

Article 28 of the Indian Constitution

[UPSC Notes]

What is Article 28 of the Indian Constitution?

As per the constitution, Article 28 states that-

- Article 28(1): No educational institution entirely financed by State funding may provide religious instruction.
- Article 28(2): Nothing in clause (1) shall apply to a government academic institution founded on the foundation of an endowment or trust that requires the supply of religious instruction there.
- Article 28(3): Except if that person or, is if the person is indeed a minor, his custodian has provided his consent, no individual able to attend any academic establishment officially recognised or getting help from State assets must therefore be entailed to become part of any religious education that may be conferred in this type of institution or even to join any religious worship that could be conducted in these kinds of the institution or any site attached to the above.

Indian Constitution Article 28 Explanation

Indian Constitution Article 28 contributes to the abolition of coerced religious instruction and worship. Article 28 provides freedom of attending religious instruction. Here are the key details of Article 28 of the Indian Constitution-

- The article provision in Article 28(1) stipulates that no academic establishment fully funded by government money may offer religious instruction.
- This provision does not apply in academic institutions administered by the Government but established by foundations or trusts that require teaching faith in such organisations.
- No individual who attends a school accredited by the Government or receives financial assistance from the State may well be forced, without his agreement, to join religious instruction or worship.

The consent of the minor's guardian is required in cases when the age is under 18. As a result, Article 28 establishes a distinction among four categories of higher education institutions:

1. Institutions that the Government supports entirely (Religious instruction is fully prohibited)
2. Organisations run by the State but established by any trust and endowment (Religious instruction is also granted).
3. Associations that the State recognises (Religious instruction will be granted voluntarily).

4. Organisations that get state subsidies (Religious instruction is always granted because of voluntary).

Important Supreme Court Judgements related to Article 28

Several cases were fought in court for violation of Article 28 because people could not interpret the genuine concept of article 28 of the Indian Constitution. Some of those cases are considered as significant judgements.

Teaching of Guru-Nanak (1971) 2 SCC 368

This case was fought between the State of Punjab and D.A.V. College. The case was based on the violation of Article 28 of the Indian Constitution. In this case, questions were raised on 1969's Guru Nanak University (Amritsar) Act (section 4). This act stipulated that the state shall make provisions for the studying or education of honoured Sikh Guru Guru Nanak Devji's life and teachings.

The Guru Nanak University (Amritsar) Act was questioned for violating Article 28 of the Constitution. The questions raised were whether Guru Nanak University radically retained out-of-state funds and whether the Guru Nanak University (Amritsar) Act (section 4) violates Article 28.

In the judgement, the court rejected the state's argument and detained section 4, stating that the study of Guru Nanak Devji's life and teachings can not be regarded as religious instruction. Hence, section 4 was not violating Article 28.

Education for moral growth based on all religions (2002) 7 SCC 368:

This case was registered between the Union of India and Ms Aruna Roy. In this case, Public Interest Litigation was registered with respect to Article 32. The petitioner, Aruna Roy, filed this PIL and stated that the NCFSE (a Curriculum Framework) published by the NCERT violates the provisions of the constitution and the concept of secularism. The petitioner also stated that the framework was made without discussions with the Central Advisory Board of Education. In the PIL, he demanded to set aside the framework for these reasons.

On the other side, the NCFSE claimed to provide education for moral and ethical development concerning fundamental human values, social justice, self-discipline, non-violence, compassion, and many other ethical values. Based on these conditions, the court rejected the PIL against NCFSE as it was not violating Article 28. Also, it stated that the article does not prohibit religious philosophy for having a morals and ethics-based life.

The Catholic Bishop's Council vs. the State of Madhya Pradesh (2011)

This case was based on the petitioner's argument on including the holy "Gita Sar" or the essence of the Hindu Religious Book "Bhagwat Gita" in the course curriculum of all the government schools. Later the council for the petitioner was given two months and asked to first read the holy book "Bhagwat Gita" before arguing to file a PIL on this issue.

This step was taken so that the petitioner acquires a clear understanding and finds out whether the “Bhagwat Gita” is confined to any religion or fairly states the morals and philosophy of life.

After two months, the council for the petitioner honestly accepted that the petitioner could not understand the “Gita” even after reading it.

With regard to clause 1 of Article 28 which states that instructing customs, methods of worshiping, practice and rituals cannot be taught in educational institutions that are completely maintained out of state finance support.

Also, it is found that the clause 1 of Article 28 does not prohibits moral or ethical instruction, human values, and othe values dissociated from any denominational teaching. These values and teachings are essential for imparting social etiquettes, citizenship training, maintaining law and order in the country and social cohesion development.

Most importantly, the “Bhagwat Gita” is specifically regarded as the book on Indian Philosophy of Life rather that solely Hindu religion book.

The court dismissed the petitioner’s PIL as it found it as completely misinerpreted.

Article 25-28 of the Indian Constitution - Right to Religious Freedom

Indian Constitution and laws of the Indian Constitution. The phrase "secular" occurs in the Preamble of the Indian Constitution, and articles 25 to 28 imply that now the State will not discriminate against, patronize, or meddle with the exercise of any religion. Therefore, religious rights as fundamental human rights safeguard certain religions or groups.

Right to Religious Freedom (Articles 25 - 28)

Articles 25 and 28 of the Indian Constitution guarantees everybody in India the freedom to follow their faith. These articles are related to the conception of secularism and religious freedom.

Right to Religious Freedom: Religious organisations and people in India are granted the right to freedom of religion under the charter of rights. Articles 25 to 28 include a statement of this.

Article 25 (Freedom of conscience and free profession, practice, and propagation of religion)

All citizens are entitled to the liberty of conscience, as well as the right to proclaim, practice, and propagate any religion. However, the freedoms mentioned earlier are limited by morality, population health, and maintenance of peace.

Furthermore, this article includes a provision allowing the State to enact a law: That regulates and limits any secular action, economic, governmental, or otherwise— associated with whatever type of religion. It calls for welfare programs and the reformation of or accessibility by all Hindu classes and sections to Hindu religious institutions with a public character. In accordance with this clause, those who follow the

Sikh, Jain, or Buddhist religions are deemed to be Hindus, and Hindu institutions must be interpreted in the same manner.

People of the Sikh faith who carry and carry a kirpan are considered practising followers of the Sikh religion.

Article 26 (Freedom to manage religious affairs)

The following privileges are stated in this Section pertaining to every religious denomination, according to morality, hygiene, and civil security.

- The right to establish and support organisations with a religious or charitable aim.
- The opportunity to conduct its own company when it comes to religion.
- The capacity to acquire real estate, both movable and also it is immovable.
- It also permits the religious values to govern their own event in matters of religion.
- The rights under this article are exposed to public harmony, morals, and health.

Article 27 (Liberty of paying taxes to support a specific religion)

Freedom without spending taxes to support a particular religion. No one shall be compelled to pay tax whose proceeds are specifically allocated to support costs associated with promoting and also it goes with maintaining any particular religion or religious organisation. However, it prohibits supporting or demeaning any religion or belief over others.