

INTRODUCTION TO INDIAN CONSTITUTION

PART III - FUNDAMENTAL RIGHTS

- Part III of the Indian Constitution, spanning Articles 12 to 35, enshrines the Fundamental Rights, often called the "Magna Carta" of India.
- These rights form the bedrock of civil liberties, ensuring equality, freedom, and justice while being enforceable against the State through courts.

FUNDAMENTAL RIGHTS

- Fundamental Rights in the Indian Constitution are basic human rights guaranteed to all citizens under Part III (Articles 12-35), ensuring civil liberties like equality, freedom, and protection from exploitation.
- They are essential as they safeguard individual dignity, prevent state authoritarianism, and form the foundation of democracy by enabling judicial enforcement.

Core Importance

- They promote equality and social justice by prohibiting discrimination and uplifting weaker sections.
- By checking government overreach, they uphold the rule of law and foster personal growth—intellectual, moral, and spiritual—while strengthening India's secular and democratic fabric.

Role in Democracy

Fundamental Rights ensure citizen participation in governance and protect minorities, preventing majoritarian dominance. Without them, arbitrary state actions could erode freedoms, making them indispensable for a just society.

ARTICLE 12

- Article 12 of the Indian Constitution defines the term "State" for the purposes of Part III (Fundamental Rights), establishing against whom these rights are enforceable. It ensures a broad scope to prevent state instrumentalities from violating civil liberties.

Definition

- Article 12 states: "In this Part, unless the context otherwise requires, 'the State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.
- " This covers Union and State executives/legislatures, local bodies like municipalities, and other entities like public corporations.

Judicial Expansion

- Courts have expansively interpreted "other authorities" via the "instrumentality test" (e.g., *Ajay Hasia* case), assessing government control—financial, functional, administrative—to include bodies like universities or cooperatives.
- This liberal view strengthens Fundamental Rights enforcement through writs under Articles 32 and 226.

ARTICLE 13

Article 13 of the Indian Constitution declares laws inconsistent with or in derogation of Fundamental Rights (Part III) as void, establishing judicial review and constitutional supremacy.

Key Provisions

Article 13(1) voids pre-constitutional laws (before January 26, 1950) only to the extent they conflict with Fundamental Rights, applying prospectively. Article 13(2) prohibits the State from enacting post-constitutional laws that abridge these rights, rendering violative parts void via the doctrine of severability.

Significance

It empowers courts to strike down unconstitutional laws, protecting citizens from arbitrary state action, as affirmed in cases like *Golaknath* (1967) and *Kesavananda Bharati* (1973). This pillar ensures Fundamental Rights' primacy over ordinary legislation.

ARTICLE 14

- Article 14 of the Indian Constitution guarantees the Right to Equality, stating that the State shall not deny any person equality before the law or equal protection of the laws within India.
- It forms the cornerstone of Part III's Fundamental Rights, ensuring no arbitrary discrimination.

Key Concepts

- "Equality before law" (negative concept from British law) means no special privileges, subjecting all—including officials—to ordinary courts.
- "Equal protection of laws" (positive U.S. influence) mandates reasonable classification for equals, prohibiting class legislation while

allowing differential treatment with intelligible differentia and rational nexus to objectives.

Judicial Role

Supreme Court rulings like *E.P. Royappa (1974)* expanded it via the doctrine of non-arbitrariness, striking down unreasonable state actions. This upholds rule of law against caprice.

ARTICLE 15

- Article 15 of the Indian Constitution prohibits discrimination by the State against citizens solely on grounds of religion, race, caste, sex, or place of birth, reinforcing the Right to Equality.
- It extends protection to public access, ensuring no citizen faces restrictions in shops, hotels, wells, or public places maintained by the State.

Key Clauses

Clause (1) bars State discrimination on specified grounds, allowing reasonable classification elsewhere. Clause (2) prevents private discrimination in public facilities; Clauses (3)-(6) enable affirmative action for women, children, SC/ST, backward classes, and economically weaker sections via reservations.

Significance

It combats social inequalities rooted in historical prejudices, promoting inclusivity while balancing equality with equity. Judicial interpretations uphold its role in affirmative action without violating non-discrimination.

