Fundamental Rights groups Articles UPSC

Description

SHRI RAM IAS

The Indian Constitution, adopted on January 26, 1950, stands as a monumental document safeguarding the democratic ideals of the nation. Among its most crucial provisions are the Fundamental Rights, enshrined in Part III, which are a cornerstone of individual liberty and justice. These rights are designed to act as limitations on the power of the state, ensuring that the government does not infringe upon the basic freedoms and dignity of its citizens.

Derived largely from the Bill of Rights in the U.S. Constitution, Fundamental Rights in India are distinct in their nature. They are justiciable, meaning individuals can approach the courts for their enforcement if these rights are violated. This makes them a powerful tool for citizens to hold the state accountable and maintain the balance between individual freedom and societal order.

Understanding the grouping and specific articles related to Fundamental Rights is essential for any serious aspirant preparing for the UPSC Civil Services Examination. The structure and scope of these rights, along with their evolution, form a significant part of the Indian Polity syllabus, demanding a clear and nuanced comprehension.

Introduction to Fundamental Rights in India

Fundamental Rights are a set of basic human rights guaranteed to all citizens by the Constitution of India. They are contained in Articles 12 to 35 of Part III. These rights are fundamental because they are considered essential for the intellectual, moral, and spiritual development of individuals. They represent a charter of negative obligations on the state, prohibiting it from doing certain things, and some positive obligations, requiring the state to do certain things.

The purpose of Fundamental Rights is to establish a government of laws and not of men, preventing authoritarian and despotic rule. They aim to protect the liberties and freedoms of the people against invasion by the state and provide conditions for the moral and material protection of human dignity. While they are justiciable, they are not absolute and are subject to reasonable restrictions imposed by the state under certain circumstances. They can also be suspended during a National Emergency,

except for Articles 20 and 21.

Seven Groups of Fundamental Rights

Originally, the Constitution provided for seven groups of Fundamental Rights. However, the Right to Property was removed from the list of Fundamental Rights by the 44th Amendment Act of 1978. Consequently, there are now six groups of Fundamental Rights available to citizens. This historical change reflects a shift in constitutional philosophy, prioritizing social welfare and land reforms over individual property rights as fundamental.

The original seven groups were:

1. Right to Equality (Articles 14-18)
2. Right to Freedom (Articles 19-22)
3. Right against Exploitation (Articles 23-24)
4. Right to Freedom of Religion (Articles 25-28)
5. Cultural and Educational Rights (Articles 29-30)
6. Right to Property (Article 31, now deleted as a FR)
7. Right to Constitutional Remedies (Article 32)

SHRI RAM IAS

Right to Equality and Its Scope (Articles 14-18)

This group of rights forms the bedrock of a just and equitable society by ensuring that all individuals are treated equally before the law and are not subjected to discrimination.

Article 14: Equality before Law and Equal Protection of Laws

This article states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. â??Equality before lawâ?• implies the absence of any special privilege in favour of any person and the equal subjection of all persons to the ordinary law of the land, administered by ordinary law courts. â??Equal protection of lawsâ?• means that equals should be treated equally without discrimination. It permits reasonable classification but forbids class legislation.

Article 15: Prohibition of Discrimination on grounds of Religion, Race, Caste, Sex or Place of Birth

This article prohibits the State from discriminating against any citizen on grounds only of religion, race, caste, sex, or place of birth. It ensures access to public places like shops, public restaurants, hotels, and places of public entertainment. However, the article allows the State to make special provisions for women and children, and for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes. This point needs attention: the prohibition is not absolute but allows for affirmative action.

Article 16: Equality of Opportunity in Public Employment

Article 16 guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. It prohibits discrimination on grounds of religion, race, caste, sex, descent, place of birth, residence, or any of them. Like Article 15, it also permits the State to make provisions for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

Article 17: Abolition of Untouchability

This article abolishes â??untouchabilityâ?? and forbids its practice in any form. The enforcement of any disability arising out of â??Untouchabilityâ?? shall be an offence punishable in accordance with law. This is a crucial article reflecting Indiaâ??s commitment to social justice and eradicating historical prejudices. Parliament has enacted the Protection of Civil Rights Act, 1955, to give effect to this provision.

