

RIGHT TO EQUALITY

ARTICLE 14

HISTORY

- **RULE OF LAW**- A v dicey in his book The Constitution of England developed the concept of rule of law. According to this rule every individual whether of any status does anything against the legal framework would be equally liable under the legislations of law and would be treated equally. According to rule of law Supremacy does not belong to any person there is always Supremacy of law.
- **Article 7 of the Universal Declaration of Human Rights 1948** declares that all are equal before the law and entitled without any discrimination to equal protection of law.

ARICLE 14

- “Article 14 reads the state shall not deny to any person equality before the law or the equal protection of laws within the territory of India.”
- The expression ‘equality before law’ is of **English** and the expression ‘equal protection law’ has been taken from the **14th amendment of American constitution.**
- While equality before law is somewhat a negative concept implying the absence of any special privilege in favor of individuals and equal subject of all classes to ordinary law. Equal protection of law is a more positive concept implying equality of treatment in equal circumstances. The rule is that like should be treated alike and not that unlike should be treated alike.

Equality before law-

- It envisages the absence of any special privilege by reason of birth, creed or the like in favor of any individual. Among equal the law should be equal and should be equally administered.
- Equality before law is an aspect of *Dicey's rule of law in England*. Rule of law requires that no person shall be subject to Harsh and discriminatory treatment. Thus , rule of law envisages-
 1. **Absence of arbitrary power or Supremacy of law** - It means the absolute Supremacy of law is supposed to the arbitrary power of the government. In other words a man may be punished for a breach of law but it can be punished for nothing else.
 2. **Equality before the law** - it means subjection of all classes to the ordinary law of the land administered by ordinary law courts. This means that no one is above the law. Everyone whether he is an official or a private person is bound to obey the same law.

3. The constitution is the result of the ordinary law of the land it means that the source of the right of individuals is not the written constitution but the rule as defined and enforced by the courts.

- The first two aspects of rule of law apply in Indian legal system. The last effect does not apply to our system. The constitution is the supreme law of the land and all laws passed by the Legislature must be inconsistent with the provisions of the constitution

Equal Protection Of Law-

- It means that similarly circumstanced people shall be treated alike both in the privileges conferred and the liabilities imposed. This concept is similar to the one embodied in the 14th amendment of American constitution.
- In **Indira Nehru Gandhi VS Raj Narain 1975** Supreme Court held that rule of law embodied in article 14 of the Constitution is the basic feature of the constitution and it cannot be destroyed by the amendment of the constitution

Exception to the rule of equality

- The rule of equality is not an absolute rule. There are certain exceptions to it.
- It does not mean that powers of private citizens are the same as powers of public officials. Public officials are sometimes given wider powers under certain standards for enforcement/ implementation of law.
- Certain special classes of persons are subject to special rules. Article 361 of Constitution provides that the president and the governor of the state shall not be answerable to any code for exercise of their powers and performance of their duties. No criminal proceeding process for arrest of president of the Governor shall be instituted.

Reasonable classification

- Classification is necessary for better public welfare. To protect this classification from undue influence a test was formulated in the case of **State Of Bombay V. F.N. Balsara 1951**. Test list down two essential conditions necessary to establish the reasonable classification:
 1. intelligible differentia
 2. rational Nexus
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- In **RG Garg vs. Union of India 1981** the Supreme Court held that Article 14 forbids class legislation but it does not prohibit reasonable classification.
- The classification must not be arbitrary, artificial or evasive. for the classification to be reasonable following two conditions must be satisfied:
- the classification must be based on intelligible differentia which distinguishes person or things that are grouped together from others left out of the group and
- The differentia must be a rational relation to the object sought to be achieved.

The new concept of equality

- Article 14 spells the traditional concept of equality which is based on reasonable classification.
- The Supreme Court in **EP Royappa vs State of Tamil Nadu 1974** laid down a new concept of equality which is different from the traditional concept of reasonable classification.
- **Justice P N Bhagwati** propounded Justice P N Bhagwati that “*equality is a dynamic concept and it cannot be cabined for confined to the traditional or doctrinaire limits.*”
- In **Maneka Gandhi VS Union of India 1978** the supreme court again reiterated the concept laid down in **EP Royappa’s case** and held that “*Equality is antithesis to arbitrariness.*” Article 14 strikes at arbitrariness in state action and ensures fairness and equality of treatment of people.

CASE LAWS

- In **Indira Nehru Gandhi VS Raj Narain 1975**

Supreme Court held that rule of law embodied in article 14 of the Constitution is the basic feature of the constitution and it cannot be destroyed by the amendment of the constitution.

- In **Javed vs State of Haryana 2003**

The apex court upheld the constitutional validity of certain provisions of Haryana Panchayati Raj act 1994 which disqualified a person for holding office of Sarpanch or a Panch of Gram Panchayat, etc. if he had no more if he had more than two living children. the provision was held to be not discriminatory and the classification made by it that is (person having two or more children and persons having not more than two children) is based on intelligible differentia having Nexus with the object of popularization of family program for stop the provision also does not violate article 25 of the constitution.

- **Joseph Shine v. Union of India, 2018**
- The Supreme Court struck down Section 497 as unconstitutional being violative of Art 14, 15 and 21 of the Indian constitution and held that Section 198(2) of CrPC shall be unconstitutional to the extent of its applicability to Sec 497 IPC.