



## Study about the Right to Equality

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**Abstract:** The purpose of this research is to identify the general principle of “right to equality” the word “Right to equality” need no explanation because it tell its meaning itself, And it is one the our fundamental right. But there are some hidden points which are needed to explain & this research project highlights those points & exception, which are admissible by our Indian constitution. It also helps to know, why discrimination accepted under constitution law of India?

Right to equality given under article 14 of Indian law. It ensures the guarantees to every person the right to equality before law & equal protection of the laws. It is not only right of Indian citizens but also right of non-citizens .article 14 says “The state shall of India.” article 14 define no one is above the law. All are equal in eye of law.

**Key words:** Equality, Constitution, Article

### Equality before law

The state shall not deny to any person equality before the law.

### Meaning of right to equality

This means that every person, who lives within territory of India, has the equal right before the law. The meaning of this all are equal in same line. No discrimination based on religion, race, caste, sex, and place of birth. Its mean that all will be treated as equality among equal .and there will be no discrimination based on lower or higher class.

### Article-14 of Constitution of India

The state not deny to any person equality before the law or the equal protection of the laws within the territory of India. Protection prohibition of discrimination on grounds of religion, race, Caste, sex, or place of birth. Prof. Dicey, explaining the concept of legal equality as it operated in England, said: “with us every official, from the prime minister down to a constable or a collector of taxes, is under the same responsibility for every act done without any legal justification as any other citizen.”

The phase “equality to the law” finds a place in all written constitutions that guarantees fundamental rights. “All citizens irrespective of birth, religion, sex, or race are equal before law; that is to say, there shall not be any arbitrary discrimination between one citizen or class of citizens and another.” “All citizens shall, as human persons he held equal before law.” “All inhabitants of the republic are assured equality before the laws.”

According to Dr. Jennings: “Equality before the law means that law should be equal for all. And should be equally administered, that like should treated alike. The right to sue and be sued, to prosecute and prosecuted for the same kind of action should be same for all citizens of full age and understanding without distinctions of race, religion, wealth, social status or political influence.”

### Equal Protection of Law

“Equal protection of law” has been given in article 14 of our Indian constitution which has been taken from section 1 of the 14th amendment act of the constitution of the United States.

Meaning of equal protection of law:

ISSN : 2348-5612 © URR





Here, it means that each person within the territory of India will get equal Protection of laws.

In *Stephen's college v. university of Delhi* under The court held that the expression "Equal protection of the laws is now being read as a positive Obligation on the state to ensure equal protection of laws by bringing in necessary social and economic changes so that everyone may enjoy equal protection of the laws and nobody is denied such protection. If the state leaves the existing inequalities untouched laws d by its laws, it fails in its duty of providing equal protection of its laws to all persons. State will provide equal protection to all the people of India who are citizen of India and as well as non citizen of India.

### **Exceptions to Rule of Law**

In the case of *Indra Sawhney* the right to equality is also recognized as one of basic features of Indian constitution. Article 14 applies to all people and is not limited to citizens. A corporation, which is a juristic person, is also entailed to the benefit of this article. This concept implied equality for equals and aims at striking down hostile discrimination or oppression of inequality. In the case of *Ramesh Prasad v. State of Bihar*, AIR 1978 SC 327 It is to be noted that aim of both the concept, 'Equality before law' and 'Equal protection of the law' is the equal Justice.

### **Underlying principle:**

The Principle of equality is not the uniformity of treatment to all in all respects. it only means that all persons similarly circumstanced shall be treated alike both in the privileges conferred and liabilities imposed by the laws. Equal law should be applied to all in the same situation, and there should be no discrimination between one person and another.

### **Rule of Law**

The rule of law embodied in Article 14 is the "Basic feature" of the Indian constitution. Hence it cannot be destroyed even by an amendment of the constitution under article 368 of the constitution.

