UNIT – V

Cultural Rights, Constitutional Remedies & Directive Principles

Articles 29-30 • 32 & 226 • 300A • Part IV & IVA

Explanatory Lecture Slides with Landmark Case Laws

LEARNING OBJECTIVES

Topics Covered in Unit-V

01

Cultural & Educational Rights of Minorities

Articles 29 & 30 • Recent trends • Landmark cases

02

Right to Constitutional Remedies

Article 32 & 226 • Five kinds of Writs

03

Right to Property

Position prior to 1978 • Present position under Art. 300A

04

DPSPs, Fundamental Duties & Interrelation

Part IV & IVA • Relationship with Fundamental Rights

01 • CULTURAL & EDUCATIONAL RIGHTS

Articles 29 & 30 – Rights of Minorities

These rights protect the cultural and educational interests of religious and linguistic minorities. They form an important part of India’s commitment to diversity and pluralism.

Article 29(1): Any section of citizens having a distinct language, script or culture has the right to conserve the same.

Article 29(2): No citizen shall be denied admission into any educational institution maintained by the State or receiving State aid on grounds only of religion, race, caste, language.

Article 30(1): All minorities (religious or linguistic) have the right to establish and administer educational institutions of their choice.

Article 30(2): State shall not discriminate against any educational institution in granting aid on the ground that it is under minority management.

Minority Educational Institutions

T.M.A. Pai Foundation (2002)
11-Judge Bench. Minority status is to be determined State-wise. Right to establish & administer includes right to admit students, appoint staff, and fix reasonable fees. Subject to reasonable regulations.

P.A. Inamdar (2005)
Clarified that minority institutions cannot be forced to implement State reservation policy. Unaided minority institutions have greater autonomy.

Islamic Academy (2003)
Set up Committees for fee regulation and admission in professional colleges run by minorities.

St. Stephen’s College (1992)
Minority institutions can reserve seats for their own community but must admit a reasonable number from other communities when receiving State aid.

Recent Trend
Courts balance minority rights with national interest, quality of education, and non-discrimination. National Education Policy also impacts regulation.

Who is a Minority?
Religious or linguistic groups that are less than 50% in a State. National minority status is not the sole criterion (T.M.A. Pai).

Article 32 – Heart & Soul of the Constitution

Dr. B.R. Ambedkar called Article 32 the **“heart and soul of the Constitution”**. It guarantees the right to move the Supreme Court for enforcement of Fundamental Rights. It is itself a Fundamental Right.

Art. 32(1): Right to move the Supreme Court by appropriate proceedings for enforcement of Fundamental Rights.

Art. 32(2): Supreme Court shall have power to issue directions, orders or writs (including habeas corpus, mandamus, prohibition, quo warranto and certiorari).

Art. 32(3): Parliament may empower any other court to exercise these powers within local limits.

Art. 32(4): This right shall not be suspended except as otherwise provided by the Constitution (during Emergency under Art. 359).

02 • ARTICLE 226 vs ARTICLE 32

High Courts' Writ Jurisdiction

Aspect	Article 32	Article 226
Court	Supreme Court only	High Courts
Scope	Only for Fundamental Rights	Fundamental Rights + any other purpose (legal rights)
Nature	Fundamental Right itself	Constitutional power, not a Fundamental Right
Territorial	All-India jurisdiction	Within territorial jurisdiction of the High Court
Discretion	Generally must issue if FR violated	Discretionary; alternative remedies considered
Suspension	Can be suspended under Art. 359	Cannot be suspended even during Emergency

02 • KINDS OF WRITS

Five Prerogative Writs

Habeas Corpus

“You may have the body”

To produce a person who is illegally detained. Most powerful remedy against illegal detention.

Mandamus

“We command”

Commands a public authority to perform a public duty which it has failed to perform.

Prohibition

“To forbid”

Issued by a higher court to a lower court or tribunal to prevent it from exceeding its jurisdiction.

Certiorari

“To be certified”

Quashes an order or decision of a lower court/tribunal that has acted without or in excess of jurisdiction.

