

Right to Freedom

[UPSC Notes]

What is the Right to Freedom?

The constitution of India not only defines the law of the land & various organs of the government but also sets a limit on the powers of the government. The constitution, through fundamental rights, ensures a democratic state and assures that each individual has certain rights. The Fundamental Rights are so significant that the Constitution guarantees that the government does not violate them.

Fundamental Rights are mentioned in Part III of the constitution from Articles 12 to 35. Article 19 to 22 of the Indian constitution forms an integral part of the fundamental right and deals with the Right to freedom.

Right to Freedom Articles

The right to freedom deals with the basic and the most vital rights of the Indian citizen. Article 19 to 22 of the Constitution of India (part-3) has the provision for this right. Article 19 to 22 is considered the Constitution's heart. Here is a brief description of these articles-

- Article 19- It deals with protecting the rights to freedom for Assembly, Profession, Movement, Speech and expression, Association, and Residence.
- Article 20- It deals with the protection from a conviction for the offences.
- Article 21- Article 21 and 21 (A) are responsible for the right to life, personal liberty, and elementary education.
- Article 22- It deals with the protection against arrest and detention in some instances.

Article 19

Originally, Article 19 of the Indian constitution contained seven rights. The fundamental right was to 'acquire, possess, and maintain' property. Article 19 of the Indian Constitution states that the Indian citizen has six freedoms. These are-

- **Freedom of speech and expression-** According to Article 19(1)(a), every Indian citizen has the right to freedom of speech and expression. Because of this, the citizen has the liberty to express one's freely beliefs, opinions, and views orally, in writing, through the graphical mode, or any other with reasonable restrictions. It also accounts for freedom of the press, the right to information (later incorporated in the Right to Information Act, 2005), and the right to remain silent.

As per the supreme court, Freedom of Speech and Expression includes the following-right to propagate views, freedom of the press, freedom of commercial advertisement, right against tapping telephonic conversations, right to telecast, and Right against bandh by a political party or organisation, right to information, freedom of silence, and right to conduct demonstrations and picketing.

- **Freedom to assemble-** According to Article 19(1)(b) of the Constitution, every individual has the right to assemble in a group to conduct meetings for social, political, religious, or educational purposes and take out processions peacefully without arms. However, there is just a restriction that the assembly must not be illegal. In such a case, it would fall

under unlawful assembly (Section 141 of IPC). The state can restrict such activities under Section 129 of the Code of Criminal Procedure, Section 144 of the Code of Criminal Procedure, and the Prevention of Seditious Meetings Act, 1911.

- **Freedom to form unions/associations/ cooperatives society-** As per Article 19 (1)(c), individuals can come together and form an association that can comprise companies, organisations, trade unions, clubs, and political parties. But, this is not applicable in a few cases. According to the Police Forces Act of 1966, police personnel cannot form a trade union. Also, the telecommunications employees, members of intelligence bureaus, and armed forces cannot form political associations.
- **Freedom of movement-** According to Article 19 (1)(d), any individual can move to any part of the country without any restrictions. However, the freedom of movement can be restricted on the grounds of proposed tribal interest, public order, or security.
- **Freedom of residence-** As per Article 19 (1)(e), all the citizens of India have the right to travel freely to any part of India and settle down without internal barriers. The state can also restrict this in the name of security or interests of Scheduled Tribes.
- **Freedom of profession-** As per Article 19 (1) (g) of the Indian Constitution, individuals can opt for any occupation or profession or carry on any trade. But the state can alter the right by making specific laws required for practising trade or occupation.

The six rights under article 19 of the Indian constitution are only protected against state action and not private individuals. The grounds for restriction to the right to freedom under Article 19 shall be in the public interest, such as:

- State Security
- International Relations
- Contempt of Court
- Public Order
- Decency or morality
- Defamation
- Incitement to an offence
- Sovereignty and integrity of India

Article 20

Article 20 of the Indian Constitution guarantees the protection of conviction in some instances to Indian citizens, including double jeopardy, ex-post facto law, and self-incrimination. These are explained as under-

- **Protection against double jeopardy-** As per Article 20 of the Indian Constitution, the person enjoys the right to freedom concerning conviction for offences, but he cannot convict the same offence more than once.
- **Retrospective criminal legislation/ Prohibition of ex-post facto law-** If a person commits an act that was declared a crime/ offence later. This means that the legislation for the criminal acts cannot be applied retrospectively. However, this protection is not applied to all crimes. Also, per this article, the criminal cannot be punished harder than the said law for the committed offence.
- **Protection against self-incrimination-** As per this Article, the Indian Constitution gives the right to the accused person that he must not be compelled to bear a witness against himself.

Article 21

According to Article 21 of the Indian Constitution, no person shall be deprived of his life or personal liberty except according to the procedure established by law. According to this

fundamental right, no person, whether Indian or foreigner, should be deprived of his life or personal liberty. There is a broad scope of this Article and has gone many changes concerning its meaning.

The term "personal liberty" scope changed after the Supreme Court adopted a broader connotation following the Maneka Gandhi case. It does not imply a purely animal nature or a life of struggle. It has a much broader scope that includes the right to live in dignity, the right to a livelihood, the right to health, and the right to clean air, among other things.

According to Article 21 (A), the state is responsible for providing compulsory and free education to all children between 6 to 14 years of age. This Article was introduced into the Indian Constitution in 2002 by the 86th Amendment.

Article 22

Article 22 of the Indian constitution protects against arrest, detention and post-arrest procedures. (only in some instances). This Article provides the right to counsel the accused. As per Article 22(1), the accused has the right to be informed of the grounds responsible for one's arrest. As per Article 22(2), one has the right to go to the nearest magistrate within 24 hours of arrest. Lastly, Article 22(3) states that an individual cannot be kept in custody than the period determined by the judicial magistrate. However, this does not apply in the case of enemy aliens and to those who are arrested under the preventive detention laws. **(NOTE-** Preventive detention means the detention of an individual without any trial).

Importance of Right to Freedom

The right to freedom is a fundamental human right. Because of the foreign imperialist rule, Indians have to face a lot and fight against colonialism. After the independence, various articles were introduced in the Indian constitution that protected certain fundamental rights of humans. These rights aim to protect and promote the ideals of liberty per the preamble. It also seeks to remove the ideology of inequality among individuals so that everyone spends a dignified life.

Right to Information (RTI)

After Article 19 (1) was introduced to the Indian constitution, the right to information was given a special status. As per Article 19, every Indian citizen enjoys the right to freedom of speech and expression. Additionally, any individual can know how the government works and its role. However, it is upto the state if it wants to restrict the freedom of speech or not for the maintenance of the state's security, sovereignty, and integrity or in case of incitement of an offence or defamation.