

# Rights in Indian Constitution



# 1. IMPORTANCE OF RIGHTS

Rights are essential for protecting the freedom, equality, dignity and well-being of individuals.



## Story of the Asian Games — 1982

The Asian Games highlighted the difference between the treatment of workers and others. Many workers were paid very low wages and worked under poor conditions. This raised questions about equality, dignity and fair treatment.



## Story of Manchale

Manchale, a resident of Assam, was arrested and remained in a mental hospital for many years. His case showed how important it is to protect an individual's personal liberty and rights. It also highlighted the need for effective safeguards against arbitrary state action.

## Need / Importance of Fundamental Rights

✓ Protect individuals against arbitrary government action.

✓ Provide basic freedoms and equality.

✓ Protect the dignity of individuals.

✓ Prevent exploitation and discrimination.

✓ Ensure conditions necessary for people to develop their personality and capabilities.

## 2. BILL OF RIGHTS

### What is a Bill of Rights?

A Bill of Rights is a list of basic rights guaranteed to individuals and protected by the Constitution.

### Demand for a Bill of Rights

- \* The Motilal Nehru Committee (1928) demanded a Bill of Rights for Indians.
- \* The demand reflected the need to guarantee basic civil and political rights.

### Fundamental Rights ✓

- \* Specifically protected by the Constitution
- \* Justiciable — can approach the court if violated
- \* Government is restricted from violating them
- \* Mainly protect basic freedoms and interests of individuals

### Ordinary Rights ✗

- \* Created through ordinary laws
- \* Protection depends mainly on ordinary law
- \* Can generally be changed through ordinary legislation
- \* Deal with ordinary legal matters

### Role of Judiciary

- \* Fundamental Rights are justiciable.
- \* Courts can protect individuals when their Fundamental Rights are violated.
- \* The Supreme Court and High Courts can issue appropriate writs for the protection of Fundamental Rights.

### 3. FUNDAMENTAL RIGHTS

Fundamental Rights are contained in **Part III** of the Indian Constitution.

There are six broad categories:

- **Right to Equality** — Articles 14–18
- **Right to Freedom** — Articles 19–22
- **Right against Exploitation** — Articles 23–24
- **Right to Freedom of Religion** — Articles 25–28
- **Cultural and Educational Rights** — Articles 29–30
- **Right to Constitutional Remedies** — Article 32

### 1. RIGHT TO EQUALITY — ARTICLES 14–18

#### **Equality before Law**

- All persons are equal before the law.
- No person is above the law.

#### **Equal Protection of Laws**

- People in similar circumstances should receive equal treatment.
- Different treatment can be justified when there is a reasonable basis for classification.

#### **Powers under Right to Equality**

- Prohibits discrimination on grounds of religion, race, caste, sex or place of birth.
- Provides equal access to public places such as shops, restaurants, hotels and places of public entertainment.
- Ensures equality of opportunity in public employment.

#### **Equality of Opportunity & Reservation**

- Article 16(4) permits reservation for backward classes that are not adequately represented in public services.
- Reservation aims to provide equal opportunities to historically disadvantaged sections.

## 2. RIGHT TO FREEDOM — ARTICLES 19–22

### Equality and Freedom

- Freedom without equality can lead to domination by powerful groups.
- Equality without freedom can restrict individual choice.
- Therefore, equality and freedom support each other.

**Example:** Everyone may have the legal freedom to speak, but meaningful freedom requires that people are not denied this opportunity because of their social position.

### Six Freedoms under Article 19

Citizens have the right to:

1.  Freedom of speech and expression
2.  Assemble peacefully without arms
3.  Form associations or unions
4.  Move freely throughout India
5.  Reside and settle in any part of India
6.  Practise any profession or carry on any occupation, trade or business

These freedoms are subject to reasonable restrictions.

### Right to Life and Personal Liberty

- Article 21 protects the life and personal liberty of individuals.
- No person can be deprived of life or personal liberty except according to procedure established by law.

### Preventive Detention

- Preventive detention means detaining a person to prevent them from committing a possible offence, rather than punishing them for an offence already committed.
- It is an exceptional power and is subject to constitutional safeguards.
- Detention beyond three months requires the safeguards prescribed by the Constitution, including consideration by an Advisory Board.



### 3. RIGHT AGAINST EXPLOITATION – ARTICLES 23–24

- Prohibits traffic in human beings and forced labour.
- No person can be forced to work without proper payment.
- Beggar and similar forms of forced labour are prohibited.
- Article 24 prohibits employment of children below 14 years in factories, mines and other hazardous employment.



### 4. RIGHT TO FREEDOM OF RELIGION – ARTICLES 25–28

- Guarantees freedom of conscience.
- Individuals have the freedom to profess, practise and propagate religion.
- The state cannot discriminate merely on the basis of religion.
- Religious freedom is subject to public order, morality and health.
- The state can regulate secular activities associated with religious practices.
- No person can be compelled to pay taxes specifically meant for the promotion of a particular religion.
- Religious instruction is restricted in educational institutions wholly maintained by state funds.



