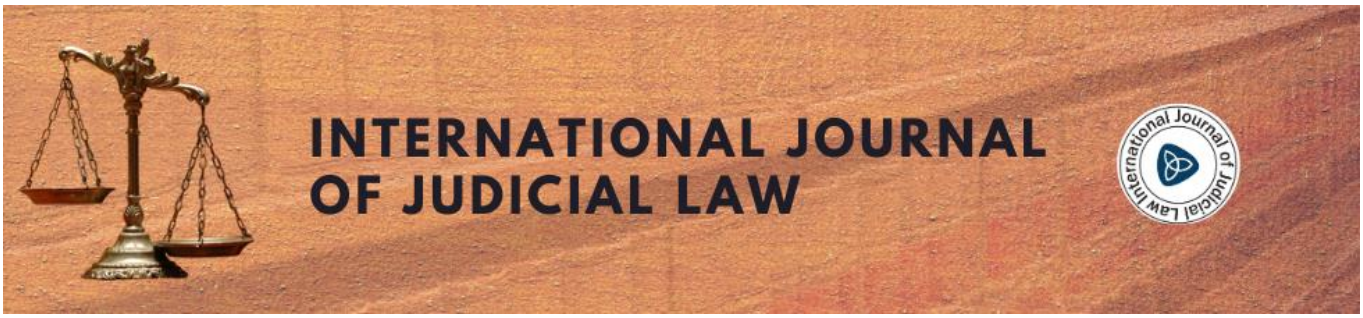




The Shifting Sands of Equality: A Critical Study of the Journey of Article 14 from the Doctrine of Classification to the Principle of Non-Arbitrariness

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Article Info

ISSN (online): 2583-6536

Volume: 04

Issue: 06

November - December 2025

Received: 15-09-2025

Accepted: 17-10-2025

Published: 11-11-2025

Page No: 56-60

Abstract

This paper critically analyzes the transformative journey of Article 14 of the Indian Constitution, which guarantees the Right to Equality. Initially interpreted through the formalistic Doctrine of Reasonable Classification, which permitted differential treatment provided it met a two-pronged test of intelligible differentia and rational nexus, this approach proved inadequate for addressing substantive injustice. The study focuses on the crucial jurisprudential shift marked by the E. P. Royappa (1974) and Maneka Gandhi (1978) judgments, which elevated the Principle of Non-Arbitrariness as an independent and overriding standard. This transformation redefined equality as a dynamic, substantive concept and fused Article 14 with Articles 19 and 21, establishing a powerful mandate for fairness and reason in State action. The paper examines the modern operationalizing of this principle in administrative discretion and the subsequent allowance for Judicial Review of manifestly arbitrary legislative acts, such as in the Shayara Bano case. It concludes that while the classification test remains a subordinate facet, the non-arbitrariness standard now serves as the dominant, robust bulwark ensuring Substantive Equality and greater accountability for the State.

DOI: <https://doi.org/10.54660/IJL.2025.4.6.56-60>

Keywords: Article 14, Non-Arbitrariness, Reasonable Classification, Substantive Equality, Judicial Review

1. Introduction

1.1. Background

Article 14 of the Constitution of India stands as the cornerstone of Fundamental Rights, embodying the nation's commitment to justice and fairness. It emphatically declares that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India" (Government of India, 1950) ^[11]. This constitutional mandate ensures that the law is administered without discrimination, serving as a powerful check on both legislative and executive power. However, the interpretation and application of this foundational right by the Supreme Court of India have been anything but static; they represent a journey of legal and philosophical evolution.

1.2. Problem Statement

For decades following the Constitution's enactment, Article 14 was interpreted through the restrictive lens of the Doctrine of Reasonable Classification. This doctrine allowed the State to treat unequals differently, provided the differentiation was rational. While this approach provided a formal shield against blatant discrimination, it often proved insufficient to address deeper, substantive injustices, allowing discriminatory actions to be justified under the guise of an easily demonstrable "nexus." The core problem addressed by this paper is the jurisprudential transformation of Article 14 from this limited test to a broader, more expansive standard: The Principle of Non-Arbitrariness. This shift has redefined equality as a dynamic and substantive concept, injecting modern constitutionalism into the heart of Indian administrative law.

1.3. Research Questions

This paper seeks to answer the following critical questions regarding the evolution of equality jurisprudence:

1. How did the Supreme Court's interpretation of Article 14 evolve from the formalistic classification test to the substantive non-arbitrariness principle?
2. What are the practical implications of the non-arbitrariness test on administrative discretion and legislative actions in contemporary India?
3. Has the principle of non-arbitrariness completely supplanted the classification doctrine, or do the two tests coexist, and if so, what is their contemporary relationship?

