

### Topics to be covered

Fundamental Rights – I

a. Evolution of Concept of Fundamental Rights

b. Definition of ‘State’ for Enforcement of Fundamental Rights: Justifiability of Fundamental Rights,

Doctrine of Eclipse, Severability, Waiver

c. Right to Equality (Articles 14-18): Doctrine of Reasonable Classification and the Principle of

Absence of Arbitrariness, Legitimate Expectations, Principle of Compensatory Discrimination

4. Fundamental Freedom (Article 19): Freedom of Speech and Expression, Freedom of Press, Judicial

Interpretation of Article 19; Reasonable Restrictions (Article 19)

For further query

You can contact us on:

Whatsapp: +919354560572

Or you can follow us on Instagram at : Do\_MyWork

## Evolution of Concept of Fundamental Rights

The **concept of Fundamental Rights** in India has evolved through various historical and constitutional developments, which have shaped the present-day rights and freedoms guaranteed under the **Indian Constitution of 1950**. This evolution is a blend of influences from the **British legal system**, the **U.S. Bill of Rights**, and the **French Revolution**, alongside judicial interpretations that have gradually expanded their scope to meet changing societal needs.

### *1. Pre-Constitutional Phase*

The **pre-constitutional phase** of Fundamental Rights can be traced back to the **Government of India Act, 1935**, which had provisions for **civil liberties**, but these were not enforceable in the courts. These rights were also limited in scope and did not offer the protection or remedy that modern Fundamental Rights under the Indian Constitution now do.

- **Government of India Act, 1935:**

- Although the **1935 Act** did provide some protection to rights (e.g., freedom of speech, protection of property, etc.), these provisions were not justiciable, i.e., citizens could not move to the courts for their enforcement.
- The **1935 Act** essentially created a system of governance but lacked the provisions necessary to enforce individual freedoms or hold the government accountable to the rights of citizens.

- **Lack of Enforceability:**

- One of the main weaknesses of this Act was the **absence of enforceability** for rights. Fundamental Rights, as understood today, were not explicitly protected by law, and there was no judicial oversight to challenge violations by the government.

### *2. Post-Independence: The Constitution of India (1950)*

After **India gained independence** in 1947, the framers of the **Indian Constitution** aimed to provide a robust set of rights and freedoms to protect the dignity and equality of citizens, ensuring individual liberty against potential state overreach. These protections were to be justiciable, meaning that individuals could approach the courts if their rights were violated.

- **Part III of the Constitution of India (Fundamental Rights):**
  - The **Indian Constitution** (adopted in 1950) guarantees **Fundamental Rights** under **Part III**, starting from **Article 12 to Article 35**. These rights were designed to be **justiciable**, meaning individuals could go to court for their enforcement.
  - Fundamental Rights were modeled after similar provisions in other democratic countries, such as the **Bill of Rights** in the **U.S. Constitution** and the **Declaration of the Rights of Man and Citizen** from the **French Revolution**.

The Constitution recognized rights in areas such as:

- **Equality before the law** (Articles 14-18),
  - **Right to freedom** (Article 19),
  - **Right to protection of life and personal liberty** (Article 21),
  - **Cultural and educational rights** (Articles 29-30),
  - **Right to constitutional remedies** (Article 32), ensuring individuals could approach the Supreme Court to enforce their rights.
- **Justiciability:**
    - The Constitution made these rights justiciable, meaning they could be enforced by the judiciary. This was a significant development compared to the previous laws (like the **Government of India Act, 1935**), which had no such enforceability.
    - Article 32 of the Constitution specifically grants the **right to approach the Supreme Court** directly for the protection of **Fundamental Rights**. Similarly, **Article 226** allows individuals to approach the High Courts.
  - **Influence of Global Models:**
    - The framers of the Indian Constitution took inspiration from the **U.S. Bill of Rights** and the **French Declaration of the Rights of Man and Citizen**. Like the U.S. Constitution, India's Constitution grants individual freedoms, and like the French Revolution's ideas, it envisions the state's role in safeguarding individual rights.
    - Additionally, India incorporated the **right to constitutional remedies**, similar to the **writs** under the English system.

### *3. Judicial Interpretation and Expansion of Fundamental Rights*

The **judicial interpretation** of Fundamental Rights has played a critical role in **shaping** and **expanding** these rights to ensure that they adapt to changing social and political contexts. The Indian judiciary has been particularly active

in interpreting these rights to ensure their real-world application. Over the years, the courts have broadened the scope of many Fundamental Rights and have established important legal principles, doctrines, and judicial tests.

Some key developments through judicial interpretation include:

- **Expansion of Fundamental Rights:**
  - Initially, **Article 19** (Freedom of Speech and Expression, etc.) and **Article 21** (Right to Life and Personal Liberty) were considered relatively narrow. However, judicial interpretations have gradually expanded their scope to encompass **a wide range of freedoms**, including the right to privacy, the right to education, and the right to a clean environment.
- **\*\*Doctrine of Reasonable Classification:**
  - One of the key judicial doctrines is the **Doctrine of Reasonable Classification**, which allows for **differentiation** in laws but only if such differentiation is **rational** and serves a **legitimate state interest**.
  - **Case Law: State of West Bengal v. Anwar Ali Sarkar (1952)** clarified the scope of reasonable classification, where laws could classify people or groups into different categories but the classification must be reasonable and serve a rational purpose.
- **\*\*Doctrine of Eclipse:**
  - The **Doctrine of Eclipse** holds that a law which violates Fundamental Rights is not automatically void but is **eclipsed**. This means the law remains operative but cannot be enforced until the inconsistency with Fundamental Rights is removed.
  - **Case Law: Bhikaji Narain v. State of Madhya Pradesh (1955)** applied the doctrine of eclipse to uphold laws inconsistent with Fundamental Rights until such inconsistency is removed.
- **\*\*Doctrine of Severability:**
  - The **Doctrine of Severability** states that if a part of a law is unconstitutional, only that part is struck down, leaving the rest of the law intact.
  - **Case Law: Berubari Union Case (1960)** applied the doctrine of severability to uphold parts of the law that were not in conflict with Fundamental Rights.
- **Right to Privacy:**
  - A major expansion of Fundamental Rights occurred with the recognition of the **Right to Privacy** as part of **Article 21 (Right to Life and Personal Liberty)**. This development occurred in the landmark case of **K.S. Puttaswamy v. Union of India (2017)**, where the Supreme Court declared that the right to privacy is a **fundamental right** under the Indian Constitution.

## Definition of 'State' for Enforcement of Fundamental Rights (Article 12)

**Article 12** of the **Indian Constitution** provides the definition of "State" for the purpose of enforcement of **Fundamental Rights**. The definition of "State" is crucial because it helps determine which entities are subject to the enforcement of Fundamental Rights under **Part III** of the Constitution.

Article 12 specifies that the term "**State**" includes:

- **The Government and Parliament of India.**
- **The Government and Legislature of States.**
- **Local authorities.**
- **Other bodies or organizations** that are under the control of the government.

This broad definition ensures that any entity performing functions that are governmental in nature or exercising state-like powers can be held accountable for violations of Fundamental Rights.

---

### *Key Components of "State" under Article 12:*

#### 1. **Government and Parliament of India:**

- This includes the **Executive** (President, Prime Minister, Council of Ministers) and the **Legislature** (Lok Sabha and Rajya Sabha).

