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**ARTICLE 14 OF THE INDIAN CONSTITUTION: AN ANALYSIS**- Neeraj Kumar<sup>1</sup>**ARTICLE 14: Equality before law**

As per Article 14 of Constitution, “The State shall not **deny to any person equality before the law** or the **equal protection of the laws** within the territory of India Prohibition of discrimination **on grounds of religion, race, caste, sex or place of birth.**”

The doctrine "Rule of Law", which was propounded by **Albert Dicey** is derived from a French phrase "**La Principe de Legalite,**" which means "*a government founded on the principles of law and justice opposes the ruler's arbitrariness.*"

In India, it is seen as one of most crucial cornerstones of democracy. And it has been adjudged as a basic feature of the constitution which means that neither constitutional amendments nor the parliament and state legislature can go against the fundamental right. The term “Equality before law” has its origin from the United States of America, and it is a concept which aims at the implication of absence of some special privileges. These privileges can be by the reason of birth, religion, sex, caste, etc and by the common law in favor of persons and classes.<sup>2</sup>

Article 14 provides two principles:

- Equality before the law
- Equal protection of the law

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<sup>2</sup> <https://indianjudiciarynotes.com/general/reservation-laws-on-college-education/>

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## **EQUALITY BEFORE THE LAW:**

The principle of Equality before the law is derived from the English law which is also known as the “Rule of Law” which was put forward by Prof. Dicey. It is also somewhat considered as a negative concept because it states that the law should be equal and should be equally administered and that the commons should be treated alike. It ensures that all people are treated equally in ordinary law and this means that no person, whatever his position, rank, or condition be, is above the law. And, Special treatment or special privileges shall not be given to any person as a favour. Law should be implemented equally and equal subjection of all the classes of ordinary law should be implemented. But, there is no absolute equality in this concept.<sup>3</sup>

It ensures the supremacy of law and the absence of arbitrary power. It also ensures equality before the law which means that the common law by common law courts shall be applied equally to all classes of the land. Under Article 14, every person has equal protection and is equal before law. All are equal in the eyes of the law.

## **EQUAL PROTECTION OF LAWS:**

The concept of Equal protection has been taken from the American Constitution (14<sup>th</sup> amendment of the American Constitution). It is somewhat considered as a positive concept and ensures that all the people be treated equal in both privileges and the circumstances. It is a concept which aims at equal treatment in identical circumstances. It provides the guarantee of equal protection in both substantive as well as procedural laws.

Equal protection of law shall be provided to common citizens in the same way as it is provided to the president or prime minister of the country. And, the same law should apply to all persons in the same circumstance and position, and there should be no discrimination.<sup>4</sup>

## **The Article 14 permits classification, but it prohibits class legislation:**

The principle implies that every rule must apply equally to all people who are in the same situation due to their nature, accomplishments, or circumstances. Different demands of different kinds of people frequently necessitate dealing with them in different ways. Various laws are

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<sup>3</sup> <https://www.casemine.com/judgement/in/581180e72713e179479dd9f3>

<sup>4</sup> <https://www.britannica.com/topic/civil-rights>

required in different areas due to the diverse character of civilization. Legitimate policy restrictions should be in place, and laws should be enacted in the best interests of the state and nation's security and safety. Furthermore, the same treatment in uneven conditions is inequitable. So the reasonable classification is a necessary instrument for the progress of the society.

The categorization must not be "arbitrary, artificial, or evasive," but rather should be based on something genuine and substantial that has a just and reasonable relationship to the legislative goal. Article 14 cannot, however, be implemented if the equals and unequal are handled differently.

Class legislation means to make a biased discrimination by providing some particular privileges to a class of persons who are arbitrarily selected, all of who stand in the same way to the special privilege granted. Government cannot grant favor to any person or class and no favour to other class without reasonable classification, the inclusion of one and exclusion of other should be on substantial differences.<sup>5</sup>

#### **TEST OF REASONABLE CLASSIFICATION:**

Our society has a different class of people and their nature also differs in every society. Hence, the different needs of the classes of people requires to be dealt in different manner. Therefore, many laws must be applied based on the reasonable classification to maintain equality without any discrimination. Article 14 permits reasonable classification but prohibits the class legislation.

According to this concept, the principle of equality means that same law will not apply to everyone and it can be applied to a class of a people. And the legislature has power to make reasonable classification and to prohibit class legislation.

