



Novel Insights, An International Journal of Multidisciplinary Studies

A Peer-Reviewed Quarterly Research Journal

ISSN: 3048-6572 (Online) ISSN: 3049-1991 (Print)

Volume-I, Issue-III, February 2025, Page No.137-153

Published by Uttarsuri, Sribhumi, Assam, India, 788711

Website: <http://novelinsights.in/>

DOI: 10.69655/novelinsight.vol.1.issue.03W.015



Fundamental Rights in The Indian Constitution And Modern-Day Challenges

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Received: 09.02.2025; Accepted: 26.02.2025; Available online: 28.02.2025

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Abstract

The Fundamental Rights enshrined in the Indian Constitution play a crucial role in protecting the rights and freedoms of its citizens. The Fundamental Rights hold immense significance as they form the bedrock of individual liberties and provide the framework for a just and equitable society. The Indian Constitution, adopted in 1950, includes a comprehensive set of Fundamental Rights that guarantee citizens various liberties such as equality before the law, freedom of speech and expression, protection against discrimination, and the right to life and personal liberty. These rights were influenced by India's struggle for independence and the need to rectify historical injustices. Fundamental Rights play a leading role in upholding the principles of democracy. They establish a balance of power between the state and its citizens, preventing possible abuse of authority. This abstract delves into the importance of Fundamental Rights in the Indian context, highlighting their historical context, types of Fundamental Rights, role in safeguarding democracy, impact on socio-economic progress, modern-day challenges, and conscience summary of significant cases relating to Fundamental Rights.

Keywords: Constitution, Constitutional Remedies, Equality, Fundamental Rights, Landmark Cases.

Introduction: India became an independent country on August 15, 1947. The Constituent Assembly was established on December 6, 1946, and came into force on January 26, 1950. The soul of the Constitution of India is depicted through the Preamble of the Constitution, which affirms India as a sovereign state that is not under the control of any other power. Socialist means equal distribution of country resources to citizens and Secular means a country that does not bind itself to any religious faith. The preamble also emphasizes securing its citizen's Justice, Liberty, Equality, and Fraternity to all nationals through

Fundamental Rights, Directive Principles, and Fundamental Duties. The source of Fundamental Rights is from the principles of England's Bill of Rights (1689), the United States Bill of Rights (1789), and the French Declaration of Man's Rights (1789).

The Indian Constitution provides the basic framework through which people and citizens are governed. The Constitution grants certain rights to citizens; these are elementary human freedoms that are required by every citizen of the country, to enjoy appropriate living standards in a harmonious developing society. These freedoms are vital for individual holistic advancement and the betterment of the community. Fundamental Rights are designed to protect individuals from any state arbitrary action; even some rights are enforceable against persons in violation.

The Fundamental Rights enshrined in the Indian Constitution are a set of essential rights and freedoms guaranteed to every citizen of India. These rights are considered fundamental, as they are deemed essential for the growth, development, and overall well-being of the individual. The idea of Fundamental Rights draws inspiration from various sources, including the Universal Declaration of Human Rights, and reflects the core values of justice, liberty, equality, and fraternity that the Indian Constitution seeks to uphold. These rights are not absolute; they are subject to certain limitations to balance individual liberty with collective welfare and the maintenance of public order.

There are six Fundamental Rights and they are free from any form of discrimination based on religion, race, gender, etc. Individuals can invoke these rights if there is any violation of them. Fundamental Rights are enshrined in Part III of the Constitution of India. It is also known as the 'Magna Carta' of the Indian Constitution.

Objective Of The Study: The following are some objectives of the study:

- 1) To study the detailed constitutional provisions related to the Fundamental Rights.
- 2) To understand its nature.
- 3) To analyze the implications of the rights provided.
- 4) To evaluate the rights in their true perspectives.
- 5) To understand its significance in our parliamentary democratic setup.
- 6) To study the several freedoms in the light of case studies.