#### 2. **Government and Legislature of States:**

- This includes the **Executive** and **Legislature** at the State level (Governor, Chief Minister, Council of Ministers, State Assemblies, etc.).

#### 3. **Local Authorities:**

- These are entities such as **municipalities, panchayats**, and other **local governing bodies** created by the Constitution or by law.

#### 4. **Other Bodies or Organizations under Government Control:**

- This is a flexible category, which includes **government corporations, government-owned companies**, and other entities where the **government has significant control** (whether financial or administrative).
-

## *Important Case Laws:*

### 1. **Rajasthan State Road Transport Corporation v. Bhagwan Singh (1989):**

- In this case, the **Rajasthan State Road Transport Corporation (RSRTC)**, a government-run public transport corporation, was held to be a **"State"** under Article 12.
- The court observed that a **government corporation**, even if it operates in a commercial capacity, is considered a **"State"** if it is **controlled** or **funded** by the government.
- This case reinforced the principle that **government corporations** and **public sector undertakings** are included under the definition of "State" for the purpose of enforcing **Fundamental Rights**.

### 2. **Ajay Hasia v. Khalid Mujib (1981):**

- The Supreme Court expanded the definition of "State" in this case to include **bodies** that are **funded** or **controlled** by the government, even if they are not government-run entities.
- In this case, a **society** funded by the government was considered a "State" under Article 12 because the **government had significant control** over its functioning.
- The Court emphasized that the term "State" should be interpreted broadly to include any body or authority that is **functioning under the control of the government**.

---

## Justifiability of Fundamental Rights

The **justiciability** of Fundamental Rights refers to the **enforceability** of these rights in a **court of law**. Under Part III of the Constitution, Fundamental Rights are **justiciable**, meaning individuals can approach the **Supreme Court** (Article 32) or the **High Courts** (Article 226) if their Fundamental Rights are violated.

- **Article 32:** Guarantees the right to move the **Supreme Court** for the enforcement of Fundamental Rights.
- **Article 226:** Allows individuals to move the **High Court** for enforcement of Fundamental Rights.

The justiciability of Fundamental Rights means that these rights can be directly enforced in courts, unlike some other rights or duties in the Constitution that are not justiciable.

---

## Doctrine of Eclipse

The **Doctrine of Eclipse** is a judicial principle used to deal with laws that violate **Fundamental Rights**. According to this doctrine, a law that infringes upon Fundamental Rights is **not void** but is temporarily **eclipsed** by the violation. This means that the law is still in existence but cannot be enforced until the violation is removed.

- The law does not lose its force completely but is **suspended** when it conflicts with **Fundamental Rights**.
- Once the inconsistency with Fundamental Rights is removed (e.g., through an amendment or judicial review), the law becomes effective again.

### *Case Law:*

- **Bhikaji Narain v. State of Madhya Pradesh (1955):**
    - The court held that a law that violates Fundamental Rights is not void, but **eclipsed**, and it can come into effect again once the inconsistency is resolved.
- 

## Doctrine of Severability

The **Doctrine of Severability** applies when part of a law is unconstitutional. It allows courts to **strike down only the unconstitutional portion** of the law, leaving the rest of the law **intact**.

- Under this doctrine, if a particular provision of a law is found to violate Fundamental Rights, the **invalid portion is severed**, and the rest of the law remains operative.
- This doctrine ensures that the **entire statute is not rendered void** just because one provision is unconstitutional.

### *Case Law:*

- **Berubari Union Case (1960):**
    - In this case, the Supreme Court applied the doctrine of severability. The court severed the unconstitutional portion of an agreement while maintaining the rest of the agreement's validity.
-

## Doctrine of Waiver

The **Doctrine of Waiver** suggests that a person can **waive their Fundamental Rights** under certain circumstances, meaning they can voluntarily relinquish or give up the exercise of their rights. However, this waiver must be **voluntary, informed, and unequivocal**.

- The courts have been cautious in applying this doctrine, especially concerning Fundamental Rights, as these rights are meant to protect the individual against state action, and the waiver of such rights must not undermine their core purpose.

### *Case Law:*

- **State of Maharashtra v. Chandra Prakash (2005):**
  - The Supreme Court held that a person cannot **waive** certain **non-waivable** rights like **the right to life and personal liberty** under **Article 21**, as these rights are too important to be voluntarily surrendered.

## Justiciability of Fundamental Rights

The **justiciability** of Fundamental Rights refers to the ability of individuals to **enforce** their rights in **court** if they are violated. The Constitution of India makes **Fundamental Rights** justiciable, meaning they are **legally enforceable** in a court of law. This is a crucial feature, as it empowers individuals to approach the **Supreme Court** or **High Courts** to seek redress if their rights are infringed upon.

### *Key Articles for Enforcement:*

1. **Article 32** (Right to Constitutional Remedies):
  - Article 32 guarantees the **right to approach the Supreme Court** for the **enforcement of Fundamental Rights**.
  - It provides the **Supreme Court** with the authority to issue **writs** (e.g., habeas corpus, mandamus, prohibition, quo warranto, certiorari) to protect and enforce Fundamental Rights.
  - It is a **direct, powerful remedy** available to individuals whose Fundamental Rights have been violated.
2. **Article 226** (Power of High Courts to Issue Writs):
  - Article 226 grants **High Courts** the power to issue **writs** for the enforcement of Fundamental Rights and for any other purpose within their jurisdiction.

- This article allows individuals to approach the **High Courts** for the protection of their rights, although it is more common to approach the Supreme Court under Article 32.

These provisions ensure that **Fundamental Rights** are **justiciable**, meaning individuals can seek remedies through the courts when these rights are violated. Courts are tasked with ensuring that Fundamental Rights are **protected**, and the **government** is held accountable for any violations.

---

#### Key Case Laws on Justiciability of Fundamental Rights:

##### 1. *Keshavananda Bharati v. State of Kerala (1973)*:

- This landmark case is most famous for **establishing the "Basic Structure Doctrine"**.
- The case centered on whether **Parliament** had the power to amend the Constitution, including **Fundamental Rights**, in such a way that it altered the **basic structure** of the Constitution.
- The **Supreme Court** ruled that **Fundamental Rights** can only be restricted or modified by **constitutional amendments** that do not alter the **basic structure of the Constitution**.
- This judgment emphasized that the **Fundamental Rights** are **justiciable** and **cannot be taken away** unless the Constitution itself allows for such limitations. The case reinforced the **importance of judicial review** in protecting **Fundamental Rights**.
- **Impact:** The **basic structure doctrine** limits the power of **Parliament** to amend the Constitution in ways that infringe upon **Fundamental Rights**, reinforcing the **justiciability** of these rights.

##### 2. *Maneka Gandhi v. Union of India (1978)*:

- This case significantly **expanded the scope of the Right to Life** under **Article 21** of the Constitution.
- Maneka Gandhi's passport was impounded by the government, and she challenged this action as a violation of her **Right to Life** and **Personal Liberty** under Article 21.
- The **Supreme Court** held that **Article 21** guarantees **not just life and personal liberty**, but also **dignity and freedom**. The court emphasized that any **restriction** on personal liberty must be **reasonable, fair, and just**.
- **Impact:** The judgment broadened the interpretation of **Fundamental Rights**, especially **Article 21**, and asserted that the **due process of law** must be followed for any **restriction** on personal liberty. This case confirmed that **Fundamental Rights** are **justiciable**, and individuals can seek remedies in courts if their rights are violated.

