

## HUMAN RIGHTS

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Human Rights are those rights to which all humans are entitled merely by virtue of being humans. They are the inalienable and inviolable rights of all human beings. They derive from the inherent dignity of human beings. They are essential for human survival and human development.

### Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the UN General Assembly in 1948. This declaration represents the first international expression of human rights to which all human beings are entitled. It is described as the “International Magna Carta”.

The declaration consists of 30 articles which can be divided into four parts. These are explained below.

The first two articles contain the basic principles underlying all human rights. Thus, they state as follows:

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Article 1 :	All human beings are born free and equal in dignity and rights.
Article 2 :	Everyone is entitled to all the human rights and freedoms, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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Articles 3 to 21 consist of civil and political rights. They are as under:

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Article 3 :	Right to life, liberty and security
Article 4 :	Freedom from slavery and servitude
Article 5 :	Freedom from torture and inhuman punishment
Article 6 :	Right to recognition as a person before the law
Article 7 :	Right to equality before the law
Article 8 :	Right to judicial remedy
Article 9 :	Freedom from arbitrary arrest or exile
Article 10 :	Right to a fair trial and public hearing
Article 11 :	Right to be presumed innocent until proved guilty
Article 12 :	Right to privacy and reputation
Article 13 :	Right to freedom of movement

Article 14 :	Right to seek asylum
Article 15 :	Right to a nationality
Article 16 :	Right to marriage and family protection
Article 17 :	Right to own property
Article 18 :	Freedom of thought, conscience and religion
Article 19 :	Freedom of opinion, expression and information
Article 20 :	Freedom of peaceful assembly and association
Article 21 :	Right to participate in government and equal access to public service

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Articles 22 to 27 contain economic, social and cultural rights. They are mentioned below:

Article 22 :	Right to social security
Article 23 :	Right to work and equal pay for equal work
Article 24 :	Right to rest and leisure
Article 25 :	Right to adequate standard of living for health and well-being including food, clothing, housing, medical care, social services and security.
Article 26 :	Right to education
Article 27 :	Right to participate in cultural life of community

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The last three articles specify the context within which all the human rights are to be enjoyed. Thus, they state as under:

Article 28 :	Everyone is entitled to a social and international order in which the above rights and freedoms can be fully realised.
Article 29 :	The exercise of the above rights and freedoms shall be limited for the purpose of securing recognition and respect for the rights and freedoms of others and for meeting the requirements of morality, public order and general welfare.
Article 30 :	No state, group or person has any right to engage in any activity aimed at the destruction of the above rights and freedoms.

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## International Bill of Human Rights

Later on, the Universal Declaration of Human Rights was bifurcated into two separate covenants, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The human rights and freedoms contained in the Universal Declaration have been further developed and elaborated upon in these two covenants. Both the covenants were adopted by the UN General Assembly in 1966 and came into force in 1976.

In addition to the above two detailed covenants, two Optional Protocols to the International Covenant on Civil and Political Rights were also adopted by the UN General Assembly. The First Optional Protocol was adopted in 1966 itself while the Second Optional Protocol was adopted in 1989. The First Optional Protocol provides for the submission of complaints by individuals whose human rights have been violated by a State party. The Second Optional Protocol, on the other hand, advocates the abolition of the death penalty.

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and

Cultural Rights constitute what is now widely regarded as the “International Bill of Human Rights”.

## Other International Conventions

The International Bill of Human Rights has been further supplemented by various other international treaties, conventions and declarations. They are usually regarded as “human rights instruments”. They are specialised in nature and related to either a particular human right or to a specific vulnerable group. The important among them are as follows:

1. Convention on the Elimination of All Forms of Racial Discrimination (1966)
2. Convention on the Elimination of All Forms of Discrimination Against Women (1979)
3. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
4. Declaration on the Right to Development (1986)
5. Convention on the Rights of the Child (1989)
6. Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
7. Convention on the Rights of Persons with Disabilities (2006)

## Human Rights in India

The Constitution of India has a rich content of human rights. The Preamble, the Fundamental Rights and the Directive Principles of State Policy reflect the principles and provisions of the Universal Declaration of Human Rights (1948).

The four ideals of the Preamble are aimed at the promotion of human rights. They are as under:

1. Justice in social, economic and political spheres
2. Liberty of thought, expression, belief, faith and worship
3. Equality of status and opportunity
4. Fraternity assuring the dignity of the individual

The Fundamental Rights under Part-III of the Constitution contain an elaborate list of civil and political rights divided into six categories:

1. Right to equality
2. Right to freedom
3. Right against exploitation
4. Right to freedom of religion
5. Cultural and educational rights
6. Right to constitutional remedies

The Directive Principles of State Policy in Part-IV of the Constitution comprise economic, social and cultural rights. They can be classified into three broad categories, *viz.*,

1. Socialistic Principles
2. Gandhian Principles

### 3. Liberal-Intellectual Principles

Besides the Fundamental Rights included in Part-III, there are certain other rights contained in other parts of the Constitution—for example, the right to property in Part-XII of the Constitution.

In the course of time, the Supreme Court has also expanded the scope of human rights contained in the Fundamental Rights. It declared a number of human rights as integral part of fundamental rights, though they have not been specifically mentioned in Part-III of the Constitution. The examples of such un-enumerated fundamental rights are right to health, right to speedy trial, right against torture, right to privacy, right to travel abroad, right to free legal aid, and so on.

In addition to these, the various laws enacted by the Parliament and the State Legislatures contain a number of human rights, particularly for the vulnerable sections of the society. Some such laws are the Bonded Labour System (Abolition) Act, the Protection of Civil Rights Act, the Persons with Disabilities Act, the Minimum Wages Act, and so on.

Finally, the Protection of Human Rights Act (1993) defines human rights in India as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. Further, it also defined the International Covenants as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on 16th December, 1996 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notifications, specify. The Indian Government acceded to these two International Covenants on April 10, 1979.

