

Bill of Rights: -

The enactment of Bill of Rights was necessary in our constitution, because of historical and political development of India. Bill of rights includes those rights which are essential for an individual's existence. These rights are also known as Fundamental Rights. The Fundamental Rights of an individual can be ensured in democratic system only. We need the fundamental rights by virtue of being human because:

- i) These rights are unavoidably essential for complete growth of an individual's personality, and, in absence of these moral and spiritual developments of individual are not possible.
- ii) They are called as Fundamental rights because they are 'basic laws' of nation. These rights are explained in constitution and changing governments cannot play with them according to their whims.
- iii) The fundamental rights are inviolable and executive as well as legislature cannot play with them and provide due respect to them.
- iv) These rights are Justiciable, and, are protected by courts in any case of violation.

The entire operation in the making of Indian constitution was devoted to the fulfillment of goals of justice, Liberty, Equality and Fraternity. This is possible only by providing a system of rights to people of India. Thus, realizing the importance of Fundamental Rights, India after Independence included this "Bill of Rights" in her constitution.

Fundamental Rights Provided By Indian Constitution:-

Part III of Indian constitution i.e. Article 14-32 provides for the following six kinds of fundamental rights:

- i) Right to Equality (Article 14-18)
 - ii) Right to Freedom (Article 19-22)
 - iii) Right to against Exploitation (Article 23-24)
 - iv) Right to Freedom of Religion (Article 25-28)
 - v) Cultural and Education Rights (Article 29-30)
 - vi) Right to constitutional Remedies (Article 32)
- i. **Right to Equality:** - The right to equality is provided in articles 14, 15, 16, 17 and 18. It includes equality before law without any discrimination (Art. 14), establishment of social equality (Art. 15), equality of opportunity in matters of public employment (Art. 16), abolition of untouchability (Art 17) and abolition of titles (Art. 18) to reduce disparity between the people.
- ii. **Right to Freedom:** - Articles 19, 20, 21 and 22 provides to Indian citizens fundamental right of freedom. Article 19 provides freedom of speech, expression, to assemble peacefully without arms, to form association, to move freely in the country, to reside and settle in any part of India and to practice any profession or to carry any occupation, trade or business. These freedoms are for Indian citizens only.

Articles 20, 21 and 22 provide personal liberty to Indian citizens as well as foreigners residing in the country. Article 20 lays down that no person can be convicted unless he had

violated a law, cannot be subjected to a penalty greater than that which was prescribed under law and a convict can be punished for a crime only once and cannot be compelled to be a witness against himself.

Article 21 lays down protection of life, and, personal liberty. It includes personal liberty implying protection against physical torture, confinement and imprisonment.

Article 22, protection against arrest and detention. The person arrested should be informed of the grounds of arrest. He shall have the right to consult and to be defended by a legal practitioner, to be produced before the nearest magistrate within twenty four hours and no person should be detained in custody beyond 24 hours without the permission of Magistrate.

- iii. **Right against Exploitation:** - Article 23 and 24 provides Right against exploitation. Article 23 prohibits human trafficking and forced labour. Article 24 prohibits exploitation of children. It is freedom against child labour.
- iv. **Right to freedom of Religion:** - Articles 25, 26, 27 and 28 deals with right to freedom of religion. Article 25 states freedom of conscience, free profession, practice and propagation of religion. Article 26 provides freedom to manage religious affairs, article 27, freedom as to payment of taxes for promotion of any particular religion and article 28 freedom from religious instruction in government institutions.
- v. **Cultural And Educational Right:** - Article 29 and 30 provide ample opportunity to minority classes to protect and develop their language, script and culture, so that we can maintain in India, principle of 'Unity and Diversity'. This right includes right to admission in State maintained educational institution, compensation on acquisition of property of minority.
- vi. **Right to Constitutional Remedies:** - The constitution has entrusted the task of protecting the fundamental rights to the Supreme Court and High Courts. These courts provide protection through the writs and orders as provided in Article 32
 - a) **Writ of Habeas Corpus:** - This empowers court is issue orders for the production of person/defense before him who is detained. If the person detained feels that his" detention is unlawful, then he or his any representative can move to court against the detention. If court found merit in detention, then a writ is issued to bring detune before court and if there is no merit find by court in detention, then court issues orders of releasing the person.
 - b) **Writ of Mamdamus:** - If an individual or institution fails in performing its duty, then the court orders to perform the duty by issue of the writ of Mamdamus.
 - c) **Writ of Prohibition:** - When a lower court functions without jurisdiction or functions against procedure of law, then the High Court or Supreme Court com prohibit the lower court form doing so. Such a kind of prohibition order issued by a higher court to a lower court is writ of prohibition.

- d) **Writ of Quo Warranto:** - If a person is occupying an office without authority, the court may issue this writ against that person who is unlawfully occupying the office.
- e) **Writ of Certiorari:** - If a person feels that justice is not possible in a court due to lack of its proper composition or that justice has not been done to him, he may move to superior Court. Finding merit in application, the High Court may issue this writ and order lower court for the transfer of entire record so that justice could be done at a higher level.

