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Fundamental rights




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▶ *Meaning:*


Fundamental Rights are the basic rights of the common people and inalienable rights of the people who enjoy it under the charter of rights contained in Part III(Article 12 to 35) of Constitution of India.

This chapter of the Constitution has been described as the Magna Carta of India.

Why do we call these Rights Fundamental?

- These Rights are incorporated in the third Chapter of the Constitution of India.
 - They afford a basis for the development of an Individual.
 - The people and officials of India are ought to enjoy these rights
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Nature of Fundamental rights

- Fundamental rights are equal for all.
 - Rights are justiciable .
 - Fundamental rights are not absolute.
 - They limit the authority of the central and state governments.
 - Fundamental rights distinguish between citizens and foreign nationals.
 - They can be suspended during emergency.
 - Parliament can amend Fundamental rights.
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KNOW YOUR FUNDAMENTAL RIGHTS



- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to freedom of Religion
- Right to Culture and Education
- Right to Constitutional Remedies

Fundamental rights

Originally Constitution provided for seven Fundamental Rights.

- ▶ Right to equality (Article 14–18)
- ▶ Right to freedom (Article 19–22)
- ▶ Right against exploitation (Article 23–24)
- ▶ Right to freedom of religion (Articles 25–28)
- ▶ Cultural & educational rights (Articles 29–30)
- ▶ Right to Property (Article 31)
- ▶ Right to constitutional remedies (Article 32).
- ▶ Right to Privacy
 - But, **Right to property** was removed from the list of the Fundamental Rights by the 44th Constitution Amendment Act, 1978 and after amendment, it was made legal right under Article 300–A in part–12 of the Constitution.
- ▶ At present there are only six Fundamental rights.

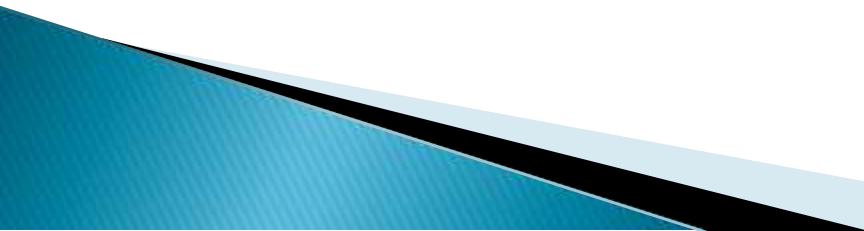
Right to Equality (Articles 14–18):



Right to Equality (Articles 14–18):

- ▶ **Article 14 (Equality before law):**
- ▶ Article 14 says that state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- ▶ Art. 14 is available to any person including legal persons viz. statutory corporation, companies, etc.
- ▶ Art. 14 is taken from the concept of equal protection of laws has been taken from the Constitution of USA.
- ▶ The concept of the rule of law is a negative concept while the concept of equal protection of laws is a positive concept.
- ▶ The concept of *equality before the law* is equivalent to the second element of the concept of the 'rule of law' propounded by A.D. Dicey, the British jurist. But certain exceptions to it are, the president of India, state governors, Public servants, Judges, Foreign diplomats, etc., who enjoy immunities, protections, and special privileges.

Right to Equality (Articles 14–18):

- ▶ **Article 15 (Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth):**
 - ▶ Article 15 says that the state shall not discriminate against only of religion, race, sex, place of birth or any of them.
 - ▶ Under Article 15 (3) & (4), the government can make special provisions for women & children and for a group of citizens who are economically and socially backward.
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Right to Equality (Articles 14–18):

- ▶ **Article 16 (Equality of opportunities in matters of public employment):**
- ▶ Article 16 says that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.
- ▶ **Article 17 (Abolition of Untouchability):** Article 17 says that *Untouchability* is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offense punishable by law.

Right to Equality (Articles 14–18):

- ▶ **Article 18 (Abolition of titles):**
- ▶ Article 18 says that no title, not being a military or academic distinction, shall be conferred by the State. No citizen of India shall accept any title from any foreign state.
- ▶ The awards, Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri, called as The National Awards would not amount to title within the meaning of Article 18(i).