Historical Perspectives: The inclusion of Fundamental Rights in the Indian Constitution is rooted in a historical context that includes the struggle for independence, the influence of international human rights principles, and the commitment to social justice. The framework of these rights was driven by the collective desire of the Indian people to secure individual liberties and establish a just and equitable society. The Indian independence movement, characterized by the efforts of leaders such as Mahatma Gandhi and Jawaharlal Nehru, emphasized the importance of civil liberties and human rights. The demand for Fundamental Rights was intertwined with the larger struggle against British colonial rule, as Indians sought freedom from oppressive rule. Post-World War II witnessed the formulation of international declarations and treaties that emphasized human rights. The United Nations Universal Declaration of Human Rights (1948) played an important role in shaping the

discourse around individual freedom and equality worldwide. India's leaders were influenced by these principles and tried to incorporate them into the country's legal framework. The Constituent Assembly of India, tasked with drafting the Constitution, engaged in a detailed debate on the inclusion of Fundamental Rights. Dr. B.R. Ambedkar, the chairperson of the drafting committee, argued passionately for these rights, highlighting their importance in protecting citizens from potential abuses of state power. The framers of the Indian Constitution recognized the importance of protecting individual liberty and social justice.

Consequently, Part III of the Constitution was devoted to Fundamental Rights, with articles specific to these rights and their limitations. The rights included in this section were carefully chosen to reflect the diverse needs of a society characterized by cultural, religious, and social diversity. While there was broad consensus on the need for Fundamental Rights, there is also discussion about the need to balance collective welfare with individual freedom. The debates centered on striking a harmonious balance that would prevent the misuse of rights while preserving the overall social fabric. The Constitution provides for the enforcement of Fundamental Rights through the judiciary. Citizens can go to court if they believe their rights have been violated, making the judiciary a key protector of these rights. The Indian judiciary has played an important role in interpreting and expanding the scope of Fundamental Rights. Landmark judgments have contributed to the evolution of these rights and their applicability in different contexts.

Types Of Fundamental Rights: Fundamental Rights are primary human rights that are guaranteed to every citizen in a country. These rights are usually enshrined in a country's Constitution and serve as the foundation of individual liberty, equality, and dignity. While the specific types of Fundamental Rights may vary from country to country, I can give you a brief overview of the types commonly found in many democratic constitutions.

- 1) **Civil Rights:** These rights pertain to an individual's liberty and include freedoms such as freedom of speech, freedom of religion, freedom of expression, freedom of assembly, and freedom of the press. These rights ensure that individuals can express themselves and engage in activities without undue government interference.
- 2) **Equality Rights:** Equality rights guarantee that all persons are treated equally under the law and are protected from discrimination based on race, gender, religion, caste, or other characteristics. These rights ensure fairness and prevent unfair treatment.
- 3) **Social Rights:** Social rights focus on ensuring a basic standard of living and well-being for all citizens. These rights may include access to education, healthcare, housing, and social security. They aim to address socio-economic inequality and promote the welfare of citizens.
- 4) **Cultural and Educational Rights:** These rights ensure that individuals have the freedom to preserve and expand their cultural, linguistic, and educational identity. They might include the right to education in one's language, the right to cultural expression, and the right to access educational institutions.

- 5) **Economic Rights:** Economic rights encompass the rights related to property ownership, labor rights, and the ability to pursue economic opportunities. They help individuals participate in the economic life of the country and protect them from arbitrary confiscation of their property.
- 6) **Political Rights:** These rights relate to political participation and engagement. These include the right to vote, the right to hold public office, and the right to participate in the democratic process. These rights are crucial for citizens to have a say in their country's governance.
- 7) **Environmental Rights:** Environmental rights are recognized as fundamental rights in some constitutions. These rights highlight the importance of a healthy environment and the obligation of both citizens and governments to protect and preserve the natural world.
- 8) **Right to Privacy:** The right to privacy ensures that individuals have control over their personal information and functions. It protects individuals from unwanted intrusions by the government or other agencies into their private lives.

Salient Features of Fundamental Rights: The following are some of the features of Fundamental Rights enshrined in the Constitution of India:

1. The Indian Constitution guarantees and protects Fundamental Rights.
2. The Parliament has the power and authority to restrict Fundamental Rights on reasonable grounds, however, such restrictions can only be made for a fixed period. The judiciary will review for reasonableness the basis on which the Fundamental Rights are limited by the parliament. Therefore, Fundamental Rights are not absolute or sacrosanct.
3. Fundamental Rights may be suspended in the case of a national emergency, however, the rights guaranteed under Articles 20 and 21 will still apply. In case of military rule, Fundamental Rights may be restricted in any area within the Indian Territory.
4. The Constitution of India enables a person to approach the Supreme Court of India directly to enforce their Fundamental Rights in case of violation or restriction. The Fundamental Rights are thus justifiable.

