

## **HUMAN RIGHTS CONSTITUTENTS TO** **FUNDAMENTAL RIGHTS OF INDIAN CITIZEN**

When we look at the Universal Declaration of Human Rights, we find that it has influenced the Fundamental Rights enshrined in the Indian Constitution. Our Fundamental Rights have been included in the Part II of our Constitution and have the influence of following document.

- i) The Bill of Rights of British Parliament (1688).
- ii) American Revolution, 1776.
- iii) Declaration of Rights of Man, French Revolution, 1789.
- iv) Bill of Rights of the American Constitution, 1791.
- v) Motilal Nehru Report, 1928 and
- vi) Universal Declaration of Human Rights, 1948 (UN).

The founding father of our Constitutions first studied many world constitutions before making the provisions so the fundamental rights reflects the provisions of Human Rights, natural rights etc. provided in the world.

There were seven Fundamental Rights provided in 1950 i.e

- i) Right to Equality
- ii) Right to Liberty
- iii) Right against Exploitation
- iv) Right to Freedom of Religion
- v) Cultural and Educational Rights
- vi) Right to Property and
- vii) Right to Constitutional Remedies.

The Right to Property was repealed by the 44th Constitutional Amendment Act, 1978. The Fundamental Rights of Indian Constitution falls between the articles 14 to 35. These rights are discussed as below:

#### 10.4.1 Right to Equality (Articles 14-18):

##### Article 14:

It states that the State cannot deny to any person equality before law or the equal protection of law within the territory of the Indian Union.

##### Article 15:

The State cannot discriminate on grounds of religion, race, caste, sex, descent, place of birth, residence or on any other ground.

##### Article 16:

According to this article, there is equality of opportunity in the matter of public employment and prevent discrimination on grounds of religion, race, caste, sex, descent place of birth, residence or on any other ground. The sub-clause(4) provides that nothing in that article would prevent the State from making any law for the reservation of jobs for the Backward Classes and Caste.

##### Article 17:

This article provides for the abolition of hateful practice of untouchability and declares practice of untouchability in any form as crime.

## Article 18:

It provides the restrictions to accept any award or position or conditional award from any foreign country.

#### 10.4.2 Right to Liberty (Right to Freedom) (Articles 19 to 22)

Article 19 makes the provision of various kinds of freedoms for Indian citizens. They are six basic freedoms namely:

- i) Freedom of Speech and Expression.
- ii) Freedom of Assembly peacefully and without arms.
- iii) Freedom to form associations and unions.
- iv) Freedom to move freely within the territory of India.
- v) Freedom to reside and settle in any part of the territory of Republic of India.
- vi) Freedom to carry on any business, trade or occupation within the territory of India.

The provision of right to freedom is similar to the civil rights granted by most of the democratic countries of Western Europe and North America. However, the Constitution does not guarantee absolute individual rights. Indeed no state can or has guaranteed absolute individual freedom. Therefore, this guarantee of each of the rights is reasonably limited by the Constitution by empowering state to impose reasonable restrictions as may be necessary in the interest of social harmony, internal peace, national security and law and order.

## Article 20:

This provides a fair chance to the guilty to prove himself and accordingly be punished if proven guilty not more or less.

## Article 21:

Without the due process of law one cannot be deprived of his life or individual freedom.

Article 21 A:

As per the 86th Constitutional Amendment Act, 2002 this article was added and it provided that State shall provide free and compulsory education to the children between age 6-14 years.

Article 22:

No person could be arrested without any crime and warrant stating his crime should be showed to him by the legal authority.

10.4.3 Right against Exploitation (Article 23-24):

Article 23:

This article prohibits traffic in human being and begar (forced labour) or bonded labour or servitude on any ground. Any act contrary to this provision would be an offence punishable by law.

Article 24:

This prohibits any child below 14 years of age to work (child labour) in any factory or mines or at any other dangerous job.

10.4.4 Right to Freedom of Religion (Article 25-28):

Article 25:

This deals with freedom of conscience and makes provision for practice and propogation of one's own religion.

Article 26:

Provides for freedom to manage religious affairs and institutions by a community.

Article 27:

This says that no person shall be compelled to be a member of any religious association or incur any penalty or religious tax on the ground of his caste, creed or religion.

## Article 28:

This prevents the imparting of religious instructions in any educational institution which is wholly maintained out of State funds.

## 10.4.5 Cultural and Educational Rights (Article 29-30):

## Article 29:

This ensures that every community in India shall have the right to propagate and preserve its own language, script, literature and culture. All religious and linguistic minorities have been ensured a right to establish and administer their educational institutions maintain and manage them and receive state grant on the equal basis. Similarly, no citizen can be denied admission into state maintained or state aided educational institutions on the ground of religion, race, caste or language.

## Article 30:

This provision highlights the importance which the framers of the Constitution attached to secular character of the state and the desirability of secularism permeating different spheres of our national life. The article also ensures to the minorities of India that special safeguards have been provided to protect their interests and culture.

## 10.4.6 Right to Property (Article 31):

The Constitution originally provided for three fold provision for safeguarding the right to private property. It not only guaranteed the right to private property but also conferred the right to enjoy and dispose of property (Art-19(f)).

- i) It guaranteed to every citizen the right to acquire any property by any lawful means.
- ii) The Constitution guaranteed that no person should be deprived of his property save by the Authority of Law (Article 31(1)).

iii) The Constitution enjoys that if the State wants to acquire the private property of an individual or to requisition i.e to take it over, it can do so only on two conditions.

a) That the acquisition or requisition is for a public purpose.

b) That when such a law is passed, it must provide for payment of an amount to the owner as compensation for the acquisition or requisition of the property by the state.

However, in keeping with the goal of Welfare State and the establishment of egalitarian society, the Right to Private Property was abolished by 44th Constitutional Amendment Act, 1978.

#### 10.4.7 Right to Constitutional Remedies (Article 32-35):

##### Article 32:

The Constitution not only grants basic rights to the citizens of India but also makes a provision for the protection and continued enjoyment of these rights. It consists of the prerogative writs which the Superior Courts issue under their power to review to establish the rule of law. These rights guarantee judicial protection to the Fundamental Rights enumerated in Part III of the Constitution. Under this right, a citizen can file such writs as below:

i) Habeas Corpus: Court orders the custodians of law to present a person in court if he is unlawfully detained.

ii) Mandamus: It is an order issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.

iii) Prohibition: Issued by a superior court to the lower court to prevent it from exceeding its jurisdiction in cases pending before it or acting contrary to the rules of natural justice.

iv) Certiorari: It is a type of writ seeking judicial review and other law, meaning an order by a higher court directing a lower court, tribunal or public authority to send the record in a given case review.

v) Quowarranto: It is a prerogative writ requiring the person to whom it is directed to show what authority they have for exercising some right or power they claim to hold.