Right to Freedom (Articles 19–22):



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- ▶ **Article 19 (Protection of certain rights regarding freedom of speech, etc.):**
Article 19 says that all citizens shall have the right
 - 1) To freedom of speech and expression.
 - 2) To assemble peacefully and without arms.
 - 3) To form associations or unions.
 - 4) To move freely throughout the territory of India.
 - 5) To practice any profession or to carry on any occupation, trade or business.

Right to Freedom (Articles 19–22):

- ▶ **Article 20** (Protection in respect of conviction for offenses):

Article 20 says that state can impose reasonable restrictions on the groups of security of the state, friendly relations with foreign states, public order, decency, morality, contempt of court, defamation, etc.

Right to Freedom (Articles 19–22):

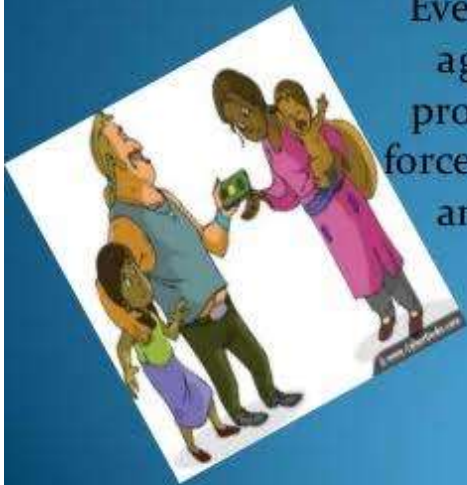
- ▶ **Article 21** deals with Protection of life and personal liberty.
Article 21A states that that state shall provide free and compulsory education to all children of the age of 6–14 years.
Article 22 deals with protection against arrest and detention in certain cases.
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Right Against Exploitation (Articles 23–24):

Right against Exploitation

- *Article 23* {Prohibition of traffic in human beings and forced labour}
- *Article 24* {Prohibition of employment of children in factories, etc.}

