# Fundamental Rights

These notes are your ultimate revision weapon to revise Fundamental Rights. We've distilled years of previous exam questions (PYQs) into one powerful, concise resource. Everything you need to know, nothing you don't.

- **PYQs, Decoded:** All key concepts from past exams, organized and simplified.
- **Revise in Record Time:** Short, precise, and designed for last-minute review.
- **Focus on What Matters:** Master high-probability topics and boost your confidence.

## Fundamental Rights in the Indian Constitution: A Structured Overview

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### I. Historical Background & Constitutional Provisions

- **A. Historical Evolution**
  - **Nehru Report (1928):** First official document to advocate for a declaration of Fundamental Rights.
  - **Other Acts:** The Government of India Act (1935), August Offer (1940), and Cripps Mission (1942) did **not** include provisions for Fundamental Rights.
- **B. Constitutional Provisions**
  - **Location:** Enshrined in **Part III of the Constitution (Articles 12 to 35)**.
  - **Supremacy (Article 13):** Declares any law inconsistent with Fundamental Rights to be void.
  - **Nature:** They are a **guarantee against state action** and aim to ensure social and economic justice.

## II. Nature, Definition, and Importance

- **Definition:** Claims of the citizens against the State, essential for the development of an individual's personality.
- **Why "Fundamental"?**
  - Enshrined in the Constitution.
  - Essential for individual development.
  - Parliament **cannot** make a law that violates them.
- **Purpose & Importance:**
  - Protect citizens from the arbitrary power of the State.
  - A "pledge to the people and a pact with the civilized world" (Dr. S. Radhakrishnan).
- **Correlation of Rights & Duties:** Rights and duties are correlative; the existence of a right implies a duty on others to respect it.

## III. The Rule of Law

- **Meaning:** "One law for all and one judiciary for all." No one, including the government, is above the law.
- **Main Features (A.V. Dicey's Doctrine):**

1. **Limitation of Powers:** The government must act within its legal limits.
2. **Equality before Law:** All individuals are subject to the same ordinary law.
3. **Primacy of Individual Rights:** The Constitution results from rights defined and enforced by courts.

## IV. Classification of Fundamental Rights

- **A. Right to Equality (Articles 14-18)**
  - **Article 14:** Equality before the law and equal protection of the laws for **every person** (citizens and foreigners). It is an absolute limitation on legislative power.
  - **Article 15:** Prohibits discrimination by the State on grounds of religion, race, caste, sex, or place of birth. **(Citizens only)**

        - **Clause (4):** Allows special provisions for socially and educationally backward classes (SCs/STs).
        - **Clause (5):** Allows reservations in admissions to educational institutions (including private) for OBCs/SCs/STs.
    - **Article 16:** Guarantees equality of opportunity in matters of public employment. **(Citizens only)**
        - **Clause (4):** Allows reservation in appointments for backward classes.
    - **Article 17:** Abolishes "untouchability"; its practice is a punishable offense.
    - **Article 18:** Abolishes titles (except military and academic).
    - **Scope:** Encompasses social equality and equal opportunity, but **not economic equality**.
    - **Principle:** The State can treat unequals differently to ensure substantive equality.
    - **Landmark Case:** *Indra Sawhney vs Union of India (1992)* upheld OBC reservations but established a **"50% ceiling"** limit.
- **B. Right to Freedom (Articles 19-22)**
    - **Article 19:** Guarantees six freedoms to **citizens only**:
        - Speech and Expression (includes Freedom of the Press).
        - Peaceable Assembly without arms (does **not** include *gherao*).
        - Form Associations.
        - Move freely throughout India.
        - Reside and settle in any part of India.
        - Practice any profession, or carry on any occupation, trade, or business.
        - **Subject to Reasonable Restrictions** on grounds like sovereignty, security, public order, decency, etc.
    - **Article 20:** Protection in respect of conviction for offences **(available to all persons)**:

        - **Ex-post facto law:** No conviction for an act not an offense at the time it was committed.
        - **Double Jeopardy (Art. 20(2)):** No person punished twice for the same offense.
        - **Self-Incrimination (Art. 20(3)):** No accused can be compelled to be a witness against themselves.
    - **Article 21:** Protection of life and personal liberty **(available to all persons)**. No deprivation except by a fair, just, and reasonable procedure established by law.
        - **Expansive Interpretation (Judicially Created Rights):** Includes Right to Privacy, Travel Abroad, Education, Shelter, Clean Environment, Medical Aid, and Marry a person of one's choice.
        - **Capital punishment** is **not** a violation if awarded following due process.
    - **Article 22:** Protection against arrest and detention **(available to all persons)**.
        - **Rights of Arrested Person:** To be informed of grounds, to consult a lawyer, to be produced before a magistrate within 24 hours.
        - **Preventive Detention:** Cannot be authorized for more than three months without an advisory board's report.
- **C. Right Against Exploitation (Articles 23-24) (Available to all persons)**
    - **Article 23:** Prohibits trafficking in human beings, *begar* (forced labor), and other similar forms of forced labor.
    - **Article 24:** Prohibits the employment of children below the age of 14 in any factory, mine, or other hazardous employment (prohibition is **absolute**).
    - **Does not include** abolition of untouchability (which is under Right to Equality).

