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The "Right to Equality" stands as the foremost fundamental right guaranteed to the citizens of India. Article 14 encapsulates the essence of equality as articulated in the Preamble. Subsequent articles, such as 15, 16, and 17, delineate specific instances where the broad principles enshrined in Article 14 are applied.

Article 14 is often hailed as the cornerstone of equality due to its expansive scope and relevance. While Article 15 and others are confined to citizens, Article 14 extends its reach to all individuals. In the landmark case of Indra Sawhney v. Union of India (1992), it was affirmed that the principle of equality enshrined in Article 14 is an intrinsic aspect of the Constitution.

ARTICLE 14 : EQUALITY BEFORE LAW

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Equality stands as a revered principle in the annals of humanity. Renowned British constitutional expert A.V. Dicey expounded upon his Rule of Law principles, with 'Equality before the law' being a pivotal aspect of this enduring concept.

The phrase 'Equal protection of the law' finds its place in the 14th Amendment of the U.S. Constitution and also echoes in Article 7 of the Universal Declaration of Human Rights (1948). Even the preamble to the U.N. Charter acknowledges the importance of equality.

"Equality before law" represents a somewhat passive concept, implying the absence of any special privilege in favour of individuals and the equal subjection of all classes to ordinary law.

It denotes that no individual is above the law, and every person, irrespective of status, is subject to the ordinary laws of the land and accountable before the ordinary courts.

On the other hand, "Equal Protection of law" embodies a more proactive notion, expecting positive action from the State, implying equality of treatment under similar circumstances. In essence, it guarantees equal treatment, where all individuals facing identical circumstances are governed by the same set of rules. The principle emphasises that equals should be treated alike, not unlike.

In the case of **State of W.B. v Anwar Ali Sarkar,** the Court aptly noted that the latter expression is the logical outcome of the former, making it difficult to conceive a scenario where a violation of equal protection of laws does not entail a violation of equality before the law. Thus, in essence, the two expressions convey the same essence.

In **Re Special Courts Bill, 1978 (AIR 1979 SC 478),** Justice Chandrachud observed: "The underlying principle of the guarantee of Article 14 was that all persons similarly circumstanced should be treated alike both in privileges conferred and liabilities imposed."

Availability of the right to equality - The term "any person" in Article 14 signifies that equal protection of the law is extended to all individuals, including companies or associations, etc. Article 14 applies to both citizens and non-citizens, encompassing natural persons as well as legal entities. Equality before the law is ensured to all, irrespective of race, colour, or nationality. However, an alien (foreign national) cannot claim equal rights under Article 14 in comparison to an Indian national regarding the grant of Indian citizenship.

Exceptions to the rule of equality - Under Article 359, during the proclamation of emergency, the enforcement of Article 14 may be suspended. Article 361 stipulates that the President and Governors shall not be answerable to any court for the exercise and performance of their powers and duties of office. They are also immune from criminal and civil proceedings until certain conditions are met. Members of Parliament and State legislatures are not liable for anything said or done within the House (Articles 105 and 194). Foreign diplomats enjoy immunity from the jurisdiction of courts. Article 31C provides an exception by excluding certain laws [for implementing any of the directive principles specified in Article 39(b) or (c)] from the purview of Article 14.

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Reasonable Classification under Article 14

Article 14 does not imply that all laws must possess a general character, or that they must uniformly apply to all individuals, or that every law must have universal applicability because individuals are not inherently, in terms of achievement or circumstances, situated equally. The State has the authority to treat different individuals differently if circumstances warrant such treatment. Indeed, offering identical treatment in dissimilar circumstances would lead to inequality. The legislature must be empowered to group individuals, objects, and transactions to achieve specific objectives. Therefore, reasonable classification is not just permitted but essential for societal progress.

Through the process of classification, the State has the authority to determine who should be recognized as a class for legislative purposes, and concerning a law enacted on a specific subject, classification involves the segregation of classes with a systematic relationship, typically based on shared properties and characteristics. It requires a rational foundation and does not entail arbitrarily herding together certain individuals and classes **(Re Special Courts Bill, 1978 AIR 1979 SC 478).**

Class legislation refers to improper discrimination by granting particular privileges to a randomly selected class of individuals. No reasonable distinction can justify including some while excluding others from such privileges.

While Article 14 prohibits class legislation, it allows for reasonable classifications of individuals, objects, and transactions by the legislature to achieve specific goals. In essence, Article 14 condemns class legislation but permits classification for legislative purposes **(State of A.P. v N.R. Reddi (2001) 7 SCC 708)**.