### 5. CULTURAL & EDUCATIONAL RIGHTS – ARTICLES 29–30

- Protect the language, script and culture of sections of citizens.
- No citizen can be denied admission to a state-maintained or state-aided educational institution on grounds only of religion, race, caste or language.
- Minorities have the right to establish and administer educational institutions of their choice.
- These rights help protect cultural diversity and minority interests.

## 6. RIGHT TO CONSTITUTIONAL REMEDIES – ARTICLE 32

The Supreme Court and High Courts can issue specific orders called **Writs** for the protection/restoration of **Fundamental Rights**.

|  Five Writs       | Simple Meaning             | Easy Example                                                                                       |
|----------------------------------------------------------------------------------------------------|----------------------------|----------------------------------------------------------------------------------------------------|
| * Habeas Corpus   | Produce the person         | Police illegally detains Rahul → Court says, "Bring Rahul before us."                              |
| * Mandamus       | Do your legal duty         | Officer refuses to perform a legal duty → Court says, "Do your duty."                              |
| * Prohibition   | Stop the lower court       | Lower court is hearing a case beyond its power → Higher Court says, "Stop!"                        |
| * Certiorari    | Cancel an illegal decision | Lower court has already made an improper decision → Higher Court quashes it.                       |
| * Quo Warranto  | By what authority?         | Person occupies a public office without required qualifications → Court questions their authority. |

### Memory Trick

- \* Habeas Corpus → FREE the person
- \* Mandamus → DO the duty
- \* Prohibition → STOP the court
- \* Certiorari → CANCEL the decision
- \* Quo Warranto → QUESTION the office



## 4. NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

- The National Human Rights Commission (NHRC) was established in 1993.
- It works to protect and promote human rights.
- It can inquire into complaints of human-rights violations.
- It can undertake visits and investigate conditions, including in places such as jails.
- It can undertake and promote research relating to human rights.
- It works as an independent watchdog against violations of human rights.

### Limitation

The NHRC mainly makes recommendations; it does not function like a court with unlimited power to enforce its decisions.

## 5. DIRECTIVE PRINCIPLES OF STATE POLICY — DPSP

### What are DPSPs?

- The Constitution contains a separate list of policy guidelines called the Directive Principles of State Policy.
- They guide governments in making policies for the welfare of society.
- They are non-justiciable — courts cannot directly enforce them.

### What do they contain?



#### 1. Goals & Objectives

- Social and economic welfare
- Raising the standard of living
- Equal distribution of resources
- Promotion of international peace



#### 2. Certain Rights

- Right to work
- Adequate livelihood and other welfare-oriented objectives



#### 3. Certain Policies

- Uniform Civil Code
- Prohibition of consumption of alcoholic liquor
- Other measures aimed at social welfare



## 6. FUNDAMENTAL DUTIES OF CITIZENS

- ❖ Fundamental Duties were inserted into the Constitution by the 42nd Amendment Act, 1976.
- ❖ Citizens have 11 Fundamental Duties.
- ❖ They remind citizens of their responsibilities towards the nation and society.
- ❖ Duties include respecting the Constitution, defending the country, promoting harmony and protecting the environment.
- ❖ Fundamental Duties are not enforceable by courts.

**Example:** Protecting the environment: A citizen should avoid activities that unnecessarily pollute rivers, air or public spaces.

## 7. FUNDAMENTAL RIGHTS vs DIRECTIVE PRINCIPLES

| Fundamental Rights                               | Directive Principles                                   |
|--------------------------------------------------|--------------------------------------------------------|
| ❖ Mainly protect individual rights               | ❖ Focus on social and economic welfare                 |
| ❖ Justiciable                                    | ❖ Non-justiciable                                      |
| ❖ Restrict the state from certain actions        | ❖ Guide the state in policy-making                     |
| ❖ Courts can enforce them                        | ❖ Courts cannot directly enforce them                  |
| ❖ Aim to protect individual freedom and equality | ❖ Aim to establish a just and welfare-oriented society |

**Relationship: Fundamental Rights and DPSPs are complementary, not necessarily contradictory. Fundamental Rights protect individual freedom, while DPSPs guide the state towards social and economic justice.**



## 8. RIGHT TO PROPERTY

### LEGAL SHIFT TIMELINE



#### ORIGINALLY

Originally, the Right to Property was a Fundamental Right.

#### 1978, 44<sup>TH</sup> AMENDMENT

In 1978, the 44th Amendment removed it from the list of Fundamental Rights.

#### ARTICLE 300A

It became a constitutional/legal right under Article 300A. Therefore, the Right to Property is no longer a Fundamental Right.



### KESAVANANDA BHARATI CASE — 1973

- The Supreme Court held that Parliament's power to amend the Constitution is not unlimited.
- Parliament cannot alter the basic structure of the Constitution.
- This became known as the Basic Structure Doctrine.



