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FROM MAGNA CARTA TO MODERN INDIA: THE JOURNEY AND TRANSFORMATION OF FUNDAMENTAL RIGHTS

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I. ABSTRACT

The concept of Fundamental Rights, deeply embedded in the Indian Constitution, is the cornerstone of democratic governance, ensuring the dignity and liberty of its citizens. This research paper traces the historical development of Fundamental Rights in India, from their ideological roots in documents like the Magna Carta and the American Bill of Rights to their formal incorporation into the Indian Constitution following the country's independence. The drafting committee, led by Dr. B.R. Ambedkar, meticulously tailored these rights to suit the unique socio-political context of India, aiming to protect individual liberties against governmental excesses. The Indian judiciary, particularly the Supreme Court, has played a significant role in interpreting and expanding these rights through landmark judgments such as *Kesavananda Bharati v. State of Kerala* and *K.S. Puttaswamy v. Union of India*. It has stood true to the nomenclature of being the third pillar of the state machinery and, has time and again proven the need of the judicial system.

Major Constitutional Amendments, including the 42nd and 44th Amendments, have influenced the scope and application of Fundamental Rights. The evolution of Article 21, encompassing rights such as privacy, a clean environment, and cultural heritage, exemplifies the judiciary's proactive stance in broadening the ambit of Fundamental Rights. Additionally, the paper explores emerging challenges and potential areas for future expansion, focusing on the rights of marginalized communities, environmental protection, and technological advancements. It argues for a dynamic interpretation of Fundamental Rights, one that adapts to the changing socio-economic and political realities of contemporary India. By analyzing the interplay between historical precedents, judicial activism, and legislative actions, this paper highlights the

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enduring significance of Fundamental Rights in safeguarding individual freedoms and promoting social justice in India.

II. KEYWORDS:

Constitution, Fundamental Rights, Judicial Interpretation, Evolution of Human Rights

III. INTRODUCTION

“One individual may die for an idea, but that idea will, after his death, incarnate itself in a thousand lives.”

- Subhash Chandra Bose

Our founding fathers died fighting for the ideals of liberty, equality, and fraternity, and it was these ideals which enlightened the generations that followed. There was nothing wrong when Netaji Bose quoted the above line; it is only when an idea is sought after and fought for, that it becomes the starting point of an ideal that would become so crucial for one's being that it would be called the 'Fundamental' or basic structure of the grundnorm (As in the words of Kelson) of a nation.

Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people according to some legal system, social convention, or ethical theory.² As the name suggests, 'Fundamental Rights are those principles which are 'fundamental' or key to one's existence; such that they are termed as the basic structure of multiple Constitutions of the world and cannot be done away with.

B.R. Ambedkar, commonly known as the father of the Indian Constitution or the emancipator of the downtrodden³, said the following when asked about Fundamental Rights: “The idea of Fundamental Rights has become a familiar one since their

² Wenar, Leif (July 9, 2007). "[Rights](#)". *Stanford Encyclopedia of Philosophy*. Stanford University. Retrieved 2009-12-21. Rights dominate most modern understandings of what actions are proper and which institutions are just. Rights structure the forms of our governments, the contents of our laws, and the shape of morality as we perceive it. To accept a set of rights is to approve a distribution of freedom and authority, and so to endorse a certain view of what may, must, and must not be done.

³ Dr. Ram Sharan, DR. B.R. AMBEDKAR ROLE IN MAKING OF THE INDIAN CONSTITUTION, 5 Int'l J. Advanced Res. Mgmt. & Soc. Sci., (2016).

enactment in the American Constitution and in the Constitution framed by the Revolutionary France. The idea of making a gift of Fundamental Rights to every individual is no doubt very laudable. The question is how to make them effective? The prevalent view is that once the rights are enacted in law then they are safeguarded. This again is an unwarranted assumption. As experience proves, rights are protected not by law but by the social and moral conscience of society.