Amenability Of Fundamental Rights: The Supreme Court in *Kesavananda Bharati's* case, (1974) held that the Parliament can amend any part of the Constitution including all the Fundamental Rights under the Doctrine of the fundamental structure of the Constitution. The Supreme Court has specifically defined what does not entail the basic structure nor did it mention any exhaustive list regarding the contents of the basic structure of the Constitution. The Supreme Court, however, said that only additions can be made to the basic structure and no deletions will be allowed. The Supreme Court in a catena of judgments has held that the following provisions are a part of the basic structure of the Constitution:

1. Sovereignty of India
2. Democracy
3. Secularism

4. Republic
5. Free and fair elections
6. Judicial review, etc.

Doctrine Of Severability: The doctrine of alienation is also known as the ‘Doctrine of Severability’. It protects our Fundamental Rights. It is stated in **Article 13(1)** of the Constitution that all laws in force in India implemented before the commencement of the Constitution shall remain in force. However, the extent to which they conflict with Fundamental Rights will the degree of such irregularity void. In simple terms, the entire law would not be held invalid or void, only the part of the law, that is inconsistent with the Fundamental Rights, shall be held void or invalid.

Doctrine Of Eclipse: The doctrine of preemption is applied when one provision of law overrules another provision and as the name suggests this doctrine is applied when a statute or a law ignores or is inconsistent with Fundamental Rights. Under this doctrine, Fundamental Rights supersede inconsistent laws or acts, thereby rendering them unenforceable, but are not abrogated ab initio. Such a law or act can be reinforced if the limitations established by the Fundamental Rights are removed.

Universal Declaration Of Human Rights (Udhr): The most eminent document in this framework is the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948. The UDHR outlines a set of fundamental human rights and freedoms that are considered universal and applicable to all people, regardless of their nationality, ethnicity, religion, or any other characteristic. The UDHR covers a wide range of rights, including civil, political, economic, social, and cultural rights. Some of the important principles and rights enshrined in the UDHR include:

1. **Right to life, liberty, and security:** Everyone has the right to life, liberty, and security of person.
2. **Freedom of expression:** Everyone has the right to freedom of thought, conscience, religion, and expression.
3. **Right to equality:** All persons are equal before the law and are entitled to equal protection of the law without discrimination.
4. **Freedom from torture and inhuman treatment:** No one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.
5. **Right to education:** Everyone has the right to education. Education shall be free, at least in the elementary and basic stages.
6. **Right to work and fair wages:** Everyone has the right to work, to free choice of employment, and to just and favorable conditions of work. Everyone who works has the right to fair and favorable wages.
7. **Right to health:** Everyone has the right to a standard of living adequate for the health and well-being of oneself and one’s family, including food, clothing, housing, and medical care.
8. **Right to political participation:** Everyone has the right to take part in the government of their country, directly or through freely chosen representatives.

9. **Right to privacy:** No one shall be subjected to arbitrary interference with their privacy, family, home, or correspondence.
10. **Right to asylum:** Everyone has the right to seek and enjoy in another country from persecution.

Constitutional Provisions: The Fundamental Rights in the Indian Constitution are enshrined in Part III, specifically Articles 14 to 32. The Constitution guarantees six Fundamental Rights to Indian citizens as follows:

1. Right to Equality,
2. Right to Freedom,
3. Right against Exploitation,
4. Right to Freedom of Religion,
5. Cultural and Educational Rights,
6. Right to Constitutional Remedies.

These rights are Fundamental because of two reasons. First, these are mentioned in the Constitution, which guarantees them; and second, these are justifiable means that in case of their violation, the individual can approach courts for their protection. If a government enacts any law that restricts any of these rights, it will be declared invalid by the court. These rights ensure that individuals have certain essential freedoms and protection, and they are designed to promote equality, justice, and human dignity. Here is an overview of key provisions of Fundamental Rights in the Indian Constitution.

Right To Equality (Articles 14-18):

Article 14 – Equality before the law

- Article 14 considers all individuals the same in the eyes of the law.
- This Article states that all citizens of India must be treated equally before the law.
- The said Article further states that the law protects everybody equally.
- Under similar circumstances, the law must treat people in the same manner.

