

Patrician College of Arts and Science

Department of Journalism

Indian Constitution and Legal System

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Even Semester

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Fundamental Rights

Right to Equality (Art. 14-18)

Article 14 represents the idea of equality, which states that the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The equality before law is guaranteed to all without regard to race, colour, or nationality.█

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Right to Equality

(Article 15): Non-discrimination on grounds of religion, race, caste, sex, or place of birth

The Article 15 states that the state shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth, or any of them and would not be subject to any disability, liability, restriction, or condition. Nothing in this article shall prevent the state from making any special provisions for women and children. Nothing in this article or in sub-clause (G) of clause (1) of Article 19 shall prevent the state from making any special provision by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or Scheduled Tribes.

(Article 16): Equality of opportunity in public employment

Article 16 states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.

It empowers Parliament to make a law prescribing any requirement as to residence within that state or UT prior to employment or appointment in that state or UT. It empowers the state to make special provisions for the reservation of appointments or posts in favour of any backward classes of citizens.

(Article 17): Abolition of Untouchability

Article 17 abolishes Untouchability and forbids its practice in any form. Untouchability refers to a social practice which looks down upon certain oppressed classes solely on account of their birth and makes any discrimination against them on this ground.

(Article 18): Abolition of Titles

Article 18 abolishes all titles and prohibits the state to confer titles on anybody whether a citizen or a non-citizen. However, military and academic distinctions are exempted from the prohibition.

(Article 19): Right to Freedom

The Right to Freedom guarantees to the citizens of India six Fundamental Freedoms: 1) Freedom of Speech and Expression, 2) Freedom of Assembly, 3) Freedom to form associations, 4) Freedom of Movement, 5) Freedom to reside and to settle, and 6) Freedom of profession, occupation, trade, or business.

(Article 20): Protection in respect of Conviction for Offences

Article 20 provides protection against arbitrary and excessive punishment to any person who commits an offence. This article has taken care to safeguard the rights of persons accused of crimes. Moreover, this article cannot be suspended even during an emergency in operation under Article 359.

(Article 21): Protection of Life and Personal Liberty

Article 21 states no person shall be deprived of his life or personal liberty except according to procedure established by law. However, Article 21 puts a limit on the power of the State given under Article 246, read with the legislative lists. Thus, Article 21 does not recognise the Right to Life and Personal Liberty as an absolute right but limits the scope of the right itself.

(Article 22): Safeguards against Arbitrary Arrest and Detention

Firstly, Article 22 guarantees the right of every person who is arrested to be informed of the cause of his arrest; secondly, his right to consult, and to be defended by a lawyer of his choice. Thirdly, every person arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours and shall be kept in continued custody only with his authority.

(Articles 23-24): Right against Exploitation

Article 23 prohibits traffic in human beings, women, children, beggars or other forced labour militate against human dignity. Article 24 prohibits employing children below the age of 14 years in any hazardous profession. This right followed the human rights concepts and United Nations norms.

(Articles 25-28): Right to Freedom of Religion

Articles 25 and 26 embody the principles of religious tolerance and serve to emphasize the secular nature of Indian democracy, i.e. equal respect to all religions. Article 25 offers freedom of Conscience and Free Profession, Practice and Propagation of Religion whereas Article 26 helps to manage religious affairs, which is subject to public order, morality and health, every religious denomination or any section.

Article 27 provides freedom not to pay taxes for religious expenses on promotion or maintenance of any particular religion. Article 28 prohibits religious instructions in educational institutions wholly maintained by the state.

(Articles 29-30): Rights to minorities (cultural and educational rights)

Article 29 provides protection of interests of minorities. A minority community can effectively conserve its language, script, or culture by and through educational institution. Article 30 states rights of minorities whether based on religion or language to establish and administer educational institutions.

The 44th Amendment has abolished the Right to Property as a Fundamental Right guaranteed by Art. 19 (f) and Art. 31 of the Constitution. It is now only a Legal Right under article 300-A, gives protection against executive action but not against legislative action

(Articles 32-35): Right to Constitutional Remedies

Rights in order to be meaningful must be enforceable and backed by remedies in case of violation. This article guarantees the right to move Supreme Court by appropriate proceedings for the enforcement of Fundamental Rights and deals with Supreme Court's power to issue order or writs for the enforcement of Fundamental Rights. Article 33 empowers Parliament to modify the application of Fundamental Rights to the armed forces or forces charged with maintenance of public order. On the other hand, Article 35 lays down that the power to make laws to give effect to certain specified Fundamental Rights shall vest only with the Parliament and not with State Legislatures.

Therefore, Fundamental Rights play a significant role because they are most essential for the attainment of full intellectual, moral, and spiritual status of an individual. Therefore, the objective behind the inclusion of Fundamental Rights in the Constitution was to establish a government of Law to preserve individual liberty, building an equitable society, and establish a welfare state.



Thank you

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