ARTICLE 16

- Article 16 of the Indian Constitution guarantees equality of opportunity in matters of public employment under the State, ensuring no citizen faces discrimination based on religion, race, caste, sex, descent, place of birth, or residence.
- It applies exclusively to government jobs and appointments, promoting merit while allowing reservations for underrepresented groups.

Key Provisions

Article 16(1) mandates equal opportunity for all citizens in State employment. Article 16(2) prohibits discrimination on specified grounds, while 16(3)-(6) permits Parliament to enact residence requirements or reservations for backward classes, SC/ST, and economically weaker sections to address historical inequities.

Judicial Interpretation

Courts balance equality with affirmative action, as in *Indra Sawhney (1992)*, upholding 50% reservation ceilings and excluding the "creamy layer." This fosters inclusive public services under Article 12's "State" definition.

ARTICLE 17

- Article 17 of the Indian Constitution abolishes untouchability in any form and forbids its practice, making enforcement of related disabilities a punishable offence.
- As part of the Right to Equality (Articles 14-18), it targets historical caste-based discrimination, extending protection against both state and private actions.

Key Provisions

- It declares untouchability unconstitutional, covering social, economic, or cultural manifestations like exclusion from public spaces or rituals.
- The Protection of Civil Rights Act, 1955, operationalizes this by prescribing penalties, including imprisonment and fines.

Significance

- Article 17 promotes social justice and human dignity for historically oppressed groups, challenging entrenched hierarchies while obligating the State to prevent violations.
- It remains enforceable via courts, reinforcing India's commitment to equality

ARTICLE 18

- Article 18 of the Indian Constitution abolishes titles, prohibiting the State from conferring any titles except military or academic distinctions, to uphold equality and eliminate hereditary privileges.
- It targets colonial-era practices like "Rai Bahadur" or "Maharaja," ensuring no social hierarchy through state honors

Key Clauses

- Clause (1): State cannot grant non-military/academic titles.
- Clause (2): Citizens barred from accepting foreign titles.
- Clauses (3)-(4): Non-citizens in state offices need Presidential consent for foreign titles, gifts, or emoluments.

Significance

It reinforces Article 14's equality by preventing privileged classes, though awards like Bharat Ratna (non-titles per *Balaji Raghavan case*) are upheld. This fosters a democratic ethos free from feudal distinctions.

ARTICLE 19

- Article 19 of the Indian Constitution guarantees six key freedoms to citizens only, forming the core of the Right to Freedom under Part III.
- These include speech and expression, peaceful assembly without arms, forming associations/unions, free movement across India, residence/settlement anywhere in the country, and practicing any profession, occupation, trade, or business.

Reasonable Restrictions

- Freedoms are not absolute; the State can impose reasonable curbs via law on grounds like sovereignty, public order, decency, morality, security, or Scheduled Tribes' interests (clauses 2-6).
- Courts assess "reasonableness" for proportionality, as in landmark cases expanding speech to include press freedom and commercial speech.

Significance

It empowers democratic participation and personal liberty while balancing societal needs, available only to citizens (not foreigners or companies directly). Originally seven freedoms, property right was omitted by the 44th Amendment (1978).

ARTICLE 20

Article 20 of the Indian Constitution provides protections in respect of conviction for offences, safeguarding accused persons from retrospective criminal laws and unfair trials.

Key Safeguards

- Clause (1): Prohibits ex post facto laws—no conviction for acts not criminal at the time of commission, nor harsher penalties than applicable then (applies to conviction/sentence, not trials).
- Clause (2): Bars double jeopardy—no prosecution/punishment for the same offence twice.
- Clause (3): Prevents self-incrimination—no accused compelled to testify against themselves.

Significance

These non-derogable rights (available to citizens/foreigners) ensure fair justice, upholding rule of law against arbitrary state power.

ARTICLE 21

- Article 21 of the Indian Constitution guarantees that no person shall be deprived of their life or personal liberty except according to the procedure established by law.
- Known as the heart of Fundamental Rights, it protects all persons (citizens and foreigners) against arbitrary state action under Article 12's definition of "State."

Judicial Evolution

- Initially narrow (A.K. Gopalan case, 1950), it expanded post-Maneka Gandhi (1978) to require procedures that are just, fair, and reasonable, incorporating due process elements.
- Courts now interpret "life" expansively to include dignity, privacy, clean environment, health, education, and speedy trial.