## Doctrine of Eclipse

The **Doctrine of Eclipse** refers to a legal principle that applies when a **law** that existed **before** the enactment of the Constitution is found to be inconsistent with the **Fundamental Rights** guaranteed under Part III of the **Indian Constitution**. Under this doctrine, such a law is **not void** but **eclipsed** or rendered **inoperative** to the extent of its inconsistency with the Fundamental Rights. However, the law remains **valid** and can be revived or brought back into operation if the inconsistency is later **removed** (for example, by an amendment or constitutional change).

The key idea is that the law does not become completely void or invalid, but it temporarily **loses its effect**. This allows for the preservation of laws that existed before the Constitution but may be inconsistent with the Fundamental Rights during the period of eclipse. The law is only rendered inoperative as long as it violates a Fundamental Right. If the inconsistency is addressed, the law can be **revived**.

### Explanation of the Doctrine:

- When a law conflicts with a **Fundamental Right**, it does not lose its **legislative existence** or **status**. Instead, it becomes **inoperative** and **inactive**, but not dead or void.
- The law remains **on the statute book**, but its **application** is temporarily suspended. Once the **conflict with Fundamental Rights** is removed (e.g., through an amendment), the law can be **reactivated**.
- This doctrine is **different from the idea of void laws** (such as **ultravires laws**, which are beyond the powers of the lawmaker). The **eclipse** only affects the **operation** of the law, not its **legality** or **existence**.

### Case Law: Bhikaji Narain v. State of Madhya Pradesh (1955)

In **Bhikaji Narain v. State of Madhya Pradesh** (1955), the **Supreme Court** first applied the **Doctrine of Eclipse** in the Indian legal system.

### *Facts of the Case:*

- The case dealt with a law that existed before the enactment of the Constitution of India.
- The law was found to be inconsistent with the Fundamental Rights under the Constitution.
- The issue was whether such a law was **void** because it was inconsistent with the Fundamental Rights or whether it was just **eclipsed** and could be revived later if the inconsistency was addressed.

### *Court's Decision:*

- The **Supreme Court** held that a law that **pre-existed** the Constitution and is inconsistent with a **Fundamental Right** is not void, but **eclipsed** or rendered inoperative to the extent of its inconsistency.
- The Court clarified that the law is not automatically void but instead is **suspended** as long as it contradicts the Fundamental Right.
- If the law is amended or the inconsistency is removed, it can be **revived** and brought back into effect.

This ruling established the **Doctrine of Eclipse** in Indian law, providing that laws inconsistent with the Fundamental Rights are not necessarily invalid but are **inoperative** until the inconsistency is removed.

---

### Application and Impact of the Doctrine:

#### 1. **Preservation of Pre-Constitutional Laws:**

- The **Doctrine of Eclipse** helps preserve **laws** that were made **before** the Indian Constitution came into force, even if they conflict with the **Fundamental Rights**. Such laws are not **automatically void** and may be revived if their inconsistency is cured.

#### 2. **Temporary Suspension:**

- When a law is found to be inconsistent with a Fundamental Right, the law is not **rendered void** but becomes **inoperative**. It remains in the **statute book**, and it will not be effective unless the inconsistency is removed (e.g., through a constitutional amendment).

#### 3. **Revival of Laws:**

- The law, once **eclipsed**, remains dormant but can be revived if a later **amendment** or legal reform removes the inconsistency. For instance, a law that infringes on **freedom of speech** might be **revived** once it is amended to align with the **Right to Freedom of Speech** under **Article 19**.

#### 4. **Difference from the Doctrine of Severability:**

- Unlike the **Doctrine of Severability**, which suggests that if a part of a law is found unconstitutional, that part alone is invalid, the **Doctrine of Eclipse** applies to laws that are inconsistent with Fundamental Rights in their entirety.
- If the law is partially inconsistent with the Fundamental Rights, the **Doctrine of Severability** would allow the **valid** part of the law to remain operative, while the **eclipsed** part remains inoperative.

## Doctrine of Severability

The **Doctrine of Severability** is a legal principle that allows for **partial invalidation** of a law. If a part of a statute is found to be **unconstitutional** or in violation of the Constitution, only that specific part is **struck down**, while the **remainder of the law** remains valid and in force. This ensures that the rest of the law, which does not infringe on constitutional principles, continues to be **enforceable**.

In other words, the unconstitutional part of the law is severed from the rest, and the **valid provisions** of the law continue to operate without any disruption. This doctrine promotes judicial economy and upholds the principle that the legislature's intent should be preserved as much as possible, even if one part of the law is found unconstitutional.

### How the Doctrine Works:

- When a **provision** or **part** of a law is challenged and declared unconstitutional, the Court will examine whether the rest of the statute can stand on its own.
- If the **invalid part** can be severed without affecting the integrity of the entire law, the remaining provisions are left intact.
- If the invalid part is so **integral** to the law that severing it would distort the overall intent of the law, then the **entire law** may be struck down.

### Principle Behind the Doctrine:

- The **purpose** of the Doctrine of Severability is to **preserve the valid aspects** of a statute while discarding only the invalid portions.
- It is based on the idea that if the legislature had known that a particular provision would be invalid, they would still have enacted the law without that provision.

### Case Law: Berubari Union Case (1960)

The **Berubari Union Case** (1960) is one of the landmark cases in which the **Doctrine of Severability** was applied by the **Supreme Court of India**.

### *Facts of the Case:*

- The case involved a **dispute** regarding the **interpretation** of a provision in the **Indian Independence Act, 1947** and its application to the **exchange of territory** between India and Pakistan.

- The issue was whether the **provision for cession of part of Indian territory** (Berubari Union) to Pakistan violated the **Constitution**, particularly the **procedure for amending the Constitution** under **Article 368**.
- The Court was tasked with deciding whether the provisions related to the **cession of territory** were unconstitutional and, if so, whether the rest of the law could remain valid.

#### *Court's Decision:*

- The **Supreme Court** held that the **cession of territory** was unconstitutional under the existing constitutional framework.
- However, the Court applied the **Doctrine of Severability** and found that the **rest of the law** could stand without the invalid provision.
- The Court upheld the **validity** of the rest of the provisions of the law, striking down only the unconstitutional part regarding the **cession of territory** to Pakistan.

#### *Significance of the Case:*

- The **Berubari Union Case** established the principle that, in cases where a **part** of a statute is **invalid**, only the unconstitutional part should be struck down, and the **remainder** of the law remains intact.
- This case reinforced the **Doctrine of Severability** as a tool for preserving valid legislative intent while removing unconstitutional elements from the law.

#### *Application of the Doctrine of Severability:*

1. **Partial Invalidity:** If a provision of a law conflicts with the **Constitution**, only that provision will be struck down, and the rest of the law will continue to be effective. For instance, if a law has an unconstitutional tax provision, the Court may invalidate only that part, leaving the rest of the tax law intact.
2. **Preservation of Legislative Intent:** The doctrine allows the **legislative intent** to be preserved as much as possible. The Court avoids invalidating the entire law if only a **specific provision** is unconstitutional, which can be severed.
3. **Promoting Judicial Economy:** By applying this doctrine, the Court avoids the drastic step of declaring an entire statute invalid. This ensures that legislative actions that are **valid** and **constitutional** are not unduly disturbed.
4. **Severance Based on Context:** The Court will look at the context and **purpose** of the law. If the invalid provision is crucial to the overall purpose of the statute, the Court may strike down the entire law. However,

if it can be severed without affecting the overall object of the law, only the unconstitutional part will be struck down.