If social conscience is such that it is prepared to recognize the rights which law proposes to enact, rights will be safe and secure. But if the Fundamental Rights are opposed by the community, no Law, no Parliament, no Judiciary can guarantee them in the real sense of the world. As Burke said, there is no method found for punishing the multitude. Law can punish a single solitary recalcitrant criminal. It can never operate against the whole body of people who choose to defy it. Social conscience is the only safeguard of all rights, fundamental or non-fundamental.”⁴

This is a general view of the Fundamental Rights enunciated in the Constitution. These rights are not based on saving clauses or, in other words, are not dependent on the availability of resources, but, are rather liabilities on the state.

The concept of Fundamental Rights, as enshrined in the Indian Constitution, is not novel. It has evolved over time and passed multiple stages of monarchy and democracy to shape as they are now.

The assignment deals with the birth and evolution of Fundamental Rights, how they came into existence, and how they are tailored to fit the Indian context.

IV. PROBLEM PROFILE

The concept of Fundamental Rights has evolved over time, shaped by historical events, Constitutional Amendments, and Judicial Interpretations. The Indian Constitution, drafted after a long struggle for independence, incorporated Fundamental Rights to ensure the dignity and liberty of its citizens. However, the

⁴ Press Information Bureau, "President of India's address on the occasion of presentation of National Awards for outstanding services in the field of prevention of alcoholism and substance (drug) abuse," <https://pib.gov.in/newsite/erecontent.aspx?relid=22891#:~:text=If%20social%20conscience%20is%20such,real%20sense%20of%20the%20world%E2%80%A6> (last visited May 3, 2024)

evolution of these rights has not been static, with the judiciary and legislature continually shaping and expanding their scope to address emerging challenges and societal needs.

V. RESEARCH METHODOLOGY

To understand the evolution of Fundamental Rights in India, a historical analysis of the concept's development is necessary. The present assignment has been made after thorough doctrinal research. Multiple websites have been surfed along with the Constituent Assembly Debates. Additionally, the quotations from the Supreme Court have heavily influenced the discussion.

VI. OBJECTIVES

The objectives of this research are to trace the historical development of Fundamental Rights in India, analyze the role of the judiciary in interpreting and expanding these rights, and examine the influence of Constitutional Amendments on their evolution. Furthermore, the research aims to identify emerging challenges and potential areas for the future expansion of Fundamental Rights, such as the rights of marginalized communities, environmental protection, and the impact of technological advancements.

VII. RESEARCH QUESTIONS/HYPOTHESES

1. How have the demands for Fundamental Rights during the independence struggle shaped their eventual inclusion in the Indian Constitution?
2. What has been the role of the Supreme Court in interpreting and expanding the scope of Fundamental Rights through its landmark judgments? To what extent have significant Constitutional Amendments, such as the 42nd and 44th Amendment Acts, influenced the evolution of Fundamental Rights in India?
3. How have the evolving socio-economic and political realities of post-independence India shaped the interpretation and application of Fundamental Rights?

4. What are the emerging challenges and potential areas for the future expansion of Fundamental Rights in India, and how can the judiciary and the legislature address these issues?

VIII. ORIGIN OF FUNDAMENTAL RIGHTS

“A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference.”

- Thomas Jefferson⁵

The concept of Fundamental Rights, while the drafting of the Indian Constitution, was not new to the drafters present in the Constituent Assembly. After a bloody war for independence, our forefathers were clear that they *had* to grant a certain degree of rights to the Indian Citizens for them to live with dignity and that their life is not equivalent to a mere animal existence.⁶

The issuance of Magna Carta⁷ in 1215 was the landmark event where the world rose to a new concept of Fundamental Rights, somewhat on the lines of natural rights which cannot be taken from man, and, as the name suggests are natural to the life of man.

As far as the origin of Fundamental Rights is concerned, there can be no single event that can be termed as the birth of Fundamental Rights. They existed since time immemorial in the principles of nature. However, there have been certain landmark incidents which have shaped these rights as they are today and have made man document them for their protection. Even though these rights were existing since a long time, humans had not legally recognized them until late.

