

Prohibition of Employment of Children
Prohibits the employment of children below the age of 14 years in any factory or mine.

22. Rights against illegal arrest & preventive Detention
A22 does not apply to Alien Enemies (Uniformly)
Persons arrested or detained under preventive Detention Law
1) Cannot be detained unless he has been informed about the grounds of such arrest.
2) has right to consult an advocate of his choice.
3) must be produced before the nearest magistrate within 24 hours (excluding travelling time.)

Persons arrested or detained under preventive Detention Law
Preventive detention means detention without trial. Object of preventive detention is not to punish a person for having done something but preventing him from doing it.
Rights available -
1) he cannot be detained more than 3 months, unless authorized by Parliament by way of law.
2) Advisory Board
3) Authority ordering detention must communicate as soon as possible grounds of arrest.
4) Afford him the earliest opportunity to make representation against order.

Article 21 Protection of life & personal liberty
No person shall be deprived of his life or personal liberty except according to procedure established by law.
The right to life includes those things which makes life meaningful. For example - Right to adopt a child is a constitutional right guaranteed under Art. 21. Right to live in freedom of noise pollution is also protected by Article 21.

Article 21 (a) Right to Education
State shall provide free and compulsory education to all the children of the age 6 to 14 years.

ART 20 guarantees 3 Rights
ART 20 (1) Protection against Ex Post Facto laws
No person can be convicted of any offence except for violation of law at the time of commission of the act. Even the penalty for commission of an offence can not be increased with retrospective effect.
Example - Supra for committing dacoity the penalty in 1970 was 10 years imprisonment or a fine or both. By an act passed after his act, penalty cannot be increased from 10 to 14 or life imprisonment.
ART 20 (2) Protection Against Double Jeopardy
No person can be prosecuted and punished for same offence more than once. However, if a person has been let off after prosecution without being punished can be prosecuted again.
ART 20 (3) Protection Against Self Incrimination
No person accused of any offence shall be compelled to be a witness against himself. An accused cannot be compelled to state anything which goes against him.
For this Protection 3 conditions must fulfill
1) He must be accused of an offence.
2) There must be a compulsion to be a witness.
3) Such compulsion should result in giving evidence against himself.
Agar person accused nhi hai ya statement as a witness nhi di hai ya without compulsion Di hai to Protection Nahi Miligi.

ART 19 provides 6 freedoms - Citizen & Co.

a) Freedom of Speech & Expression (ART 19 (1) (a))
1) includes rights to make good & bad speech & right not to speak.
2) express oneself even by signs.
3) freedom of press & right to publish one's opinion.
4) Right to circulation of one's ideas.
5) Freedom of peaceful demonstration.
6) Dramatic Performance & Cinematography.

(1) State can impose reasonable restrictions on freedom of speech & expression in the interests of -
1) Sovereignty & integrity of India
2) Security of the State
3) Public Order
4) Friendly Relation with foreign state
5) Morality
6) Contempt of Court
7) Defamation
8) Maintenance of an office.
Him Milige Associated Bhaiyoge Uchhara jayenge Vha Khati...
Him Milige Associated Bhaiyoge Uchhara jayenge Vha Khati...
Him Milige Associated Bhaiyoge Uchhara jayenge Vha Khati...

b) Freedom of Assembly (Peacefully & without Arms) (ART 19 (1) (b))
Calling an assembly putting one's views against in before it is intertwined with the freedom of speech & expression and in democracy it is not less important than speech.
State can impose reasonable restrictions related to -
1) Sovereignty & integrity of India
2) Public Order

c) Freedom of Association (ART 19 (1) (c))
This right is also guaranteed so that people are free to have the members having similar views.
State may impose reasonable restriction in the interests of -
1) Sovereignty & integrity of India
2) Public Order
3) Morality

d) Freedom of Movement (ART 19 (1) (d))
Right to move freely throughout the territory of India does not extend to travel abroad.
State may impose reasonable restrictions in the interests of -
1) Sovereignty & integrity of India
2) Public Order
3) Morality
4) Security of the State
5) Defence of the Country
6) Contempt of Court
7) Defamation
8) Maintenance of an office.

e) Reside and settle in any part of Territory of India (ART 19 (1) (e))
Same as Freedom of Movement.

f) Freedom to Trade or Occupation (ART 19 (1) (g))
All the citizens have right to practice any profession or carry on any occupation or trade or business.
State may impose reasonable restrictions in the interests of -
1) Sovereignty & integrity of India
2) Public Order
3) Morality
4) Security of the State
5) Defence of the Country
6) Contempt of Court
7) Defamation
8) Maintenance of an office.