### **Meaning of rule of Law**

The Rule of law has been given by prof. Dicey the expression the guarantee of equality before the law. It means that no man is above the law, all are equal in eye of law. Its means that law is equal for all in same line. Because state have no religion all are equal in same line. And uniformity will be applied for all. Every organ of the state under the constitution of India is regulated and controlled by the rule of law. Absence of arbitrary power has been held to be the first essential of rule of law. The rule of law requires that the discretion conferred upon executive authorities must be contained within clearly define limits. The rule of law permeates the entire fabrics of the constitution of India and it forms one of its basic features.

### **Article 361 of Indian constitution Law**

The President, or the governor of a state, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him In the exercise and performance of those power and duties. Provided that the conduct of the president may be brought under review

Protection of President and Governors:

1) The President, or the Governor of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under article 61:



Provided further that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office.

(3) No process for the arrest or imprisonment of the President, or the Governor of a State, shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President, or the Governor of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

**Special provision for women and Children and SC, ST & backward classes :**

Article 14 of Indian constitution law says that all are equal in the eye of law. No one can prevent the state from making any special provisions for women and children. For a examples, special seating arrangement for women in buses, trains, metros trains is not unconstitutional. It was held by court that “reservation of some seats for women in college.”

According to section 497 of Indian penal code, adultery is consider as offence when it committed by men, not consider offence if committed by women thus women cannot be Prosecuted for abettors. It is clear that it makes special provision for women and which is valid under constitution law article 15(3). Section 437 of c.r.p.c., 1973 restricts the release of an accused person a capital offence on Bail except women, children under age of 16 years or ill or infirm persons. in Choki v. State of Rajasthan, the court has held that it valid on the grounds make special Provision for women and therefore, it is protected under article. Article 15(4) has been inserted by the constitution ( first amendment ) Act, 1951. This amendment has been changed in the supreme court case state of Madras v. champakam dorairajan. In this case, the reservation of seats for the admission to state medical and engineering colleges was made on the ground of caste and religion. The court said that it unconstitutional on the ground that it was based on communal matter. Article 15(4) was interested in the Indian constitution law after the amendment. the aim to empower the government to make special provisions for the betterment of educationally and socially backward classes of citizen of India and for the Scheduled tribes and scheduled castes. State has made many special provision for the weaker sections such as ST,SC and educationally and socially backward classes of citizens of India., Meaning of “ Scheduled caste” means such castes, race, or tribes or parts of or groups within Such castes, races or tribes as are deemed under article 341 to be scheduled castes for the purposes of this constitution. Article 341(1) provide additional protection to the members of the scheduled castes having regard to the social, economical, educational, backwardness from which they suffer because of their caste.

**New Concept of Equality For The Protection Of People Of India**

In the case of the Air India v. Nargesh Meerza Regulation 46 of Indian Airlines regulations provides an air Hostess will be retire from the service upon attaining the age of 35 years or on marriage within 4 years of Service or on first pregnancy, whoever found earlier but regulation 47 of the regulation act the



managing director had the discretion extend the age of retirement one year at a time beyond the age of retirement up to the age of 45 years at his option if an air hostess was found medically fit .it was held by the court that an air hostess on the ground of pregnancy was unreasonable and arbitrary, it was the violation of article 14 under constitution law of India. The regulation did not restrict marriage after four years and if an air hostess after having fulfilled the condition became pregnant, there was no ground why first pregnancy should stand in the way of her running service. Of the court said that the termination of service on pregnancy was manifestly unreasonable and arbitrary on the basis of this it was violation of article 14 of Indian constitution.

**Conclusion:** Keeping in view of above mentioned statements said by the different courts, it is clear that Article 14 gives the ensurity of equal rights without discrimination. It says equal everyone is Equal in eye of law, whether he belongs to different race, religion, social status or wealth.

As Dr. Jennings rightly said: “equality before the law means that law should be equal and should be equally administered, that like, should be treated alike. The right to sue and be sued to prosecute and prosecuted for the same kind of action should be same for all citizens of full age and understanding without distinctions of race, religion, wealth, social status or political influence.” Right to equality is a one of the most important part of our Indian constitution, which gives strengthen to all those people who belongs to Indian nationality. It is necessity of the upcoming generation to secure their right & change our developing India in to developed India

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