

Fundamental Rights under the Indian Constitution



An Overview of Part III
(Articles 12 to 35)



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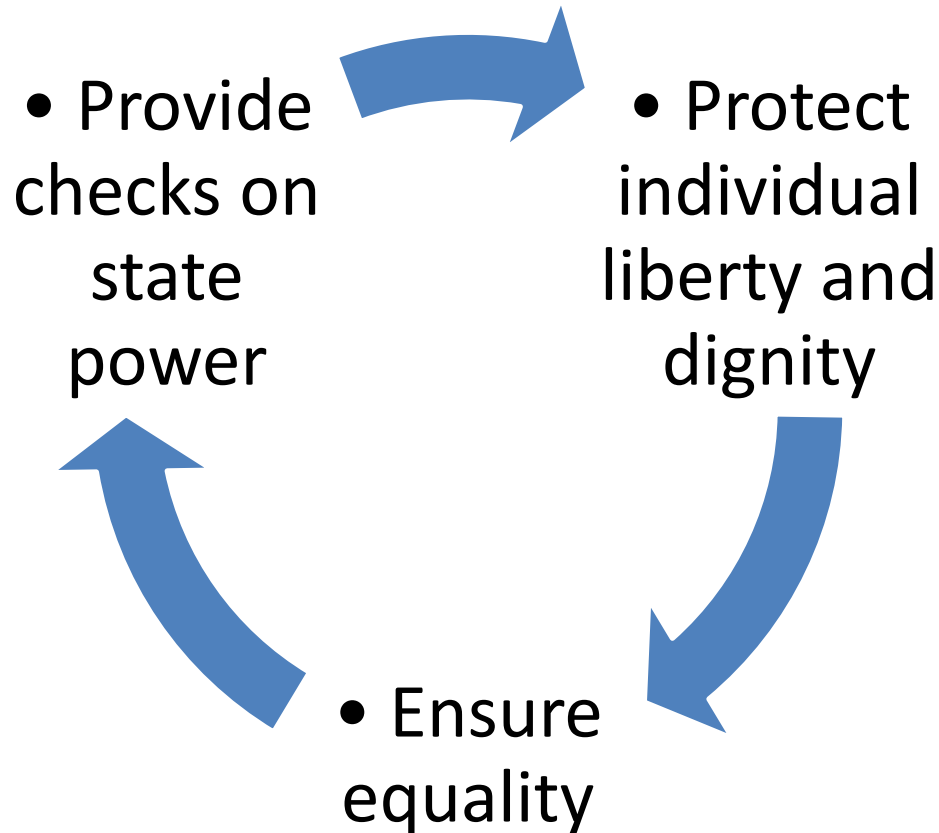


What are Fundamental Rights?

- • Basic human rights guaranteed by the Constitution
- • Enforceable by the courts
- • Inspired by the US Bill of Rights



Why Fundamental Rights?






Sources of Fundamental Rights



- U.S. Constitution



- Universal Declaration of Human Rights



- Indian freedom movement demands

Article 12 – Definition of the State

- Covers: Government, Parliament, Legislature, Local Authorities

- Includes: instrumentalities and agencies



Article 13 – Laws Inconsistent with Fundamental Rights

- Pre- and post-constitutional laws

- Doctrine of Severability

- Doctrine of Eclipse
-



Article 14 – Equality before Law & Equal Protection

- Rule of Law

- Reasonable classification
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Article 15 – Prohibition of Discrimination


- Grounds: religion, race, caste, sex, place of birth

- Permits positive discrimination

Article 16 – Equality in Public Employment

- No discrimination in govt jobs

- Reservation allowed



Article 17 – Abolition of Untouchability

- Criminal offence

- Protection of Civil Rights Act, 1955
-

Article 18 – Abolition of Titles

- No titles except military or academic

Article 19 – Six Freedoms

- Speech, Assembly, Association, Movement, Residence, Profession

- Reasonable restrictions

Article 20 – Protection in Criminal Cases

- Ex post facto law

- Double jeopardy

- Self-incrimination


Article 21 – Right to Life and Personal Liberty



- Expansive interpretation by judiciary



- Includes: privacy, livelihood, health, clean environment



Article 21A – Right to Education

- Free and compulsory education (6–14 years)



Article 22 – Protection Against Arrest and Detention

- Preventive detention

- Rights of arrested persons
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Article 23 – Prohibition of Human Trafficking and Forced Labour

- Includes begar and bonded labour

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Article 24 – Prohibition of Child Labour

- • No employment of children below 14 in hazardous jobs



Article 25 – Freedom of Conscience and Religion

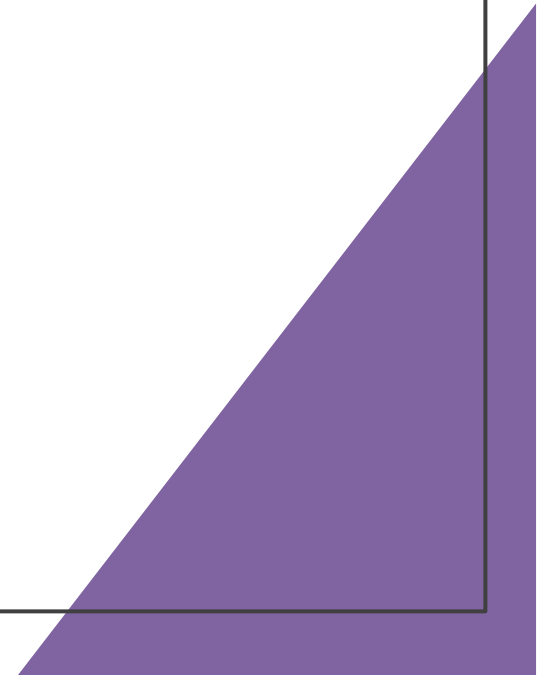
- Right to profess, practice, propagate

Article 26 – Freedom to Manage Religious Affairs

- Establish institutions, manage property

Article 27 – No Tax for Religious Promotion

- • State cannot compel tax for religious purposes



Article 28 – Freedom from Religious Instruction in State Institutions

- • No religious teaching in govt-funded schools



Article 29 – Protection of Interests of Minorities

- • Right to conserve language, script, culture



Article 30 – Rights of Minority Institutions

- Establish and administer educational institutions

Article 32 – Heart and Soul of the Constitution

- Right to approach SC directly

- Writs: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo Warranto



Reasonable Restrictions on Fundamental Rights

- Sovereignty, public order, morality, etc.

- Role of Article 19(2)–(6)
-

Suspension During Emergency (Article 359)

- Except Articles 20 and 21



Key Judicial Decisions



- Kesavananda Bharati v. State of Kerala



- Maneka Gandhi v. Union of India



- Indra Sawhney v. Union of India



- Minerva Mills v. Union of India

Notable Amendments



- 1st Amendment – Restrictions to Article 19



- 42nd Amendment – Curbing Article 32 (struck down)



- 44th Amendment – Strengthened Article 21

Balancing FRs and DPSPs



- Judiciary's evolving view



- Harmonious construction

Recent Judicial Trends

- Right to Privacy (Puttaswamy Case)

- Homosexuality decriminalized (Navtej Johar)

- Adultery decriminalized (Joseph Shine)



Challenges to Fundamental Rights

- Misuse of sedition, preventive detention

- Arbitrary internet bans

- Police excesses
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Summing Up

- FRs form the core of democratic life

- Must be protected and interpreted liberally
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Any Questions?



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Thank You