

Fundamental rights in India

Fundamental Rights are the basic rights of the people and the charter of rights contained in Part III (Article 12 to 35) of Constitution of India. It guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies such as equality before law, freedom of speech and expression, religious and cultural freedom and peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. Violation of these rights result in punishments as prescribed in the Indian Penal Code or other special laws, subject to discretion of the judiciary. The Fundamental Rights are defined as basic human freedoms that every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste or gender. Though the rights conferred by the constitution other than fundamental rights are equally valid and their enforcement in case of violation shall be secured from the judiciary in a time consuming legal process. However, in case of fundamental rights violation, Supreme court of India can be approached directly for ultimate justice per Article 32. The Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man

The seven fundamental rights recognised by the Indian constitution are the right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, right to constitutional remedies and right to privacy. The right to equality includes equality before law, prohibition of discrimination on grounds of religion, race, caste, gender or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles. The right to freedom includes freedom of speech and expression, assembly, association or union or cooperatives, movement, residence, and right to practice any profession or occupation, right to life and liberty, protection in respect to conviction in offences and protection against arrest and detention in certain cases. The right against exploitation prohibits all forms of forced labour, child labour and trafficking of human beings. The right to freedom of religion includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes. Cultural and educational rights preserve the right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice. The right to constitutional remedies is present for enforcement of Fundamental Rights. The right to privacy is an intrinsic part of Article 21 that protects life and liberty of the citizens.^[1]

Fundamental rights for Indians have also been aimed at overturning the inequalities of pre-independence social practices. Specifically, they have also been used to abolish untouchability and thus prohibit discrimination on the grounds of religion, race, caste, sex, or place of birth. They also forbid trafficking of human beings and forced labour (a crime). They also protect cultural and educational rights of religious and linguistic minorities by allowing them to preserve their languages and also establish and administer their own education institutions. They are covered in Part III (Articles 12 to 35) of Indian constitution.

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Genesis

The development of constitutionally guaranteed fundamental human rights in India was inspired by historical examples such as England's Bill of Rights (1689), the United States Bill of Rights (approved on 17 September 1787, final ratification on 15 December 1791) and France's Declaration of the Rights of Man (created during the revolution of 1789 and ratified on 26 August 1789).^[2]

In 1919, the Rowlatt Act gave extensive powers to the British government and police, and allowed indefinite arrest and detention of individuals, warrant-less searches and seizures, restrictions on public gatherings, and intensive censorship of media and publications. The public opposition to this act eventually led to mass campaigns of non-violent civil disobedience throughout the country demanding guaranteed civil freedoms, and limitations on government power. Indians, who were seeking independence and their own government, were particularly influenced by the independence of Ireland and the development of the Irish constitution. Also, the directive principles of state policy in Irish constitution were looked upon by the people of India as an inspiration for the independent India's government to comprehensively tackle complex social and economic challenges across a vast, diverse nation and population.

In 1928, the Nehru Commission composing of representatives of Indian political parties proposed constitutional reforms for India that apart from calling for dominion status for India and elections under universal suffrage, would guarantee rights deemed fundamental, representation for religious and ethnic minorities, and limit the powers of the government. In 1931, the Indian National Congress (the largest Indian political party of the time) adopted resolutions committing itself to the defence of fundamental civil rights, as well as socio-economic rights such as the minimum wage and the abolition of untouchability and serfdom.^[3] Committing themselves to socialism in 1936, the Congress leaders took examples from the Constitution of the Soviet Union, which inspired the fundamental duties of citizens as a means of collective patriotic responsibility for national interests and challenges.

Task of developing a constitution for the nation was undertaken by the Constituent Assembly of India, composing of elected representatives. The Constituent Assembly first met on 9 December 1946 under the presidency of Dr. Sachidanand later Dr. Rajendra Prasad was made its president. While members of Congress composed of a large majority, Congress leaders appointed persons from diverse political backgrounds to responsibilities of developing the constitution and national laws.^[4] Notably, Bhimrao Ramji Ambedkar became the chairperson of the drafting committee, while Jawaharlal Nehru and Sardar Vallabhbhai Patel became chairpersons of committees and sub-committees responsible for different subjects. A notable development during that period having significant effect on the Indian constitution took place on 10 December 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights and called upon all member states to adopt these rights in their respective constitutions.