1.4. Methodology and Scope

This research employs a doctrinal and analytical methodology, relying heavily on a critical study of landmark judgments of the Supreme Court of India. The scope is defined by focusing on pivotal cases that marked the transition points of Article 14 interpretation, beginning with the early post-independence era and culminating in modern judgments that apply the standard of "manifest arbitrariness." The paper's analysis is confined primarily to the developments within Indian jurisprudence concerning the scope of Article 14.

1.5. Structure of the Paper

The paper is structured to follow the trajectory of Article 14: Section 2 details the traditional Doctrine of Reasonable Classification; Section 3 analyzes the critical jurisprudential shift marked by the *Royappa* and *Maneka Gandhi* cases; Section 4 examines the modern operational use of the non-arbitrariness principle; and finally, Section 5 offers a critical analysis of the shift's achievements and challenges before concluding the study.

2. The Doctrine of Reasonable Classification

2.1. The Traditional View

In its initial phase, the Supreme Court recognized that the guarantee of equality under Article 14 could not mean that every law must be universally applicable to all persons. The Court reasoned that the State must have the power to select persons or objects for the application of a law based on their relevant characteristics. Therefore, the early interpretation of Article 14 permitted differential treatment, provided such treatment was based on a "reasonable classification". This doctrine established that the constitutional guarantee of equal protection was a guarantee against discrimination, but not against all differentiation (Seervai, 2022) ^[14].

2.2. The Two-Prong Test

The framework for testing the constitutional validity of a statute under the classification doctrine was rigid and formalistic. The classification was held valid only if it satisfied two mandatory and cumulative conditions, as repeatedly formulated by the Supreme Court:

1. **Intelligible Differentia:** The classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others who are left out of the group. This requires a perceptible distinction between the two groups.
2. **Rational Relation (Nexus):** The differentia used as the basis of classification must have a rational relation to the

3. object sought to be achieved by the statute in question (Sathe, 2002) ^[13].

Both prongs had to be satisfied concurrently. If a law failed to meet either the *differentia* or the *nexus* test, it would be deemed discriminatory and void under Article 14.

2.3. Landmark Case Law (Early Era)

The application and crystallization of the classification doctrine were cemented by several key judgments in the 1950s:

- **Ram Krishna Dalmia v. Justice S.R. Tendolkar (1958)** ^[6]: This judgment is considered the most comprehensive and authoritative summary of the classification principles. The Court provided a detailed framework, establishing that the principle permits the State to classify persons who are subjected to a law and those who are exempted. The Dalmia case provided five working rules for applying the two-prong test, emphasizing that the burden of proving that the classification is arbitrary initially rests on the challenger, but once established, the burden shifts to the State (Dalmia, 1958).
- **State of West Bengal v. Anwar Ali Sarkar (1952)** ^[8]: This landmark case examined the application of the classification test to procedural laws. The Court struck down a provision that allowed the government to refer certain cases to special courts, holding that the classification of offences was arbitrary. The provision did not lay down any clear, rational principle for classifying offences for special treatment, thereby violating the equal protection clause (Anwar Ali Sarkar, 1952).

2.4. Criticism of the Classification Test

Despite its initial utility, the classification test faced severe criticism for being too formalistic and restrictive. Critics argued that the test became a mechanical exercise that allowed the State to justify virtually any differentiation with a *flimsy nexus*. As long as the State could articulate *some* rational connection, however tenuous, between the grouping and the object of the law, the law would survive constitutional scrutiny. This approach focused heavily on formal equality (treating those who are alike, alike) but failed to interrogate whether the underlying State action was inherently unjust, unreasonable, or arbitrary in a substantive sense. This inherent limitation paved the way for the Supreme Court to seek a more dynamic and robust interpretation of equality.

3. The Genesis of the Non-Arbitrariness Principle

3.1. The New Dimension: Arbitrariness as an Independent Ground

The limitations of the classification doctrine—its focus on form over substance—necessitated a revolutionary judicial intervention. The Supreme Court initiated a fundamental jurisprudential shift where arbitrariness, independent of the formal classification test, became a direct and potent ground for striking down State action under Article 14. The judiciary recognized that an act of the State, even if applied uniformly, could be arbitrary and therefore violative of the principle of equality. This established that State action must be reasonable and based on cogent reasons, not caprice or whim (Basu, 2018) ^[10].

3.2. The Watershed Moment: The E. P. Royappa Case

The most crucial turning point in the interpretation of Article 14 came with the judgment in *E. P. Royappa v. State of Tamil Nadu* (1974). This case, though primarily concerning service law, birthed the modern understanding of equality. Justice P.N. Bhagwati, speaking for the minority but articulating a revolutionary principle, famously asserted:

"Equality is a dynamic concept with many facets and dimensions and it cannot be 'cribbed, cabined and confined' within the traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14" (Royappa, 1974).

