



Fundamental rights and duties

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fundamental rights



The core of commitment to social, economic and political transformation lies in **parts III and IV** of the Constitution, *i.e.* in the Fundamental Rights and in the Directive Principles of State Policy. These constitute the conscience of the Constitution.

The Fundamental Rights are divided into **six parts**: the right of equality, the right of freedom, the right against exploitation, the right to freedom of religion, cultural and educational rights, and the right to constitutional remedies.

rights to equality (Article 14-18)



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.

- (i) **Equality before Law:** 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.
- (ii) **No Discrimination on the basis of Religion, Race, Caste, Sex or Place of Birth:** 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, 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.
- (iii) **Equality of Opportunity to all Citizens in matter of Public Employment:** 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)

rights to equality (Article 14-18)



(iv) Abolition of Untouchability: Practising 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. Can you find any difference when you see a nurse cleaning a patient, a mother cleaning her child and a lady cleaning a toilet in the illustration? Why do people consider the cleaning of a toilet in a derogatory manner?

(v) Abolition of Titles: 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. However, the President of India can confer civil and military awards to those who have rendered meritorious service to the nation in different fields. The civil awards such as Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri and the military awards like Veer Chakra, Paramveer Chakra, Ashok Chakra are conferred. These awards are not titles, Educational and military awards can be prefixed with one's name.

rights to freedom (Article 19-22)



Freedom is the most cherished desire of every living being. Human beings definitely want and need freedom. The Constitution of India provides Right to Freedom to all its citizens. This Right is stipulated under **Articles 19-22**. The following are the four categories of Rights to Freedom:

1. 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 practise 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. However, the Constitution has authorized the State to impose certain reasonable restrictions on each of them

rights to freedom (Article 19-22)



2. 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.

3. 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.

4. Protection against arrest and detention in certain cases: It is provided in Article 22 that whenever a person is arrested, he or she should be informed, as soon as it is possible, of the grounds for arrest and should be allowed to consult and to be defended by a legal practitioner of his or her choice. Moreover, the arrested person must be produced before the nearest magistrate within 24 hours of such an arrest excepting a person who has been arrested under preventive detention law. The case of the person arrested under preventive detention law has also to be referred to an Advisory Board within a period of three months of his or her arrest.

right against exploitation



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. These two provisions are:

1. **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.
2. **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 shown in the illustration and 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.

right to freedom of religion



India is a multi-religion country, where Hindus, Muslims, Sikhs, Christians and many other communities live together, the Constitution declares India as a 'secular state'. It means that Indian State has no religion of its own. But it allows full freedom to all the citizens to have faith in any religion and to worship, the way they like. But this should not interfere with the religious beliefs and ways of worship of other fellow beings. This freedom is available to the foreigners as well. In respect of the Right to freedom the Constitution makes the following four provisions under **Articles 25-28**:

1. Freedom of conscience and free profession, practice and propagation of religion: All persons are equally entitled to freedom of conscience and the right to profess, practise and propagate religion freely. However, it does not mean that one can force another person to convert his/her religion by force or allurement. Also, certain inhuman, illegal and superstitious practices have been banned. The State also has the power to regulate any economic, financial, political or other secular activities related to religion. The State can also impose restrictions on this right on the grounds of public order, morality and health.

right to freedom of religion



2. Freedom to manage religious affairs: Subject to public order, morality and health, every religious group or any section thereof shall have the right (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.

3. Freedom as to the payment of taxes for promotion of any particular religion: No person shall be compelled to pay any tax, the proceeds of which are specifically used in payment of expenses the incurred on the promotion or maintenance of any particular religion or religious sect.

4. Freedom as to attendance at religious instruction or religious worship in certain educational institutions: No religious instruction shall be provided in any educational institution wholly maintained out of State funds. However, it will not apply to an educational institution which is administered by the State but has been established under any trust which requires that religious instruction shall be imparted in such an institution. But no person attending such an institution shall be compelled to take part in any religious instruction that may be imparted there or attend any religious worship that may be conducted there. In case of a minor, the consent of his/her guardian is essential for attending such activities.

Cultural and educational rights



India is the largest democracy in the world having diversity of culture, scripts, languages and religions. Therefore, protection of language, culture and religion of the minorities becomes essential so that the minorities may not feel neglected or undermined under the impact of the majority rule. Since people take pride in their own culture and language, a special right known as Cultural and Educational Right has been included in the Chapter on Fundamental Rights. In **Articles 29-30** two major provisions have been made:

1. Protection of interests of minorities: Any minority group having a distinct language, script or culture of its own shall have the right to conserve the same. No citizen shall be denied admission into 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.

2. Right of minorities to establish and administer educational institutions: All Minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice. 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



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. But in reality it is not so. Encroachment or violation of Fundamental Right in our day to day life is a matter of great concern. Which is why, our Constitution does not permit the legislature and the executive to curb these rights. 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.

right to education



The Right to Education is added by introducing a new **Article 21A** in the Chapter on Fundamental Rights in 2002 by the 86th Constitutional Amendment. It was a long standing demand so that all children in the age group of 6-14 years (and their parents) can claim compulsory and free education as a Fundamental Right. It is a major step forward in making the country free of illiteracy. But this addition remained meaningless, as it could not be enforced until 2009 when the Parliament passed the Right to Education Act, 2009. It is this Act which aims at ensuring that every child who is between 6-14 years of age and is out of the school in India, goes to school and receives quality education, that is his/her right.

