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Beyond Formal Equality: Exploring the Substantive Dimensions of Article 14 in India

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The cornerstone of equality in India is Article 14 of the Constitution, which upholds everyone's fundamental right to equality before the law and equal protection under it. Its significance for eradicating arbitrary discrimination, advancing social justice, and enabling citizens through judicial review is covered in this article. It also compares and contrasts formal and substantive equality, pointing out the shortcomings of the former and arguing in favour of the latter's ability to effectively remedy social injustices. In order to illustrate the history of judicial interpretation under Article 14, it looks at important rulings and ideas that advance substantive equality. It emphasizes the ongoing quest for a proper balance between individual rights and social welfare objectives. In addition, it examines affirmative action policies, their constitutionality, and the challenges of achieving true equality in India.

Keywords: *constitution, article 14, India, equality.*

INTRODUCTION

Article 14 is the bedrock of equality in India that enshrines the fundamental right to equality before the law and equal protection of laws. This cornerstone of the Indian Constitution ensures

individuals are treated fairly and equally under the law. It is significantly important as it:

Prevents Arbitrary Discrimination: The state cannot discriminate against any individual or group based on factors like religion, race, caste, or gender without a valid justification. This prevents arbitrary laws and promotes fairness. As in the case of the *Indian Young Lawyers Association & Ors. v State of Kerala & Ors.*¹, where the Supreme Court struck down a law in Kerala that denied entry to women of menstrual age into the Sabarimala Temple, upholding their right to equality under Article 14².

Promote Social Justice: Article 14 lays the foundation for a society where opportunities and access to resources are not arbitrarily restricted. It fosters a level playing field for all citizens. Like in the case of the *State of Madras v Champakam Dorairajan*³, the court-mandated reservations in education and government jobs for historically disadvantaged castes to address past discrimination and promote social inclusion.

Empowers Individuals: Article 14 empowers individuals to challenge discriminatory laws or governmental actions through judicial review. This allows individuals to assert their rights and hold the state accountable. Like in the case of *Balaji v State of Mysore*⁴, the court struck down a law granting special privileges to a specific caste in public employment, highlighting that Article 14 prohibits unreasonable classifications.

DISTINCTION BETWEEN FORMAL AND SUBSTANTIVE EQUALITY

Formal Equality: This is a surface-level equality where everyone is subject to the same laws. However, it does not consider social and economic disparities. For instance, a law offering

¹ *Indian Young Lawyers Association & Ors v State of Kerala & Ors* WP (C) No 373/2006

² Constitution of India 1950, art 14

³ *State of Madras v Champakam Dorairajan* (1951) SCR 525

⁴ *Balaji v State of Mysore* AIR 1963 SC 649

everyone free school meals might not be helpful for someone living in poverty who cannot afford to attend school.⁵

Substantive Equality: This goes beyond legal formalities and aims for a more equitable outcome. It recognizes that people have different starting points and may require different treatment to ensure genuine equality. Substantive equality seeks to level the playing field by acknowledging these inequalities and ensuring everyone has a fair chance to succeed. (Example: While Article 14 guarantees equal access to public hospitals, recognizing the financial limitations of some citizens, the state might offer subsidized healthcare programs to achieve substantive equality in healthcare access)

LIMITATIONS OF FORMAL EQUALITY: A CRITIQUE OF 'EQUALITY BEFORE LAW'

Article 14 of the Indian Constitution guarantees 'equality before law' and 'equal protection of laws'. While this principle strives for fairness, a closer examination reveals limitations inherent in formal equality. This section critiques these limitations and explores how formal equality can perpetuate inequality by treating unequals equally, using case law to illustrate the issue.

The Flaw in Treating All Alike: Formal equality assumes a level playing field, applying the same laws to everyone. However, this ignores pre-existing social and economic disparities. Consider the landmark case of *Unni Krishnan v State of Andhra Pradesh*⁶. Here, the court struck down a law allowing government schools to charge fees, highlighting that formal equality (free education for all) failed to address the disadvantaged position of children from economically weaker sections who could not afford the fees. The judgment emphasized the need to consider inequalities to achieve genuine equality.

EXAMPLES OF FORMAL EQUALITY'S SHORTCOMINGS

Uniform Fees: A law mandating a flat fee for a service (e.g., applying for a passport) might seem fair.

