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# A CRITICAL EXAMINATION OF EQUALITY BEFORE LAW IN INDIA

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## **ABSTRACT**

Any fully democratic society's legal framework must have the equality doctrine as a vital component. Between equality and non-discrimination, which is likewise a universally acknowledged truth, is a corollary. And because India is a democratic nation that leans more towards the socialist system, it is crucial to understand the fundamentals of the right to equality, which affects not only the nation's citizens but also those who are not citizens. It is also crucial to understand all the necessary safeguards for the rights of the underdeveloped or socially and educationally backward classes, as well as the state's responsibility as a protector. These rights are referred to as basic fundamental rights. In this case, the research paper tried to define the critical analysis of the right to equality in the Indian context and its effects on society as well as to inform the public about the same for the benefit of various social groups.

**KEYWORDS: Democratic, Citizens, Right to Equality, Fundamental Rights, Backward Classes**

## INTRODUCTION

Every modern democratic state possesses a fair and just judicial system. In such a state, the rule of law must be upheld in a way that treats all citizens equally. The law is unfair and falls short of upholding justice if it advantages any citizen on any irrational basis, such as class, status, gender, etc.

Every state subject must be treated equally before the law, and no subject may be given any special treatment based on an arbitrary factor like gender, race, class, religion, etc. The phrases "equality before the law" and "equal protection of the law" sum up this idea. According to A.V. Dicey, this notion is a fundamental component of the concept of the rule of law.

The words "equality before the law" and "equal protection of the law" can be found in Article 14 of the Indian Constitution, which guarantees that no citizen would face discrimination when the law is applied or enforced on any irrational basis. Article 7 of the Universal Declaration of Human Rights also mentions it.

The fundamental rights of its citizens, as described in Part 3 of the Indian Constitution, are codified by the Constitution of India. One of the essential rights, the right to equality, is protected under Articles 14 through 18. Every person has the right to equality before the law and equal protection of the law under this right. The equality mentioned in the Preamble is actualized in Article 14. Another significant aspect of this Article is that it not only requires the State to refrain from discriminating against individuals, but also places a positive duty on it to take steps to eliminate social inequities.

According to *Equality before the Law*, "the state shall not deny any person equality before the law." Both citizens and non-citizens of India are entitled to equality. No one is above the law; everyone is equal in the eyes of the law, according to Article 14. According to Article 12 of the Fundamental Rights, these rights are safeguarded by the state.

Every person who resides on Indian territory has equal legal rights, according to Article 14's right to equality. There is no discrimination on the basis of place, sex, caste, colour, or religion. The main principle of the right to equality states that everyone will be treated equally and that class distinctions will not exist. In addition, different provisions were made under the same heading, the right to equality. These provisions are separately explained under the titles of Article 15, which is Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth; Article 16, which is Equality of Opportunity in Matters of Public Employment; Article 17, which is Abolition of Untouchability; and last but not least, Article 18, which is Abolition of Titles.

As the mother of all other articles under that subject, it is obvious that Article 14 guarantees equal rights without discrimination. It states that everyone is treated equally by the law. regardless of his money, social standing, colour, or religion.

According to **Dr. Jennings**, who was absolutely correct: "Equality before the law means that like should be treated equally among equals and that the law should be equally applied. Every person who is over 18 and capable of understanding shall have the same right to sue and be sued, to prosecute and be prosecuted for the same type of action, without regard to race, religion, wealth, social status, or political influence.

### **ARTICLE 14**

Article 14 states that no one living in India can be denied equality before the law or equal protection under the law. The phrase "equality before the law" is an unfavorable idea, and the State is required to refrain from doing any actions that are discriminatory in character.

According to it, no specific group of people receives any special treatment, and everyone is subject to the same legal requirements regardless of their rank. Therefore, everyone must obey the law of the land, or *lex loci*, and no one is above it.

The US Constitution's 14th Amendment serves as the foundation for the concept of "equal protection of the law." It stipulates that everyone in India should receive equal legal protection so they can exercise their legal rights without any exceptions or favoritism. This is a good idea since it suggests that the State has a responsibility to take steps to guarantee this right to all citizens.

As a result, the State is bound to provide equal treatment under both of these expressions. The Supreme Court explained that although both of these terms appear to be the same, they actually have different meanings in the case of **Sri Srinivas Theatre v. Government of Tamil Nadu**. The idea of equality before the law is a complex one with many facets, one of which is that there shouldn't be any privileges or exceptions to the rule of law.

## **RULE OF LAW**

The French word “la principe de legalite,” which translates to “the principle of legality,” is the source of the English phrase "rule of law." **Sir Edward Coke** was the one to originally advance it. This idea emphasizes that the rule of law, rather than the whims of the rulers, should control society. In his work "*The Constitution of England*," **A.V. Dicey** developed the idea further.

Dicey provided three definitions for this phrase:

### 1. **Supremacy of Law:**

The rule of law is supreme, which means that the government is not permitted to act arbitrarily. A person can be punished for breaking a law, but the government cannot penalize them for other offences.

