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GOLDEN TRIANGLE OF THE INDIAN CONSTITUTION: INTERDEPENDENCE OF FUNDAMENTAL RIGHTS

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Abstract

Right to Equality, Right to Freedom, Protection of life and personal liberty are the basic rights of human life and depicts the different generations of human rights and all these rights are protected by Constitution of India. These rights are often referred as golden triangle of the Indian Constitution as they are the pillars of the human existence against the state. These rights are so connected to each other that violation of one indirectly violates the other. The three articles are interpreted various times by the Court which makes it clear to the common people. The Constitution is for the people and without constant intertwining of these articles, it is impossible to achieve the ideals and goals of the Constitution. The incorporation of these rights is intended to provide a road for the people of India to lead them to the trinity of liberty, equality and brotherhood. Democracy is impossible without the existence of these rights. In this paper I am going to discuss the relationship between these three fundamental rights.

Keywords- Fundamental Rights, Golden triangle, landmark judgements, modern issues, reasonable restrictions

Introduction

India is a country of diversity as different types of people from different race, religion, caste, culture resides here. Different people share different language, culture, religion, boundaries, belief, faith and balancing all together sometimes create conflict which becomes the reason for violation of their fundamental rights. Fundamental right is something which we were demanding from the Britishers when they were ruling all over the India. The declaration of these rights is most important feature of the Constitution and special significance to India. These rights are enshrined in part III of the Constitution as Article 12, Article 19 and article 21.

RIGHT TO EQUALITY

Article 14 provides that 'the State shall not deny to any person equality before the law or the equal protection of laws within the territory of

India'. Equality is a relationship between different types of people. Equality was already present in the Preamble. Equality before law is placed in almost all written Constitutions that guarantee fundamental rights. This right is one of the aspect of what Dicey formulated 'Rule of Law'. Equality before law means absence of any special privilege in favour of individual and every person is subjected to the same law while Equal protection of law means equality of treatment in equal circumstances i.e. like should be treated alike.

Like other fundamental rights, this right is also not absolute and subject to certain exceptions-

- The power which a public official might hold is much different from the powers of a normal citizen. One can be arrested for a crime committed by a police office in normal circumstances.

- Laws are different for different classes of citizens, which includes the military, which solely follows the designated military laws.
- Certain discretionary powers are entitled to the Ministers and Executive bodies.
- Even the members of a society in some cases have separate rules, which they follow, regarding their profession. Example: - Lawyers, Doctors, etc.
- Although classification is allowed according to Article 14, the legislation of the classes is strictly prohibited. Different classes of people have different needs, that is a fact, and to address those, separate laws are required to treat those. Furthermore, for the security of the State, the legislation provides such laws, which are directed toward the betterment of society as a whole.

Article 14 permits reasonable classification putting a restraint on class legislation i.e., if the classification is based on intelligible differentia then it is within the framework of the Constitution.

*E. P. Royappa v. State of Tamil Nadu*¹⁵ - Justice Bhagwati observed "Equality is a dynamic concept with many aspects and dimensions and it cannot be cribbled, cabined and confined' within traditional and doctrinaire limits. From a positivistic point of view, equality is antithesis to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belong to the rule of law in a republic while the other, to the whim and caprices of another monarch. Where an act is arbitrary, it is implicit in it that it is unequal not according to political logic and constitutional law and is therefore violative of article 14."

RIGHT TO FREEDOM

Article 19 of the Constitution of India guarantees every citizen six fundamental rights-

- a) Freedom of speech and expression
- b) Assemble peacefully with no arms.
- c) Form any type of union.
- d) Move freely within the country
- e) Settle and reside in any part of the country
- f) Practice, or carrying, any occupation, trade, or business, respectively.

It is not possible for the state to guarantee this fundamental right absolutely, so the restriction are itself provided in the article. If reasonable restriction is not imposed then the control of the society would be ruined. One for his own liberty must not offend the liberty of others.

*A.K. Gopalan v. State of Madras*¹⁶- Patanjali Shastri opined that Man as a rational being desires to do many things, but in a civil society by his desires have to be controlled, regulated and reconciled with the exercise of similar desires by other individuals. The reasonable restrictions are provided in clauses 2 to 6 of Article 10 of the Constitution.

Freedom of speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. It thus includes the expression of one's ideas through any communicable medium or visible representation, such as, gesture, signs and the like.

*Secretary General, Supreme Court of India v. Subhash Chandra Agarwal*¹⁷- High Court of Delhi was of the opinion that right to information does not emanates from Right to Information Act rather it is a constitutional right.

¹⁵ AIR 1974 SC 555

¹⁶ AIR 1950 SC 27

¹⁷ AIR 2010 DEL. 159(FB)

The grounds upon which restrictions can be imposed are- Sovereignty and Integrity of India, security of the State, Friendly relations with Foreign States, public order, decency or morality, contempt of Court, Defamation and Incitement of an Offence.

*Devi Saren v. State*¹⁸- Court held that Section 124A and 153A of IPC is valid as it imposes reasonable restriction in the interest of public order and is saved by Article 19(2).

