



CHAPTER

5(A)

Human Rights in India**Learning Outcomes :**

Students will be able to:

- understand the meaning of rights and human rights
- differentiate between human rights and fundamental rights
- appreciate the significance of Universal Declaration of Human Rights
- understand the link between Sustainable Development Goals and Human Rights
- understand how human rights laws are rooted in its constitution in India
- discuss various kinds of human rights that are safeguarded by laws in India

This Unit consists of two main chapters, one on the Human Rights laws in India, Indian Constitution and Statute Laws, and the other on the Human Rights commissions and their complaint mechanisms.

The focus of this Sub -unit is on Human rights laws in India.

A. Introduction**1. Historical Context**

Historically, varied religious and social traditions as well as philosophical writings have recognized in different ways and with diverse perspectives the inherent rules of being humans, particularly the principles that ensure respect for human dignity. Such principles have commonly been understood as basic and unalienable. For example, traditions like Christianity, Islam, Hinduism, Buddhism, and Confucian have made reference to 'respect' and 'well-being' for others, which mean that human beings must conduct themselves in particular ways. The modern society, also, has recognized certain rules of respecting human dignity and their well-being and formulated them in the form of human rights.

Generally, the word 'rights' denote that these rules are entitlements or claims of all to be recognized and protected through duties and obligations, and the State ensures that human rights of all are guaranteed.

Human rights are standards that recognize and protect the dignity of all human beings. Human rights govern how individual human beings live in society and with each other, as well as their relationship with the State and obligations that the State has towards them.

Human rights are based on values that keep society fair, just and equal. They include the right to life, the right to health and the right to freedom from torture etc.

i. How did the story of Human Rights begin?

The origin of Human Rights began in the year 539 BC when troops of Cyrus the Great, conquered Babylon. After winning the war, Cyrus did something unexpected! He freed the slaves to return home. He also declared that all people had the right to choose their own religion.

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The Cyrus Cylinder- ***It is a clay tablet containing statements of Cyrus, the Great. It is the first human rights declaration in history.***

In the 20th century, during the Second World War, the world saw barbarous acts that outraged the conscience of mankind. In December 1948, this resulted in the adoption of Universal Declaration of Human Rights (UDHR) by the then newly established United Nations that recognized human rights to be the foundation for freedom, justice and peace.

ii. What is a Right?

A 'Right' is a moral or legal entitlement to have or do something. A right is a justified claim on others. In other words, Rights are reasonable privileges or claims of people which are accepted by society and affirmed by statute.

Rights include human rights and fundamental rights.

iii. What are Human Rights?

- Human rights are basic rights that we have because we exist as human beings. These are not granted by any state.
- Human rights belong to all human beings irrespective of their nationality, race, caste, creed, gender, etc. All individuals enjoy same human rights, without any discrimination.
- Human rights are safeguards that a human being seeks in order to live with dignity and equality. Therefore, human rights are **universal** and **inalienable** rights.
- The principle of **universality** of human rights means that we are all equally entitled to our human rights.
- Human rights are **inalienable**; therefore, these should not be taken away, except in specific situations and according to due process. For instance, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.
- A few examples of human rights are those basic rights that ensure fairness, equality, freedom and respect to all people. These rights abolish various unjust practices like exploitation, discrimination and inequality.
- Human rights include most fundamental rights like right to life, rights to food, education, work, health, and liberty etc.

**Human Rights
Logo**





iv. International Human Rights

- In 1948, the United Nations General Assembly adopted Universal Declaration of Human Rights (UDHR) as 'a common standard of achievement for all peoples and nations.'
- The Universal Declaration of Human Rights provides and defines various kinds of human rights that are applicable to all human beings.
- These include the fundamental, civil, political, economic, social and cultural rights, for example freedom of speech, assembly, conscience and religion; right to education; right to livelihood and decent standard of living; right to life, liberty and security of person; right to equality; freedom from all forms of discriminations including based on gender and race; and so on.
- The principle of universality of human rights is the cornerstone of international human rights law.
- The Universal Declaration of Human Rights has been embraced by almost all member States of the United Nations. All members states have committed to respect and protect the basic human rights values provided therein.



v. What are Fundamental Rights?

Fundamental Rights are basic rights of the citizens of a country. Fundamental Rights are enshrined in the Constitution and they are enforceable in the court of law. If there is any kind of violation of fundamental rights, one can approach the court for protection of such rights.

Difference between Fundamental Rights and Human Rights

The main difference between fundamental rights and human rights is that the fundamental rights are specific to a particular country, whereas human rights have worldwide acceptance.