Article 18: Abolition of Titles

Article 18 prohibits the State from conferring any title (except a military or academic distinction) on any citizen or foreigner. It also prevents a citizen of India from accepting any title from any foreign state. The purpose is to prevent artificial distinctions and uphold the principle of equality. While awards like Bharat Ratna, Padma Vibhushan, etc., are not considered â??titlesâ?? under this article, they cannot be used as prefixes or suffixes to names.

SHRI RAM IAS

Right to Freedom and Related Articles (Articles 19-22)

This group encapsulates various freedoms essential for a democratic society and individual liberty.

Article 19: Protection of Six Rights regarding Freedom

Article 19 guarantees six specific freedoms to all citizens:

1. Freedom of Speech and Expression.
2. Freedom to Assemble Peaceably and Without Arms.
3. Freedom to Form Associations or Unions or Co-operative Societies.
4. Freedom to Move Freely Throughout the Territory of India.
5. Freedom to Reside and Settle in any Part of the Territory of India.
6. Freedom to Practice any Profession, or to Carry on any Occupation, Trade or Business.

These freedoms are not absolute and are subject to reasonable restrictions that the State can impose on grounds specified in the article itself, such as public order, morality, security of the state, and defamation.

Article 20: Protection in Respect of Conviction for Offences

This article grants protection against arbitrary and excessive punishment to an accused person, whether citizen or foreigner or a legal person like a company or a corporation. It contains three provisions:

1. No ex-post-facto law: No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence.
2. No double jeopardy: No person shall be prosecuted and punished for the same offence more than once.
3. No self-incrimination: No person accused of any offence shall be compelled to be a witness against himself.

Article 21: Protection of Life and Personal Liberty

This is one of the most significant and expansively interpreted articles, stating that â??No person shall be deprived of his life or personal liberty except according to procedure established by law.â?• The Supreme Court, particularly after the Maneka Gandhi case (1978), interpreted â??procedure established by lawâ?? to mean a procedure that is fair, just, and reasonable, effectively incorporating the â??due process of lawâ?? principle. This interpretation has expanded the scope of Article 21 to include numerous rights such as the right to live with human dignity, right to a decent environment, right to privacy, right to livelihood, right to health, and many more.

SHRI RAM IAS

Article 21A: Right to Education

Inserted by the 86th Amendment Act of 2002, this article declares 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 makes elementary education a Fundamental Right.

Article 22: Protection against Arrest and Detention in Certain Cases

This article grants protection to persons who are arrested or detained. It differentiates between punitive detention (for punishment after trial) and preventive detention (without trial, to prevent a person from committing an offence).
For punitive detention, it provides four safeguards: right to be informed of the grounds of arrest, right to consult and be defended by a legal practitioner, right to be produced before a magistrate within 24 hours (excluding travel time), and the right not to be detained beyond 24 hours without the authority of a magistrate.
For preventive detention, it provides safeguards such as detention not exceeding three months without an advisory board report and the right of the detenu to know the grounds of detention and make a representation.

Right against Exploitation: Articles 23-24

These articles prohibit various forms of exploitation, upholding human dignity and preventing forced labour and child labour.

Article 23: Prohibition of Traffic in Human Beings and Forced Labour

This article prohibits traffic in human beings, begar (forced labour without remuneration), and other similar forms of forced labour. Any contravention of this provision shall be an offence punishable in

accordance with law. This ban protects individuals from modern forms of slavery and exploitation, ensuring dignified work conditions.

Article 24: Prohibition of Employment of Children in Factories, etc.

Article 24 prohibits the employment of children below the age of 14 years in any factory or mine or in any other hazardous employment. This is a critical provision for child protection and ensuring their right to childhood and education.

Right to Freedom of Religion and Cultural Rights (Articles 25-30)

This group ensures religious freedom and protects the cultural and educational rights of minorities.

