AILET

All about Fundamental Rights under Constitution for CLAT

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The Constitution of India provides for various fundamental rights to the citizens (and non-citizens) of the country. The topic is highly tested in the CLAT exam as well.

Introduction

This article will briefly discuss Fundamental Rights under the Constitution for CLAT and other Law entrance examinations. This topic is important for Legal Reasoning as well as Legal GK.

The Constitution of India is the Supreme Law and no other law can be in conflict with it. Fundamental Rights are enshrined in Part III of the Constitution of India i.e. from Article 12 to Article 35 of the Constitution of India. Although an action arises whenever any of these rights are violated but always remember that these rights are not absolute and can be subjected to the reasonable restriction if required. Part III of the Constitution is also referred to as the Magna Carta. Article 14, Article 19 and Article 21 are said to be the Golden Triangle of the Constitution.

Generally, in case of violation of any of the Fundamental Rights guaranteed in the constitution, the person affected can move to the Court for the enforcement of his rights under Article 32. If Emergency is proclaimed in the country, all the Fundamental stand suspended except the fundamental rights guaranteed under Article 20 and 21 of the Constitution of India.

The Fundamental rights are claimed against the State and its instrumentalities. The State has been defined under Article 12 of the Constitution and includes the all legislative and executive organs like the Union Government, the State Government, the State Legislature, the Parliament, all the local authorities and all other authorities under the control of the Government.

Earlier there were seven fundamental rights but after Right to Property (Article 31) was deleted as a fundamental right by 44th Amendment and now is a legal right under Article 300 A of the Constitution of India. Right to Education (Article 21 A) was added as the Fundamental Right by 86th Amendment Now, there are six fundamental rights in the Indian Constitution and they are as follows:

- Right to Equality (Article 14 to 18)
- Right to Freedom (Art. 19-22)
- Right against Exploitation (Art. 23&24)
- Right to Freedom of Religion (Art. 25-28)
- Cultural and Educational Rights (Art. 29&30)
- Right to Constitution Remedies (Art. 32)

Right to Equality:

1. Article 14 lays down the equality before the law and equal protection of laws.
2. Article 15 lays down the Prohibition of discrimination on the ground of religion, race, sex, place of birth or caste
3. Article 16 lays down equality of opportunity in case of public employment.
4. Article 17 lays down the abolition of Untouchability and prohibition of its practice.
5. Article 18 lays down the abolition of titles except for Military and Academic.

Right to Freedom:

1. Article 19 lays down the right to freedom of

- Speech and Expression
- Assembly
- Association
- Movement
- Residence
- Profession

1. Article 20 lays down protection in respect of conviction for offences.
2. Article 21 lays down the right to Protection of Life and Personal Liberty.
3. Article 21 A lays down the right to Elementary Education as the Fundamental Right.
4. Article 22 lays down the protection against arrest and detention in certain cases.

Right against Exploitation

1. Article 23 lays down the prohibition on Human Trafficking and Forced Labour
2. Article 24 lays down the prohibition on the employment of children in factories

Right to Freedom of Religion

1. Article 25 deals with the freedom of conscience and free profession, practice and propagation of religion.
2. Article 26 lays down the freedom to manage religious affairs.
3. Article 27 lays down the right to freedom from paying any taxes for promotion of any religion.
4. Article 28 lays down the freedom as to attendance at religious instruction or religious worship in certain educational institutions.

Cultural and Educational Rights

1. Article 29 of the Constitution of India deals with the provision of protection of interests of minorities.
2. Article 30 lays down the right of minorities to establish and administer educational institutions.

Right to Constitutional Remedies

Article 32 lays down Right to Constitutional Remedies and is also called as the Heart and Soul of the Constitution. In case of violation of any of the Fundamental Rights, Article 32 gives the right to move to the Supreme Court for the enforcement of the rights by the way of following writs

Mandamus
Habeas Corpus
Prohibition
Certiorari
Quo Warranto

Other Provisions relating to Fundamental Rights

Article 33: Article 33 deals with the power of the Parliament to modify the rights in Part III in application to Forces etc.

Article 34: Article 34 deals with the restriction on rights conferred by this Part while martial law is in force in any area

Article 35: Article 35 deals with the legislations to give effect to this part of the Constitution i.e. Part III.

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