



Fundamental Rights in India : A Review

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Abstract : Fundamental Rights are the basic rights of the common people and inalienable rights of the people who enjoy it under the charter of rights contained in Part III(Article 12 to 35) of Constitution of India. It guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies, such as equality before law freedom of speech and expression, religious and cultural freedom and peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. Violation of these rights result in punishments as prescribed in the Indian Penal Code or other special laws, subject to discretion of the judiciary. The Fundamental Rights are defined as basic human freedoms that every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste or gender. Though the rights conferred by the constitution other than fundamental rights are equally valid and their enforcement in case of violation shall be secured from the judiciary in a time consuming legal process. However, in case of fundamental rights violation, Supreme court of India can be approached directly for ultimate justice per Article 32. The Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man.

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As we have seen, rights are claims that are essential for the existence and development of individuals. In that sense there will a long list of rights. Whereas all these are recognized by the society, some of the most important rights are recognized by the State and enshrined in the Constitution. Such rights are called fundamental rights. These rights are fundamental because of two reasons. First, these are mentioned in the Constitution which guarantees them and the second, these are justifiable, i.e. enforceable through courts. Being justifiable means that in case of their violation, the individual can approach courts for their protection. If a government enacts a law that restricts any of these rights, it will be declared invalid by courts. Such rights are