The Constitution of India and the laws of Parliament as well as state legislatures not only consist of several human rights but also provide for the establishment of national and state commissions for the protection and promotion of those rights. They are mentioned below in [Tables 1.1](#) and [1.2](#).

**Table 1.1** National Commissions Related to Human Rights

<i>Sl.No.</i>	<i>Name of the Commission</i>	<i>Established Under</i>
1.	National Commission for SCs	Constitution (Article 338)
2.	National Commission for STs	Constitution (Article 338-A)
3.	Special Officer for Linguistic Minorities	Constitution (Article 350-B)
4.	National Human Rights Commission	The Protection of Human Rights Act, 1993
5.	National Commission for Protection of Child Rights	The Commissions for Protection of Child Rights Act, 2005
6.	National Commission for Women	The National Commission for Women Act, 1990
7.	National Commission for Minorities	The National Commission for Minorities Act, 1992
8.	National Commission for Backward Classes	The National Commission for Backward Classes Act, 1993
9.	Central Commissioner for Disabled Persons	The Persons with Disabilities Act, 1995

**Table 1.2** State Commissions Related to Human Rights

<i>Sl.No.</i>	<i>Name of the Commission</i>	<i>Established Under</i>
1.	State Human Rights Commission	The Protection of Human Rights Act, 1993
2.	State Commission for Protection of Child Rights	The Commissions for Protection of Child Rights Act, 2005
3.	State Commissioner for Disabled Persons	The Persons with Disabilities Act, 1995
4.	State Commission for SCs and STs	Act of the State Legislature or Executive Resolution of the State Government
5.	State Commission for Women	Act of the State Legislature or Executive Resolution of the State Government
6.	State Commission for Minorities	Act of the State Legislature or Executive Resolution of the State Government
7.	State Commission for Backward Classes	Act of the State Legislature or Executive Resolution of the State Government

## RIGHTS OF WOMEN

The rights available to woman can be classified into two categories, namely, constitutional rights and legal rights. The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights, on the other hand, are those which are provided in the various laws (acts) of the Parliament and the State Legislatures.

### Constitutional Rights

The rights and safeguards enshrined in the constitution for women are as follows:

1. The state shall not discriminate against any citizen on the ground of sex (Article 15(1))
2. The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women (Article 15(3))
3. No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex (Article 16(2))
4. Traffic in human beings and forced labour are prohibited (Article 23(1))
5. The state to secure for men and women equally the right to an adequate means of livelihood (Article 39(a))
6. The state to secure equal pay for equal work for both men and women (Article 39(d))
7. The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength (Article 39(e))
8. The state shall make provision for securing just and humane conditions of work and maternity relief (Article 42)
9. It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of

women (Article 51-A(e))

10. One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women (Article 243-D(3)).
11. One-third of the total number of offices of chairpersons in the *Panchayats* at each level shall be reserved for women (Article 243-D(4)).
12. One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women (Article 243-T(3)).
13. The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide (Article 243-T(4)).

## Legal Rights

The following various legislations contain several rights and safeguards for women:

1. Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.
2. Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organised means of living.
3. Indecent Representation of Women (Prohibition) Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
4. Commission of *Sati* (Prevention) Act (1987) provides for the more effective prevention of the commission of *sati* and its glorification.
5. Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage.
6. Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.
7. Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
8. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female foeticide.
9. Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
10. Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
11. Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by, or have obtained divorce from, their husbands.

12. Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
13. Indian Penal Code (1860) contains provisions to protect women from dowry death, rape, kidnapping, cruelty and other offences.
14. Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
15. Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
16. Legal Services Authorities Act (1987) provides for free legal services to women.
17. Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to man and woman in respect of marriage and divorce.
18. Hindu Succession Act (1956) recognises the right of women to inherit parental property equally with men.
19. Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
20. Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. and 6 A.M. in mines and factories and provides for their safety and welfare.
21. The following other legislations also contain certain rights and safeguards for women:
  - (i) Employees' State Insurance Act (1948)
  - (ii) Plantation Labour Act (1951)
  - (iii) Bonded Labour System (Abolition) Act (1976)
  - (iv) Legal Practitioners (Women) Act (1923)
  - (v) Indian Succession Act (1925)
  - (vi) Indian Divorce Act (1869)
  - (vii) Parsi Marriage and Divorce Act (1936)
  - (viii) Special Marriage Act (1954)
  - (ix) Foreign Marriage Act (1969)
  - (x) Indian Evidence Act (1872)
  - (xi) Hindu Adoptions and Maintenance Act (1956)
22. National Commission for Women Act (1990) provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women.
23. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal). Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganised.

## **RIGHTS OF CHILDREN**

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### **Constitutional Rights**

The constitutional rights and safeguards provided to children are mentioned below.

1. The state is empowered to make any special provision for children. In other words, this

- provision enables the state to make affirmative discrimination in favour of children (Article 15(3)).
2. The state shall provide free and compulsory education to all children of the age of six to fourteen years (Article 21-A).
  3. Traffic in human beings, and forced labour are prohibited (Article 23(1)).
  4. No child below the age of fourteen years shall be employed in any factory, mine or any other hazardous occupation (Article 24).
  5. The state is required to ensure that children of tender age are not abused and that they are not forced by economic necessity to enter vocations unsuited to their age (Article 39(e)).
  6. The state is required to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral as well as material abandonment (Article 39(f)).
  7. The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years (Article 45).
  8. It shall be the duty of every parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years (Article 51-A(k)).

