



Importance of Fundamental Rights under Indian Constitution

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Abstract: This research paper describes about the fundamental rights guaranteed to the citizens within the Indian Constitution. Fundamental rights are the most basic rights which are required to uphold human dignity. This right affirm the principle of natural law that no one is above law by granting a set of right to the citizens that cannot be taken away by the government. The Fundamental rights have been covered under Chapter III of the constitution and contain broadly, rights such as Right to equality (Articles 14-18), right to liberty (Articles 19-22), right against exploitation (Articles 23-24), right to freedom of religion (Articles 25-28), right to culture and education (Articles 29-30) and right to constitutional remedies (Articles 32-35). The Fundamental rights have been the cornerstone of the constitution and have been subjected to a lot of adjudication. For protection of such freedoms, people may reach the Supreme Court by writing the writs such as the habeas corpus, quo warranto, mandamus, prohibition and certiorari.

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Introduction:

Fundamental rights, are the rights conferred by the Part III of the Indian Constitution from Article 12 to 35. Fundamental Rights, as the name suggests these are one of the most important sources for the protection and maintenance of human dignity and integrity, which also contributes towards the development of the society as a whole. These are provided the status of being fundamental or elementary because of its absolute and restrictive nature, in other words, these rights are designed in such a manner that they cannot be amended, violated or interfered by any oppressive government or person, and as these are the guaranteed rights, any person can approach the Supreme court for the administration or enforcement of the rights that are violated or tampered by the other.

The Fundamental rights are well-established with a two-point system, the first point provides that, these justiciable rights of the people that are imposed by the court processes against the oppressive actions of the government. From the Second point of view, these rights are controlled with certain restrictions and limitations on actions of the government. Where accordingly, the government cannot take any measures may it be administrative or legislative in nature, as a result of which these rights are violated.

Fundamental rights are basically known as the basic human rights but these are regulated by the Constitution in India, and declared as special rights for the people. With these rights being cohesive in a society, the citizens are able to comprehend the importance of all the members of the society, co-operate and adjust

themselves accordingly, hence, maintaining cordial relationships with one another. The Constitution also provides for enforcement of these rights hence, they not only have a legal value but also an educational value, assisted by the citizens to protect, respect, accept and fulfil the rule of law. They also uphold the equality and dignity of the individuals, keeping in mind the unity and integrity of the nation. These not only ensure and guarantee the basic civil, political, social, economic rights and freedoms, but they also fulfil the important functions of safeguarding the minority communities, castes, classes and religious groups and removing the notion of discrimination of all kinds and ensuring equality amongst all. These rights are a part of the basic structure of the constitution and so they cannot be contravened, abridged or interfered by any constitutional laws, provisions or amendments, if this happens then that particular law will be declared as unconstitutional and void for being against the norms of the constitution.

Fundamental rights were enshrined in the Constitution as they were believed **provision for judicial review** and the growth of each individual's personality, and the preservation of human dignity and respect. Our freedom of speech and expression permits us to criticise the government in the United States openly, but this is not the case in China. These rights offer individuals hope and make them believe that nothing can stop them from progressing. The bulk of these rights are actionable against the state via their wording, but others can be enforced immediately against the state and a person.

Thus, the Fundamental Rights plays a significant role in a more moral, spiritual, intellectual individual. The constitution will lose importance if these Fundamental Rights are not protected. For the well-being of individuals, individuals who form the society, Fundamentals Rights are their savior to live with peace and dignity. These rights thus protect and preserve the welfare of society.

Articles 12-35 of Indian Constitution deal with Fundamental Rights. These human rights are conferred upon the citizens of India for the Constitution tells that these rights are inviolable. Right to Life, Right to Dignity, Right to Education etc. all come under one of the six main fundamental rights.

Fundamental rights are a very important topic in the polity section of the UPSC exam. It is a basic static portion of the syllabus but it is highly dynamic in the sense that it is featured in the daily news in some form or the other. Hence, it is highly important for the IAS exam.

In this article, you can read all about 6 fundamental rights of India:

1. **Right to Equality**
2. **Right to Freedom**
3. **Right against Exploitation**
4. **Right to Freedom of Religion**
5. **Cultural and Educational Rights**
6. **Right to Constitutional Remedies**

Why are they called Fundamental Rights?

These rights are called fundamental rights because of two reasons:

1. They are enshrined in the Constitution which guarantees them
2. They are justiciable (enforceable by courts). In case of a violation, a person can approach a court of law.

List of Fundamental Rights

There are six fundamental rights of Indian Constitution along with the constitutional articles related to them are mentioned below:

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to Freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Article 32)

Why Right to Property is not a Fundamental Right?

There was one more fundamental right in the Constitution, i.e., the right to property.

However, this right was removed from the list of fundamental rights by the 44th Constitutional Amendment.

This was because this right proved to be a hindrance towards attaining the goal of socialism and

redistributing wealth (property) equitably among the people.

