



FUNDAMENTAL RIGHTS IN CONSTITUTIONS: SAFEGUARDING INDIVIDUAL LIBERTIES AND PROMOTING SOCIAL JUSTICE

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Abstract:

This research paper examines the concept of fundamental rights as enshrined in various constitutions across the globe, focusing on their role in safeguarding individual liberties and promoting social justice. The paper provides an overview of the most common fundamental rights, discusses their significance in democratic societies, and analyzes the challenges and limitations associated with the enforcement of these rights. Furthermore, the paper highlights the importance of balancing individual liberties with collective interests and explores the potential for constitutional reforms to enhance the protection of fundamental rights.

Key Words: Individual, Liberties, Fundamental, Rights

Introduction:

Fundamental rights are essential components of modern democratic constitutions, serving as critical tools to protect individual liberties and promote social justice. This paper aims to provide an in-depth analysis of the concept of fundamental rights, their significance in democratic societies, and the challenges associated with their enforcement and protection. The introduction of a constitution typically includes a statement of the fundamental rights that the document is intended to protect. These rights are considered to be essential to the functioning of a free and democratic society, and they set out the limits on the power of the government over its citizens. Fundamental rights can include things like freedom of speech, religion, and assembly; the right to a fair trial and due process of law; the right to equal treatment under the law; and the right to privacy. These rights are usually enshrined in the constitution as a means of ensuring that they are protected from infringement by the government or other individuals or groups. The inclusion of fundamental rights in a constitution is an important aspect of democracy, as it ensures that citizens are protected from the abuse of power by those in positions of authority. It also provides a framework for the protection of individual liberties, which can be used as a basis for legal challenges to government actions that infringe on these rights.

Significance of Fundamental Rights:

Fundamental rights play a crucial role in democratic societies. Fundamental rights protect individuals from the arbitrary exercise of power by the state and ensure that their personal freedoms are respected. Promoting social justice: Fundamental rights ensure that all individuals are treated fairly and equitably, regardless of their race, religion, gender, or socioeconomic status. Facilitating democratic participation . Fundamental rights, such as freedom of speech and the right to vote, enable citizens to engage in political discourse and participate in the democratic process. Providing a framework for judicial review: Fundamental rights serve as a basis for judicial review, allowing courts to assess the constitutionality of laws and government actions.

The Concept of Fundamental Rights:

The concept of fundamental rights refers to a set of basic rights and freedoms that are universally recognized as inherent to all human beings, regardless of nationality, race, religion, or other distinctions. These rights are considered essential for the protection of human dignity, the promotion of social justice, and the functioning of a democratic society. Fundamental rights encompass a broad range of civil, political, and social rights, which serve as the foundation for individual liberties and ensure a fair relationship between citizens and the state. Civil rights are the rights that protect individuals from unjust or discriminatory treatment by the government or other private entities. These rights include the right to life, liberty, and security; the right to equality before the law; the right to privacy; and the right to own property. Civil rights are critical for safeguarding individual freedoms and ensuring equal treatment under the law.

Political rights are the rights that allow individuals to participate in the political process and have a say in the decisions that affect their lives. These rights include the right to vote and run for public office, the right to freedom of speech and expression, the right to freedom of association, and the right to petition the government. Political rights are essential for maintaining a democratic system of governance, where power is vested in the hands of the people and their elected representatives. Social rights, also known as economic, social, and cultural rights, are the rights that promote the well-being of individuals and communities, ensuring access to essential services and opportunities for personal development. These rights include the right to work, the right to

education, the right to health, and the right to an adequate standard of living. Social rights aim to reduce social inequalities and promote a more just society. The protection and enforcement of fundamental rights vary across different jurisdictions, with national constitutions, regional human rights instruments, and international treaties providing the legal basis for these rights. The concept of fundamental rights has evolved over time, drawing inspiration from various sources, such as natural law, religious teachings, and philosophical traditions. The development of modern constitutionalism and the adoption of the Universal Declaration of Human Rights by the United Nations have further cemented the importance of fundamental rights as a cornerstone of human rights and democratic principles.

The Origins of Fundamental Rights in India:

The origins of fundamental rights in India can be traced back to various influences, including ancient Indian philosophical traditions, the British colonial legal system, and international human rights norms. Some key milestones in the development of fundamental rights in India include:

- **Ancient Indian traditions:** Ancient Indian texts like the Vedas, Upanishads, and Arthashastra emphasize the importance of Dharma (duty or righteousness) as the guiding principle for human conduct. The concept of Dharma included the protection of individual rights and social responsibilities, which laid the foundation for the development of a rights-based discourse in Indian society.
- **British colonial rule:** During the colonial period, India was governed by the British legal system, which introduced the rule of law, the separation of powers, and limited protection of individual rights. Indian nationalists and freedom fighters drew inspiration from these principles and the British Bill of Rights to advocate for greater civil liberties and democratic rights for Indians.
- **International human rights norms:** The Universal Declaration of Human Rights (UDHR), adopted by the United Nations in 1948, had a significant impact on the global discourse on human rights, including in India. The Indian representatives played an active role in drafting the UDHR, which subsequently influenced the framing of the Indian Constitution and the inclusion of fundamental rights.