## **Legal Rights**

The various legislations which contain several rights and safeguards for children are as follows:

1. Right of Children to Free and Compulsory Education Act (2009) provides for every child of the age of six to fourteen years, the right to free and compulsory education in a neighbourhood school till the completion of elementary education.
2. Prohibition of Child Marriage Act (2006) was enacted repealing the Child Marriage Restraint Act (1929) in order to prohibit child marriages rather than only restraining them. It makes child marriages voidable by giving choice to the children in the marriage to seek annulment.
3. Juvenile Justice (Care and Protection of Children) Act (2000) aims at providing a juvenile justice system for juveniles in conflict with law as well as children in need of care and protection. It adopts a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.
4. Child Labour (Prohibition and Regulation) Act (1986) prohibits employment of children below 14 years in notified hazardous occupations and processes. It also regulates the working conditions of children in other employments. Further, it obtains uniformity in the definition of “child” in the related laws. It has repealed the Employment of Children Act (1938).
5. Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act (1992) provides for the regulation of production, supply and distribution of infant milk substitutes, feeding bottles and infant foods with a view to the protection and promotion of breast-feeding and ensuring the proper use of infant foods.
6. Guardians and Wards Act (1890) provides that the court must take into consideration the welfare of the child while appointing a guardian.
7. Young Persons (Harmful Publications) Act (1956) prevents the dissemination of certain publications harmful to young persons. Harmful publication is that which tends to corrupt a



- young person to commit offences or acts of violence or cruelty.
8. Children (Pledging of Labour) Act (1933) prohibits the parent or guardian from pledging the services of a child in return for any payment or benefit.
  9. Children Act (1960) provides for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union Territories.
  10. Hindu Minority and Guardianship Act (1956) codified the law relating to minority and guardianship among the Hindus. It says that the welfare of the minor shall be the paramount consideration for a court in the appointment of any person as guardian of a Hindu minor.
  11. Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organised means of living.
  12. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female foeticide.
  13. Legal Services Authorities Act (1987) provides for free legal services to children.
  14. The following legislations prohibit the employment of children in the related occupations and processes:
    - (i) Factories Act (1948)
    - (ii) Plantation Labour Act (1951)
    - (iii) Merchant Shipping Act (1951)
    - (iv) Mines Act (1952)
    - (v) Motor Transport Workers Act (1961)
    - (vi) Apprentices Act (1961)
    - (vii) *Beedi* and Cigar Workers (Conditions of Employment) Act (1966)
  15. The following other legislations also contain certain rights and safeguards for children:
    - (i) Code of Criminal Procedure (1973)
    - (ii) Indian Penal Code (1860)
    - (iii) Indian Divorce Act (1869)
    - (iv) Family Courts Act (1984)
    - (v) Hindu Adoptions and Maintenance Act (1956)
    - (vi) Hindu Marriage Act (1955)
    - (vii) Indian Succession Act (1925)
    - (viii) Muslim Women (Protection of Rights on Divorce) Act (1986)
    - (ix) Parsi Marriage and Divorce Act (1936)
    - (x) Probation of Offenders Act (1958)
    - (xi) Protection of Women from Domestic Violence Act (2005)
    - (xii) Special Marriage Act (1954)
    - (xiii) Employees' State Insurance Act (1948)
    - (xiv) Orphanages and other Charitable Homes (Supervision and Control) Act (1960)

- (xv) Bonded Labour System (Abolition) Act (1976)
  - (xvi) Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995)
16. Commissions for Protection of Child Rights Act (2005) provides for the establishment of a National Commission for Protection of Child Rights, State Commissions for Protection of Child Rights and Children's Courts for the purpose of providing speedy trial of cases of violation of child rights.
  17. Protection of Children from Sexual Offences (POCSO) Act (2012) provides protection to children from the offences of sexual assault, sexual harassment and pornography. It also provides for establishment of special courts for trial of such offences.

## **RIGHTS OF SCs AND STs**

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### **Constitutional Rights**

The Constitution contains various provisions which provide for several rights and safeguards for the scheduled castes (SCs) and the scheduled tribes (STs). While most of these provisions are common to both SCs and STs, some are exclusively meant for either of these two.

The constitutional rights and safeguards of SCs and STs can be classified into the following categories:

1. Social Rights and Safeguards
2. Educational/Economic Rights and Safeguards
3. Service Rights and Safeguards
4. Political Rights and Safeguards
5. Administrative Rights and Safeguards

#### **1. Social Rights and Safeguards**

1. Untouchability is abolished and its practice in any form is forbidden (Article 17).
2. Traffic in human beings and forced labour are prohibited (Article 23).
3. The State is empowered to throw open Hindu religious institutions of public character to all classes and sections of Hindus (Article 25(2)(b)).
4. The right to move freely throughout the territory of India and the right to reside and settle in any part of the territory of India can be restricted on the ground of the protection of interests of the STs (Article 19(5)).

#### **2. Educational/Economic Rights and Safeguards**

1. The State shall promote with special care the educational and economic interests of the SCs and STs and shall protect them from social injustice and all forms of exploitation (Article 46).
2. The State is empowered to make any special provision for the advancement of the SCs and

STs (Article 15(4)).

3. The State is empowered to make any special provision for the SCs and STs regarding their admission to educational institutions including private educational institutions (whether aided or unaided by the State), except the minority educational institutions (Article 15(5)).

### **3. Service Rights and Safeguards**

1. The State is empowered to provide for reservation in promotions (with consequential seniority) to any services under the State in favour of the SCs and STs (Article 16(4-A)).
2. The claims of the SCs and STs shall be taken into consideration (consistently with the maintenance of efficiency of administration) in making appointments to the public services of the Centre and the states (Article 335).
3. While taking into consideration the claims of SCs and STs in making appointments to the public services of the Centre and the states, the consultation with the respective Public Service Commission (UPSC or SPSC) shall not be required (Article 320(4)).

### **4. Political Rights and Safeguards**

1. Seats shall be reserved for the SCs and STs in the Lok Sabha (Article 330).
2. Seats shall be reserved for the SCs and STs in the State Legislative Assemblies (Article 332).
3. The reservation of seats for the SCs and STs in the Lok Sabha and State Legislative Assemblies shall cease after seventy years from the commencement of the Constitution (Article 334). The 95th Constitutional Amendment Act of 2009 has extended this reservation for a further period of ten years (i.e., upto 2020).
4. Seats shall be reserved for the SCs and STs in every Panchayat (i.e., at all the three levels) (Article 243-D(1)).
5. The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the SCs and STs (Article 243-D(4)).
6. The reservation of seats and offices of Chairpersons for the SCs and STs in the Panchayats shall cease after seventy years from the commencement of the Constitution (Article 243-D(5)).
7. Seats shall be reserved for the SCs and STs in every Municipality (Article 243-T(1)).
8. The offices of Chairpersons in the Municipalities shall be reserved for the SCs and STs (Article 243-T(4)).
9. The reservation of seats and offices of Chairpersons for the SCs and STs in the Municipalities shall cease after seventy years from the commencement of the Constitution (Article 243-T(5)).