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Fundamental duties



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.... Fundamental duties

The following ten duties have been listed in the Constitution of India:

1. to abide by the Constitution and respect its ideals and institutions, the National Flag, National Anthem;
2. to cherish and follow the noble ideals which inspired our national struggle for freedom;
3. to uphold and protect the sovereignty, unity and integrity of India;
4. to defend the country and render national service when called upon to do;
5. to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women;



.... Fundamental duties

The following ten duties have been listed in the Constitution of India:

6. to value and preserve the rich heritage of our composite culture;
7. to protect and improve the natural environments including forests, lakes, rivers and wildlife;
8. to develop the scientific temper, humanism and the spirit of inquiry and reform;
9. to safeguard public property and not to use violence; and
10. to serve towards excellence in all spheres of individual and collective activity.

Besides, a new duty has been added after the passage of Right to Education Act, 2009. "A parent or guardian has to provide opportunities for the education of his child/ward between the age of six and fourteen years.



Directive principles of state



The Constitution of India aims to establish not only political democracy but also socioeconomic justice to the people to establish a welfare state. With this purpose in mind, our Constitution lays down desirable principle and guidelines in Part IV. These provisions are known as the Directive Principle of State Policy.

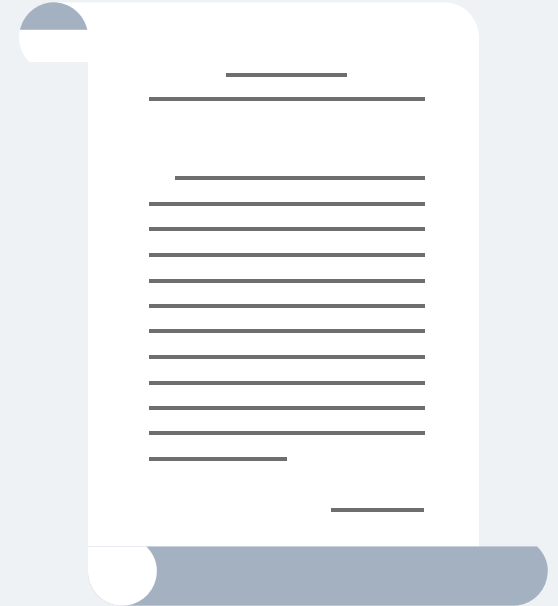




Directive Principles of State Policy are in the form of instructions/guidelines to the governments at the center as well as states. Though these principles are non-justiciable, they are fundamental in the governance of the country. The idea of Directive Principles of State Policy has been taken from the Irish Republic. They were incorporated in our Constitution in order to provide economic justice and to avoid concentration of wealth in the hands of a few people.

Directive Principles of State Policy have been grouped into four categories. These are:

- (1) the economic and social principles,
- (2) the Gandhian principles,
- (3) Principles and Policies relating to international peace and security
- (4) miscellaneous.



•••• The economic and social Principles

The state shall endeavour to achieve Social and Economic welfare of the people by:

- (1) providing adequate means of livelihood for both men and women.
 - (2) reorganizing the economic system in a way to avoid concentration of wealth in few hands.
 - (3) securing equal pay for equal work for both men and women.
 - (4) securing suitable employment and healthy working conditions for men, women and children.
 - (5) guarding the children against exploitation and moral degradation.
 - (6) making effective provisions for securing the right to work, education and public assistance in case of unemployment, old age, sickness and disablement.
 - (7) making provisions for securing just and humane conditions of work and for maternity relief.
 - (8) taking steps to secure the participation of workers in the management of undertakings etc.
 - (9) promoting education and economic interests of working sections of the people especially the SCs and STs.
 - (10) securing for all the workers reasonable leisure and cultural opportunities.
 - (11) making efforts to raise the standard of living and public health.
- providing early childhood care and education to all children until they complete the age of 6 years.

(12)



•••• The Gandhian Principles

There are certain principles, based on the ideals advocated by Mahatma Gandhi. These Principles are as follows :-

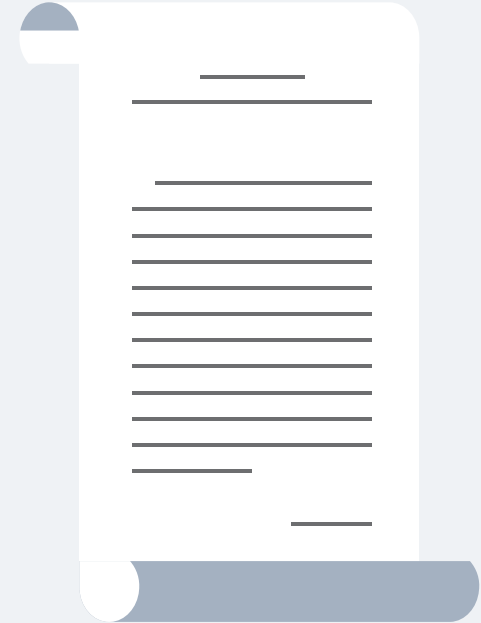
- (1) To organize village Panchayats.
- (2) To promote cottage industries in rural areas.
- (3) To prohibit intoxicating drinks and drugs that are injurious to health.
- (4) To preserve and improve the breeds of the cattle and prohibit slaughter of cows, calves and other milch and drought animals.



•••• International Peace And Security

India should render active cooperation for world peace and security and for that the state shall endeavour to :-

- (1) promote international peace and security.
- (2) maintain just and honourable relations between nations.
- (3) foster respect for international laws and treaty obligations.
- (4) encourage settlements of international disputes by mutual agreement.



••••• miscellaneous

The Directive Principles in this category call upon the state :-

- (1) To secure for all Indians a uniform civil code.
- (2) To protect historical monuments.
- (3) To save environment from pollution and protect wild life.
- (4) To make arrangements for disbursement of free legal justice through suitable legislation.





“Democracy is not merely a form of Government...It is essentially an attitude of respect and reverence towards fellow men.”

-Dr B.R. Ambedkar