Note: The right to property is now a legal right and not a fundamental right.

Introduction to Six Fundamental Rights (Articles 12 to 35)

Under this section, we list the fundamental rights in India and briefly describe each of them.

1. Right to Equality (Articles 14 – 18)

Right to equality guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc. This right also includes the abolition of titles as well as untouchability.

Aspirants can read more about Right to Equality in the linked article.

2. Right to Freedom (Articles 19 – 22)

Freedom is one of the most important ideals cherished by any democratic society. The Indian Constitution guarantees freedom to citizens. The freedom right includes many rights such as:

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practise any profession
- Freedom to reside in any part of the country

Read more on the Right to Freedom in the linked article. Some of these rights are subject to certain conditions of state security, public morality and decency and friendly relations with foreign countries. This means that the State has the right to impose reasonable restrictions on them.

Aspirants can find the details on Right to Life (Article 21), in the linked article.

3. Right against Exploitation (Articles 23 – 24)

This right implies the prohibition of traffic in human beings, *begar*, and other forms of forced labour. It also implies the prohibition of children in factories, etc. The Constitution prohibits the employment of children under 14 years in hazardous conditions.

Read more on the Right against Exploitation in the linked article.

4. Right to Freedom of Religion (Articles 25 – 28)

This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.

Read more on the Right to Freedom of Religion in the linked article.

5. Cultural and Educational Rights (Articles 29 – 30)

These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture. Educational rights are for ensuring education for everyone without any discrimination.

Read more on Cultural and Educational Rights in the linked article.

6. Right to Constitutional Remedies (32 – 35)

The Constitution guarantees remedies if citizens' fundamental rights are violated. The government cannot infringe upon or curb anyone's rights. When these rights are violated, the aggrieved party can approach the courts. Citizens can even go directly to the Supreme Court which can issue writs for enforcing fundamental rights.

Read more on Right to Constitutional Remedies (Article 32) in the linked article.

All civil services exam aspirants must go through the features of the Fundamental Rights discussed further below in this article.

Features of Fundamental Rights

- Fundamental rights are different from ordinary legal rights in the manner in which they are enforced. If a legal right is violated, the aggrieved person cannot directly approach the SC bypassing the lower courts. He or she should first approach the lower courts.
- Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).
- Fundamental rights are not absolute rights. They have reasonable restrictions, which means they are subject to the conditions of state security, public morality and decency and friendly relations with foreign countries.
- They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.
- Fundamental rights can be amended by the Parliament by a constitutional amendment but only if the amendment does not alter the basic structure of the Constitution.
- Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.
- The application of fundamental rights can be restricted in an area that has been placed under martial law or military rule.

Also, in the news:

- Conjugal Rights

- Right to be Forgotten

Fundamental Rights Available Only to Citizens

The following is the list of fundamental rights that are available **only to citizens** (and not to foreigners):

1. Prohibition of discrimination on grounds of race, religion, caste, gender or place of birth (Article 15).
2. Equality of opportunity in matters of public employment (Article 16).
3. Protection of freedom of:(Article 19)
 - Speech and expression
 - Association
 - Assembly
 - Movement
 - Residence
 - Profession
4. Protection of the culture, language and script of minorities (Article 29).
5. Right of minorities to establish and administer educational institutions (Article 30).

Importance of Fundamental Rights

Fundamental rights are very important because they are like the backbone of the country. They are essential for safeguarding the people's interests.

According to Article 13, all laws that are violative of fundamental rights shall be void. Here, there is an express provision for judicial review. The SC and the High Courts can declare any law unconstitutional on the grounds that it is violative of the fundamental rights. Article 13 talks about not just laws, but also ordinances, orders, regulations, notifications, etc.

- They are the foundation of the country's democratic system.
- They create the necessary conditions for man's material and moral protection.
- They are a powerful bulwark of individual liberty.
- They help to establish the rule of law in the country.
- They defend the rights of minorities and the weaker sections of society.
- They contribute to the Indian State's secular fabric.
- They check the absoluteness of the government's authority.
- They lay the groundwork for social equality and social justice.
- They protect people's dignity and respect.
- They make it easier for people to participate in the political and administrative processes.
- They defend the equality of all individuals, the dignity of the individual, the larger public interest, and national unity.
- The Fundamental Rights are intended to advance the ideal of political democracy.

- They prevent the establishment of authoritarian and despotic rule in the country and defend the people's liberties and freedoms from invasion by the state.
- They serve as checks on the executive's tyranny and the legislature's arbitrary laws. In a nutshell, they want to establish "a government of laws, not of men."
- It provides the judiciary with clear criteria for regulating relations between citizens and the government.
- People can freely enjoy their life and personal liberty because these rights exist and are enforced in court, they can move from one part of the country to another, they can assemble peacefully, and so on.
- Fundamental rights are not absolute, but rather limited rights. In the case of A.K. Gopalan v/s State of Madras (1950), the Supreme Court stated that there cannot be unlimited or uncontrolled liberty that is solely free of limitations since it may lead to anarchy and chaos.
- Fundamental Rights exists to establish the rule of law. On the other hand, granting the state total control over the person would result in tyranny or state terror.
- As a result, there must be a balance struck between individual liberty and communal requirements.