194. Provides following rights to every religious denomination
• Right to establish & maintain institutions of Religion
• To manage its own affairs in matters of Religion
• To own to acquire movable and immovable property
• To administer such property in accordance to law.
195. Any person cannot be compelled to pay any taxes, the will be used to meet expenses for the promotion of religion.
196. Any institute (educational) which is wholly maintained & not give any religious instructions
• Any person shall not be compelled in any educ. institute without his or his guardian's consent to -
→ to take part in religious instruction
→ to attend any religious worship conducted.

The term minority has not been defined in the Supreme Court in DAV College Jalandhar Vs State that it should be decided statewise as per Agar central law has to do (where of India) or to whom who account to agar state law has to apply.



Abolition of Titles (ART 18)

• Sirf Military or academic titles name jayenge
• Koi person foreign se title accept ni kar sakte
• If a person is not a citizen of India, he cannot accept any title from foreign without the consent of President.

Equality of opportunity in matters of Public Employment (ART 16)

16(1) equality of opportunity in the matters relating to employment
16(2) Prohibits discrimination on the grounds of Caste, Religion, Sex, Place of Birth
16(3) Exception Parliament can make laws for a certain class
16(4) Exception Provision can be made for reservation of posts for any Backward Class
16(5) Exception A law shall not be invalid if it provide employment to particular religion
Example - 1975 in Temp

Abolition of Untouchability (ART 17)

• Untouchability is abolished and its practice in any form is forbidden.
• Untouchability does not include an indignation to social hereditary caste
• Punishment for violation of Article 17 is provided in Article 32(1)(c)

Prohibition of Discrimination on grounds of Religion etc (ART 15)

15(1) (Citizen) State can't discriminate against any citizen on grounds of -
• Religion
• Race
• Caste
• Sex
• Place of Birth
15(2) No citizen can be restricted to -
1) Access to shops, restaurants, hotels, etc.
2) The use of wells, tanks, ghats, roads dedicated to the use of gen. Public
15(3) Exception State can make special laws for women & children.
15(4) Exception State can make special laws for advancement of women.

Permissible Classification (ART 15)

1) It must be for intelligible difference distinguishable on one or more grounds
2) Such difference must be based on a nexus to the objective to be achieved

Law of Equal Protection of Law (ART 14)

The state shall ensure equality before the law within the equal parts of the state.
Equality before the law means equal protection of the law which should be treated among unequals in a manner which is appropriate.
Legislative Classification
Ye jo right dia hai use equal protect deni ni kourage nhi ki protection ke liye all. Classification
• Article 14 does not Vs Bihar State - P. U. Association held that discrimination on the basis of such classification is valid & reasonable

Permissible Classification (ART 15)

1) It must be for intelligible difference distinguishable on one or more grounds
2) Such difference must be based on a nexus to the objective to be achieved

Regard to other forms of forced labour without payment or remuneration his infringement of his fundamental right.

the age of 14 years in any factory

and under punitive law

and the grounds of such cases

with 24 hours (excluding travelling time)

subject of punitive detention

more than 3 months unless authorized by Parliament by way of law.

of Arrest

representations against order.

liberty except according to

takes life meaning full

National Right guaranteed

Noise pollution is also

in to the all the

any acts which were committed by the machinery at acts illegal.

(in force)

of law at the time of commission of the act not to be increased with retrospective effect.

1970 was 10 years imprisonment if a person commits this act, penalty cannot be increased from 10 to 14 or 18 years.

more than once. However, if a person has been let off again.

to be a witness against himself. An accused cannot be

a person accused Nishi Hai ya statement as a witness, di gyi ya without compulsion Di gyi Hai

Protection of Nishi Hai

State can impose restrictions on the following

- Public order
- Morality
- Health
- Other provisions in Part III of Const.

Provision following rights to every religious denomination -

- Right to establish & maintain institutions of Religion
- To manage its own affairs in matters of Religion
- To own & acquire movable and immovable property
- To administer such property in accordance to law.

Any person cannot be compelled to pay any taxes, the proceeds of which will be used to meet expenses for the promotion of any particular religion.

Any institution (educational) which is wholly maintained by State funds shall not give any religious instructions

Any person shall not be compelled in any educational institution run by State funds without his or his guardian's consent to -

- to take part in religious instruction
- to attend any religious worship conducted.

The term minority has not been defined in the constitution but Supreme Court in DAV College Jalandhar vs State of Punjab said that it should be decided case by case as per circumstances. Agri central law has to be (State of India) all legislation should be taken into account to Agri state law to the people of state.

