

# Fundamental Rights - Articles 12-35

## (Part III of Indian Constitution)

Articles 12-35 of Indian Constitution deal with Fundamental Rights. These human rights are conferred upon the citizens of India for the Constitution tells that these rights are inviolable. Right to Life, Right to Dignity, Right to Education etc. all come under one of the six main fundamental rights.

Fundamental rights are a very important topic in the polity section of the UPSC exam. It is a basic static portion of the syllabus but it is highly dynamic in the sense that it is featured in the daily news in some form or the other. Hence, it is highly important for the [IAS exam](#).

In this article, you can read all about 6 fundamental rights of India:

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**

The significance and list of fundamental rights for the [UPSC exam](#) are also given in the article.

## What are the Fundamental Rights?

Fundamental rights are the basic human rights enshrined in the [Constitution of India](#) which are guaranteed to all citizens. They are applied without discrimination on the basis of race, religion, gender, etc. Significantly, **fundamental rights are enforceable by the courts**, subject to certain conditions.

## Why are they called Fundamental Rights?

These rights are called fundamental rights because of two reasons:

1. They are enshrined in the Constitution which guarantees them
2. They are justiciable (enforceable by courts). In case of a violation, a person can approach a court of law.

## List of Fundamental Rights

There are six fundamental rights of Indian Constitution along with the constitutional articles related to them are mentioned below:

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to Freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Article 32)

## Why Right to Property is not a Fundamental Right?

There was one more fundamental right in the Constitution, i.e., the right to property.

However, this right was removed from the list of fundamental rights by the [44th Constitutional Amendment](#).

This was because this right proved to be a hindrance towards attaining the goal of socialism and redistributing wealth (property) equitably among the people.

**Note: The right to property is now a legal right and not a fundamental right.**

## Introduction to Six Fundamental Rights (Articles 12 to 35)

Under this section, we list the fundamental rights in India and briefly describe each of them.

### 1. Right to Equality (Articles 14 – 18)

Right to equality guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc. This right also includes the abolition of titles as well as untouchability.

Aspirants can read more about [Right to Equality](#) in the linked article.

### 2. Right to Freedom (Articles 19 – 22)

Freedom is one of the most important ideals cherished by any democratic society. The Indian Constitution guarantees freedom to citizens. The freedom right includes many rights such as:

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practise any profession
- Freedom to reside in any part of the country

Read more on the [Right to Freedom](#) in the linked article.

Some of these rights are subject to certain conditions of state security, public morality and decency and friendly relations with foreign countries. This means that the State has the right to impose reasonable restrictions on them.

Aspirants can find the details on [Right to Life \(Article 21\)](#), in the linked article.

### 3. Right against Exploitation (Articles 23 – 24)

This right implies the prohibition of traffic in human beings, *begar*, and other forms of forced labour. It also implies the prohibition of children in factories, etc. The Constitution prohibits the employment of children under 14 years in hazardous conditions.

Read more on the [Right against Exploitation](#) in the linked article.

### 4. Right to Freedom of Religion (Articles 25 – 28)

This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.

Read more on the [Right to Freedom of Religion](#) in the linked article.

### **5. Cultural and Educational Rights (Articles 29 – 30)**

These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture. Educational rights are for ensuring education for everyone without any discrimination.

Read more on [Cultural and Educational Rights](#) in the linked article.

### **6. Right to Constitutional Remedies (32 – 35)**

The Constitution guarantees remedies if citizens' fundamental rights are violated. The government cannot infringe upon or curb anyone's rights. When these rights are violated, the aggrieved party can approach the courts. Citizens can even go directly to the [Supreme Court](#) which can issue writs for enforcing fundamental rights.

Read more on [Right to Constitutional Remedies \(Article 32\)](#) in the linked article.

All [civil services exam](#) aspirants must go through the features of the Fundamental Rights discussed further below in this article.

## **Features of Fundamental Rights**

- Fundamental rights are different from ordinary legal rights in the manner in which they are enforced. If a legal right is violated, the aggrieved person cannot directly approach the SC bypassing the lower courts. He or she should first approach the lower courts.
- Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).
- Fundamental rights are not absolute rights. They have reasonable restrictions, which means they are subject to the conditions of state security, public morality and decency and friendly relations with foreign countries.
- They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.
- Fundamental rights can be amended by the Parliament by a constitutional amendment but only if the amendment does not alter the [basic structure of the Constitution](#).
- Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.
- The application of fundamental rights can be restricted in an area that has been placed under martial law or military rule.

Also, in the news:

- [Conjugal Rights](#)
- [Right to be Forgotten](#)

## Fundamental Rights Available Only to Citizens

The following is the list of fundamental rights that are available **only to citizens** (and not to foreigners):

1. Prohibition of discrimination on grounds of race, religion, caste, gender or place of birth (Article 15).
2. Equality of opportunity in matters of public employment (Article 16).
3. Protection of freedom of:(Article 19)
  - Speech and expression
  - Association
  - Assembly
  - Movement
  - Residence
  - Profession
4. Protection of the culture, language and script of minorities (Article 29).
5. Right of minorities to establish and administer educational institutions (Article 30).

## Importance of Fundamental Rights

Fundamental rights are very important because they are like the backbone of the country. They are essential for safeguarding the people's interests.

According to Article 13, all laws that are violative of fundamental rights shall be void. Here, there is an express provision for [judicial review](#). The SC and the High Courts can declare any law unconstitutional on the grounds that it is violative of the fundamental rights. Article 13 talks about not just laws, but also ordinances, orders, regulations, notifications, etc.

## Amendability of Fundamental Rights

Any changes to the fundamental rights require a constitutional amendment that should be passed by both the Houses of Parliament. The amendment bill should be passed by a **special majority** of Parliament.

Read about [types of majorities in Indian Parliament](#) in the linked article.

**As per the Constitution, Article 13(2) states that no laws can be made that take away fundamental rights.**

The question is whether a constitutional amendment act can be termed law or not.

In the Sajjan Singh case of 1965, the Supreme Court held that the Parliament can amend any part of the Constitution including fundamental rights.

But in 1967, the SC reversed its stance taken earlier when in the verdict of the Golaknath case, it said that the fundamental rights cannot be amended.

In 1973, a landmark judgement ensued in the **Kesavananda Bharati case**, where the SC held that although no part of the Constitution, including Fundamental Rights, was beyond the

Parliament's amending power, the "basic structure of the Constitution could not be abrogated even by a constitutional amendment."

This is the basis in Indian law in which the judiciary can strike down any amendment passed by Parliament that is in conflict with the basic structure of the Constitution.

In 1981, the Supreme Court reiterated the Basic Structure doctrine.

It also drew a line of demarcation as April 24th, 1973 i.e., the date of the Kesavananda Bharati judgement, and held that it should not be applied retrospectively to reopen the validity of any amendment to the Constitution which took place prior to that date.