BASIS FOR COMPARISON	FUNDAMENTAL RIGHTS	HUMAN RIGHTS
Meaning	Fundamental Rights are the basic rights of citizens of a country which are stated in the constitution and enforced by law. These may slightly vary from country to country.	Human Rights are the basic rights that all human beings can enjoy, regardless of their nationality, ethnicity and religion etc.
Scope	It is country specific.	It is universal.

Fundamental Rights and Human Rights are important to create a better environment for people and to help them preserve their dignity.



vi. Sustainable Development Goals and Human Rights

The Sustainable Development Goals (SDGs) and human rights are interlinked. Over 90 percent of the goals of the SDGs relate to human rights obligations. When a State makes progress towards achieving SDGs they move forward to fulfil their human rights obligations. Few SDGs that are linked to human rights are:

No Poverty



Gender Equality



Zero Hunger



B. Indian Constitutional framework on Human Rights and related Laws in India

In India, human rights are rooted in its Constitution just like the US, South Africa, and many other countries. The Indian constitutional human rights framework involves the following parts:

1. **The Preamble**
2. **Fundamental Rights:** Part III of the Constitution contains the Fundamental Rights
3. **Directive Principles:** Part IV of the Constitution contains Directive Principles and
4. **Fundamental Duties:** Part IV(A) contains Fundamental Duties

1. The Preamble

The Constitution of India begins with the Preamble affirming its aims, objectives, and the guiding principles. The principles laid out in the Preamble are used for interpreting provisions of the Constitution that are vague and ambiguous.

The Preamble is the '**basic structure**' of the Constitution. The doctrine of 'basic structure' takes away the amendment power of the Parliament with regards to certain features of the Constitution such as democracy, rule of law, secularism, separation of powers and judicial review. Some of these features appear in the Preamble.

The Preamble proclaims the rights and freedoms, provisions of which are contained in the Constitution in various parts and clauses aimed 'to secure to all its citizens' those rights and freedoms.

2. Fundamental Rights - Part III of the Constitution

- (i) **Articles 12-35 in Part III** of the Constitution contain the provisions on **fundamental rights**.

Fundamental rights are largely **civil and political rights**.

The fundamental rights in India consists of the following rights:

- a) **Right to equality- Articles 14-18**
- b) **Right to freedom- Articles 19-22**
- c) **Right against exploitation- Articles 23-24**
- d) **Right to freedom of religion- Articles 25-28**
- e) **Cultural and educational rights- Articles 29-30**
- f) **Right to constitutional remedies- Articles 32**



(ii) **Some of the salient features of Fundamental Rights are listed below:**

- o Fundamental rights are enforceable by the higher courts in India.
- o Article 32 provides the right to the aggrieved ones, whose fundamental rights have been violated or denied, to petition the Supreme Court for the enforcement of fundamental rights.
- o Article 13 elevates the authority of fundamental rights. It ensures that the State or other competent authority do not make laws including ordinances, orders, bye laws, rules, regulations, notifications, customs or usages that contradicts or takes away or breaches the fundamental rights.
- o Fundamental rights are mostly enforceable against the State and in some cases against private persons. An example of the former is the right to freedom of speech and expression; for the latter is the prohibition of employment of children below the age of **fourteen years** in factories, mines, and in places of hazardous activities.
- o The term 'State' includes the Government, Parliament, State Legislatures, District Boards, Panchayats, Municipalities, and other authorities or organizations that are an instrument or agency of the state like, the Indian Oil Limited, Karnataka State Road Transportation Authority, Delhi Jal Board, and so on

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What is a State?

Article 12 defines the term State.

Article 12 of the Indian Constitution states that: *"Definition in this part, unless the context otherwise requires, the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."*

For the purposes of Part III of the constitution, the state comprises of the following:

- Government and Parliament of India i.e the Executive and Legislature of the Union
- Government and Legislature of each State i.e the Executive and Legislature of the various States of India
- All local or other authorities within the territory of India
- All local and other authorities who are under the control of the Government of India

(iii) **Let us now understand various fundamental rights in detail :**

a) Right to Equality - Articles 14-18

Article	Brief description
Article 14	The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India, on grounds of religion, race, caste, sex or place of birth.
Article 15	The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
Article 16	There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
Article 17	Abolition of untouchability
Article 18	Abolition of all titles except military and academic



➤ Article 14

Article 14 provides to all the right to equality before law and equal protection of the law. It prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

It means that law treats everyone equally without consideration of their rank or status or other backgrounds.