### **5. Administrative Rights and Safeguards**

1. The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any state other than the states of Assam, Meghalaya, Tripura and Mizoram (Article 244(1)).
2. The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the

states of Assam, Meghalaya, Tripura and Mizoram (Article 244(2)).

3. The president is required to appoint a commission to report on the administration of the scheduled areas and the welfare of the STs in the states. He can appoint such a commission at any time but compulsorily after ten years of the commencement of the Constitution (Article 339(1)).
4. The executive power of the Centre extends to the giving of directions to a state with respect to the drawing up and execution of schemes for the welfare of the STs in the state (Article 339(2)).
5. The Centre should pay grants-in-aid to the states for meeting the costs of schemes of welfare of the STs and for raising the level of administration in the scheduled areas (Article 275(1)).
6. A minister in charge of tribal welfare should be appointed in the states of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha. He may also be put additionally in charge of the welfare of the SCs (Article 164(1)).
7. The President should set up a National Commission for the SCs to investigate and monitor all matters relating to the constitutional and legal rights and safeguards for the SCs and to report to him (Article 338).
8. The President should set up a National Commission for the STs to investigate and monitor all matters relating to the constitutional and legal rights and safeguards for the STs and to report to him (Article 338-A).

## Legal Rights

The legislations which contain the rights and safeguards for the SCs and STs are as follows:

1. Protection of Civil Rights Act (1955) prescribes punishment for the preaching and practice of “untouchability” and for the enforcement of any disability arising therefrom. It provides penalties for preventing a person, on the ground of untouchability, from enjoying civil rights i.e., rights accruing to a person on account of the abolition of untouchability.
2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) prevents the commission of offences of atrocities against the SCs and STs by persons other than the SCs and STs. It also provides for the establishment of special courts for speedy trial of such offences. Further, it makes provision for the relief and rehabilitation of the victims of such offences.
3. Bonded Labour System (Abolition) Act (1976) freed unilaterally all the bonded labourers from bondage with simultaneous liquidation of their debts. It provides for the identification and release of bonded labourers and rehabilitation of freed bonded labourers.
4. Minimum Wages Act (1948) provides for fixation, review, revision and enforcement of minimum wage in respect of notified employments.
5. Legal Services Authorities Act (1987) provides for free legal services to the SCs and STs.
6. Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (2013) seeks to prohibit employment of individuals as manual scavengers by prescribing stringent punishment, including imprisonment upto five years. It also has provisions for rehabilitation of manual scavengers and their families. This new law overrides the old Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act (1993). This means

that the 1993 Act would become practically infructuous.

7. Central Educational Institutions (Reservation in Admission) Act (2006) provides for reservation of 15% for the students belonging to the SCs and 7.5% for STs in central educational institutions (other than those exempted under the Act).
8. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006) seeks to recognise and vest the forest rights and occupation in forest land in forest dwelling STs and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.
9. Provisions of the Panchayats (Extension to Scheduled Areas) Act (1996) (PESA) is aimed at the preservation of the customs, practices and resources of the STs. It provides for reservation to the STs in the Panchayats.
10. The following other legislations contain certain rights and safeguards for the STs:
  - (i) Indian Forest Act (1927)
  - (ii) Forest (Conservation) Act (1980)
  - (iii) State Acts relating to the prevention of alienation and restoration of land belonging to the STs. In some states, such provisions exist in the Land Revenue Code.
  - (iv) State Acts regulating money-lending to the STs.

## **RIGHTS OF BACKWARD CLASSES**

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### **Constitutional Rights**

The rights and safeguards embodied in the constitution for the backward classes (BCs) are mentioned below:

1. The State is permitted to make any special provision for the advancement of any socially and educationally backward classes of citizens (Article 15(4)).
2. The State is empowered to make any special provision for any socially and educationally backward classes of citizens regarding their admission to educational institutions including private educational institutions (whether aided or unaided by the state), except minority educational institutions (Article 15(5)).
3. The State can provide for the reservation of appointments or posts in favour of any backward class which is not adequately represented in the state services (Article 16(4)).
4. The State is directed to promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice and all forms of exploitation (Article 46).
5. The tribal welfare minister appointed in Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha may also be put additionally in charge of the welfare of the BCs (Article 164(1)).
6. The President may appoint a commission to investigate the conditions of socially and educationally backward classes and to recommend the steps to improve their condition. The report of the commission is to be placed before the Parliament, along with action taken memorandum (Article 340).

7. The National Commission for Scheduled Castes is also required to discharge similar functions with regard to the BCs as it does with respect to the SCs. In other words, the commission has to investigate all matters relating to the constitutional and other legal safeguards for the BCs and report to the President upon their working (Article 338(10)).

## Legal Rights

The following legislations contain the rights and safeguards for the BCs:

1. Central Educational Institutions (Reservation in Admission) Act (2006) provides for reservation of 27% for the students belonging to the BCs (excluding creamy layer) in central educational institutions (other than those exempted under the Act).
2. National Commission for Backward Classes Act (1993) provided for the establishment of a National Commission for Backward Classes. The Commission examines requests for inclusion of any class of citizens in the list of BCs for the purpose of reservation. It also hears complaints of over-inclusion or under-inclusion of any BC in the list.

## RIGHTS OF MINORITIES

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### Constitutional Rights

The Constitution refers to two types of minorities, namely, religious minorities and linguistic minorities. However, the term 'minority' has not been defined anywhere in the Constitution.

