

**“Human Rights and Resources in a Global
Perspective”**

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Preface

A thought that has been enduring in mind when becomes real, is truly an interesting and exciting experience. This book is one such cherished work that has its roots in the persuasion of many authors, contributors and also mentors which has now embellished to become the snapshot of the innumerable efforts put in since months. This book serves to reinforce increased awareness, improved interaction and integration among all of us.

As the Editor of this book entitled “Human Rights and Resources in a Global Perspective”, I wish to thank all researchers across the globe, who have submitted their contributions. The main aim of this book is to enhance knowledge among researchers, students and the legal fraternity at large and to provide an opportunity for creative research and multi-level consideration of broader issues related to legal insight from both national and interdisciplinary perspective.

It has been indeed a pleasure going through the journey of compiling this book. This maiden issue will surely inspire all of us for a new beginning and enlighten the minds of young scholars with hope, confidence and faith.

Happy reading!

**Dr. Pooja Dasgupta
Chairperson
Pen Acclaims**

Foreword

To all the Readers and Contributors of this book:

Bringing innovative strategies to the attention of policy makers and hence empowering the youth has always been a highly essential part of the working of “Vidhi Aagaz”. This book based on the topic “Human Rights and Resources in a Global Perspective”, is a culmination of different insights which highlight alternative viewpoints, development approaches and innovative technologies backed by analysis and information from various experts across the globe. This book is geared to the needs of practitioners. Through this book, we have tried to bridge the gap between new ideas and theories and field trials.

However, this masterpiece would not have been possible without the valuable contribution from our avid writers. I wish to express my deepest gratitude to all our contributors for their incessant support and for making this entire event a huge success. The authors in this book have harvested to the core problem of human rights and have cohesively voiced their opinion in the best possible way.

Kudos to all authors and novelists!

**Mr. Gyan Prakash Kesharwani
CEO
Vidhi Aagaz – Inking your Brain**

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“Constitutional Protection of Employment in India”

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Introduction

Generally employment means state of being employed for consideration. The purpose of employment is to do a job for salary or remuneration. Employment is very important for us. It may be full time, part time or casual etc. But, it is equally important for every person because of being a means of survival. Only employment is not sufficient its stability is also important because an unsecured employee does not contribute nor does his work properly. Thus, two things are very much important first, employment and second, its security. Without security employment is incomplete. Unfortunately Indians are facing a problem of employment at a large scale. More than crore families have no regular income for them. They are struggling for hand to mouth. Our pious document i.e., our constitution contains a number of provisions regarding employment and its security. There are various provisions regarding employment in chapters fundamental right, Directive Principles of State Policy and other places.

Fundamental Right and Employment

Fundamental right which is given under part III of the Constitution of India has a number of provisions relating to employment in the Indians. Articles 16, 19(1) (g), 21, 23, 24 are directly related to employment.

First part of **Article 16** says that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. But the second part prohibits discrimination in employment or appointment on the ground of religion, race, caste, sex, descent, and place of birth, residence or any of them. But, reservation can be provided in appointments for backward classes if they have no adequate representation in services under the state.¹ Here backward classes include schedule caste and schedule tribe citizens also. Promotion can also be given to schedule caste and schedule tribe citizens in services under the state.²

¹ Article 16(4) Of The Constitution Of India.

² Article 16(4A) Of The Constitution Of India.

Article 19(g) of the Constitution of India gives every citizen right to practice any profession, or to carry on any trade, or business. This right to available subject to some restrictions. This article is directly related to employment. It covers all the avenues and methods by which a person earns his livelihood.³This freedom is available subject to interest of the general public, prescribing professional or technical qualification and creating partial or complete monopoly favoring the state. For the person of protecting traditional fishermen the state may direct mechanical fish travelers not to catch fish for 44 days in the specified season.⁴

State can provide basic qualification for teachers.⁵But selection and appointment of teachers is the right of educational institutions. Article 19(1) (g) confers a broad and general right which is available to all persons to do work of particular kind and of their choice. It does not confer the right to hold a particular job or to occupy a particular post of one's choice.⁶ The right to pursue a calling or to carry on an occupation is not the same thing as the right to work in any particular post under contract of employment.

Article 21 of the Constitution of India ensures right to life and personal liberty. It says that no person shall be deprived of his life and liberty except according to procedure established by law. This article guarantees right to livelihood. In *Olga Tellis V Bombay Municipal Corporation Case*⁷ our Apex Court observed that right to life includes right to livelihood and if the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of means of livelihood to the point of abrogation.

Article 23 of the Constitution of India deals about prohibition of traffic in human beings and forced labor as it says that traffic in human beings and beggar and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Next part of this article says that article shall prevent the state from imposing compulsory service for public purposes, and in imposing such service the state shall not make any discrimination on grounds only of religion, race or class or any of them. In *People's Union for Civil Liberties V Union of Indi* Case Supreme Court held that payment of wages less than the minimum wages would be regarded as forced labour.

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³ Brij Kishore Sharma, Introduction to the constitution of India (New Delhi: PHI, 2007), 92.
⁴ Kerala S.M.T. Federation V Kerala T.B.O. Association (1994)5SCC28.
⁵ Bramho Samaj Education Society vState of W.B. (2004)6 SCC224.
⁶ D.J.De, Interpretation & Enforcement of Fundamental Rights (Calcutta: Eastern Law House, 2000), 510.
⁷ AIR 1986 SC 180.

