



Mains Practice Question

Q. The Fundamental Rights enshrined in the Indian Constitution have often met with a wide and varied criticism. Analyse. (150 Words)

22 Mar, 2022 GS Paper 2 Polity & Governance

Approach

- First provide a brief introduction of the Fundamental Rights enshrined in the Indian Constitution including its significance
- Then discuss the reasons for their criticism at times by the critics such as Excessive Limitations; No Clarity; No Permanency etc.

Introduction

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. The Fundamental Rights are guaranteed by the Constitution to all persons without any discrimination. They uphold the equality of all individuals, the dignity of the individual, the larger public interest and unity of the nation.

The Fundamental Rights are meant for promoting the ideal of political democracy. They prevent the establishment of an authoritarian and despotic rule in the country, and protect the liberties and freedoms of the people against the invasion by the State. They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature.

Body

However, these Fundamental Rights have often met with a wide and varied criticism such as:

- **Excessive Limitations:** They are subjected to innumerable exceptions, restrictions, qualifications and explanations.
- **No Social and Economic Rights:** The list is not comprehensive as it mainly consists of political rights. It makes no provision for important social and economic rights like right to social security, right to work, right to employment, right to rest and leisure and so on.
- **No Clarity:** They are stated in a vague, indefinite and ambiguous manner. The various phrases and words used in the chapter like 'public order', 'minorities', 'reasonable restrictions', 'public interest' and so on are not clearly defined.
- **No Permanency:** They are not sacrosanct or immutable as the Parliament can curtail or abolish them, as for example, the abolition of the fundamental right to property in 1978. Hence, they can become a play tool in the hands of politicians having majority support in the Parliament.
- **Suspension During Emergency:** The suspension of their enforcement during the operation of National Emergency (except Articles 20 and 21) is another blot on the efficacy of these rights.
- **Preventive Detention:** The critics assert that the provision for preventive detention (Article 22) takes away the spirit and substance of the chapter on fundamental rights. It confers arbitrary powers on the State and negates individual liberty.

Conclusion

In spite of the above criticism and shortcomings, the Fundamental Rights are significant as they constitute the bedrock of democratic system in the country and serve as a formidable bulwark of individual liberty.

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