

## Indian Constitution: An Analysis of the Fundamental Rights and the Directive Principles

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### ABSTRACT

The purpose of this paper is to provide a critical examination of the Indian Constitution, which was founded on the universal values of freedom, equality, fraternity, and justice. To this end, we have conducted a thorough review of periodicals and publications dealing with Art of the constitution, with a focus on those that demonstrate a firm dedication to principles of egalitarianism, nondiscrimination, and the protection of vulnerable populations. It's also worth noting that the government has the duty under the constitution to guarantee everyone a decent level of living while simultaneously protecting and expanding their rights. It might be assumed that the Indian Constitution guarantees all citizens of India their basic human rights. In this post, I'll be exploring the origins and evolution of India's basic constitutional rules. The article digs into a discussion of methods for realizing the goals set forth in Sections 3 and 4 of the Bill of Rights. Human rights are protected by constitutional provisions that cover a wide range of protections. The right to freedom, the right to be secure from abuse, the right to freely exercise one's religion, the right to participate in and benefit from one's community's cultural and educational offerings, the right to seek redress through the courts, and the right to equal protection under the law are all examples of such rights.

**Keywords:** *Constituent Assembly, Justifiable, Adequate Safeguards, Ex-Post Facto Laws*

The constitution of a nation lays out the fundamental framework of its political system, which governs its citizens. The document establishes the fundamental framework for the state government, consisting of three branches: legislative, executive, and judicial. It delineates the distinct functions, duties, and interactions with the citizenry of each branch. Each constitution is founded upon the political and economic values, religious convictions, and ambitions of the people it governs. It functions as a reflection of the principles and ideals of its

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creators. It is crucial to consider that within a sovereign democratic state, the constitution is formulated by the populace to incorporate and approve a constituent assembly. (Baxi, 1981).

In accordance with the Independence of India Act of 1947, which was enacted by the British Parliament, India attained its independence on August 15th, 1947. The agreement contained a provision that permitted the formation of two distinct dominions, namely Pakistan and India, within the Indian subcontinent. The acquisition of a new global identity was achieved by India and Pakistan. The two recently created states were still governed under the Government of India Act, 1935. The Constituent Assembly, which began meeting on December 9, 1946, drafted the Indian Constitution. Several committees were established by the Constitutional Assembly to prepare the various articles of the Constitution. The committees' recommendations were utilized in the formulation of India's new constitution in February of 1948. The people choose the elected officials who make up the government. Thus, individuals possess the capacity to exercise legal and political supremacy. The statement suggests that individuals are considered to be on a level playing field, irrespective of their racial, religious, linguistic, gender, and cultural backgrounds. (Diwan & Diwan, 1998).

### ***Objectives***

- To examine various sections of the Constitution that support and uphold human rights.
- Analyze the different rights guaranteed by the Constitution critically.

## **REVIEW ON FUNDAMENTAL RIGHTS IN CONSTITUTION**

It is the goal of this study to provide a critical analysis of the constitutional guarantees and underlying concepts that inform Indian governmental policy. However, it determined whether or not citizens in a sovereign nation like India could exercise their fundamental rights.

### ***Human Rights and Debates in the Constituent Assembly***

The convening of a Constituent Assembly in India in 1946 was prompted by the recognition of the Cabinet Mission of the necessity for a codified safeguarding of fundamental rights in the Indian Constitution. With the aim of addressing the matter, a proposal was put forth to establish an advisory committee tasked with presenting a report on the essential rights to the Assembly. The Advisory Committee was established by the Constituent Assembly on January 24, 1947, following the recommendation of the Cabinet Mission plan. The aforementioned organization was under the leadership of Sardar Patel, who held the position of chairman. The committee was tasked with producing a comprehensive report that would delineate the fundamental rights that are deemed essential, the provisions that relate to safeguarding the interests of minority groups, and other pertinent matters that are to be presented to the Assembly. Several subcommittees were formed by the Advisory Committee, one of which was focused on fundamental rights. This particular subcommittee was headed by Acharya Kripalani. These lists contained a wide spectrum of rights, both positive and negative, acquired from local and foreign sources. They

