

Right to Freedom, Article 19 to 22, Provisions, Case Laws

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The **Right to Freedom** is one of the most fundamental human rights guaranteed by the Constitution of India. It is enshrined under Articles 19 to 22 of Part III of the constitution. It forms the foundation of India's democratic framework. This right ensures that citizens can express themselves, move freely and live without undue restrictions by the State. The framers of the Constitution incorporated these freedoms inspired by the Universal Declaration of Human Rights (1948) to protect individual liberty while maintaining public order and national security.

What is Right to Freedom in the Indian Constitution?

The Right to Freedom provides a balance between individual liberty and state control. While it ensures the protection of civil liberties, it also allows reasonable restrictions to maintain harmony and sovereignty. The six freedoms under Article 19(1) are available only to Indian citizens, whereas Articles 20 to 22 extend certain rights to all persons, including non citizens.

Right to Freedom Article List

Right to Freedom includes the below tabulated articles:

Right to Freedom	
Article	Description
Article 19	It gives citizens Right to Freedom of speech, peaceful assembly, association, movement, residence and profession, while allowing reasonable restrictions for security, public order, morality and public interest.
Article 20	It protects people from retrospective punishment, double punishment for the same offence and being forced to give evidence against themselves.
Article 21	It protects every person's life and personal freedom. No one can be deprived of these rights unless it is done through a lawful procedure.
Article 21A	Article 21A guarantees free and compulsory education for all children aged 6 to 14 years, making it the State's responsibility to provide schooling by law.
Article 22	It protects people from arbitrary arrest and detention by ensuring legal rights, timely court appearance and safeguards against misuse of preventive detention laws.

Right to Freedom Constitutional Provisions

The Right to Freedom provided under the parts of the **Fundamental Rights** guaranteed under Articles 19 to 22 of the **Indian Constitution** have been discussed below:

Right to Freedom Article 19

"Protection of Certain Rights Regarding Freedom of Speech, etc."

Article 19 guarantees key freedoms to Indian citizens, including speech, movement, residence, association, peaceful assembly and professional activities.

- Article 19 (1): Grants citizens fundamental freedoms related to expression, assembly, association, movement, residence and occupation across India.
 - Article 19 (1) (a): Ensures freedom of speech and expression, allowing citizens to share opinions, ideas and information lawfully.
 - Article 19 (1) (b): Gives citizens the right to gather peacefully without carrying arms for lawful purposes.
 - Article 19 (1) (c): Allows citizens to create associations, unions, or co-operative societies to pursue common interests and objectives.
 - Article 19 (1) (d): Provides freedom to travel and move freely throughout the territory of India without unnecessary restrictions.
 - Article 19 (1) (e): Permits citizens to live and settle in any part of India according to their choice.
 - Article 19 (1) (g): Gives citizens the right to practise a profession or engage in any lawful trade, occupation, or business.

- Article 19 (2): Allows reasonable restrictions on speech and expression for sovereignty, security, public order, morality, defamation, contempt of court and related concerns.
- Article 19 (3): Permits reasonable restrictions on peaceful assemblies to protect sovereignty, integrity of India and public order.
- Article 19 (4): Allows restrictions on associations or unions when required for sovereignty, public order, or morality.
- Article 19 (5): Permits restrictions on movement and residence in the interests of the general public or Scheduled Tribes.
- Article 19 (6): Allows reasonable restrictions on professions, trades, occupations and businesses for public interest and regulatory purposes.
 - Article 19 (6) (i): Enables laws prescribing professional or technical qualifications required for practising specific professions or occupations.
 - Article 19 (6) (ii): Permits the State or State controlled bodies to operate trades, industries, businesses, or services exclusively or partially.

Right to Freedom Article 20

"Protection in Respect of Conviction for Offences"

Article 20 protects individuals from unfair criminal punishment, double prosecution for the same offence and forced self incrimination during legal proceedings.

- Article 20 (1): It provides protection against ex post facto laws. A person can be punished only for violating a law that existed when the offence was committed and cannot receive a harsher penalty later.
- Article 20 (2): No individual can be tried and punished more than once for the same offence, ensuring protection against **double jeopardy**.
- Article 20 (3): Any person accused of an offence cannot be compelled to testify against themselves or provide **self incriminating** evidence.

Right to Freedom Article 21

"Protection of Life and Personal Liberty"

Article 21 states:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

- It protects every person's life and personal liberty. No individual can be deprived of these rights except through a procedure established by law.
- Key inclusions under Article 21 (as per judicial interpretation):
 - **Right to Privacy** (Justice K.S. Puttaswamy vs. Union of India, 2017)
 - **Right to a Clean Environment** (Subhash Kumar vs. State of Bihar, 1991)
 - Right to Shelter (Olga Tellis vs. Bombay Municipal Corporation, 1985)

- **Right to Die with Dignity** (Common Cause vs. Union of India 2018)

Right to Freedom Article 21A

“Right to Education”

Added by the **86th Constitutional Amendment Act** 2002, Article 21A guarantees the right to free and compulsory education for all children aged 6 to 14 years.

