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Fundamental Rights and Importance

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Abstract: *Every citizen of India has to responsible on Indian constitution because Indian constitution given some fundamental right to the people. people is those rules or laws, which determine the form of the government and the respective rights and duties of the government toward the citizens and of the citizens toward the government. These rules or the more important among them, may be contained in one document or may be scattered through a multitude of statutes and reports of decisions. In this comprehensive sense a Constitution may be either written or unwritten, and is applicable to any established government. Constitutional Amendments to Fundamental Rights Up to 1971 Democracy, it is said, is a tender plant and it needs to be nourished and watered by hands of faith. It is the duty of every intellectual to educate the citizens of this country in the significance and importance of the sense of values on which democracy is founded. Success of Democracy is mainly based on the written Constitution. Weaver describes the Constitution as fundamental organic law by which a state or nation is governed. In its most general sense it may be said to establish the essential foundation and the general framework of government and to provide the body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised.*

Keywords: *Democracy, Constitution, Government, Sovereignty, Citizen, Country,*

I. Introduction:

A question has been asked why these rights are called Fundamental Rights when they can be restricted or deleted by an amendment of the Constitution and can also be suspended by a proclamation of emergency. The answer is that these rights are called fundamental rights because they are the most essential for the attainment by the individual of his full moral and spiritual stature. The denial of these rights will keep his moral and spiritual life stunted and his life potentialities undeveloped. Fundamental rights are 'fundamental' in several senses, but many authorities agree that they are not 'unalterable'. Their dynamic nature is accepted and is supported. The context in our Constitution clearly shows that they are the decision of the Permanent Will, and so beyond the reach of the Temporary Will. It is common knowledge that the Constitution itself makes these rights elastic in ordinary times and also suspend able in Emergencies. Fundamental Rights are legally enforceable right governing the relations between the State and the Individual. It has both negative and positive aspects It must, as words indicate, be Fundamental. It does not mean a right of liberty permissible under the law; it also means a right of liberty in positive senses which enables an individual to develop his personality and his faculties and to live his life in his own interest and in the interests of the community as a whole and our nation, India, represents a mosaic of humanity consisting of diverse religious, linguistic and caste groups. The rationale behind the insistence on Fundamental Rights has not yet lost its relevance.

These fundamental rights represent the basic values cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a pattern of guarantee on the basic structure of human rights and impost negative obligations on the State not to encroach on individual liberty in its various dimensions said Justice P.N.Bhagawati.Constitution of a country may be described as the foundational or the fundamental law on which all other legislation is-based, tested and enforced. In a written Constitution, the authority, jurisdiction and powers of various organs of the State-Legislative, Executive or judicial are as defined and delimited by the provisions of the Constitution. The architects of the Constitution, however farsighted they might be, could not foresee and perceive the future growth. The change in sociolect-economic and political norms of a political society though a natural phenomena is always unpredictable. In practice different Fundamental Rights have been ensured to all the citizens. However, for the rights and liberties to become meaningful in their totality, there is a

In other words, the Constitution should be made a viable instrument of socioeconomic changes to articulate the ultimate ideals embodied in the Preamble. Development and the fight against poverty is very largely a matter of sociolect-economic transformation which can bring about only by suitable changes in the concept of the Fundamental Rights. The Fundamental Rights are fundamental in the sense that they are necessary for the welfare of man and for enabling him to grow to his full stature so that everyone may

participate in the power process and in the social process which is the true measure of democracy. Moreover, the growth of the idea of democracy so as to have not merely political dimension but also economic and social dimensions makes it imperative to adopt the necessary changes in the content and scope of Fundamental Rights. At present the State is required to give economic and social content to the rights so that each and every one may actually enjoy the rights. Mulford, "An undependable Constitution," said is the worst tyranny of time, or rather the very tyranny of time. It makes an earthly providence of a convention which has adjourned without day. It places the scepter over a free people in the hands of dead men, and the only office left to the people is to build thrones out of the stones of their sepulchers.3 It will be seen that this article contains two parts. The first part deals with the question of amendment and provides for the procedure which has to be adopted before the Bill introduced for the purpose of amendment ultimately leads to the amendment of the Constitution in accordance with its terms.