The fundamental rights were included in the First Draft Constitution (February 1948), the Second Draft Constitution (17 October 1948) and final Third Draft Constitution (26 November 1949), prepared by the Drafting Committee

Significance and characteristics

The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity. The writers of the constitution regarded democracy of no avail if civil liberties, like freedom of speech and religion were not recognised and protected by the State.^[5] According to them, "democracy" is, in essence, a government by opinion and therefore, the means of formulating public opinion should be secured to the people of a democratic nation. For this purpose, the constitution guaranteed to all the citizens of India the freedom of speech and expression and various other freedoms in the form of the fundamental rights.^[6]

All people, irrespective of race, religion, caste or sex, have been given the right to petition directly the Supreme Court or the High Courts for the enforcement of their fundamental rights. It is not necessary that the aggrieved party has to be the one to do so. Poverty stricken people may not have the means to do so and therefore, in the public interest, anyone can commence litigation in the court on their behalf. This is known as "Public interest litigation".^[7] In some cases, High Court judges have acted suo moto on their own on the basis of newspaper reports.

These fundamental rights help not only in protection but also the prevention of gross violations of human rights. They emphasise on the fundamental unity of India by guaranteeing to all citizens the access and use of the same facilities, irrespective of background. Some fundamental rights apply for persons of any nationality whereas others are available only to the citizens of India. The right to life and personal liberty is available to all people and so is the right to freedom of religion. On the other hand, freedoms of speech and expression and freedom to reside and settle in any part of the country are reserved to citizens alone, including non-resident Indian citizens.^[8] The right to equality in matters of public employment cannot be conferred to overseas citizens of India.^[9]

Fundamental rights primarily protect individuals from any arbitrary state actions, but some rights are enforceable against individuals.^[10] For instance, the Constitution abolishes untouchability and also prohibits begar. These provisions act as a check both on state action as well as the action of private individuals. However, these rights are not absolute or uncontrolled and are subject to reasonable restrictions as necessary for the protection of general welfare. They can also be selectively curtailed. The Supreme Court has ruled^[11] that all provisions of the Constitution, including fundamental rights can be amended. However, the Parliament cannot alter the basic structure of the constitution. Since the fundamental rights can be altered only by a constitutional amendment, their inclusion is a check not only on the executive branch but also on the Parliament and state legislatures.^[12]

A state of national emergency has an adverse effect on these rights. Under such a state, the rights conferred by Article 19 (freedoms of speech, assembly and movement, etc.) remain suspended. Hence, in such a situation, the legislature may make laws that go against the rights given in Article 19. Also, the President may by order suspend the right to move court for the enforcement of other rights as well.

Right to equality

Right to equality rule was not in action due to Reservation system in India, where only people born in specific Caste are given priority in rights.

Right to equality was (as proposed) an important and meaningful right provided for in Articles 14, 15, 16, 17 and 18 of the constitution. It is the principal foundation of all other rights and liberties, and guarantees the following:

- **Equality before law:** Article 14 of the constitution guarantees that all people shall be equally protected by the laws of the country. It means that the State^[5] will treat people in the same circumstances alike. This article also means that individuals, whether citizens of India or otherwise shall be treated differently if the circumstances are different.
- **Social equality and equal access to public areas:** Article 15 of the constitution states that no person shall be discriminated on the basis of religion, race, caste, sex or place of birth. Every person shall have equal access to public places like public parks, museums, wells, bathing ghats and temples etc. However, the State may make any special provision for women and children. Special provisions may be made for the advancements of any socially or educationally backward class or scheduled castes or scheduled tribes.
- **Equality in matters of public employment:** Article 16 of the constitution lays down that the State cannot discriminate against anyone in the matters of employment. All citizens can apply for government jobs. There are some exceptions. The Parliament may enact a law stating that certain jobs can be filled only by applicants who are domiciled in the area. This may be meant for posts that require knowledge of the locality and language of the area. The State may also reserve posts for members of backward classes, scheduled castes or scheduled tribes which are not adequately represented in the services under the State to bring up the weaker sections of the society. Also, there

a law may be passed that requires that the holder of an office of any religious institution shall also be a person professing that particular religion. According to the *Citizenship (Amendment) Bill 2003*, this right shall not be conferred to Overseas citizens of India^[9]