In 1993, the Central Government notified five communities, viz., Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) as religious minorities at the national level. In January 2014, the Jain community was added to this list.

A linguistic minority is a group of people whose mother tongue is different from that of the majority in the state or part of a state. This means that linguistic minorities are determined on a state-wise basis.

The Constitution contains special provisions to safeguard the social, educational and economic interests of the minorities. Some of these are common to both religious minorities and linguistic minorities while some others are meant exclusively for linguistic minorities. Hence, these provisions are mentioned here under two headings.

### Religious and Linguistic Minorities

1. Any section of citizens having a distinct language, script or culture of its own has the right to conserve the same (Article 29(1)).
2. No citizen is to be denied admission into any educational institution maintained by the state or aided by the state on grounds of religion, race, caste or language (Article 29(2)).
3. All minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice (Article 30(1)).
4. The compensation amount fixed by the state for the compulsory acquisition of any property of

- a minority educational institution should not restrict or abrogate the right guaranteed to the minorities, whether based on religion or language (Article 30(1-A)).
5. In granting aid to educational institutions, the state should not discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language (Article 30(2)).
  6. The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion. In other words, Sikhs have the right to wear and carry *kirpans* (Article 25(2)).

## Linguistic Minorities

1. When the President (on a demand being made) is satisfied that a substantial proportion of the population of a state desire the use of any language spoken by them to be recognised by that state, then he may direct that such language should also be officially recognised in that state (Article 347).
2. Every aggrieved person has the right to submit a representation for the redress of any grievance to any officer or authority of the Union or a state in any of the languages used in the Union or in the state, as the case may be. This means that a representation cannot be rejected on the ground that it is not in the official language (Article 350).
3. Every state and a local authority in the state should provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. The President can issue necessary directions for this purpose (Article 350-A).
4. The President should appoint a special officer for linguistic minorities to investigate all matters relating to the constitutional safeguards for linguistic minorities and to report to him. The President should place all such reports before the Parliament and send to the state governments concerned (Article 350-B).

## Legal Rights

The following legislations contain several rights and safeguards for the minorities:

1. National Commission for Minority Educational Institutions Act (2004) provides additional safeguards to the minority educational institutions. It contains provisions for the following:
  - (i) Establishment of a National Commission for Minority Educational Institutions
  - (ii) Right to establish a minority educational institution
  - (iii) Right of a minority educational institution to seek affiliation to any university of its choice
2. Waqf Act, 1995 (erstwhile Waqf Act, 1954) was enacted to safeguard the existence of a large number of Waqf properties in the country. The Act provided for the establishment of a Central Waqf Council for the purpose of advising the Government of India on matters pertaining to working of the State Waqf Boards and proper administration of the Waqfs in the country. A Waqf is a permanent dedication of movable or immovable properties for purposes recognised by the Muslim Law as religious, pious or charitable. Apart from these religious aspects, the Waqfs are also instruments of social and economic upliftment.
3. The National Commission for Minorities Act (1992) accorded statutory status to the

Minorities Commission set up in 1978. The Commission monitors the working of the safeguards provided to the minorities in the constitution and laws. It also looks into specific complaints regarding deprivation of rights and safeguards of the minorities.

## Consensual Safeguards

In addition to the above constitutional safeguards, the linguistic minorities are also provided with some consensual safeguards. These have been arrived at by consensus by the Central and the state governments through series of meetings. They are as follows:

1. Instruction through minority languages at the secondary stage of education
2. Translation and publication of important rules, regulations, notices, etc., into all languages, which are spoken by at least 15% of the total population at district or sub-district level
3. No insistence upon knowledge of State's Official Language at the time of recruitment; test of proficiency in the State's Official Language to be held before completion of probation

The constitutional and the consensual safeguards together with practical ways to implement them has led to the combined scheme of safeguards. The salient features of the scheme, as at present, are:

1. Translation and publication of important rules, regulations, notices, etc., into all languages, which are spoken by at least 15% of the total population at district or sub-district level
2. Declaration of minority languages as second official language in districts where persons speaking such languages constitute at least 60% of the population
3. Receipt of, and reply to, representations in minority languages
4. Instruction through mother tongues/minority languages at the primary stage of education
5. Instruction through minority languages at the secondary stage of education
6. Advance registration of linguistic preference of linguistic minority pupils, and inter-school adjustments
7. Provision for text books and teachers in minority languages
8. Implementation of three-language formula
9. No insistence upon knowledge of State's official language at the time of recruitment; test of proficiency in the State's Official Language to be held before completion of probation
10. Issue of pamphlets in minority languages detailing safeguards available to linguistic minorities
11. Setting up of proper machinery at the state and district levels

## RIGHTS OF DISABLED PERSONS

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### Constitutional Rights

The mandate of the Constitution is to ensure equality, freedom, justice and dignity of all individuals, which implies an inclusive society for all, especially the disadvantaged.

Article 41 is particularly relevant with regard to disabled persons. It states that the state shall,



within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

The subject of “relief of the disabled and unemployable” is specified in List II (State List) of the Seventh Schedule of the Constitution.

In pursuance of the above provisions of the Constitution, several legislations have been enacted by the Government. These legislations are specifically directed towards the protection, welfare, rehabilitation, empowerment and development of disabled persons.