Therefore a provision for its amendment is the sine-qua-non which enables its adaptation to the changing social conditions and the cherished goals of the people. A Constitution, to be a living document, must be capable of adjusting to sociolect-economic changes when the society so desires. Constitution should not be too rigid to block amendments genuine in nature, and should not be too flexible which may make the Constitution a plaything in the hands of the politicians. The nature of the amending process envisaged by the makers of our Constitution can be best explained by referring to the observation of Pandit Nehru He said the Constitution should not be so rigid that it cannot be adapted to the changing needs, development and strength also He said that, while we want this Constitution to be as solid and permanent as we can make it, there is no permanence in Constitution. There should be certain flexibility. If you make anything rigid and permanent, you stop the nation's growth, the growth of a living, vital, organic people… In any event, we could not make this Constitution so rigid that it cannot be adapted to changing conditions. When the world is in turmoil and we are passing through a very swift period of transitions what we may do today, may not be wholly applicable tomorrow.

Objects and Reasons of the Bill: During the last fifteen months of the working of the Constitution, certain difficulties had been brought in light by judicial decisions and pronouncements especially in regard to the chapter on Fundamental Rights. The citizen's right to freedom of speech and expression guaranteed by article 19 (1) (a) had been held by some courts to be so comprehensive as not to render a person culpable even if he advocated murder and other crimes of violence. In other countries with written Constitutions, freedom of speech and of the press are not regarded as debarring the State from punishing or preventing abuse of this freedom. The citizen's right to practice any profession or to carry on any occupation, trade or business conferred by article 19(1) (g) is subject to reasonable restrictions which the laws of the State may impose "in the interest of the general public". The words cited are comprehensive enough to cover any scheme of nationalization which the State may Undertake. However, it was considered to place the matter beyond doubt by a clarification addition to Article 19 (6). Another article in regard to which unanticipated difficulties had arisen was article 31.The validity of agrarian reform measures passed by the State Legislatures had, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject matter of dilatory litigation. 37 The main objects of this Bill were, accordingly, to amend Article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of mandarin abolition laws in general and certain specified State Acts in particular. The Bill also sought to propose a few minor amendments to other Articles in order to remove difficulties that might arise. It is laid down in article 46 as a directive principle of State policy that the State should promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice. In order that any special provision that the State might make for the educational, . Making any law in so far as such law imposes reasonable restrictions on the exercise of the right, conferred by the said sub-clause in the interests of the security of the State, friendly relations with Foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.",

Dr.B.R.Ambedkar said that it is next important to consider why the Supreme Court and the various State High Courts have come to this conclusion. Why is it that they say that Parliament has no right to make a law in the interests? of public order or in the interest? of parliament preventing incitement to offences? That is a very important question and it is a question about which I am personally considerably disturbed. For this purpose I must refer briefly to the rules of construction which have been adopted by the Supreme Court as well as the various State High Courts; but before I go to that I would like to refer very briefly to the rules of construction which have been adopted by the Supreme Court of the United Statesand I think it is very relevant because the House will remember that if there is any

II. Conclusion:

Now, what is the attitude which the Supreme Court has taken in this country in interpreting our Constitution? The Supreme Court has said that they will not recognize the doctrine of the "police power" which is prevalent in the United States. I do not wish to take the time of the House in reading the judgments of the

Supreme Court, but those who are interested in it may find this matter dealt with in the case known as Chiranjit Lal Chowdhuri Vs. The Union of India, otherwise known as the Sholapur Mills case. You find the judgment of Mr. Justice Mukherjee expressly rejecting this doctrine. The reason why the judges of the Supreme Court do not propose to adopt the doctrine of "police power" is this, so far as I am able to understand, that the Constitution has enumerated specifically the heads in clause (2) under which Parliament can lay restrictions on the fundamental right as to the freedom of speech and expression, and that as Parliament has expressly laid down the heads under which these limitations should exist, they themselves now will not add to any of the heads which are mentioned in clause (2). That is, in sum and substance, the construction that you will find in the case of Thapar's judgment which was delivered by Mr. Justice Patanjali Sastri. He has said that they will not enlarge it and therefore, as the Constitution itself does not authorize Parliament to make a law for purposes of public order, according to them Parliament has no capacity to do it and they will not 43 invest Parliament with any such authority. In the case of the Press Emergency Laws also they have said the same thing that in clause (2) there is no head permitting Parliament to make any limitations in the interests of preventing incitement to an offence. Since section 4 of the Press (Emergency Powers) Act provides for punishment for incitement to the commitment of any offence, Parliament has no authority to do it.

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