Equality Principle - The principle of equality means that one uniform law cannot be applied to all equally as some may not be similarly placed as others. So 'equality' treats equals similarly and unequals differently.

Although Article 14 states equality before law, that does not mean absolute equality. The application of the equality principle cannot be universal or general in character. This means that the same law cannot apply to every person equally and similarly; different situations may require different treatment.

Therefore, the same law may not apply to everyone but only to a class of people. The State is entitled to make a reasonable classification for purposes of legislation and treat all in one class on an equal footing.

For example, the Prohibition of Child Marriage Act, 2006 prescribes the marriageable age of girls as 18 years and that of boys as 21 years; this restricts a minor from getting married. This example draws a distinction based on age in relation to the question of the prohibition of child marriage.

However, if the marriage between two parties were to be disallowed based on the classification of religion, race, caste, sex or place of birth, it would amount to discrimination and breach of right to equality.

➤ Article 15

Discrimination & access to public places- Article 15 is based on the equality principle. It prohibits State from discriminating anyone based on grounds of religion, race, caste, sex or place of birth.

Also, it prohibits anyone and the State from using these grounds to restrict any citizen from entering shops, public restaurants, hotels and places of public entertainment; or the use of wells, tanks, bathing ghats, roads and places of public resort.

➤ Article 16

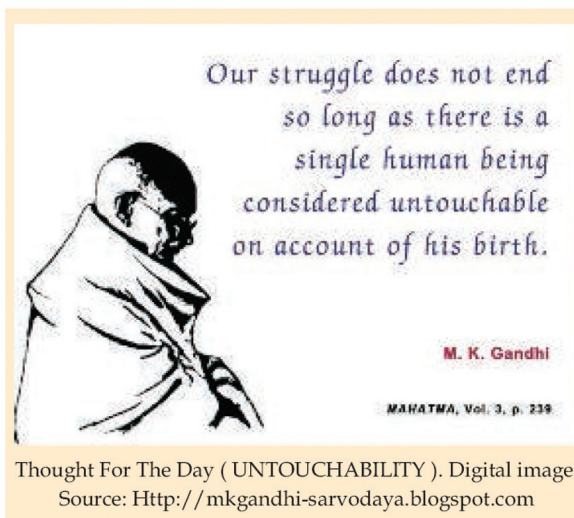
Reservation and affirmative action - Article 16 is also based on the equality principle of Article 14. It provides for equality of opportunity in matters of public or State employment and bars any discrimination to any citizen on grounds of religion, race, caste, sex, descent, place of birth, or residence.

However, this article allows the State to provide reservation or affirmative action programs for government jobs to backward classes like Schedule Castes and Scheduled Tribes who because of historical and continued disadvantages based on caste, status and otherwise have not been adequately represented in the services under the State.

➤ Article 17

Abolition of Untouchability - Under Article 17 'Untouchability' is abolished and its practice in any form is forbidden.





This article can be enforced against both the State as well as private individuals.

The offence of untouchability is punishable in accordance with special laws like the:

- Protection of Civil Rights Act, 1955 and
- Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

The abolition of untouchability in Article 17 is made operational by these two special laws that attempt to remove any form of harassment and abuses to 'Dalits' and 'Adivasis' by the State or private individuals.

➤ **Article 18**

Abolition of Titles - Article 18 talks about the abolition of titles. It states:

- ◆ No title, not being a military or academic distinction, shall be conferred by the State.
- ◆ No citizen of India shall accept any title from any foreign State.
- ◆ No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
- ◆ No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

b) Right to Freedom- Articles 19-22

➤ **Article 19**

Article 19 prescribes and protects the following kinds of freedoms to all citizens:

- a) Freedom of speech and expression
- b) Freedom to assemble peaceably and without arms
- c) Freedom to form associations or unions
- d) Freedom to move freely throughout the territory of India
- e) Freedom to reside and settle in any part of the territory of India; and
- f) Freedom to practice any profession, or to carry on any occupation, trade or business



Reasonable restrictions on freedoms under Article 19

Article 19 also provides 'reasonable restrictions' on these freedoms, which means that these rights are conditional. The State can 'reasonably' limit or take away the right to 'freedom of speech and expression' when there is a threat to the sovereignty and integrity of India, or the security of the State, or friendly relations with foreign States, or public order, or decency or morality, or in relation to contempt of court, or defamation, or incitement to an offence.

For example, the State can prohibit someone from making inciting speeches that may provoke others to commit violence.

The chart below presents the various conditions under which the State can limit or take away freedoms.