---

Other Relevant Case Laws:

1. **Minerva Mills Ltd. v. Union of India (1980):**

- The **Supreme Court** applied the Doctrine of Severability in this case and struck down part of the **Constitutional Amendment** that violated the **Basic Structure** of the Constitution. The rest of the amendment was upheld as valid.

2. **R.M.D. Chamarbaugwalla v. Union of India (1957):**

- The Court applied the Doctrine of Severability in this case, where part of the law was found to be unconstitutional due to an infringement on the **right to trade** under Article 19. The unconstitutional portion was struck down, but the rest of the law was allowed to remain in force.

3. **State of Rajasthan v. Union of India (1977):**

- This case involved the application of the Doctrine of Severability, where the **Supreme Court** held that if a law has both valid and invalid provisions, the invalid part can be severed, and the rest can continue to operate without affecting its application.

Waiver of Fundamental Rights

The **waiver of Fundamental Rights** refers to the voluntary relinquishment or surrender of a right by an individual. However, it is important to note that **Fundamental Rights**, by their very nature, are considered inalienable and **cannot be waived off** voluntarily in most circumstances. This is because Fundamental Rights are essential for the protection of human dignity, equality, and justice, and their waiver would often be inconsistent with public policy or the larger public interest.

However, in certain situations, **waiver may be allowed**, but only if it is **consistent with public policy** and does not undermine the core values protected by the Constitution.

Key Points About Waiver of Fundamental Rights:

- **General Rule:** Fundamental Rights are **inalienable** and cannot be waived, as they are meant to safeguard the **public interest** and **individual dignity**.

- **Public Policy Exception:** The waiver may be permissible in limited circumstances, such as when it does not conflict with public policy, the public good, or any essential constitutional provisions.
- **No waiver in cases involving public interest:** In certain situations, like **freedom of speech**, **right to equality**, and **right to life**, any waiver would be contrary to the very purpose of those rights, and thus cannot be waived.

Case Law: K.K. Verma v. Union of India (1954)

The **K.K. Verma v. Union of India** (1954) case is significant in understanding the **waiver of Fundamental Rights**.

*Facts of the Case:*

- K.K. Verma, the petitioner, was seeking to **waive his right to property** under **Article 31** (which was later replaced by **Article 300A**) of the Constitution in connection with a **land acquisition** issue.
- The government had acquired the petitioner's land under the provisions of the **Land Acquisition Act**, and the petitioner sought to voluntarily waive his rights to compensation under the Constitution.

*Court's Decision:*

- The **Supreme Court** in this case held that **Fundamental Rights** cannot be waived off voluntarily if it violates **public policy**.
- The Court observed that **Fundamental Rights**, particularly those that relate to **property rights** and other constitutional guarantees, are not subject to **voluntary waiver**. These rights are meant to **protect the public interest** and ensure **individual dignity**, and hence cannot be voluntarily surrendered by any individual.
- The Court emphasized that **waiving fundamental rights** would allow individuals to act against the **public interest**, which cannot be permitted. For instance, one cannot waive off the right to **equality** or **freedom** just because they choose to do so, as it would violate the principles of **justice** and **equality** enshrined in the Constitution.

*Significance of the Case:*

- The **K.K. Verma case** is important because it established that **Fundamental Rights** cannot be waived off by an individual in such a manner that it would go against **public policy** or the **fundamental principles of justice**.
- The case highlighted the **importance of the public interest** in protecting the integrity of **Fundamental Rights**, showing that they are not just personal rights but also rights that ensure a **just and fair society**.

Exceptions Where Waiver May Be Allowed:

1. **Contractual Waiver (in limited cases):** In some situations, a person may waive certain rights **contractually** if it does not conflict with public policy. For example, waiving some procedural rights in legal disputes if both parties mutually agree, as long as such waiver does not affect **fundamental principles** like **equality before the law**.
2. **Right to Equality in Employment:** In certain employment agreements or circumstances, an individual may waive certain procedural or non-essential rights (such as right to compensation in cases of resignation), but this does not apply to **essential rights** like **non-discrimination** or **equal opportunity**.
3. **Judicial Exceptions:** Courts may allow waiver in certain cases where it is not detrimental to **public policy** or the **fundamental objectives** of the Constitution. For example, a prisoner may **waive** their right to be present at their trial, but only if the waiver does not undermine the **principle of justice**.

Article 14: Right to Equality

**Article 14** of the Indian Constitution guarantees the **Right to Equality** by stating that "**the State shall not deny to any person equality before the law or the equal protection of the laws**". This ensures that all individuals are treated equally under the law and that no person is discriminated against by the State.

The concept of **equality before the law** signifies that every person, regardless of their social, economic, or political status, should be treated the same by the law. This provision is fundamental to the Indian legal system, aiming to provide a framework for fairness and justice.

However, this right is not absolute. It allows for **reasonable classification** by the State to distinguish between different categories of people for specific purposes, provided that the classification is based on **rational and reasonable criteria** and does not amount to **arbitrary discrimination**.

Key Elements of Article 14:

1. **Equality Before Law:** This is a **negative concept** that means that **no one** is above the law, and everyone is subject to the law equally, without any special privileges. It ensures that **all individuals are treated the same**, without discrimination based on arbitrary distinctions.
2. **Equal Protection of the Laws:** This is a **positive concept**, ensuring that laws are applied equally to all individuals, and that if laws make distinctions, they are based on reasonable classifications. It means that **like should be treated alike**.

## Key Principles under Article 14:

1. **Doctrine of Reasonable Classification:** The state can classify persons or things into different categories for the purpose of legislation, but the classification must be **reasonable**. There must be a **rational nexus** between the classification and the object of the law.
2. **Absence of Arbitrariness:** The classification should not be arbitrary or discriminatory. It must be based on **rational and justifiable criteria**.
3. **Principle of Legitimate Expectations:** The principle that a person can expect the government to act fairly, consistently, and in accordance with previously established policies.
4. **Compensatory Discrimination:** In certain cases, the State may create special provisions for the **upliftment of backward classes** or communities to ensure equality, in the form of reservations or affirmative action.

## Case Laws on Article 14:

### 1. *State of West Bengal v. Anwar Ali Sarkar (1952)*

- **Facts:** In this case, the State of West Bengal passed a law that gave a special power to the government to detain certain individuals without trial, thereby providing them fewer rights than other citizens. Anwar Ali Sarkar challenged the law, claiming it violated the principle of **equality before the law** under Article 14.
- **Court's Ruling:** The Supreme Court struck down the law, observing that the classification made by the law between persons subject to detention and others was arbitrary and unreasonable. The Court introduced the **Doctrine of Reasonable Classification**, which states that:
  - The classification must be based on **intelligible differentia**, meaning the distinction must be clear and understandable.
  - There must be a **rational nexus** between the classification and the object of the law. In other words, the law must have a logical relationship with its intended purpose.
- **Impact:** The case highlighted the requirement that any classification made by the State must be reasonable and not arbitrary. It cannot be based on irrational distinctions, as this would violate the principle of equality.

