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FUNDAMENTAL RIGHTS IN INDIA

~Shubham Yadav

I. INTRODUCTION

The Constitution of India, which came into force on 26 January 1950, embodies a promise of dignity, liberty, and equality to every citizen of the country. At the very core of this promise lies Part III of the Constitution, commonly referred to as the chapter on Fundamental Rights.¹ These rights are not mere moral or political aspirations; they are enforceable legal guarantees that a citizen may seek to protect through the writ jurisdiction of the Supreme Court and the High Courts. Modelled partly on the American Bill of Rights, yet distinctly Indian in character and scope, the Fundamental Rights represent the framers' response to the long history of colonial subjugation, and their determination to build a republic founded on constitutionalism rather than the arbitrary exercise of State power.

This article examines the constitutional scheme of Fundamental Rights, traces the evolution of their judicial interpretation, and analyses the doctrine that today anchors their protection — the basic structure doctrine. It also considers the reasonable restrictions that qualify these rights, illustrating how the Indian judiciary has attempted to strike a balance between individual liberty and the legitimate interests of the State and society at large.

II. HISTORICAL BACKGROUND

There is already a long history of advocacy for a charter of rights in India before Independence. In 1928, the Nehru Report, as well as the resolutions adopted by the Indian National Congress in its different meetings, emphasized the importance of granting civil liberties. When the Constituent

¹INDIA CONST. pt. III.

Assembly started its process in December 1946, the Advisory Committee on Fundamental Rights led by Sardar Vallabhbhai Patel had to formulate a comprehensive list of fundamental rights of the citizens. It resulted in Part III of the Constitution of India that initially included seven different categories of rights (reduced to six when the Right to Property as a fundamental right was deleted by the Forty-Fourth Amendment of 1978).

Chairman of the Drafting Committee, Dr. B.R. Ambedkar, envisaged the Fundamental Rights as restrictions upon the legislative and executive branches of government that could not pass any laws or take any executive actions infringing on the basic freedoms of the citizens. Constitutional scholar Granville Austin has named the Fundamental Rights and the Directive Principles of State Policy collectively as the "conscience of the Constitution."² While the Directive Principles are non-justiciable guidelines for governance, the Fundamental Rights are justiciable and enforceable, giving them a distinctive constitutional status.

III. CLASSIFICATION OF FUNDAMENTAL RIGHTS

The Fundamental Rights, as they presently stand, are classified into six broad categories:

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

Each of these categories addresses a distinct facet of individual liberty and social justice, and together they form an integrated scheme aimed at securing a dignified life for every person, whether citizen or, in certain respects, non-citizen.

²Granville Austin, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 50 (1966).

IV. RIGHT TO EQUALITY

Article 14 to 18 protect the rights to equality before the law and equal protection of laws, prohibition of discrimination based on religion, race, caste, sex, or place of birth, right to equality of opportunity in public employment, abolition of untouchability titles.³

Article 14 has been read widely by the courts to invalidate any State action which may be arbitrary as arbitrariness runs contrary to the concept of Rule of Law, which is essentially equality.

The Right to Equality has also become the ground for constitutional dispute over reservation in matters of education and public employment. In *Indra Sawhney v. Union of India*, the Court has held that reservation for socially and educationally backward classes is constitutionally valid but the principle of capping has been laid down, according to which the total reservations including those made for Scheduled Castes and Scheduled Tribes usually would not exceed 50 percent of the seats or posts available.⁴ This judgment continues to shape affirmative action policy in India even today, though it has since been supplemented by further constitutional amendments and judicial pronouncements on economically weaker sections.

V. RIGHT TO FREEDOM

Articles 19 to 22 secure a cluster of freedoms central to a democratic society: freedom of speech and expression, assembly, association, movement, residence, and profession, together with protection in respect of conviction for offences and protection of life and personal liberty.⁵ Article 21, guaranteeing that no person shall be deprived of his life or personal liberty except according to procedure established by law, has undergone the most dramatic judicial transformation of any provision in the Constitution.