Freedoms	Restrictions (grounds)
Freedom of speech and expression	Sovereignty and integrity of India, or the security of the State, or friendly relations with foreign States, or public order, or decency or morality, or contempt of court, or defamation, or incitement to an offence
Freedom to assemble peaceably and without arms	Sovereignty and integrity of India, or public order
Freedom to form associations or unions	Sovereignty and integrity of India, or public order or morality
Freedom to move freely throughout the territory of India	Interests of the general public, or for the protection of the interests of any Scheduled Tribe
Freedom to reside and settle in any part of the territory of India	
Freedom to practice any profession, or to carry on any occupation, trade or business	Interests of the general public; or the State prescribed professional or technical qualifications; or State run trade, business, industry or service, that excludes participation of citizens or others either completely or partially.

However, at times the Supreme Court can invalidate State's restrictions if it finds them to be unreasonable.

As an instance, the State cannot put restriction as an excuse because it is unable to maintain public order, e.g., application of aforementioned restrictions on the sale of a book because of a few unruly protesters; such restrictions are unreasonable and breach the right to freedom of speech and expression of the author.

Point to ponder!

Do criminals have human rights?



Human rights framework to the criminal justice system

➤ Article 20

Rights of persons accused of crimes - Article 20 provides for safeguards to persons who are accused of having committed crimes. This article provides the human rights framework to the criminal justice system.

The rights of persons accused of crimes are: Firstly, Article 20 provides that no person can be convicted for the commission or omission of an act that does not amount to an offense by any law in force at the time of such act.

For example, sodomy law under section 377 of the Indian Penal Code (IPC) treated consensual homosexual conduct between same-sex adults as a criminal offense.

In 2009, Section 377 was declared invalid and unconstitutional by the Delhi High Court to protect rights to privacy, non-discrimination, and liberty of lesbian, gay, bisexual and trans gender people.

But in 2013, the Supreme Court reversed the High Court's decision.

However, in 2018 the Supreme court overturned its 2013 judgment and struck down Section 377 of the IPC as unconstitutional.

In this example, sodomy law will not apply to any consensual homosexual conduct committed in 2011 but will apply to commissions that took place post-Supreme Court judgment of 2013 till 2018 (when the law again changed).

Therefore, Article 20 prohibits application of laws retrospectively and prospectively.

Secondly, Article 20 provides that any person who is convicted of a crime should not receive a penalty greater than what is provided in the law in force at the time of the act of offence.

Thirdly, it provides for another important right - 'no person shall be prosecuted and punished for the same offence more than once.' This means that if someone commits an offence, that person should not be harassed and punished repetitively (more than once) for the same offence.

Fourthly, it states that 'no person accused of any offence shall be compelled to be a witness against himself.' This provision safeguards the accused's right against self-incrimination. An accused may give information based on own knowledge if he or she chooses to, but cannot be forced to be self-witness against himself or herself.

Last, every accused has a right to fair trial.

➤ Article 21

Right to life and personal liberty - Article 21 states as follows - 'No person shall be deprived of his life or personal liberty except according to procedure established by law.'

This article is most fundamental; it is expansive and covers many other rights and is applicable to both the **citizens as well as non-citizens**.

The meaning of 'right to life' includes **right to human dignity**, right to basic requirements of life, right to participate in activities and expression, right to tradition, heritage, and culture, and so on.

'Personal liberty' means various rights that provide for personal liberty of a person, i.e., everyone has the right to do as per his or her will freely.

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The meaning of '**right to life** and **personal liberty**' is broad and embraces many aspects including..... see the table below.



'Right to Life & Personal Liberty'

human dignity, basic necessities of life, engaging in activities and expression, tradition, heritage and culture, privacy, pollution free environment, livelihood, against sexual harassment, against solitary confinement, legal aid, speedy trial, against delayed execution, in capital punishment, against custodial violence, shelter, healthcare and medical provisions, against bonded labor, against cruel and unusual punishment.

The second part of the article describes how one's right to life and personal liberty can be taken away.

A person can be deprived of his or her 'right to life or personal liberty' only by **procedure established by law**. This means that any law that limits or takes away one's right to life and personal liberty must contain a procedure that is **fair and reasonable and not arbitrary**.

For example, the Indian Penal Code prescribes death penalty for certain crimes. This involves established procedures like:

- 1) death penalty is awarded only in 'rarest of rare' cases, and
- 2) there should not be a delay in executing the prisoner waiting in death row. Also, Indian Penal Code allows for appeal where the wait period is longer than **five years**.