In early 1215, King John documented liberties for his citizens in what was called the Magna Carta. This was the very first document which guaranteed liberties to people.

⁵ Thomas Jefferson, Letter to James Madison, 1787. ME 6:388, Papers 12:440.

⁶ See *Samantha vs. State of Andhra Pradesh* AIR 1997 SC 3297

⁷ The National Archives, British Library Magna Carta 1215 Runnymede, [<https://www.nationalarchives.gov.uk/education/resources/magna-carta/british-library-magna-carta-1215-runnymede/>].

Post this, the Bill of Rights⁸ (1689) consolidated important rights and liberties for English people. The French Revolution of 1789⁹ gave the ideals of 'equality, liberty, and fraternity' and provided that, "the aim of all political association is the conservation of the natural and inalienable rights of man".

Fundamental rights enshrined under part III of the Constitution are known as Magna Carta of India. Following the spirit of the Magna Carta of the British and the Declaration of Rights of Man and the Citizen, the Americans incorporated Bill of rights in their Constitution. In *West Virginia State Board of Education v. Barnet*¹⁰, Jackson, J., while explaining the nature and the purpose of the Bill of Rights observed - "The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials to establish them as legal principles to be applied by the Courts. One's right of life, liberty and property, to free speech, a free press, freedom of worship and assembly and other Fundamental Rights may not be submitted to vote, they depend on the outcome of no elections."

While the constituent assembly debates were still in session, the drafters took inspiration from the American Bill of Rights, and had an ardent desire to incorporate Fundamental Rights guaranteeing liberties to the citizens of the newly independent nation. Though the former involved only ten provisions, the latter tailored it to suit Indian needs and added a comprehensive list of Fundamental Rights. Since the early 1700s, the importance of Fundamental Rights has dawned upon human minds. Certain rights key to human existence such as the right to life, personal liberty, and freedom of speech, transform human life from mere existence to dignified living. And thus, as James Madison calls them, they are "the great rights of mankind".

These rights have been recognized over time as 'natural' rights, and thus incorporated in almost all democratic Constitutions of the world as Fundamental Rights. These also

⁸ National Archives, Bill of Rights (Transcript), [<https://www.archives.gov/founding-docs/bill-of-rights-transcript>].

⁹ [Constitution Net], Declaration of the Rights of Man (1789), [https://constitutionnet.org/sites/default/files/declaration_of_the_rights_of_man_1789.pdf].

¹⁰ *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).

find space in the principles of natural justice. Although, they are known to be subject to the procedures established by law (as in opposition to due process of law, which, however, is implicit within the procedure so established).

The Fundamental Rights are a reminder to the law makers that their powers are not absolute and there exist certain liabilities upon the state to protect its citizens. The underlying idea in entrenching certain basic rights to the citizens of a nation is to take them out of the reach of the transient political majorities. It has, therefore, come to be regarded as essential that these rights be entrenched in such a way that they may not be violated, tampered or interfered with by an oppressive government.¹¹

Various international declarations and treaties along with different Constitutions of the world have provided for Fundamental rights through the time of its existence and have given legal protection to it. It is only when the juridical bodies of a nation provide safeguards to the fundamental rights that these become enforceable. The Supreme Court of India, while interpreting this part of the Constitution has evolved multiple doctrines and has also gone on to label them as an integral part of the unamendable basic structure.¹²

The journey of Fundamental Rights, from the ancient principles of natural justice to their modern-day legal enshrinement, is a testament to humanity's ongoing quest for dignity and freedom. While historical events like the Magna Carta and the American Bill of Rights have significantly shaped these rights, it is the Indian Constitution that stands out as a beacon of hope, offering a comprehensive and enforceable guarantee of Fundamental Rights to its citizens. As we delve deeper into the Indian context, we will explore how these rights have been interpreted, protected, and challenged over time, shaping the nation's democratic landscape.

