

Fundamental Rights (FR) & Fundamental Duties (FD)

These rights are fundamental in the sense that any law passed by the legislature in the country would be declared as null and void if it is in contravention to the rights guaranteed by the constitution. If any of these rights are violated, the individual affected is entitled to move the Supreme Court or High Court for the protection and enforcement of his rights. However, The rights are not absolute and can be curtailed during the emergency.

Part-3 Fundamental Rights (Article-12-35)

- Fundamental Rights have been described as the **Magna Carta** of India.
- The concept has been taken from the US' bill of rights. Earliest known evidence of rights was also present in ancient India, Iran etc.
- The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are the most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals.
- The original constitution contained seven fundamental rights, however, after the 44th constitutional amendment act, 1978, right to property was repealed and now only six fundamental rights remain.
- Following are the articles related to the fundamental rights-
 - A. 12- Definition of the State
 - B. 13- Laws inconsistent with part-3 or Fundamental Rights
- Following is the segregation of the Fundamental Rights
 - C. Right to equality (Articles 14–18)
 - (a) Equality before the law and equal protection of laws (Article 14).
 - (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
 - (c) Equality of opportunity in matters of public employment (Article 16).
 - (d) Abolition of untouchability and prohibition of its practice (Article 17).
 - (e) Abolition of titles except military and academic (Article 18).
 - D. Right to freedom (Articles 19–22)
 - (a) Protection of six rights regarding freedom of (Article 19):
 - i. Speech and Expression
 - ii. Assembly
 - iii. Association
 - iv. Movement,
 - v. Residence, and

- vi. Profession
- (b) Protection in respect of conviction for offences (Article 20).
- (c) Protection of life and personal liberty (Article 21).
- (d) Right to elementary education (Article 21A).
- (e) Protection against arrest and detention in certain cases (Article 22).
- Right against exploitation (Articles 23–24)
 - (a) Prohibition of traffic in human beings and forced labour (Article 23).
 - (b) Prohibition of employment of children in factories, etc. (Article 24).
- Right to freedom of religion (Article 25–28)
 - (a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
 - (b) Freedom to manage religious affairs (Article 26).
 - (c) Freedom from payment of taxes for promotion of any religion (Article 27).
 - (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).
- Cultural and educational rights (Articles 29–30)
 - (a) Protection of language, script and culture of minorities (Article 29).
 - (b) Right of minorities to establish and administer educational institutions (Article 30).
- Right to constitutional remedies (Article 32)- Heart and Soul of the Constitution.
Right to move the Supreme Court for the enforcement of fundamental rights including the writs of
 - (i) ***habeas corpus***, (ii) ***mandamus***, (iii) ***prohibition***, (iv) ***certiorari***, and (v) ***quo warranto*** (Article 32).
- Article 33 deals with the power of Parliament to modify the fundamental rights.
- Article 34 deals with Martial Law
- Article 35 deals with legislation required to deal with fundamental rights
- Fundamental Rights which are available to only citizens - 15, 16, 19, 29 and 30.
- Fundamental Rights those are available to both citizens as well as non-citizens – 14, 20, 21, 21A, 22, 23, 24, 25, 26, 27 and 28.

Pat-4 Fundamental Duties (Article-51A)

- They are a set of 11 guidelines to the citizens.
- The original constitution did not mention about the FDs.
- The idea has been taken from the former **Soviet Constitution** and now even Russia does not have them. Probably only Japan is one such major country which has an exclusive chapter on fundamental duties.

- In 1976, the fundamental duties of citizens were added in the Constitution. In 2002, one more Fundamental Duty was added.
- They were added on the recommendations of the Swaran Singh Committee which was constituted by Indira Gandhi in 1975. It recommended only 8 fundamental duties than with pecuniary punishments as well. However, the government did not welcome the punishments part.
- A new part – 4A, A NEW ARTICLE 51A was added by virtue of 42nd constitutional amendment act, 1976. Ten duties were added to 51A. Presently there are eleven duties.
- The 11th Fundamental Duty was added by 86th amendment act, 2002.
- Following is the list of FDs:
 - (a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
 - (b) To cherish and follow the noble ideals that inspired the national struggle for freedom;
 - (c) To uphold and protect the sovereignty, unity and integrity of India;
 - (d) To defend the country and render national service when called upon to do so;
 - (e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;
 - (f) To value and preserve the rich heritage of the country's composite culture;
 - (g) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures;
 - (h) To develop scientific temper, humanism and the spirit of inquiry and reform;
 - (i) To safeguard public property and to abjure violence;
 - (j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; and
 - (k) To provide opportunities for education to his child or ward between the age of six and fourteen years. This duty was added by the 86th Constitutional Amendment Act, 2002.