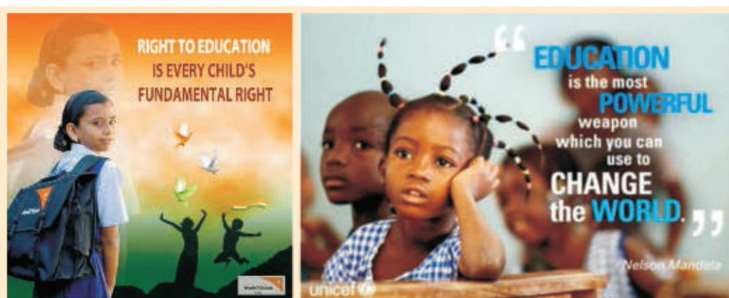
Class Activity:

Conduct a class debate on whether 'death penalty' should be abolished in India.

➤ Article 21A

Right to education - Article 21A states that 'The State shall provide free and compulsory education to all children of the age of **six to fourteen years** in such manner as the State may, by law, determine.'

This article provides for the right to education to all between the age of six and fourteen and obligates the State to implement this.



Right to Education Is Every Child's Fundamental Right Source: Digital image. Source: Peopleint.wordpress.com

A Child's Right To Education Source: Digital image. Source: Selwood.com



Prior to 2002, the Indian Constitution considered elementary education for children between age six and fourteen as a policy goal provision in the Directive Principles of State Policy, which Supreme court raised to the status of fundamental rights affirming depriving one from education amounts to depriving one's right to life (Article 21 - Fundamental Right). Accordingly right to education for the children of ages of 6 to 14 is now part of the fundamental rights.

Briefly put, Directive Principles of State Policy are not enforceable in a court of law as they are aspirational goals to be achieved over a period of time.

In 1992-93, however, the Supreme Court affirmed that depriving one from education amounts to depriving one's right to life under Article 21, which is a fundamental right. This meant that elementary education to the status of fundamental right from that of a policy goal (directive principles) and hence made it enforceable.

Accordingly, in 2002, Article 21A providing right to elementary education was created as a fundamental right by **the Constitution (Eighty-sixth Amendment) Act, 2002**. The aim is to provide free and compulsory education to all children in the age group of six to fourteen years in such a manner as the State may, by law, determine.

The Right of Children to Free and Compulsory Education (RTE) Act, 2009

The Right of Children to Free and Compulsory Education Act 2009, also known as the **RTE Act**, was enacted by the Parliament of India in 2009 and it provides that every child has a right to **free and compulsory education till completion of elementary education in a neighborhood school**.

This Act places a legal obligation on the state and central governments to implement the fundamental rights of a child in accordance with the provisions of the RTE Act.

However, implementing this right requires State's financial and budgetary expenditures of enormous amounts to meet the demand of a high illiteracy rate, which so far has been inadequate.

➤ **Article 22**

Protection against arrest and detention - Article 22 provides safeguards against arrest and detention in following ways:

- ♦ No one can be detained in custody without providing grounds for arrest.
- ♦ The arrested and detained person has a right to consult and to be defended by a legal practitioner of his or her choice.
- ♦ A person who is arrested and detained in custody should be produced before the nearest magistrate within a period of twenty-four hours. The travel time is not counted towards the twenty-four hours time frame.
- ♦ No such person can be detained in custody beyond twenty-four hours without the authority of a magistrate.

The above safeguards do not apply to:

- ♦ a person from an enemy country
- ♦ to persons arrested or detained under preventive detention laws

Generally, preventive detention laws allow for detaining persons on suspicion; who otherwise have not been found guilty of any crime but their release may be detrimental to society like, they may commit more crimes if released or affect adversely investigations by the State or they are mentally ill and so on.



However, preventive detention laws can be misused resulting in violations of human rights of the person detained.

Detention and Arrest:

Ordinarily, you may think that being arrested is the same as being detained but there is a difference between detention and arrest.

Detention Arrest

A person is arrested when she/ he is charged with a crime whereas if the police have reasonable suspicion against a person that she/he may have engaged in a crime or may commit crime, they may detain that person for questioning.

When a person is detained for questioning, she/he is not charged with a crime. The main difference between detention and arrest is whether the accused is charged with a crime or not.

c) Right against exploitation- Articles 23 and 24

➤ Article 23

Prohibition of traffic in human beings and forced labor - Article 23 prohibits human trafficking, begar and forced labor.

Begar- Begar is a Persian word. It is a practice where the worker is forced to give service to the master free of charge or at a nominal remuneration. It is a form of forced labor.

