

Fundamental Rights

Part III: Fundamental Rights (Art. 12-35)

Originally, there were seven fundamental Rights in the constitution, but the Right to Property was made a legal Right under Art. 300A by 44th Amendment, 1978. Consequently, at present, there are only six fundamental Rights in the constitution.

1) Right to Equality (Art. 14-18)

- (1) Every person within the territory of India has right to equality before law and equal protection of law (Art.14).
- (2) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (3) There shall be equality of opportunity for all citizens of India in matters relating to employment to any office under the State without any discrimination on the grounds of religion, race caste, sex descent, place of birth or residence.
- (4) **Abolition of Untouchability** – the untouchability has been abolished and any practice of it will be an offence punishable in accordance with the law (Art. 17).
- (5) **Abolition of Titles** – No person holding any office under the State shall accept any present or gift from foreign state without the consent of the president (Art. 18). One may argue as to how the government of India continues to confer Bharat Ratna, Padam shree Etc.

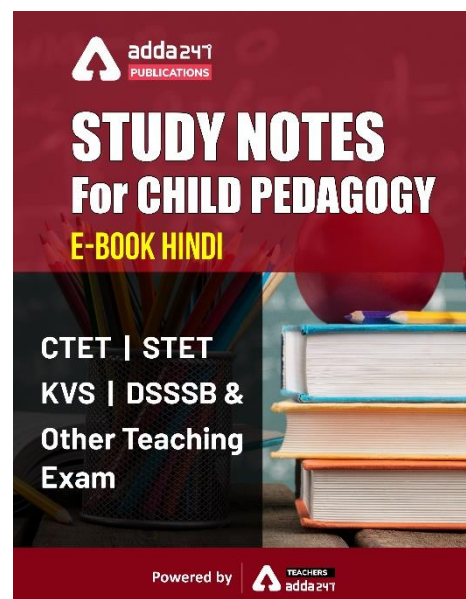
2) Right to Freedom (Art. 19-22)

All citizens of India shall have right:

- (a) to freedom of speech and expression;
- (b) to assemble peaceably without arms;
- (c) to form associations;
- (d) to move freely throughout the territory of India;
- (e) to settle and reside in any part of the country; and
- (f) to practice any profession or to carry out any trade or business.

Protection of Life and Personal Liberty

No person shall be deprived his life and personal liberty except according to the procedure established by law. (Art. 21). It should be noted that the rights granted under articles 20 and 21 cannot be suspended even during the emergency.



3) Right Against Exploitation

- (1) Prohibition of traffic in human beings and force labour – Traffic in human beings and all forms of forced labour are prohibited and these offences shall be punishable in accordance with law. However, the state can impose compulsory service for public purposes.
- (2) No child below the age of 14 Year will be employed in any hazardous work.

4) Right to Freedom of Religion

Freedom of conscience and free profession, practice and propagation of religion-

- (1) Subject to public order, morality and health, all persons are equally entitled to freedom of conscience and right to profess, practice and propagate religion.
- (2) The state shall have right to make any law for –
 - (a) Regulating any economic, financial, political or other secular activity associated with religious practice; and
 - (b) providing for social welfare and reforms or throwing open of Hindu religious institutions of a public character for all classes and sections of Hindus.
- (3) The wearing and carrying of 'Kripan' will be considered as part of the profession of sikh religion.

Freedom to Manage Religious Affairs

Subject to public health, morality and health, every religious denomination or sect shall have right –

- (a) to establish and maintain institutions for religious and charitable purpose;
- (b) to manage its religious affairs;
- (c) to own and acquire property; and
- (d) to administer that property according to the provisions of law.

Freedom as to payment of taxes for promotion of any particular religion

No person shall be compelled to pay any taxes for the promotion and maintenance of any particular religion or religious denomination. (Art. 27)

5) Cultural and Educational Rights

Protection of interests of minorities –

- (1) Any Section of Citizens of India having a distinct language, script or culture shall have the right to conserve the same.
- (2) No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of State funds on the grounds of religions, race caste, language or any of them.



6) Right to Constitutional Remedies

Remedies for Enforcement of Rights conferred by this part-

- (1) For the enforcement of the rights conferred by this part (Part III), the right to move Supreme Court is guaranteed.
- (2) The Supreme Court shall have power to issue directions or writs including the writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement the Fundamental Rights.
- (3) Without prejudice to the power of the Supreme Court under this respect, the parliament by law empower any other court to exercise such powers within its jurisdiction.

Parliament by law has power to restrict or abridge any of the fundamental rights with respect to members of Armed Forces, forces charged with maintenance of public order, employees of intelligence and counter intelligences service and employees of telecommunication service of Armed Forces to ensure duty and discipline among them.

Art. 35 of the Constitution declares that parliament, not state legislature, shall have power to enact laws to give effect to the provisions of this part.

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