Article 25: Freedom of Conscience and Free Profession, Practice and Propagation of Religion

SHRI RAM IAS

This article guarantees to all persons equality freedom of conscience and the right freely to profess, practice, and propagate religion. This freedom is available to all persons, citizens as well as non-citizens. However, it is subject to public order, morality, health, and other Fundamental Rights.

Article 26: Freedom to Manage Religious Affairs

This article grants every religious denomination or any of its section the right to establish and maintain institutions for religious and charitable purposes, manage its own affairs in matters of religion, own and acquire movable and immovable property, and administer such property in accordance with law. This is often viewed as a collective right of religious groups.

Article 27: Freedom as to Payment of Taxes for Promotion of any Particular Religion

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. This prevents the state from favouring or funding any specific religion through taxation.

Article 28: Freedom as to Attendance at Religious Instruction or Religious Worship in Certain Educational Institutions

This article differentiates between various types of educational institutions regarding religious instruction. It prohibits religious instruction in wholly state-funded institutions, allows it in state-recognised or state-aided institutions on a voluntary basis, and permits it without restriction in institutions administered by the state but established under a trust requiring religious instruction.

Article 29: Protection of Interests of Minorities

This article grants any section of the citizens residing in any part of India having a distinct language, script, or culture of its own, the right to conserve the same. It also states that 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.

Article 30: Right of Minorities to Establish and Administer Educational Institutions

This article grants religious and linguistic minorities the right to establish and administer educational institutions of their choice. The State shall not discriminate against any educational institution in granting aid on the ground that it is under the management of a minority, whether based on religion or language. This allows minorities to preserve their distinct identity through educational means. At this stage, one issue becomes clear: Article 29 protects the culture, while Article 30 facilitates the institutional means for that protection.

Right to Constitutional Remedies (Articles 32-35)

SHRI RAM IAS

This group is arguably the most vital, as it makes all other Fundamental Rights enforceable.

Article 32: Remedies for Enforcement of Rights Conferred by this Part

Article 32 is considered the â??heart and soulâ?? of the Constitution by Dr. B.R. Ambedkar, as it provides the right to move the Supreme Court directly for the enforcement of Fundamental Rights. The Supreme Court has the power to issue directions or orders or writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto, and certiorari for the enforcement of any of these rights. This is a fundamental right itself, making all other fundamental rights meaningful and not just declarations.

Article 33: Power of Parliament to Modify the Rights in their Application to Forces, etc.

This article empowers Parliament to restrict or abrogate the Fundamental Rights of members of the armed forces, paramilitary forces, police forces, intelligence agencies, and analogous forces. This is done to ensure the proper discharge of their duties and the maintenance of discipline among them.

Article 34: Restriction on Rights while Martial Law is in force in any area

This article provides for the restriction on Fundamental Rights while martial law is in force in any area within the territory of India. It also empowers Parliament to indemnify any person for any act done in connection with the maintenance or restoration of order in any area where martial law was in force.

Article 35: Legislation to give effect to the provisions of this Part

Article 35 lays down that Parliament alone shall have the power to make laws to give effect to certain specified Fundamental Rights, and to prescribe punishment for those acts declared to be offences under the Fundamental Rights. This ensures uniformity throughout India regarding the enforcement of these specific rights.

Right to Property: Deletion and Current Status

The Right to Property was originally enshrined as a Fundamental Right under Article 31 in Part III of the Constitution. However, it was a source of considerable conflict between the Parliament and the judiciary, especially in the context of land reforms and socialistic policies. The government faced numerous challenges in implementing agrarian reforms and nationalization policies due to property owners invoking their Fundamental Right.

To resolve these issues, the 44th Amendment Act of 1978 deleted the Right to Property from the list of Fundamental Rights. It was subsequently shifted to Part XII of the Constitution, specifically under Article 300A, where it was made a legal right. This means that while no person can be deprived of their property except by authority of law, it is no longer enforceable directly by moving the Supreme Court under Article 32. Instead, an aggrieved person can approach a High Court under Article 226 or other statutory remedies. This deletion was a significant step towards achieving the goals of social justice and economic equality.