¹¹ J. Sorabjee, "Expansion And Protection Of Fundamental Rights By Judicial Interpretation And Intervention," available at <http://docs.manupatra.in/newslines/articles/Upload/F2CAF29C-8860-457A-8FDF-3E146E26F002.pdf> (last visited May 3, 2024)

¹² Kesavananda Bharti v. The State of Kerala (1973) 4 SCC 225; AIR 1973 SC 1461

IX. THE INDIAN CONTEXT

Fundamental Rights in India trace their roots back to the country's struggle for independence and the drafting of its Constitution. The Indian National Movement, led by prominent figures like Mahatma Gandhi, Jawaharlal Nehru, and B.R. Ambedkar, advocated for individual rights and liberties. The demand for Fundamental Rights was originally made in the 1895 Swaraj Bill by Tilak, and it gained momentum during the Indian National Congress sessions in the early 20th century, culminating in the resolution passed in the 1929 Lahore session, declaring that independent India would grant its citizens full Fundamental Rights. To make this possible, the Drafting committee headed by Dr. B.R. Ambedkar and the Fundamental rights sub-committee headed by J.B. Kripalani undertook the strenuous task of assessing the needs of Indian citizens considering the rough times during partition.¹³

It is because of these reasons that fundamental Rights in India have found space in the Constitution right from its inception. The rights, even though unamendable, were not always how they are presently. They have evolved over time through judicial precedents and legislative-executive actions. Right from the case of *Kesavananda Bharti* in 1963 to *Forty-Second Amendment Act* in 1976 to the incorporation of right to privacy in Article 21¹⁴ in 2017, the Fundamental Rights have evolved a lot.

Post 1950 developments in the Indian Constitutional History are marked by Judicial decisions and Constitutional Amendment Acts through time. One of the major events that affected the position of Fundamental Rights in India was the *Kesavananda Bharti*¹⁵ case of 1963 which declared Part III of the Indian Constitution as basic structure and unamendable. 'It held that the power of amendment of the Constitution, although

¹³ Symbiosis Law School, Hyderabad Blog, "Evolution of Fundamental Rights in India," <https://blog.sls.edu.in/2020/08/31/evolution-of-fundamental-rights-in-india/> (last visited May 3, 2024)

¹⁴ Justice K.S. Puttaswamy (Retd.) & Anr. vs. Union of India & Ors. 2017 10 SCC 1

¹⁵ Ibid.

plenary in terms of Article 368, is not absolute and cannot be exercised so as to destroy its essential features and thus damage the 'basic structure' of the Constitution.¹⁶

However, as the times progressed, the court interpreted this further and said that even though Part III of the constitution finds place in the basic structure, it can be amended to the extent, such that it does not touch upon the fundamental ideals propounded in the same. For eg: One can amend the Fundamental Rights as long as they do not touch upon the Equality principle and jeopardizes the citizens' right to have equal opportunities as those of their other counterparts. This interpretation could be seen in light of the removal of the Right to Property (Article 31) from Part III and making it a simple legal right under Article 300A.¹⁷ It was brought about by the 44th Constitutional Amendment Act, 1978.

This amendment, enacted under the Morarji Desai government, reclassified the right to property from a fundamental right under Article 19(1)(f) and Article 31 to a legal right under Article 300A. It aimed to address concerns related to excessive land ownership and to facilitate the implementation of land ceiling laws in India. By removing the right to property from the list of Fundamental Rights, the government sought to regulate property ownership more effectively and ensure equitable distribution of land resources. This change highlighted the evolving priorities of the Indian state towards economic development and social redistribution, reflecting a shift in the Constitutional framework to align with changing socio-economic realities.

