Human Rights under Indian Constitution

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ABSTRACT

The struggle for Independence was over by 15th August 1947. But the attainment of the independence was not an end itself. It was only the beginning of a struggle, the struggle to live as an independent nation and, at the same time establish a democracy based on the ideas of justice, liberty, equality and fraternity. The need of a new Constitution forming the basic law of the land for the realization of these ideas was paramount. Therefore, one of the first and foremost tasks undertaken by independent India was framing of a new constitution.

Keyword-- concept of Human Rights in India

I. INTRODUCTION

The most important task before the leaders standing on the threshold of freedom was to eradicate problems of backwardness, poverty and illiteracy of the minorities and of the underprivileged weaker section who had for long remained depressed under iniquitous social conditions. It was thus obvious that the course of immediate task lay in the direction of building on integrated society, consolidating the nascent nation state through a participatory political order based on socio-economic justice tangibly realized through political institutionalization, planned economic development and peaceful social transformation.

The tryst to make the India's Constitutions a viable instrument of the Indian people's salvation, and to secure all person's basic human rights, is implicit from the preambular promise, fundamental rights, directive principles, and various other provisions of the constitution. To quote Granville Austin:- "The constitution was to foster the achievement of many goals. Transcendent among them was that of social revolution. Through this revolution would be fulfilled the basic needs of the common man, and, it was hoped, this revolution would bring about fundamental changes in the structure of Indian society." Promulgation of the constitution by the people of India in January 1950 is a watershed in the history of development of the concept of Human Rights in India. The Preamble, Fundamental Rights and the Directive Principles together provide the basic human rights for the people of India. Democratic socialism spelt out in the Preamble and Directive Principles is meant to provide the context in which the fulfillment of fundamental rights has to be achieved. While Fundamental Rights stress on the existing rights, Directive Principles provide the dynamic movement towards the goal of providing Human Rights for all.

The preamble of the Constitution of India declares that the people of India have solemnly resolved to constitute India into a Sovereign, Socialistic, Secular, Democratic, Republic and to secure to all its citizens

Justice – Social, Economic and Political
Liberty – of thought expression, belief, faith and worship
Equality- of status and opportunity, and to promote among them all,
Fraternity- assuring the dignity of the individual and the unity and integrity of the nation.

The preamble to the Constitution is of extreme importance and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the preamble.

The wise founding fathers of our National Charter have given a detailed list of the human rights and incorporated them in the form of Fundamental Rights and Directive Principles under part 3rd and part 4th of our Constitution. Fundamental Rights have been classified as under-

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<th>1.</th>
<th>RIGHT TO EQUALITY</th>
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<td>Article 14</td>
<td>Equality before law</td>
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<td>Article 15</td>
<td>Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.</td>
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Article 16 - Equality of opportunity in matters of public employment
Article 17 - Abolition of untouchability
Article 18 - Abolition of titles

2. RIGHT TO FREEDOM
Article 19 - Protection of certain rights regarding freedom of speech etc.
Article 20 - Protection in respect of conviction for offences
Article 21 - Protection of life and personal liberty.
Article 22 - Protection against arrest and detention in certain cases.

3. RIGHT AGAINST EXPLOITATION
Article 23 - Prohibition of traffic of human beings and forced labour.
Article 24 - Prohibition of employment of children in factories etc.

4. RIGHT TO FREEDOM OF RELIGION
Article 25 - Freedom of conscience and free profession, practice and propagation of religion
Article 26 - Freedom to manage religious affairs
Article 27 - Freedom as to payment of taxes for promotion of any particular religion
Article 28 - Freedom as to attendance at religious instruction or religious worship in certain educational Institutions

5. CULTURAL AND EDUCATIONAL RIGHTS
Article 29 - Protection of interests of minorities
Article 30 - Right of minorities to establish and administer educational institutions

6. RIGHT TO CONSTITUTIONAL REMEDIES
Article 32 - Right to Constitutional Remedies

II. CONCLUSION
The incorporation of a formal declaration of Fundamental Right in part 3rd of the Constitution is deemed to be a distinguishing feature of a democratic state. These rights are prohibitions against the state. The state cannot make a law which takes away or abridges any of rights of the citizens guaranteed in the part 3rd of the Constitution. It must, however be mentioned here that Fundamental Rights are not absolute rights. They are subject to certain restrictions. What is true is that our constitution tries to strike a balance between the individual liberty and the social interests.

The directive principles of state policy enshrined in part IV of the Constitution set out the aims and objectives to be achieved by the states in the governance of the country. Unlike the fundamental rights, these are not justiciable. If the state is unable to implement any provision of part IV, no action can be brought against the state in a law of court, yet the state authorities have to answer for them to the electorate at the time of election. The idea of a welfare state envisaged in our Constitution can only be achieved if the states endeavor to implement them with a high sense of moral duty.

Mere enumeration of a number of Fundamental Rights in a Constitution without any provision for their proper safeguard will not serve any useful purpose. Indeed, the every existence of a right depends upon the remedy for its enforcement. For this purpose an independent and impartial judiciary with a power of judicial reviews has been established under the Constitution of India. It is the custodian of the rights of citizens.

To be brief, the Preamble, the Fundamental Rights and the Directive Principles all are parts of the same constitutional scheme and aim at the establishment of a free and an egalitarian social order based on rule of law where all shall be enabled to enjoy the spirit of Human Rights jurisprudence.

REFERENCE
[7] Ibid, Page 27