

Fundamental Rights under the Constitution of India

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ABSTRACT

This research paper describes about the fundamental rights guaranteed to the citizens within the Indian Constitution. Fundamental rights are the most basic rights which are required to uphold human dignity. This right affirm the principle of natural law that no one is above law by granting a set of right to the citizens that cannot be taken away by the government. The Fundamental rights have been covered under Chapter III of the constitution and contain broadly, rights such as Right to equality (Articles 14-18), right to liberty (Articles 19-22), right against exploitation (Articles 23-24), right to freedom of religion (Articles 25-28), right to culture and education (Articles 29-30) and right to constitutional remedies (Articles 32-35). The Fundamental rights have been the cornerstone of the constitution and have been subjected to a lot of adjudication. For protection of such freedoms, people may reach the Supreme Court by writing the writs such as the habeas corpus, quo warranto, mandamus, prohibition and certiorari.

Keywords

Constitution, Dignity, Fundamental, Human, Law, Rights.

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Introduction

Fundamental rights have a lot of names. They may be referred to as natural human rights or basic and inalienable rights. Natural law as it stands before us today is the point of origin of the fundamental rights. The theory of such natural law is based on idea that there are certain laws that can not be removed, that people can not be deprived of them under any circumstances.

Natural law states that there exists a natural order in the state because of the fact that all the things have been brought to life by god or by nature. All is composed of its own attributes and must be subject to certain rules and laws of nature. " According to this principle, something that compromises or prevents human attributes from reaching their full potential is in violation of Nature 's rule."

The idea was birthed that everyone, men and the governments have been subject to the natural law and have to function within the bounds of it and according to the rules of it as the natural law is higher than the any other man made law.

Cicero, the Roman philosopher was of the belief that natural law emanated from nowhere else but pure human reason. Natural law and its theory gave birth to natural rights. The presence of human rights can be seen in British Bill of Rights (1689), in French Declaration of Human Rights (1789), in United States Bill of Rights (1791), in Universal Declaration of Human Rights(UDHR) (1948), but also under Part III of the Indian Constitution on fundamental/basic rights.

"India's constitution Part III, in which list of such fundamental rights was inserted, is defined as India's Magna Carta." The chapter of Fundamental rights in the apex la of the country reflects the modern democratic thought of the makers of the constitution. "The purpose of providing declaration of such Fundamental Rights to remove those fundamental rights from vicissitudes of political turmoil, put

them beyond control of a changing majority in the country's legislature and to make them inviolable in all circumstances. Those human freedoms, such as the right to life, freedom of expression , freedom of religion and so on, should not be put the vote and not contingent the outcome of any election."

The values that people hold close within themselves are meant to be reflected by the Fundamental rights of the constitution of India. These rights are aimed at the safeguarding of human dignity of individual and establish conditions under which every human being flourishes and develops his personality to fullest.

"The Fundamental Rights place on the State a detrimental duty not to infringe upon human freedom in its various aspects. The declaration of fundamental rights in Constitution thus serves to remind competent government to protect those rights and to limit the scope of the activities of the State in the appropriate directions." "The Charter of Human Rights enacted 7 by the United Nations Organization has given the concept of such fundamental rights more concrete and universal texture."

One of the primary purposes of the origin and then adoption of the human freedoms into India's constitution is to ensure the citizens that there exists government's rule in the country, not the rule that is arbitrary or which functions on whims and fancies if the individuals. The fundamental rights make it clear that the nation inhibits a system of the government wherein the nation cannot be oppressed by the ruler by stepping over the very basic rights of the individuals.

Including the Fundamental Rights provided by the Constitution gives them a sanctity which the government can not easily violate/infringe. "In a democratic government system, those who tries to form the govt are in the legislature already leading the majority party and may easily make laws. Therefore, in the absence of a prescription of restriction of state's power by declaration of such fundamental rights given in the constitution, the danger of encroachment on citizens' independence cannot be excluded.

