

FUNDAMENTAL RIGHTS IN INDIA: ASSUMPTIONS AND CHALLENGES

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ABSTRACT

Fundamental rights are considered very important for the holistic development of a person. The country should create such social, economic, and political conditions in which the capabilities of the individual can flourish and the individual can achieve his desired holistic development. Rights are born and protected only in such a positive environment in society. The human rights movement began in mediaeval times with the demand to control the arbitrary rule of rulers in the world and to satisfy and protect the basic needs of citizens' lives. Human rights are universal and inclusive. In a democracy, human rights are given to every person by birth, and no one can be deprived of their rights. After India's independence, Part III of the Constitution laid down seven fundamental rights for citizens. The purpose of the provision of fundamental rights in the Constitution of India is to protect the citizens of India from any form of discrimination and injustice, to provide equality and freedom, to prevent exploitation, to develop individual self-respect, to maintain human dignity and to promote democracy, social justice, friendship, and brotherhood in India. Human rights and duties are closely related. Human rights can only come with responsibilities. Everyone should enjoy their human rights in a way that does not harm the rights of others. Any person, while enjoying his human rights, should ensure that he is not violating the human rights of others. The assumptions behind giving fundamental rights to citizens in India have not been realised in true sense.

Keywords: Human Rights, Fundamental Rights, Rights.

Introduction

The concept of human rights aims to provide quality life to people and enable people to develop themselves as desired. These rights aim to develop and maintain basic standards for people to live a dignified and quality life. People can live a dignified and quality life only when a positive environment is created in society. Harold Laski rightly said, "Rights are in fact, those conditions of social life without which no man can seek in general, to be himself, at his best." History tells us that in England in the year 1215, the Magna Carta was proclaimed and it gave rise to the doctrine of "Rule of Law". Human rights were then accelerated and promoted by the Bill of Rights 1689 in England. In 1948, the United Nations set the Universal Declaration of Human Rights. The Universal Declaration of Human Rights (UDHR) is an important international document on human rights adopted by the United Nations. This great document

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enshrines the rights and freedoms of all human beings. After the promulgation of the Universal Declaration of Human Rights (UDHR), newly independent nations enshrined fundamental rights in their constitutions.

The main question before the Constituent Assembly of India was which fundamental rights should be included in Part-III. There were some fundamental rights which, though important, could not be included in Part-III of the Constitution due to lack of economic and infrastructural capacity for the government. Part-III of the Constitution is binding on the Government. It is justiciable. It is mandatory for the government to implement the fundamental rights included in Part-III. The Committee on Fundamental Rights constituted under the chairmanship of Sardar Vallabhbhai Patel contemplated a deep discussion on the matter. Hence some rights were important yet they were included in the Directive Principles of State Policy in Part-IV of the Constitution of India. It is not obligatory for the government to implement the Directive Principles of State Policy. It is non-justiciable. Its execution cannot be challenged in a court of law

When the constitution came into force in 1950, seven fundamental rights were basically provided by the constitution - Right to equality(Article 14 to 18), Right to liberty(Article 19 to 22), Right against exploitation(Article 23 and 24), Right to freedom of religion(Article 25 to 28), cultural and educational rights(Article 29 and 30), Right to property (Article 31)and Right to constitutional remedies(Article 32).

First of all, if we discuss the right to equality, it can be said that The right to equality is one of the important fundamental rights of the Indian Constitution which guarantees equality of opportunity, equality before law and equal rights for everyone irrespective of religion, sex, caste, caste or place of birth. The right to equality ensures equal employment opportunities for citizens in the government and protects against discrimination by the state in matters of employment on the basis of caste, religion, sex, etc. This right also includes abolition of discriminatory titles in society, as well as untouchability. The reality is that even after so many years of independence citizens have not got equal opportunity for their development. Still the weaker sections of the society are struggling for their own development. There is still the weaker section of the society which has not been able to taste the fruits of development.

When talking about the right to freedom, the important question is whether the citizens have really been able to enjoy freedom in the true sense. Article 21 of the Constitution provides for the right to life and personal liberty. Right to life means the right to live a dignified and quality life. Problems like illiteracy, poverty, unemployment, and superstition found in India become a hindrance in the true implementation of the right to life. If people's stomachs are empty, they don't have a house to live in, they don't get clothes to wear, then the right to life has no value for them. The Supreme Court added a new dimension in *Maneka Gandhi v. Union of India*, ruling that the right to life encompasses not only the material right to life but also the right to live with human dignity. The right to human dignity and all that it entails, such as the provision of basic necessities such adequate nourishment, medical care, clothes, etc., are all included in the right to life. The right to life requires consideration of all facets of gender equality, including the avoidance of sexual harassment and abuse. In India, gender equality is still in its infancy. In addition to this, instances of sexual harassment are also common. The Constitution (Sixty-Sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India as a fundamental right to provide free and compulsory education to all children in the age group of six to fourteen years. But not enough facilities are provided to all children in the age group of six to fourteen years to receive free and compulsory education. RTE Act could not be strictly enforced.

Articles 23 and 24 of the Indian Constitution provide the right against exploitation. This is a crucial fundamental right that forbids exploitation and ensures that each individual receives protection from forced labour of any kind. Child labour is forbidden. However, some people or groups continue to be exploited, especially women are often victims of exploitation. Child labor also could not be prevented in practice.

Hence it can be said that there are many limitations on the implementation of every fundamental right. Political and legal rights are given by the constitution but social and economic rights do not exist. Part 4 is as important as part 3 of the constitution of India. The fundamental rights conferred by Part-III focus too much on political democracy and less attention is paid to establishing social and economic democracy. Rights like right to work, right to leisure, right to employment, right to social security, etc. are also important. Hence social and economic aspects of fundamental rights are also highly criticized. Fundamental rights can be suspended during an emergency imposed by the President of India. During times of national emergency (except Articles 20 and 21), fundamental rights can be suspended. This

provision deals a major blow to the effectiveness of fundamental rights in Indian democracy. During times of national emergency the interests and rights of the common people are completely threatened. Despite the limitations of the practical implementation of fundamental rights, fundamental rights have been important in preventing the executive from acting arbitrarily and achieving social, economic and political justice and equality.

References

1. Agarwal, H. O. (2023). *Human Rights* (18th ed.). Central Law Publication.
2. Bhat, N. A. (2021). *Fundamental Rights: Challenges and Developments* (1st ed.). Notion Press Media Pvt Ltd; Notion Press.
3. D D Basu. (2022). *Introduction to the Constitution of India* (26th ed.). Educational Printed; Lexis Nexis.
4. Das, J. K. (2022). *Human Rights Law and Practice*. PHI Learning.
5. Dewan, V. K. (2020). *Supreme Court on Fundamental Rights* (1st ed.). Asia Law House.
6. Kashyap, S. C. (2021). *Our Constitution* (2021st ed.). National Book Trust.