## **Legal Rights**

The following legislations contain several rights and safeguards for the disabled persons:

1. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995) is the premier legislation concerning disability issues in the country. It ensures equal opportunities for disabled persons, protection of their rights and their full participation in the nation-building. It contains the following four categories of provisions:
  - (i) Prevention and early detection of disabilities
  - (ii) Education, employment, affirmative action, non-discrimination and social security for disabled persons
  - (iii) Establishment of Co-ordination Committees and Executive Committees at the central and state levels to deal with policy matters relating to disabled persons
  - (iv) Appointment of a Chief Commissioner for Persons with Disabilities (CCPD) at the Central level and Commissioners for Persons with Disabilities at the state level to look into complaints of deprivation of rights of disabled persons
2. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act (1999) provides for the establishment of a National Trust for welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities. The objectives of the trust are to ensure disabled persons to lead independent life with dignity, to support NGOs and other service providers, and to appoint legal guardians to take care the needs of disabled persons.
3. Rehabilitation Council of India Act (1992) provided for the setting up of the Rehabilitation Council of India. This council regulates and monitors the training of rehabilitation professionals and promotes research in rehabilitation and special education.
4. Mental Health Act (1987) deals with the treatment and care of mentally ill-persons. It regulates admission of mentally ill-persons to psychiatric hospitals and protects the rights of such persons while being detained.
5. Legal Services Authorities Act (1987) provides for free legal services to disabled persons.

## **RIGHTS OF OLDER PERSONS**

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## **Constitutional Rights**

The mandate of the Constitution is to ensure equality, freedom, justice and dignity of all individuals

including older persons (or senior citizens).

Article 41 of Part IV (Directive Principles of State Policy) is particularly relevant with regard to older persons. It states that the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

## Legal Rights

The Maintenance and Welfare of Parents and Senior Citizens Act (2007) was enacted to ensure need-based maintenance for parents and senior citizens and their welfare. The Act provides for

1. Maintenance of parents and senior citizens by children/relatives, which is made obligatory and justiciable through Tribunals
2. Revocation of transfer of property by senior citizens in case of negligence by relatives
3. Penal provision for abandonment of senior citizens
4. Establishment of old age homes for indigent senior citizens
5. Adequate medical facilities for senior citizens
6. Protection of life and property of senior citizens

The states/UTs which have notified the Act are required to take the following measures/steps for effective implementation of the Act:

1. Frame Rules under the Act
2. Appoint Maintenance Officer
3. Constitute Maintenance Tribunal
4. Constitute Appellate Tribunal

## RIGHTS OF VICTIMS OF DRUG ABUSE

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### Constitutional Rights

The mandate of the Constitution is to ensure equality, freedom, justice and dignity of all individuals including the victims of drug abuse.

Article 47 of Part IV (Directive Principles of State Policy) is particularly relevant with regard to the victims of drug abuse. It provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health.

### Legal Rights

*The Narcotic Drugs and Psychotropic Substances Act (NDPS)*, 1985, was enacted, *inter alia*, to curb drug abuse. The Act provides that the Government may establish centres for identification, treatment, education, after-care, rehabilitation, social reintegration of drug addicts. Further, the

Government may also supply any narcotic drugs and psychotropic substances to drug addicts where such supply is a medical necessity.

The objectives of the *NDPS Act*, 1985, are:

1. To consolidate and amend the law relating to narcotic drugs
2. To make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances
3. To provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances
4. To implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances

## **RIGHTS OF CONSUMERS**

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### **Consumer Protection Act (1986)**

The Consumer Protection Act was enacted in 1986 with the objective of providing better protection of consumers' interests. The Act provides for effective safeguards to consumers against various types of exploitation and unfair dealings.

The Act lays down the rights of the consumers and also provides for the promotion and protection of the rights of the consumers. It creates an alternative disputes resolution mechanism exclusively for consumers.

The salient features of the Act are as follows:

1. The Act enshrines six rights of consumers, namely, right to safety, right to be informed, right to choose, right to be heard, right to seek redressal, and right to consumer education.
2. The provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force.
3. It is an umbrella legislation covering all goods and services, but excluding transactions not involving consumers from the purview of the Act.
4. Goods are those which are manufactured or produced and sold to consumers through wholesalers and retailers. Services are in the nature of transport, telephone, electricity, housing, banking, insurance, medical treatment, etc.
5. The Act applies to private, public and cooperative sectors.
6. A consumer can seek redressal against any manufacturer and trader of goods/service provider, so long as the goods purchased or service availed of was for a consideration.
7. The Act provides for simple, inexpensive and timely redressal of consumer complaints.
8. The provisions of the Act are not only compensatory in nature but also preventive and punitive in character.
9. The Act provides for establishing a three-tier consumer dispute redressal machinery at the national, state and district levels commonly known as National Commission, State Commission and District Forum respectively.
10. A written complaint can be filed before the District Consumer Forum for pecuniary value of

upto twenty lakh rupees, State Commission for value upto one crore rupees and the National Commission for value above one crore rupees, in respect of defects in goods and or deficiency in service. The service can be of any description and the illustrations given above are only indicative. However, no complaint can be filed for alleged deficiency in any service that is rendered free of charge or under a contract of personal service.

11. If a consumer is not satisfied with the decision of a District Forum, he can appeal to the State Commission. Against the order of the State Commission, a consumer can approach the National Commission.
12. The remedy under the Act is an alternative in addition to that already available to the aggrieved persons/consumers by way of civil suit. In the complaint/appeal/petition submitted under the Act, a consumer is not required to pay any court fees; only a nominal fee is required.
13. The Act also provides for setting up of Consumer Protection Councils at the Central, State and District levels, which are advisory bodies to promote and protect the rights of the consumers.

## Rights Under the Act

The rights of consumers provided under the Act are explained below :

1. **Right to Safety:** It is the right to be protected against the marketing of goods and services which are hazardous to life and property.
2. **Right to Information:** It is the right of consumers to be informed about the quality, quantity, potency, purity, standard and price of goods or services, with a view to protecting the consumer against unfair trade practices.
3. **Right to Choose:** The right to choose can be made meaningful by ensuring access to a variety of goods and services at competitive prices.
4. **Right to Represent:** It is right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums.
5. **Right to Redressal:** It is a right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.
6. **Right to Education:** The right to consumer education is a right which ensures that consumers are informed about the practices prevalent in the market and the remedies available to them.

## RIGHT TO INFORMATION

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### Rationale

Right to Information means the freedom of people to have access to government information. It implies that the citizens and non-governmental organisations should enjoy a reasonably free access to all files and documents pertaining to government operations, decisions, and performance. In other words, it means openness and transparency in the functioning of government. Thus, it is antithetical to secrecy in public administration.