Article 15 – Prohibition of discrimination:

This provision of the Indian Constitution prohibits any form of discrimination. Based on the grounds of religion, race, place of birth, caste, or gender, if any citizen is subjected to any disability, restriction, liability, or condition about –

- Public places access;
- Use of public properties such as tanks, ghats, wells, etc that are maintained by the state or that are intended for the use of the general public;
- The aforementioned Article also states that special provisions can be created for women, children, and the backward classes notwithstanding this Article.

Article 16 – Equal opportunity in government employment:

- This Constitutional provision provides equal employment opportunity to all in state service.

- In the case of public employment, no citizen must be discriminated against or appointed based on the grounds of religion, caste, race, gender, place of birth, residence, or descent.
- Exceptions to the said Article may be made to provide special provisions for backward classes.

Article 17 – Abolition of untouchability:

- The aforementioned Article strictly prohibits the practice of untouchability.
- This Article has untouchability abolished in all forms.
- In case any disability or dispute arises due to untouchability then it is considered an offence.

Article 18 – Abolition of titles:

- The said Article abolishes titles. It states that the state shall not confer any title.
- However, those titles, that are academic or military, shall be allowed.
- The said article further prohibits the citizens of India from accepting any kind of title from a foreign country. This article also abolishes the titles that were awarded by the then-British government such as Rai Bahadur, and Khan Bahadur.
- Awards such as Padma Shri, Padma Bhushan, Padma Vibhushan, Bharat Ratna, and military honors like Ashok Chakra, and Param Vir Chakra shall not be considered under this category.

Right To Freedom (Articles 19-22): The following Articles of the Constitution deal with the Fundamental Right to freedom.

Article 19: Article 19 guarantees the following six freedoms. They are:

Article 19(1) (a) – Freedom of speech and expression: This provision guarantees freedom of speech and expression to every citizen of India. However, the law may impose restrictions on the scope of this freedom considering the interests of the integrity, security, and sovereignty of the country. The exceptions further include- friendly relations with foreign nations, maintaining public order, regarding the incitement to an offense, defamation, or contempt of court.

Article 19(1) (b) – Freedom to assemble: This provision guarantees everyone the freedom of peaceful assembly without arms. However, reasonable restrictions may be imposed having regard to the interests of the sovereignty and integrity of the country and to maintain public order.

Article 19(1) (c) – Freedom to form associations or unions or co-operative societies: This provision allows citizens of India to form associations, unions, or cooperative societies but with certain exceptions considering the integrity of the country and the maintenance of security and public order.

Article 19(1) (d) – Freedom to move freely: This provision states that citizens of India can move freely throughout the territory of India. However, this freedom may be restricted for reasons of security, public order, or to protect the interests of Scheduled Tribes.

Article 19(1) (e) – Freedom of residence: This provision states that all citizens of India have the right to reside in any part of the country. However, this freedom may be restricted for reasons of security, public order, or to protect the interests of Scheduled Tribes.

Article 19(1) (g) – Freedom of profession: This provision states that all citizens have the right to carry on any trade profession or occupation if such trade profession or occupation is not illegal or immoral. In addition, the law does not prohibit the State from making laws related to technical or professional qualifications that are required for practicing the occupation or trade.

Article 20- Protection of citizens in case of conviction for offenses: This provision deals with the protection of citizens in respect of conviction for offenses. It mentions three kinds of protections for the individual against the State. They are retroactive criminal law, double jeopardy, and prohibition against self-incrimination.

Article 21 – Right to Life: This provision states that no person shall be deprived of his life and personal liberty by the State except in the manner prescribed by law. The right to life is not just about survival; it says that a person must lead a dignified life. The said Article has a very wide scope and its interpretation has been continuously developed over decades.

Article 21A – Free education for children aged 6-14 years: The 86th Constitutional Amendment Act 2002 inserted this provision in the Constitution. It states that the State must provide free and compulsory education to all children between the ages of 6 to 14.

Article 22 – Protection against arrest and detention in certain cases: This provision extends to both citizens and non-citizens. It gives people some procedural protections in case of arrest. It is to be noted that this provision is not a Fundamental Right against detention and arrest. This right aims to prevent arbitrary arrest and detention. This provision does not cover persons arrested under preventive detention laws and enemy aliens. This article further provides the following:

Article 22(1) – This provision states that any person in custody must be informed of the reasons for his arrest. In addition, they must not be denied the right to consult a lawyer.

