

FUNDAMENTAL RIGHTS [Part III (Art. 12–35)]

1. FEATURES OF FUNDAMENTAL RIGHTS

Origin & Inspiration

- Borrowed from the **American Bill of Rights** & the **French Declaration of Rights of Man**.
- Influenced by **Locke, Rousseau, Montesquieu** → focus on liberty & natural rights.

Justiciable

- Enforceable through the **Supreme Court (Art. 32)** and **High Courts (Art. 226)**.
- **Article 13** provides **judicial review** → laws violating FRs are **void**.
- Remedies include **writs**: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo Warranto.

Applicability

- Available to:
 - **Citizens only** → Arts. 15, 16, 19, 29, 30
 - **All persons** → Arts. 14, 20, 21, 22, 23, 24, 25–28

Meaning of “State” (Art. 12)

Includes:

- Central & State Governments
- Parliament & State Legislatures
- Local bodies
- Authorities like statutory, non-statutory, government-controlled bodies

Number of FRs

- Originally **7 rights**
- **44th Amendment (1978)** → Right to Property removed from FRs → now **6 rights**

2. THE SIX FUNDAMENTAL RIGHTS

A. RIGHT TO EQUALITY (Art. 14–18)

Article 14 — Equality before the Law

- Equality before law → **British concept**
- Equal protection of laws → **US concept**
- Basis for: **Rule of law**, natural justice, anti-arbitrariness.

Article 15 — No Discrimination

- No discrimination on **religion, race, caste, sex, or place of birth**.
- Equal access to shops, wells, and public places.
- **Allows special provisions** → women, children, SC/ST, OBC, SEBC, EWS (103rd CAA).

Article 16 — Equality in Public Jobs

- Equal opportunity in state employment.
- Allows **reservations** for backward classes & SC/ST (including reservation in promotion – 16(4A)).

Article 17 — Abolition of Untouchability

- Punishable under the **Protection of Civil Rights Act, 1955**.

Article 18 — Abolition of Titles

- No titles except **military & academic**.

B. RIGHT TO FREEDOM (Art. 19–22)

Article 19 — Six Freedoms (Citizens only)

1. Speech & expression
 2. Assembly
 3. Associations
 4. Movement
 5. Residence
 6. Profession
- Subject to **reasonable restrictions**.

Article 20 — Protection in Criminal Laws

- **No ex-post facto law**
- **No double jeopardy**
- **No self-incrimination**

Article 21 — Life & Personal Liberty

- Cannot be deprived except by a **procedure established by law**.
- Now includes: privacy, clean environment, speedy trial, legal aid, shelter, etc.

Article 21A — Right to Education

- Free & compulsory education (6–14 yrs)
- Via **86th Amendment + RTE Act, 2009**.

Article 22 — Protection from Arrest

- Grounds must be told, right to a lawyer, magistrate within 24 hrs.
- **Not applicable** to enemy aliens, preventive detention.

C. RIGHT AGAINST EXPLOITATION (Art. 23–24)

Article 23

- Prohibits trafficking, begar, and forced labour.

Article 24

- No child <14 years in factories, mines, or hazardous work.
- 2016 Amendment → complete ban for children <14 yrs.

D. RIGHT TO FREEDOM OF RELIGION (Art. 25–28)

Article 25

- Freedom of conscience & religion.
- No right to **forceful conversions**.

Article 26

- Religious denominations can manage affairs & institutions.

Article 27

- No taxes for promoting a religion.

Article 28

- No religious instruction in fully state-funded institutions.

E. CULTURAL & EDUCATIONAL RIGHTS (Art. 29–30)

Article 29

- Minorities can preserve language, script, and culture.
- No discrimination in state-aided institutions.

Article 30

- Minorities (religious + linguistic) can run educational institutions.

F. RIGHT TO CONSTITUTIONAL REMEDIES (Art. 32)

- “Heart & soul of Constitution” – Dr. Ambedkar
- Direct approach to the Supreme Court for FR violation.
- Issues **5 writs**.

| Writ | Purpose |
|---------------|---|
| Habeas Corpus | Release of an unlawfully detained person |
| Mandamus | Directs a public authority to perform a duty |
| Prohibition | Stops the lower court from exceeding its jurisdiction |
| Certiorari | Quashes the order of the lower court |
| Quo Warranto | Challenges the legality of public office |

- High Courts have wider power under the **Article. 226**.

3. EXCEPTIONS & SPECIAL PROVISIONS

Article 31A

- Protects land reform laws from challenge under the Arts. 14 & 19.

Article 31B

- Ninth Schedule → protects laws from FR challenge.

Article 31C

- Laws implementing **DPSPs (39(b),(c))** are protected from challenge to Art. 14 & 19.

I.R. Coelho (2007)

- Laws added to the Ninth Schedule **after 24 April 1973** (Kesavananda Bharati) → can be judicially reviewed.

4. OTHER KEY ARTICLES

Article 33

- Parliament can restrict FRs of armed forces & intelligence agencies.

Article 34

- Validates actions during **martial law**.

Article 35

- Parliament has exclusive power to make laws for:
 - Art. 16(3)
 - Art. 32(3)
 - Art. 33
 - Art. 34

5. SIGNIFICANCE OF FUNDAMENTAL RIGHTS

- Essential for **democracy & personal liberty**.
- Ensure **Rule of Law** (Dicey).
- Provide protection against state excesses.
- Guarantee political, civil & minority rights.
- Include both **positive & negative rights**.

6. LIMITATIONS OF FUNDAMENTAL RIGHTS

- Socio-economic rights are not included (unlike South Africa).
- Can be suspended during Emergencies (except Arts. 20 & 21).
- Not absolute; reasonable restrictions allowed.
- Preventive detention allowed (Art. 22).
- Terms like "public order", "minority" are vague → judicial interpretation needed.

UPSC PYQs:

1. Consider the following pairs: (UPSC Prelims 2025)

| Provision in the Constitution of India | Stated Under |
|---|--------------------------------------|
| I. Separation of the Judiciary from the Executive in the public services of the State | Directive Principles of State Policy |
| II. Valuing and preserving the rich heritage of our composite culture | Fundamental Duties |
| III. Prohibition of employment of children below 14 years in factories | Fundamental Rights |

How many of the above pairs are correctly matched?

- a) Only one
- b) Only two
- c) All three
- d) None

Answer: (c)

2. A legislation which confers on the executive or administrative authority an unguided and uncontrolled discretionary power in the matter of the application of law violates which one of the following Articles of the Constitution of India? (UPSC Prelims 2021)

- (a) Article 14
- (b) Article 28
- (c) Article 32
- (d) Article 44

Answer: (a)

3. Which one of the following categories of 'Fundamental Rights incorporated against untouchability as a form of discrimination? (UPSC Prelims 2020)

- (a) Right against Exploitation
- (b) Right to Freedom

(c) Right to Constitutional Remedies

(d) Right to Equality

Answer: (d)