⁵ 'The Ideas of Equality and Non-Discrimination: Formal and Substantive Equality' (*Equal Rights Trust*, 08 November 2007) <<https://www.equalrightstrust.org/content/ideas-equality-and-non-discrimination-formal-and-substantive-equality>> accessed 24 March 2024

⁶ *Unni Krishnan v State of Andhra Pradesh* AIR 1993 SC 2178

However, in *Olga Tellis & Ors. v Bombay Municipal Corporation & Ors*⁷, the court ruled that the demolition of pavement dwellings without providing alternative accommodation violated Article 14. This case demonstrates how formal equality (uniform application of demolition laws) can be discriminatory when it fails to consider the differing needs of vulnerable sections of society.

Universal Eligibility Criteria: In the *State of Madras v Champakam Dorairajan*, the court declared reservations for socially and educationally backward classes did not violate Article 14. This case highlights how a single eligibility criterion (merit alone) can disadvantage historically marginalized groups. Here, reservations were seen as a necessary measure to achieve substantive equality, recognizing the need for differential treatment to bridge the existing gap.

The Perpetuation of Existing Inequalities: Formal equality can perpetuate inequalities by placing individuals with vastly different needs under the same umbrella. Consider *Maneka Gandhi v Union of India*⁸, where the court struck down a law requiring a passport holder to disclose the name and occupation of their father/spouse. This case exemplifies how formal equality (everyone disclosing the same information) can be discriminatory when it fails to acknowledge the diverse situations of individuals.

The Need for Substantive Equality: The limitations of formal equality highlight the need for substantive equality. This approach recognizes existing inequalities and aims to create a level playing field by providing different levels of support based on individual needs. In the fee structure example, a sliding scale based on income or free legal aid for those who cannot afford passport application fees could be considered. Similarly, differentiated maternity leave policies or relaxation of scholarship criteria based on socio-economic background might be more solutions that are equitable.

Moving Beyond the Formal: Formal equality acts as a foundation, but a rigid adherence to it can create a system blind to social and economic disparities. Recognizing the limitations of formal equality and embracing the concept of substantive equality encourages the legal system

⁷ *Olga Tellis & Ors v Bombay Municipal Corporation & Ors* AIR 1986 SC 180

⁸ *Maneka Gandhi v Union of India* AIR 1978 SC 597

to strive for a just and equitable society, ensuring everyone has a fair chance to participate and thrive. By interpreting Article 14 through the lens of substantive equality, courts can move beyond mere formality and achieve a more meaningful and inclusive society.

EXPLORING SUBSTANTIVE EQUALITY UNDER ARTICLE 14

Article 14⁹ guaranteeing ‘equality before law’ and ‘equal protection of laws’ forms the bedrock of a just society. However, the concept of equality goes beyond mere formality. This section delves into the evolution of judicial interpretation of Article 14, exploring doctrines promoting substantive equality and landmark cases that have shaped its application.

EVOLUTION OF JUDICIAL INTERPRETATION

Initially, the judiciary interpreted Article 14 with a focus on formal equality. Laws were judged based on their facial neutrality, overlooking the social and economic realities that might render them discriminatory in practice. This approach limited the potential of Article 14 to achieve genuine equality.

However, over time, the judiciary adopted a more progressive interpretation, recognizing the limitations of formal equality. The focus shifted towards achieving substantive equality, ensuring everyone has a fair chance to participate and benefit from the legal system. This shift is evident in several landmark cases.

DOCTRINES PROMOTING SUBSTANTIVE EQUALITY

Reasonable Classification: This doctrine allows the state to classify individuals or groups for different treatment, but only if the classification has a rational nexus to the object sought to be achieved by the law. For example, reserving seats in educational institutions for historically disadvantaged groups is considered a reasonable classification aimed at achieving social justice.

Equal Protection: This doctrine requires the state to apply laws equally to all individuals within the same class. However, it also allows for reasonable differentiation based on relevant

⁹ Constitution of India 1950, art 14

distinctions. For example, imposing higher taxes on luxury goods compared to essential commodities can be justified based on the principle of ability to pay.¹⁰

LANDMARK CASES ON SUBSTANTIVE EQUALITY

Maneka Gandhi v Union of India (1978)¹¹: This case marked a turning point in the interpretation of Article 14. The court struck down a law requiring passport holders to disclose the name and occupation of their father/spouse. It emphasized that the law violated the right to equality by imposing unreasonable restrictions on a fundamental right (the right to travel abroad). This case highlighted the court's growing focus on substantive equality, ensuring laws don't create arbitrary burdens.

