

Right to Equality, Constitutional Provisions, Exceptions

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The Right to Equality, enshrined in **Articles 14 to 18** of the Indian Constitution is a fundamental principle of democratic society. This right ensures equal treatment of all individuals before the law, prohibiting discrimination based on religion, race, caste, sex, or place of birth.

This right embodies two essential principles: "*Equality Before Law*" and "*Equal Protection of Law*." More than just a legal concept, it is a moral imperative that recognises the inherent dignity of every human being and strives to eliminate social prejudices. Together, these principles inspire the creation of an equitable society, promoting justice, harmony, and inclusivity for all.

What is the Right to Equality?

Equality embodies the principle that all individuals are treated **fairly and impartially**, without discrimination based on caste, religion, gender, race, or economic status. It ensures that every person enjoys equal rights, opportunities, and access to resources within society, fostering justice and fairness.

- It includes fundamental equality of persons, opportunity, conditions, and outcomes.

- Dimensions of equality span legal (equal laws), political (equal participation), economic (fair wealth distribution), and social (removal of discrimination).
- **Equality and Principles of Natural Justice (PNJ): PNJ uphold fairness and equity-**
- **Audi Alteram Partem:** Everyone deserves the right to be heard.
- **Nemo Judex in Causa Sua:** No one should judge their own case to prevent bias.
- Integration with equality ensures arbitrary actions are avoided, and decisions are just.
- **Equality and Rule of Law:** A.V. Dicey outlined three principles of the Rule of Law, which emphasize equality by ensuring:
 - **Supremacy of Law:** All individuals are equally bound by the law.
 - **Equality Before the Law:** Everyone is treated the same under the law.
 - **Predominance of Legal Spirit:** State actions must adhere to laws (No Arbitrary Power).

Right to Equality Article

The Part III of the Indian Constitution enshrines **Fundamental Rights**, guaranteeing equality and justice to all citizens regardless of caste, race, birthplace, religion, or gender. These rights are justiciable and form a key constitutional pillar. Articles 14-18, under the Right to Equality, uphold the principle of "equality of status and opportunity" as stated in the Preamble. This right is among the six Fundamental Rights recognized by the Constitution.

1. **Article 14:** Right to Equality
2. **Article 15:** Prohibition of Discrimination on the Grounds of Religion, Race, Caste, Sex or Place of Birth
3. **Article 16:** Equality of Opportunity in Public Employment
4. **Article 17:** Abolition of Untouchability
5. **Article 18:** Abolition of Titles

Right to Equality Article 14

Article 14 of the Indian Constitution ensures that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." This mandates equal treatment of all individuals by the State and its institutions, irrespective of their background.

Equality Before the Law	Equal Protection of the Law
- Originates from British law. - A negative concept emphasising: • Absence of special privileges based on factors like birth or creed. • Equal subjection of all individuals and classes to the ordinary law of the land. • Principle: No one is above the law.	- Derives from American law. - A positive concept focusing on: • Treating all individuals in similar circumstances equally in terms of rights and liabilities. • Ensuring laws are applied uniformly to all those in the same situation. • Principle: "like should be treated alike" without any form of discrimination.

Article 15: Prohibition of Discrimination on Specific Grounds

Article 15 ensures that the State does not discriminate against citizens based on religion, race, caste, sex, or place of birth. **Key Provisions:**

- **Non-Discrimination by the State (15(1)):** The State cannot treat citizens unfairly solely on the grounds mentioned above.
 - Example: In the *State of Madras v. Champakam Dorairajan* (1951), the Supreme Court declared caste-based quotas in educational institutions unconstitutional under Article 15(1).
- **Equal Access to Public Spaces (15(2)):** Citizens have equal access to public facilities such as shops, restaurants, wells, and roads, regardless of caste, religion, or other factors.
- **Special Provisions for Women and Children (15(3)):** Allows special measures for women and children, such as reserved seats in local governance to promote their welfare and representation.
- **Special Provisions for Backward Classes (15(4)):** Introduced by the First Amendment, this empowers the State to create provisions for socially and educationally disadvantaged groups, including Scheduled Castes (SCs) and Scheduled Tribes (STs).
 - Example: This clause was added in response to *Champakam Dorairajan* to enable caste-based reservations.
- **Reservations in Educational Institutions (15(5)):** The 93rd Amendment allows reservations for socially and educationally backward classes in educational institutions, including private unaided institutions, excluding minority institutions.
- **Economic Reservations (15(6)):** Added by the 103rd Amendment (2019), this enables up to 10% reservation for Economically Weaker Sections (EWS) in educational institutions and government jobs.

