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Right to Property: Article 300A and Its Constitutional Journey

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Right to Property: Article 300A and Its Constitutional Journey

Your family owns a small plot. The State wants it for a highway. Can it just take the land? The answer sits in one short line: **Art. 300A**. Property was once a Fundamental Right. It lost that status in the 1970s. It did not vanish.

What does Art. 300A say?

The exact words

Art. 300A sits in **Part XII** of the Constitution.

It reads: “No person shall be deprived of his property save by authority of law.”

Everything rests on the phrase “authority of law”.

The State cannot take property by a mere order. It needs a valid law.

Sources: constitutionofindia.net

Who it protects

The text says “No person”.

Compare Art. 19, which begins “All citizens shall have the right”.

So Art. 300A is not limited to citizens.

Any person can claim it.

Sources: constitutionofindia.net

Why it was never discussed in the Constituent

Assembly

Art. 300A was added in 1978 by the Constitution (Forty-fourth Amendment) Act.

So the Constituent Assembly never debated it.

The idea behind it is older, though.

It copies the first clause of the old Art. 31.

Sources: constitutionofindia.net

> **Quick check 1.** Art. 300A protects only citizens of India. *(True or False?)* See answer ↓

How did property become a Fundamental Right?

Two guards in 1950

In 1950, two Articles guarded property in Part III.

Art. 19(1)(f) gave citizens the right to acquire, hold and dispose of property.

Art. 31 said no person could be deprived of property without authority of law.

It also said a law taking property for public purposes must provide for compensation.

Sources: constitutionofindia.net

Why it became a battleground

The new State wanted to take over big estates and share land.

Laws taking estates could clash with Part III rights.

So Parliament added shields for such laws by amendment.

Sources: constitutionofindia.net

The shields added by amendment

Art. 31A was inserted by the First Amendment, **1951**.

Art. 31B came in the same year.

It says Acts placed in the Ninth Schedule are not void for clashing with Part III rights.

Art. 31C was added in **1971** by the Twenty-fifth Amendment.

It protects laws that give effect to Directive Principles from challenge under Art. 14 and Art. 19.

Sources: constitutionofindia.net

Think it through
Why would Art. 31B list laws in a Schedule?

Show the explanation

A law placed in the Ninth Schedule is shielded from the claim that it breaks Part III.

Quick check 2. Art. 31C was part of the Constitution in 1950. *(True or False?)* See answer ↓

Why was the right removed in 1978?

What the Forty-fourth Amendment did

The Constitution (Forty-fourth Amendment) Act, **1978** ended the clash.

It omitted **Art. 31** from Part III.

Art. 19(1) now skips from (e) to (g), because sub-clause (f) is gone.

It then inserted **Art. 300A** in Part XII.

Sources: constitutionofindia.net

When did it start?

Section 6 of the Act omitted Art. 31 with effect from **20 June 1979**.

The Act is dated 1978. The change took effect in 1979.

That gap can matter in a tricky question.

Sources: constitutionofindia.net

What stayed in place

Art. 31A, Art. 31B and Art. 31C were not touched by this change.

They still stand in Part III.

So laws on estates and land reform still keep their shield.

Sources: constitutionofindia.net

Provision	Part	Who is covered	Status today
Art. 19(1)(f)	Part III	All citizens	Removed
Art. 31	Part III	No person	Omitted
Art. 300A	Part XII	No person	In force

> **Quick check 3.** After the Forty-fourth Amendment, Art. 19(1)(f) still protects property. *(True or False?)* See answer ↓

What protection remains today?

Why Art. 32 is not the route

Art. 32 guarantees the right to move the Supreme Court for rights "conferred by this Part".

That means Part III.

Art. 300A is in Part XII.

So you cannot use Art. 32 for this right alone.

Sources: constitutionofindia.net

The High Court route

Art. 226 lets a High Court issue writs for Part III rights "and for any other purpose".

The last words give it wider reach.

So an owner can approach the High Court for a breach of Art. 300A.

Sources: constitutionofindia.net

Is compensation guaranteed?

The old Art. 31 spoke of compensation.

Art. 300A does not use that word.

But in Vidya Devi the Court said a duty to pay compensation can be inferred in Art. 300A.

So the right has real content, even without the word.

Sources: supremecourtcases.com; constitutionofindia.net

> **Explain it back**
> Say what Art. 300A protects, and who. Then say why Art. 32 does not fit it.
>
> **Show a model answer**
> It stops the State taking a person's property without a law. It covers any person. Art. 32 is for Part III rights, and this right sits in Part XII.