Test of Reasonable Classification
The classification must not be "arbitrary, artificial, or evasive", and it must meet the following two conditions:

It must be based on an intelligible differentia that distinguishes the individuals or things grouped together from those excluded from the group; and

The differentia must bear a rational relationship to the objective sought to be achieved by the Act.

The differentia, which forms the basis of classification, and the objective of the Act are two distinct elements. What is essential is that there must be a connection between the basis of classification and the objective of the Act that necessitates the classification. There should be a rational foundation for classification.

CHIRANJIT LAL CHAUDHARY v UOI

(AIR 1950 SC 41)

In this landmark case, it was established that a single individual may constitute a class for the purposes outlined in Article 14 of the Constitution. The scenario unfolded with the government assuming control over the management of a company in Sholapur through the enactment of the Sholapur Spinning and Weaving Co. (Emergency Provision) Act.

A shareholder of the company challenged the Act, arguing that it infringed upon the principle of equality before the law, as it singled out one company and its shareholders for disparate treatment compared to others in the same position. Essentially, the law targeted this specific company and its shareholders, depriving them of their right to self-governance, while other companies and shareholders were not subject to similar measures.

The Supreme Court, in upholding the validity of the Act, elucidated that a law can be deemed constitutional even if it applies to a solitary individual. This is permissible when unique circumstances or reasons are applicable to that individual, setting them apart as a class unto themselves, unless it can be demonstrated that others are similarly situated.

The Legislature retains the authority to discern the degree of harm and may restrict its intervention to cases where the necessity is most evident.

In the specific instance of the Sholapur Company, it constituted a distinct class due to its mismanagement adversely affecting the production of an essential commodity and resulting in significant unemployment among labourers.

A corporation involved in the production of a commodity vital to the community assumes a social dimension beyond merely financial investment. Therefore, it is in the broader interest of society that the Legislature recognized it as a unique class and enacted specialised legislation applicable solely to it.

New Concept of Equality: Arbitrariness

While the traditional understanding of equality has centred on the doctrine of classification, a new paradigm has emerged, rooted in the doctrine of arbitrariness. Article 14 embodies a robust activist spirit, guaranteeing protection against arbitrariness. Arbitrariness stands in stark contrast to equality [E.R Royappa v State of T.N. AIR 1974 SC 555].

Non-arbitrariness is a fundamental aspect of Article 14, permeating all state actions governed by it. In essence, natural justice serves as a bulwark against arbitrariness. Consequently, the principle of audi alteram partem ("fair hearing"), a facet of natural justice, becomes a prerequisite of Article 14 [Basudeo Tiwary v Sido Kanhu University (1998) 8 SCC 194]. Any action deviating from the principles of natural justice violates Article 14.

In E.P. Royappa, it was established that equality is a dynamic concept with multifaceted dimensions, transcending traditional confines. From a positivist standpoint, equality opposes arbitrariness; the former aligns with the rule of law in a republic, while the latter signifies the whims of an absolute monarch. Equality and arbitrariness stand as sworn adversaries. An arbitrary act inherently signifies inequality, both politically and constitutionally, thus violating Article 14.

In the Maneka Gandhi case, the court highlighted that the principle of reasonableness, a pivotal element of equality or non-arbitrariness, permeates Article 14 like an omnipresent force. Article 14 serves to combat arbitrariness in state actions, ensuring fairness and equitable treatment. If a state action is arbitrary, it is inherently unequal, constituting a violation of Article 14. Consequently, even the doctrine of classification fails to justify arbitrary state actions.

However, this new conception of equality has faced criticism, deemed illogical, inadequate, and unnecessary by some, such as Seervai. In the Bearer Bonds case **(R.K. Garg v UOI AIR 1981 SC 2138)**, a Supreme Court Judge (Gupta, J.) remarked that if the test of reasonableness, as expounded in Maneka Gandhi and Royappa, were sufficient for passing the test, then the observations made in those cases would be rendered superfluous. Thus, while the test of classification remains recognized, the emergence of arbitrariness as a crucial component of equality marks a significant evolution in constitutional jurisprudence.

In **A.L. Kalra v Project & Equipment Corpn. (1984) SCC 999**, the court expanded the scope of Article 14's application. It ruled that for Article 14 to be applicable, there is no need to demonstrate discrimination vis-à-vis others. According to the court, actions deemed arbitrary or unreasonable are inherently discriminatory.

However, the determination of what constitutes arbitrary or unreasonable actions, as well as the standards for assessing their reasonableness, beyond the classification doctrine, remain unsettled matters. These determinations depend on the specific facts and circumstances of each case.

One apparent test is to examine whether any discernible principle emerges from the impugned Act and whether it satisfies the test of reasonableness (as actions devoid of reason are deemed arbitrary). Thus, the application of Article 14 has evolved to encompass not only overt

discrimination but also arbitrary or unreasonable actions, broadening its protective ambit against violations of equality.