Key features:

- It obligates the State to provide education in a manner determined by law.
- It ensures that every child has access to elementary education, promoting equality and literacy.
- The **Right of Children to Free and Compulsory Education Act (RTE) 2009** operationalizes this right.

According to the Ministry of Education (2025), millions of children have benefited from RTE provisions since its implementation and the transition from primary to upper primary has now reached at about 92.2%.

Right to Freedom Article 22

“Protection Against Arrest and Detention in Certain Cases”

Article 22 protects individuals from arbitrary arrest and detention by ensuring legal rights, judicial oversight and safeguards against misuse of preventive detention.

- Article 22 (1): A person arrested must be informed of the reasons for arrest promptly and has the right to consult and be defended by a lawyer of choice.
- Article 22 (2): Every arrested person must be presented before the nearest magistrate within 24 hours, excluding travel time and cannot be detained longer without approval.
- Article 22 (3): The protections under clauses (1) and (2) do not apply to enemy aliens or persons detained under **preventive detention** laws.
 - Article 22 (3) (a): Individuals classified as enemy aliens are excluded from the safeguards available to ordinary arrested persons under Article 22.
 - Article 22 (3) (b): Persons arrested or detained under preventive detention laws are not entitled to protections provided under clauses (1) and (2).
- Article 22 (4): Preventive detention generally cannot exceed three months unless specific legal conditions and review requirements are satisfied.
 - Article 22 (4) (a): Detention beyond three months requires a favourable report from an Advisory Board consisting of qualified or former **High Court** judges.
 - Article 22 (4) (b): Longer detention may also be allowed if it follows laws enacted by **Parliament** under clause (7).
- Article 22 (5): A detained person must be informed of the grounds of detention and given an early opportunity to challenge the order.

- Article 22 (6): Authorities may withhold information related to detention if disclosure is considered against public interest.
- Article 22 (7): Parliament has the power to regulate preventive detention through laws prescribing limits, conditions and procedures.
 - Article 22 (7) (a): Parliament may specify circumstances where detention beyond three months is allowed without obtaining an Advisory Board's opinion.
 - Article 22 (7) (b): Parliament can determine the maximum duration for preventive detention in different categories of cases.
 - Article 22 (7) (c): Parliament may prescribe the procedure to be followed by an Advisory Board while reviewing detention cases.

Right to Freedom Case Laws

The landmark judgements and case laws that shaped the structure of the Right to Freedom under the Constitution of India are:

- **Romesh Thappar vs. State of Madras (1950):** The Romesh Thapar v. State of Madras case 1950 strengthened freedom of speech under Article 19(1)(a). The Supreme Court struck down censorship based on public order, protected press freedom and led to the **First Constitutional Amendment Act 1951** introducing reasonable restrictions.
- **A.K. Gopalan vs. State of Madras (1950):** It was a landmark Supreme Court judgment on Article 21, preventive detention and personal liberty. The Court upheld the Preventive Detention Act 1950, adopted the "Procedure Established by Law" doctrine, treated Articles 19, 21 and 22 separately and shaped constitutional interpretation until the Maneka Gandhi judgment in 1978.
- **Kharak Singh vs. State of U.P. (1963):** The Supreme Court held that Article 21 protects a dignified human life. It struck down night domiciliary visits (police surveillance practices) as unconstitutional but did not recognise privacy as a fundamental right at that time.
- **Maneka Gandhi vs. Union of India (1978):** It expanded Article 21 by recognizing the right to travel abroad as part of personal liberty. The Supreme Court ruled that any restriction on liberty must follow a fair, just and reasonable legal procedure and uphold natural justice.
- **Bijoe Emmanuel vs. State of Kerala (1986):** The case became a landmark **Supreme Court** judgment on religious freedom and free expression. The Court protected Jehovah's Witness students who refused to sing the **National Anthem** in Kerala. Interpreting Articles 19(1)(a) and 25(1), it ruled that peaceful religious beliefs cannot be restricted unless they threaten public order, morality, or health.

Right to Freedom Challenges

Various Challenges to the Right to Freedom has been discussed below:

- **Misuse of Sedition Law:**
 - Section 152 of BNS (124A of IPC) is often misused to curb dissent.
 - Way Forward: Review and redefine sedition law per the Supreme Court's directive.
- **Preventive Detention Abuse:**

- Arbitrary arrests continue.
- Way Forward: Periodic judicial review and oversight.
- **Internet Shutdowns:**
 - Affect access to information and livelihood.
 - Way Forward: Formulate strict guidelines for digital restrictions.
- **Media Pressure:**
 - Threats to journalistic independence persist.
 - Way Forward: Strengthen press councils and editorial autonomy.
- **Defamation and Censorship:**
 - Legal cases often suppress free speech.
 - Way Forward: Adopt a balanced defamation law in line with global best practices.

Right to Freedom Global Aspects

The Right to Freedom aligns with international covenants such as the Universal Declaration of Human Rights (Article 19) and the International Covenant on Civil and Political Rights (ICCPR), to which India is a signatory. The Indian judiciary has consistently upheld these global norms, integrating them into national jurisprudence.

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