There are two tests of reasonable classification. In **State of West Bengal Vs Anwar Ali Sarkar Habib**, Supreme court examined the scope of reasonable classification.

To provide speedier trial of the certain offences, the West Bengal Special Courts Act, 1950 was enacted. The State Government has the authority to establish special courts under Section 3 of the Act. Section 5, whose validity was challenged, authorized these Special Courts to try certain

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<sup>5</sup> <https://www.casemine.com/act/in/5a979dac4a93263ca60b723b>

offenses in accordance with the State Government's guidelines. The grounds of challenge were that, there was no justification for categorization of various offences under the Act.

The Supreme Court did not validate the Act because it provided arbitrary powers in the hands of govt. to classify the offenses or the classes of offenses at its pleasure. The Act did not mention any policy or guideline for the classification of those offenses. As a result of this provision, the different treatment was given to the appellant. The supreme Court observed that the provisions for speedy trial were too vague and uncertain and these provisions cannot form the basis of reasonable and valid classification.

And this case was one of the initial cases which laid down the basic foundational principles of Article 14.<sup>6</sup>

#### **There are two conditions to pass the test of reasonable classification-**

- **INTELLIGIBLE DIFFERENTIA:** It means to make classification in different groups or person on just and reasonable grounds.
- **NEXUS WITH RESULT:** this differentia must have a rational relation to the objective which that classification need to achieve.

The basis of this classification is the differentia and the objective of this act are two complete different things. There must be a nexus between this reasonable classification and the objective of this classification.

And, if there is no reasonable basis for the classification, the legislation of such classification can be declared discriminatory by the court. Thus, the legislature can fix a certain age at which the persons can be deemed to be competent to contract between themselves and no one can claim the competence. Such classifications can be arbitrary. The classification is based on geographical, time, nature of trade, or occupation. These classic tests of reasonable and permissible classification were marked as “they now sound platitudinous” in 1960. <sup>7</sup>

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<sup>6</sup> -[https://thefactfactor.com/facts/law/Constitutional\\_law/article-15/1209/](https://thefactfactor.com/facts/law/Constitutional_law/article-15/1209/)

\* The State Of West Bengal vs Anwar All Sarkarhabib 11 January, 1952 ,1952 AIR 75 SC Supreme Court

<sup>7</sup> -<http://www.legalservicesindia.com/article/479/Reservation-&-principle-of-equality.html>

\* ,National Legal service Authority vs Union of India Supreme Court 15 April 2014 AIR 2014 SC 1863

## **NEED FOR REASONABLE CLASSIFICATION:**

If the classification is based on the reasonable classification, the legislature can deal with two sets of individuals. To make reasonable classification, smart differences between the people should be created. The collective group of person or things which are going to get privileges should be properly defined, and distinct class. And the basis of classification and objective should be corelated.

**Illustration-** the law on maternity leave benefits the women and not to man because this law was created with the objective to grant leave to the women who cannot attuned work place due to childcare and post pregnancy weakness. Hence, the difference of men and women is based purely on an intelligible differentia.

There is another important case which defines the actual need of the reasonable classification.

### **National Legal Service Authority [NALSA] v Union of India and others\***

National Legal Services Authority (NALSA) filed petition to legally recognize the persons who fall outside the category of predefined genders of the society which has the legal recognition, i.e., male/female gender binary, including those persons who identify as “third gender” or transgender.

The Court concluded that the guarantee to equality (Article 14 of the Constitution) was defined in gender-neutral words (“all persons”), notwithstanding the fact that the third gender or transgender person faced “extreme prejudice in all sectors of society.” As a consequence, transgender people will have the same right to equality as everyone else.

Article 14 necessarily does not mean that all the laws should be general in character or that the like laws must apply to all people or that every law should have the universal application on every person. This is because all people are not, by circumstances, nature, or attainment, in the same position. Thus, the State can reasonably treat different persons indifferently if the situation justifies their treatment. Moreover, the equal treatment in unequal circumstances amounts to inequality in a way. By keeping in mind that ‘reasonable classification’ is needed to develop and progress in the society, the Supreme court validated reasonable classification of object, persons

and transaction by the state under Article 14, for the purpose of achieving specific targets that can help in the progress of the society.<sup>8</sup>

### **DOCTRINE OF ARBITRARINESS:**

There were many cases in which the reasonable classification test was used to test whether the legislation is violating Article 14 or not. But, in the case of **E.R Royappa vs State of Tamil Nadu & ANR\***, petitioner challenged the old concept of equality i.e. reasonable classification and a new concept was laid down by the Supreme Court.