In 1992, the World Bank released a document entitled 'Governance and Development'. The document has mentioned seven aspects or elements of governance—one of them being transparency

and information.

The Right to Information is necessary due to the following reasons:

1. It makes administration more accountable to people.
2. It reduces the gap between administration and people.
3. It makes people aware of administrative decision-making.
4. It facilitates better delivery of goods and services to people by civil servants.
5. It facilitates intelligent and constructive criticism of administration.
6. It increases people's participation in administration.
7. It promotes public interest by discouraging arbitrariness in administrative decision-making.
8. It reduces the scope for corruption in public administration.
9. It upholds the democratic ideology by promoting openness and transparency in administration.
10. It makes administration more responsive to the requirements of people.
11. It reduces the chances of abuse of authority by the public servants.

## **Right to Information Act (2005)**

The Constitution of India has no direct provision expressly conferring right to information to the citizens. However, the Supreme Court has been stating since 1975 that the right to information is an intrinsic part of the following two fundamental rights guaranteed by the Constitution of India:

- (i) Right to Freedom of Speech and Expression (Article 19).
- (ii) Right to Life and Personal Liberty (Article 21).

In India, various laws and rules restrict the disclosure of official information to the people and thus favour secrecy in administration. These are:

- (i) Official Secrets Act, 1923
- (ii) Indian Evidence Act, 1872
- (iii) Commission of Enquiry Act, 1952
- (iv) All-India Services (Conduct) Rules, 1954
- (v) Central Civil Services (Conduct) Rules, 1955
- (vi) Railway Services (Conduct) Rules, 1956

Recognising the need for setting out a practical regime for securing of information by citizens from the public authorities, and to promote transparency and accountability in the working of all public authorities, the Parliament enacted the Right to Information Act in 2005.

The law is comprehensive and covers disclosure of information on almost all matters of governance. It is applicable to Government at all levels—Central, State and Local (both rural and urban) and also to the bodies owned, controlled or substantially financed by the government, as well as to the non-governmental organisations receiving government grants. It covers the legislature, the judiciary, the executive and all constitutional bodies.

The salient features (or provisions) of the Act are mentioned below:

1. The Act confers on all citizens the right of access to the information and, correspondingly, makes the dissemination of such information an obligation on all public authorities.

2. It provides for the appointment of a public information officer in each department to provide information to the public on request.
3. It fixes a 30-day deadline for providing information; deadline is 48 hours if information concerns life or liberty of a person.
4. Information will be free for people below poverty line. For others, fee will be reasonable.
5. The Act imposes obligation on public agencies to disclose the information suo-motu to reduce requests for an information.
6. Government bodies have to publish details of staff payments and budgets.
7. Certain types of information are exempted from disclosure. These relate to sovereignty and integrity of India, security, scientific or economic interest of the country, cabinet deliberations and so on.
8. A public information officer may reject a request for information if it involves an infringement of copyright subsisting in a person other than the state.
9. Restrictions are made for third party information. The submission of third party is to be considered while taking a decision about disclosure of information.
10. It provides for the establishment of a Central Information Commission and State Information Commissions to implement the provisions of the Act. They will be high-powered independent bodies to act as appellate authorities and vested with the powers of a civil court.
11. The Central Information Commission entertains complaints and appeals in case of offices, financial institutions, public sector undertakings, etc., under the Central Government and the Union Territories while the State Information Commission entertains complaints and appeals pertaining to offices, financial institutions, public sector undertakings, etc., under the control of the concerned State Government.
12. The President will appoint a Chief Information Commissioner and Governors of states will appoint state information commissioners. Their term will be of five years.
13. The Chief Information Commissioner and State Information Commissioner will publish an annual report on the implementation of the Act. These reports will be tabled before Parliament and state legislature.
14. The Act overrides the Official Secrets Act, 1923. The information commissions can allow access to the information if public interest outweighs harm to protected persons.
15. It carries strict penalties for failing to provide information or affecting its flow. The erring officials will be subjected to departmental proceedings.
16. The information commission shall fine an official Rs. 250 per day (subject to a maximum of Rs. 25,000) if information is delayed without reasonable cause beyond the stipulated 30 days.
17. The Act provides for a system of two appeals in case the information is denied: first appeal to the senior of the concerned public information officer within 30 days and second appeal to the Information Commission within 90 days. The decision of the Information Commission is binding.
18. The appeals at both stages must be disposed of within 30 days which is extendable by 15 days if necessary. But, in any case the decision must be given within 45 days.
19. There is a bar on jurisdiction of courts. Hence, no court can entertain any suit, application or other proceeding in respect of any order made under the Act.

20. Its purview does not extend to intelligence and security organisations like Intelligence Bureau, RAW, BSF, CISF, NSG and so on. However, information pertaining to allegations of corruption or violation of human rights by these organisations will not be excluded.
21. The Act repealed the old Freedom of Information Act (2002) which was unnotified and hence, not operational.

## State Information Acts

Even before the Central legislation was passed, some of the states had introduced their own right to information legislation. The first amongst these was Tamil Nadu. The states and the respective years of the enactment of legislations are mentioned below in [Table 1.3](#).

**Table 1.3** Right to Information Acts in States

<i>Sl.No.</i>	<i>States</i>	<i>Year of Enactment</i>
1.	Tamil Nadu	1997
2.	Goa	1997
3.	Rajasthan	2000
4.	Karnataka	2000
5.	Delhi	2001
6.	Maharashtra*	2002
7.	Assam	2002
8.	Madhya Pradesh	2003
9.	Jammu & Kashmir	2004

\* Maharashtra repealed its earlier Right to Information Act of 2000 to bring out an improved one in 2002.

In Rajasthan, the Right to Information movement was initiated by Aruna Roy in the early 1990s. The Mazdoor Kisan Shakti Sangathan (MKSS) succeeded through struggle and agitation, in accessing and using information to put an end to local corruption and exploitation.

