

**Research Article**

## **FUNDAMENTAL RIGHTS OF THE CITIZENS AND THE DISCHARGE OF POLICE FUNCTIONS**

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### **Abstract**

The Police Organizations play crucial role in maintenance of law and order in the country. A well organized and trained police personal protects the life and liberties of the citizens. It is the fundamental duty of every police personal to uphold the constitution. All men and officers are sworn to uphold the constitution. Apart from maintaining law and order, the police organizations shall uphold the fundamental rights guaranteed to all citizens and discharge their duties in accordance with the Constitution of India.

**Keywords:** Fundamental Rights, Indian Constitution, Police Organization, Right to Equality, Right to Freedom. Police Functions, Supreme Court of India, Public Interest Litigation.

The fundamental rights of the citizens are envisaged in Part III of the Constitution from Articles 13 to 35. These rights form a long and comprehensive list of justiciable fundamental rights. These rights are guaranteed by the constitution to all persons without any discrimination and they uphold the equality and dignity of every individual. These fundamental rights are justiciable, allowing individuals to approach the courts for their enforcement when their rights are violated. These fundamental rights have been broadly categorised into seven types. They are Right to Equality (Articles 14, 15, 16, 17, 18), Right to Freedom (Articles 19, 20, 21, 22), Right against Exploitation (Articles 23, 24), Right to Freedom of Religion (Articles 25, 26, 27, 28), Cultural and Educational Rights (Articles 29, 30), Right to Property (Article 31), Right to Constitutional Remedies (Article 32). The police personal shall, while discharging their duties, should respect and uphold the fundamental rights of the citizens which are basic elements of our democracy.

Article 15 guarantees that no citizen shall be subjected to any disability, liability or restriction with regard to access to public places. It is the bounden duty of the police to provide equal access to all citizens without any discrimination what so ever to all public places. The practice of untouchability is another evil. When an offence of untouchability is reported, police officers are required to give their utmost and immediate attention and the cases have to be investigated by Deputy Superintendent of Police himself. Any wilful negligence in taking action can be interpreted as connivance, under the provisions of the Act.

Article 19 of the Constitution guarantees to all citizens the right to freedom of speech and expression and the right to assemble peacefully without arms. The police shall not create any obstacles to this right as long as the citizens enjoy their rights within the limits of the law. The police shall always act in fair and reasonable manner, while dealing with matters relating to Article 19. Article 20 embodies two salutary principles of Anglosaxon Jurisprudence : Double

jeopardy and testimonial compulsion. The police shall not torture the accused for purposes of discovering the truth or otherwise of an allegation. The police are allowed to take the samples of a suspect and a test identification parade, with utmost care and caution. The Supreme Court of India in its rulings held that testimonial compulsion is permissible as the suspect is not forced to give any evidence against himself, but only giving samples of blood or hair, finger prints, or a test identification parade.

Article 21 guarantees that no person shall be deprived of life or personal liberty except in accordance with the procedure established by law. This right implies that the State shall provide free legal aid to the needy and at the same time the police and prison personal shall educate the accused about free legal aid. At present the Indian Judiciary has been playing an important role in providing free legal aid to the needy through the National Legal Services Authority Act.

As per Article 22 – It is the duty of police to inform the arrested person, the reasons for his arrest, give an opportunity to consult and to be defended by a legal practitioner.

As per Article 22(2): Every arrested and detained person shall be produced before the nearest magistrate with twenty – four hours before the nearest magistrate within twenty – four hours excluding journey time. The police shall not detain any person beyond twenty – four hours without the authority of a Magistrate. In our country, detention beyond twenty – four hours without the permission of Magistrate amounts to wrongful confinement. It is unfortunate to say “if we analyse the deaths in police custody, we will find that many of the deaths are of persons who were illegally detained.” In reality, it is not possible to finalise the investigation of a case within twenty – four hours of the arrest of a person. So, except where absolutely necessary, the arrest should come at the end of the investigation and not at the beginning unless there is an apprehension that the accused is likely to make himself disappear if he is not arrested immediately or is likely to indulge in further violence. Where detention of person beyond twenty – four hours becomes inevitable, the option should be police remand. Very often illegal detention results in custodial torture by some police personal. Hence, police custody by way of remand, cast responsibility upon guarding personal.

