**Fundamental Rights**

Rights are defined as claims of an individual that are essential for the development of his or her own self and that are recognized by society or State. Now-a-days, terms like ‘right to education’, ‘right to information’ and ‘right to protest peacefully’ are being used quite frequently. In a democratic country like ours, there are some rights that must be guaranteed to every citizen.

The Constitution of India guarantees some rights to its citizens. They are known as Fundamental Rights. But the rights have real meaning only if individuals perform duties.Hence, the Constitution also enlists certain core duties that every citizen is expected to perform. These are known as Fundamental Duties.

These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justiciable, i.e. enforceable through courts. Being justiciable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts.

**Six Fundamental Rights**

The Constitution guarantees six fundamental rights to Indian citizens as follows:

(i) right to equality, (ii) right to freedom, (iii) right against exploitation, (iv) right to freedom of religion, (v) cultural and educational rights, and (vi) right to constitutional remedies. While these fundamental rights are universal, the Constitution provides for some exceptions and restrictions. These rights are provided in Part III of the Indian Constitution.

Originally, there were seven Fundamental Rights in the Constitution. Besides the above mentioned six rights, there was the Right to Property also. Since this Right created a lot of problems in the way of attaining the goal of socialism and equitable distribution of wealth, it was removed from the list of Fundamental Rights in 1978 by 44th constitutional amendment. However, its deletion does not mean that we do not have the right to acquire, hold and dispose of property. Citizens are still free to enjoy this right. But now it is just a legal right and not a Fundamental Right.

The **legal rights** are protected by an ordinary **law**, but they can be altered or taken away be the legislature by changing that **law**. **Fundamental Rights** are protected and Guaranteed by the Constitution and they cannot be taken away by an ordinary **law** enacted by the legislature.

1. **Right to Equality (Article 14-18**)

Right to equality is very important in a society like ours. The purpose of this right is to establish the rule of law where all the citizens should be treated equal before the law. It has five provisions (Articles 14-18) to provide for equality before law or for the protection of law to all the persons in India and also to prohibit discrimination on the grounds of religion, race, caste, sex or place of birth.

1. **Equality before Law (Article 14)**: The Constitution guarantees that all citizens will be equal before law. It means that everyone will be equally protected by the laws of the country. No person is above law. It means that if two persons commit the same crime, both of them will get the same punishment without any discrimination.
2. **No Discrimination on the basis of Religion, Race, Caste, Sex or Place of Birth (Article 15)**: The State cannot discriminate against a citizen on the basis of religion, race, caste, sex or place of birth. This is necessary to bring about social equality. Every citizen of India has equal access to shops, restaurants, places of public entertainment or in the use of wells, tanks or roads without any discrimination. However, the State can make special provisions or concessions for women and children.
3. **Equality of Opportunity to all Citizens in matter of Public Employment (Article 16)**: The State cannot discriminate against anyone in the matter of public employment. All citizens can apply and become employees of the State. Merits and qualifications will be the basis of employment. However, there are some exceptions to this right. There is a special provision for the reservation of posts for citizens belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes (OBCs)
4. **Abolition of Untouchability (Article 17)**: Practising untouchability in any form has been made a punishable offence under the law. This provision is an effort to uplift the social status of millions of Indians who had been looked down upon and kept at a distance because of either their caste or the nature of their profession.
5. **Abolition of Titles (Article 18)**: All the British titles like Sir (Knighthood) or Rai Bahadur which were given to the British loyalists during the British rule, have been abolished because they created distinctions of artificial nature. However, the President of India can confer civil and military awards to those who have rendered meritorious service to the nation in different fields. The civil awards such as Bharat Ratna, Padma Vibhushan, Padam Bhushan and Padma Shri and the military awards like Veer Chakra, Paramveer Chakra, Ashok Chakra are conferred.
6. **Right to Freedom (**Article 19-22)

The Constitution of India provides Right to Freedom to all its citizens. This Right is stipulated under Articles 19-22. The following are the four categories of Rights to Freedom.

1. **Six Freedoms**: Article 19 of the Constitution provides for the following six freedoms
2. Freedom of Speech and Expression
3. Freedom of Assembly
4. Freedom to form associations
5. Freedom of Movement
6. Freedom to reside and to settle
7. Freedom of profession, occupation, trade, or business

The purpose of providing these freedoms is to build and maintain an environment for proper functioning of democracy. However, the Constitution has authorized the State to impose certain reasonable restrictions on each of them in the interests of the sovereignty, integrity and security of India.