Significance

- As part of the "Golden Triangle" (with Articles 14 and 19), it cannot be suspended during emergencies (post-44th Amendment).
- This ensures human rights supremacy, enabling Public Interest Litigation for collective enforcement

ARTICLE 22

- Article 22 of the Indian Constitution provides safeguards against arbitrary arrest and detention, balancing individual liberty with state security needs.
- It applies to all persons (citizens and foreigners), offering procedural protections during arrests and regulating preventive detention.

Rights on Arrest

Clauses (1)-(2) mandate informing the arrested person of grounds "as soon as may be," right to consult a lawyer of choice, and production before a magistrate within 24 hours (excluding travel time), barring further detention without judicial order

Preventive Detention Rules

Clauses (4)-(7) limit detention to three months without Advisory Board review, require prompt communication of grounds and representation opportunities (with public interest exceptions), and empower Parliament to set maximum periods/procedures.

ARTICLE 23

- Article 23 of the Indian Constitution prohibits traffic in human beings, begar (forced labor without payment), and other similar forms of forced labor, making violations punishable offenses.
- Part of the Right against Exploitation, it protects all persons (citizens and non-citizens) against both state and private exploitation, targeting practices like slavery and bonded labor.

Key Provisions

Clause (1) bans human trafficking (e.g., prostitution, devadasi system) and forced labor outright. Clause (2) allows the State to impose compulsory public service (e.g., military draft), but without discrimination based on religion, race, caste, or class.

Significance

Enforced via laws like the Bonded Labour System (Abolition) Act, 1976, and Immoral Traffic (Prevention) Act, 1956, it upholds human dignity and social justice

ARTICLE 24

Article 24 of the Indian Constitution prohibits the employment of children below 14 years in factories, mines, or any hazardous employment, safeguarding their health, development, and dignity as part of the Right against Exploitation.

Key Provisions

It targets exploitative child labor in dangerous sectors, making violations enforceable through courts against state and private actors. Supported by laws like the Child Labour (Prohibition and Regulation) Act, 1986 (amended 2016), which bans child work entirely under 14 and hazardous adolescent jobs.

Significance

Linked to Directive Principles (Articles 39(e)-(f)), it promotes child welfare via education (Article 21A) and rehabilitation, as reinforced in cases like *M.C. Mehta v. State of Tamil Nadu* (firecracker industry)

ARTICLE 25

- Article 25 of the Indian Constitution guarantees freedom of conscience and the right to freely profess, practice, and propagate religion to all persons (citizens and non-citizens).
- Subject to public order, morality, health, and other Part III provisions, it allows the State to regulate secular activities associated with religion or enact social welfare reforms.

Key Features

- It includes explanations deeming Sikhs' kirpan-wearing as religious practice and extending "Hindu" to Jains, Buddhists, and Sikhs for temple access.
- Propagation means sharing beliefs but not forced conversion, which courts prohibit as infringing others' freedoms.

Significance

As the cornerstone of India's secularism under Articles 25-28, it balances individual religious liberty with state intervention for equality and public interest, preventing religious dominance.

ARTICLES 26-28

Articles 26-28 of the Indian Constitution form the core of the Right to Freedom of Religion (alongside Article 25), ensuring institutional religious autonomy, non-discrimination in taxation, and educational freedoms while upholding India's secular framework.

Article 26: Religious Denominations' Rights

Subject to public order, morality, and health, every religious denomination or section can establish/maintain religious/charitable institutions, manage religious affairs, own property, and administer it per law. Courts distinguish essential religious practices (protected) from secular ones (regulable), as in *Shirur Mutt case*

Article 27: No Compulsory Religious Taxes

No person can be compelled to pay taxes for promoting any religion, preventing state funding of specific faiths and reinforcing separation of state and religion

Article 28: Educational Institutions

State-maintained/recognized-aided institutions cannot mandate religious instruction, though denominational schools may provide it voluntarily (denied aid if compulsory). This protects minority educational rights under Article 30.

ARTICLE 29

Article 29 of the Indian Constitution protects the cultural and educational interests of minorities, ensuring their distinct identities thrive within India's pluralistic framework.

Clause (1): Cultural Conservation

- Any section of citizens residing in India (or any part thereof) with a distinct language, script, or culture has the right to conserve it, applicable to both minorities and majorities without numerical limits.
- This absolute right promotes diversity, allowing communities to preserve traditions through institutions or practices.