Directive Principles of State Policy

[DPSP] are the ideas which the state has to follow in framing laws.

1) Equal rights for men & women

2) Equal pay for equal work for men & women

3) Secure basis of workers as employees

4) Protection of child & young person's employment

5) Just & human conditions for work

6) Improving standard of living of workers

7) Participation of workers in management of industries

8) Free & compulsory education for children

9) Protection of workers, industrial & labour

10) Protection of environment & place of Occasional workers

11) Separation of Judiciary & executive

12) Promotion of International Peace & Security

13) Dignity of Individual

14) Unity of Nation

If there will be any conflict between Directive Principles & Fundamental Rights, then rights will be considered. (Parliamentary system)

any acts which were committed by the machinery at acts illegal.

(in force)

of law at the time of commission of the act not to be increased with retrospective effect.

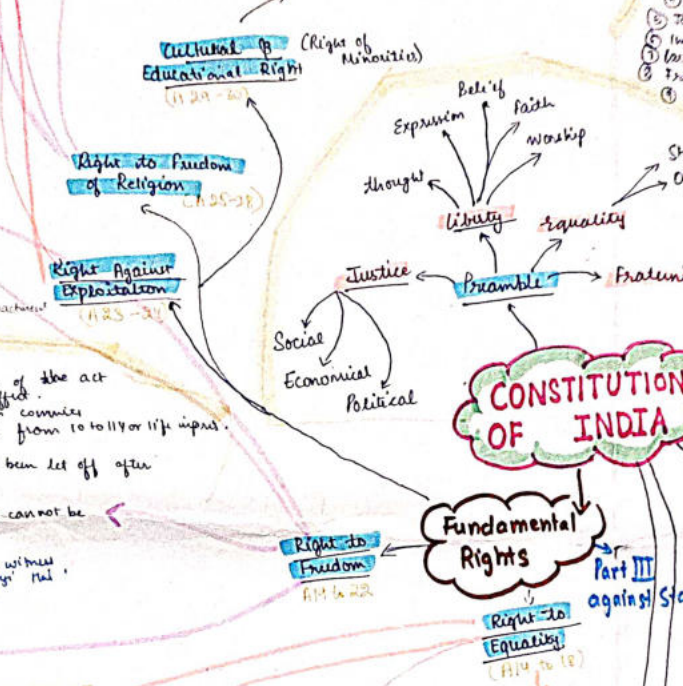
1970 was 10 years imprisonment if a person commits this act, penalty cannot be increased from 10 to 14 or 18 years.

more than once. However, if a person has been let off again.

to be a witness against himself. An accused cannot be

a person accused Nishi Hai ya statement as a witness, di gyi ya without compulsion Di gyi Hai

Protection of Nishi Hai



Fundamental Rights

Part III against State

1) Equal rights for men & women

2) Equal pay for equal work for men & women

3) Secure basis of workers as employees

4) Protection of child & young person's employment

5) Just & human conditions for work

6) Improving standard of living of workers

7) Participation of workers in management of industries

8) Free & compulsory education for children

9) Protection of workers, industrial & labour

10) Protection of environment & place of Occasional workers

11) Separation of Judiciary & executive

12) Promotion of International Peace & Security

13) Dignity of Individual

14) Unity of Nation

If there will be any conflict between Directive Principles & Fundamental Rights, then rights will be considered. (Parliamentary system)

Abolition of Titles (Articles 18)

- Sir, Military or academic titles name sayant
- Koi person foreign se title accept ni kar sakta
- If a person is not a citizen of India but holds any office in India, he cannot accept any title from foreign without the consent of President

Equality of opportunity in matters of Public Employment (Article 16)

16(1) Equality of opportunity in the matters relating to employment

16(2) Prohibits discrimination on the grounds of Caste, Religion, Race, Sex, Place of Birth

16(3) Exception: Parliament can make laws for a certain class

16(4) Exception: Provision can be made for reservation of posts for any Backward Class

16(5) Exception: A law shall not be invalid if it provide employment to particular religion

Example - Utsav in Tempa

Abolition of Untouchability (Article 17)

- Untouchability is abolished and its practice in any form is forbidden.
- Untouchability does not include an indignation to social boycott
- Punishment for Violation of Article 17 is provided in Article 35(4) (b)

Prohibition of Discrimination on grounds of Religion etc (Articles 15)

15(1) (Citizen) State can't discriminate against any citizen on grounds of -

- Religion
- Race
- Caste
- Sex
- Place of Birth

CSPR

15(2) No citizen can be restricted to -

- Access to shops, restaurants, hotels, etc.
- The use of wells, tanks, roads, dedicated to the use of gen. public

15(3) Exception: State can make special laws for women & children

15(4) Exception: State can make special laws for advancement of women

S&B C Socially & Educationally Back. Class

SC

ST

Equality before Law (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.