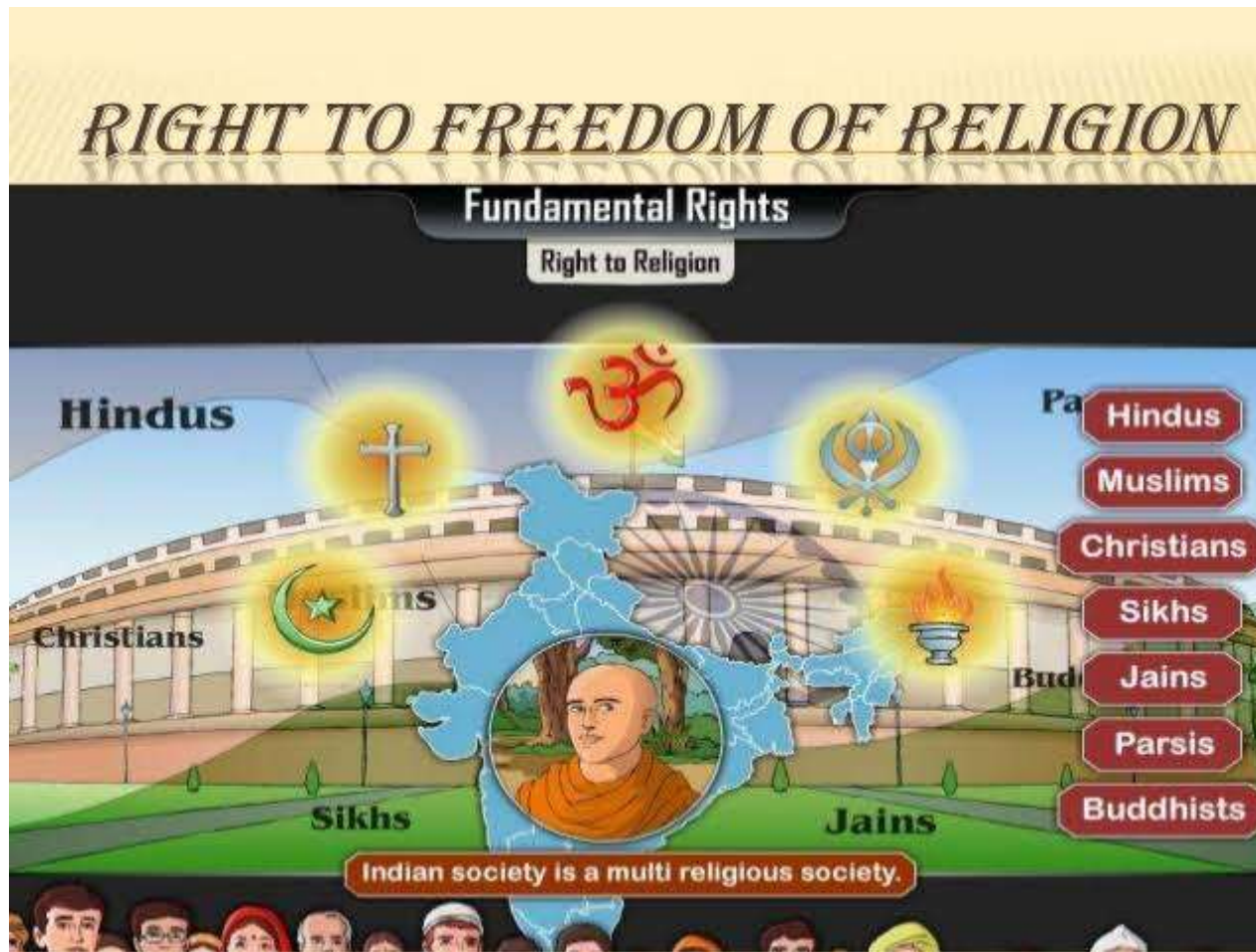
Every citizen has a right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings.



