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Fundamental Rights of Indian Constitution

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ABSTRACT

The purpose of studying the Fundamental Rights of Indian Constitution and Constitution is to understand and study what are the norms, rules and regulation which govern the country, how are they the basis on which the laws are formulated. The study of fundamental rights of the Indian constitution is important to make each and every individual aware of what constitutional rights are available to him that he can follow without anyone's force on him. The research paper also tells what the various allegations on the fundamental rights of the nation and further the court cases and judgement of the supreme court in response to the controversies were. The research paper will make use of theoretical data along with some factual details of the Indian constitution and some details from court judgements. It will also indirectly show public opinion on the Fundamental rights of India.

The fundamental rights of the Indian constitution have left a very positive impact on the public of India; some people do have complaints about the fundamental rights of one of the world's greatest, longest and the most detailed constitution, but the court proceeding have cleared all the doubts and confusions regarding the same topic. The end result shows that the Fundamental rights of the Indian constitution have a very good effect on the Indian nationals and adhere to the needs of all the citizens; some complaints were their, but they are still resolved and worked up correctly.

Keywords: *Indian Constitution, Fundamental Rights, Article 12 To 35 Of Indian Constitution, 6 Fundamental Rights.*

I. FUNDAMENTAL RIGHTS OF INDIAN CONSTITUTION

We must first comprehend what the Indian Constitution implies and what it instructs its citizens in order to study the essential rights that are guaranteed to all Indians. The Indian Constitution is the country's highest law. It outlines the essential political principles, practices, authority, obligations, and powers of the government. The longest Constitution in the world is that of India. At the start, it contained eight schedules, twenty-two segments, and three hundred and ninety-five pieces. Articles 12 through 35 of the 395 total articles discuss the fundamental rights guaranteed to Indian citizens.

Fundamental rights are discussed in Part 3 of the Indian Constitution, which begins by defining

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them. It claims that fundamental rights are the fundamental human rights given to all Indian citizens and set forth in the country's constitution. They are applied to all citizens equally and without regard to their caste, race, or religion. They are enforceable by the court and justiciable. Any person who believes their rights have been violated can

There are six fundamental rights of Indian Constitution along with the constitutional articles related to them are mentioned below:

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to Freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Article 32)

The Right to Property was a further right included in the constitution. However, the 44th Constitutional Amendment, which was passed in 1978, removed this right from the list of Fundamental rights. The decision to do so was made because the right proven to be a barrier to the many objectives of wealth redistribution and socialism, or distributing property equally to all residents. The constitution was amended to include a new clause, Article 300-A, which stated that "no person shall be stripped of his property except by authority of law." Instead of being a basic right, the right to property is now a legal right.

1. Right to Equality (Article 14-18): -

Every Indian citizen is guaranteed the same rights, without exception due to caste, gender, religion, or location of birth, among other factors. This is known as the right to equality. Untouchability is eliminated by the right as well.

Starting with article 14 and going through article 18, there are five articles related to the right to equality.

Within India's borders, Article 14 states that the state shall not refuse anyone the same treatment under the law or equal protection of the law. Every Indian will be subject to the same laws, and no one can be prevented from exercising his rights, since the article treats all citizens of our nation equally and fairly before the law. Everyone will receive the same treatment under the law, which is equal for all people, every Indian citizen is same in the eyes of law.

The state shall not discriminate against any citizen on the basis of religion, cast, sex, or race,

according to Article 15 of the Constitution. In terms of access to public spaces like stores, public gardens, hotels, and other venues for public amusement, no citizen shall be subject to any liability, handicap, or limitation on the basis of any reason. The use of any state-run facilities by the public shouldn't be restricted. Additionally, the text adds that women, children, and members of the underprivileged section of society should have special considerations made for them.

According to Article 16, all citizens should have equal access to work opportunities across all industries. The practise of untouchability is outlawed in the following article 17 and any disability arising due to untouchability is made an offence in our country by the article 17.

Except for academic and military titles, Article 18 abolishes all titles. Additionally, the clause forbids citizens of India from taking any titles from foreigners.

2. Right to Freedom (article 19 -22): -

Any democratic society on earth cherishes freedom as one of its most fundamental principles. Among other things, the freedom to live a life of dignity is guaranteed by the right to freedom. Article 19 moves the right to freedom to article 22.