- **Abolition of untouchability:** Article 17 of the constitution abolishes the practice of untouchability. Practice of untouchability is an offence and anyone doing so is punishable by law. The *Untouchability Offences Act* of 1955 (renamed to *Protection of Civil Rights Act* in 1976) provided penalties for preventing a person from entering a place of worship or from taking water from a tank or well.
- **Abolition of Titles:** Article 18 of the constitution prohibits the State from conferring any titles. "Citizens of India cannot accept titles from a foreign State. The British government had created an aristocratic class known as *Raj Bahadurs* and *Khan Bahadurs* in India – these titles were also abolished. However, Military and academic distinctions can be conferred on the citizens of India. The awards of *Bharat Ratna* and *Padma Vibhushan* cannot be used by the recipient as a title and do not, accordingly, come within the constitutional prohibition"^[13] The Supreme Court, on 15 December 1995, upheld the validity of such awards.

Right to freedom

The Constitution of India contains the right to freedom, given^[14] in articles 19, 20, 21, 21A and with the view of guaranteeing individual rights that were considered vital by the framers of the constitution. It is a cluster of four main laws. The right to freedom in Article 19 guarantees the following six freedoms:

- Freedom of speech and expression, on which the State can impose reasonable restrictions in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order decency or morality or in relation to contempt of court, defamation or incitement to an offence.^[15]
- Freedom to assemble peacefully without arms on which the State can impose reasonable restrictions in the interest of public order and the sovereignty and integrity of India.
- The Freedom to form associations or unions or co-operative societies on which the State can impose reasonable restrictions in the interest of public order, morality and the sovereignty and integrity of India.
- Freedom to move freely throughout the territory of India though reasonable restrictions can be imposed on this right in the interest of the general public, for example, restrictions may be imposed on movement and travelling, so as to control epidemics.
- Freedom to reside and settle in any part of the territory of India, subject to reasonable restrictions by the State in the interest of the general public or for the protection of the scheduled tribes because certain safeguards as are envisaged here seem to be justified to protect indigenous and tribal peoples from exploitation and coercion.^[16] Article 370 restricts citizens from other Indian states and Kashmiri women who marry men from other states from purchasing land or property in Jammu & Kashmir.^[17]
- Freedom to practice any profession or to carry on any occupation, trade or business on which the State may impose reasonable restrictions in the interest of the general public. Thus, there is no right to carry on a business which is dangerous or immoral. Also, professional or technical qualifications may be prescribed for practising any profession or carrying on any trade.

Article 21A gives education to all children of the age of six to fourteen years in such manner as the State may by law, determine.

The constitution also imposes restrictions on these rights. The government restricts these freedoms in the interest of the independence, sovereignty and integrity of India. In the interest of morality and public order, the government can also impose restrictions. However, the right to life and personal liberty cannot be suspended. The six freedoms are also automatically suspended or have restrictions imposed on them during a state of emergency.

Right to Information (RTI)

Right to Information has been given the status of a fundamental right under Article 19(1) of the Constitution in 2005. Article 19 (1) under which every citizen has freedom of speech and expression and have the right to know how the government works, what role does it play, what are its functions and so on.^[18]

Right against exploitation

The right against exploitation, given in Articles 23 and 24, provides for two provisions, namely the abolition of trafficking in human beings and Begar (forced labour), and abolition of employment of children below the age of 14 years in dangerous jobs like factories, mines, etc. Child labour is considered a gross violation of the spirit and provisions of the constitution. Begar, practised in the past by

landlords, has been declared a crime and is punishable by law. Trafficking in humans for the purpose of slave trade or prostitution is also prohibited by law. An exception is made in employment without payment for compulsory services for public purposes. Compulsory military conscription is covered by this provision.

Right to freedom of religion

Right to freedom of religion, covered in Articles 25, 26, 27 and 28, provides religious freedom to all citizens of India. The objective of this right is to sustain the principle of secularism in India. According to the Constitution, all religions are equal before the State and no religion shall be given preference over the other. Citizens are free to preach, practice and propagate any religion of their choice.

Religious communities can set up charitable institutions of their own. However, activities in such institutions that are not religious are performed according to the laws laid down by the government. Establishing a charitable institution can also be restricted in the interest of public order, morality and health. No person shall be compelled to pay taxes for the promotion of a particular religion. A State run institution cannot impart education that is pro-religion. Also, nothing in this article shall affect the operation of any existing law or prevent the State from making any further law regulating or restricting any economic, financial, political or other secular activity that may be associated with religious practice, or providing for social welfare and reform.