In its early years, the Supreme Court, in *A.K. Gopalan v. State of Madras*, adopted a narrow, literal interpretation of Article 21, holding that so long as a law prescribed some procedure, however arbitrary, it would satisfy the constitutional requirement.⁶ This approach was overturned, and in the historic case of *Maneka Gandhi v. Union of India*, the Supreme Court ruled that the procedure provided by Article 21 must not only exist but also be reasonable, just, and fair and not arbitrary,

³INDIA CONST. arts. 14-18.

⁴*Indra Sawhney v. Union of India*, AIR 1993 SC 477.

⁵INDIA CONST. arts. 19-22.

⁶*A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

oppressive, or fanciful.⁷ This approach united three most essential Articles of the Indian Constitution in a single whole – thus forming what is now called the “golden triangle” of the Constitution, and paving the way for the broad construction of Article 21, which includes such fundamental rights as the right to live in a healthy environment, the right to livelihood, the right to legal aid, as well as, most recently, the right to privacy.

This particular right was recognized as an integral part of Article 21 in another important decision by a nine-judge bench of the Supreme Court in *K.S. Puttaswamy v. Union of India*, a decision of considerable contemporary significance in matters ranging from data protection to personal autonomy.⁸ Similarly, in *Shreya Singhal v. Union of India*, the Court struck down Section 66-A of the Information Technology Act, 2000 as unconstitutional for being vague and having a chilling effect on the freedom of speech and expression guaranteed under Article 19(1)(a).

VI. RIGHT AGAINST EXPLOITATION

Article 23 and 24 provide protection against trafficking of human beings and forced labour and prohibition of employing children under the age of fourteen in factories, mines, or any hazardous occupations.⁹ These articles show the concern of the constitution makers for the most vulnerable segments of the society and have been the basis of all future labour laws in the constitution.

VII. RIGHT TO FREEDOM OF RELIGION

Articles 25 to 28 guarantee freedom of conscience and the right freely to profess, practise, and propagate religion, subject to public order, morality, and health. They also guarantee freedom to manage religious affairs and freedom from compulsion to pay taxes for promotion of a particular religion or to receive religious instruction in State-funded educational institutions.¹⁰ India's constitutional model of secularism, described by the Supreme Court as a basic feature of the Constitution in *S.R. Bommai v. Union of India*, does not mandate a strict separation of religion and State as in some Western democracies, but rather principled distance and equal respect for all religions.

⁷Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

⁸K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

⁹INDIA CONST. arts. 23-24.

¹⁰INDIA CONST. arts. 25-28.

VIII. CULTURAL AND EDUCATIONAL RIGHTS

Articles 29 and 30 safeguard the interest of the minority groups in the sense that they confer upon the minorities the right to preserve their distinct language, script, or culture and also the right to found and manage their own educational institutions.¹¹

IX. RIGHT TO CONSTITUTIONAL REMEDIES

Under Article 32, an aggrieved individual is given the right to directly approach the Supreme Court for the enforcement of any one of the Fundamental Rights, and this article gives to the Supreme Court the authority to issue writs of habeas corpus, mandamus, prohibition, quo warranto, and certiorari.¹² In this regard, it can be noted that the, Dr. B.R. Ambedkar, has said about Article 32 that this Article is nothing but the soul of the Indian Constitution because without it the whole Fundamental Rights of the Constitution are nothing but mere promises written on paper.¹³ A parallel remedy exists under Article 226, which empowers the High Courts to issue similar writs, and extends even to matters beyond the enforcement of Fundamental Rights alone.