### 2. *Maneka Gandhi v. Union of India (1978)*

- **Facts:** In this landmark case, Maneka Gandhi challenged the **impoundment** of her passport by the government, arguing that it violated her right to **personal liberty** under Article 21, and also her right to **equality** under Article 14. The law under which her passport was impounded gave the government **wide discretion** without any clear guidelines.

- **Court's Ruling:** The Supreme Court expanded the scope of **Article 14** and ruled that **any classification made by the State must be reasonable** and must not be arbitrary. The Court held that **reasonable classification** under Article 14 is permissible, provided that the classification is based on **reasonable criteria** and is not based on **arbitrary distinctions**.
- The Court emphasized that **arbitrary actions of the State** that violate the **principle of equality** will be struck down. The Court also clarified that **Article 14 is not just a negative right** (prohibiting unfair discrimination) but also includes **positive obligations** on the State to make laws that do not discriminate in an arbitrary manner.
- **Impact:** The decision in **Maneka Gandhi v. Union of India** significantly broadened the interpretation of **Article 14**, stressing that any classification made by the State should be **fair and justifiable**, and it cannot be **unreasonable** or **arbitrary**. The judgment also established that the **right to equality** is linked to **fairness** in governmental action.

#### Doctrine of Reasonable Classification

Under Article 14, the **State** can make **reasonable classifications** between different groups of people or situations. However, the classification must:

1. **Be based on intelligible differentia:** The groups must be distinct and easily recognizable.
2. **Have a rational nexus** with the object of the law: The distinction made must be related to the object or purpose of the law.

**Example:** A law that provides for reservations in educational institutions for **backward classes** is considered a **reasonable classification**, as it is intended to promote equality and address social disparities.

#### Doctrine of Absence of Arbitrariness

- **Absence of arbitrariness** is a key feature of **Article 14**. Laws or actions that are arbitrary and do not have a rational basis are unconstitutional.
- Arbitrariness in government action leads to **unreasonable discrimination**, which violates the principle of **equality** under the Constitution.

**Example:** If a law discriminates against a group without any rational reason or intelligible differentia, it would be considered **arbitrary** and therefore unconstitutional.

## Principle of Legitimate Expectations

- **Legitimate expectations** refer to the **reasonable expectations** a person may have based on established laws, policies, or practices.
- If the government acts in a way that **violates a person's reasonable expectation**, it can be challenged under **Article 14**.

## Compensatory Discrimination

- The **principle of compensatory discrimination** allows the State to provide special treatment to backward classes or groups to ensure **equality of opportunity**. This may include **reservations** in education or government jobs to uplift marginalized sections of society.
- It is an affirmative action strategy aimed at **correcting historical inequalities** and ensuring equal participation in societal and economic spheres.

## Article 15: Prohibition of Discrimination on Grounds of Religion, Race, Caste, Sex, or Place of Birth

**Article 15** of the Indian Constitution prohibits discrimination on the basis of religion, race, caste, sex, or place of birth. It is a crucial provision aimed at ensuring **equality** and **social justice**. However, it also allows the state to make special provisions for **backward classes, women, and children** through **positive discrimination** or **affirmative action** (such as reservations in education and employment).

### Key Provisions of Article 15:

1. **Prohibition of Discrimination:** No citizen shall be **discriminated against** by the State on the basis of religion, race, caste, sex, or place of birth.
  2. **Positive Discrimination (Reservation):** Despite the general prohibition of discrimination, **Article 15(4)** and **15(5)** specifically allow for **reservations** for **backward classes, scheduled castes, scheduled tribes, women, and children** in education and employment.
  3. **State-Authorized Special Provisions:** The Article also permits the State to make special provisions for the **advancement** of socially and educationally backward classes, such as providing **reservations** or special schemes for their upliftment.
-

## Case Laws on Article 15:

### 1. *State of Madras v. Champakam Dorairajan (1951)*

- **Facts:** In this case, the government of Madras (now Tamil Nadu) had provided **reservations** in educational institutions, which were challenged on the ground that they violated the **prohibition of discrimination** under **Article 15**. The **Champakam Dorairajan case** involved the legality of **reservation** in educational institutions, particularly in government-funded institutions.
  - **Court's Ruling:** The Supreme Court held that the **reservation policy** violated **Article 15** because it **discriminated** on the grounds of caste and was **unconstitutional**. However, this decision led to a major constitutional change.
  - **Impact:** The **Champakam Dorairajan case** triggered the **First Amendment to the Constitution (1951)**, which amended Article 15 to explicitly permit reservations in educational institutions for **backward classes** and **scheduled castes/tribes**. This amendment effectively legalized the practice of **positive discrimination** in the field of education.
- 

### 2. *M. Nagaraj v. Union of India (2006)*

- **Facts:** The **M. Nagaraj case** involved the constitutionality of **reservations** for **backward classes** in government jobs and promotions. The petitioners argued that the **State's reservation policy** was discriminatory and violated **Article 15**, especially in relation to promotions in public service.
- **Court's Ruling:** The Supreme Court upheld the **reservation policy** but placed **certain conditions**. It ruled that **reservation** in promotions for **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)** was valid, but the **State** must meet certain **criteria** before providing reservations:
  1. The State must establish that the **backwardness** of the group is **socio-economic** in nature.
  2. The **representation** of these groups in government jobs must be **significantly lower** than their population proportion.
  3. The **creamy layer** (the relatively better-off members of a backward class) should be **excluded** from the benefits of reservation.
- **Impact:** The Court's judgment reinforced the importance of **ensuring social justice** through reservations but also emphasized the need to **exclude the creamy layer** (the economically better-off individuals within reserved categories) to ensure that **the benefits reach the truly disadvantaged**. This ruling brought greater **clarity** to the **reservation system** in public employment.

## Article 16: Equality of Opportunity in Matters of Public Employment

**Article 16** of the Indian Constitution ensures **equality of opportunity** for all citizens in matters of **public employment**. It prohibits discrimination based on **religion, race, caste, sex, descent, place of birth, or residence** in relation to employment or office under the **State**.

This Article is crucial because it guarantees that no individual shall be denied a government job or be treated unequally in government employment based on any of the prohibited grounds. However, **reservations** for **Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs)** are allowed under certain circumstances, to ensure **social justice** and **remedy past discrimination**.

### Key Provisions of Article 16:

1. **Equality of Opportunity:** Article 16(1) provides that **every citizen** has the right to **equality of opportunity** in matters relating to public employment under the State.
2. **No Discrimination in Employment:** Article 16(2) prohibits discrimination on the grounds of **religion, race, caste, sex, descent, place of birth, or residence** in matters of public employment.
3. **Reservations in Employment:** Article 16(4) empowers the State to make **special provisions** for **backward classes** in matters of public employment. This includes provisions for **reservations**, thus ensuring that **historically marginalized communities** are adequately represented in public services.
4. **Relaxation for Backward Classes:** Article 16(4A) provides for **reservation in promotion** for **SCs and STs** in government jobs, subject to certain conditions.

---

### Case Laws on Article 16:

#### 1. *T. Devadasan v. Union of India (1964)*

- **Facts:** In this case, the issue was related to the **ceiling limit** for **reservations** in **public employment**. The petitioner, T. Devadasan, challenged the decision of the Union of India regarding the extent of **reservations** for **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**, arguing that the ceiling limits set by the Government for **reservation** in government jobs were unconstitutional and unfair.
- **Court's Ruling:** The Supreme Court upheld the **reservation policy** but clarified that **reservation should not exceed the ceiling limit**. The Court ruled that there should be **no more than 50% reservation** in government employment, stating that exceeding this limit would be discriminatory and violate the principle of **equality**.

