

# ARTICLE 14

## DOCTRINE OF REASONABLE CLASSIFICATION

# CHARANJIT LAL CHAUDHARY V UNION OF INDIA AIR 1951 SC 41

- LAW: Sholapur Spinning & Weaving Co. (Emergency Provisions) Act, 1950
- CHALLENGE: INVALID- VIOLATES ARTs 14 & 31
- SC- *A law may be constitutional even though it relates to a single individual if, on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by himself.*

# STATE OF WEST BENGAL V ANWAR ALI SARKAR AIR 1952 SC 75

- LAW- West Bengal Special Courts Act, 1950
- Act of 1950- S. 5(1). A Special Court shall try such offences or classes of offences or cases or classes of cases, as the State Government may, by general or special order in writing, direct.
- CHALLENGE- Violates Article 14.  
notifications made by Government directing these particular cases to be tried by special courts have deprived the petitioners of their right to have a preliminary enquiry before a committing Magistrate and, if committed for trial, to be tried by a Sessions Judge sitting with a jury.

# STATE OF WEST BENGAL V ANWAR ALI SARKAR AIR 1952 SC 75 contd..

## SC- INVALIDATES S.5

- It conferred arbitrary powers in the government to classify offences and or class of offences.....at its pleasure.
- Act did not lay down any policy and guidelines for exercise by the government of its discretion.

# KATHI RANNING RAWAT V SAURASHTRA AIR 1952 SC 123

- LAW-Saurashtra State Public Safety Measures Ordinance, 1949 – Special Courts to try such offences or classes of offences or such cases or classes of cases as the Government may, by general or special order in writing, direct. (Ss 9, 10 & 11).
- CHALLENGE- VIOLATES ART.14

# KATHI RANNING RAWAT V SAURASHTRA AIR 1952 SC 123....

- SC- ACT IS VALID
- PATANJALI SASTRI C.J.-- **All legislative differentiation is not necessarily discriminatory.** Discrimination involves an element of **unfavourable bias**, and it is in that sense that the expression has to be understood in the context.
- Equal protection claims under Art. 14 are examined with the **presumption** that the State action is reasonable and justified.
- Though differing procedures might involve disparity in treatment of persons tried under them, such disparity is not in itself sufficient to outweigh this presumption and establish discrimination unless the degree of disparity goes beyond what the reason for its existence demands, e.g., when it amounts to a **denial of a fair and impartial trial.**

# KATHI RANNING RAWAT V SAURASHTRA AIR 1952 SC 123....

- MUKHERJEA J- *The **preamble** of the main Ordinance taken along with the surrounding circumstances disclosed a **definite legislative policy and objective**, and the impugned Ordinance cannot therefore be held to be unconstitutional merely because it vested in the Government the authority to constitute Special Courts and to specify the classes of ,offences to be tried by such courts with a view to achieve that objective.*

## DISTINCTION BETWEEN TWO CASES

ANWAR ALI SARKAR	KATHI RANING RAWAT
A <u>Special Court</u> shall try such <u>offences or classes of offences or cases or classes of cases</u> , as the State Government may, by general or special order in writing, direct.	<b>Special Courts</b> to <u>try such offences or classes of offences or such cases or classes of cases as the Government may, by general or special order in writing, direct.</u>
<b>Preamble:</b> necessity for speedier trial of offences	<b>Preamble:</b> to provide for public safety, maintenance of public order and preservation of peace and tranquility in the State.
SC in Kathi Ranning Rawat's case commenting on Anwar Ali Sarkar,- <b>“that Act gave uncontrolled and unguided authority to the State Government to put that procedure into operation in the trial of any case or class of cases or any offence or class of offences.”</b>	
<b>DIFFERENCE APPEARS TO BE IN THE PREAMBLES</b>	



NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS

**E.P.ROYAPPA V STATE OF TAMIL NADU AIR 1974  
SC 555**

- BHAGWATI J, - 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. Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment.
- Arbitrary:

**NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS**

**MANEKA GANDHI V UOI AIR 1978 SC 597**

- **BHAGWATI J, *Article 14 strikes, at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence.....***

**NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS**

**AJAY HASIA V KHALID MUJIB AIR 1981 SC 487**

- **BHAGWATI J**, It must therefore now be taken to be well settled that what **Article 14 strikes at is arbitrariness** because **any action that is arbitrary, must necessarily involve negation of equality.**

# What happened to the old doctrine?

## **AJAY HASIA V KHALID MUJIB AIR 1981 SC 487**

“The doctrine of classification which is evolved by the courts is not paraphrase of Article 14 nor is it the objective and end of that Article. It is merely a judicial formula for determining whether the legislative or executive action in question is arbitrary and therefore constituting denial of equality.”