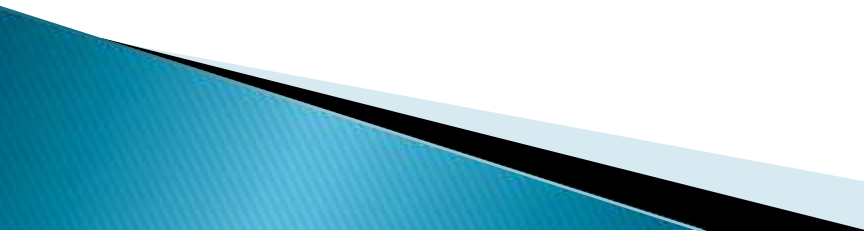
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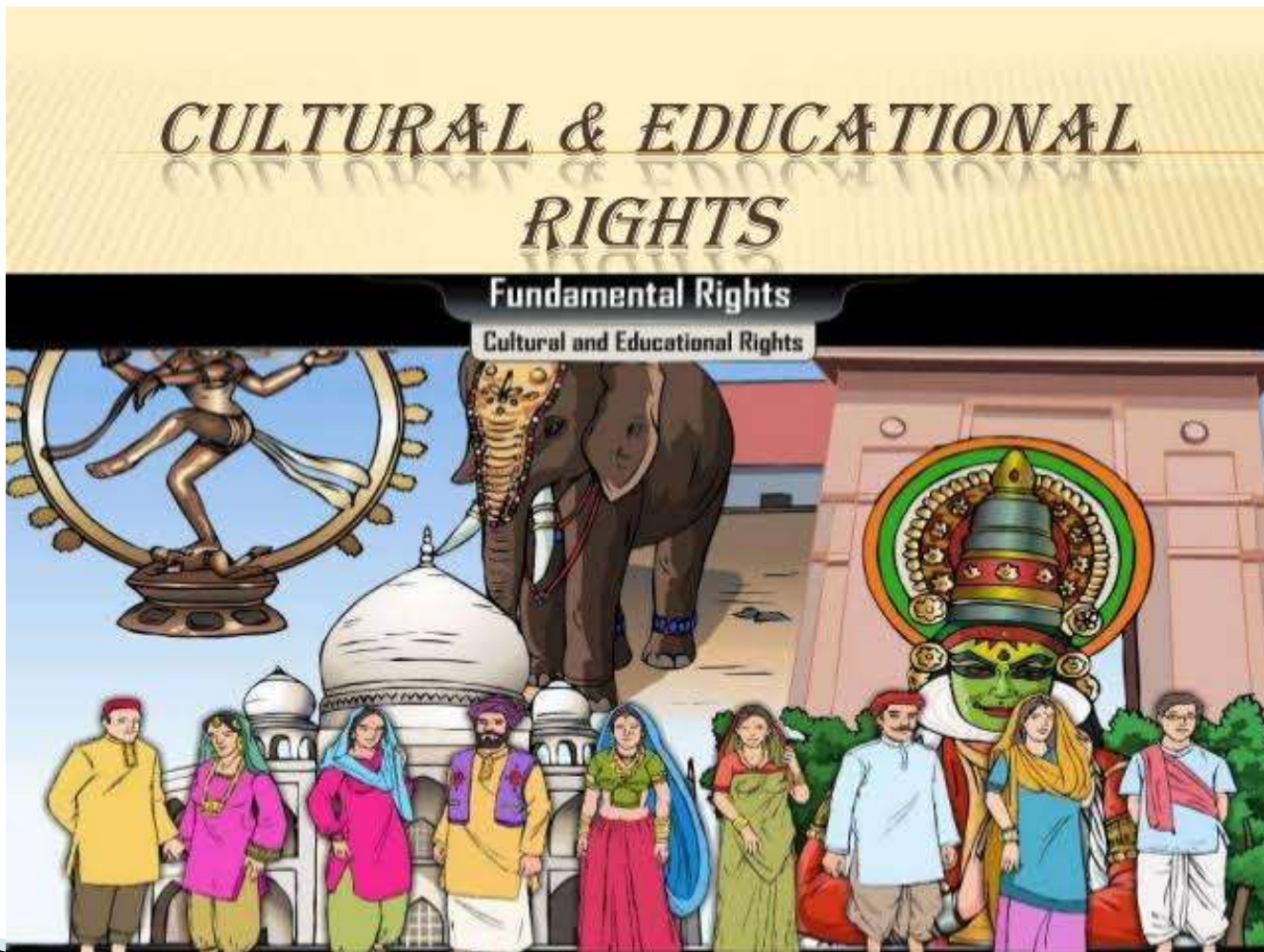
Right to Freedom of Religion (Articles 25–28):