Justice Bhagwati laid down the second test of Article 14 which is referred to as “new doctrine” or the “arbitrariness test”. The test lays down that the equality proposed by the Article 14 implies a guarantee against the arbitrariness in the actions of the State. This test has actually been in favor with the Supreme Court and despite the fact of its vague formulation, it has formed the basis on many occasions for State actions being declared as ultra vires to the Article 14. Justice P.N. Krishna Iyer on behalf of himself, Chandrachud, and Krishna Iyer J.J., Bhagwati delivered the decision. It pioneered a whole new idea of equality. It was claimed that equality is a highly significant notion with numerous dimensions and features that cannot be cribbed, cabined, or restricted by old doctrinaire boundaries. Arbitrariness is incompatible with equality. Egalitarianism and arbitrariness are diametrically opposed. It may be deduced that it is uneven in terms of logic, political dimension, and Constitutional legislation. As a result, it is in violation of Article 14.

The same judgment was used in another landmark judgment of the case of **Maneka Gandhi Vs Union of India\*\***. In this case, the Supreme Court propounded that if a procedure of law does not fulfill the requirements of article 14, then it is not a procedure under the concept of article 21.

Bhagwati J. (as he was then) affirmed the same in **Ramana Dayaram Shetty vs The International Airport Authority of India** stating that Article 14 strikes arbitrariness because any arbitrary actions should mandatorily involve negation of equality.

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<sup>8</sup><https://www.indiatoday.in/india/story/citizenship-amendment-bill-all-you-need-to-know-about-cab-16275162019-12-11>

\* E.R Royappa vs State of Tamil Nadu & ANR 1974 AIR 555 1974 SCR (2) 348

\*\* Maneka Gandhi Vs Union of India 25 January 1978 AIR 597 Supreme Court

Courts' propounded doctrine of reasonable classification is not same or paraphrase of Article 14 nor is the object and end of that Article. It is an executive or the legislative action in question which is arbitrary. Therefore, it constitutes the denial of equity. So, an arbitrary act is treated as unequal and the violation of article 14. Article 14 strikes down the inconsistent action of the state and ensures equality and fairness in the treatment.

**D. S. Nakara v. Union of India**, explained the concept of reasonable classification. In this case, Justice Desai stated the judgement for the majority & assimilated both the doctrine of arbitrariness and doctrine of classification . The concept of equality and the test for it is to be applied to fulfill the basic requirements of article 14.<sup>9</sup>

In the **International Airport Authority** case, Bhagwati ,J, repeated the same principle in the words mentioned below :-

“It should now be taken to be well settled that Article 14 strikes at arbitrariness because an action that is arbitrary, should mandatorily involve negation of equality. If the classification is not reasonable, the impugned action would simply be arbitrary and the guarantee of equality under Article 14 would be breached.”

#### **RELATION BETWEEN RESERVATION AND PRINCIPLE OF EQUALITY:**

The equality has been guaranteed by the State under Article 14 of the Indian constitution. And this article has the position to be called the soul of the constitution because, no country is entitled to be called as republic if there is no equality in the country.

The need of equality has compelled humans to come under a single entity or the state so that they can get equal protection of law, security and equality in all circumstances. In the Preamble, we have borrowed the word equality from the French Revolution, which in itself shows the objective of our constitution. Article 14 is also a step forward towards the achievement of that goal. Equality means that the like person or the object should be treated alike and not unlike people should be treated like. That's why Article 14 permits the reasonable classification between equals and the unequal so that unequal should be granted some certain privileges to bring them on the

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<sup>9</sup> -<https://indiankanoon.org/doc/1156606/?type=print>

\* Ramana Dayaram Shetty vs The International Airport Authority of India 4 May 1979 1979 AIR 1628

equal grounds with the equals. The aim of equality will not be achieved until the time everyone will be on the equal ground. So, the aim to achieve equality has given rise to the idea of reservation system or affirmative action. Reservation can be called as special privilege to under-privileged society to give them chance to come at the equal footing to the other people of society.

