

Fundamental Rights (Articles 12-35)

Enshrined in Part-III of the Indian Constitution, Fundamental Rights are the basic human rights guaranteed by the Constitution of India. The six fundamental rights include the Right to Equality, Right to freedom, Right against exploitation, Right to freedom of Religion, Cultural and Educational Rights and Right to constitutional Remedies.

Originally Right to property (Article 31) was also included in the Fundamental Rights. However, by the 44th Constitutional Amendment Act, 1978, it was deleted from the list of Fundamental Rights and made a legal right under Article 300A in Part XII of the constitution.

Fundamental Rights in India (Article 12-35)

The development of Fundamental Rights in India is heavily inspired by the United States Bill of Rights. These rights are included in the constitution because they are considered essential for the development of the personality of every individual and to preserve human dignity.

Fundamental Rights are included in Part-III of the Indian constitution which is also known as the Magna Carta of the Indian Constitution.

These rights are called fundamental rights because they are justiciable in nature allowing persons to move the courts for their enforcement, if and when they are violated

Features of The Fundamental Rights

Some of the salient features of Fundamental Rights include:

Fundamental Rights are protected and guaranteed by the constitution.

Fundamental Rights are NOT sacrosanct or absolute: in the sense that the parliament can curtail them or put reasonable restrictions for a fixed period of time. However, the court has the power to review the reasonability of the restrictions.

Fundamental Rights are justiciable: The constitution allows the person to move directly to the Supreme Court for the reinforcement of his fundamental right as and when they are violated or restricted.

Suspension of Fundamental Rights: All the Fundamental Rights are suspended during National Emergencies except the rights guaranteed under Articles 20 and 21.

Restriction of Fundamental Rights: The Fundamental Rights can be restricted during military rule in any particular area.

Important Articles Related To Fundamental Rights

Let us now look at some of the important articles related to the Fundamental Rights in India:

Article 12: Defines The State

Article 12 of the Indian Constitution defines The State as:

The Government and Parliament of India,

The Government and legislatures of the states,

All local authorities and

Other authorities in India or under the control of the Government of India.

Article 13: Defines Laws Inconsistent with or In derogation of Fundamental Rights

Article 13 of the Indian Constitution states that:

All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

In this article, unless the context otherwise required, – (a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law; (b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

Nothing in this article shall apply to any amendment of this Constitution made under article 368.

Classification of Fundamental Rights

The fundamental rights are classified into the following six categories:

Classification of Fundamental Rights	Article	Deals With
Right to Equality	14	Equality Before Law
	15	Prohibition of Discrimination
	16	Equality of Opportunity in Public Employment
	17	Abolition of Untouchability
	18	Abolition of Titles

Right to Freedom	19	<p>Protection of 6 Rights</p> <p>Right to freedom of speech and expression.</p> <p>Right to assemble peaceably and without arms.</p> <p>Right to form associations or unions or co-operative societies.</p> <p>Right to move freely throughout the territory of India.</p> <p>Right to reside and settle in any part of the territory of India.</p> <p>Right to practice any profession or to carry on any occupation, trade or business.</p>
	20	Protection in Respect of Conviction for Offences
	21	Protection of Life and Personal Liberty
	21-A	Right to Education
	22	Protection Against Arrest and Detention
Right Against Exploitation	23	Prohibition of Human Trafficking and Forced Labour
	24	Prohibition of Child Labour
Right to Freedom of Religion	25	Freedom of Conscience, Profession, Practice and Propagation
	26	Freedom to Manage Religious Affairs
	27	Freedom from Taxation for Promotion of a Religion
	28	Freedom from Attending Religious Instruction
Educational and Cultural Rights	29	Protection of Interests of Minorities
	30	Right of Minorities to Establish and Administer Educational Institutions
	32	Right to remedies for the enforcement of the fundamental rights using five writs:

Right to Constitutional Remedies		<p>Habeas Corpus - to direct the release of a person detained unlawfully.</p> <p>Mandamus - to direct a public authority to do its duty.</p> <p>Quo Warranto - to direct a person to vacate an office assumed wrongfully.</p> <p>Prohibition - to prohibit a lower court from proceeding on a case.</p> <p>Certiorari - the power of the higher court to remove a proceeding from a lower court and bring it before itself.</p>
	33	Empowers the Parliament to restrict or abrogate the fundamental rights of the 'Members of the Armed Forces, paramilitary forces, police forces, intelligence agencies and analogous forces
	34	Provides for the restrictions on fundamental rights while martial law (military rule) is in force
	35	Empowers the Parliament to make laws on Fundamental Rights

Fundamental Duties

42nd Amendment Act of 1976 added 10 Fundamental Duties to the Indian Constitution. 86th Amendment Act 2002 later added 11th Fundamental Duty to the list. Swaran Singh Committee in 1976 recommended Fundamental Duties, the necessity of which was felt during the internal emergency of 1975-77.

The Fundamental Duties are dealt with Article 51A under Part-IV A of the Indian Constitution.

The fundamental duties which were added by the 42nd Amendment Act of the Constitution in 1976, in addition to creating and promoting culture, also strengthen the hands of the legislature in enforcing these duties vis-a-vis the fundamental rights.

The list of 11 Fundamental Duties under article 51-A to be obeyed by every Indian citizen is given in the table below:

S.No	11 Fundamental Duties
1.	Abide by the <u>Indian Constitution</u> and respect its ideals and institutions, the National Flag and the National Anthem
2.	Cherish and follow the noble ideals that inspired the national struggle for freedom
3.	Uphold and protect the sovereignty, unity and integrity of India
4.	Defend the country and render national service when called upon to do so
5.	Promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women
6.	Value and preserve the rich heritage of the country's composite culture
7.	Protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures
8.	Develop scientific temper, humanism and the spirit of inquiry and reform
9.	Safeguard public property and to abjure violence

10.	Strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement
11.	Provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002