Fundamental rights can be suspended only in case of national emergency.

Why was Right to Property removed from Fundamental Rights:

Originally, in Indian Constitution there were seven fundamental rights. But right to property was the most controversial issue right from the beginning of the constitution. But by the 44th Amendment Article of 1978, it was deleted from list of fundamental rights and was placed in legal rights.

Before Independence, one of the major causes of the poverty was the Zamindari system. The right to property as a fundamental right after independence became a hurdle regarding the abolition of the Zamindari system. Many Zamindars challenged the constitutionality of the law permitting Zamindari abolition. Under this provision a person could acquire, possess and maintain property. Thus, right to property was removed from list of fundamental rights.

How have the Interpretations by the court influenced Fundamental rights?

The rights of people proclaimed in the Indian constitution are not mere paper declarations. The constitution provides for a machinery to guarantee and enforce these rights in actual practice. The judiciary has been vested with the responsibility to act as the guardian of these rights. Article 32 of the constitution gives Supreme Court authority of safe guarding the fundamental rights and for this court can issue various writs. The Judiciary is thus the protector and the guarantor of fundamental Rights. Moreover, the Constitution of India has placed the responsibility of interpreting the constitution. The interpretation of the provisions of the constitution by court has influenced the fundamental rights.

The 24th Amendment restored Parliament the power to amend any part of the constitution including Fundamental Rights. This was challenged in Supreme Court in the Kesvarama Bharti case. The Supreme Court decided the case on April 24, 1973 and held that parliament had the power to amend all provisions of the constitution, but had no power to change the basic structure of constitution.

DIRECTIVE PRINCIPLES OF STATE POLICY:

The directive Principles of State Policy can be classified into four categories:

a) *Socialistic and Economic Principles:*

- i. Article 38 provides that the state shall strive to promote the welfare of the people by securing and protecting a social order in which justice-social, economic and political shall include all the institutions of the national life.
- ii. The a state shall, in particular, direct its policy towards securing, that citizens should have right to an adequate means of livelihood, equal pay for equal work, operation and control of material resources should be so distributed as to sub serve the common good and children should be protected against exploitation.
- iii. The state shall, in particular, strive to minimize the in equalities in status facilities and opportunities.
- iv. Article 41 and 42 provide that the state shall make effective provisions for securing the Right to work, education and public assistance in case of unemployment, old age, sickness, disablement and of undeserved want and to provide just and humane conditions of work and maternity relief.
- v. Article 43 provides that the state shall endeavour to secure a living wage and decent conditions of work.

b) *Liberal Principles:*

- i. A uniform civil code thought-out the territory of India.
- ii. To bring about the separation of judiciary from the executive.
- iii. To provide, within ten years from commencement of the constitution, free and compulsory education to all children upto the age of 14 years.
- iv. To raise the level of nutrition and the standard of living of people and the improvement of the public health.
- v. The state shall protect every monument, place or object of artistic or historic interest of national importance.

c) *Gandhian Principles:*

- i. The state organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as unit of self-government.
- ii. The state shall endeavour to promote cottage industries on individual and cooperative basis in small areas.
- iii. The state shall promote with special care the educational and economic interests of the weaker sections of the people and Scheduled Tribes in order to protect them from social injustice and any from of exploitation.
- iv. The state shall take steps to secure improvement of public health and to bring about prohibition of the consumption except for medical purposes, of intoxicating drinks and of drugs which are injurious to health.
- v. The state shall take steps to organize agriculture and animal husbandary on modern and scientific lives.
- vi. The state shall take steps for preserving and improving the needs and for prohibition and protection from slaughter of cows and other such cattle.

d) *Principles relating to International Peace and Security:*

- i. The state shall endeavour to promote international peace and security.
- ii. The state will maintain just and honorable relations between nations.
- iii. The state will foster respect for international law and treaty obligation.
- iv. The state will encourage settlement of international disputes by arbitration.

FUNDAMENTAL DUTIES:

The list of “Fundamental Duties” was introduced to Indian constitution by 42nd Amendment, with a new part-IVA including Article 51A. The fundamental Duties as mentioned in the constitution are as follows:

- i. To abide by the constitution and respect its ideals and institutions, the National flag and National Anthem.
- ii. To cherish and follow the noble ideals and institutional struggle for freedom.
- iii. To uphold and protect the sovereignty, unity and integrity of India.
- iv. To defend the country and render national service when called to do so.
- v. To promote harmony and the spirit of common brother hood among all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practice derogatory to the dignity of women.
- vi. To value and preserve the rich heritage in our composite culture.
- vii. To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.
- viii. To develop the scientific temper, humanism and the spirit of acquiring knowledge and reform.
- ix. To safe guard public property and to adjure violence.
- x. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.
- xi. It is the duty of every parent or guardian to provide appropriate opportunity to get education to the child or ward upto the age of 6-14. (86th Constitutional Amendment,2002)