Article 22(2) – This provision states that the arrested person must be produced before a judicial magistrate within 24 hours of the arrest. The provision also provides that no person who has been arrested shall be kept in custody for a period longer than the time fixed by the Judicial Magistrate.

Right Against Exploitation (Articles 23-24):

Article 23 – Prohibition of traffic in human beings and forced labor:

This provision is further divided into:

Article 23(1) – Human trafficking and beggar and other such forms of forced labor are prohibited under this provision and any kind of violation of this provision shall be a punishable offense under the law.

Article 23(2) – Nothing in this article shall prevent the state from imposing compulsory public service, and in imposing such service the state shall not discriminate because of religion, race, caste, class, or any of them.

This provision protects not only citizens of the State but also the private citizens. Certain laws were passed by the Parliament about this provision, they are- the Bonded Labor System (Abolition) Act, 1976, and the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Article 24 – Prohibition of employment of children in factories, etc.: This provision states that no child below the age of 14 shall be employed to work in any factory or mine or any other hazardous employment. This provision prohibits the employment of children below 14 years in any hazardous industry, factory, or mine without any exception. However, the employment of children in non-hazardous work is legally permitted. Certain laws were passed by the Parliament about this provision; they are – the Factories Act of 1948, The Mines Act of 1952, The Child Labor (Prohibition and Regulation) Act of 1986, The Child Labor (Prohibition and Regulation) Amendment Act of 2016, etc.

Right To Freedom Of Religion (Articles 25-28)

Article 25 – Freedom of conscience and free profession, practice, and propagation of religion: This provision guarantees the freedom of conscience, and the freedom to profess, practice, and propagate one's religion to all citizens. However, the said freedom is subject to public order, health, and morality. This article also states that the State can make laws to regulate or restrict financial, economic, political, or other secular activities related to religious practice. It allowed for further social welfare and reforms or the opening of Hindu religious institutions of a public nature to all sections and classes of Hindus.

Article 26 – Freedom to conduct religious affairs: This provision states that concerning morality, health, and public order, every religious community has the following rights–

- The right to form and maintain institutions for religious and charitable intents.
- The right to manage its affairs in the matter of religion.
- The right to acquire immovable and movable property.
- The right to administer such property according to the law.

Article 27 – Freedom to pay taxes for propagation of any particular religion: As per this provision, no taxes shall be imposed on such proceeds, which are directly used for the promotion and maintenance of any particular religion or religious denomination.

Article 28 – Freedom to attend religious instruction or religious worship in specified educational institutions: This provision enables the establishment of educational institutions maintained by religious groups to impart religious instruction.

Cultural And Educational Rights (Articles 29-30)

Article 29 – Protection of minority interest: This provision of the Constitution aims to protect the interests of minority groups.

Article 29(1) – This provision states that any section of the citizens residing in India having a distinct culture, language, or script, have the right to preserve their culture, language, and script.

Article 29(2) – This provision stipulates that the State must not deny admission to any person based on the grounds of race, religion, caste, language, or any of them in educational institutes run by it or institutions receiving aid from it.

Article 30 – Right of minorities to establish and administer educational institutions: This right is given to minorities to establish and govern their educational institutions. This is why the said provision is also known as the Right to Education Charter.

Article 30 (1) – This provision states that all religious and linguistic minorities have the right to establish and run educational institutions of their choice.

Article 30 (2) – This provision provides that the State while granting aid to educational institutions shall not discriminate against any educational institution under the management of a minority, whether based on religion or language.

Right To Constitutional Remedies (Article 32)

Article 32 – The Constitution guarantees certain remedies if the Fundamental Rights of the citizens are violated. The State does not have the power or authority to infringe upon or curb the rights of any individual. If these rights are violated, the aggrieved person can go to the court. They can even directly approach the Supreme Court of India, which can issue writs to enforce Fundamental Rights. Five kinds of writs can be issued by the court, they are:

Habeas Corpus: The term Habeas Corpus means, ‘To have the body of’. According to this writ, the court has the right to summon any person being detained to assess the legality of their detention.

Certiorari: The term Certiorari means, ‘To be certified’. Under this writ, a higher court reviews a case that has been tried in a lower court. It is employed to seek judicial review of a decision given by a court or a government authority.

Prohibition: The writ of Prohibition is issued by a court to restrict or prohibit the lower courts, tribunals, and other quasi-judicial authorities from acting outside their legal authority. It is employed to check inaction whereas the writ of Mandamus checks activity.