Article 19 guarantees six freedoms, which are: -

- i. Freedom of speech and expression
- ii. Freedom to assemble
- iii. Freedom to form association or union or groups
- iv. Freedom to move freely
- v. Freedom of residence, and
- vi. Freedom of profession

Article 20 addresses the protection of all people against conviction for any crime. It provides its residents with three different sorts of protection, including retrospective criminal law, which prevents someone from being found guilty of an offence until the act is deemed by the law to be an offence by a court. The second is the ban against double jeopardy, which states that a person cannot be found guilty of the same crime twice, and the third is the prohibition against self-incrimination, which states that no one accused of a crime shall be forced by the state to testify against him.

According to Article 21, only legal instructions from the government may deprive someone of their life and personal freedom. The 86th constitutional amendment of 2002 added Article 21A

to the text. According to the law, all children between the ages of 6 and 14 must get a free, public education. The final topic covered by article 22 is protection against arrest and imprisonment in specific circumstances.

3. Right to Exploitation (article 23-24): -

The right against exploitation is described in article 23 and 24

Human trafficking and forced labour are prohibited under Article 23. According to Article 23(1), forced labour in the form of beggar work, human trafficking, and other similar forms are all forbidden, and any violation shall be prosecuted as a criminal offence. Article 23(2) specifies Nothing in this article shall preclude the State from requiring mandatory service for public reasons, and while requiring such service, the State shall not discriminate on the basis of only of religion, race, caste, or class, or of any of them.

Article 24 addresses child labour in workplaces, stating that no child under the age of 14 shall be employed for any hazardous task in mines, factories, or other industrial settings.

4. Right to freedom of religion (article 25-28): -

All Indian citizens, including religious organisations, are guaranteed the right to freedom of religion under the country's constitution. The constitution's articles 25 to 38 discuss religious freedom.

The freedom of conscience and the free practise, professing, and spread of any religion by its people are guaranteed by Article 25. The article also establishes legislation that limit some activities on religious grounds. The legislation allows people to practise any religion of their choice with the exception of those that are subject to legal restrictions.

Every religious group may exercise a variety of rights, subject to morality, public order, and health, under Article 26 of the Constitution, which grants the freedom to administer all religious affairs. The following rights are accessible:

1. The right to establish and support institutions with a religious or benevolent purpose.
2. The right to conduct its own business when it comes to religion.
3. The ability to purchase both moveable and immovable property.
4. The authority to manage such property in a legal manner.

Article 27 prohibits the imposition of taxes for the purpose of promoting a specific religion or to persuade people to convert to that religion. Religious instruction may be taught in educational institutions that are supported by religious organisations under Article 28.

5. Cultural and Educational right (article 29-30): -

The preservation of the cultures of India's minority groups is covered by the cultural and educational rights. In articles 29 and 30, the rights to culture and education are briefly discussed.

The interests of India's minority groups are protected by Article 29. Every person of India with a different culture, language, or religion has the right to maintain and preserve that culture and religion, according to clause 1 of article 29. Clause 2 of the same document states that no state may refuse admission to its residents to any educational facility run and maintained by the government, as everyone should have the right to an education.

The establishment and oversight of educational institutions is a prerogative granted to minorities under Article 30. The freedom to create and run institutions of one's own choosing belongs to all minorities, according to clause 1 of this article. Article 30's clause 2 states that the state may not provide financial aid to any educational institution on the basis of any form of discrimination, including racial or linguistic prejudice. The "**Charter of Education Rights**" or Article 30 is another name for it.

6. Right to Constitutional Remedy (article 32-35): -

All citizens are entitled to remedies under the constitution in the event that their fundamental rights are violated. The fundamental rights of every Indian citizen are violated by the Indian government. If these rights are violated, the person can file a case and seek justice from the court. Rights to constitutional rights are covered in articles 32 through 35.

According to Article 32, we have the right to petition the Supreme Court through the proper channels to get redress for the enforcement of rights granted by Part 3 of the Constitution. The court issues several writs, as needed in each case, for the enforcement of these remedies, including the writs of habeas corpus, mandamus, prohibition, quo warranto, and certiorari.