Reservation is the idea which rose with an aim to give special help to the weak and needy so that they can overcome their inequality and can compete with the strong.<sup>10</sup>

In landmark judgments like **D.V. Bakshi v. Union of India**<sup>11</sup> and **Air India v. Nargesh Meerza**<sup>12</sup>,

In the case of **Air India v. Nargesh Meerza** , Air India, which is a state-owned company, required female flight attendants to retire mandatorily under the given three circumstances:

- attaining 35 years of age
- getting married
- at their first pregnancy

These same set of rules were not applied to male attendants.

These rules were struck down by the court based on of official arbitrariness, hostile discrimination and violation of Article 14.

The Supreme Court has issued decisions demonstrating that inequity will not be allowed anywhere. As a result, the decisions in these instances have established new precedents in the notion of equality. It is a condition of full fairness, and reservation is the most practical way to achieve it. Reservations have shown to be extremely effective in many nations. For example, the United States has affirmative action for blacks, and reserve is playing a key part in closing the gap between different classes in many other countries.

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<sup>10</sup> [https://www.academia.edu/40362710/LEGAL\\_ASPECT\\_OF\\_EQUALITY](https://www.academia.edu/40362710/LEGAL_ASPECT_OF_EQUALITY)

<sup>11</sup> 1981 AIR 1829

<sup>12</sup> AIR 1993 SC 2374



The supreme Court permitted subclassification of the oppressed classes in to more backward classes for the purpose of article 16(4). But there was a condition that as a result of this subclassification, the reservation system cannot exceed its limit of giving the reservation of more than 50 percent in any circumstance. The differentiation shall be based on the degree of their social oppression or backwardness.

The purpose of this classification is to provide help to the more oppressed classes directly, otherwise backward classes who are comparatively advanced from them, may take all advantage of reservation system. “Thus reservation and equality are said to be the two sides of same coin and if equality is the goal then reservation is the best possible way to reach that goal”

In this case, the Supreme Court described the jurisprudence of the equality before law. The very famous “classification test” had been given in this case. It basically permits the State to make differential classification of subjects.

#### **WHETHER RESERVATION CAN BE HELD VALID UNDER ARTICLE 14?**

The idea of reservation policy was articulated to compensate the past discrimination which was practiced to the lower and minority classes. It is an attempt made to promote and practice equal opportunity of status. It is now mandatorily introduced in govt. and educational institutions to make sure that the minority groups in a society must be included in all the important events and programs. The explanation for the reservation is to redress for all the discrimination, persecution, or exploitation which was done in the past against them by the ruling class of people or culture and to address and end the prevailing discrimination in the society.

The basic aim of reservation is to promote social and economic equality by providing some privileges to disadvantaged people of the society. Social equality is a state of affairs in which all the person under a society or isolated group of people have the same status in a specific circumstance. It includes the equal rights under the law, such as voting rights, freedom of speech and assembly, security, and the extent of rights in property.

It also includes the right to health care, education, and many other social securities. It involves equal opportunities and obligations of the whole society. Article 14 prohibits the discrimination by the law that is treating persons similarly in the circumstances differently and those who are

not in similar circumstance are treated in the different way or has been concisely treating equal as unequal and unequal as equal. A legislature with the scope of dealing with the concerned problem arise out of variety of human relations, but cannot move forward on some sort of selection or classification of people upon whom the legislation is to be operated.<sup>13</sup>

### **JUDICIAL APPROACH TOWARDS RESERVATION**

Our judiciary has pronounced some judgements which upholds the reservations and some judgements for its proper implementations. The reservations have been modified by the judgements throughout the time by the Indian parliament through the process of Constitutional amendments. The landmark judgments of the Indian judiciary has been flouted by the central and the state governments. The important judgments given by the Indian court that reflects the Constitutional status of reservation can be seen thoroughly in the case of the **Ajay Hasia Etc Vs Khalid Mujib Sehravardi & Ors Etc.\***

In the case of **Ajay Hasia Etc v. Khalid Mujib Sehravardi & Ors Etc** , there was the local engineering college which took admissions of the students based on of written examination followed by oral interviews. This criteria was challenged by the candidates on the ground that this criteria is too vague, arbitrary and unreasonable because candidates gets the high percentage of marks based on of oral test and the students were interviewed only for the duration of 2-3 minutes.

The court struck the rule of allocating high percentage of marks for oral test of one-third of the total marks allocated was simply arbitrary and violate of article 14 of the Indian Constitution. The oral interview cannot be considered as a satisfactory test for the evaluation of the true caliber of the students as it is subjective and primarily based on the first impression and its results will be influenced by many arbitrary factors and have the chances of abuse. It cannot be made the exclusive test. Furthermore it shall be only made as an additional examination. It should be mandatorily conducted by the people of high integrity, qualification and the caliber.