Mandamus: The term Mandamus means, ‘We command’. This writ is issued by the court to direct a public official who has failed or refused to perform his duties to resume his work. The writ of Mandamus is also issued against a public body, a lower court, a corporation, a tribunal, or a government.

Quo Warranto: The word Quo Warranto means, 'By what authority or warrant'. The Supreme Court or High Courts use this writ to prevent illegal usurpation of a public office by a person. The writ of Quo Warranto empowers the court to examine the validity of a person's claim to a public office.

Importance Of Fundamental Rights: Fundamental Rights play an important role in the functioning of a democratic society and in maintaining the dignity, freedom, and well-being of individuals. Their importance lies in several important aspects:

1. **Protection of individual liberties:** Fundamental Rights ensure that individuals have the freedom to express themselves, practice their religion, assemble peacefully, and engage in various activities without fear of government interference or oppression. These rights provide a shield against arbitrary actions by the State and promote individual autonomy.
2. **Preservation of human dignity:** Fundamental Rights recognize the inherent dignity of every human being. They prohibit practices that violate an individual's dignity; such as torture, inhuman treatment, and discrimination. By upholding these rights, societies affirm the intrinsic value of each person.
3. **Rule of law:** Fundamental Rights are usually enshrined in a country's constitution or legal framework. It establishes a framework of laws that applies equally to all citizens, including those in positions of power. The rule of law ensures that even the government must operate within defined limits and cannot infringe upon citizen's rights without due process.
4. **Democracy and political participation:** Fundamental Rights empower citizens to participate in the democratic process by providing them with the right to vote, stand for office, and freely express their opinions. These rights promote a diversity of voices and perspectives, which are essential for informed decision-making and accountable governance.
5. **Social justice:** Fundamental Rights often include provisions aimed at promoting social justice. They guarantee access to education, healthcare, housing, and other basic needs, helping to reduce inequalities and improve the overall well-being of citizens.
6. **Prevention of abuse of power:** Fundamental Rights serve as a check on government power. They restrict the state from arbitrarily depriving citizens of their rights and prevent abuses of authority. Citizens can challenge government actions that violate their rights through legal means.
7. **Cultural and individual identity:** Fundamental Rights protect an individual's right to their cultural, linguistic, and educational identity. This fosters cultural diversity and encourages the preservation of unique traditions and languages.
8. **Conflict resolution:** By establishing clear legal frameworks for addressing disputes and grievances, Fundamental Rights contribute to maintaining social harmony and preventing conflicts that might arise from violations of individual rights.

9. **Promotion of tolerance and inclusion:** Fundamental Rights encourage tolerance and inclusivity by preventing discrimination and ensuring that all individuals are treated fairly and equitably, regardless of their background, beliefs, or characteristics.
10. **Global human rights standards:** Fundamental Rights align with international human rights standards, promoting a global consensus on the principles that should govern the treatment of individuals and the responsibilities of governments.

Conscience Overview Of Landmark Cases Relating To Fundamental Rights:

A. K. Gopalan v. State of Madras (1950): In this case, A. K. Gopalan filed a petition under Article 32 seeking a writ of habeas corpus against his detention. Later, he was prohibited from disclosing the grounds based on which he was detained since Section 14 of the Preventive Detention Act of 1950 prohibited such disclosure in court. Consequently, he contends that such detention violates Articles 14, 19, and 21 of the Constitution, and further, the provisions of the Act violate Article 22 of the Constitution.

This case led to the landmark judgment of the Supreme Court of India wherein the Hon'ble Court held that Article 21 of the Constitution should not require the Indian courts to apply the due process of the standard of law. Further, the Hon'ble Court upheld the validity of the Preventive Detention Act, 1950 except Section 14, which provides that the reasons for the detention of the detainee or any representation made by him against such reasons shall not be disclosed to the court.

Shankari Prasad v. Union of India (1952): In this case, the Constitutional validity of the First Amendment of 1951, which curtailed the property right, was challenged. In this case, it was challenged that Article 13 regarding Articles 31A and 31B does not allow amendments that curb the Fundamental Rights of the citizens. It was held by the Supreme Court that the power to amend the Constitution under Article 368 also includes the power to amend Fundamental Rights.