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- ▶ **Article 25** deals with freedom of conscience and free profession, practice, and propagation of religion.
 - Article 26** deals with freedom to manage religious affairs.
 - Article 27** deals with freedom as to payment of taxes for promotion of any particular religion.
 - Article 28** deals with freedom as to attendance at religious instructions or religious worship in certain educational institutions.
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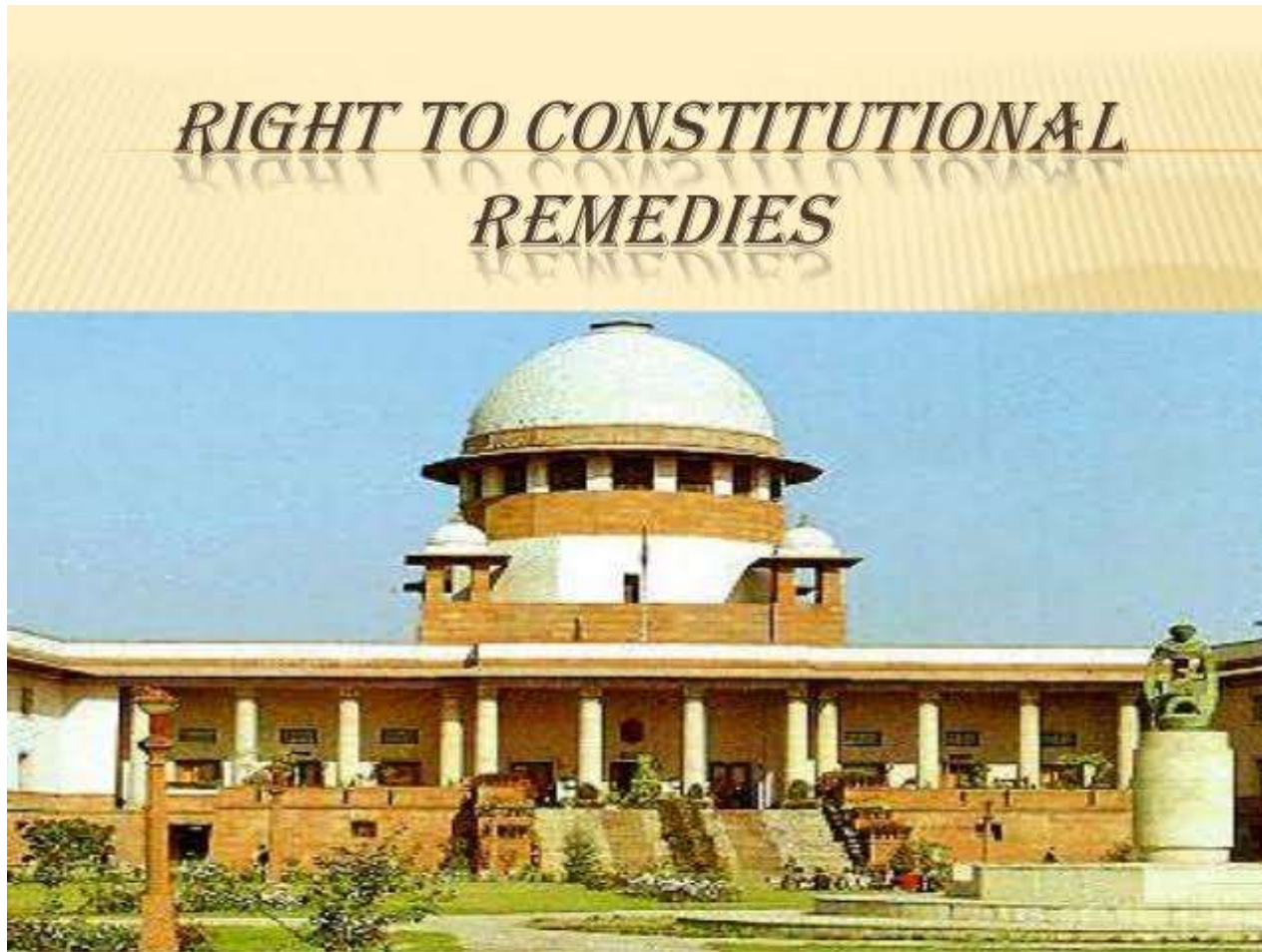
Cultural and Educational Rights (Articles 29–30):




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- ▶ **Article 29** deals with the protection of language, script, and culture of minorities. **Article 30** deals with the right of minorities to establish and administer educational institutions.
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Right to Constitutional Remedies (Article 32):



Right to Constitutional Remedies (Article 32):

- ▶ **Article 32** deals with the right to move to the supreme court for the enforcement of Fundamental Rights including the Writs of
 - (i) Habeas corpus
 - (ii) Mandamus
 - (iii) Prohibition
 - (iv) Certiorari and
 - (iv) Quo warranto.
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Critical evaluation of fundamental rights

- No rights outside the constitution
 - Too many limitations
 - Preventive Detention and Fundamental rights
 - Rights can be suspended during emergency
 - Absence of Economic rights
 - Vague and complex language
 - Supremacy of Parliament over Fundamental Rights
 - Special concessions for minorities and backward classes are against the Principle of Equality.
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