This famous dictum, "Arbitrariness is an anathema to equality," fundamentally redefined the scope of Article 14. It shifted the focus from merely checking *discrimination* (are two groups classified reasonably?) to checking *reasonableness* (is the State action itself arbitrary and unreasonable?). This elevated equality to a dynamic, living concept fused with notions of fairness and reasonableness.

3.3. Consolidating the New Doctrine: The Maneka Gandhi Case

The principle of non-arbitrariness was profoundly solidified four years later in *Maneka Gandhi v. Union of India* (1978)^[4]. While *Royappa* provided the theoretical foundation for treating arbitrariness as violative of Article 14, *Maneka Gandhi* cemented the interconnection of Articles 14, 19 (freedoms), and 21 (right to life and liberty), establishing the "Golden Triangle" of Fundamental Rights.

The judgment established that any procedure established by law under Article 21 must be fair, just, and reasonable—not merely one formally enacted by the legislature. This injected the non-arbitrariness standard of Article 14 into the heart of procedural due process. By reading Article 14 as striking at arbitrariness, the Court ensured that any law restricting personal liberty must satisfy the test of reasonableness under Article 14. This move decisively injected substantive content into Article 14, making it a check on the *substance* of the law and not just the *form* of its application (Gowda, 2017)^[15].

3.4. Expansion and Application: The Ajab Singh Case

The elevation of the non-arbitrariness principle was confirmed in *Ajay Hasia v. Khalid Mujib Sehravardi* (1981)^[1]. In this case, the Supreme Court unequivocally confirmed that Article 14's primary mandate is to strike at arbitrariness in State action. Justice Bhagwati stated that the classification test, once the dominant rule, was now merely a "sub-rule" or a "facet" of the larger, pervasive non-arbitrariness rule.

The Court held that the fundamental test of Article 14 is whether the State action is arbitrary and unreasonable, and the classification test is only one of the methods to determine if the State action is discriminatory or arbitrary. This judgment completed the jurisprudential revolution, establishing the non-arbitrariness standard as the dominant and overarching principle of Article 14 jurisprudence.

4. Operationalizing Non-Arbitrariness: Modern Applications

4.1. Non-Arbitrariness in Administrative Discretion

The move to the non-arbitrariness principle significantly enhanced judicial review over executive and administrative actions, specifically those involving discretion. The new test limits the discretionary powers of the executive, requiring that decisions must be guided by reason, public interest, and proportionality, rather than caprice or personal preference.

The non-arbitrariness test is most visibly applied in areas involving public contracts, tenders, and public employment. Decisions related to the awarding of contracts or the fixation of tender conditions must be non-arbitrary. In cases like *Dwarka Prasad Agarwal v. Bihar State Electricity Board* (1995)^[2], the Court emphasized that public authorities, while enjoying freedom to contract, must act reasonably and non-arbitrarily. Any action that is whimsical, capricious, or lacks transparency violates Article 14, even if it does not technically involve two distinct 'classes' (Dwarka Prasad Agarwal, 1995)^[2]. The requirement for the State to act fairly in its commercial dealings is a direct operational consequence of the *Royappa* doctrine.

4.2. Non-Arbitrariness and Substantive Due Process

The fusion of Articles 14, 19, and 21, solidified in *Maneka Gandhi*, led to the emergence of the concept of substantive due process in India. This symbiotic relationship requires that the substance of the law, and not just the procedure, must be fair, just, and reasonable. The courts began using the Doctrine of Proportionality as a powerful tool to test legislative and executive actions under Article 14. Proportionality demands that the State action taken must be necessary to achieve a legitimate public aim, and the measure adopted must not be disproportionate to the aim pursued (Lokesh, 2020)^[17].

For instance, the application of Article 14 to issues like sexual harassment in the workplace, as seen in *Vishakha v. State of Rajasthan* (1997)^[9], demonstrated that the failure of the State (including the lack of a law) to ensure a safe environment for women was an arbitrary act, warranting judicial intervention and the creation of binding guidelines until legislation was passed (Vishakha, 1997)^[9]. This demonstrated Article 14's power to address substantive social rights.

4.3. Challenging Legislative Arbitrariness

Perhaps the most radical application of the non-arbitrariness principle is its use to strike down **statutes themselves** purely on the ground of being manifestly arbitrary. This goes beyond administrative action and challenges the legislative wisdom of the Parliament or State Assemblies.

The principle was powerfully applied in *Shayara Bano v. Union of India* (2017)^[7] (the Triple Talaq case). While the judgment involved religious practice, the Supreme Court struck down the practice of instant *Triple Talaq* (Talaq-e-Biddat) partially on the ground of "manifest arbitrariness." The Court held that a legislative action that is "irrational, capricious, or without adequate determining principle" and which imposes a burden disproportionate to the objective is manifestly arbitrary and violative of Article 14. This was a critical step in affirming that the legislature's power, like the executive's, is also subject to the non-arbitrariness standard.