Right to life

The constitution guarantees the right to life and personal liberty, which in turn cites specific provisions in which these rights are applied and enforced:

- Protection with respect to conviction for offences is guaranteed in the right to life and personal liberty. According to Article 20, no one can be awarded punishment which is more than what the law of the land prescribes at that time. This legal axiom is based on the principle that no criminal law can be made retrospective, that is, for an act to become an offence, the essential condition is that it should have been an offence legally at the time of committing it. Moreover, no person accused of any offence shall be compelled to be a witness against himself. "Compulsion" in this article refers to what in law is called "Duress" (injury, beating or unlawful imprisonment to make a person do something that he does not want to do). This article is known as a safeguard against self incrimination. The other principle enshrined in this article is known as the principle of double jeopardy, that is, no person can be convicted twice for the same offence, which has been derived from Anglo Saxon law. This principle was first established in the Magna Carta.
- Protection of life and personal liberty is also stated under right to life and personal liberty. Article 21 declares that no citizen can be denied his life and liberty except by law. This means that a person's life and personal liberty can be disputed only if that person has committed a crime. However, the right to life does not include the right to die and hence, suicide or an attempt thereof, is an offence. (Attempted suicide being interpreted as a crime has seen many debates. The Supreme Court of India gave a landmark ruling in 1994. The court repealed section 309 of the Indian penal code, under which people attempting suicide could face prosecution and prison terms of up to one year.^[19] In 1996 however another Supreme Court ruling nullified the earlier one.^[20]) "Personal liberty" includes all the freedoms which are not included in Article 19 (that is, the six freedoms). The right to travel abroad is also covered under "personal liberty" in Article 21.^[21]
- In 2002, through the 86th Amendment Act, Article 21(A) was incorporated. It made the right to primary education part of the right to freedom, stating that the State would provide free and compulsory education to children from six to fourteen years of age.^[22] Six years after an amendment was made in the Indian Constitution, the union cabinet cleared the Right to Education Bill in 2008.^[23]
- Rights of a person arrested under ordinary circumstances is laid down in the right to life and personal liberty. No one can be arrested without being told the grounds for his arrest. If arrested, the person has the right to defend himself by a lawyer of his choice. Also an arrested citizen has to be brought before the nearest magistrate within 24 hours. The rights of a person arrested under ordinary circumstances are not available to an enemy alien. They are also not available to persons detained under the Preventive Detention Act. Under preventive detention, the government can imprison a person for a maximum of three months. It means that if the government feels that a person being at liberty can be a threat to the law and order or to the unity and integrity of the nation, it can detain or arrest that person to prevent him from doing this possible harm. After three months such a case is brought before an advisory board for review.



Child labour and Begar is prohibited under Right against exploitation.

Cultural and Educational rights

As India is a country of many languages, religions, and cultures, the Constitution provides special measures, in Articles 29 and 30, to protect the rights of the minorities. Any community that has a language and a script of its own has the right to conserve and develop it. No citizen can be discriminated against for admission in State or State aided institutions.

All minorities, or linguistic, can set up their own educational institutions to preserve and develop their own culture. In granting aid to institutions, the State cannot discriminate against any institution on the basis of the fact that it is administered by a minority institution. But the right to administer does not mean that the State cannot interfere in case of maladministration. In a precedent-setting judgement in 1980, the

Supreme Court held that the State can certainly take regulatory measures to promote the efficiency and excellence of educational standards. It can also issue guidelines for ensuring the security of the services of the teachers or other employees of the institution. In another landmark judgement delivered on 31 October 2002, the Supreme Court ruled that in case of aided minority institutions offering professional courses, admission could be only through a common entrance test conducted by State or a university. Even an unaided minority institution ought not to ignore the merit of the students for admission.



The Flag of India

Right to constitutional remedies

Right to constitutional remedies [Article 32 to 35] empowers the citizens to move a court of law in case of any denial of the fundamental rights. For instance, in case of imprisonment, any citizen can ask the court to see if it is according to the provisions of the law of the country by lodging a PIL. If the court finds that it is not, the person will have to be freed. This procedure of asking the courts to preserve or safeguard the citizens' fundamental rights can be done in various ways. The courts can issue various kinds of writs. These writs are *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*. Dr. B. R. Ambedkar rightly declared Right to constitutional remedies as "the heart and soul" of Indian constitution. When a national or state emergency is declared, this right is suspended by the central government.

