



DELHI LAW ACADEMY

CONSTITUTION OF INDIA

**RIGHT TO FREEDOM OF RELIGION
RIGHT TO CONSTITUTIONAL REMEDIES**

The topic of Fundamental Rights, being one of the most important topics of our Constitution, has been discussed and explained by DLA in three parts.

This Third Part deals with the Right to Freedom of Religion, Right to Constitutional Remedies and other Rights in 12 pages.

In this sample we present 3 pages of this Part.....

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RIGHT TO FREEDOM OF RELIGION

Article 25(1)

- Subject to
 - public order, morality and health and other provisions of Part III
- All persons
 - are equally entitled to *freedom of conscience*
 - shall have *right to freely profess, practise and propagate religion*

Social Reforms

- State may make law
 - regulating economic or other secular activity associated with religious practice
 - providing for social welfare and reform
 - throwing open Hindu religious institutions of public character to all sections of Hindus

Explanations:

- Wearing and carrying of *kirpans* is part of profession of Sikh religion
- Word 'Hindus' includes persons professing Sikh, Jain or Buddhist religion

Question:

- Does the exclusion of menstruating women from entering the **Sabarimala Temple** violate their right to worship?

Ans:

- Freedom of conscience and right to freely profess, practise and propagate religion under Article 25(1) is available to every person including women.
- The exclusionary practice is neither an essential nor an integral part of Hindu religion. It is not something without which Hindu religion, of which the devotees of Lord Ayyappa are followers, will not survive.
- The exclusionary practice being followed at the Sabarimala temple violates the right of Hindu women to freely practise their religion. This denial denudes them of their right to worship.

Authority: **Indian Young Lawyers Association v. State of Kerala** [2018 SC]



RIGHT TO CONSTITUTIONAL REMEDIES

Article 32

- *The right to move the Supreme Court*
 - for enforcement of rights conferred by Part III
 - **is guaranteed**
- Supreme Court has power to issue directions, orders or **writs**
 - for enforcement of any of the rights conferred by this Part

Note:

- This Article was described by Dr Ambedkar as the “**heart and soul**” of our Constitution.

WRITS

- To protect Fundamental Rights the Constitution, under Articles 32 and 226, provides the right to approach the Supreme Court or High Court, respectively, to any person whose Fundamental Right has been violated.
- At the same time, the two articles give power to the higher courts of the country to issue writs in order to enforce Fundamental Rights.

What is a writ?

- A writ can be understood as a **formal written order** issued by a Court having authority to issue such an order.

The 5 writs mentioned in Article 32:

1. Habeas Corpus

Meaning:

- Habeas Corpus’ literally means “to have a body of”.

Purpose:

- This writ is used to release a person who has been unlawfully detained.
- Through this writ, Court directs the person detained to be brought before it. If the Court finds the detention unlawful, it directs the person to be released immediately.



Question 1:

- Who can file the writ of Habeas Corpus?

Ans:

- The writ of Habeas Corpus can be filed
 - by the detained person himself or
 - his relatives or friends on his behalf

Question 2:

- Against whom can this writ be issued?

Ans:

- It can be issued against both public authorities and individuals

2. Mandamus

Meaning:

- ‘Mandamus’ means ‘we command’.

Purpose:

- This writ is issued by a Court to direct a public authority to perform the legal duties which it has not performed.

Question 3:

- Against whom can this writ be issued?

Ans:

- It can be issued against a public official, public corporation, tribunal, inferior court or government

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