Amendability of Fundamental Rights

Any changes to the fundamental rights require a constitutional amendment that should be passed by both the Houses of Parliament. The amendment bill should be passed by a **special majority** of Parliament.

Read about types of majorities in Indian Parliament in the linked article.

As per the Constitution, Article 13(2) states that no laws can be made that take away fundamental rights.

The question is whether a constitutional amendment act can be termed law or not.

In the Sajjan Singh case of 1965, the Supreme Court held that the Parliament can amend any part of the Constitution including fundamental rights.

But in 1967, the SC reversed its stance taken earlier when in the verdict of the Golaknath case, it said that the fundamental rights cannot be amended.

In 1973, a landmark judgement ensued in the **Kesavananda Bharati case**, where the SC held that although no part of the Constitution, including Fundamental Rights, was beyond the Parliament's amending power, the "basic structure of the Constitution could not be abrogated even by a constitutional amendment."

This is the basis in Indian law in which the judiciary can strike down any amendment passed by Parliament that is in conflict with the basic structure of the Constitution. In 1981, the Supreme Court reiterated the Basic Structure doctrine.

It also drew a line of demarcation as April 24th, 1973 i.e., the date of the Kesavananda Bharati judgement, and held that it should not be applied retrospectively to reopen the validity of any amendment to the Constitution which took place prior to that date.

Aspirants can learn more about 25 important SC judgements for UPSC in the linked article.

Doctrine of Severability

This is a doctrine that protects the fundamental rights enshrined in the Constitution.

It is also known as the Doctrine of Separability.

It is mentioned in Article 13, according to which all laws that were enforced in India before the commencement of the Constitution, inconsistent with the provisions of fundamental rights shall **to the extent of that inconsistency** be void.

This implies that only the parts of the statute that is inconsistent shall be deemed void and not the whole statute. Only those provisions which are inconsistent with fundamental rights shall be void.

Doctrine of Eclipse

This doctrine states that any law that violates fundamental rights is not null or void ab initio, but is only non-enforceable, i.e., it is not dead but inactive.

This implies that whenever that fundamental right (which was violated by the law) is struck down, the law becomes active again (is revived).

Another point to note is that the doctrine of eclipse applies only to pre-constitutional laws (laws that were enacted before the Constitution came into force) and not to post-constitutional laws.

This means that any post-constitutional law which is violative of a fundamental right is void ab initio.

Aspirants can also get details about the IAS Topper and take inspiration from their preparation strategy and excel in the upcoming UPSC CSE.

Fundamental Rights come with Fundamental Duties

It is often seen that citizens enjoy their Fundamental Rights, but when it comes to performing their Fundamental Duties, these are ignored. Nothing great in this world comes without responsibilities and duties, and thus even in the case of Fundamental Duties, we need to understand that these are important for every citizen to be able to enjoy their Fundamental Rights.

According to the government reports, these Fundamental Duties serve as the constant reminder to every citizen that while the constitution has conferred Fundamental Rights, it is the responsibility of the

citizens to observe basic norms of democratic conduct and behavior because rights and duties are correlative. It promotes the participation of citizens towards the national goal rather than just being spectators. Without these Fundamental Duties, the usage of Fundamental Rights might be in danger. Thus, for the smooth functioning of the system with Fundamental Rights are a must for the Citizens and the state, the contribution of the Fundamental Duties is indispensable.

Conclusion

To know how many fundamental rights are there in the Indian Constitution is a must-rule for an IAS aspirant. The list of fundamental rights given above will be helpful for the candidates in their UPSC preparation. Also, aspirants should know the difference between human rights and fundamental rights. The basic difference between human rights and fundamental rights is the scope of acceptance. While fundamental rights have scope within a country, human rights are accepted worldwide. Fundamental Rights is a GS 2 topic. To practise UPSC Mains GS 2 Answer Writing, check the linked article now!

This constitutes an integral part of the UPSC Syllabus for the Polity section and candidates must carefully analyse the same as questions based on the same can be asked in the prelims as well as the mains examination.

References:

- 【1】. Published with the Ministry of Law and Justice, (Legislative Department) notification No. G.S.R. 562(E), dated the 6th August, 2019, Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i).
- 【2】. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 2 (w.e.f. 5-11-1971).
- 【3】. Added by the Constitution (First Amendment) Act, 1951, s. 2 (w.e.f. 18-6-1951).
- 【4】. Ins. by the Constitution (Ninety-third Amendment) Act, 2005, s. 2 (w.e.f. 20-1-2006).
- 【5】. Ins. by the Constitution (One Hundred and Third Amendment) Act, 2019, s. 2 (w.e.f. 14-1-2019).

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