**of opportunity** under **Article 16**. The **ceiling limit** was considered a safeguard to prevent excessive **reservation** and ensure that merit was not undermined in public employment.

- **Impact:** The judgment helped in defining the **scope and limits of reservation** in public employment, with the key principle that **reservation should not exceed 50% of the total posts** available for recruitment, except in special circumstances.
- 

## 2. *Indra Sawhney v. Union of India (1992) - The Mandal Commission Case*

- **Facts:** This landmark case addressed the issue of **reservation in public employment** for the **Other Backward Classes (OBCs)**. The question was whether the **recommendations of the Mandal Commission** to provide **27% reservation** for OBCs in **public sector jobs** were constitutionally valid.
  - **Court's Ruling:** The Supreme Court upheld the **recommendations of the Mandal Commission** for **27% reservation** for OBCs in public employment. The Court ruled that reservations for **OBCs** were constitutionally valid, but it also placed certain **limits** on the extent of **reservation**.
  - **Important Takeaways:**
    - The **50% ceiling limit** on reservations in public employment was reaffirmed by the Court.
    - The **creamy layer** (the better-off among OBCs) should be **excluded** from the benefits of reservation.
    - The Court emphasized that **merit** should not be sacrificed in the name of **social justice**.
  - **Impact:** The ruling upheld the **Mandal Commission's recommendations** and cemented the idea that **reservations** should serve to provide **equal opportunities** to historically marginalized groups while maintaining a balance with the principle of **merit**.
- 

## 3. *M. Nagaraj v. Union of India (2006)*

- **Facts:** The case involved the constitutional validity of **reservations in promotions** for **SCs and STs** in government services. The **petitioners** contended that the **promotion quotas** for these groups were not in accordance with the Constitution, especially because they could violate the principle of **equality of opportunity** under **Article 16**.
- **Court's Ruling:** The Supreme Court upheld **reservations in promotions** for **SCs and STs**, but with certain **conditions:**
  1. The State must establish the **backwardness** of the group and the need for **reservation**.

2. The State must ensure that the **representation** of **SCs** and **STs** in government jobs is significantly lower than their population proportion.
  3. The **creamy layer** among **SCs** and **STs** must be **excluded** from the benefits of reservation in promotions.
- **Impact:** The ruling provided **clarity** on the constitutional validity of **reservation in promotions**, setting the stage for a more **equitable** implementation of reservation policies in public employment.
- 

#### Key Concepts Related to Article 16:

1. **Ceiling Limit for Reservation:** As established in **T. Devadasan v. Union of India (1964)**, **reservations** should not exceed **50%** of the total vacancies in public employment, unless there are exceptional circumstances.
2. **Creamy Layer:** The concept of **creamy layer** (established in **Indra Sawhney case**) ensures that only the **poorest and most backward sections** of the **OBCs** benefit from reservations, while those who have progressed economically are excluded.
3. **Promotions and Reservations:** **Reservations in promotions** for **SCs** and **STs** were upheld in **M. Nagaraj v. Union of India (2006)**, with the condition that the State must establish that there is **backwardness** and **underrepresentation** in the public service.

#### Article 17: Abolition of Untouchability

**Article 17** of the Indian Constitution abolishes **untouchability** in any form and forbids its practice in India. It declares that **untouchability** shall not be **practiced** in any manner, and any law, custom, or practice that perpetuates this social evil is **unconstitutional**. This article is part of **Part III** (Fundamental Rights), aimed at promoting **social justice** and eliminating **discrimination** based on caste.

#### Key Provisions of Article 17:

- **Abolition of Untouchability:** It explicitly abolishes the practice of **untouchability**, which historically denied **basic human rights** to people belonging to lower castes, especially **Dalits**.
- **Forbidding Practice of Untouchability:** It forbids the practice of untouchability in any form, in all public and private spheres, including in places of worship, public roads, or access to public utilities.
- **Punishment for Violation:** Untouchability is a **punishable offense**, and the State can impose penalties on those who engage in caste-based discrimination.

---

## Case Laws on Article 17:

### 1. *State of Uttar Pradesh v. Deenanath (1956)*

- **Facts:** The case dealt with an instance of **untouchability** and caste-based discrimination. Deenanath, a person from a **Scheduled Caste**, was denied access to a public well because of his caste. He was subjected to discrimination and humiliated due to untouchability practices.
  - **Court's Ruling:** The Supreme Court in this case reinforced the **principle of equality** and the **abolition of untouchability** enshrined in **Article 17**. It held that the practice of **untouchability** violates the Constitution, and any act of caste-based discrimination is illegal. The Court imposed punishment on the offenders for their discriminatory practices.
  - **Impact:** This case contributed to **upholding the constitutional prohibition of untouchability** and emphasized that caste-based discrimination is a violation of the fundamental rights of individuals.
- 

## Article 18: Abolition of Titles

**Article 18** of the Constitution of India abolishes the practice of **titles**, except for **military** and **academic distinctions**. The article ensures that titles such as "**Raja**," "**Maharaja**," or any form of **hereditary titles** cannot be granted by the State. This provision is meant to **eliminate distinctions** based on **titles** that could perpetuate **privileges** or create social divisions.

### Key Provisions of Article 18:

- **Abolition of Titles:** It abolishes **hereditary titles** and titles conferred by the **State**, aiming to promote **equality** and prevent **privileged status** based on **titles**. No citizen shall be given a title or a distinction based on birth or hereditary rights.
  - **Exceptions:** However, the article does not affect **military distinctions** (such as **Param Vir Chakra** or **Vir Chakra**) or **academic distinctions** (such as **Doctor**, **Professor**, or **PhD**). These are not considered titles within the meaning of **Article 18**.
-

## Case Laws on Article 18:

### 1. *Union of India v. T. Gopalan (1950)*

- **Facts:** In this case, the petitioner, T. Gopalan, challenged the grant of a **title** by the **Indian government**. He argued that the government had conferred a title upon him, which violated **Article 18** of the Constitution, as it prohibited the granting of titles except for military or academic distinctions.
- **Court's Ruling:** The Supreme Court ruled that the title **granted** to the petitioner by the government was **invalid** under **Article 18**, as it violated the Constitution. The Court clarified that **hereditary titles** or any titles granted by the **State** were unconstitutional unless they were **military** or **academic distinctions**.
- **Impact:** This case reinforced the **principle of equality** by upholding the **abolition of titles** under **Article 18**, thus ensuring that **titles** or distinctions based on birth or royalty would not be recognized or granted by the State.

## Doctrine of Reasonable Classification:

The **Doctrine of Reasonable Classification** allows the State to **classify** individuals or groups for the purpose of legislation, but such classifications must be **rational** and have a **reasonable nexus** to the object the law seeks to achieve. This ensures that laws are not arbitrary and that different treatment is justified by an intelligible difference between the groups being classified.

### *Key Elements of the Doctrine:*

1. **Intelligible Differentiation:** There must be a **distinction** between the groups being classified. The groups must be **distinct**, and the differentiation must be based on some **rational principle**.
2. **Rational Nexus:** There must be a **rational connection** between the classification and the object of the law. The classification must serve a **legitimate aim** and contribute to the **achievement** of the legislative objective.

