

FUNDAMENTAL RIGHTS

- Some FRs are available only to citizens: Article 15, 16, 19, 29 and 30
- Fundamental Rights are not absolute but qualified. Reasonable restrictions can be imposed on FRs. The reasonability of such restrictions is decided by the SC.
- These rights strike a balance between the rights of the individual and those of the society as a whole, between individual liberty and social control
- Most rights are available against the actions of the state but some are available against the actions of the private individuals too
- Some FRs is negative in character while others are positive. Negative FRs entail limitations on the government, while positive FRs imposes an obligation on government to take measures.
- FRs are justiciable in nature
- FRs are defended and guaranteed by the constitution. Hence, an aggrieved party can approach the SC for any violation directly rather than by the way of appeal

- Parliament can amend the provisions of the FRs by the way of a constitutional amendment act so long as they do not violate the basic structure of the Indian constitution
- FRs can be suspended during the operation of a National Emergency except the rights guaranteed by Article 20 and 21. Additionally, FRs under Article 19 can be suspended only during the operation of emergency declared on the grounds of war or external aggression
- The scope of FRs is limited by Article 31A, 31B and 31C
- Parliament can restrict or abrogate the application of FR in the case of armed forces, para-military forces, police forces, intelligence agencies and analogous services
- FR can be restricted while martial law is in force

Only Parliament can make a law for the enforcement of the FR

ARTICLE 12- STATE

- Executive and legislative organs of the union
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- All local bodies
- All statutory and non-statutory authorities
- Private body or agency working as an instrument of state can fall within the meaning of the state

What constitutes law under article 13?

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- Permanent laws enacted by Parliament or state legislatures
- Temporary laws like ordinances
- Statutory instruments in the nature of delegated legislation
- Non-legislative sources of law

Even constitutional amendment act can be challenged (Keshavananda Bharati case)

Article 14: Right to equality: Equality before law and equal protection of laws

- Includes legal persons as well
- Equality before law: British version
- Equal protection of laws: American constitution
- It permits reasonable classification of persons, objects and transactions by the law but it should not be arbitrary

Note: In India, constitution is the source of individual rights

Exceptions to Equality

- President and governor not answerable to court for their official acts
- No criminal proceedings shall be instituted or continued against the President or the governor in any court during his term of office
- No process for the arrest or imprisonment of the President or governor
- Civil proceeding on personal acts only after two months notice
- No liability of true reporting in newspapers
- No member of Parliament shall be liable for anything said or vote
- Article 31C
- Foreign sovereigns enjoy immunity; this includes even UNO

Article 15

No citizen of India shall be discriminated on the basis of religion, race, caste, sex or place of birth

- Usage of two keywords- 'discrimination' and 'only'
- Ground mentioned in the article: religion, race, caste, sex or place of birth
- The second provision in this article is applicable to even private individuals and legal persons

Exceptions

- Special provisions for women and children
- Advancement of socially and educationally backward classes of citizens or for the SC and ST
- Provision for education of the above could be made for education in aided and unaided