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<sup>13</sup> - <https://legodesk.com/legopedia/article-14-of-the-indian-Constitution/>

It was suggested by the court that the interview should be recorded to keep check on the procedure. Court denied to quash admission of those students who got admission based on of high percentage in oral interview, keeping in mind the view of lapse of 18 months of time when students have already completed their three semesters. The mere suspicion few candidates had obtained high marks in the oral interview round, but low marks in written examination did not prove the malaise intention of the selectors.

The actual nature, meaning and scope of the of Article 14 has been described in many cases by the SC. In view of this the concept laid down in the case of **Ram Krishna Dalmia v. Justice Tendolkar**<sup>14</sup>, holds a valid classification and are as follows:

1. The law can be Constitutional even if it applies to a single individual because of unique circumstances or causes that apply to him but not to others, allowing the individual to be recognized as a class unto himself.
2. There is always a reliable presumption in favor of a statute's legality, and the burden of proof is on the person who challenges it to prove that it violated recognized Constitutional principles or norms in a fair fashion.
3. The assumption might be rebutted in some specific circumstances by demonstrating that, despite the fact that the statute contains no classification or differentiation unique to any individual or class and not applicable to any other individual or class, the law solely affects that individual or class.
4. It must be presumed that the legislature recognizes and understands the need of its own people for its laws to be tailored to problems that have been identified through experience, and that discrimination is founded on acceptable or satisfactory reasons.
5. To maintain the presumption of legality, the court may examine issues of common knowledge, matters of report, the history of the times, and any condition of facts that may be envisaged at the time the legislation is enacted.

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<sup>14</sup> AIR 1958 SC 538

7. While the legislature's good faith and knowledge of current conditions must be assumed, the presumption of Constitutionality cannot be carried to the extent that there must be some undisclosed and unknown factor if there is nothing on the face of the law or the surrounding circumstances brought to the court's attention on which the classification may reasonably be regarded as based.
8. The categorization can be based on a variety of factors, such as geography, item, employment, and so on.
9. The legislature's classification does not have to be scientifically exact or logically flawless. Perfect equality and mathematical nicety are also not required. Equality before the law does not imply that all people are treated equally in all situations. The term "equal treatment" does not imply "equal treatment." Similarly, the treatment's identification is insufficient.
10. Discrimination can exist in both substantive and procedural law. If the categorization meets the standard set forth in the above-mentioned circumstances, the law will be considered.

Constitutional under Article 14. However, whether or whether a categorization is acceptable and proper must be determined more by common sense than by legal rules.

Our Indian Constitution is one of the best and largest written Constitution of the world. And then

Article 22 is secondary to it because there is no meaning of life when there is no equality. The Indian reservation system has proved to be a major success in improving the status of the oppressed classes of the people and past few decades have shown the rapid development in position of the backward class in India. The graph of development and progress have shown a rapid and then constant inclination. Though, the reservation system in our country is an outcome of immense amount of research conducted by the commissions and govt. agencies like the Mandal Commission etc but even then our system is lagging on the applicability part.

It seems that some faults remain in the identification of the backward classes or oppressed classes because despite all the efforts of government and law to help those classes through reservation, the position of backward classes is not improved as it should have been improved throughout

these years. Our prevailing reservation system is mostly caste based and it has been observed that the upper section of each class who are forward than the others who are developing and are able to do the maximum utilization of the reservation system and also now they have attained both the social equality as well as the economic equality because they are economically sound now while the lower segment of the same caste are still unaware of their rights of reservation and they are still backward. In order to redress this inequality which is there in the same caste, the reservation policy should be based upon the economic basis so that every individual of the country who is socially backward as well as economically will get equal opportunity to develop. Many castes are now economically developing but they are still socially backward. Some new methods are required other than caste based reservations in order to remove this gap and to increase them socially.<sup>15</sup>

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<sup>15</sup>[https://www.academia.edu/13854858/Critical\\_Analysis\\_of\\_the\\_Judicial\\_Review\\_Process\\_of\\_Constitutional\\_Amendments\\_in\\_India](https://www.academia.edu/13854858/Critical_Analysis_of_the_Judicial_Review_Process_of_Constitutional_Amendments_in_India)

