



ARTICLE 14 RIGHT TO EQUALITY

EQUALITY RIGHTS (ARTICLES 14 – 18)

- Article 14 –
- The **State** shall not deny to **any person**
- equality before the law or
- the **equal protection of the laws**
- within the **territory of India.**
- Applies to all persons.

Two expressions

Equality before law (equal justice)	Equal protection of the laws (equal justice)
Negative	Positive
English	American
Tries to establish equality of status as stated in preamble	Meaning is not same as equality before law. Equality of treatment in equal circumstances.
Absence of any special privilege in favour of individuals and all classes are subject to ordinary law	guarantee of equal protection applies against substantive as well as procedural laws.
“Law” in the former expression is used in a genuine sense – a philosophical sense	“Laws” in the latter expression denotes specific laws in force

Two expressions

- Convey equal justice
- (1) Does not mean absolute equality among individuals
- Means absence of privilege on the basis of birth caste etc.

- It is an aspect of **Rule of law (Albert Venn Dicey) (1885)**
- (2) –all persons similarly circumstanced shall be treated alike both in the privileges conferred and liabilities imposed by the laws.
- Like should be treated like and not that unlike should be treated alike.
- Basic feature

EQUALITY

Equality doesn't mean Justice



Equality



Justice

Rule of law

- (i) **Absence of discretionary powers and supremacy of Law**: viz. no man is above law. No man is punishable except for a distinct breach of law established in an ordinary legal manner before ordinary courts. The government cannot punish any one merely by its own fiat. Persons in authority do not enjoy wide, arbitrary or discretionary powers. Dicey asserted that wherever there is discretion there is room for arbitrariness.
- (ii) **Equality before law**: Every man, whatever his rank or condition, is subject to the ordinary law and jurisdiction of the ordinary courts. No person should be made to suffer in body or deprived of his property except for a breach of law established in the ordinary legal manner before the ordinary courts of the land.
- (iii) **Predominance of legal spirit**: The general principles of the British Constitution, especially the liberties and the rights of the people must come from traditions and customs of the people and be recognized by the courts in administration of justice from time to time.

Exceptions

- not an absolute right.
- Hence, is subject to
- an exception – **reasonable classification**.
- Examples:
 - 1) does not mean that powers of private persons are the same as the powers of public officials
 - 2) Certain classes of persons being subject to special rules. E.g. armed forces, medical and legal practitioners
 - 3) Ministers and executive bodies

Exceptions

- Constitutional provisions:
 - 1) 42nd amendment Act 1976 – Article 31-C.
 - 2) Art. 359(1)
 - 3) Art. 361
 - 4) Foreign sovereigns and ambassadors

Article 14 permits classification but prohibits class legislation.

Reasonable classification

1. Ineligible Differentia:

The classification must be founded on an intelligible differentia which distinguishes those that are grouped together from other. Arbitrariness is an anti-thesis to the right to equality. Hence, there should be no scope of arbitrariness in classification.

2. Rational Relation: That differentia must have a rational relation to the object sought to be achieved by the Act. It is necessary is that there must be nexus between the basis of classification and the object of the act which makes the classification. It is only when there is no reasonable basis for a classification that legislation making such classification may be declared discriminatory.

Ram Krishna Dalmia vs Mr. Justice S.R. Tendolkar on 29 April, 1957

- That a law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself.
 - That there is always a presumption in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles.
- That it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds; e.g. geographical, occupations, professions.
- Classification need not be specifically perfect. Equal treatment – not identical treatment.
 - Discrimination can be in substantive and procedural laws.

- **Chiranjilal vs. Union of India (AIR 1951 SC 41)**

1. A single person or entity can form a class.
2. The onus to establish facts or circumstances to support the charge of unreasonableness is on the person who assails the legislation.

State of West Bengal vs. Anwar Ali (AIR 1952 SC 75)

- West Bengal special courts Act- invalid.

Balaji vs. State of Mysore

- Reservation invalid.

Cases

E.P Royappa v. State of Tamil Nadu & Another A.I.R. 1974,

- J. Bhagwati- new concept of equality
- Equality is a dynamic concept- can't be cribbed, cabined and confined within traditional and doctrinal limits.
- Equality(belong to rule of law in a republic)is antithesis to arbitrariness (belong to the whim and caprice of an absolute monarch) –sworn enemies
- Reasonableness is the test.

Maneka Gandhi v U.O.I. 1978 (followed)

- So the new law is- if state action is arbitrary-cant be justified even on the basis of doctrine of classification.
- Justice should not only done but it must also be seem to be done.

Case laws

- Lachmandas v State of Bombay (1952) (Substantive as well as procedural laws)
- Pradeep Jain v U.O.I. 1984 (Reservation of seats in M.B.B.S.& B.D.S.)
- K. Nagraj v St. of A.P. 1985 (Age of retirement)
- Air India v Nargesh Mirza 1981 (Retirement of airhostesses)
- N. John Vallamattom v Union of India (AIR 2003 SC 2902) (Indian Succession Act)
- Javed v State of Haryana (AIR 2003 SC 3057) (Election of persons having more than 2 children)