIGHTS IN

INDIA

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CONSTITUTION OF INDIA

- The Constitution of India is federal in nature. It is adopted by the India Constituent Assembly on 26th Nov, 1949 and came into effect on 26th Jan, 1950. Its adoption is celebrated as Republic Day in India every year.
- The Constitution of India is the longest written constitution of any sovereign country in the world. It sets out Fundamental Rights, Directive Principles and the Duties of Citizens.
- It declares India to be a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC, assuring its citizens of justice, equality and liberty, and endeavors to promote fraternity among them.

FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES AND FUNDAMENTAL DUTIES

- These are the sections of the Constitution of India that prescribe the fundamental obligations of the State to its citizens and the duties of the citizens to the State.
- These sections comprise a constitutional bill of rights for government policy-making and the behaviour and conduct of citizens. These sections are considered vital elements of the constitution, which was developed between 1947 and 1949 by the Constituent Assembly of India.

FUNDAMENTAL RIGHTS

- The Fundamental Rights are defined as the basic human rights of all citizens. These rights, defined in Part III of the Constitution irrespective of race, place of birth, religion, caste, creed or sex.
- Fundamental Rights includes:-
 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

- The Right to Equality is one of the chief guarantees of the Constitution of India. Articles 14–18 of Constitution highlights the right to equality.
- It refers to the equality in the eyes of law irrespective of caste, race, religion, place of birth or sex.

ARTICLE 14

- Guarantees equality before law .
- Equal protection of the law to not only citizen of India but also to all the people within the territory of India.

ARTICLE 15

- Article 15 prohibits discrimination on the basis of religion, race, caste, sex, place of birth, or any of them. This right applies only to citizens of India and can be enforced against the State as well as private individuals, regarding free access to places of public entertainment or places of public resort maintained partly or wholly out of State funds.
- The State has the right to make special treatment for women, children and for the development of backward class, scheduled caste or scheduled tribe people.

ARTICLE 16

- Article 16 guarantees equality of opportunity in matters of public employment. It prevents the State from discriminating against anyone in respect of employment on the grounds of religion, race, caste, sex, descent, place of birth or place of residence.

ARTICLE 17

- Article 17 abolishes the practice of untouchability. It has been declared an offence punishable by law. The Protection of Civil Rights Act, 1955 has been enacted by the Parliament which states punishments for not allowing a person to enter the place of worship and from taking water from a well or tank.

ARTICLE 18

- Article 18 prohibits the State from granting any titles other than military or academic distinctions, and even the citizens of India cannot accept titles from a foreign state. Thus, Indian aristocratic titles and titles of nobility given by the British have been abolished.

RIGHT TO FREEDOM

- The Right to Freedom is covered in Articles 19–22, with the view of guaranteeing individual rights. But some of the rights are subject to security of the State, friendly relation with foreign countries, public order, decency or morality and for which certain restrictions may be imposed by the State on individual liberty under specified condition.

ARTICLE 19

It guarantees the citizens of India the following six fundamental freedoms subject to certain restrictions:-

1. Freedom of Speech and Expression
2. Freedom of Assembly
3. Freedom of Form Associations
4. Freedom of Movement
5. Freedom of Residence and Settlement
6. Freedom of Profession, Occupation, Trade and Business

ARTICLE 20

- Article 20 provides protection from conviction for offences in certain respects, including the rights against ex post facto laws, double jeopardy and freedom from self-incrimination.

ARTICLE 21

- Article 21 prevents the encroachment protection of life or personal liberty by the State.
- No person shall be deprived of his life or personal liberty except according to procedure established by law.

ARTICLE 22

- Article 22 provides specific rights to arrested and detained persons, i.e., the rights to be informed of the grounds of arrest, consult a lawyer of one's own choice, be produced before a magistrate within 24 hours of the arrest, and the freedom not to be detained beyond that period without an order of the magistrate.
- Article 22 also provides that when a person is detained under any law of preventive detention, the State can detain such person without trial for only three months, and any detention for a longer period must be authorized by an Advisory Board. The person being detained, has the right to be informed about the grounds of detention, and be permitted to make a representation against it, at the earliest opportunity.

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.
- Child Labour and Begging is prohibited under the Right against Exploitation.

ARTICLE 23

- Article 23 prohibits human trafficking and forced labour 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. Any contravention leads to an offence.

ARTICLE 24

- 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 Labour (Prohibition and Regulation) Act, 1986, providing regulations for the abolition of, and penalties for employing, child labour, as well as provisions for rehabilitation of former child laborers.
- The Employment of Children Act, 1938 was the first act to prevent Child Labour.

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

- Article 25 guarantees all Indian citizens the freedom of conscience and the right to preach, practice and propagate any religion of their choice.

ARTICLE 26

- Article 26 guarantees all religious denominations or any sections, subject to public order, morality and health; to manage their own affairs in matters of religion, set up or manage institutions of their own for charitable or religious purposes, and own, acquire and manage property in accordance with law.

ARTICLE 27

- Article 27 guarantees freedom for payment of taxes.
- No one can be compelled to pay taxes for the promotion or maintenance of any particular religion or religious institution.

ARTICLE 28

- Article 28 prohibits religious instruction in a wholly State-funded educational institution.
- The State cannot compel any of their members to receive religious instruction or attend religious worship without their consent or their guardian's consent in case of minor.

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

- Article 29 grants any section of citizens having a distinct language, script culture of its own, the right to conserve and develop the same.

ARTICLE 30

- Article 30 guarantees the right of minorities to set up and administer educational institutions of their choice in order to preserve and develop their own culture, and prohibits the State, while granting aid, from discriminating against any institution on the basis of the fact that it is administered or managed by a religious or cultural minority.

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. It is covered in Article 32.

ARTICLE 32

- Article 32 provides a guaranteed remedy for enforcement of all the other Fundamental Rights, and the Supreme Court is designated as the protector of these rights by the Constitution.