Clause (2): Non-Discrimination in Education

- No citizen shall be denied admission to state-maintained or state-aided educational institutions solely on grounds of religion, race, caste, language, or any combination thereof.
- It safeguards individual access, complementing Article 30's minority institution rights.

Significance

Together with Article 30, it fosters national unity via cultural autonomy, as upheld in cases like *TMA Pai Foundation (2002)*, balancing preservation with reasonable state regulation.

ARTICLE 30

- Article 30 of the Indian Constitution grants religious and linguistic minorities the fundamental right to establish and administer educational institutions of their choice.
- It uniquely empowers minorities to preserve their culture and identity through education, complementing Article 29's protections.

Key Provisions

- Clause (1): Absolute right for minorities (determined state-wise or nationally per judicial tests) to set up and manage schools, colleges, etc., without state interference in core administration.
- Clause (1A): Ensures fair compensation during state acquisition of minority institution property, preventing rights' abrogation.
- Clause (2): Prohibits discrimination in state aid based on minority status.

Judicial Interpretation

- Cases like *TMA Pai Foundation (2002)* affirm autonomy in admissions/staffing for unaided institutions (up to 50% minority preference), while allowing reasonable regulations for standards.
- It balances minority rights with national education policy, excluding professional courses from full exemptions.

ARTICLE 31

- Article 31 of the Indian Constitution originally guaranteed the Right to Property as a Fundamental Right, protecting against deprivation except by authority of law and with compensation for public purposes.
- It was omitted by the 44th Amendment Act, 1978, shifting property rights to constitutional status under Article 300A.

Historical Context

- Under original clauses (1)-(2), no person could lose property without legal procedure, and state acquisition required compensation fixed by law or specified principles.
- Linked to Article 19(1)(f) (also deleted), it faced challenges during land reforms, prompting amendments like the 1st (1951) adding Articles 31A-31C to shield agrarian laws from judicial review under Articles 14/19.

Current Status

Post-1978 deletion, Article 300A mandates deprivation only "by authority of law," enforceable but not justiciable like Fundamental Rights. Courts uphold it alongside Articles 14, 19, and 21 for fairness, rejecting arbitrary seizures while prioritizing social justice like land redistribution

ARTICLE 32

- Article 32 of the Indian Constitution, known as the Right to Constitutional Remedies, empowers citizens to directly approach the Supreme Court for enforcement of Fundamental Rights when violated by the State.
- Dubbed the "heart and soul" of the Constitution by Dr. B.R. Ambedkar, it provides the Supreme Court with original jurisdiction to issue writs like habeas corpus, mandamus, prohibition, certiorari, and quo warranto.

Key Provisions

Clause (1) guarantees the right to move the Supreme Court for rights' protection; Clause (2) authorizes writ issuance; Clause (3) allows Parliament to empower other courts (unused so far); Clause (4) permits suspension only during national emergencies (post-44th Amendment, excluding Articles 20-21).

Significance

- As part of the basic structure (Kesavananda Bharati case), it cannot be amended or abrogated, ensuring Fundamental Rights' justiciability over ordinary laws.
It enables Public Interest Litigation, transforming rights from paper promises to enforceable realities against executive/legislative overreach.

ARTICLES 33-35

Articles 33-35 of the Indian Constitution contain special provisions that qualify or operationalize Fundamental Rights under Part III, prioritizing national security, discipline, and legislative uniformity.

Article 33: Armed Forces Restrictions

Parliament may enact laws restricting or abrogating Fundamental Rights for members of the armed forces, forces maintaining public order (e.g., police, paramilitary), or analogous bodies to ensure discipline and duty performance. Such laws are immune from judicial challenge on rights violation grounds, as seen in the Army Act, 1950.

Article 34: Martial Law Limitations

During martial law in any area, Parliament can indemnify officials or persons for actions taken to restore order, overriding Part III rights and validating sentences or forfeitures under such law. This provision, rarely

invoked, balances emergency necessities with accountability post-restoration.

Article 35: Legislative Power

Parliament holds exclusive authority to legislate on enforcement of rights under Articles 16(3) (residence for employment), 32(3) (other courts' writ powers), 33, and 34, including prescribing punishments for violations. Pre-Constitution laws remain valid unless repealed, ensuring nationwide uniformity without state interference.