
THE BIRTH AND EVOLUTION OF FUNDAMENTAL RIGHTS: THE HEART OF INDIA'S CONSTITUTIONAL DEVELOPMENT

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ABSTRACT

The Fundamental Rights contained in Part III of the Indian Constitution are the real backbone of India's democracy, which protect the liberty, equality and dignity of individual, are not just ideas on paper; they are real legislations that prevent the government from abusing its power, ensuring that everybody plays along with the policies. Our founders seemed close to global developments like the American Bill of Rights, but they wanted something much greater, transformative for India. They saw those rights as essential ingredients for actively subverting centuries of deep social and political inequality. Today, those protections are divided into six primary categories: right to equality, freedom of speech and expression, security from exploitation, freedom of religion, cultural and educational rights of minorities, and due constitutional measures against any violating authority. This demand grew after an extended, persistent war against British rule. It was not until 1895 that the Constitution of India Bill began to demand primary civil liberties. Decades later, the Nehru Report of 1928 made a strong list of rights we deserved, the Karachi Resolution of 1931 took a step further by linking political freedom with social justice. When the time finally came to write the actual constitution, the Advisory Committee led through Sardar Vallabhbhai Patel made crucial advancements. Through it all, Dr B.R. Ambedkar fought hard for Article 32, a violation of which, we citizens can immediately pass to the Supreme Court. Therefore, It is the dynamic machinery of Fundamental Rights under the Indian Constitution keeps India's democracy alive today.

Key Words: - Fundamental Rights, Indian Constitution, American Bill of Rights , Minorities, Karachi Resolution, Democracy, Equality, Individual liberties.

I. Introduction

Fundamental Rights act as the pillars of constitutional democracy in India in terms of freedom, equality, justice and human dignity. Fundamental rights as enshrined under Part III of the Indian Constitution (articles 12 to 35), not only embody declarative values but are also enforceable provisions that protect the citizens from arbitrary use of power on the part of the government and thereby, uphold the supremacy of law. Inspired from the American Bill of Rights, 1791 the framers of the Indian Constitution believed that Fundamental Rights would act as an essential tool in transforming India's socio-politically unequal society. With the evolution of the constitution over the years through various interpretations, amendments and changes in socio-economic conditions of the Indian society, the scope of Fundamental Rights has been widened. These rights have been divided into six parts: (i.) Right to Equality (articles 14 to 18); (ii.) Right to Freedom (articles 19 to 22); (iii.) Right against Exploitation (articles 23 to 24); (iv.) Right to Freedom of Religion (articles 25 to 28); (v.) Cultural and Educational Rights (articles 29 to 30) and (vi.) Right to Constitutional Remedies (article 32).

II. Meaning of Fundamental Rights

Fundamental Rights refer to those primary and inalienable rights that are significant in-order protect the liberty, equality, dignity, and complete development of each individual (including citizens and non-citizens) of the country. As constitutionally guaranteed rights, they offer protection to citizens from any arbitrariness by the State, discrimination, exploitation, misuse of power on any grounds and therefore, ensure supremacy of law in the country. These rights provide the citizens not only the rights of enjoying their fundamental freedoms, but also enable them to directly approach the apex judicial institution of the country- the Supreme Court under Article 32 and High Courts under Article 226 of the Constitution for enforcing their rights, making them a unique constitutional provision. At the same time, Fundamental Rights give the role of guardian of the Constitution to the judiciary and enable the courts to exercise the powers of judicial review, issue constitutional writs, declare unconstitutional laws or executive actions null and void and interpret and widen the scope of these rights according to the changing needs of society.

III. Birth and Development of Fundamental Rights in Indian Constitution

Pre-Independence Roots

There is no doubt that the need for fundamental rights in India did not come immediately after

independence but took form gradually due to years of struggle against colonialism through nation-wide movements. One of the earliest attempts to get these rights was the Constitution of India Bill, 1895 (the “Swami Vivekananda Bill”), which demanded free speech, equality and right to privacy.

However, the importance of these increased significantly in the 20th century. The well-known Bill of Rights, an integral part of the Nehru Report, 1928 came into focus during those times. This bill consisted of a list of 19 fundamental rights. This inclusion of rights was a historic milestone, that marked one of the earliest attempts by our Indian national leaders to ensure a free democratic republic.

In 1931, the Indian National Congress adopted the well-known Karachi Resolution which guaranteed more civil liberties, economic justice and protection of minority rights.

Constituent Assembly Debates

Fundamental Rights was one of the major issues that led to controversial discussions among the members of the Constituent Assembly. The Advisory Committee chaired by Sardar Vallabhbhai Patel played a significant role in drafting of the Part III of the Constitution. The committee's primary objective was to create a comprehensive framework for the fundamental rights, protection of minorities and recognition and administration of the tribal and exterior areas.

There were tensions between those who were proponents of ‘absolute freedom’ and those who preferred ‘reasonable restrictions’ in light of public order, morality and security of the state, in the Assembly. Although Dr. B.R. Ambedkar believed in individual rights, he understood the necessity of considering a compromise for a democratic republic.

"Article 32 is the heart and soul of the Constitution," said Dr. B.R. Ambedkar. That is because according to him, "lack of remedy makes all rights meaningless." Therefore, after rigorous debates, Part III was adopted with six broad categories of rights, striking a fair balance between individual freedom and societal welfare and well-being.

Post-Independence Evolution

The real potential of fundamental rights came from its dynamic development. For many years, there have been several conflicts between Fundamental Rights and the Directive Principles of State Policy. However, there have been many expansions in rights with various constitutional and judicial developments.

The famous *Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr.*¹ case of 1973 is regarded as a milestone event. In this case, the Indian Supreme Court laid down the Doctrine of Basic Structure, by virtue of which the Indian Parliament cannot amend the Constitution in such a manner that it affects or violate its basic structure, including the Fundamental Rights and thus, guarantees Rule of Law.

Further on, the ambit of Article 21 (Right to Life and Personal Liberty) was widened. As a result of progressive interpretation, it evolved from being merely a provision against deprivation of life arbitrarily to a source of various other rights, like the right to livelihood, right to clean environment, right to education, right to health, and importantly, right to privacy as in *Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.*².

IV. Conclusion

In the end, all the major developments associated with the Indian Constitution have been linked to the protection, expansion and enhancement of fundamental rights. From the pre-independence period to the discussions that took place within the Constituent Assembly and the important judicial interventions, fundamental rights have been the soul of the Indian Constitution.

Fundamental Rights have turned a colonial-era law into an instrument for the realization of democracy, freedom, and social justice in India. In the era of information technologies, when India faces new challenges, it is very important for the country to develop these rights further.

¹AIR 1973 SC 1461

²(2017) 10 SCC 1, AIR 2017 SC 4161