Unni Krishnan v State of Andhra Pradesh (1993): This case dealt with the right to free and compulsory education for all children. The court struck down a law allowing government schools to charge fees, recognizing that this violated the principle of substantive equality. The judgment emphasized the need for the state to take affirmative steps to bridge the gap between disadvantaged sections and others to ensure genuine access to education.

State of Kerala v T.P. Padma (1996)¹²: This case addressed the issue of reservations in government jobs for women. The court upheld the reservation policy, recognizing the need for affirmative action to achieve substantive equality for a historically disadvantaged group (women) within the workforce.

The Road to Substantive Equality: These cases exemplify the judiciary's evolving interpretation of Article 14 to promote substantive equality. The courts have moved beyond a purely formalistic approach, recognizing the need for differential treatment based on relevant factors

¹⁰ *Budhan Choudhary v State of Bihar* AIR 1955 SC 191

¹¹ Arnav Kumar, 'Maneka Gandhi V. Union of India' (*Lloyd Law College*, 23 September 2019)

<<https://www.lloydlawcollege.edu.in/blog/maneka-gandhi-vs-union-of-india.html>> accessed 25 March 2024

¹² *State of Kerala v T.P. Padma* AIR 1996 SC 1374

to address social and economic inequalities. However, the journey towards substantive equality is ongoing¹³.

KEY CONSIDERATIONS IN SUBSTANTIVE EQUALITY: BALANCING RIGHTS AND RESPONSIBILITIES

The quest for substantive equality under Article 14 of the Indian Constitution necessitates careful consideration of several key factors. This section explores identifying disadvantaged groups and social inequalities, evaluating the basis for classification under Article 14, and navigating the delicate balance between individual rights and social welfare objectives.

Identifying Disadvantaged Groups and Social Inequalities: The cornerstone of substantive equality lies in recognizing existing social and economic inequalities. This requires identifying disadvantaged groups facing systemic barriers to accessing opportunities or enjoying fundamental rights.

Historical Oppression: Groups like Scheduled Castes and Scheduled Tribes have faced historical marginalization and discrimination. Policies must address the legacy of these inequalities to achieve substantive equality.

Socio-Economic Disparity: The vast economic gap between the rich and poor creates an uneven playing field. Substantive equality requires policies that bridge this gap and provide equal opportunities for advancement.

Gender Inequality: Gender-based discrimination continues to limit women's access to education, employment, and political participation. Policies promoting women's empowerment are crucial for substantive equality.

¹³ IP Massey, *Administrative Law* (EBC 2017)

EVALUATING THE BASIS FOR CLASSIFICATION UNDER ARTICLE 14

Article 14 allows the state to classify individuals or groups for different treatment. However, this power is not absolute. The key is to ensure that any classification¹⁴:

Has a Rational Nexus: The classification must be logically connected to a legitimate governmental objective. For example, reserving seats in educational institutions for socially disadvantaged groups aims to achieve social justice, a legitimate objective.

Is Not Arbitrary: The classification cannot be based on irrelevant or discriminatory factors. For instance, reserving seats based on religion alone might be considered arbitrary as it doesn't necessarily address social and economic backwardness.

Courts play a critical role in evaluating the basis for classification. They examine whether the classification is reasonable and serves a legitimate purpose, ensuring it doesn't violate the right to equality. This scrutiny helps prevent arbitrary classifications that might perpetuate inequalities.

BALANCING INDIVIDUAL RIGHTS WITH SOCIAL WELFARE OBJECTIVES:

Achieving substantive equality often involves navigating a delicate balance between individual rights and social welfare objectives. On the one hand, protecting fundamental rights like the right to equality and non-discrimination is paramount. On the other hand, the state has a legitimate interest in promoting social welfare and addressing inequalities.

Affirmative Action: Policies like reservations in education and government jobs for historically disadvantaged groups can restrict opportunities for some individuals. However, such policies can be justified as promoting substantive equality by addressing past discrimination and creating a more level playing field.

Proportionality: This principle ensures that any restriction on individual rights is proportionate to the legitimate objective it seeks to achieve. For example, a reservation policy must not exclude

¹⁴ M. P. Jain, *Principles of Administrative Law* (Lexis Nexis 2019)

a significant number of qualified individuals from the general category.

Striving for a Just Equilibrium: The judiciary plays a vital role in ensuring a just equilibrium between individual rights and social welfare goals. By applying the principles of reasonable classification, and proportionality, and keeping in mind fundamental rights, courts can help ensure that policies achieve substantive equality without unduly compromising individual rights.