### 2. **Equality Before the Law:**

This concept states that everyone should be subject to the same laws, which are handled by the regular courts of the country. As a result, everyone must obey the law and is not above it. Because it is widely held in England that the King is above the law, Dicey had made an exception for the Monarch under this rule.

### 3. **The Constitution Originates from the Ordinary Law:**

The fact that the constitution was derived from common law means that people's rights are not established by the constitution but rather are the outcome of statutory law, which is controlled by the judiciary.

Because the Constitution is the supreme law of the land and derives the rights of the people from it, all other laws passed by the Legislature should not contravene its provisions. The first and second rules have been adopted in India, but the third rule has been left out.

## **EQUALITY BEFORE LAW IN INDIA**

According to our Preamble, India is a "sovereign socialist secular democratic republic." Additionally, it is stated that everyone should have access to social, economic, and political justice. The freedom of expression, belief, and worship, as well as equality of opportunity and status, as well as the spirit of brotherhood that upholds human dignity and the cohesiveness of the country, should all be upheld. The equality before the law provision of Article 14 fits in nicely with the equality clause in our Preamble as well. Having said that, everyone in this territory is guaranteed the fundamental right to live, work, and be treated without discrimination.

In the context of equality before the law, the notion that similar things should be treated similarly is supported. It means that those who are equal—those who are in

comparable circumstances-should have the same right to bring a lawsuit and to be sued for that lawsuit, and that this right should be available to them without any discrimination based on religion, sex, caste, or another similar element.

In the case of **State of West Bengal v. Anwar Ali Sarkar**, the court determined that the terms "equal protection of law" and "equality before the law" are logical extensions of one another. As a result, it is difficult to imagine a scenario in which a violation of equal protection of the law does not also constitute a violation of equality before the law. Thus, despite having distinct meanings, both phrases are connected.

### **ORIGIN OF EQUALITY BEFORE LAW**

The "*Magna Carta*," which is the covenant or charter of the rights negotiated in the UK addressing the proscription of the monopolistic power of governments, serves as the foundation for this law. The "Green Charter," a deal signed by King John, said that their churches should not be subject to government interference and that basic human rights would be maintained by this pact. Additionally, it declared that people's essential needs and the rights to pass on their property should be shielded from excessive taxes. Additionally, this agreement claimed to safeguard citizens from corruption and official wrongdoing as well as widows' rights to marriage.

### **AN EXCEPTION TO EQUALITY BEFORE LAW**

The Indian Constitution contains a few exceptions to the general concept of equality. According to Articles 105 and 194, the State Legislatures and the Members of the Parliament, respectively, are not responsible for anything said in the House.

When an emergency is declared, Article 359 allows for the suspension of fundamental rights, including Article 14, and states that any violations of this right committed during the emergency cannot be brought before the courts once the emergency has ended.

According to Article 361, the President and the Governors are not accountable to any court for any actions they take while performing their official duties.

### **REASONABLE CLASSIFICATION TEST**

The Supreme Court explains equality before the law jurisprudence in this decision, **Ram Krishna Dalmia v. Justice Tendolkar**. the standard used to decide whether or not state actions are legal under the Constitution. Only in this instance was the infamous "classification test" administered. In this case, the High Court ruled that, where required, a government can create a commission to investigate an issue. Here, the government's primary goal is to commit to supporting issues of public interest.

It involves administrative judgement. In this case, the government ultimately has the power to decide anything. It was determined in this instance as well that the government's actions were reasonable and supported by the law.

The Supreme Court ruled that social and economic equality is what is meant when we talk about equality in any political democracy. There is no other form of equality, and the government should make every effort to achieve social and economic justice.



### **TEST OF REASONABLE DISCRETION**

The petitioner (Oregano Chemical Industries) filed a petition under Article 32 of the Constitution against the order Regional Provident Fund Commissioner that imposed a high penalty under Section 14(B) of the Employees' Provident Funds and Miscellaneous Provisions Acts, 1952 for the delayed payment of Employees' Provident Funds and Miscellaneous Provisions Acts, 1952 to prevent the late payment of their employees' family pension and Employee Provident funds. This case is very well known and involves Oregano Chemical Industries v. Union of India. The issue here is between Article 14 of the Indian Constitution and Section 14(B) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952. In this case, the government was told to offer the remedy available to the Fund so that damages may be made up.

The Central Provident Fund Commissioner or another officer designated by the Central Government is authorized by Section 14(B) to seek damages from an employer who has failed to make a contribution to the fund, provided that the employer has had an adequate opportunity to be heard.

Additionally, this provision states that the Central Board may waive their damages in the event of a sick industrial company. In this case, the court determined that the government had arbitrarily employed this section, going beyond its reasonable power of discretion and infringing on Article 14 of our constitution.