1. Protection in respect of conviction for offences: Article 20 of the Constitution provides for the protection in respect of conviction for offences. No one can be convicted for an act that was not an offence at the time of its commission, and no one can be given punishment greater than what was provided in the law prevalent at the time of its commission. Also, no one can be prosecuted and punished for the same offence more than once and can be forced to give witness against his or her own self.
2. Protection of life and personal liberty: As provided in Article 21, no one can be deprived of his or her life or personal liberty except according to the procedure established by law.
3. Protection against arrest and detention in certain cases: It is provided in Article 22 that whenever a person is arrested, he or she should be informed, as soon as it is possible, of the grounds for arrest and should be allowed to consult and to be defended by a legal practitioner of his or her choice. Moreover, the arrested person must be produced before the nearest magistrate within 24 hours of such an arrest excepting a person who has been arrested under preventive detention law. The case of the person arrested under preventive detention law has also to be referred to an Advisory Board within a period of three months of his or her arrest.
4. **Right against Exploitation (Articles 23-24)**

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.

Traditionally, the Indian society has been hierarchical that has encouraged exploitation in many forms. Which is why, the Constitution makes provisions against exploitation. The citizens have been guaranteed the right against exploitation through Articles 23 and 24 of the Constitution. These two provisions are:

1. Prohibition of traffic in human beings and forced labour (Article 23): Traffic in human beings and begar and other similar forms of forced labour are prohibited and any breach of this provision shall be an offence punishable in accordance with law.
2. Prohibition of employment of children in factories, etc. (Article 24): As the Constitution provides, no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
3. **Right to Freedom of Religion (**Articles 25-28)

India is a multi-religion country, where Hindus, Muslims, Sikhs, Christians and many other communities live together, the Constitution declares India as a ‘secular state’. It means that Indian State has no religion of its own. But it allows full freedom to all the citizens to have faith in any religion and to worship, the way they like. But this should not interfere with the religious beliefs and ways of worship of other fellow beings. This freedom is available to the foreigners as well.

1. Freedom of conscience and free profession, practice and propagation of religion (Article 25): All persons are equally entitled to freedom of conscience and the right to profess, practise and propagate religion freely. However, it does not mean that one can force another person to convert his/her religion by force or allurement. Also, certain inhuman, illegal and superstitious practices have been banned. Religious practices like sacrificing animals or human beings, for offering to gods and goddesses or to some supernatural forces are not-permissible. Similarly, the law does not permit a widow to get cremated live with her dead husband (voluntarily or forcibly) in the name of Sati Pratha.
2. Freedom to manage religious affairs (Article 26): Subject to public order, morality and health, every religious group or any section thereof shall have the right (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.
3. Freedom as to the payment of taxes for promotion of any particular religion(Article 27): No person shall be compelled to pay any tax, the proceeds of which are specifically used in payment of expenses the incurred on the promotion or maintenance of any particular religion or religious sect.
4. Freedom as to attendance at religious instruction or religious worship in certain educational institutions (Article 28): (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds. However, it will not apply to an educational institution which is administered by the State but has been established under any trust which requires that religious instruction shall be imparted in such an institution. But no person attending such an institution shall be compelled to take part in any religious instruction that may be imparted there or attend any religious worship that may be conducted there. In case of a minor, the consent of his/her guardian is essential for attending such activities.
5. **Cultural and Educational Rights (**Articles 29-30)

India is the largest democracy in the world having diversity of culture, scripts, languages and religions. As we know the democracy is a rule of the majority. But the minorities are also equally important for its successful working. Therefore, protection of language, culture and religion of the minorities becomes essential so that the minorities may not feel neglected or undermined under the impact of the majority rule. Since people take pride in their own culture and language, a special right known as Cultural and Educational Right has been included in the Chapter on Fundamental Rights.

1. Protection of interests of minorities **(**Articles 29): Any minority group having a distinct language, script or culture of its own shall have the right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
2. Right of minorities to establish and administer educational institutions **(**Articles 30): All Minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice.
3. **Right to Constitutional Remedies (Articles 32-35)**

Since Fundamental Rights are justiciable, they are just like guarantees. They are enforceable, as every individual has the right to seek the help from courts, if they are violated. But in reality it is not so. Encroachment or violation of Fundamental Right in our day to day life is a matter of great concern. Which is why, our Constitution does not permit the legislature and the executive to curb these rights. It provides legal remedies for the protection of our Fundamental Rights. This is called the Right to Constitutional Remedies stipulated in Article 32. When any of our rights are violated, we can seek justice through courts. We can directly approach the Supreme Court that can issue directions, orders or writs for the enforcement of Fundamental Rights