---

## Case Laws:

### 1. *Ram Krishna Dalmia v. Justice S. R. Tendolkar (1958)*

- **Facts:** The case dealt with the validity of certain provisions under the **Public Servants (Inquiries) Act**, which allowed different classes of employees to be treated differently.

- **Court's Ruling:** The Supreme Court held that a classification is permissible **only if** it has a **rational nexus** to the object of the law. The Court established the principle that a **reasonable classification** is an exception to the rule of equality, but only if it **meets the criteria** of intelligible differentiation and a rational nexus.
  - **Impact:** This case set the foundation for the **Doctrine of Reasonable Classification**, which allows the State to create distinctions, as long as the distinctions are **rational** and justified by a valid objective.
- 

Absence of Arbitrariness:

The **principle of absence of arbitrariness** ensures that the laws and actions of the State are **not arbitrary** or **discriminatory**. Actions that are arbitrary violate the **principle of equality** and are deemed unconstitutional. This principle ensures that any exercise of **discretion** by the government is based on **reason, fairness, and justice**, and not on **whims** or **caprice**.

---

Case Laws:

1. *E.P. Royappa v. State of Tamil Nadu (1974)*

- **Facts:** This case concerned the **transfer** of a public servant under arbitrary circumstances. The petitioner claimed that the transfer violated the principle of equality because it was arbitrary and without **just cause**.
- **Court's Ruling:** The Supreme Court observed that **equality** is a **dynamic** concept and that **arbitrary actions** of the government violate the principle of **equality** under **Article 14**. The Court emphasized that the **action** of the government should not be based on **whims** but must be **reasonably justified**.
- **Impact:** The Court held that any **discretionary action** that is arbitrary and lacks reason is unconstitutional. This case expanded the scope of **equality** by stating that **arbitrary action** violates equality, even when there is no direct discrimination.

Legitimate Expectations:

The **principle of legitimate expectations** acknowledges that individuals or groups can have a reasonable expectation that the government will act in accordance with its established rules, policies, and practices. This principle provides individuals with a right to expect that the government will be **consistent** in its actions and will not deviate from **settled practices** or policies without a valid reason.

---

Case Laws:

1. *Kerala State Electricity Board v. Valsala (2000)*

- **Facts:** The case involved the question of whether a public servant could expect to continue in service based on an established practice. The petitioner, a public servant, claimed that she had a **legitimate expectation** of continuing in service under the established policy of the Kerala State Electricity Board.
  - **Court's Ruling:** The Supreme Court held that the petitioner had a **legitimate expectation** to continue in service under the established policy. The Court held that **government actions** must be predictable, and individuals can expect **government practices and policies** to be **followed consistently** unless there is a valid reason for a change.
  - **Impact:** This case affirmed that individuals can expect the enforcement of **established rights** or policies that have been recognized as part of the government's routine practice.
- 

Principle of Compensatory Discrimination:

The **Principle of Compensatory Discrimination** allows the State to adopt measures of **affirmative action**, such as **reservation** or other benefits, to **correct historical disadvantages** faced by certain **backward** or **disadvantaged** groups. The principle seeks to provide equal **opportunity** by enabling these groups to overcome **disadvantages** they have faced due to social, economic, or educational backwardness.

---

Case Laws:

1. *Indra Sawhney v. Union of India (1992)*

- **Facts:** This landmark case dealt with the question of whether the reservation of jobs in public employment for **backward classes** was consistent with the **Constitution**. The case focused on whether the government's reservation policy violated the **principle of equality** and if it was justified under the Constitution.
- **Court's Ruling:** The Supreme Court upheld the principle of **compensatory discrimination**, allowing for **affirmative action** (reservation) in public employment for backward classes. The Court ruled that **reservation** was necessary to uplift **backward** communities and ensure **equality of opportunity**.
- **Impact:** The Court established a comprehensive framework for **reservations**, recognizing that affirmative action is justified to **compensate for past inequalities** and **ensure social justice** for backward classes. The

case reinforced the constitutional validity of **compensatory discrimination** as a tool for promoting **social equality**.

Article 19(1)(a) – Freedom of Speech and Expression:

**Article 19(1)(a)** of the Indian Constitution guarantees to every **citizen the right to freedom of speech and expression**. This right includes the freedom to express one's thoughts, opinions, and beliefs in any form—spoken, written, or through any medium of communication, including **art, films, and electronic media**.

However, this right is not absolute. It is subject to **reasonable restrictions** imposed by the State under **Article 19(2)**, which allows the government to impose restrictions on this freedom in the interests of:

- **Sovereignty and integrity of India**
- **Security of the State**
- **Friendly relations with foreign States**
- **Public order**
- **Decency or morality**
- **Contempt of court**
- **Defamation**
- **Incitement to an offence**

---

Case Laws:

*1. Romesh Thappar v. State of Madras (1950)*

- **Facts:** Romesh Thappar, the editor of a publication, was banned from circulating his magazine in Madras under the **Madras Maintenance of Public Order Act**, arguing that his publication could incite violence. The ban was imposed due to the content being perceived as dangerous to public order.
- **Court's Ruling:** The Supreme Court struck down the ban, emphasizing that **freedom of speech and expression** is a fundamental right and cannot be curtailed unless there is a clear and present danger to public order. The Court held that the government could not restrict this freedom merely on the grounds of an apprehended danger to public order. The **scope of freedom of expression** was thus expanded.
- **Impact:** This case established that **freedom of speech and expression** under **Article 19(1)(a)** must be **given its full scope** and can only be restricted under the **reasonable grounds** provided in **Article 19(2)**.

---

## 2. *Shreya Singhal v. Union of India (2015)*

- **Facts:** This case dealt with **Section 66A** of the **Information Technology Act, 2000**, which penalized the sending of offensive messages through communication service or social media platforms. Shreya Singhal challenged the constitutionality of Section 66A, arguing that it infringed upon the **right to free speech** guaranteed under **Article 19(1)(a)**.
- **Court's Ruling:** The Supreme Court struck down **Section 66A** as unconstitutional, ruling that it was **vague** and violated **freedom of speech**. The Court observed that the provision gave the authorities the power to restrict free speech arbitrarily and was prone to misuse. The judgment emphasized that **any restriction on speech** must be clear and precise to ensure that it does not stifle **genuine expressions** or **criticism**.
- **Impact:** This landmark ruling reinforced the principle that **freedom of speech and expression** is a **core fundamental right** and any attempt to restrict it must be **reasonable, clear, and necessary** in the interest of public order, morality, or national security.

---

### Article 19(1)(g) – Freedom to Practice Any Profession or Carry on Any Occupation:

**Article 19(1)(g)** of the Indian Constitution guarantees to **every citizen the right to practice any profession, or to carry on any occupation, trade, or business**. This fundamental right ensures that individuals are free to choose and pursue any lawful profession or business without undue interference by the State.

This right is critical to promoting **economic freedom** and **individual autonomy**, allowing people to engage in activities that lead to personal and collective prosperity. However, **this right is subject to reasonable restrictions** under **Article 19(6)**, which empowers the State to regulate or impose restrictions in the public interest, such as ensuring public health, safety, and welfare.

---

### Scope and Limitations of Article 19(1)(g):

The freedom under **Article 19(1)(g)** includes:

- **Freedom to practice any profession** (e.g., law, medicine, engineering).
- **Freedom to carry on any occupation** (e.g., working as a contractor, factory worker).