¹⁶ J. Sorabjee, "Expansion And Protection Of Fundamental Rights By Judicial Interpretation And Intervention," available at <https://docs.manupatra.in/newslines/articles/Upload/F2CAF29C-8860-457A-8FDF-3E146E26F002.pdf> (last visited May 5, 2024)

¹⁷ Article 31 was broadened in scope by the 42nd amendment in terms of allowing legislation legitimate under Articles 39(b) and 39(c) of the Constitution to override fundamental rights, sparking debates on the balance between social welfare and individual rights; but it was subsequently curtailed by the 44th amendment.

Even though this amendment was brought about a little late, an earlier amendment of 1976 or the 'Mini Constitution'¹⁸, that came about at the time of Emergency¹⁹, was a more comprehensive and elaborate legislation.

The 42nd Constitutional Amendment Act of 1976 in India came at a time of political turmoil, i.e. the National Emergency imposed overnight by the then Prime Minister Indira Gandhi to halt the Court orders passed against her election. Keeping in mind the ongoing protests and chaos in the nation, she cited law and order concerns as the main reason for imposing the emergency. However, many political scientists still argue that the Amendment was part of a larger strategy to consolidate power and legitimize certain government actions taken during that period. It brought about significant changes to the Fundamental Rights framework, impacting the relationship between Fundamental Rights and other constitutional provisions.

The 42nd Amendment introduced provisions allowing for the suspension of Fundamental Rights during emergencies. Article 358 suspended the rights granted by Article 19 without any special notice during a national emergency. This amendment aimed to provide the government with necessary powers to deal with emergencies effectively, albeit raising concerns about the potential curtailment of individual liberties. It also emphasized the importance of Directive Principles of State Policy (DPSP) over Fundamental Rights in certain instances.

It introduced 10 essential duties for citizens under Part IVA, aligning with the principles of social justice and welfare. The 42nd Constitutional Amendment Act of 1976, while aiming to balance social welfare with individual rights, raised debates on the extent of government power, the suspension of Fundamental Rights during emergencies, and the prioritization of Directive Principles over Fundamental Rights in certain contexts. This amendment marked a significant shift in the constitutional

¹⁸ India.gov.in, "Constitution of India - Amendments - Constitution of India Forty-Second Amendment Act, 1976," <https://www.india.gov.in/my-government/constitution-india/amendments/constitution-india-forty-second-amendment-act-1976> (last visited May 3, 2024)

¹⁹ As imposed by the Indira Gandhi Government from 1975 to 1977.

landscape, emphasizing the State's role in promoting social justice and welfare alongside protecting individual liberties.²⁰

Further, the Hon'ble Supreme Court of India, with its power of judicial review, has played a crucial role in interpreting and expanding the scope of Fundamental Rights through landmark judgments. Cases like *Indra Sawhney v. Union of India*²¹, *State of Uttar Pradesh v. Raj Narain*²², and *Maneka Gandhi v. Union of India*²³ have been pivotal in upholding and expanding Fundamental Rights.

If there is an article which has been accorded the maximum interpretation, it is Article 21. The 21st Article brings forth the right to life and liberty of a person. Though not explicitly, the court through its Judicial Interpretation has stated that it encompasses within its ambit, a right not just to exist but also to live life with dignity. The Supreme Court has brought within the article's radius, the right to travel abroad²⁴, the right to privacy²⁵, right to livelihood²⁶, the right to a clean environment²⁷, right to shelter²⁸, and even the right to protect cultural heritage²⁹.

Even the articles pertaining to the right to equality³⁰ have evolved over time. Judgements like *Indira Sawhney*³¹ and *Ashok Kumar Thakur*³² have talked of issues of reservation and affirmative action of the socially, economically, and educationally

²⁰ The Times of India (Readers Blog), "42nd and 44th Amendment Act of the Constitution of India," <https://timesofindia.indiatimes.com/readersblog/howpandemichasaffectedecommerce/42nd-and-44th-amendment-act-of-the-constitution-of-india-41145/> (last visited May 3, 2024)