Quo Warranto

“By what authority”

Challenges the legality of a person’s claim to a public office. Prevents illegal occupation of office.

From Fundamental Right to Constitutional Right

Prior to 1978

Originally a Fundamental Right under:

• Article 19(1)(f) – Right to acquire, hold and dispose of property

• Article 31 – Protection against deprivation of property without compensation

Subject to many amendments (1st, 4th, 17th, 25th etc.) due to land reforms and nationalisation.

Heavily litigated; courts often struck down acquisition laws.

Present Position (Art. 300A)

44th Amendment Act, 1978 deleted Art. 19(1)(f) and Art. 31.

Inserted Article 300A:
“No person shall be deprived of his property save by authority of law.”

Now only a constitutional / legal right, not a Fundamental Right.

No guaranteed right to compensation under the Constitution (though statutes usually provide it).

Can be enforced through Art. 226 / ordinary courts, not under Art. 32.

04 • DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV – Articles 36 to 51

Directive Principles are fundamental in the governance of the country. The State shall apply these principles in making laws. They are non-justiciable but have great persuasive value and guide the State towards social and economic justice.

Socialistic Principles

Art. 38, 39, 39A, 41, 42, 43, 43A, 47 – reduce inequality, equal pay, living wage, free legal aid, etc.

Gandhian Principles

Art. 40, 43, 46, 47, 48 – village panchayats, cottage industries, prohibition, protection of weaker sections.

Liberal-Intellectual

Art. 44, 45, 48, 48A, 49, 50, 51 – Uniform Civil Code, free education, environment, separation of judiciary, international peace.

Nature

Non-justiciable (Art. 37). Courts cannot enforce them directly, but they influence interpretation of Fundamental Rights.

04 • FUNDAMENTAL DUTIES

Part IVA – Article 51A

Added by the 42nd Amendment Act, 1976 on the recommendation of the Swaran Singh Committee. Originally 10 duties; 11th duty added by 86th Amendment (2002) regarding education of children.

1-3	Abide by Constitution, cherish ideals of freedom struggle, uphold sovereignty & unity
4-6	Defend the country, promote harmony, preserve composite culture
7-9	Protect environment, develop scientific temper, safeguard public property
10-11	Strive for excellence; provide education to children (6-14 years)

04 • INTERRELATION

Fundamental Rights & Directive Principles

The relationship has evolved from conflict to harmony. Courts now interpret Fundamental Rights in the light of Directive Principles to achieve the goals of social and economic justice.

Champakam Dorairajan (1951): Early view: Fundamental Rights prevail over Directive Principles. DPSPs are subordinate.

Kesavananda Bharati (1973): DPSPs and FRs are complementary. Both form the core of the Constitution.

Minerva Mills (1980): Harmony and balance between FRs and DPSPs is a basic feature of the Constitution. Neither can destroy the other.

Unni Krishnan (1993): Right to education read into Art. 21 with the help of Art. 45 (DPSP).

Modern Approach: Courts use DPSPs as aids to interpret Fundamental Rights. Many DPSPs have been given effect through legislation and judicial expansion of Art. 21.

Art. 31C: Laws giving effect to certain DPSPs (Art. 39(b)&(c)) are protected from challenge under Art. 14 & 19 (subject to basic structure).

QUICK RECAP

Key Takeaways from Unit-V

Minority Rights (29-30)

Protect cultural identity and educational autonomy of religious & linguistic minorities. T.M.A. Pai is the leading case on the scope of these rights.

Constitutional Remedies

Art. 32 is the heart & soul. Five writs available. Art. 226 is wider in scope than Art. 32 and available in High Courts.

Right to Property

Ceased to be a Fundamental Right after 44th Amendment (1978). Now a constitutional right under Art. 300A – can be deprived only by authority of law.

DPSPs & Duties

DPSPs guide the State towards socio-economic justice. Fundamental Duties remind citizens of their obligations. Harmony between FRs and DPSPs is a basic feature (Minerva Mills).

Thank You

“The Constitution is not a mere lawyers’ document, it is a vehicle of life, and its spirit is always the spirit of the age.”

— Dr. B.R. Ambedkar