UPSC Polity revision · Part III of the Constitution (Articles 12–35)

Fundamental Rights



Goals

By the end of this session you can

- Name the six categories and their article ranges
- Separate citizen-only rights from rights of all persons
- Explain Article 32, Article 226 and the five writs
- Recall the amendments that reshaped Part III
- Apply the emergency rule for Articles 20 and 21

Part III at a glance

- Articles 12 to 35 form Part III of the Constitution
- Justiciable: enforceable in the Supreme Court and High Courts
- Mostly limits on the State; a few bind private persons too
- Not absolute: many rights carry stated restrictions
- Right to Property left Part III in 1978

Articles 12 and 13: the State and judicial review

- Art 12: 'State' covers Union and State governments and legislatures
- It also covers all local or other authorities
- Art 13: laws inconsistent with Part III are void
- 'Law' includes ordinances, orders, bye-laws, custom and usage
- Art 13(4), added in 1971, excludes Article 368 amendments

Six categories of Fundamental Rights

Articles 14 to 24

- Equality: Articles 14–18
- Freedom: Articles 19–22
- Against exploitation: Articles 23–24

Articles 25 to 32

- Freedom of religion: Articles 25–28
- Cultural and educational: Articles 29–30
- Constitutional remedies: Article 32

Citizens only or all persons?

Citizens only

- Art 15: no discrimination on listed grounds
- Art 16: equal opportunity in public jobs
- Art 19: six freedoms
- Arts 29 and 30: culture and education

All persons

- Art 14: equality before law
- Arts 20 and 21: conviction safeguards, life, liberty
- Arts 23 and 24: against exploitation
- Arts 25 to 28: freedom of religion

Right to Equality (Articles 14–18)

- Art 14: equality before law, equal protection of laws
- Art 15: no discrimination on religion, race, caste, sex, birthplace
- Art 16: equality of opportunity in public employment
- Art 17: untouchability abolished; enforcing it is an offence
- Art 18: no titles except military or academic distinctions

Right to Freedom (Articles 19–22)

- Art 19: six freedoms for citizens, with reasonable restrictions
- Art 20: no ex post facto punishment, double jeopardy or self-incrimination
- Art 21: life and personal liberty, by procedure established by law
- Art 21A: free, compulsory education for children aged 6–14
- Art 22: safeguards against arrest and detention

Amendments that reshaped Part III

- 1951: 1st Amendment adds Art 15(4) for backward classes
- 1971: 24th Amendment inserts Art 13(4)
- 1978: 44th Amendment omits Art 31, the right to property
- 2002: 86th Amendment inserts Art 21A on education
- 2019: 103rd Amendment adds EWS provisions

Exploitation and religion (Articles 23–28)

- Art 23: bans human trafficking, begar and forced labour
- Art 24: no child below 14 in factories, mines, hazardous work
- Art 25: freedom of conscience; profess, practise, propagate religion
- Art 26: freedom to manage religious affairs
- Arts 27–28: no religious tax; limits on religious instruction

Cultural and educational rights (Articles 29–30)

- Art 29(1): citizens may conserve their language, script or culture
- Art 29(2): no denial of admission to State-aided institutions on listed grounds
- Art 30(1): religious and linguistic minorities may run institutions
- Art 30(2): no discrimination in State aid to minority institutions

Article 32: right to constitutional remedies

- Moving the Supreme Court is itself a Fundamental Right
- The Court can issue five named writs
- Art 32(4): not suspended except as the Constitution provides
- Art 226: High Courts issue writs for Part III and more
- Ambedkar called it the 'heart and soul' of the Constitution

The five writs

Liberty and public office

- Habeas corpus: produce the detained person in court
- Mandamus: order an official to do a legal duty
- Quo warranto: ask by what authority an office is held

Control of lower courts

- Prohibition: stop a lower court exceeding its jurisdiction
- Certiorari: transfer or quash a lower court's case

Worked example

Real case: the Right to Privacy (2017)

- Retired judge K. S. Puttaswamy challenged Aadhaar in 2012
- A nine-judge Supreme Court bench heard the privacy question
- 24 August 2017: privacy held a Fundamental Right
- Protected under Article 21 and Part III as a whole

Emergencies and exceptions (Articles 33–35, 358, 359)

- Art 358: Art 19 lapses in a war or external-aggression emergency
- Art 359: President may suspend enforcement of Part III rights
- Articles 20 and 21 are exempt since the 44th Amendment
- Arts 33–34: limits for forces; martial-law indemnity
- Art 35: certain Part III laws only Parliament can make

Quick check

Which of these rights can a foreign national living in India claim?

A. Freedom of speech under Article 19

B. Equality before law under Article 14

C. Non-discrimination under Article 15

D. Minority institutions under Article 30

Summary

Revision takeaways

1. Part III (Articles 12–35) has six categories of rights
2. Articles 15, 16, 19, 29 and 30 are for citizens only
3. Article 32 lets you go straight to the Supreme Court
4. Articles 20 and 21 cannot be suspended in an emergency
5. Property is now a legal right under Article 300A