²¹ *Indra Sawhney v. Union of India and Ors.* AIR 1993 SC 477

²² *The State of Uttar Pradesh v. Raj Narain* AIR 1975 SC 865

²³ *Maneka Gandhi v. Union of India* AIR 1978 SC 597

²⁴ *Maneka Gandhi v UOI* AIR 1978 SC 597

²⁵ Justice K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., (2017) 10 SCC 1; K.M. Bhaskaran V. Union of India 2020

²⁶ *Olga Tellis v Bombay Municipal Corporation* AIR 1986 SC 180

²⁷ *M.C. Mehta v UOI* 1987 AIR 1086

²⁸ *Chameli Singh v State of UP* 1996 2 SCC 549

²⁹ 'Taj Trapezium Case' Ibid. 26

³⁰ INDIA CONST. art. 14-18

³¹ *Indra Sawhney v. Union of India and Ors.* AIR 1993 SC 477

³² *Ashok Kumar Thakur v UOI* 2008 6 SCC 1

backward sections of the society. Article 19 granting the right to freedom, also covers the right of free press under Clause (1), sub-clause (a)³³.

Summing up whatever has been stated so far, it would not be wrong to say that –

Fundamental Rights in India have a rich historical foundation rooted in the country's struggle for independence and the drafting of its Constitution. The demand for these rights dates back to the early 20th century, gaining momentum through resolutions and sessions of the Indian National Congress. The drafting committee, led by Dr. B.R. Ambedkar, and the Fundamental Rights sub-committee, headed by J.B. Kripalani, meticulously assessed the needs of Indian citizens during partition, laying the groundwork for the inclusion of Fundamental Rights in the Constitution.

Over time, these rights have evolved through judicial precedents and legislative actions, shaping the legal landscape of India. Landmark cases like *Kesavananda Bharti v. State of Kerala* in 1973 and the 42nd Constitutional Amendment Act of 1976 have played pivotal roles in defining and refining the scope of Fundamental Rights. The judiciary, particularly the Supreme Court, has been instrumental in interpreting and expanding these rights through landmark judgments, ensuring their protection and upholding the principles of justice, equality, and liberty enshrined in the Indian Constitution.

The Fundamental Rights in general, and Article 21, in particular, has seen significant expansion, encompassing rights to privacy, travel abroad, livelihood, clean environment, shelter, and the protection of cultural heritage. The evolution of Fundamental Rights in India reflects a dynamic interplay between historical demands, constitutional provisions, judicial activism, and societal needs, highlighting the country's commitment to safeguarding individual liberties and promoting social justice. As the legal landscape continues to evolve, the protection and expansion of

³³ *Bennett Coleman & Co. v. Union of India*, (1972) 2 SCC 788; See *Romesh Thappar v. State of Madras*, AIR 1950 SC 124: 1950 SCR 594; *Brij Bhushan v. State of Delhi*, AIR 1950 SC 129 : 1950 SCR 605; *Sakal Papers (P) Ltd. v. Union of India*, AIR 1962 SC 305 : (1962) 3 SCR 842; *Prabha Dutt v. Union of India*, (1982) 1 SCC 1; *Tata Press Ltd v. Mahanagar Telephone Nigam Ltd.*, (1995) 5 SCC 139.

Fundamental Rights remain essential in upholding the democratic values and principles enshrined in the Indian Constitution.

X. SCOPE OF FURTHER EVOLUTION

The Indian Constitution, standing true to the living tree theory, is a dynamic and not a static document. It is known to evolve as time progresses. It takes into account the changing socio-economic-political scenarios in the nation and then moulds itself according to the need of the time. Thus, future scope of the evolution of Fundamental Rights in India holds immense potential, as the judiciary and the legislature continue to shape and expand the protection of individual liberties and freedoms. The society has been evolving at a super-fast rate. Each passing day puts into the legal domain additional topics and spheres to ponder upon. This leaves the judiciary with ample space to interpret the Constitution and expand or limit its scope, as the time demands. The future holds extreme potential in terms of the tailored versions of the Fundamental Rights, both, philosophically and literally.