ARTICLE 15: PROHIBITION OF DISCRIMINATION AGAINST CITIZENS

Article 15 delineates a specific application of the overarching principle enshrined in Article 14. Thus, even if a discriminatory action does not fall within the realm of Article 15 (or Article 16), it may still be subject to scrutiny if it violates Article 14, which has a broader scope. When a law falls within the ambit of Article 15 (or Article 16), it cannot be justified by invoking Article 14 through the principle of reasonable classification. It's noteworthy that unlike Article 14, the protection under Article 15 (or Article 16) is extended exclusively to citizens.

Clause (1) - "The State shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth, or any of them."

Clause (2) - "No citizen shall, on ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to - (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public."

Provisos (or Exceptions) to Article 15(1) and (2)

Clause (3) - "Nothing in this article shall prevent the State from making any special provision for women and children."

Clause (4) - "Nothing in this article or clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes."

Clause (5) - The Constitution 93rd Amendment Act, 2005 (w.e.f. 20th January 2006), introduced a new Clause (5) to Article 15. Clause (5) stipulates that nothing in Article 15 or in Article 19(1)(g) shall hinder the State from making any special provision, through law, for the advancement of socially and educationally backward classes of citizens or for Scheduled Castes/Scheduled Tribes concerning admission to educational institutions, including private ones, whether aided or unaided by the State, except minority educational institutions referred to in Article 30(1).

ARTICLE 16: EQUALITY OF OPPORTUNITY IN PUBLIC EMPLOYMENT

Article 16 delineates the guarantee against discrimination specifically concerning "employment or appointment" under the State. It is narrower in scope compared to Article 15, which addresses all forms of discrimination not covered under Article 16. However, while Article 15 prohibits discrimination on five grounds (religion, race, caste, sex, or place of birth), Article 16 expands to cover seven prohibited grounds (religion, race, caste, sex, descent, place of birth, or residence). Both articles are applicable exclusively to citizens.

Clause (1) - There shall be equality of opportunity for all citizens in matters relating to "employment or appointment to any office under the State."

Clause (2) - No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.

Clauses (1) and (2) of Article 16 ensure equal opportunity for all citizens concerning employment or appointment to any office under the State. This includes not only initial appointment but also promotion, retirement age, seniority, etc. [U.P.S.C. v Girish Jayantilal Vaghela (2006) 2 SCC 482]. However, Article 16 does not prohibit the State from prescribing necessary qualifications and selective tests for recruitment to government services. These tests must not be arbitrary and should have a rational nexus with the qualifications required for the position or the nature of the service.

The concept of "equality of opportunity" under Article 16(1) pertains to equality among members of the same class of employees, rather than between members of distinct independent classes.

In **Pradeep Jain v Union of India (1984) 4 SCC 654,** it was established that while the residential requirement for admission to a medical college in a State may be valid under Article 16(2) and previous court decisions, its validity can be examined based on Article 14. If it violates Article 14, it will be deemed unconstitutional.

In **Randhir Singh v Union of India (AIR 1982 SC 879)**, it was determined that "equal pay for equal work," though not explicitly a fundamental right, is undoubtedly a constitutional objective under Articles 14, 16, and 39(c)* of the Constitution. This principle can be enforced by the courts in cases where unequal pay scales are based on irrational classification. This principle has been upheld in numerous cases and has effectively become a fundamental right.

It's important to note that under Article 16(2), discrimination based solely on any of the enumerated grounds will trigger this clause. However, if discrimination is based partly on the grounds listed in Article 16(2) and partly on other grounds, or if it's based on grounds not mentioned in Article 16(2), this clause would not apply. Instead, the case would be evaluated based on the general principles outlined in Article 16(1). Therefore, if discrimination is rooted in backwardness, Clause (2) would not be invoked **(State of Kerala v N.M. Thomas).**

Article 17: Abolition of Untouchability

Article 17 abolishes untouchability and prohibits its practice in any form. Acts enforcing disability based on untouchability are deemed punishable offences. Untouchability refers to social disabilities imposed on certain caste groups due to their birth. However, it does not encompass social boycotts or exclusions from religious services.

Article 18: Abolition of Titles

Article 18 deals with the abolition of titles and distinctions. It includes four provisions:

1. Prohibition of the state from granting titles, except for military or academic distinctions.
2. Indian citizens are prohibited from accepting titles from foreign states.
3. Foreigners holding office under the state cannot accept titles from foreign states without the President's consent.
4. Neither citizens nor foreigners holding office under the State can accept gifts, salaries, or positions from foreign states without the President's consent.

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