X. THE BASIC STRUCTURE DOCTRINE AND THE PROTECTION OF FUNDAMENTAL RIGHTS

Another constitutional issue of constant recurrence has been the limits on the ability of Parliament to amend the Fundamental Rights as enshrined in Part III of the Constitution under Article 368. In the case of *I.C. Golaknath v. State of Punjab*, the Supreme Court ruled that it was not within the power of Parliament to amend Part III of the Constitution in a manner that would result in the abolition or abridgment of Fundamental Rights.¹⁴ However, Parliament amended the Constitution through the Twenty-Fourth Amendment to clarify that Parliament had the power to amend any part of the Constitution.

This controversy was laid to rest by a thirteen-judge bench in *Kesavananda Bharati v. State of Kerala* which ruled that although Parliament enjoyed wide powers to amend the Constitution under

¹¹INDIA CONST. arts. 29-30.

¹²INDIA CONST. art. 32.

¹³Dr. B.R. Ambedkar termed Article 32 the “heart and soul” of the Constitution. See CONSTITUENT ASSEMBLY DEBATES, vol. VII (Nov. 9, 1948).

¹⁴*I.C. Golaknath v. State of Punjab*, AIR 1967 SC 1643.

Article 368, it could not amend the “basic structure” of the Constitution.¹⁵ . Even though the basic structure could not be defined comprehensively by the judgment in *Kesavananda Bharati*, subsequent judgments have listed the principles of judicial review, rule of law, free and fair elections, secularism, and the integration of Fundamental Rights and Directive Principles as essential components of the basic structure. This principle was reaffirmed by the Supreme Court in the case of *Minerva Mills Ltd. v. Union of India* where the provisions of the 42th Amendment were struck down as unconstitutional for elevating Directive Principles of State Policy over Fundamental Rights.¹⁶

Article 13(2) further reinforces this protection by declaring that the State shall not make any law which takes away or abridges the Fundamental Rights, and that any law made in contravention of this clause shall, to the extent of the contravention, be void.¹⁷ Together, the basic structure doctrine and Article 13 form the twin bulwarks that prevent the erosion of Fundamental Rights through ordinary legislative or even constituent action.

XI. REASONABLE RESTRICTIONS

It would be inaccurate to characterise the Fundamental Rights as absolute or unqualified. Articles 19(2) to 19(6), for instance, permit the State to impose reasonable restrictions on the freedoms guaranteed under Article 19(1) in the interests of the sovereignty and integrity of India, security of the State, public order, decency, morality, and similar considerations. The judiciary has developed a robust doctrine of proportionality to test whether a restriction is genuinely reasonable, examining whether the restriction is rationally connected to a legitimate aim, whether a less restrictive alternative was available, and whether the restriction strikes a fair balance between the right and the public interest sought to be secured. This framework prevents the exception from swallowing the rule, ensuring that restrictions remain the exception rather than the norm.

XII. CONTEMPORARY DEVELOPMENTS

In recent years, the scope of Fundamental Rights has continued to expand through judicial interpretation, particularly in matters concerning technology, personal autonomy, and privacy. The

¹⁵*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

¹⁶*Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

¹⁷INDIA CONST. art. 13, § 2.

recognition of a fundamental right to privacy has had significant ramifications for the regulation of biometric identification systems, digital surveillance, and data protection legislation.¹⁸ These developments illustrate the enduring vitality of Part III as a living instrument capable of responding to challenges unforeseen by the original framers of the Constitution.

XIII. CONCLUSION

The Fundamental Rights have a place of pre-eminence in the constitutional structure of India. Instead of being just a dead letter that has its meaning fixed when it was adopted, the Fundamental Rights have been continuously enriched over decades of judicial interpretation. The journey of Fundamental Rights in India from the narrow interpretation in *Gopalan* case to the more expansive interpretation started by *Maneka Gandhi* case, from the supremacy of Parliament to the Basic Structure Doctrine is reflective of the ongoing struggle between individual freedom and collective governance. In view of the challenges which the country faces in technology, social justice and governance, the Fundamental Rights are indispensable in the constitutional democracy of India.

¹⁸Justice K.S. Puttaswamy (Retd.) v. Union of India, (2019) 1 SCC 1 (Aadhaar judgment).