(Shayara Bano, 2017)^[7].

4.4. Co-existence or Supersession?

A critical assessment is necessary to determine the current status of the classification doctrine. Has the non-arbitrariness principle completely superseded it? The consensus, stemming from the *Ajay Hasia* judgment, is that the two tests coexist, but their relationship has been inverted.

Non-arbitrariness is the genus (the primary rule), and classification is a species (a sub-rule). The classification test remains a useful and relevant tool, particularly for evaluating policies centered on socio-economic upliftment, affirmative action, and reservation (e.g., Articles 15 and 16). In these areas, the State *needs* to differentiate (classify) between socially and educationally backward classes and others to achieve the constitutional goal of substantive equality. Therefore, while a law must pass the ultimate test of non-arbitrariness, its validity concerning backward classes is often efficiently assessed using the two-prong classification test (Kumar, 2021)^[16]. The classification test is thus not redundant; it is subordinate and complementary to the dominant rule against arbitrariness.

5. Critical Analysis and Conclusion

5.1. Achievements of the Shift

The jurisprudential shift from the Doctrine of Classification to the Principle of Non-Arbitrariness represents a monumental achievement in Indian constitutional law. This transformation has had several significant benefits:

1. **Substantive Equality:** It marked a decisive transition from a formal, restrictive notion of equality to a dynamic and substantive concept. Equality is now viewed not just as preventing discrimination between groups, but as ensuring fairness, reasonableness, and justice in every sphere of State action (Pylee, 2020)^[12].
2. **Increased Accountability:** The non-arbitrariness test grants the judiciary greater power to scrutinize executive decisions, particularly in areas susceptible to corruption and misuse of power (contracts, licences, public employment), thereby enforcing greater State accountability.
3. **Fusion of Rights:** By merging the standards of Articles 14, 19, and 21 into a unified requirement of 'fair, just, and reasonable' action, the Court has created a robust and impenetrable bulwark protecting individual liberty and dignity (Tiware, 2022)^[22]. This was evident in cases like *Navtej Singh Johar v. Union of India* (2018)^[5], where the Court emphasized that equality includes the right to be treated with dignity and to be free from arbitrary moral prejudice (*Navtej Singh Johar*, 2018)^[5].

5.2. Challenges and Criticisms

Despite its revolutionary success, the non-arbitrariness principle is not without its challenges and critics:

1. **Judicial Overreach:** The most significant criticism is that the vagueness of the term "arbitrary" can lead to **judicial overreach**. Critics argue that by striking down laws based on 'manifest arbitrariness,' judges may be substituting their own policy preferences for the collective wisdom of the legislature or the specialized knowledge of the executive. This blurs the crucial line of separation of powers (Seervai, 2022)^[14].
2. **Vagueness and Uncertainty:** The inherent ambiguity of 'unreasonableness' or 'manifest arbitrariness' introduces

an element of uncertainty in the law. What one bench considers arbitrary; another might see as permissible policy choice. This subjective element can make it difficult for the executive and legislature to predict whether their actions will withstand judicial review.

5.3. Future Trajectory

The non-arbitrariness principle is expected to remain the central command of Article 14 jurisprudence. Its dynamic nature makes it perfectly suited to address the challenges of emerging rights. The principle will continue to be deployed in areas such as digital privacy, surveillance, environmental justice, and ensuring non-discriminatory access to new-age resources. The future trajectory will likely involve the judiciary further refining the Doctrine of Proportionality to provide a structured, objective framework for testing arbitrariness, thereby mitigating the risk of subjective judicial interference. The movement will be towards a more structured and less vague application of the substantive test.

5.4. Conclusion

Article 14's journey is a compelling testament to the evolutionary potential of the Constitution. The Supreme Court successfully navigated a critical shift, moving the guarantee of equality from the rigid, formalistic confines of the Doctrine of Reasonable Classification, which merely checked differential treatment, to the expansive and dynamic Principle of Non-Arbitrariness. This principle now serves as a formidable check against all forms of unreasoned, unjust, and capricious State action, whether legislative or executive. By integrating Article 14 with the fundamental guarantees of liberty and freedom (Articles 21 and 19), the judiciary has ensured that equality in India is not merely a theoretical concept but a living, breathing bulwark against tyranny and injustice, truly embodying the commitment to dynamic, substantive justice.

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How to Cite This Article

Dwivedi UC. The shifting sands of equality: a critical study of the journey of Article 14 from the doctrine of classification to the principle of non-arbitrariness. *Int J Justice Law.* 2025;4(6):56-60. doi:10.54660/IJL.2025.4.6.56-60.

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