➤ Article 24

Prohibition of employment of children in factories, etc. - Article 24 prohibits employment of children below the age of **fourteen years** in factories, mining, and other hazardous employment.

Human Trafficking involves the following

ACT		Means		Purpose		
Recruitment Transport Transfer Harbouring Receipt of persons	+	Threat or use of force, coercion Abduction, Fraud Deception, Abuse of power of vulnerability, Giving payments or benefits	+	Exploitation including Prostitution of others, Sexual exploitation, Forced labour, Slavery or similar practices, Removal of organs, Other types of exploitations	=	Trafficking

Top 10 Countries Infamous for human Trafficking.

Digital image. Source: www.istdose.com



Other Examples of Human Trafficking

- forced labor
- forced sex workers
- forced organ transplantation
- forced surrogacy
- forced to work in factories
- hazardous activities
- forced into begging



d) Right to Freedom of Religion - Articles 25-28

➤ Article 25

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

Under Article 25, all persons have the right to freedom of conscience, and freedom to profess, practice and propagate religion as long as their acts do not threaten public order, morality and health.

- ♦ *For example*, on the issue concerning use of loudspeakers for religious purposes, Supreme Court has stated that no religion prescribed that prayers should be performed by disturbing the peace of others nor does it preach that they should be through voice-amplifiers or beating of drums.

In the name of religion nobody can be permitted to add to noise pollution or violate noise pollution norms. Even if there is religious practice to use voice amplifiers, it should not adversely affect rights of others including that of being nor disturbed in their activities. Noise Pollution (Regulation and Control) Rules, 2000 should be followed.'

Also, the wearing and carrying of kirpans is part of the profession of the Sikh religion and do not threaten public order, morality or health.

- ♦ State may regulate or restrict economic, financial, political or other secular activities that are associated with a religious practice.
- ♦ State can also provide social welfare and reforms in Hindu, Sikh, Jain, or Buddhist religious institutions.
- ♦ State can throw open their religious institutions like temples to all classes and sections of that religious society.

• Article 26

Freedom to manage religious affairs - Article 26 provides the right to every religious denomination, including their sub-sect or sects, to

- ♦ establish and maintain institutions for religious and charitable purposes;
- ♦ manage their own affairs in matters of religion;
- ♦ own and acquire movable (e.g., vehicles, furniture) and immovable (e.g., house, trees) property; and
- ♦ administer such property in accordance with law.

These rights are conditional; they should not endanger public order, morality and health.

➤ Article 27

Freedom as to payment of taxes for promotion of any particular religion - Article 27 prohibits forcing anyone to pay any taxes on revenues that are used in payment of expenses for the promotion or maintenance of any religion or sect.

For example, donations in temples that are used for the upkeep of the temple cannot be taxed.

➤ Article 28

Freedom as to attendance at religious instruction or religious worship in certain educational institutions – Article 28 states that:

- (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

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- (2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.
- (3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Trust- is a body registered under the Trust Act, 1882, now 1961 and is run on the basis of no profit no loss.

Article 28 prohibits religious instructions in educational institutions that are **wholly maintained out of State funds**.

For example, **government run schools** like Sainik Schools and Kendriya Vidyalaya schools cannot impart religious instructions to students.

However, some educational institutions are exempted from this rule, those which are **administered by the State but are established by endowments or trusts** that require religious instruction in such educational institutions.

Furthermore, **State recognized or State aided educational institutions** cannot force any student to take part in any religious instruction or to attend any religious worship conducted in such institutions unless he/she has given consent for the same. In the case of minors, the guardians should have given consent for the same.

wholly funded by state	recognized by state	aided by state	administered by state but established under a trust
Institutions whose entire expenditure is borne by the state/ government.	Institutions that are recognized by the state for imparting instruction or awarding degrees under the state laws.	Institutions that are receiving aid out of the state funds.	Institutions whose day-to-day administration is in the hands of government
Government educational institutions -for instance Government schools and colleges	Without recognition the degree of such institutions shall not be recognized for the public employment.		
Religious instruction cannot be imparted in the educational institutions that are wholly funded by state	Cannot force students to take part in religious instruction/ religious worship. In the case of minors, consent of the parent is required.	Cannot force students to take part in religious instruction/ religious worship. In the case of minors, consent of the parent is required.	Institutions that were originally established by a trust which required religious instructions to be imparted, the religious instructions may be imparted in such institution irrespective of the fact that it is administered by the state.