Article 16: Equality of Opportunity in Public Employment

Article 16 guarantees equality of opportunity in matters of public employment and prohibits discrimination based on religion, caste, race, sex, descent, place of birth, or residence.

- **Key Provisions:**
- **Article 16(1): Equality in Employment;** Ensures equal opportunity for all citizens in government jobs.
- **Article 16(2): Prohibition of Discrimination;** Forbids employment discrimination based on the grounds listed above.
- **Permissible Exceptions:**
- **Article 16(3): Residence Requirements;** Parliament can impose residency conditions for appointments in certain states.
- **Article 16(4): Reservation for Backward Classes;** Allows reservations for classes not adequately represented in public services.
- **Article 16(4A): Reservation in Promotions;** Permits reservations in promotions for SCs and STs to address historical injustices (*M. Nagaraj v. Union of India*, 2006).
- **Article 16(4B): Carry-Forward of Reserved Vacancies;** Enables unfilled reserved vacancies to be carried forward to subsequent years.

- **Article 16(6): Reservation for EWS;** Introduced via the 103rd Amendment, reserves up to 10% for EWS in public employment.
- **Landmark Case:** *Indra Sawhney v. Union of India (1992)*- Upheld 27% of OBC reservations, excluded the creamy layer, capped total reservations at 50%, and emphasized judicial scrutiny of reservation policies.

Article 17: Abolition of Untouchability

Article 17 eradicates untouchability and criminalizes its practice, ensuring dignity and equality for all citizens. Key Features:

- **Legislative Measures:** The Protection of Civil Rights Act, 1955, penalises untouchability-related offences like denying access to public places or services.
 - The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, further protects marginalized communities from caste-based discrimination.
- **Applicability:** Article 17 applies to both State and private individuals, obligating the government to prevent and address violations.
- **Judicial Interpretation:** In *People's Union for Democratic Rights v. Union of India (1982)*, the Court affirmed that Article 17 applies universally, ensuring equality in public and private domains.

Article 18: Abolition of Titles

Article 18 abolishes hereditary or honorific titles that perpetuate inequality or social hierarchies. Key Provisions:

- **Prohibition of Titles:** The State cannot confer titles that create privileges, except for military and academic distinctions. Citizens are barred from accepting titles from foreign states without Presidential consent.
- **Awards and Honors:** National awards like Bharat Ratna and Padma Awards are exempt as they do not bestow hereditary status. In *Balaji Raghavan v. Union of India (1996)*, the Court clarified that these awards comply with Article 18.

Right to Equality Exceptions

The Right to Equality in India, enshrined in Articles 14 to 18 of the Constitution, guarantees that all citizens are equal before the law and prohibits discrimination based on religion, race, caste, sex, or place of birth. However, there are certain exceptions to this right:

- **Special provisions for certain classes:** The Constitution permits the state to make special provisions for women, children, Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).
 - This includes affirmative action policies like reservations in education and public employment to promote social and educational advancement.
- **Reasonable classification:** The principle of equality allows for reasonable classification. Laws can treat different groups of people differently if the classification is rational and aims to achieve a legitimate objective.
 - This means that equality does not prohibit the state from making distinctions but prohibits arbitrary discrimination.

- **Diplomatic immunity:** Under international law and conventions, foreign diplomats and ambassadors are granted immunity from local jurisdiction. This exempts them from the operation of certain Indian laws.
- **Presidential and Governors immunity:** The President of India and State Governors enjoy immunity from criminal proceedings during their term of office. They cannot be prosecuted or imprisoned while holding office.
- **Preventive detention laws:** In the interest of national security and public order, the state can enact laws that allow for preventive detention without trial, which can override certain personal liberties.
- **Compulsory service:** The state can require citizens to perform compulsory services for public purposes (such as military service), which is not considered a violation of the Right to Equality.
- **Protective discrimination:** Measures like quotas and reservations are forms of protective discrimination intended to address historical injustices and bring marginalized communities into the mainstream.
 - **Differential treatment:** The Supreme Court stated that Article 14 permits reasonable classification, not class legislation.
 - Such classification must be based on intelligible differentia and have a rational connection to its objective.

These exceptions are designed to balance individual rights with the broader interests of society, promote social justice, and fulfill international obligations while addressing the unique social and economic challenges within the country.

Right to Equality UPSC PYQs

Question 1: Analyse the distinguishing features of the notion of the Right to Equality in the Constitutions of the USA and India. **(UPSC Mains 2021)**

Question 2: Which one of the following categories of Fundamental Rights incorporates protection against untouchability as a form of discrimination? **(UPSC Prelims 2020)**

1. Right against Exploitation
2. Right to freedom
3. Right to constitutional remedies
4. Right to equality

Answer: (d)

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