

## PART III

### Fundamental Rights

#### GENERAL

Definition.

7. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India. 5

Savings.

8. (1) All laws in force immediately before the commencement of this Constitution in the territory of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void: 15

Provided that nothing in this clause shall prevent the State from making any law for the removal of any inequality, disparity, disadvantage or discrimination arising out of any existing law. 20

(3) In this article, the expression "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof. 25

### Rights of Equality

Prohibition of discrimination on grounds of religion, race, caste or sex.

9. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or any of them.

In particular, no citizen shall, on grounds only of religion, race, caste, sex or any of them, be subject 30

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\*The proviso has been added in order to enable the State to make laws removing any existing discrimination. Such laws will necessarily be discriminatory in a sense, because they will operate only against those who hitherto enjoyed an undue advantage. It is obvious that laws of this character should not be prohibited.

to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment, or

(b) the use of wells, tanks, roads and places of public resort maintained wholly or partly out of the revenues of the State or dedicated to the use of the general public.

(2) Nothing in this article shall prevent the State from making any special provision for women and children.

Equality of opportunity in matters of public employment.

10. (1) There shall be equality of opportunity for all citizens in matters of employment under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them, be ineligible for any office under the State.

(3) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any \*backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.

(4) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability.

11. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Abolition of titles.

12. (1) No title shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, title or office of any kind from or under any foreign State.

\*The Committee is of opinion that before the words "class of citizens" the word "backward" should be inserted.

Protection  
of certain  
rights re-  
garding free-  
dom of  
speech, etc.

13. (1) Subject to the other provisions of this article, all citizens shall have the right—

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions; 5
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India;
- (f) to acquire, hold and dispose of property; 10 and
- (g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, 15 or prevent the State from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State. 20

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order restrictions on the exercise of the right conferred by the said sub-clause. 25

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing, in the interests of the general public, restrictions on the exercise of the right conferred by the said sub- 30 clause.

(5) Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, im- 35 posing restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or \*for the protection of the interests of any aboriginal tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law, or 40 prevent the State from making any law, imposing in the interests of public order, morality or health,

\*The Committee is of opinion that no protection to any minority group is necessary in this article.

restrictions on the exercise of the right conferred by the said sub-clause and in particular prescribing, or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business. 6

Protection in respect of conviction of offences.

14. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law at the time of the commission of the offence. 10

(2) No person shall be punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself. 15

Protection of life and personal liberty and equality before law.

\*15. No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India. 20

Freedom of trade, commerce and intercourse throughout the territory of India.

\*\*16. Subject to the provisions of article 244 of this Constitution and of any law made by Parliament, trade, commerce and intercourse throughout the territory of India shall be free. 25

\*The Committee is of opinion that the word "liberty" should be qualified by the insertion of the word "personal" before it, for otherwise it might be construed very widely so as to include even the freedoms already dealt with in article 13.

The Committee has also substituted the expression "except according to procedure established by law" for the words "without due process of law" as the former is more specific (c.f. Art. XXXI of the Japanese Constitution, 1946). The corresponding provision in the Irish Constitution runs: "No citizen shall be deprived of his personal liberty save in accordance with law".

The Committee is also of opinion that the words "or the equal protection of the laws" should be inserted after the words "equality before the law" as in section 1 of Article XIV of the U.S.A. Constitution (1865).

\*\*The Committee has omitted the words "by and between the citizens" which occurred after the words "trade, commerce and intercourse" in the provision as adopted by the Constituent Assembly. The qualifying words might necessitate elaborate inquiries at State frontiers as to the nationality of the consignor and consignee.

Prohibition of traffic in human beings and enforced labour

17. (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes. In imposing such service the State shall not make any discrimination on the ground of race, religion, caste or class. 5

Prohibition of employment of children in factories, etc.

18. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. 10

### Rights relating to Religion

Freedom of conscience and free profession, practice and propagation of religion.

19. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. 15

Explanation.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion. 20

(2) Nothing in this article shall affect the operation of any existing law or preclude the State from making any law—

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; 25
- (b) for social welfare and reform or for throwing open Hindu religious institutions of a public character to any class or section of Hindus. 30

Freedom to manage religious affairs and to own, acquire and administer properties for religious or charitable purposes.

20. Every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes; 35
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and 40

(d) to administer such property in accordance with law.

Freedom as to payment of taxes for promotion and maintenance of any particular religion or religious denomination.

21. No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. 5

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

\*22. (1) No religious instruction shall be provided by the State in any educational institution wholly maintained out of State funds: 10

Provided that nothing in this clause shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution. 15

(2) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person, or if such person is a minor, his guardian has given his consent thereto. 20

(3) Nothing in this article shall prevent any community or denomination from providing religious instruction for pupils of that community or denomination in an educational institution outside its working hours. 25

## Cultural and Educational Rights 3

Protection of interests of minorities.

23. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script and culture of its own shall have the right to conserve the same.

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\*This article follows the recommendation of the *ad hoc* Committee.

(2) No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the State. 5

(3) (a) All minorities whether based on religion, community or language shall have the right to establish and administer educational institutions of their choice.

(b) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion, community or language. 10

### Right to Property

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Compulsory acquisition of property.

24. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for the payment of compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined. 20 25

(3) Nothing in clause (2) of this article shall affect— 30

(a) the provisions of any existing law, or

b) the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or for the promotion of public health or the prevention of danger to life or property. 35

### Right to Constitutional Remedies

Remedies for enforcement of rights conferred by this Part.

25. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. 40

(2) The Supreme Court shall have power to issue directions or orders in the nature of the writs of

habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article. 5

(4) The rights guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution. 10

Power to Parliament to modify the rights guaranteed in this Part in their application to Forces.

26. Parliament may by law determine to what extent any of the rights guaranteed in this Part shall in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them. 15

Legislation to give effect to the provisions of this Part.

27. Notwithstanding anything elsewhere contained in this Constitution, Parliament shall have, and the Legislature of a State for the time being specified in Part I or Part III of the First Schedule shall not have, power to make laws— 20

(a) with respect to any of the matters which under this Part are required to be provided for by legislation by Parliament, and 25

(b) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws to provide for such matters and for prescribing punishment for such acts : 30

Provided that any law in force in the territory of India or in any part thereof with respect to any of the matters referred to in clause (a) of this article or providing for punishment for any act which is declared to be an offence under this Part shall continue in force therein until altered or repealed or amended by Parliament or other competent authority. 35 40