## RIGHT TO EDUCATION

### Constitutional Provisions

Article 21-A declares that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may determine. Thus, this provision makes only elementary education a Fundamental Right and not higher or professional education.

This provision was added by the 86th Constitutional Amendment Act of 2002. This amendment is a major milestone in the country's aim to achieve 'education for all'. The government described this step as 'the dawn of the second revolution in the chapter of rights of citizens'.

Even before this amendment, the Constitution contained a provision for free and compulsory education for children under Article 45 in Part IV. However, being a directive principle, it was not



enforceable by the courts. Now, there is scope for judicial intervention in this regard.

This amendment changed the subject matter of Article 45 in directive principles. It now reads —‘The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.’ It also added a new fundamental duty under Article 51-A that reads —‘It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years’.

In 1993 itself, the Supreme Court recognised a Fundamental Right to primary education in the right to life under Article 21. It held that every child or citizen of this country has a right to free education until he completes the age of 14 years. Thereafter, his right to education is subject to the limits of economic capacity and development of the state. In this judgement, the Court overruled its earlier judgement (1992) which declared that there was a fundamental right to education up to any level including professional education like medicine and engineering.

## **Right to Education Act (2009)**

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 was enacted to implement the constitutional provision under Article 21-A. The Act provides for free and compulsory education to all children of the age of six to fourteen years. The Central Government affixed 1st April, 2010 as the date of enforcement of the Act.

The Act provides children in the 6-14 age group the legal entitlement to free and compulsory education. It provides the legislative framework for Universalisation of Elementary Education.

The salient features (or provisions) of the Act are mentioned below:

1. It provides for the right of children to free and compulsory education till completion of elementary education in a neighbourhood school
2. It clarifies that ‘compulsory education’ means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. ‘Free’ means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
3. It makes provisions for a non-admitted child to be admitted to an age appropriate class.
4. It specifies the duties and responsibilities of appropriate governments, local authorities, parents, schools and teachers in providing free and compulsory education.
5. It specifies the sharing of financial and other responsibilities between the Central and State Governments.
6. It lays down the norms and standards relating *inter alia* to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school working days, teacher working hours.
7. It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban–rural imbalance in teacher postings.
8. It provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and Parliament, and disaster relief.
9. It provides for appointment of appropriately trained teachers, i.e., teachers with the requisite



- entry and academic qualifications.
10. It prohibits (i) physical punishment and mental harassment, (ii) screening procedures for admission of children, (iii) capitation fees, (iv) private tuition by teachers, and (v) running of schools without recognition.
  11. It provides for the following penalties:
    - (i) For charging capitation fee: Fine upto 10 times the capitation fee charged
    - (ii) For resorting to screening during admission: Rs. 25,000 for first contravention; Rs. 50,000 for each subsequent contravention
    - (iii) For running a school without recognition: Fine upto one lakh rupees, and in case of continuing contravention Rs.10,000 for each day during which the contravention continues
  12. It provides for the establishment of a School Management Committee in all schools other than unaided ones. It should consist of the elected representatives of the local authority, parents or guardians of children admitted in the school and teachers. It shall perform the following functions:
    - (i) monitor the working of the school
    - (ii) prepare and recommend school development plan
    - (iii) monitor the utilisation of the grants received from the government or local authority or any other source; and
    - (iv) any other prescribed function
  13. It provides for development of a curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent, and making the child free of fear, trauma and anxiety through a system of child friendly and child centred learning.
  14. It provides for protection and monitoring of the child's right to free and compulsory education and redressal of grievances by the National and State Commissions for Protection of Child Rights, which shall have the powers of a civil court.
  15. It provides for the establishment of a National Advisory Council and a State Advisory Council in each state to advise the respective governments on implementation of the provisions of the Act in an effective manner.

The duties and responsibilities of the Central Government, State Governments and Local Authorities specified in the Act are mentioned below in [Table 1.4](#).

**Table 1.4** Duties of Governments under the Right to Education Act (2009)

<i>Sl.No.</i>	<i>Governments</i>	<i>Duties and Responsibilities</i>
1.	Central Government	(1) Create a national curriculum framework with assistance from the academic authority; (2) Develop and enforce teacher training standards; and (3) Provide State Governments with technical assistance for innovation, research and capacity building.
2.	State Government	(1) Provide free and compulsory elementary education for

children aged 6-14 years;

- (2) Provide for availability of neighbourhood schools;
- (3) Prevent discrimination of children from weaker sections or disadvantaged groups;
- (4) Provide infrastructure including staff, equipment, teacher training facilities, special student training facilities, and school building;
- (5) Ensure admission, attendance, and completion of elementary education;
- (6) Maintain quality education as per the standards and norms specified;
- (7) Ensure timely prescription of curriculum and courses; and
- (8) Appoint an academic authority.

### 3. Local Authority

- (1) Provide free and compulsory education and a neighbourhood school to every child;
  - (2) Ensure children from weaker sections are not discriminated against or prevented from completing elementary education;
  - (3) Maintain records of all children up to 14 years;
  - (4) Ensure admission, attendance, completion of elementary education, infrastructure, teaching training facilities, and special student training facilities;
  - (5) Ensure timely prescription of curriculum and courses; and
  - (6) Monitor schools and decide the academic year.
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## **Amendment of RTE Act (2012)**

The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, made the following changes in the RTE Act of 2009:

1. The amendment included children with disabilities under the RTE Act. More specifically, the amendment expanded the definition of “child belonging to disadvantaged group” to include “a child with disability”.
2. The amendment provided that a child with “multiple disabilities” or “severe disability” may also have the right to opt for home-based education.
3. The amendment provided that the School Management Committees in respect of minority educational institutions shall function only in an advisory capacity.
4. The amendment declares that the provisions of RTE Act shall not apply to *Madrasas*, *Vedic Pathshalas* and educational institutions primarily imparting religious instruction.