



DELHI LAW ACADEMY

CONSTITUTION OF INDIA

FUNDAMENTAL RIGHTS

The topic of Fundamental Rights, being one of the most important topics of our Constitution, has been discussed and explained by DLA in three parts.

This first part deals with the Right to Equality in 12 pages.

In this sample we present the first 3 pages.....

Delhi Law Academy – India's Finest Coaching

RAJASTHAN ADMINISTRATIVE SERVICE

www.delhilawacademy.com

All materials, copyrights and trademarks are rights of their respective owners



CONSTITUTION OF INDIA : FUNDAMENTAL RIGHTS

INTRODUCTION

Part III, containing the Fundamental Rights, is undoubtedly the most significant provision of our Constitution. Of them, the Right to Constitutional Remedies, contained in Article 32, was termed by Dr. B R Ambedkar as the “heart and soul” of the Constitution.

INSPIRATION

Fundamental Rights, as incorporated in Part III of our Constitution, were inspired by the Bill of Rights of the US Constitution, as also by the Universal Declaration of Human Rights as declared by the United National General Assembly on Dec 10, 1948.

APPLICABILITY

While some Fundamental Rights are available only to Indian *citizens*, others are available to all ‘*persons*’, including corporations and foreign nationals.

- Only for citizens: Articles 15, 16, 19, 29, 30
- For all persons: Articles 14, 20, 21, 25, 32

PROTECTION AND SANCTITY

Article 13 of our Constitution specifically protects Fundamental Rights from legislative and executive encroachment.

Legislative and executive action in violation of Fundamental Rights is declared *null and void* by this Article by the following provisions:

Clause (1)

- All existing laws shall be void
 - to the extent they are inconsistent with this Part

Clause (2)

- **State shall not make any law**
 - **which takes away or abridges rights conferred by this Part**



- If any such law is made
 - it shall be void
 - to the extent it takes away or abridges these rights

Clause (3)

- Law in this Article includes
 - ordinance, order, by-law, rule, regulation, notification

Clause (4) [Inserted by the 24th Amendment Act in 1971]

- This article shall not apply
 - to amendments under article 368

PROTECTION AGAINST WHOM?

Article 13 protects Fundamental Rights from violative actions by the “State”.

But what is ‘State’? This term is defined in Article 12 to mean the Legislature as well as the Executive:

DEFINITION OF ‘STATE’:

- In this Part, **State** includes:
 - Government of India, Parliament of India
 - Government of each State, Legislature of each State
 - All local authorities in India, Other authorities in India or under control of GoI

THE FIRST FUNDAMENTAL RIGHT: RIGHT TO EQUALITY

EQUALITY BEFORE LAW

Article 14

- State shall not deny to any **person**
 - equality before law
- State shall not deny to any **person**
 - equal protection of laws within the territory of India



Explanatory Notes by DLA on Article 14

- Equality before the law, guaranteed by the first part of Article 14, is a negative concept while the second part is a positive concept.
- The gravamen of Article 14 is equality of treatment. The basic principle underlying Article 14 is that the law must operate equally on all persons under like circumstances.

THE DOCTRINE OF CLASSIFICATION

Question:

- Can there be different laws for different classes of people? Is classification permitted under Article 14?

Ans:

- It is well-established that while article 14 does not forbid reasonable classification for the purposes of legislation.
- In order to pass the test of permissible classification two conditions must be fulfilled:
 - (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group
 - (ii) the differentia must have a rational relation to the object sought to be achieved by the statute in question.
- What is necessary is that there must be a **nexus** between the basis of classification and the object of the Act under consideration.

Authority: Supreme Court in Budhan Choudhry v. State of Bihar [1954]

Question:

- Is a law conferring discretionary powers constitutionally valid in view of Article 14?

Ans:

- Every discretionary power is not necessarily discriminatory. Equality is not violated by mere conferment of discretionary power. It is violated by arbitrary exercise by those on whom it is conferred.

Authority: Supreme Court in M Nagaraj v. Union of India [2006]

.....