The introduction of Fundamental Rights into the constitutions of modern democratic countries was thus a phenomenon.”

Preamble Of The Constitution:

The preamble to the constitution is a very important text, as it presents the constitutional material. The constitution has to be read as well as interpreted according to the preamble and Specific fundamental freedoms also need to be interpreted in the light of the Constitution. The preamble reads below:

'We, the people of India, solemnly resolved to make India a independent, socialist, secular , democratic republic and secure for all citizens: liberty, social , economic and political rights; freedom of thought, speech, belief, faith and worship; equality of status and opportunity; and the promotion of the dignity of the individual and of unity among all of them;..."

The preamble is the instrument laying down goals and aspirations of citizens of the country which may have been further enshrined in various provisions of Indian Constitution. The constituent assembly, which is responsible for framing the Indian constitution had to come up with a set of laws that would provide its citizens with justice, liberty, equality and fraternity. The assembly aspired to embody into the Constitution, the characteristics of the apex law of a land which is an egalitarian society and would reflect the sacrifices made by the people of the nation in order to become free from the British rule. The Preamble of the constitution was structuralized after the Constitutional provision had been framed and agreed upon by such constituent assembly.

The preamble was designed with a view to aligning the constitutional provisions and to announce that none of the Articles enumerated within the Constitution were to be against the tenets which is laid down in the Preamble. The words “give ourselves this Constitution” have been used in order to express that the sovereignty lies with the people of India.

It can be said that the preamble holds the core fundamentals of the Indian Constitution. The Indian constitution begins with the preamble introduces it and gives a gist of what lies in the body. The words used in the preamble are embodied in the provisions throughout the Constitution and there is supposed to lie nothing that goes against the preamble. The dignity of an individual has been given utmost value in the preamble and it is this dignity that Parts III and IV of the Constitution are enacted to provide not only for the citizens but also to protect them.

The enablers of the Indian Freedom movement were of the view that the political freedom must contain the freedom of expression and must provide to the citizens, the maximum environment of development and advancement not only in the economic spheres but also in the social ones. “Among the constitutional rights adopted by the All-Party Conference in 1928 was a provision entitling every person to free elementary education, and another provision requiring the enactment of appropriate legislation for the maintenance of health and fitness for the job of all people, decent wages for every worker, protection of pregnancy, child welfare and provision of assistance in old age, infirmity.”

The 1931 resolution of the Indian National Congress stated that "the real economic freedom of millions who die" must be part of political freedom to put an end to the exploitation of the masses, and that the Economic Life Organisation should abide by the principles of justice."

Over time, it has been observed that, it is very difficult to bring into reality, the concepts of freedom and equality, to be implemented in a modern welfare state. The exercise of these rights sometimes has to be stopped by the state in order to give way to the general good of the society. The state has to walk towards the majority interest of the society. Social welfare is the principle around which a welfare state functions and forms its laws. The people's collective interest is vitally significant. The basic rights accorded to the citizens of the nation are reflected in the principles of state policy, as well as the fundamental rights which together form the conscience of the country. They don't lie against each other, rather are supposed to function hand in hand. Both of these sets promote the aims and objectives of the Constitution. " Democracy is workable so long as there is a significant area of common values and expectations among the people and they are mature enough to rise above differences."

The directive principles of state policy make the citizens responsible for bringing out socio economic change in the society striving to achieve a social order which would promote egalitarianism. That is why, it can be said that the directive principles of state policy play a very major role in the constitution, as they are the base of the socio economic structure, relying on which, the Fundamental rights have been formed.

The comparison is similar to that between the welfare state and the government. Knowing well that for certain sections of society merely granting freedom from restriction and freedom to pursue their legitimate objective does not mean much, the constitution makers along with these grants have put on the State the duty to take meaningful measures to raise these sections to the point from which they can take advantage of their freedom and independence on a fairly equal basis. In both the political and social economic worlds, the constitution-makers have achieved so. While these arrangements are far broader, they are recognized as reservations in common language.

