

“Don’t Let Yesterday Take Up Too Much Of Today.”



Part III

Fundamental Rights

Article 13

Laws inconsistent with or in derogation of the fundamental rights.

13. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

¹[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Article 13(1)

13. (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

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Article 13(1)

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Article 13(2)

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

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Article 13(2)

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Article 13

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

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Article 13(3)

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(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

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Article 13(3)

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What about Constitutional Amendment Acts?

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What about Constitutional Amendment Acts?

PART XX

AMENDMENT OF THE CONSTITUTION

¹[Power of Parliament to amend the Constitution and procedure therefor.]

368. ²[(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.]

³[(2)] An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, ⁴[it shall be presented to the President who shall give his assent to the Bill and thereupon] the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

(a) article 54, article 55, article 73, article 162 or article 241, or

(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States ⁵*** by resolutions to that effect passed by those Legislatures

¹Subs. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 3, for "Procedure for the amendment of the Constitution".

²Ins. by s. 3, *ibid.*

³Art. 368 renumbered as cl. (2) thereof by s. 3, *ibid.*

⁴Subs. by s. 3, *ibid.*, for "it shall be presented to the President for his assent and upon such assent being given to the Bill."

(Part XX.—Amendment of the Constitution.—Art. 368.)

before the Bill making provision for such amendment is presented to the President for assent.

¹[(3) Nothing in article 13 shall apply to any amendment made under this article.]

²[(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article [whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976] shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.]

What about Constitutional Amendment Acts?

PART XX

AMENDMENT OF THE CONSTITUTION

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the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States ^{5***} by resolutions to that effect passed by those Legislatures

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(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.]

Article 13(4)

¹[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

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Doctrine of Basic structure

1. Supremacy of constitution
2. Rule of law
3. Separation of powers
4. Federalism
5. Secularism
6. Judicial Review
7. Parliamentary Democracy
8. Republican form of government
9. Judicial Independence
10. The unity and integrity of the nation

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Critical analysis of Doctrine of Basic structure

1. No constitutional basis
2. Tyranny of the unelected
3. Violates Separation of powers
4. Very subjective

1. Seeks to preserve the basic constitutional identity
2. Been applied very sparingly by the courts
3. Some other constitutions have also adopted this doctrine

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Previous Year Question

“Parliament’s power to amend the constitution is a limited power and it cannot be enlarged into absolute power”. In the light of this statement explain whether parliament under article 368 of the constitution can destroy the Basic structure of the constitution by expanding its amending power? (15 marks)

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Right to Equality

Right to Equality

Equality before
law.

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

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Right to Equality

Right to Equality

Equality before
law.

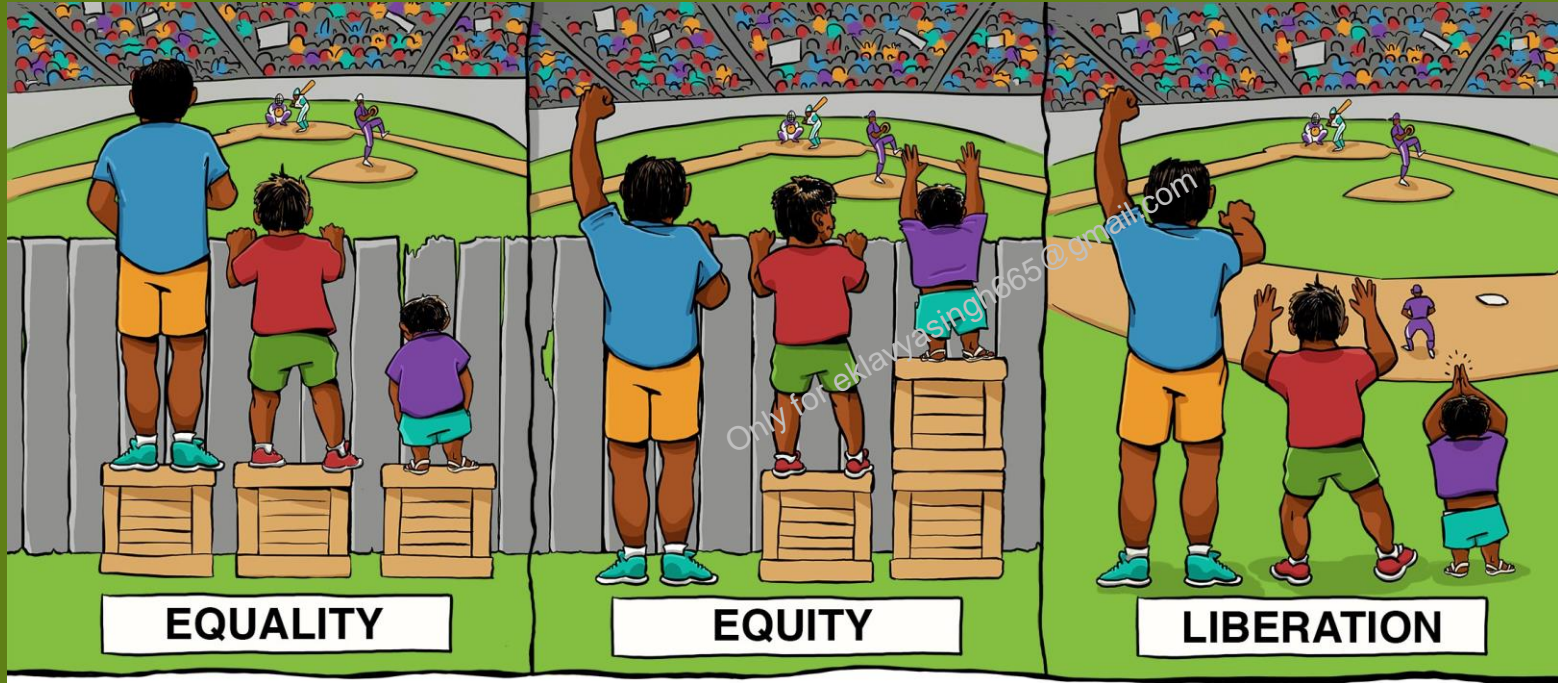
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Right to Equality

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Right to Equality



ARTICLE 15

15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

¹[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]

²[(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

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ARTICLE 15

Article 15(6): Nothing in this article or sub-clause (g) of clause (1) of Article 19 or clause (2) of Article 29 shall prevent State from making:

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) insofar as such special provisions relate to their admissions to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent of the total seats in each category.

Explanation.— For the purpose of this article and Article 16, “economically weaker sections” shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantages.

ARTICLE 16

16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

Equality of opportunity in matters of public employment.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office

¹Added by the Constitution (First Amendment) Act, 1951, s. 2.

²Ins. by the Constitution (Ninety-third Amendment) Act, 2005, s. 2 (w.e.f. 20-1-2006).

(Part III.—Fundamental Rights.—Arts. 16—18.)

¹[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

²[(4A) Nothing in this article shall prevent the State from making any provision for reservation ³[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

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ARTICLE 16

THE CONSTITUTION OF INDIA

(Part III.—Fundamental Rights.—Arts. 16—18.)

¹[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

²[(4A) Nothing in this article shall prevent the State from making any provision for reservation ³[in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

⁴[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

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ability.

ARTICLE 17

17. Abolition of Untouchability.—“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

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ARTICLE 18

18. Abolition of titles.—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.



THANKS!

Any questions?