These provisions and others make India a secular state.



e) Cultural and Educational Rights – Articles 29-30

➤ Article 29

Protection of interests of minorities - Article 29 provides minority sections of citizens who have distinct language, script or culture the right to conserve the same.

It also prohibits educational institutions, maintained by the State or receiving aid out of State funds, from denying admissions to any citizen on grounds of religion, race, caste, or language.

➤ Article 30

Right of minorities to establish and administer educational institutions - Article 30 provides all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice.

It also prohibits State from discriminating educational institutions, while granting them aid, on grounds of religion or language.

f) Right to Constitutional Remedies - Articles 32

Remedies for enforcement of fundamental rights - Article 32 guarantees the aggrieved ones, whose fundamental rights have been violated or denied, to petition directly to the Supreme Court for the enforcement of fundamental rights.

Unlike cases of other matters where one has to exhaust remedies of lower courts, in matters of fundamental rights violation one can approach the Supreme Court directly.

Similarly, **Article 226** authorizes High Courts to take up matters of fundamental rights violations directly for their enforcement.

Public Interest Litigation - is also known as **Social Action Litigation**.

Article 32 allows for the practice of Public Interest Litigation, which is a process by which even letters written to Supreme Court or High Courts by public-spirited persons or organizations alleging fundamental rights violations are converted into petitions.

The author of the letter alleges violations of fundamental rights of the weaker sections of Indian society who are unable to approach the court; they include people in custody, victims of police violence, forced bonded laborers, migrant and contracted laborers, child workers, rickshaw pullers, hawkers, pensioners, pavement dwellers, and slum dwellers.

Courts can also act upon newspaper reports alleging fundamental rights violations of victims.

3. Directive Principles - Part IV - Articles 36-51

Articles 36-51 in Part IV of the Constitution lays down the guiding principles of governance for the State are called the 'Directive Principles of State Policy'.

Given below are few salient features of the directive principles.

- It is the duty of the State to apply these principles in making laws and policies on social and human development.
- These principles are largely of the nature of economic and social rights.
- The provisions of directive principles are not enforceable by any court of law, but they provide guidance in carrying out and drafting laws and policies regarding human and social development.
- The Supreme Court has raised the status of many provisions of directive principles to that of



fundamental right by suggesting they violate one's right to life (Art. 21).

- Directive principles aim at promoting the welfare of the people. They intend to secure and protect social, economic and political justice of its citizens.
- These principles endeavor to minimize income inequalities and to eliminate inequalities based on status, facilities, and opportunities amongst both individuals and groups of people.

Directive principles of policies guide the State to achieve various goals as given in the table below.

'Directive Principles'

Right to adequate means of livelihood for both men and women.

Equal pay for equal work for both men and women.

Right to healthy working conditions for men, women and children.

Protection to children against exploitation and against moral and material abandonment.

Legal aid for securing justice - for those with economic or other disabilities.

Village panchayats vested with powers and functions as units of self-government.

Right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement, etc.

Provision for just and humane conditions of work and for maternity relief.

Living wage and conditions of work to agricultural, industrial or other workers that ensures a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Promoting cottage industries on an individual or co-operative basis in rural areas.

Participation of workers in management of industries.

Uniform civil code for the citizens - one uniform law for family law matters.

Provision for early childhood care and education to children below age of six years.

Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections and protection from social injustice and all forms of exploitation.

Raising level of nutrition, standard of living and improving public health and prohibition of the consumption of intoxicating drinks and drugs injurious to health.

Organization of agriculture and animal husbandry in a modern and scientific way and preserving and improving the breeds, prohibiting the slaughter of cows.

Protection and improvement of the environment and safeguarding of forests and wildlife.

Protection of monuments and places and objects of artistic or national importance.

Separation of judiciary from executive in the public services of the State.

Promotion of international peace and security, maintaining just and honorable relations between nations, fostering respect for international law and treaty obligations, and encouraging settlement of international disputes by arbitration.



Supreme Court has raised the status of many provisions of directive principles to that of fundamental rights by suggesting they also violate one's right to life (Art. 21).

Directive Principle	Raised to Fundamental Right as violates one's right to life (Art. 21).
Elementary education for children between age six and fourteen was a policy goal provision.	Right to education for children between age six and fourteen is now a fundamental right under Article 21A.

The Supreme Court in the case of **Mohini Jain case** ruled that right to education is a fundamental right that flows from right to life in Article 21 of the constitution.

Another example is that of right to livelihood, which is a directive principle often read with right to life, as a fundamental right. The Supreme court has often directed States to rehabilitate slum dwellers whenever they are evicted on grounds of encroachment.