Article 32 is also called citizens right to protect and defend the constitution as it can be used by the citizens to enforce the constitution through the judiciary

Right to Privacy

The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution. It protects the inner sphere of the individual from interference from both State, and non-State actors and allows the individuals to make autonomous life choices. On 24 August 2017 the Supreme Court^[24] ruled that:

"Right to Privacy is an integral part of Right to Life and Personal Liberty guaranteed in Article 21 of the Constitution,"

— Supreme Court

Critical analysis

The fundamental rights have been revised for many reasons. Political groups have demanded that the right to work, the right to economic assistance in case of unemployment, old age, and similar rights be enshrined as constitutional guarantees to address issues of poverty and economic insecurity,^[25] though these provisions have been enshrined in the Directive Principles of state policy.^[26] The right to freedom and personal liberty has a number of limiting clauses, and thus have been criticised for failing to check the sanctioning of powers often deemed "excessive".^[25] There is also the provision of preventive detention and suspension of

fundamental rights in times of Emergency. The provisions of acts like the Maintenance of Internal Security Act (MISA), Armed Forces (Special Powers) Act and the National Security Act (NSA) are a means of countering the fundamental rights, because they sanction excessive powers with the aim of fighting internal and cross-border terrorism and political violence, without safeguards for civil rights.^[25] The phrases "security of State", "public order" and "morality" are of wide implication. People of alternate sexuality are criminalised in India with prison term up to 10 years. The meaning of phrases like "reasonable restrictions" and "the interest of public order" have not been explicitly stated in the constitution, and this ambiguity leads to unnecessary litigation.^[25] The freedom to assemble peaceably and without arms is exercised, but in some cases, these meetings are broken up by the police through the use of non-fatal methods.^{[27][28]}

"Freedom of press" has not been included in the right to freedom, which is necessary for formulating public opinion and to make freedom of expression more legitimate.^[25] Employment of child labour in hazardous job environments has been reduced, but their employment even in non-hazardous jobs, including their prevalent employment as domestic help violates the spirit and ideals of the constitution. More than 16.5 million children are employed and working in India.^[29] India was ranked 88 out of 159 in 2005, according to the degree to which corruption is perceived to exist among public officials and politicians worldwide. But in 2014, India has improved marginally to a rank of 85.^{[30][31]} The right to equality in matters regarding public employment shall not be conferred to overseas citizens of India according to the Citizenship (Amendment) Bill, 2003.^[9]

As per Article 19 of Part III of the Indian constitution, the fundamental rights of people such as freedom of speech and expression, gathering peaceably without arms and forming associations or unions shall not effect the interests of the sovereignty^[32] and integrity of India but not unity of India. The words sovereignty and integrity are the qualities to be cultivated / emulated by Indian people as urged by the Indian constitution but not used related to territory of India. Article 1 of Part 1 of the Indian constitution, defines India (Bharat) as union of states. In nutshell, India is its people not its land as enshrined in its constitution.

Since speedy trial is not the constitutional right of the citizens, the cases involving violations of fundamental rights take inordinate time for resolution by the Supreme Court which is against the legal maxim 'justice delayed is justice denied'.^[33]

Amendments

Changes to the fundamental rights require a constitutional amendment which has to be passed by a special majority of both houses of Parliament. This means that an amendment requires the approval of two-thirds of the members present and voting. However, the number of members voting in support of the amendment shall not be less than the simple majority of the total members of a house – whether the Lok Sabha or Rajya Sabha.