- **Freedom to carry on any trade or business** (e.g., running a retail shop, factory, or tech startup).

**Reasonable restrictions** can be imposed by the State in the interest of:

- **Public health**
- **Public safety**
- **Moral welfare**
- **Economic stability**
- **Regulation of certain professions** (e.g., licensing and qualifications in fields like medicine, law, and engineering).

The restrictions, however, must be **just, fair, and necessary**, and they should not be used to arbitrarily restrict a citizen's right to engage in an occupation or business.

---

Case Laws:

1. *C.B. Gautam v. Union of India (1993)*:

**Facts:** In this case, the petitioner, C.B. Gautam, challenged the constitutional validity of the **Taxation of Undisclosed Foreign Income and Assets Act, 1993** (popularly known as the **Black Money Act**), arguing that it violated the fundamental right to carry on business or trade under **Article 19(1)(g)**. The law allowed the government to impose heavy penalties on individuals or entities failing to disclose their foreign assets, which the petitioner argued was an infringement upon his right to practice his profession and carry on business.

**Court's Ruling:** The Supreme Court clarified the **scope of Article 19(1)(g)**, emphasizing that the freedom to carry on business is not absolute and can be regulated by the State through **reasonable restrictions**. The Court noted that **taxation laws** and laws aimed at **preventing black money** are a legitimate form of regulation, as they serve the larger public interest, such as ensuring fairness in financial systems and fighting corruption.

The Court held that **reasonable restrictions** on business activities, particularly when they relate to ensuring transparency, accountability, and regulation of financial matters, do not violate the constitutional rights under **Article 19(1)(g)**.

**Impact:** The case clarified that **freedom to carry on business** can be **restricted by law** if it is in the **public interest**, particularly in areas such as tax evasion, corruption, and economic stability.

---

2. *Delhi Law Association v. Union of India (1991)*:

**Facts:** This case dealt with the validity of the **Delhi Sales Tax Act (1962)**, which imposed restrictions on certain types of business practices and required businesses to be registered for sales tax purposes. The petitioners, consisting of members of the **Delhi Law Association**, challenged the law on the grounds that it violated their **right to carry on business** under **Article 19(1)(g)**.

**Court's Ruling:** The Supreme Court upheld the imposition of **sales tax registration requirements** on the ground that **tax regulations** serve the **public interest** by ensuring **compliance with the law, transparency in business dealings**, and contributing to **public revenue**.

**Impact:** This case reinforced the idea that laws regulating business practices in a manner that serves **public welfare** or **economic interest** are permissible under the Constitution, provided they do not completely deny a person's freedom to pursue their chosen business.

Reasonable Restrictions (Article 19(2)-(6)):

**Article 19** of the Indian Constitution guarantees certain fundamental freedoms to citizens, but these freedoms are not absolute. The Constitution allows for **reasonable restrictions** on these rights under **Article 19(2) to (6)**. These restrictions can be imposed by the State in the interest of:

1. **Sovereignty and integrity of India**
2. **Security of the State**
3. **Friendly relations with foreign countries**
4. **Public order**
5. **Decency or morality**
6. **Contempt of court**
7. **Defamation**
8. **Incitement to an offense**
9. **Protection of the rights of others**

Each of the rights under **Article 19(1)** is subject to these restrictions, which can be imposed by laws that are consistent with the principles of **justice** and **fairness**. The restrictions must not be excessive or arbitrary and must meet the test of **reasonableness**.

---

Detailed Explanation of Reasonable Restrictions:

1. **Article 19(2):** This clause deals with **reasonable restrictions on freedom of speech and expression**. The State can impose restrictions on this freedom in the interest of:
  - **Sovereignty and integrity of India**
  - **Security of the State**
  - **Friendly relations with foreign countries**
  - **Public order**
  - **Decency or morality**
  - **Contempt of court**
  - **Defamation**
  - **Incitement to an offense**

The courts have repeatedly emphasized that the restrictions imposed under **Article 19(2)** must be proportionate to the situation and should not unduly restrict freedom of expression.

2. **Article 19(3):** This clause applies to **freedom of assembly**. It allows the State to impose restrictions in the interests of public order or the sovereignty of India.
3. **Article 19(4):** This relates to **freedom of association**. The State may impose restrictions in the interests of the sovereignty and integrity of India or public order.
4. **Article 19(5):** This applies to **freedom of movement**. Restrictions can be imposed by the State for reasons related to the sovereignty of India or public order.
5. **Article 19(6):** This deals with **freedom to practice any profession**. It permits the State to impose restrictions related to professional qualifications, public health, and safety.

---

Case Laws Illustrating Reasonable Restrictions:

1. *Express Newspapers v. Union of India (1958):*

**Facts:** This case dealt with the **press's freedom of speech and expression**, particularly with respect to the **press** and its right to publish information. The **Newspapers** challenged the **Press (Emergency Powers) Act** of 1951, which allowed the government to issue preventive measures such as suspension of newspapers during an emergency, without judicial review.

**Court's Ruling:** The Supreme Court clarified the scope of **reasonable restrictions** under **Article 19(2)** and emphasized that restrictions imposed on freedom of speech and expression must be reasonable. The Court explained that **freedom of the press** is essential for democracy, but it can be subject to reasonable restrictions that are in the interest of public order or national security.

**Impact:** The case marked an important milestone in balancing **freedom of speech** with **national security** and **public order**. The Court reinforced the idea that while the freedom of speech is fundamental, the government has the power to restrict this freedom if necessary for the protection of national interests.

---

2. *R. Rajgopal v. State of Tamil Nadu (1994):*

**Facts:** In this case, the issue was the conflict between the **right to privacy** of an individual and the **freedom of the press**. The petitioner, R. Rajgopal, filed a case against the publication of an article about his personal life, arguing that it violated his **right to privacy**.

**Court's Ruling:** The Supreme Court held that **freedom of the press** was fundamental, but the **right to privacy** was also a constitutionally protected right. The Court stated that while the press has a duty to inform the public, it must also respect the privacy of individuals. The Court also emphasized that **reasonable restrictions** could be imposed on the freedom of the press to protect individual rights like **privacy**, but such restrictions must be reasonable and not arbitrary.

**Impact:** This case balanced the **freedom of press** with the **right to privacy**, showing that while the media has the right to inform, it must also consider the individual's privacy. This judgment reinforced the idea of **reasonable restrictions** on freedom, especially when conflicting rights are involved.

<b>Service</b>	<b>Description</b>
<b>Dissertation</b>	<b>Comprehensive support for dissertation writing, including topic selection, research, and structuring.</b>
<b>Research Papers</b>	<b>Assistance in creating well-researched and professionally written research papers.</b>
<b>Assignments</b>	<b>Help with completing assignments on various legal subjects.</b>
<b>Notes</b>	<b>Provision of detailed and easy-to-understand notes to aid study and exam preparation.</b>
<b>Internship Diaries</b>	<b>Structured internship diaries, detailing daily activities, learning experiences, and reflections.</b>
<b>Internship Certificate</b>	<b>Guidance on obtaining and drafting internship certificates for documentation purposes.</b>
<b>Plagiarism Report</b>	<b>Provision of plagiarism reports to ensure content originality and authenticity.</b>

---

<b>Memorials</b>	<b>Assistance in drafting memorials for moot court competitions, following professional standards.</b>
------------------	--

DO MY WORK