Equality before the law means amongst equals. The law must be equal. Which means like should be treated alike & among unequals laws shall not be applicable.

Legislative Classification

Ye to right dia H person to ki same equal protection of laws se deny ni karoge jaha madals ye deni ki protection of some laws for Nishi Hai protection Ho Sakti.

Article 14 does not forbid Classification

- Supreme Court in State of Bihar vs Bihar State (1962) held that Article 14 prohibits discrimination and not classification if such classification is legal, valid & Reasonable.

Permissible Classification must satisfy 2 conditions

- It must be founded on an intelligible differentia which must distinguish persons or things that are grouped together from those left out or left out
- Such differentia must have rational Nexus to the object sought to be achieved by the statute.

State (Article 12) includes

- Central Govt & Parliament
- State Govt & Legislature
- All local Authorities in Form Areas.

The expression 'other authorities' include all authority & it is not necessary that such authority should be a sovereign function. (Electricity Board, Railway Board)

Article 13 (1) - gives RT to Fundamental Rights

Article 13(2) - gives RT to Fundamental Rights

Article 13(3) - gives RT to Fundamental Rights

Article 13(4) - gives RT to Fundamental Rights

Agar laws fundam. Rights ke Arsaak se Inconsistent Hai to Unke void Man Lije Jayenge.

Doctrine of Severability

It is not the entire law which is by the provisions of Part III. Invalid on this other hand law become invalid to the extent to which it is inconsistent with the provisions of Part III. Invalid on this other hand law become invalid to the extent to which it is inconsistent with the provisions of Part III. Invalid on this other hand law become invalid to the extent to which it is inconsistent with the provisions of Part III.

language, script or culture of the man, have right to conserve them. no citizen can be denied admission to any educational institution maintained wholly or partially by State on the grounds of religion, caste, race, language or any of them.

All minorities have rights to establish & administer educational institutions of their choice. This right is not only limited to religious minorities but also to linguistic minorities too.

State cannot discriminate against in granting aids to educational institutions that are in administration of a minority.

Directive Principles of State Policy

SP are the ideals which the union and State govt must keep in mind while formulating laws.

- Directive Principles of State Policy**
- 1. To secure for men & women equal work for equal pay.
 - 2. To secure for workers in industry a fair wage and a fair working conditions.
 - 3. To secure for workers in industry a fair wage and a fair working conditions.
 - 4. To secure for workers in industry a fair wage and a fair working conditions.
 - 5. To secure for workers in industry a fair wage and a fair working conditions.
 - 6. To secure for workers in industry a fair wage and a fair working conditions.
 - 7. To secure for workers in industry a fair wage and a fair working conditions.
 - 8. To secure for workers in industry a fair wage and a fair working conditions.
 - 9. To secure for workers in industry a fair wage and a fair working conditions.
 - 10. To secure for workers in industry a fair wage and a fair working conditions.

Fundamental Duties

- To Abide by the Constitution & respect its ideals, the National Flag & National Anthem.
- To cherish & follow the National Ideals which helped in the freedom of Country.
- To Protect Sovereignty, Integrity & Territorial of India.
- To Defend the Country if needed without Service when called upon to do so.
- To promote harmony & Spirit of Communal Brotherhood among people.
- To Value & conserve the rich heritage of our Country.
- To protect the environment including forests lakes rivers etc.
- To provide opportunity of education to one's child.

Ordinance Making Power of President

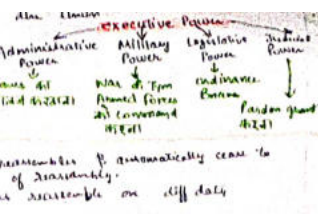
Art. 123 of the Const provides that the President shall have the power to legislate by Ordinance if any circumstances render Parliament unable to sit immediately.

Features:

- 1. It is promulgated by the President on the advice of Council of Ministers.
- 2. This power is to be exercised by President on advice of Council of Ministers.
- 3. The Ordinance must laid down before Parliament when it resumes its session & automatically cease to have effect on the expiration of 6 weeks from the date of its promulgation.
- 4. 6 weeks will be counted from later date if the House assemble on a different date.

Ordinance Making Power of Governor

Same as President has power of President. Art. 173.



Supreme Court

- It is a final court.
- Right to Supreme Court cannot be exercised without jurisdiction.

High Court

- High Court can exercise its jurisdiction.

