



THE CONSTITUTION OF INDIA



सत्यमेव जयते

Article 12

Defination

- In this Part, unless the context otherwise requires, "the State" includes
 - The Government and Parliament of India;
 - The Government and the Legislature of each of the States;
 - All local or other authorities within the territory of India or under the control of the Government of India.

Article 13

Law Inconsistent with or in derogation of the fundamental rights

- All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
- The “State” shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Article 13

Law Inconsistent with or in derogation of the fundamental rights (Cont..)

- In this article, unless the context otherwise requires,-
 - "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

Article 13

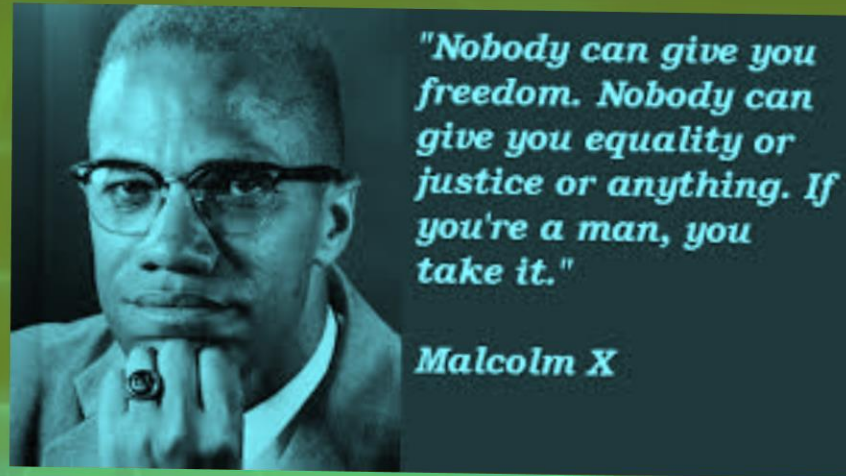
Law Inconsistent with or in derogation of the fundamental rights (Cont..)

- "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.
- [(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Article 14

Equality before Law

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



Article 19

Protection of certain rights regarding freedom of Speech, etc.

1. All citizens shall have the rights-
 - (a) To freedom of speech and expression;
 - (b) To assemble peaceably and without arms;
 - (c) To form association or union.
 - (d) To move freely throughout the territory of India;

Article 19

Protection of certain rights regarding freedom of Speech, etc. (Cont..)

- (e) To reside and settle in any part of the territory of India.
- (f) Sub clause (F) omitted by section 2 w.e.f. 20/06/1979.
- (g) To practice any profession, or to carry on any occupation, trade or business;

Article 19

Protection of certain rights regarding freedom of Speech, etc. (Cont..)

2.Nothing in sub-clause (a) of the clause (1) shall affect the operation of any existing law, or prevent the **State** from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the sub-clause in the interest of [the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

Article 21

Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Case Analysis

Sajjan Singh Vs. State of Rajasthan

- ❖ Several Statutes to implement land reforms failed as they were struck down by HC's prior to 1951.
- ❖ Government would pay absurdly low amount of compensation which triggered challenged to such acts.
- ❖ Constitution (First Amendment) Act, 1951 created the ninth schedule. This schedule contained land laws which could not be put to judicial review.

Sajjan Singh Vs. State of Rajasthan (Cont..)

- ❖ No challenge to it under Article 14, 19 and 31.
- ❖ First Amendment upheld in 1951 in the case of “Shankari Prasad Singh vs. Union of India AIR 1951 SC 458.
- ❖ The power to amend constitution was without any limitation Article 13(2) would mean “ordinary law” or “Parliamentary law” and not constitutional amendment.
- ❖ Thus all or any fundamental right can be taken away and Article 13(2) would not apply.

Sajjan Singh Vs. State of Rajasthan (Cont..)

- ❖ In case of Sajjan Singh vs. State was whether therein anything anywhere which laid down limitation on amending powers of Parliament.
- ❖ In other words whether parliament could alter anything in constitution or whether there was a core which could not be readied .
- ❖ BY 3:2 majority it was held that parliament could amend fundamental rights and court did not go into question of limitation on amending power.

Sajjan Singh Vs. State of Rajasthan (Cont..)

- ❖ Shankari Prasad's case not to be reconsidered, court observed that word "Law" in Article 13 excludes amendments made in exercise of constituent power.
- ❖ In effect any ruling party which had 2/3rd majority in parliament and had control over half of the states could amend the Constitution to any extent and the judiciary could not interfere (Article 368)

Sajjan Singh Vs. State of Rajasthan (Cont..)

- ❖ J. Mudholkar introduced the concept of “Basic Feature” for first time while dissenting.
- ❖ “It is the matter for reconsideration whether making a change in the basis feature of constitution can be regarded merely as an amendment or would it be, in effect, rewriting a part of the constitution, and if the latter, would it be within the purview of Article 368”?
- ❖ Eight years later this “Basic Feature” theory became the edifice in the case of Keshavanda Bharti.

I.C. Golaknath Vs. State of Punjab

- ❖ Eleven Judges bench Constituted, Doubt over the decisions rendered in Shankari Prasad Vs. UOI and Sajjan Singh vs. State of Rajasthan.
- ❖ Challenge ceiling limit on land holding due to enactments in Ninth schedule to constitution by seventh amendment, such law was granted immunity from challenge.
- ❖ It challenged first Amendment Article 51 for Shankari Prasad, fourth Amendment 1955 and Seventeenth Amendment, Sajjan Singh. Since these cases needed to be overruled.

I.C. Golaknath Vs. State of Punjab

- ❖ C.J. Subha Rao Constituted Seven Judge bench since as per him:-
 - ❖ Correction of Shankari Prasad not considered in Sajjan Singh.
 - ❖ Conflict between views of majority and minority.
 - ❖ To define limits of powers of parliament.

I.C. Golaknath Vs. State of Punjab

- ❖ If parliament had unbridled powers could it for instance, abolish post of president?
- ❖ Chief Justice Subha + 4 others held that it cannot be permitted that parliament can amend constitution freely.