How do courts treat the right now?

Vidya Devi, 8 January 2020

The State took land for a road in 1967–68 without acquisition proceedings. The owner, Vidya Devi, was almost 80 when the Supreme Court decided her case.

The Supreme Court decided the case on **8 January 2020**.

It said the right ceased to be fundamental in 1978.

But it stayed a **human right** and a constitutional right under Art. 300A.

Taking land without due process breaks both.

Sources: supremecourtcases.com

Bimal Kumar Shah, 16 May 2024

In **Kolkata Municipal Corporation v. Bimal Kumar Shah**, the Court set aside an acquisition.

Justice P.S. Narasimha wrote the judgment, on **16 May 2024**.

It listed seven sub-rights that form the content of “authority of law”.

The absence of these renders a law open to challenge.

Sources: livelaw.in

The seven sub-rights

- The right to notice.
- The right to be heard.
- The right to a reasoned decision.
- The duty to acquire only for a public purpose.
- The right to fair compensation, with restitution and rehabilitation.
- The right to an efficient and prompt process.
- The right to conclusion of the process.

Sources: livelaw.in

> **Quick check 4.** The Supreme Court has said the right to property is no longer a human right. *(True or False?)* See answer ↓

What traps do exams set here?

Four common traps

- Calling property a Fundamental Right today. It is not.
- Saying only citizens are covered. Art. 300A says “No person”.
- Saying Art. 31A is gone. It still stands in Part III.
- Using Art. 32 for a bare Art. 300A claim. The High Court route fits better.

Sources: constitutionofindia.net

Quick recap

- Text: “No person shall be deprived of his property save by authority of law.”
- Place: **Part XII**, Art. 300A.
- Change: **Forty-fourth Amendment, 1978**, in force from 20 June 1979.
- Gone: Art. 19(1)(f) and Art. 31.
- Stay: Art. 31A, 31B, 31C.
- Courts: a human right and a constitutional right; seven sub-rights in **2024**.

Sources: constitutionofindia.net; supremecourtcases.com

Practice MCQs

1. Article 300A of the Constitution of India was inserted by:

A. The Forty-fourth Amendment, 1978

B. The Twenty-fifth Amendment, 1971

C. The First Amendment, 1951

D. The Forty-second Amendment, 1976

See answer ↓

2. In which Part of the Constitution is Article 300A placed?

A. Part III

B. Part IV

C. Part XII

D. Part XX

See answer ↓

3. Which provision, apart from Article 31, was removed from Part III when property ceased to be a Fundamental Right?

A. Article 31B

B. Article 19(1)(f)

C. Article 32

D. Article 31A

See answer ↓

4. Article 300A says that no person shall be deprived of property:

A. Save by authority of law

B. Without payment of compensation

C. Without a Supreme Court order

D. Except by the President

See answer ↓

5. Why can a person not use Article 32 for a claim under Article 300A alone?

A. Article 32 covers only citizens

B. Article 300A is not in Part III

C. Article 32 was repealed

D. Article 300A needs the President

See answer ↓

6. In Kolkata Municipal Corporation v. Bimal Kumar Shah (2024), the Supreme Court listed how many sub-rights under Article 300A?

A. Three

B. Five

C. Seven

D. Ten

See answer ↓

Answer Key

1. **A.**
   Art. 300A was introduced in 1978 through the Forty-fourth Amendment Act.
   ↑ Q1
2. **C.**
   Art. 300A sits in Part XII. It is no longer in the Fundamental Rights chapter.
   ↑ Q2
3. **B.**
   Art. 19(1)(f) gave citizens the right to acquire, hold and dispose of property. It was removed. Art. 31A and 31B stand.
   ↑ Q3
4. **A.**
   The text reads “No person shall be deprived of his property save by authority of law.”
   ↑ Q4
5. **B.**
   Art. 32 enforces rights in Part III. Art. 300A is in Part XII. The High Court under Art. 226 is the usual route.
   ↑ Q5
6. **C.**
   The Court traced seven sub-rights: notice, hearing, reasoned decision, public purpose, fair compensation, efficient process and conclusion.
   ↑ Q6

Quick-check answers

1. **False.** It says “No person”, so it covers any person. ↑ 1
2. **False.** It was inserted in 1971 by the Twenty-fifth Amendment. ↑ 2
3. **False.** Sub-clause (f) was removed, and Art. 31 was omitted. ↑ 3
4. **False.** In Vidya Devi it said the right remains a human right and a constitutional right. ↑ 4

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