Golak Nath v. State of Punjab (1967): In this case, Golak Nath and his family claimed more than 500 sections of land in Punjab. Meanwhile, the state government made an enactment namely, the Punjab Securities and Land Tenures Act, 1950 under which Golak Nath and his family were only allowed to keep an excess of 30 sections of land and not more than that. As a result, Golak Nath filed a writ petition under Article 32 of the Indian Constitution questioning the legitimacy of the enactment and further stating that his fundamental property right was being violated. The question before the Supreme Court was whether the Parliament could revise the Fundamental Rights mentioned under Part III of the Constitution of India or not. The Court ruled that Parliament does not have the power to abrogate the Fundamental Rights of the Constitution.

Kesavananda Bharati v. State of Kerala (1973): In this case, the aforementioned Golaknath case is reviewed. It was held by the Court that the 'basic structure' of the Constitution could not be amended. The Supreme Court through its 7:6 judgments had ruled

that the Parliament has no powers or the authority to alter the basic structure of the constitution.

Indira Nehru Gandhi v. Raj Narain (1975): This case dealt with an election dispute involving the then Prime Minister Indira Gandhi with the object of the 39th Amendment of the Constitution. The primary question involved in the case was the validity of the clause of the 39th Constitutional Amendment Act of 1975. The Supreme Court, in this case, added certain features as basic features; such as the rule of law, democracy, and judicial review, to the list of basic features already existing in the Kesavananda Bharati case.

ADM Jabalpur v. Shivkant Shukla (1976): Also known as, the ‘Habeas Corpus’ case during the emergency, this case challenged the suspension of the right to move to the court for the enforcement of the right to personal liberty under Article 21. The Supreme Court ruled that during the emergency, citizens could not approach the court for the enforcement of their rights, a decision that was widely criticized and later overruled.

Maneka Gandhi v. Union of India (1978): In this case, Maneka Gandhi’s passport was impounded in the public interest. The Government refused to provide any details in the interests of the public when the reasons for impounding her passport were asked. Consequently, Maneka Gandhi filed a writ petition under Article 32 alleging that the government’s action violated Articles 14, 19, and 21 of the Constitution. The government said that his passport was confiscated because his presence may be required for some legal proceedings before the Commission of Inquiry. The Supreme Court has held that a procedure under Article 21 of the Constitution must be free from arbitrary, unfair, oppressive, or unreasonable aspects.

Minerva Mills Ltd. and Ors. v. Union of India and Ors. (1980): In this case, the Supreme Court provided some clarification regarding the interpretation of the basic structure doctrine. The Court said that Parliament’s power to amend the Constitution is limited. Therefore, the parliament cannot exercise such limited power as confers unlimited power on itself to amend the Constitution. Thus, the Parliament cannot take away the Fundamental Rights of individuals. The judgment in this case also struck down Sections 4 and 5 of the 42nd Amendment Act of 1976 during the emergency issued by Prime Minister Indira Gandhi.

S.R. Bommai v. Union of India (1994): This case dealt with the misuse of Article 356 (President’s Rule) by central governments to dismiss state governments. The Supreme Court established that the power under Article 356 is subject to judicial review and can only be exercised in exceptional circumstances.

Vishakha v. State of Rajasthan (1997): This case played a pivotal role in recognizing and addressing sexual harassment in the workplace. The Supreme Court formulated guidelines to prevent and redress sexual harassment, laying the foundation for a safe working environment for women.

Puttaswamy (Privacy) v. Union of India (2017): Often referred to as the ‘Right to Privacy’ case, this landmark judgment declared that the right to privacy is a Fundamental Right guaranteed under Article 21 and other related articles. This case significantly broadened the interpretation of Article 21.

Modern-Day Challenges Associated With Fundamental Rights:

The Fundamental Rights play a vital role in the democracy and rights of citizens. But they have been criticized for many reasons.