Article 33 has given the authority to the Parliament, by law, has the right to modify the rights conferred in this part 3 of the constitution so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

II. SOME LAND MARK JUDGEMENT ON FUNDAMENTAL RIGHTS

1. AK Gopalan Vs State of Madras (1950)

In this case, Gopalan also known as AKG, the appellant an Indian communist who served the communist party of India. He was detained under the preventive detention act 1950. He stated that he was detained in jail since 1947 without any court trial. He was made liable under the criminal laws which were set aside. Even the Madras government passed an order on March 1,

1950, when was still in jail. In his defence he mentioned that the principle of natural justice was not followed in his case and was not a fair trial. Mr Gopalan further filed a petition under article 32 of clause 1 of Indian constitution under the writ of habeas corpus. Mr Gopalan said that the case raised several issues including whether the prevention and detention act 1950 violated the article 14, 19 and 21 of the Indian constitution. Secondly, it argued that is there any connection between article 19 and 21 of the constitution and lastly it said whether natural justice of appellant is violated or not.

The court by discussing all the view points and analysing the arguments by the parties of the case, it held that there is no connection between article 19 and 21 of the constitution, the court further decided that the principle of natural justice was not violated in this case and lastly, the court finally dismissed the plea of the writ of habeas corpus.

2. Golakhnath Vs State of Punjab (1967)

This court of 1967 was where the Indian Supreme Court decided that parliament may not limit any of the constitutions Fundamental right. The facts state in Jalandhar Punjab, there were 2 brothers in the title Golakhnath owned 500 acres of land. The Golakhnath brothers were told that they could only have 30 acres of land under the newly adopted Punjab security and land tenure act and that a portion of the land would be allocated to tenants while the rest would be considered excess and taken over by the government. The Golakhnath family contested the Punjab government's actions, and the case finally reached the Supreme Court in 1965.

The petitioner in his first claim stated that no one in the legislative and political system of India have the authority to amend or make an attempt to change the Indian constitution. The brothers also said that the term amendment means only to make small alteration that are in accordance with Indian constitutional features and does not mean the complete change of the nation and constitution. To be more specific, the appellant claimed that fundamental rights are unalienable. As they are known to the entire nation in the Indian constitution, the government should revoke it.

The Judgement of this case had the biggest bench in the history at the current time. The petitioner of the case won by a 6:5 ratio, majority was on the petitioner's side. "J.C. Shah, S.M. Sikri, J.M. Shelat, and C.A. Vaidiyalingam," wrote the majority opinion at the time, along with other justices: "J.C. Shah, S.M. Sikri, J.M. Shelat, and C.A. Vaidiyalingam."

There were many other cases relating to fundamental rights of the nation, based on any of its component, any part of the right or an entire article like there was a case on Article 21 of the Indian constitution named **Maneka Gandhi vs Union of India** which was a bulwark of the right of personal liberty by article 21 of the constitution. In this case, the petitioner Maneka

Gandhi's passport was issued on 1st June 1976 as per the Passport Act of 1967. On 2nd July 1977, the Regional Passport Office (New Delhi) ordered her to surrender her passport. The petitioner was also not given any reason for this arbitrary and unilateral decision of the External Affairs Ministry, citing public interest. This immensely important judgment was delivered on 25th January 1978 and it altered the landscape of the Indian Constitution. This judgment widened Article 21's scope immensely and it realized the goal of making India a welfare state, as assured in the Preamble. The unanimous judgement was given by a 7-judge bench.

3. There was another case in the early years of Independence of India, which was the **Shankari Prasad vs Union of India** in the year of **1951**. The case challenged the first constitutional amendment in the year 1951, the case was based on right to property as well. The appellant challenged the validity of the first amendment on the grounds that the admission of article 31 clause A and article 31 clause B, the two clauses have limited the scope of the right to property, the seventh fundamental right. There were many other issues raised like is the constitution be amended, the next question raised was is the fundamental rights are amendable, and finally the last claim was to what extent can the constitution be amended by the article 368. The case evidently showed that there existed a conflict between article 13 and article 368 of Indian constitution, article 368 gave the power to the legislature to amend the constitution whereas article 13 clause 2 restricted the same power. The Supreme Court in this case used the doctrine of harmonious construction in an attempt to resolve the conflicting provisions. The supreme court's decision limited the range of the term 'law' in the article 13 clause 2. It was concluded that the word law in article 13 clause 2 means ordinary law and not constitutional law. The court further said that the parliament has exclusive power under article 368 to amend the constitution including the part 3 of the constitution which is the fundamental right. The apex court finally validated article 31 clause A and B along with upholding land reforms.

III. CONCLUSION

The fundamental rights of the Indian constitution are derived from various sources to make them flexible for all the citizen, from each and every category of Indian nationals. There are some objections on these rights and required amendments are made for the same making them accepted all over India.