As per Article – 22 every arrested person has a right to be informed of the grounds for his arrest. In a recent case i.e. *Mihir Rajesh Shah V State of Maharastra (2025)*, the Supreme Court mandated that police must provide written grounds of arrest in a language the accused understands, establishing this as a fundamental right. This is applicable to all offences, making non – compliance render the arrest and subsequent remand illegal. The court clarified that oral communication is insufficient. The grounds for the arrest must be provided in writing. While, in exceptional cases, they can be conveyed orally, written grounds must be furnished within a reasonable time and at least two hours before producing the accused before a Magistrate. Under the *Bharatiya Nagarik Suraksha Sanhita (BNSS)* and previously *Arnesh Kumar V State of Bihar (2014)*, arrest is not automatic for offences punishable by less than seven years imprisonment. The police must issue a notice under Section 35(3) of BNSS (Section 41A of Criminal Procedure Code) instead arresting, unless specific justifications exist. The Supreme Court in *D.K. Basu V State of West Bengal (1997)* has mandated strict adherence to procedures regarding identification of police, preparation of memo of arrest, right to inform to a relative and medical examination. If the police fail to provide written grounds of arrest as per the 2025 judgement, it amounts to violation of fundamental rights, rendering the detention illegal.

Article 23 prohibits forced labour. As per the Bonded Labour (Abolition) Act, police can register cases, get the bonded labour released and also to arrange monetary relief for them. Police officers can initiate action suo – motto under this Act, though the Revenue Department is proper department to respond.

Article 24 – Prohibits employment of children in any factory or mine or in any other hazardous employment. The labour welfare Department has been given task to eradicate child labour, police officers too send reports wherever violations come to their notice.

Our Constitution guarantees religious freedom to every citizen. The police officers and men should promote a secular image by their conduct and behaviour and should not appear to promote or suppress any particular religious group. Any mistake in this regard can have serious consequences on religious harmony.

All the fundamental rights are justiciable and enforceable by Supreme Court or High Court. The Public Interest Litigation (PIL) and Writs are being filed by the citizens to protect their fundamental rights. The general public has been questioning the authority of police and their actions through these devices. It is the responsibility of the police officers to obey court's verdict in connection with the violation of fundamental rights. A police officer who puts deaf ear towards court's directions will result in deep trouble for him. As the officers of the law 'Men in police uniform' should be the first to respect the directions of the courts.

From the above discussion, the 'Police' shall always keep in mind the fundamental rights of the people while discharging their duties. We are now in the era of Information Technology, where 'Information become life line' to the nation as well as to the individual. The social media platforms, mass media communications now become hand tools of every individual. At this juncture the police should not only respect the fundamental rights but should endeavour to uphold them all the time. Any violation on behalf police cannot be sustained in a court but can lead to serious consequences for the officers concerned. It is the strict responsibility of superior police officers that their sub – ordinates shall never resorted to things which are against to the 'spirit of fundamental rights', on oral instructions. The golden rule to every individual in police uniform is that subordinate officers should obey lawful instructions of the superior officers and not all instructions.

**Conclusion:**

Among all the fundamental rights guaranteed by our constitution, Right to Freedom (Articles 19 to 24) are most significant. They provide an opportunity to every individual to have 'human existence'. An ocean of writ petitions have been filed against police in action or over action and the superior courts have delivered number of verdicts and directions to the police. To avoid these situations all police personal shall understand the true spirit of fundamental rights. To achieve this task constant training programmes, orientation programmes and sensitisation programmes have to be carried out at all cadres.

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