Type of Writs

- Habeas Corpus**: To have the body. A person detained has to be released unless it is justified. No state representative relief to state H.
- Mandamus**: We command. It is issued when a public officer/person holding a public office has failed to perform his/her public duty. Cannot be issued against President/Governor.
- Prohibition**: Issued to the inferior courts preventing it from assuming jurisdiction which is not legally vested in it. When a tribunal/ court acts without or in excess of jurisdiction, writ of prohibition can be demanded.
- Quare warrant**: Who gave the authority? What is your authority? Under this writ, the person is ordered by the court to explain under what valid grounds he is holding the office.

Subject Matter Jurisdiction

There are 3 lists:

- Union List
- State List
- Concurrent List

Power of Parliament to make laws on State Lists

- In the national interest.
- During the emergency.
- On the request of one or more states.
- Legislation for enforcing international agreement.

Interpretation of the Legislative Lists

Plenary Power: When legislative power granted with the subject to a legislature and there are no limitations imposed on that power, then it is to be given widest scope.

Harmonious Construction: Different entries in different lists are to be interpreted in such a way that no conflict is created if each of them is given effect. It must be accepted that constitution does not want to create conflict or to make any entry null.

Gift Substantive Rule: When a law is made by a legislature which is not within its power, it is not to be treated as a law. It is not to be treated as a law. It is not to be treated as a law.

Collapsible Legislation: Whenever legislature cannot do directly, it can't do it indirectly.

Characteristics of Federal vs Unitary

- Characteristics of Federal Country are:
- 1. 2 Court - Central & State.
 - 2. Powers to make laws - distributed - by the way of lists in 7th Schedule.
 - 3. Judiciary independent of executive, Supreme Court decide cases if again dispute between H & State vs. Union.
 - 4. India's Constitution is world's longest written Const.
 - 5. Article 368 follow same process Amend part of it.
 - 6. State & Union no constitutional provision follow same process Amend part of it.

Instrumentality or Agency of State

- Agar Hain vs. State of Madhya Pradesh: The Supreme Court held that the entire share capital is held by the govt.
- If the entire share capital is held by the govt.
 - Whether the corporation enjoys monopoly status.
 - Existence of deep & pervasive state control.
 - Functions are of public importance.
 - Department of Govt. is transferred to a corporation.
 - Financial assistance of state - cover most almost entire expenditure.

Doctrine of Eclipse

The inconsistent part remains eclipsed/dormant to the extent to it covers under the shadow of fundamental rights, but the eclipsed part become active again if the prohibition brought by fund. rights is removed by Amendment.

Doctrine of Waiver of Rights

It is based on a logic that a person is his best judge and that he has the liberty to waive off the enjoyment of such rights as conferred on him by state.

For waiver of Rights

- Person have knowledge of his rights.
- Waiver should be voluntary.

Single Person Law

A law can be made for single person, if that person represent a class (treated as a class).

Other Authorities

Other authorities include all authorities created by Centre, State or Local Authorities. Necessary that such authorities should be engaged in govt. or business. (Electrification Board, Rajasthan vs. Molkani)

Article 13: Fundamental Rights

- Existing laws: Agar laws hinder rights he is void. Inconsistent with the basic structure.
- Future laws: State has the power to make laws but not to infringe fundamental rights.

Doctrine of Severability

It is not the entire law which is affected by the provisions of Part III. If a part of the law becomes invalid only to that part, the rest of the law remains valid. So only that part of the law which is inconsistent, and the rest will stand. Invalid part the valid part is capable of giving effect, then only it will survive, otherwise the entire law is void.

Apply here that it is possible to separate the valid part from the part which is inconsistent with the void with the extent of inconsistency.

AMENDABILITY OF FUNDAMENTAL RIGHTS

Initially Supreme Court was in the view that no part in the Const. is amendable & Parliament can amend any part of it by amending the Const. (including Fund. Rights).

9th Amendment vs. State of Madhya Pradesh: Supreme Court reversed its decision & said that Parliament has no power to amend Fund. Rights.

24th Amendment vs. State of Madhya Pradesh: Said that Parliament has power to amend any of the Fund. Rights.

In Kesavananda Bharati vs. State of Madhya Pradesh: It was decided that Parliament can amend any part of the Const. without having the power to amend the basic structure.

Conclusion -> Parliament's power to amend Constitution (including Fund. Rights) is not Absolute & the Basic Structure of Constitution should be maintained.

For Amending Part III vs. Union of India: Kesavananda Bharati vs. State of Madhya Pradesh.

A 31 - Right to Property is not a Fundamental Right Now.