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FUNDAMENTAL RIGHTS OF FOREIGNERS IN INDIA

Fundamental Rights aim at establishing ‘a government of laws and not of men’

Fundamental Rights are those rights of a human which he is entitled to because he is a human. These are the basic rights of a human being and without these rights a person cannot live a healthy and dignified life. This beautiful concept was borrowed from the Constitution of USA and was incorporated in our Constitution from Articles 12 to 35. The Constitution ensures that the fundamental rights are not violated even by the government.

These rights are guaranteed to the citizens by the Constitution of our country. Some of them are also available to all persons whether citizens, foreigners or legal persons except enemy aliens. The ‘fundamental rights’ are enlisted in Part III of the Constitution and are more elaborative in nature than those found in the Constitution of any other country.

The various ‘fundamental rights’ safeguarded by the Constitution are as follows;

Article 14: Equality before law

Article 15: Prohibition of discrimination

Article 16: Equality of opportunity in public employment

Article 17: Abolition of untouchability

Article 18: Abolition of titles

Article 19: Protects rights like, i) Right to free speech and expression ii) Right to peaceful assembly iii) Right to form associations, unions or cooperative societies iv) Right of movement and residence v) Right to practice any profession or carry on any occupation, trade or business.

Article 20: Protection in respect of conviction for offences

Article 21: Protection of life and personal liberty

Article 21A: Right to education

Article 22: Protection against arrest and detention

Article 23: Prohibition of human trafficking and forced labour

Article 24: Prohibition of child labour

Article 25-28: Right to freedom of religion

Article 29-30: Educational and cultural rights

Article 32- Right to use constitutional remedies

All fundamental rights are available to the citizens of our country and some are available to friendly aliens. The citizens of the countries that have cordial relations with India are called friendly aliens. On the other hand, citizens of the countries who are at a war with India are called enemy aliens.

In India foreigners enjoy several fundamental rights which are as follows:

1. Article 14, that states 'equality before law and equal protection of law'. According to this Article one cannot be denied equality before law or equal protection of law within the territory of India on grounds of religion, race, caste, sex or place of birth.
2. Article 20, that gives 'protection in respect of conviction for offences. According to this Article, no one can be convicted of an offence which was not an offence at the time of its commission. Also, no one can be awarded a punishment greater than what was provided in the law prevalent at the time of the commission of the offence. Further there is no scope for double jeopardy and self-incrimination.
3. Article 21, that gives protection of life and personal liberty. According to this Article, no one can be deprived of his life or personal liberty except according to procedure established by law.
4. Article 21 A entitles a foreigner the right to elementary education in India just like the citizens of the country.

5. Article 22 that gives protection against arrest and detention in certain cases. The Article states that any person who has been arrested must be informed the reason for his arrest and must be produced before a judicial magistrate within 24 hours of his arrest.
6. Article 23 protects the foreigners just like the citizens by prohibiting human trafficking and forced labour.
7. Article 24 prohibits child labour and employment of children in factories.
8. Article 25-28 allows a foreigner to profess, practice and propagate any religion, manage religious affairs and also gives the freedom from payment of taxes for promotion of any religion. Freedom of religion also gives a foreigner the freedom from attending religious instruction or worship in certain educational institutions.

The Constitution of our country not only gives protection and freedom to the citizens but also the aliens. No person in India is treated with injustice as the Constitution of our country gives certain fundamental rights to all persons.