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were thorough and extensive; they were accompanied by explanation letters. It was a very difficult task to strike a balance between societal control and individual freedom, the former to satisfy each person's personality and the latter to maintain social harmony and stability. Although there were differences in technique, there were scarcely any in fundamentals. This led to the decision that the Fundamental Rights should be justifiable. Laws passed after the incident, religious freedom, the right to practice one's faith without governmental interference, and anti-untouchability provisions were all upheld. The inclusion of prerogative writs, or writs in the form of instructions, into the rights was a consequence of the protective mechanism employed by the English. The ratification of the utilization of legal avenues that are guaranteed by the Constitution was also confirmed. The study conducted by Lutz and Burke in 1989 is referenced here. While certain modifications were authorized, the core concepts and substance of rights remained unaltered. While the courts recognized these rights as fundamental and enforceable, they were not considered to be without limitations. The imposition of constraints on individuals may be achieved through the attachment of a clause to a particular right, as well as through the provision for the revocation of rights under specific circumstances. Restrictions were imposed on aspects such as personal autonomy, the entitlement to equal treatment, and essential freedoms. The seven fundamental freedoms were in alignment with the ones identified in various other global human rights agreements. Notable figures such as K.M. Munshi, Babasaheb Ambedkar, and K.T. Shah espoused a broader social program. The significance of rendering all guiding principles justiciable within a designated time frame was emphasized by the authors. In the course of the November-December 1948 discourse on the draft constitution, the primary contentions were that (1) the directives were insufficient in their efforts to institute a socialist state and (2) greater emphasis ought to have been placed on specific institutions and principles that are integral to Indian custom and Hindu philosophy, particularly those that were extolled by Gandhi. The proposed amendments demonstrate a strong inclination towards nationalization of diverse industries and entrusting the government with the responsibility of promoting cottage industries. The modifications also seek to improve agricultural and animal husbandry methods, do away with cattle slaughter, boost village life, and introduce the panchayat form of local governance. However, the majority of these improvements were either abandoned by their creators or rejected by a vote. The Indian Constitution's Part IV, which lays out the fundamental values of the state, was approved by the Assembly.

Under British rule in India, constitutional government and parliamentary institutions emerged roughly at the same time as the concept of fundamental human rights, understood in the framework of civil liberty. The British's arbitrary actions, such as ruthlessly striking vulnerable, disadvantaged Indians, certainly sparked their development. The aforementioned events directly contributed to the development of nationalist sentiments and the establishment of the Indian National Congress. The freedom movement sought to end discriminatory practices that were based on racial, ethnic, religious, sexist, or national origin considerations. Additionally, the

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movement aimed to ensure that everyone had an equal opportunity to access public services and find jobs.

An unnamed author wrote the Constitution of India Bill in 1895, an attempt to define the scope of human rights that marked the beginning of India's quest for basic human rights. The first formal document wasn't created until 1928, when the Motilal Nehru Report was written. The fundamental rights and guiding principles of state policy that are now incorporated in the Indian Constitution had their genesis in the Motilal Nehru Report, issued in 1950. Universal primary education, a living salary that can support a family of four, safety for mothers, and the well-being of children were among these rights. Jawahar Lal Nehru's 1946 Objectives Resolution is the single most consequential declaration in favor of human rights. In the Objective Resolution, it was said that the country would write a constitution that "shall be guaranteed and secured to all of the country and provide adequate protections for minorities, backward and tribal areas, depressed and other classes." Most of these protections may be traced back to the Indian Constitution, which was written by the Assembly and ratified in 1950, demonstrating the commitment of India's forefathers to the values of the UDHR. The Fundamental Rights and Directive Principles of the Indian Constitution are comprehensive in their coverage of the issues addressed by the UDHR. The inclusion of other provisions of the Constitution is contingent upon the presence of the Objective Resolution.

### ***Human Rights and Preamble***

The Preamble of the Constitution holds significant importance and warrants careful consideration and analysis in light of the lofty objective it declares. The Preamble reads as follows: "We the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to secure to all citizens: Justice, social, economic, and political; Liberty of thoughts, expression, belief, faith, and worship; Equality of status and of opportunity; and to promote among them all, Fraternity assuring the dignity of the individual and the unity and integrity of the nation."

### ***Fundamental Rights and Human Rights***

The preservation of fundamental rights, a broad category that includes various safeguards for human dignity, is a prominent feature of the Constitution. The Fundamental Rights guaranteed by the Constitution are the nation's equivalent of the Magna Carta in terms of civil and human liberty. The fundamental liberties that underpin our society, such as the right to equal treatment, the right to be free from oppression, the right to practice one's religion without fear of reprisal, and the right to a top-notch education, are protected by Articles 14 through 31 of the Constitution. (Desai, 1986).

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These are negligible rights that, in the event of a violation, are made actionable against the state. Various groups of rights can be summed up under this heading:

### **Right to Equality (Art. 14-18)**

In the Constitution, the right to equality is guaranteed as a basic human right. As stated in Art. 14, "the state shall not deny to any person within the territory of India, equality before the law and equal protection of the laws," In Article 15, a comprehensive explanation is provided, which asserts that the state is prohibited from exhibiting discriminatory behavior towards any citizen based on their religion, race, caste, sex, place of birth, or any other related factors. Furthermore, citizens are not to be subjected to any form of disadvantage, obligation, limitation, or requirement in relation to accessing shops, public restaurants, hotels, and plazas, as well as accessing other public places. As per the Constitution's Article 16, every citizen is entitled to equal opportunities in regards to employment or appointment to any state office. Articles 17 and 18 of the constitution mandate the elimination of the practice of untouchability and the discontinuation of titles, respectively. (Sehgal, 2004).