- **D. Right to Freedom of Religion (Articles 25-28) (Available to all persons)**
    - **Article 25:** Freedom of conscience and the right to freely profess, practice, and **propagate** religion.
        - **Subject to restrictions** on grounds of public order, morality, and health.
        - **Does not include** a right to convert.
        - The term "Hindu" includes Sikhs, Jains, and Buddhists for this purpose.
    - **Article 26:** Right of religious denominations to manage their own religious affairs.
    - **Article 27:** Freedom from payment of taxes for promotion of any particular religion.
    - **Article 28:** Freedom from religious instruction in certain educational institutions.
    - **Example:** Wearing a 'Kirpan' is a part of the Sikh religion protected under this right.
- **E. Cultural and Educational Rights (Articles 29-30)**
    - **Article 29:** Protection of interests of minorities (any section of citizens) to conserve their distinct language, script, or culture. **(Citizens only)**
        - **Clause (2):** No citizen can be denied admission to state-maintained/aided institutions on grounds of religion, race, caste, or language.
    - **Article 30:** Right of **all religious and linguistic minorities** to establish and administer educational institutions of their choice.
        - The term **'minority' is not defined** in the Constitution.
- **F. Right to Constitutional Remedies (Article 32) (Available to all persons)**
    - Grants the right to move the **Supreme Court** to enforce Fundamental Rights.
    - The Supreme Court can issue writs (Habeas Corpus, Mandamus, Prohibition, Quo Warranto, Certiorari).

    - Described by Dr. B.R. Ambedkar as the **"Heart and Soul of the Constitution"**.
    - The **Supreme Court is the guardian** of Fundamental Rights.

## V. Enforcement, Suspension, and Amendment

- **A. Enforcement & Justiciability**
    - **Enforcement:** Fundamental Rights are **justiciable** (enforceable by courts).
    - **Power to Enforce:**
        - **Supreme Court** under **Article 32**.
        - **High Courts** under **Article 226**.
    - They can declare a law void if it violates these rights.
- **B. Suspension During Emergency**
    - **General Rule:** Can be suspended during a National Emergency (Articles 358 & 359).
    - **Article 19:** Rights are automatically suspended upon proclamation of an emergency.
    - **Other Rights (except 20 & 21):** The President can suspend the right to move courts for enforcement.
    - **Non-Suspendable Rights:** Rights under **Article 20 (Protection against conviction)** and **Article 21 (Protection of life and personal liberty)** can **never** be suspended.
- **C. Amendment of Fundamental Rights**
    - Parliament **can** amend Fundamental Rights.
    - This power is **not absolute**; Parliament **cannot amend the Basic Structure** of the Constitution.
    - **Landmark Cases:**
        - *Golaknath (1967):* Held that Parliament could **not** amend Fundamental Rights.
        - *Kesavananda Bharati (1973):* Upheld Parliament's power to amend but propounded the **"Basic Structure Doctrine"**.
        - *Minerva Mills (1980):* Reaffirmed the Basic Structure Doctrine.

## VI. Specific Rights and Key Distinctions

- **A. Right to Property**
  - **Was** originally a Fundamental Right (Articles 19(1)(f) and 31).
  - Removed by the **44th Constitutional Amendment Act (1978)**.
  - Now a **Legal Right under Article 300-A** ("No person shall be deprived of his property save by the authority of law").
- **B. Right to Education**
  - A Fundamental Right under **Article 21-A** (added by the 86th Amendment Act, 2002).
  - Implemented via the **Right to Education (RTE) Act, 2009** (enforced April 1, 2010).
  - Scope was expanded from Article 21 by the Supreme Court in *Unnikrishnan v. Andhra Pradesh*.
- **C. Availability: Citizens vs. Non-Citizens (Aliens)**
  - **Rights for CITIZENS ONLY:** Articles 15, 16, 19, 29, 30.
  - **Rights for ALL PERSONS (Including Aliens):** Articles 14, 20, 21, 21-A, 22, 23, 24, 25, 26, 27, 28, 32.
- **D. Other Legal Provisions**
  - **Article 245:** Extent of laws made by Parliament and State Legislatures.
  - **Article 301:** Freedom of trade, commerce, and intercourse.
  - **Article 326:** Provides for adult suffrage (right to vote).
  - **Fundamental Duties:** Added by the **42nd Amendment Act (1976)**.
  - **Awards:** Bharat Ratna and Padma Awards are **not titles** under Article 18(1).

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- Fundamental Rights -Old Year Questions
- Fundamental Rights One Liner Questions & Answers