Fundamental rights not sacrosanct

While deciding the Golaknath case in February 1967, Supreme Court ruled that the Parliament has no power to curtail the fundamental rights. They were made permanent and sacrosanct reversing the Supreme Court's earlier decision which had upheld Parliament's power to amend all parts of the Constitution, including Part III related to Fundamental Rights. Up till the 24th constitutional amendment in 1971, the fundamental rights given to the people were permanent and can not be repealed or diluted by the Parliament. 24th constitutional amendment introduced a new Article 13(4) enabling Parliament to legislate on the subjects of Part III of the constitution using its constituent powers per Article 368 (1). In the year 1973, the 13 member constitutional bench of supreme court also upheld with majority the validity of 24th constitutional amendment. However it ruled that Basic structure of the constitution which is built on the basic foundation representing the dignity and freedom of the individual, can not be altered. This is of supreme importance and cannot be destroyed by any form of amendment to the constitution.^[34] Many constitutional amendments to Part III of the constitution were made deleting or adding or diluting the fundamental rights before the judgement of Golaknath case (Constitutional amendments 1,4,7 and 16) and after the validity of 24th constitutional amendment is upheld by the Supreme Court (Constitutional amendments 25,42,44,50,77,81,85,86,93 and 97).

Validity of Article 31B

Articles 31A and Article 31B are added by First constitutional amendment in 1951. Article 31B says that any acts and regulations included in the Ninth Schedule of the constitution by the Parliament can override the fundamental rights and such laws can not be repealed or made void by the judiciary on the grounds of violating fundamental rights. Thus fundamental rights given in Part III are not equally applicable in each state /region and can be made different by making additions/deletions to Ninth Schedule by constitutional amendments. In 2007, Supreme Court ruled that there could not be any blanket immunity from judicial review for the laws inserted in the Ninth Schedule. Apex court also stated it shall examine laws included in the Ninth Schedule after 1973 for any incompatibility with the basic structure doctrine.^[35]

Amendment to Article 31C

Section 4 of the 42nd Amendment, had changed Article 31C of the constitution to accord precedence to the Directive Principles (earlier applicable only to clauses b & c of Article 39) over the fundamental rights of individuals. In Minerva Mills v. Union of India case, supreme court ruled that the amendment to the Article 31C is not valid and ultra vires.

Right to property

The Constitution originally provided for the right to property under Articles 19 and 31. Article 19 guaranteed to all citizens the right to acquire, hold and dispose of property. Article 31 provided that "no person shall be deprived of his property save by authority of law." It also provided that compensation would be paid to a person whose property has been taken for public purposes.

The provisions relating to the right to property were changed a number of times. The Forty-Fourth Amendment of 1978 deleted the right to property from the list of fundamental rights^[36] A new provision, Article 300-A, was added to the constitution, which provided that "no person shall be deprived of his property save by authority of law". Thus if a legislature makes a law depriving a person of his property, there would be no obligation on the part of the State to pay anything as compensation. The aggrieved person shall have no right to move the court under Article 32. Thus, the right to property is no longer a fundamental right, though it is still a constitutional right. If the government appears to have acted unfairly, the action can be challenged in a court of law by aggrieved citizens.^[25]

The liberalisation of the economy and the government's initiative to set up special economic zones has led to many protests by farmers and have led to calls for the reinstatement of the fundamental right to private property.^[37] The Supreme Court has sent a notice to the government questioning why the right should not be brought back but in 2010 the court rejected the plea.^[38]

Right to education

The right to education at elementary level has been made one of the fundamental rights in 2002 under the Eighty-Sixth Amendment of 2002.^[22] However this right was brought in to implementation after eight years in 2010. Article 21A – On 2 April 2010, India joined a group of few countries in the world, with a historic law making education a fundamental right of every child coming into force.^[39] Making elementary education an entitlement for children in the 6–14 age group, the Right of Children to Free and Compulsory Education Act will directly benefit children who do not go to school at present. This act provides for appointment of teachers with the requisite entry and academic qualifications.

The former Prime Minister Dr. Manmohan Singh announced the operationalisation of the Act. Children, who had either dropped out of schools or never been to any educational institution, will get elementary education as it will be binding on the part of the local and State governments to ensure that all children in the 6–14 age group get schooling. As per the Act, private educational institutions should reserve 25 per cent seats for children from the weaker sections of society. The Centre and the States have agreed to share the financial burden in the ratio of 55:45, while the Finance Commission has given Rs.250 billion to the States for implementing the Act. The Centre has approved an outlay of Rs.150 billion for 2010–2011.

The school management committee or the local authority will identify the drop-outs or out-of-school children aged above six and admit them in classes appropriate to their age after giving special training.

See also

- Lawmaking procedure in India
- President's rule
- President of India
- Federalism in India
- Part I of the Constitution of India
- List of amendments of the Constitution of India
- List of Acts of the Parliament of India

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Footnotes

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