1. Terms like the security of State, public order, mortality, reasonable restrictions, and in the interest of public order have huge implications associated with these terms and affect in numerous manners to citizens. However, these terms are not well explained in the Constitution of India. At certain times due to being unaware of the implications of these terms States or certain groups of associations or people take advantage. Hence results in misguiding, or infringement rights of other people.
2. Citizens do not utilize their Fundamental Right viz right to vote. As a result, people become puppets in the hands of political parties and are used as instruments to create nuisance and disturb public peace. The Constitution has given parliament power to make law under Article 32, if people had wisely used their right to vote it would lead to the right kind of people holding positions in legislation. Good leaders in the interest of the country take majority in parliament.
3. The new digital media is also affecting a wide range of Fundamental Rights. Changes in freedom of speech and information in the new digital world after the pandemic have drastically changed the meaning of certain Fundamental Rights. This situation has both pros and cons if we see the case of danger to freedom of the press, many journalists have received death threats whereas few like Gauri Lankesh have lost life.
4. The worst utilized is the Fundamental Rights specified under Article 19. The Freedom to Assemble, Article clearly states that people are free to assemble peaceably without any arms. But we have regularly observed as a trend that this right has been misused during various agitations or protests.
 - Anti-Reservation Protest 2006,
 - Jan Lokpal Bill 2011,
 - Jallikattu Protest Tamil Nadu 2017,
 - CAB 2019,
 - Farmers Bill Protest 2020,
 - Gujjar Andalon 2020 etc.

All these are just peaceful protests until it is not harming the daily lives of people. But these agitations become violent and start causing damage to public and private property. This is an upfront breach of the Fundamental Rights of people and attracts Criminal Law Provisions as much agitation leads to acts endangering the lives of people.

5. The Fundamental Right to speedy justice is being violated due to a large number of pending cases, As Justice delayed is Justice Denied, is a legal maxim, which means

that the victim is victimized by a delay in action taken by the judiciary. Numerous fake and original litigations have overburdened the judicial system and affected efficient working. Finally caused damage to the rights of citizens to timely delivery of justice.

6. Another challenge is the violation of Article 24 regarding child labor. According to the Constitution, employment of child labor in hazardous job environments is prohibited. However, at all levels government and administration services are not able to curb this ill practice. This act leads to an insecure future for youth and exploitation in other sectors. Many family's children are also earning members in the family to earn daily living. As per the last survey (Census 2011) 10.2 million children between the age group, 5-14 are maximum engaged in agriculture, domestic help, and other allied activities.

All of the above are situations where Fundamental Rights are compromised on some or the other grounds.

Suggestions:

- **Public awareness and education:** Promote awareness about Fundamental Rights through education and public campaigns. Enhance civic education to ensure that citizens are informed about their rights and the importance of upholding them.
- **Legal literacy:** Focus on improving legal literacy among citizens, especially marginalized communities. This can empower individuals to better understand their rights and seek appropriate legal recourse when needed.
- **Effective implementation:** Strengthen the implementation of Fundamental Rights by ensuring that government agencies, law enforcement, and the judiciary are well-equipped to protect and uphold these rights.
- **Access to justice:** Enhance access to justice for all citizens, particularly for those who are economically disadvantaged. This includes providing legal aid services and simplifying legal procedures.
- **Amendment and reform:** Regularly review and update Fundamental Rights to reflect changing societal norms and challenges. This might involve amending certain rights to better address modern concerns.
- **Balancing rights and responsibilities:** Emphasize the importance of balancing rights with responsibilities. Citizens should be aware that exercising their rights should not infringe upon the rights of others or harm society as a whole.
- **Address socio-economic inequalities:** While civil and political rights are crucial, attention must also be given to socio-economic rights. Strive to reduce disparities in access to education, healthcare, housing, and employment.
- **Protection of vulnerable groups:** Strengthen the protection of rights for vulnerable groups, including women, children, religious minorities, and indigenous communities.
- **Technology and privacy:** Update and interpret Fundamental Rights to address emerging challenges related to privacy, surveillance, and data protection in the digital age.

- **International standards:** Align Fundamental Rights with international human rights standards and best practices. This can enhance India's global reputation and promote a culture of human rights.

Conclusion: The Fundamental Rights in India play an important role in protecting the rights and freedoms of its citizens. Enshrined in Part III of the Indian Constitution, these rights ensure that every individual is treated with dignity, equality, and respect. They serve as a foundation for a just and equitable society and are essential for upholding the principles of democracy and the rule of law. The Indian judiciary has played a significant role in interpreting and expanding the scope of these rights, ensuring that they are upheld and protected. The Fundamental Rights are not absolute and are subject to reasonable restrictions in certain circumstances, such as protecting public order or preventing discrimination. The Fundamental Rights in India reflect the commitment of the country to creating a just and inclusive society. They empower citizens to lead a life of dignity and freedom while enabling them to participate actively in the democratic process.

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