**ILLUSTRATIONS**

Despite the concept of equality before law, there are many examples which show discrimination and marginalization:

- In the month of April 2019, a 23-year-old Dalit guy from the Tehri district of Uttarakhand was allegedly beaten up by members of the higher caste for eating in front of them at a wedding reception. Later, the victim passed away from his wounds.
- A terrible incident involving a Dalit youngster beating him up and tying him up with a rope when he attempted to visit a temple in Rajasthan's Pali area was reported in June of the same year.
- In the Vijayapura area of Karnataka, close to the state capital of Bengaluru, a Dalit man was allegedly stripped naked and severely beaten in July 2020 for touching an upper-caste guy's motorbike.
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- In Uttar Pradesh, two men, including a former village chief, gang-raped a 22-year-old Dalit lady in October while holding her at gunpoint. The two allegedly forced their way into her home and raped her there while holding guns to their heads.
- A gang of 15 men attacked two Dalit brothers in Madhya Pradesh's Datia district in November after they objected to the dismissal of a two-year-old case against an upper-caste man. They also set fire to their home.
- Two young Dalit sisters were allegedly killed a few weeks later, on November 16, and their remains were dumped in a pond in one of the villages in Uttar Pradesh.
- A Dalit man in Gujarat is said to have been refused access to a shared crematorium for his final rites in another case of casteism. A guy from the Anand district was arrested by the police for violating the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

**LANDMARK JUDGEMENTS**

**I. Indian Young Lawyers' Association v. State of Kerala**

By a vote of 4:3, the Supreme Court ruled that the Sabarimala Temple's practice of forbidding women in their "menstruating years" from entering the temple grounds was unconstitutional. In response to the judgement, a number of review petitions were submitted, some of which are still awaiting the Supreme Court's final consideration.

**II. National Legal Service Authority [NALSA] v UOI, AIR 2014 SC 1863**

The National Legal Services Authority of India (NALSA) filed this case to formally recognize those who identify as "third gender" as well as those who do not fit neatly within the male/female gender spectrum.

The Court found that the guarantee to equality (Article 14 of the Constitution) was framed in gender-neutral terms ("all persons"), although highlighting the reality that transgender people were subject to "extreme discrimination in all spheres of society". As a result, transgender people would likewise have the right to equality.

**III. Sanjeev Coke Manufacturing Corporation v. Bharat Coking Coal Ltd. 1982**

According to SC, when Article 13 is implemented, so are Articles 14 and 19.

**IV. Air India v Nargesh Meerza [1978] 2 SCR 621**

State-owned Air India forced female flight attendants to retire in one of three situations:

- (1) upon turning 35,
- (2) upon getting married, or
- (3) upon experiencing their first pregnancy.

Male attendants were not subject to the same restrictions. The restrictions were overturned by the Court, which determined that they violated Article 14 by being official arbitrariness and hostile discrimination.

**V. Indra Sawhney v UOI, AIR 1993 SC 477**

This decision marks a turning point in the law governing reservations in India. The Court explained how Articles 14 and 16 relate to one another. According to the ruling, Article 16(1) is a feature of Article 14. Both Article 16(1) and Article 14 permit fair categorization. Seats or openings may be reserved as part of a classification. The main goals of Articles 14 and 16 are equality and equality of opportunity, and Article 16 Clause (4) is a method for achieving this goal. Given that both articles reiterate the equality principle found in Article 14 of the Constitution, they must be reconciled.

**VI. Maneka Gandhi v UOI, (1978) 1 SCC 248**

The seven-judge bench ruled that there is a tripartite between Articles 14, 19, and 21. These articles must be read in order. Any law that restricts someone's personal freedom must pass three tests:

- (i) it must specify a procedure;
- (ii) the procedure must stand up to scrutiny under one or more of the Article 19 fundamental rights that may be relevant in a particular circumstance; and
- (iii) it must also be capable of being examined in light of Article 14.

The law and method authorizing interference with personal liberty must also be just, just, and fair and not arbitrary, whimsical, or oppressive, since the standard outlined in Article 14 also applies to Article 21. The procedure recommended would not be a procedure at all in the sense of Article 21 if it did not meet the condition of Article 14.

### **CONCLUSION**

According to the principle of "equality before the law," everyone must be treated equally regardless of their gender, economic status, caste, or any other aspect. All people who reside on Indian territory are granted the freedoms of working, receiving an education, and speaking their minds. Additionally, Article 14 guarantees or ensures the provision of civil, social, legal, inherent, political, and economic equality before the law. Every person living on Indian territory is entitled to equal protection under the law, which the states cannot also contest. Finally, I would want to add that because our nation is democratic, each and every citizen has been granted a set of fundamental rights, and that it is important to ensure that these rights are not violated by anyone, even the government. Our constitution's guarantee of equality is not actually being fully upheld, despite the fact that our judicial system has advanced numerous legislative requirements relating to it. As hard as our judiciary and the other two state organs fight to uphold equality among all of our citizens, it will be incredibly challenging to eliminate inequity as long as people are unaware of their rights. To safeguard their own rights, citizens' roles became increasingly important. In order to ensure that no one is denied their rights, the right to equality required to be implemented practically. Everyone, from Mahatma Gandhi to Bhim Rao Ambedkar, dreams of living in a nation without discrimination.

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