Eviction without rehabilitation closer to their workplace amounts to violation of their right to livelihood and in turn the right to life. Livelihood can include basic shelter, food, education, occupation and medical care.

The Supreme Court in **Olga Tellis and Ors. v. Bombay Municipal Corporation and Ors.**, popularly known as the 'Pavement Dwellers Case' held that 'right to livelihood' is borne out of 'right to life', as no person can live without means of living, that is, means of livelihood. It recognized right to livelihood to be part of Article 21.

The court also held that it is the duty of the authorities to provide slum dwellers with an alternative if their house is to be demolished.

4. Fundamental Duties- Part IV(A) - Article 51A

Part IV(A) - Article 51A of the Constitution prescribes fundamental duties of every citizen. In that, certain conduct and behavior are expected of the citizens. The salient features of fundamental duties are given below:

- The fundamental duties cannot be enforced in a court of law for violation of the duties, and no one can be punished for violation.
- Fundamental duties contain standards to be followed by the citizens.
- They remind citizens not to behave irresponsibly but help build a free, democratic and strong society.

It may be possible that, just like some provisions of the directive principles, courts may raise the status of these duties in future.

Fundamental Duties

Respecting the Constitution and institutions, the National Flag and the National Anthem.

Cherishing and following the noble ideals of the national struggle for freedom.

Upholding and protecting the sovereignty, unity, and integrity of India.

Defending the country and rendering national service when called upon to do so.



UNIT I

Promoting harmony amongst religious, linguistic and regional diversities and renouncing practices derogatory to women's dignity.

Valuing and preserving the rich heritage and culture.

Protecting the natural environment including forests, lakes, rivers and wildlife.

UNIT II

Developing the scientific temper, humanism and the spirit of inquiry and reform.

Safeguarding public property and abjuring violence.

Striving for excellence and raising the nation to higher levels of endeavor and achievement.

UNIT III

Providing opportunities for education to children by their parents between the age of six and fourteen years.

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII

Class Activities

Activity 1

There are different ways in which one can see or understand human rights. Write your views in 200 words on any one of the following:

- Are human rights anti-majoritarian (protection of minorities from the domination of the majority)?
- Are human rights a moral demand to resolve various kinds of injustices?
- Are human rights a tool for sloganeering and disruptions?

Activity 2

- ♦ Watch this 2016 award winning video on human rights from India by Anuj Ramachandran.

<https://developmenteducation.ie/feature/6-quick-activities-for-human-rights-day-december-10th/>

How after watching this video made you sensitive towards human rights?

After watching this video, write in 100 words how it has made you sensitive towards human rights?

Activity 3

- ♦ Go to the website of UN High Commissioner for Human Rights. Write a review of the site. You may include following points in the review:
 - What is it that you found interesting about the site?
 - What content on the site surprised you?
 - What information was useful to you?
 - Was there any idea or information that was missing that you want to be included on the site?



Exercise

Based on your understanding, answer the following questions:

1. 'Human rights and SDGs are two sides of the same coin.' Explain.
2. Explain states' obligations to respect, protect and fulfil human rights.
3. Identify any two features in the Preamble of the Indian Constitution that indicates its objective of protecting human rights.
4. Describe any three salient features of fundamental rights in the Indian Constitution.
5. What is right to equality? How is reservation or affirmative action for government jobs to Schedule Castes and Scheduled Tribes protected by the right to equality?
6. Why do you think it was necessary to abolish the practice of untouchability?
7. Identify any two kinds of right to freedoms along with any two grounds of restrictions that take away these freedoms.
8. Explain any one fundamental right of a person who is either accused or convicted of a crime.
9. Explain 'right to life and personal liberty' as given in the Indian Constitution.
10. Explain 'right to education' provided in the fundamental rights chapter of the Constitution.
11. Identify any one safeguard provided to someone if s/he is arrested and detained.
12. What is meant by human trafficking, that is prohibited by the Indian Constitution?
13. Describe 'right to freedom of religion' as provided in the Indian Constitution.
14. Explain judicial remedies that are available for the enforcement of fundamental rights.
15. What is meant by Public Interest Litigation (PIL)? Find out one PIL that was initiated on the basis of a letter written to the Supreme Court or on the basis of a newspaper report?
16. Describe any one salient feature of the Directive Principles of State Policy. Give one example of directive principle that has been elevated to fundamental rights.
17. Give any one example of fundamental duties provided in the Constitution.

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UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

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