

UPSC

Answer Questions in NOT MORE THAN the Word Limit specified for each in the Parenthesis.
Content of the Question is more important than length.

(Specimen Answer Booklet - For Practice Purpose Only)

उम्मीदवारों को इस हाशिए में नहीं लिखना चाहिए
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Q) Equality is a dynamic concept with many aspects and dimensions and it cannot be 'cribbed, cabined and confined' within traditional and doctrinaire limits." In light of this statement, critically analyze the evolving interpretation of Article 14 of the Indian Constitution by the Supreme Court. How has this evolution strengthened the protection of fundamental rights against arbitrariness? (38 M)

Ans: Equality is one of the basic pillars of democracy. With its various aspects and dimensions, it is evolving as a dynamic concept. Being a core human right, it is part of the fight against discrimination and arbitrariness.

Equality as a dynamic concept

It means that the concept of equality is evolving over time to address new challenges and promote inclusivity.

There are two aspects of equality

1) Equality before law is a negative concept implying no one should be given special privileges.

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1) Equal protection of law is a positive concept implying state to take action to ensure everyone is treated equally.

Based on these two aspects, equality has three dimensions:

- 1) Economic equality - equal opportunity to everyone to earn their livelihood.
- 2) According to Prof. Laski, "There must be sufficiency for all before there can be superfluity for a few."
- 2) Social equality - talks about the ways to end the social discrimination.
- 3) Political equality - Equal political rights like right to vote, right to contest election, right to petition etc.

In E.P. Royappa case, Supreme Court established that equality is a dynamic concept with many aspects and dimensions and it cannot be cribbed, cabined and confined within traditional and doctrinaire limits.

Likewise, various other Supreme Court judgements have interpreted Article 14

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कृपया इस स्थान में प्रश्न संख्या के अतिरिक्त कुछ न लिखें।

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that results into its evolution.

- 1) Anwar Ali Sarkar Case, Court held that classification must not be arbitrary.
- 2) Ram Krishna Dalmia Case, test of reasonable classification was evolved under Article 14.
- 3) C.P. Rayappa Case, test of arbitrariness was introduced to protect against the state arbitrariness.
- 4) Maneka Gandhi Case, Court held that a triumvirate exists between Article 14, 19 and 21.
- 5) Indira Sawhney Case, SC interpreted the relation between Article 14 & 16.
- 6) Sagaya Bano Case, equality of status is a manifestation of Article 14.

Significance & limitations of these interpretations :

- ↳ While Article 14 forbids class legislation, reasonable classification is permitted. Ex: Reservation for SC/ST.
- ↳ According to test of reasonable classification, state can make differential classification of subjects based on intelligible differentia.

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Ex: Maternity benefit act 1961, rights of Persons with disabilities act 2016 etc.

↳ Reasonable classification can also lead to unjustified differentiation due to varied and subjective interpretation.

Ex: When in 2021, Assamchal Pradesh Govt. classified people into vaccinated and unvaccinated group to issue temporary permits for developmental works, was held violative of Article 14 by the Guwahati HC.

↳ Nexus test in Article 14 has been found inadequate in some situations, where unbridled power is given to the authorities.

↳ Ex: In E.P. Royappa case this nexus test was challenged, then emerged the test of arbitrariness.

Protection against arbitrariness

After E.P. Royappa case, Supreme Court adopted the positivistic or activist stance by giving guarantee against arbitrary action of the state.

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- ↳ In Mandla Gandhi case, by introducing due process of law Supreme Court protection against arbitrary state law is ensured.
- ↳ Supreme Court held that every action of State is required to be guided by non-arbitrariness, reasonableness and rationality.
- ↳ Not only the executive action but also the State's action has to pass the test of arbitrariness.
- ↳ The evolution of nexus test and test of arbitrariness have strengthened the concept of equality as dynamic concept.
- ↳ It has also helped in breaking the barrier of doctrinaire limits.
- ↳ In most of the cases, nexus test can be used to check the violation of Article 14.
- ↳ In cases where State has unbridled power, test of arbitrariness is more effective.

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This evolution of Article 14 has not only helped in breaking the doctrinaire limits but also strengthen the Supreme Court in keeping a check on the violation of Article 14 by State or Executive action.