### **Right to Freedom (Art. 19-22)**

Art. 19–22, which ensure individual liberty, serve as the cornerstone of the Indian human rights framework. As stated in Art. 19, "all citizens shall have the right to freedom of speech and expression; the right to assemble in peace and without weapons; the right to form associations or unions; the right to freely travel throughout the territory of India; the right to freely reside and settle in any part of the territory of India; and the right to practice any profession or occupation or carry on any trade, business, or occupation anywhere in India" are all fundamental rights guaranteed to all Indian citizens. Art. 20 states, "no person shall be convicted of any offence except for violation of a law in force at the time the act charged as an offence, nor shall he be punished with a fine exceeding that which may have been imposed under the law in force at the time of the commission of the offence." In terms of human rights, however, Art. 20's guarantee that "no person shall be deprived of his life or personal liberty except pursuant to the procedure established by law" stands out as the most important provision.

### **Right against Exploitation (Art. 23-24)**

Art. 23 and 24 of the Constitution detail the various freedoms that are safe against tyranny, slavery, and other forms of abuse. Art. 23 forbids engaging in human trafficking, begging, or any other type of forced labor. Instead of the more general term "slavery," our Constitution uses the phrase "traffic in human beings," which forbids the trade in women, children, and handicapped people for immoral or other purposes in addition to servitude. (Welch and Leary, 1990).

Under Art. 24 of the Constitution, it is illegal to hire anyone younger than 14 to work in a mine, factory, or other potentially hazardous occupation. Therefore, child labor is prohibited, and young people are protected in accordance with their human rights.

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### **Right to Freedom of Religion (Art. 25-28)**

Articles 25-28 of Part III of the Constitution provide for the safeguarding of individuals' religious liberties. These include the freedom to lead religious affairs, to teach and preach one's faith without hindrance, to donate to religious causes through taxation, and to receive religious instruction or worship while attending public schools. To put it quickly, these are fundamental protections for religious minorities in India. (Mehta & Verma, 1999).

### **Educational and Cultural Rights (Art. 29-30)**

Some cultural and educational rights for minority communities are guaranteed by Articles 29 and 30 of the Constitution. To paraphrase Art. 30, "all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice." Article 29 guarantees the entitlement of all ethnic, linguistic, and cultural minorities throughout the nation to utilize and conserve their respective language, script, and culture. In a society where the majority holds sway, such as India, safeguarding the rights of minority groups is of paramount importance.

### **Right to Constitutional Remedies**

Chapter III of the Constitution, which addresses fundamental rights, provides some legal protection for the maintaining of these rights. Under Art. 32, anyone seeking to enforce their rights under Chapter III may do so by filing a petition with the SC. Habeas corpus, mandamus, prohibition, quo warranto, and certiorari are all examples of writs that the SC is given the authority to issue in Clause 2 of this Article. Unless an emergency declaration has been made, this right cannot be revoked. (Basu, 2007).

### **Directive Principles of State Policy**

Numerous economic and civil liberties are enumerated in Part IV of the Constitution (DPSP). They are the basis for human rights in India. This charter of positive rights outlines essential standards of behaviour with the goal of achieving social, political, and economic fairness for all. When creating and carrying out legislation, both the legislative and executive departments should keep these ideas in mind. Although these principles cannot be enforced in a court of law, the State nonetheless has an obligation to take them into account when making laws that affect the lives of its citizens as a whole. The government cannot function without these ideas. (Kothari, and Sethi, 1987).

These rights are:

- "Providing adequate means of livelihood" (Art. 39 (a)).
- "Equal pay for equal work for both men and women" (Art. 39(d))
- "Adequate protection of the health and strength of workers, men and women" (Art. 39(e)).
- "Equal Justice and free legal aid" (Art. 39 A).

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- “Living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities” (Art. 43).
- “Free and compulsory education for children” (Art. 45).
- “Increasing the level of nutrition, the standard of living and improving public health” (Art. 47).
- “Prohibiting the slaughter of cows and calves and other milk and draught cattle” (Art. 48).

## CONCLUSION

A close look at the Constitution's Fundamental Rights and Directive Principles makes it abundantly clear that they encompass virtually all of the UDHR's purview. Also, the Indian Constitution has made an innovative effort to balance enforceable rights with non-enforceable rights through these two sections (sections III and IV), allowing them to mutually support one another in terms of basic governance of the nation. Finally, it's important to recognize that these two entitlements are inextricably linked and essential for the sustenance of others.

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### ***Conflict of Interest***

The author(s) declared no conflict of interest with respect to the research, authorship, and publication of this article.

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