## ULTRA-QUICK REVISION

- Part III → Fundamental Rights
- 14–18 → Equality
- 19–22 → Freedom
- 23–24 → Exploitation
- 25–28 → Religion
- 29–30 → Cultural & Educational Rights
- 32 → Constitutional Remedies
- DPSP → Guidelines for the State → Non-justiciable
- Fundamental Duties → Citizens' responsibilities → 42nd Amendment, 1976
- Right to Property → Article 300A → Constitutional right, **NOT** Fundamental Right
- Kesavananda Bharati → Basic Structure Doctrine

# Chapter 2 — Important MCQs

**1. Which of the following best explains why Fundamental Rights are different from ordinary legal rights?**

- A. They cannot ever be restricted
- B. They are protected by the Constitution and are enforceable through courts
- C. They apply only to government employees
- D. They can be changed by any ordinary law

**Answer: B**

**2. Which of the following pairs is correctly matched?**

- A. Article 17 — Equality of opportunity in public employment
- B. Article 19 — Freedom of speech and expression
- C. Article 21 — Abolition of untouchability
- D. Article 32 — Right against Exploitation

**Answer: B**

**3. Which situation would most directly involve the Right to Constitutional Remedies?**

- A. A citizen wants to change an ordinary school rule
- B. A person's Fundamental Right has been violated and they approach the court
- C. A political party wants to contest an election
- D. A state wants to introduce a new tax

**Answer: B**

## Chapter 2 — Important MCQs

**4. Which writ is used when a person is illegally detained?**

- A. Mandamus
- B. Prohibition
- C. Habeas Corpus
- D. Quo Warranto

**Answer: C**

**5. Which statement correctly distinguishes Fundamental Rights from Directive Principles?**

- A. Both are equally enforceable by courts
- B. Fundamental Rights are non-justiciable, while DPSPs are justiciable
- C. Fundamental Rights protect individual freedoms, while DPSPs guide the state towards social and economic welfare
- D. DPSPs have no constitutional status

**Answer: C**

**6. Fundamental Duties were incorporated into the Indian Constitution through the:**

- A. 44th Amendment
- B. 42nd Amendment
- C. 73rd Amendment
- D. 86th Amendment

**Answer: B**

## Important Long-Answer Questions

Q1. Why are Fundamental Rights considered essential for a democratic society? Explain. [6 Marks]

Answer:

- **Protection of individual freedom:** Safeguard basic freedoms against arbitrary state action.
- **Equality:** Ensure equality before law and prohibit discrimination.
- **Dignity:** Protect the dignity and personal liberty of individuals.
- **Prevent exploitation:** Prohibit practices such as forced labour and trafficking.
- **Protection against state power:** Place constitutional limits on government authority.
- **Judicial protection:** Courts can enforce Fundamental Rights when they are violated.

Q2. Explain how the Right to Equality seeks to establish equality while also permitting affirmative action. [6 Marks]

Answer:

- **Equality before law:** All persons are subject to the same law.
- **Equal protection:** Persons in similar circumstances should receive equal treatment.
- **Non-discrimination:** Prohibits discrimination on specified grounds.
- **Equality of opportunity:** Ensures equal opportunity in public employment.
- **Reservation:** Article 16(4) permits special provisions for inadequately represented backward classes.
- **Social justice:** Such measures aim to create substantive equality, not merely formal equality.

**Q3. Explain the importance of the Right to Freedom and the constitutional safeguards associated with it. [6 Marks]**

Answer:

- **Freedom of speech and expression:** Enables citizens to express opinions.
- **Peaceful assembly:** Citizens can assemble peacefully without arms.
- **Associations:** Citizens can form associations or unions.
- **Movement and residence:** Citizens can move and settle freely within India.
- **Occupation:** Citizens can practise a profession, trade or business.
- **Life and personal liberty:** Article 21 protects life and personal liberty.

These freedoms are subject to reasonable restrictions to balance individual liberty with public interest.

**Q4. “Fundamental Rights would have little practical value without Constitutional Remedies.” Explain. [4 Marks]**

Answer:

- **Judicial enforcement:** Citizens can approach courts when their Fundamental Rights are violated.
- **Supreme Court & High Courts:** Courts can issue appropriate writs for protection of rights.
- **Accountability:** Government authorities can be prevented from acting unlawfully.
- **Effective protection:** Remedies make Fundamental Rights justiciable and meaningful, rather than merely declaratory.

**Key terms:** Article 32   writs   judicial enforcement  
protection of Fundamental Rights

## Q5. Explain the relationship between Fundamental Rights and Directive Principles of State Policy. Why are both necessary for democracy? [6 Marks]

### Answer:

- \* **Fundamental Rights:** Mainly protect individual freedom, equality and dignity.
- \* **DPSPs:** Guide the state towards social and economic welfare.
- \* **Justiciability:** Fundamental Rights are enforceable through courts, whereas DPSPs are non-justiciable.
- \* **Individual + society:** Fundamental Rights protect individuals while DPSPs promote the welfare of the wider society.
- \* **Complementary nature:** Rights provide freedom; DPSPs create conditions in which that freedom can be meaningfully enjoyed.
- \* **Democratic objectives:** Together, they seek to establish a society based on liberty, equality and social justice.

Key terms:

Justiciable

non-justiciable

individual freedom

welfare state

social justice

complementary