

Fundamental rights essay

Government



**ASSIGN
BUSTER**

During our freedom struggle, the leaders of the freedom movement had realised the importance of rights and demanded that the British rulers should respect rights of the people. The Constitution listed the rights that would be specially protected and called them 'fundamental rights'. These rights are defined in part III of Indian constitution. The word fundamental suggests that these rights are so important that the Constitution has separately listed them and made special provisions for their protection. The Fundamental Rights are so important that the Constitution itself ensures that they are not violated by the government. Fundamental Rights are different from other rights available to us. While ordinary legal rights are protected and enforced by ordinary law, Fundamental Rights are protected and guaranteed by the constitution of the country. Ordinary rights may be changed by the legislature by ordinary process of law making, but a fundamental right may only be changed by amending the Constitution itself. Besides this, no organ of the government can act in a manner that violates them. Judiciary has the powers and responsibility to protect the fundamental rights from violations by actions of the government.

Executive as well as legislative actions can be declared illegal by the judiciary if these violate the fundamental rights or restrict them in an unreasonable manner. However, fundamental rights are not absolute or unlimited rights. Government can put reasonable restrictions on the exercise of our fundamental rights.

Seven fundamental rights were originally provided in constitution -Right to equality, right to freedom Right against exploitation , Right to freedom of religion , culture and educationalrights, Right to property and Right to

constitutional remedies. However right to property was removed part III by 44th amendment in 1978. Fundamental rights are not absolute and are subjected to reasonable restriction as necessary for the protection of public interest.

Fundamental rights can be removed enhanced or altered through through constitutional amendment Right to equality (article 14 - 16) Article 14 - guarantees equality before law Article 15 prohibits discrimination on the ground of religion sex caste race Article 16- guarantee equality of opportunity in matters of public employment RIGHT TO FREEDOM(Article 19-22) Equality and freedom or liberty, are the two rights that are most essential to a democracy. It is not possible to think of the one without thinking of the other. Liberty means freedom of thought, expression and action.

However it does not mean freedom to do anything that one desires or likes. If that were to be permitted then a large number of people will not be able to enjoy their freedom. Therefore, freedoms are defined in such a manner that every person will enjoy her freedom without threatening freedom of others and without endangering the law and order situation RIGHT AGAINST EXPLOITATION(23-24) In our country there are millions of people who are underprivileged and deprived.

They may be subjected to exploitation by their fellow human beings. One such form of exploitation in our country has been begar or forced labour without payment. Another closely related form of exploitation is buying and

selling of human beings and using them as slaves. Both of these are prohibited under the Constitution.

Forced labour was imposed by landlords, money lenders and other wealthy persons in the past. Some form of bonded labour still continues in the country, specially in brick kiln work. It has now been declared a crime and it is punishable. The Constitution also forbids employment of children below the age of 14 years in dangerous jobs like factories and mines. With child labour being made illegal and right to education becoming a fundamental right for children, this right against exploitation has become more meaningful.

RIGHT TO FREEDOM OF RELIGION articles 25-28 According to our Constitution, everyone enjoys the right to follow the religion of his or her choice. This freedom is considered as a hallmark of democracy. government will not favour any particular religion. India does not have any official religion Article 25 guarantees all person the freedom of conscience and right to practice preach and propagate any religion of their choice article 26 guarantees all religion dominations and sects subject to public order morality and health to manage their own affair in matters of religion Article 27 guarantees that no person can be compelled to pay tax for promotion of any religion or religious institution Article 28 prohibits religious instruction or attend religious worship in a wholly state funded educational institution without their consent **CULTURAL AND EDUCATIONAL RIGHTS (29 - 30)** Cultural and educational rights given in article 29 and 30 are measures to protect the rights of cultural linguistic and religious minorities by enabling them to conserve their heritage and protecting them against discrimination <https://assignbuster.com/fundamental-rights-essay/>

Article 29 grants any section of citizens having a distinct language script culture of its own the right to develop its own the right to conserve and and develop the same and thus safe guard the rights of minorities by preventing the state from imposing any external culture Article 30 confers up on all religious and linguistic minorities to set up and administer educational institution of their choice in order to develop their own culture RIGHT TO CONSTITUTIONAL REMEDIES Constitution contains a very impressive list of Fundamental Rights. But merely writing down a list of rights is not enough. There has to be a way through which they could be realised in practice and defended against any attack on these rights.

Right to constitutional remedies is the means through which this is to be achieved. this right gives a citizen the right to approach a High Court(article 226) or the Supreme Court to get any of the fundamental rights restored in case of their violation. The Supreme Court and the High Courts can issue orders and give directives to the government for the enforcement of rights.

The courts can issue various special orders known as writs. Habeas corpus: A writ of habeas corpus means that the court orders that the arrested person should be presented before it. It can also order to set free an arrested person if the manner or grounds of arrest are not lawful or satisfactoryMandamus:

This writ is issued when the court finds that a particular office holder is not doing legal duty and thereby is infringing on the right of an individual.

Prohibition: This writ is issued by a higher court (High Court or Supreme Court) when a lower court has considered a case going beyond its

jurisdiction. Quo Warranto: If the court finds that a person is holding office but is not entitled to hold that office, it issues the writ of quo warranto and

<https://assignbuster.com/fundamental-rights-essay/>

restricts that person from acting as an office holder. Certiorari: Under this writ, the court orders a lower court or another authority to transfer a matter pending before it to the higher authority or court.