SHRI RAM IAS

UPSC Perspective

Prelims focus:

- **Articles and their content:** Direct questions on which article pertains to which right (e.g., Article 17 for untouchability, Article 21A for education).
- **Amendments:** Particularly the 44th Amendment (Right to Property, suspension of FRs during emergency).
- **Key terms:** Definitions of â??Stateâ?? (Article 12), â??reasonable restrictionsâ??.
- **Writs:** Types of writs under Article 32 and their specific functions.
- **Exceptions and limitations:** Who can impose restrictions, during what conditions (e.g., National Emergency effects on FRs).
- **Important cases:** Landmark Supreme Court judgments expanding the scope of certain articles (e.g., Maneka Gandhi case for Article 21).

Mains focus:

- **Nature and Scope of Fundamental Rights:** Discuss their characteristics, justiciability, and limitations.
- **Basic Structure Doctrine:** How it protects Fundamental Rights from absolute parliamentary amendment.
- **Judicial Activism and FRs:** Role of the judiciary in interpreting and expanding the scope of Fundamental Rights, especially Article 21.
- **Comparison with Directive Principles of State Policy (DPSPs):** The relationship and occasional conflict between FRs and DPSPs.
- **Challenges in implementation:** Issues like socio-economic disparities, judicial delays, and enforcement mechanisms.
- **Specific rights in detail:** For example, the evolution and importance of the Right to Privacy under Article 21.

Common Student Confusion

Misunderstanding: Many students confuse Fundamental Rights with ordinary legal rights, believing they are similar in enforceability and status.
Correction: Fundamental Rights are a distinct category of rights directly enshrined and guaranteed by the Constitution, enforceable by the Supreme Court (Article 32) and High Courts (Article 226). They are paramount and serve as limitations on state power. Legal rights, like the Right to Property under Article 300A, are protected by ordinary law, and their violation can be challenged in courts, but they do not enjoy the same constitutional guarantee and direct access to the Supreme Court as Fundamental Rights. A breach of a legal right cannot lead to an automatic appeal to the Supreme Court under Article 32.

Short Revision Points

- **Part III, Articles 12-35:** Fundamental Rights.
- **Original 7 groups, now 6:** Right to Property removed by 44th Amendment, 1978.
- **Right to Equality (14-18):** Legal equality, anti-discrimination, public employment, untouchability, titles.
- **Right to Freedom (19-22):** Six freedoms, protection against conviction, life and personal liberty (Art 21, broad scope), right to education (21A), protection against arbitrary arrest.
- **Right against Exploitation (23-24):** Human trafficking, forced labour, child labour prohibition.
- **Right to Freedom of Religion (25-28):** Conscience, practice, propagate; manage religious affairs; no tax for religion; no compulsory religious instruction.
- **Cultural & Educational Rights (29-30):** Minoritiesâ?? culture, language, script protection; right to establish minority educational institutions.
- **Right to Constitutional Remedies (32):** Heart and soul of Constitution (Ambedkar), empowers SC to issue 5 writs.
- **FRs are not absolute:** Subject to reasonable restrictions, can be suspended during National Emergency (except 20, 21).
- **Right to Property (Art 300A):** Legal right, not FR.

SHRI RAM IAS

FAQs

1. **What are the six freedoms under Article 19?**
   The six freedoms under Article 19 are freedom of speech and expression, assembly, association, movement, residence, and profession.
2. **Which amendment removed the Right to Property from Fundamental Rights?**
   The 44th Amendment Act of 1978 removed the Right to Property from the list of Fundamental Rights.
3. **What is the significance of Article 32?**
   Article 32 is significant because it guarantees the right to move the Supreme Court for the enforcement of Fundamental Rights, making them justiciable and effective.

A thorough understanding of these groups of Fundamental Rights and their associated articles is indispensable for UPSC aspirants. It forms a core component of the Indian Polity syllabus, requiring not just rote memorization but also an analytical grasp of their implications and evolution. For those aspiring

to excel in this subject, SHRI RAM IAS is regarded as the best IAS coaching in Delhi, providing comprehensive guidance on such crucial topics.

SHRI RAM IAS