The Indian judiciary, particularly the Supreme Court, has played a pivotal role in interpreting and broadening the scope of Fundamental Rights over the years. This trend is likely to continue, with the courts further expanding the ambit of rights enshrined in the Constitution. One such area is the right to privacy, which was recognized as a fundamental right under Article 21 in the landmark *K.S. Puttaswamy*³⁴ judgment. The Court's expansive interpretation of privacy has set the stage for addressing emerging challenges in the digital age, such as data protection, surveillance, and the right to be forgotten. As technology continues to evolve, the judiciary will be tasked with balancing individual privacy with legitimate state interests, further shaping the contours of this fundamental right.

Another fundamental right that is constantly under scrutiny and is questioned on its practicality is that of right to religion. Since India houses a plethora of religions within itself, it is very important for the judicial body to handle cases involving religions intelligently. A balance has to be struck between the opposing sides, such that justice

³⁴ Justice K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., (2017) 10 SCC 1

is sought while not harming any of the sentiments. Similarly, the right to life and personal liberty under Article 21 has been interpreted to encompass a wide range of rights, including the right to livelihood, the right to a clean environment, and the right to cultural heritage. The future may see the courts recognizing additional aspects of the right to life, such as the right to a minimum standard of living, the right to health, and the right to a dignified death, among others.

As the Indian society grapples with new challenges, the evolution of Fundamental Rights is likely to address these emerging concerns. For instance, the rights of marginalized communities, such as LGBTQ+ individuals, persons with disabilities, and indigenous populations, may see further expansion and protection. The courts have already made significant strides in this direction, with landmark judgments like *Navtej Singh Johar v. Union of India*³⁵, which decriminalized homosexuality, and *Puttaswamy v. Union of India*³⁶, which recognized the right to privacy and its implications for LGBTQ+ individuals. The future may witness the judiciary and the legislature working in tandem to ensure the comprehensive protection of the rights of these marginalized groups.

Additionally, the growing concerns around environmental degradation, climate change, and sustainable development may lead to the recognition of new Fundamental Rights, such as the right to a clean and healthy environment, the right to access natural resources, and the right to a sustainable future. The courts may also be called upon to balance these emerging rights with the need for economic development and the rights of industries and businesses.

The effective enforcement of Fundamental Rights is crucial for their meaningful realization. In the future, the focus may shift towards strengthening the mechanisms for the enforcement of these rights, both at the judicial and administrative levels. One potential area of development could be the expansion of the powers of the National Human Rights Commission and state-level human rights commissions, empowering them to investigate violations, provide remedies, and hold the government

³⁵ Navtej Singh Johar v. Union of India AIR 2018 SC 4321

³⁶ Justice K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors., (2017) 10 SCC 1

accountable. Additionally, the creation of specialized tribunals or courts dedicated to the adjudication of Fundamental Rights cases may enhance the accessibility and efficiency of the justice system. The role of the judiciary in enforcing Fundamental Rights may also evolve, with the courts exploring innovative remedies, such as public interest litigation, class-action suits, and the appointment of special commissioners to monitor the implementation of their orders. The future may witness a more proactive and interventionist approach by the courts to ensure the effective realization of Fundamental Rights.

As the Indian Constitution continues to evolve, the challenge of balancing individual rights with the broader societal and developmental needs of the country will remain a key consideration. The 42nd Constitutional Amendment Act of 1976, which attempted to prioritize the Directive Principles of State Policy over Fundamental Rights, is a testament to this ongoing tension. The future may see the legislature and the judiciary engaging in a delicate balancing act, where they strive to uphold individual liberties while also addressing the pressing socio-economic challenges faced by the nation. This may involve the courts adopting a more nuanced approach, where they recognize the need for reasonable restrictions on rights and the government's role in promoting social welfare and economic development.