Right To Equality

One of the cornerstones of India's constitution is the right to equal rights. Indian constitution's Art.14 states that 'the State shall not, before the law and equal protection of laws in territory of India, grant any person equality,' more specifically Article 15. It states that ' the State shall not discriminate against any person on sole grounds of caste, sex, religion, race, place of birth or any such person or any of them shall be subject to any disability, liability, restriction or condition relating to access to public restaurants , hotels, public entertainment palaces and shops.

Right To Freedom

The right to freedom referred to in Article 19-22 shall be regarded as the soul of human rights. The set if these rights ensures to the people, the freedom of speech and expression,

the people are free to say what they feel and express the same and also to gather somewhere peacefully without arms. Citizens are free to move anywhere within the Indian territory, and settle anywhere in the world. Citizens are also free to practice any profession or to engage in any kind of occupation, trade or business.

This set of rights also protects the citizens from being convicted of any offence except when they violate any of the laws laid down in any of the legislations of the country. The person shall also not be charged with a greater punishment than what has been decided and provided for in the relevant legislation. The right to freedom as provided for in Article 20 does not require anybody to be deprived of their personal freedom except by the legal procedure.

Right Against Exploitation

The constitution, through the Fundamental rights, prohibits exploitation of the citizens by way of human trafficking, begar and any other ways in which the citizens would have been exploited. The constitution does not use the word 'slavery' but rather uses the words 'traffic in human beings' which extends the ambit of the exploitation not only through slavery but also the trafficking of women and children.

This set of rights also prohibits the employment of children below the age of 14. Children cannot work in hazardous surroundings such as factories or mines. Forced labour among children has also been protected.

Right To Freedom Of Religion

Certain religious freedoms have been granted to the citizens under Articles 25-28 of the constitution. Such freedoms include freedom to conscientiously follow one's profession, practice and freedom of religious affairs, dissemination of religion, tax freedom to promote one's religion, and freedom to attend religious instruction or religious worship in certain educational institutions. In short, these are important rights for India's religious minorities."

Cultural And Educational Rights

The minority sections are granted the cultural and educational rights. Article 29 stipulates that people living in every part of the country and possessing a script or culture and distinct language shall have right to same protection.

Thus Article 30 calls for the religious or lingual minorities to have the right to establish and administer educational institutions. These rights are very important rights, as they protect minorities in a diverse society such as India.

Right To Constitutional Remedies

Every individual has the right to approach the Supreme Court for the purpose of upholding the Fundamental Rights under Article 32 of the Constitution.

The Supreme Court has the power to give orders or writs for the defense of Fundamental Rights, such as habeas corpus, mandamus, injunction, quo warranto, and certiorari. These rights can not be suspended, except by an emergency proclamation.

Conclusion

The constitution through the Fundamental justice encompasses the main area of the universal declaration of Human Rights. The framers of the Constitution strived to make India an egalitarian society where the Individual's protection and his interests are of vital importance. This can be observed when reading together the Preamble, Fundamental Rights and Directive Principles of State policy. The Fundamental rights have been subjected to a lot of legislation and the authority of the rights has been put to test many times. The objective of the framing of Part III of the constitution was to give to the citizens, security as regards to certain rights that could not be snatched away from them in any circumstances. The Fundamental Rights were framed to make the fact evident that law is supreme, that some of the rights, which are very basic in nature and essential to human existence, cannot be taken away by the government for any reason what so ever.

No statute may consist of any law which is incompatible with any of the fundamental rights set out in Part III of the Constitution. These rights are enforceable through the courts of law, and these laws must also be given the utmost importance by the courts.

"Social justice is our Constitution's heart, the State supports economic justice, the constitution's founding faith, and the nation is Indian civilization Law and justice must be on talking terms, and what matters under our constitutional system is not merciless law, but humane legality. The true strength and stability of our policy is the credibility of society in social justice, not perfect legal justice; and this case reveals indifference to this fundamental value."

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