Article 19(3) imposes restriction on the right of Freedom of Assembly- the assembly must be peaceable and it must be unarmed. Article 19(4) imposes restriction on article 19(1)(c) on the ground of sovereignty and integrity of India and public order.

*Damyanti v. Union of India*¹⁹- Court held that Hindi Sahitya Sammelan Act violates Article 19 of the Constitution and hence void.

Article 19(5) imposes restriction on Article 19(1)(d) and Article 19(1)(e), Article 19(6) imposes restriction on Article 19(1)(g).

*P.A. Inamdar v. State of Maharashtra*²⁰- In this case, the Court pointed out that, whatever might be the reasoning, education cannot be considered as a valid occupation.

*Kharak Singh v. State of U.P.*²¹- This case deals with the matter, with the purpose of holding any record of the movement and the overshadowing of the suspects.

*T.K. Rangarajan v. State of Tamil Nadu*²²- In this case, the Court directed that the right which deals with the right to form associations does not include the right to strike.

PROTECTION OF LIFE AND PERSONAL LIBERTY

Article 21 of the Indian Constitution provides that "No person shall be deprived of his life and

personal liberty except to procedure established by law". Before 1978 it was available to citizens only. Maneka Gandhi's case changed the view as after then it became available to non-citizens also. It protects the right to life and personal liberty not only from the Executive action but from the Legislative actions also. A person can be deprived of his life and personal liberty if two conditions are fulfilled- there must be a law and there must be a procedure established by that law.

Article 21 which was dormant for nearly three decades was brought to life by the famous court decision in *Maneka Gandhi*. Since then, Article 21 has been on its way to emerge as the Indian version of American due process of law and became source of many substantive and procedural safeguards. This right is so broad that it covers nearly all the rights which are necessary for the survival of human life with dignity.

*Kharak Singh v. State of U.P.*²³- It was held that the expression life is not restricted to bodily restraint or confinement to prison only but something more than that mere animal existence.

With the passage of time this article embraced in itself various human rights like- Right to dignified human life, Right to Clean Environment, Right to travel abroad, Right to privacy, Right to Education, Right to speedy trial and many other. Two landmark judgements changed the interpretation of this article- *AK Gopalan* case and *Maneka Gandhi*.

*Ramlila Maidan v. Home Secretary, Union Of India*²⁴- Sleep is necessity and not luxury, it is necessary for optimal health and happiness as it directly affects the quality of life and hence fundamental right under Article 21 of the Constitution.

¹⁸ AIR 1954 Pat 254

¹⁹ AIR 1971 SC 966

²⁰ *P.A. Inamdar v. State of Maharashtra*, (2005) Writ Petition (Civil) No. 5041/2005

²¹ 1962 AIR 1295

²² *T.K. Rangarajan v. State of Tamil Nadu*, (2003) Writ Petition (Civil) No. 5556/2003

²³ AIR 1963 SC 1925

²⁴ 2012 CrLJ 3516(SC)

GOLDEN TRIANGLE

Article 14, Article 19, Article 21 when taken together forms golden triangle of the Indian Constitution. Article 21 is controlled by Article 19, a law depriving a person of personal liberty has not only to stand the test of Article 21 but it must stand the test of Article 19 and Article 14 of the Constitution. These rights are very much complimentary to each other and grants the most basic rights to the citizens and even to non-citizens. These rights play a serious role within the operation of our judiciary and regulating the behaviour of every citizens.

A.K. Gopalan v. State of Madras– Supreme Court was of the opinion that Article 19 has no application to laws depriving a person of his life and personal liberty enacted under Article 21 of the Constitution, they deal with different subjects. Article 19 deals only with certain important individual rights of personal liberty and its restriction while Article 21 enables the state to deprive individual of his life and personal liberty in accordance with procedure established by law. Procedure established by law does not mean ‘due process of law’ rather it means procedure prescribed by the law of the state.

*Maneka Gandhi v. Union Of India*²⁵– Court overruled the decision given in *Gopalan case*²⁶ and held that Article 21 is controlled by Article 19 and if there is any law prescribing a procedure for depriving a person of his personal liberty without infringing Article 21 of the constitution but infringes Article 19 then it is not valid. A law depriving a person of his personal liberty has not only to stand the test of Art 21 but it must also pass the test laid down in Article 14 and Article 19. The procedure must be fair, just and reasonable and must embody the principles of natural justice. With this interpretation, Court imported American due process of law into our Constitution.

²⁵ AIR 1978 SC 597

²⁶ supra

CONCLUSION

Declaration of fundamental rights is very important feature of the Constitution of India. These are the rights that Indian had long been fighting for and having won the fight it had been granted to the people. It curtails the arbitrary power of the state and imposes restriction that it cannot infringe the fundamental right of the person. Golden triangle is a part of fundamental rights and it depicts liberty, equality and protection of life to the citizens. Even capital punishment which takes away the life of a human is not given in rarest of rare cases as the Court is of the opinion that he gives life nor has the power to take away it. Life of the citizen could only be taken when he has breached the law and also that law should be fair and reasonable following the principles of natural justice. Judiciary need to check and balance the power of the state, when it infringes the fundamental rights of the people. All laws should be enacted keeping in view the fundamental rights and any law derogatory to it is hit by Article 13 of the Constitution.

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