The Role of Affirmative Action: Balancing Opportunity and Equity - The quest for substantive equality under Article 14 of the Indian Constitution often intersects with the debate on affirmative action programs. These programs, like reservations in education and government jobs for disadvantaged groups, aim to bridge historical inequalities and create a more level playing field.

JUSTIFICATION FOR AFFIRMATIVE ACTION PROGRAMS

Redressing Past Discrimination: Historically marginalized groups have faced social, economic, and educational disadvantages. Reservations aim to provide them with opportunities to overcome these historical burdens and participate more equitably in society.

Promoting Social Inclusion: Affirmative action programs integrate disadvantaged groups into mainstream institutions, fostering a more inclusive society. This can contribute to positive social change and reduce social tensions.

Breaking the Cycle of Disadvantage: By providing educational and employment opportunities, these programs can empower future generations of disadvantaged groups, leading to a long-term reduction in inequality.

CONSTITUTIONAL VALIDITY OF RESERVATIONS IN INDIA

Article 14 prohibits discrimination based on factors like caste or religion. However, it also allows for 'special provisions' for socially and educationally backward classes (SEBCs) and Scheduled Castes (SCs) and Scheduled Tribes (STs). This creates a space for affirmative action programs.

Indra Sawhney v Union of India (1993)¹⁵: This landmark case upheld the constitutional validity of reservations while setting a ceiling of 50% on reservations. It also emphasized that reservations should be based on social and educational backwardness, not solely on caste.

State of Kerala v T.P. Padma (1996): This case upheld reservations for women in government jobs, recognizing gender as a basis for affirmative action to promote women's empowerment.

CHALLENGES AND CONSIDERATIONS

Creamy Layer: The concept of the 'creamy layer' excludes affluent individuals within disadvantaged communities from reservations, ensuring these benefits reach those who truly need them.

Merit vs Equity: Balancing affirmative action with the principle of merit remains a challenge. However, courts have recognized that merit alone might not create a level playing field due to historical disadvantages.

Extending Reservations: Debates continue around extending reservations to newer groups based on emerging social and economic inequalities.

CONCLUSION

The promise of 'equality before the law' enshrined in Article 14 of the Indian Constitution is a cornerstone of a just society. But true equality goes beyond the surface-level application of the same laws for everyone. Substantive equality recognizes that individuals come from diverse backgrounds and may require varying degrees of support to have a fair chance at success. Imagine charging a uniform fee for a service like applying for a passport. While seemingly fair on the surface, this formal equality fails to consider the vastly different economic realities of applicants. For a daily wage laborer, this fee might be a significant barrier, while someone with

¹⁵ *Indra Sawhney v Union of India* AIR 1993 SC 477

a high income might not feel the financial burden. This exemplifies how formal equality can perpetuate inequality by ignoring pre-existing social and economic disparities.

Doctrines like reasonable classification and equal protection help bridge this gap. Reasonable classification allows the state to treat individuals differently based on a logical connection to a law's objective. For example, reserving seats in educational institutions for historically disadvantaged groups like Scheduled Castes and Tribes is a reasonable classification aimed at achieving social justice. Equal protection, on the other hand, requires applying laws equally within a specific category but allows for reasonable differentiation based on relevant distinctions. This might involve imposing higher taxes on luxury goods compared to essential commodities, recognizing the principle of ability to pay.

Landmark cases like *Maneka Gandhi v Union of India* and *Unni Krishnan v State of Andhra Pradesh* highlight the importance of addressing these inequalities. The *Maneka Gandhi* case emphasized the right to equality and struck down a law with unreasonable restrictions on a fundamental right (the right to travel abroad). *Unni Krishnan* highlighted the need for affirmative action, where the court struck down a law allowing government schools to charge fees, recognizing it violated the principle of substantive equality. Here, the court emphasized the state's role in taking steps to bridge the gap between disadvantaged sections and others, ensuring genuine access to education.

Affirmative action programs like reservations for disadvantaged groups in education and government jobs aim to level the playing field. These programs recognize the historical disadvantages faced by these groups and aim to redress them by providing them with opportunities they might have otherwise been denied. However, balancing individual rights with social welfare objectives is crucial. The concept of a 'creamy layer' excludes affluent individuals within disadvantaged communities from reservations, ensuring these benefits reach those who truly need them.