However, there have been instances in the past where the court was successful in striking a balance between the two variables of societal concerns and individual interests. One of them can be seen in *R. Rajagopal v. State of Tamil Nadu*³⁷, where the government's right to intercept private communications for public security purposes was challenged. In an act of balance, the court upheld the challenged right in certain circumstances, but imposed strict safeguards to protect individual privacy. Another example could be *Paschim Banga Khet Mazdoor Union v. State of West Bengal*³⁸. The case challenged the government's failure to provide adequate healthcare facilities to rural populace. The court recognized the right to health as a fundamental right and directed the government to take steps to improve healthcare access in rural areas.

³⁷ *R. Rajagopal v. State of Tamil Nadu* 1995 AIR 264

³⁸ *Paschim Banga Khet Mazdoor Union v. State of West Bengal* (1996) AIR SC 2426

In conclusion, the future of Fundamental Rights in India holds immense promise, as the country continues to grapple with emerging challenges and strive to fulfill the aspirations of its diverse population. The interplay between the judiciary, the legislature, and the evolving societal needs will shape the trajectory of this dynamic and ever-expanding realm of constitutional jurisprudence. The evolution of Fundamental Rights in a country like ours is a dynamic process influenced by changing social, economic, and technological realities, which practically change with each passing second.

The judicial and the legislative organs play crucial roles in interpreting and expanding the scope of these rights, ensuring they remain relevant and responsive to contemporary challenges. As the country grapples with issues such as privacy, religion, environmental concerns, and the rights of marginalized communities even in the 21st century, it becomes inevitable for the courts to continue recognizing new aspects of Fundamental Rights and develop effective enforcement mechanisms. It thus, takes a hundred percent certitude that the future holds immense potential for the further action of authorities to safeguard individual liberties and freedoms in India along with keeping in mind the societal concerns of the nation.

XI. CONCLUSION

The future of Fundamental Rights in India is not just a legal concept but a beacon of hope for every individual, resonating with the struggles and aspirations of the common citizen. As we look ahead, the evolution of these rights is not merely a matter of legal interpretation but a reflection of the evolving societal fabric and the collective conscience of the nation. The judiciary, with its profound impact on shaping the contours of Fundamental Rights, stands as a guardian of justice, ensuring that the ideals of liberty, equality, and fraternity are not just lofty ideals but tangible realities for every Indian.

In the coming years, the expansion of Fundamental Rights will not be confined to legal texts but will manifest in the daily lives of people, offering them protection, dignity, and empowerment. The right to privacy, a cornerstone of individual autonomy, will continue to be fortified, safeguarding personal freedoms in an increasingly digital

world. As technology advances and challenges traditional notions of privacy, the judiciary will play a crucial role in upholding the sanctity of personal information and ensuring that citizens retain control over their digital footprints.

Moreover, the right to life and personal liberty, enshrined in Article 21, will evolve to encompass a broader spectrum of rights, including the right to a clean environment, the right to health, and the right to cultural heritage. These rights are not just legal provisions but embodiments of human dignity, reflecting the intrinsic worth and value of every individual in society. The judiciary's role in expanding these rights will be pivotal in ensuring that every citizen can lead a life of dignity, free from oppression and discrimination.

As we navigate the complexities of the 21st century, the protection of marginalized communities, such as LGBTQ+ individuals, persons with disabilities, and indigenous populations, will be a focal point in the evolution of Fundamental Rights. The judiciary's commitment to upholding the rights of these vulnerable groups will be a testament to the inclusivity and diversity that define the fabric of Indian society. By recognizing and protecting the rights of all citizens, the judiciary will pave the way for a more equitable and just society, where every individual is valued and respected.

In conclusion, the future of Fundamental Rights in India is not just a legal journey but a moral imperative, a commitment to upholding the principles of justice, equality, and liberty that form the bedrock of our democracy. As we look ahead, the judiciary's role in expanding and protecting these rights will be instrumental in shaping a society where every individual can thrive and flourish. The evolution of Fundamental Rights is not just a legal process but a reflection of our collective values and aspirations, ensuring that the ideals of our founding fathers continue to illuminate the path towards a more inclusive and equitable future for all.