

# **Brainware University**



## **DOCUMENTATION ON**

### **Preamble & Fundamental Rights**

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# **Preamble & fundamental rights of India**

## **Introduction**

During the national struggle our leaders indicated that in the constitutional set up in free India people would be granted certain rights. In fact, in the various schemes relating to future constitutional set up, there were references of particular rights that the people of India should be granted. The Commonwealth of India Bill (1925), the Nehru Committee Report (1928), the memorandum of the National Trade Union Federation submitted to the Joint Committee on Indian Constitutional Reforms (1932- 33), the Memorandum submitted by M. Venkatarangaiah to the Sapru Committee and the Sapru Committee Proposals provided for various Fundamental Rights that the people of free India should get. The Constitution which lays down the basic structure of a nation's polity is built on the foundations of certain fundamental values. The vision of our founding fathers and the aims and objectives which they wanted to achieve through the Constitution are contained in the Preamble, the Fundamental Rights and the Directive Principles.

Speaking of the imperatives of social democracy, Dr. Ambedkar said:

"It was, indeed, a way of life, which recognizes liberty, equality and fraternity as the principles of life and which cannot be divorced from each other: Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things."

## **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:

They are enshrined in the Constitution which guarantees them

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:

**Right to Equality (Article 14-18)**

**Right to Freedom (Article 19-22)**

**Right against Exploitation (Article 23-24)**

**Right to Freedom of Religion (Article 25-28)**

**Cultural and Educational Rights (Article 29-30)**

**Right to Constitutional Remedies (Article 32)**

**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.

## **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

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.

## **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.

#### **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.

#### **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.

#### **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.

#### **Features of Fundamental Rights**

1. 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.
2. Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).
3. 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.

4. They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.
5. 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.
6. Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.
7. The application of fundamental rights can be restricted in an area which has been placed under martial law or military rule.