The Importance of Fundamental Rights in India:

Fundamental rights are of vital importance in India, serving as a cornerstone of the country's democratic framework and ensuring the protection of individual liberties. The significance of fundamental rights in India can be understood through the following aspects:

- **Safeguarding individual liberties:** Fundamental rights enshrined in the Indian Constitution, such as the right to equality, freedom of speech and expression, and freedom of religion, protect citizens from arbitrary state action and ensure that their liberties are not unduly curtailed.
- **Promoting social justice:** Fundamental rights in India also aim to address historical social inequalities and promote a more just and egalitarian society. For instance, the Constitution contains provisions for the reservation of seats in educational institutions and public employment for historically disadvantaged groups, such as Scheduled Castes and Scheduled Tribes.
- **Strengthening democratic values:** By guaranteeing political rights, such as the right to vote and the freedom of assembly, fundamental rights in India foster a democratic environment where citizens can participate in the political process, express their opinions, and hold the government accountable.
- **Serving as a check on state power:** The protection of fundamental rights in India acts as a check on state power, ensuring that government actions conform to established legal principles and do not infringe upon individual rights. The Indian judiciary, particularly the Supreme Court, has played a proactive role in interpreting and enforcing fundamental rights through judicial review and public interest litigation.

List of Laws:

The Constitution of India is the supreme law of the land and guarantees various fundamental rights to the citizens of India. Some of the key provisions relating to fundamental rights under the Indian Constitution are:

- **Right to Equality (Articles 14-18):** This includes the right to equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of public employment.
- **Right to Freedom (Articles 19-22):** This includes the right to freedom of speech and expression, right to assemble peacefully and without arms, right to form associations or unions, right to move freely throughout the territory of India, and right to practice any profession, occupation, or trade.
- **Right against Exploitation (Articles 23-24):** This includes the prohibition of trafficking in human beings, forced labor, and employment of children in hazardous jobs.
- **Right to Freedom of Religion (Articles 25-28):** This includes the right to freedom of conscience and the right to freely profess, practice, and propagate any religion.

- Cultural and Educational Rights (Articles 29-30): This includes the right of minorities to preserve their language, script, and culture, and the right of all communities to establish and administer educational institutions.
- Right to Constitutional Remedies (Article 32) : This includes the right to move the Supreme Court for the enforcement of fundamental rights.

These fundamental rights are just a few of the many provisions under the Indian Constitution. Other important laws in India include the Indian Penal Code, the Code of Criminal Procedure, the Civil Procedure Code, the Indian Evidence Act, the Indian Contract Act, and the Companies Act.

List of Cases:

- Navtej Singh Johar v. Union of India (2018): This case dealt with the constitutional validity of Section 377 of the Indian Penal Code, which criminalized homosexuality. The Supreme Court held that Section 377 violates the right to equality and dignity under the Constitution and decriminalized consensual homosexual acts between adults.
- Sabarimala Temple Entry Case (2018): This case dealt with the entry of women of menstruating age into the Sabarimala temple in Kerala. The Supreme Court held that the exclusion of women from the temple violates their fundamental rights and is unconstitutional.
- Puttaswamy v. Union of India (2017): This case dealt with the right to privacy under the Constitution of India. The Supreme Court held that the right to privacy is a fundamental right under the Constitution, and it is essential for the protection of other fundamental rights.
- Aadhaar Card Case (2018): This case dealt with the constitutional validity of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, which made it mandatory for citizens to link their Aadhaar card to various services. The Supreme Court held that the mandatory linking of Aadhaar with services violates the right to privacy and declared some provisions of the Act unconstitutional.
- Internet Shutdown Case (2020): This case dealt with the constitutional validity of the frequent and prolonged internet shutdowns imposed in Jammu and Kashmir. The Supreme Court held that the right to access the internet is a fundamental right under the Constitution and the internet shutdowns must follow the principles of proportionality and necessity.
- Maneka Gandhi v. Union of India (1978): This case expanded the scope of Article 21 of the Constitution of India and held that the right to life and personal liberty includes the right to travel abroad.
- Keshavananda Bharati v. State of Kerala (1973): This landmark case established the basic structure doctrine of the Constitution of India, which limits the power of the Parliament to amend the Constitution.
- Indira Nehru Gandhi v. Raj Narain (1975): This case dealt with the validity of the election of Indira Gandhi as the Prime Minister of India and upheld the principle of free and fair elections.
- ADM Jabalpur v. Shivkant Shukla (1976): This case, also known as the "Habeas Corpus case", upheld the validity of the Emergency declared by the then Prime Minister of India, Indira Gandhi, and held that during the Emergency, the right to life and personal liberty can be suspended.
- Kesavananda Bharati v. Union of India (1973): This case dealt with the constitutional validity of the 24th Amendment of the Constitution of India, which sought to take away the power of judicial review of constitutional amendments. The court held that the power of judicial review is a basic feature of the Constitution and cannot be taken away.
- Olga Tellis v. Bombay Municipal Corporation (1985): This case dealt with the right to livelihood and held that the right to life under Article 21 of the Constitution of India includes the right to livelihood.

Conclusion:

Fundamental rights are essential components of democratic constitutions, serving to safeguard individual liberties and promote social justice. The effective protection of these rights requires striking a balance between individual freedoms and collective interests, as well as addressing the challenges and limitations associated with their enforcement. By continually reviewing and adapting constitutional provisions, strengthening the judiciary, and raising public awareness, societies can work towards ensuring the robust protection of fundamental rights for all citizens.

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