# What happened to the old doctrine?

- **AJAY HASIA V KHALID MUJIB AIR 1981 SC 487**

It is sufficient to state that the **content and reach of Art. 14** must not be confused with the doctrine of classification. Unfortunately, in the early stages of the evolution of our constitutional law, Art. 14 came to be identified with doctrine of classification because the view taken was that Art.14 forbids discrimination and there would no discrimination where differentia fulfills two conditions (referring to DRC).

**NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS**

- **A.L.Kalra v Project and Equipment Corpn. AIR 1984 SC 1361**

**“One need not confine the denial of equality to a comparative evaluation between two persons to arrive at conclusion of discriminatory treatment. An action per se arbitrary itself denies equal protection by law.”**

NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS

- **Bachan Singh v State of Punjab AIR 1980 SC 898**
- **S.302 IPC**
- SC it will be impossible to say that there would be at all any discrimination, since crime as crime may appear to be superficially the same but the facts and circumstances of a crime are widely different Thus considered, the provision in Section 302, Penal Code is not violative of Article 14 of the Constitution on the ground that it confers on the Judges an un-guided and uncontrolled discretion in the matter of awarding capital punishment or imprisonment for life.
- **DISCRETION TO BE EXERCISED JUDICIALLY- Aggravating/Mitigating circumstances**
- **DISCRETION IS SUBJECT TO CORRECTION BY SUPERIOR COURTS**

**NEW DIMENSION**  
**ARTICLE 14**  
**DOCTRINE OF ARBITRARINESS**

- **Mithu v State of Punjab AIR 1983 SC 473**

- S.303 IPC. Punishment for murder by life-convict.—Whoever, being under sentence of 1[imprisonment for life], commits murder, shall be punished with death.
- **Validity Challenged- Article 14 & 21 .**  
[235(2), 354(3) Cr.PC

**SC:** It is because the death sentence has been made mandatory by s. 303 I.P.C. in regard to a particular class of persons that, as a necessary consequence, they are deprived of the opportunity under s. 235 (2), Cr. P.C. to show cause why they should not be sentenced to death and the Court is relieved from its obligation under s. 354 (3), Cr. P.C. to state the special reasons for imposing the sentence of death. The deprivation of these rights and safeguards which is bound to result in injustice is harsh, arbitrary and unjust.



**NEW DIMENSION  
ARTICLE 14  
DOCTRINE OF ARBITRARINESS**

- Air India v. Nargesh Meerza
- Regulations 46, 47( Air India) –Air Hostess
- Retirement: (a) On attaining the age of 35 years; (b) On marriage if it took place within four years of the service; and (c) On first pregnancy.
- Discretion –MD
- Challenge : Violative of Art.14

## Nargeesh Mirza contd....

SM Fazal Ali J.,

- The termination of the services of an AH under such circumstances is not only a callous and cruel act but an open insult to Indian womanhood the most sacrosanct and cherished institution. Such a course of action is extremely detestable and abhorrent to the notions of a civilised society. Apart from being grossly unethical, it smacks of a deep rooted sense of utter selfishness at the cost of all human values. Such a provision is not only manifestly unreasonable and arbitrary but contains the quality of unfairness and exhibits naked depotism and is clearly violative of [Art. 14](#).

# SHAYARA BANO V UNION OF INDIA AIR 2017 SC 4609

- **Doctrine of Manifest Arbitrariness –Struck down S.2 of Shariat Act, 1937.**
- Manifest arbitrariness, something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary.
- it is clear that this form of Talaq is manifestly arbitrary in the sense that the marital tie can be broken capriciously and whimsically by a Muslim man without any attempt at reconciliation so as to save it. This form of Talaq must, therefore, be held to be violative of the fundamental right contained under [Article 14](#) of the Constitution of India.
- In our opinion, therefore, the 1937 Act, insofar as it seeks to recognize and enforce Triple Talaq, is within the meaning of the expression “laws in force” in [Article 13\(1\)](#) and must be struck down as being void to the extent that it recognizes and enforces Triple Talaq.

## NAVTEJ SINGH JOHAR V UOI (2018) 1 SCC 791

- S.377 IPC-Criminalization of homosexuality and adultery
- Section 377 of IPC- Manifestly Arbitrary
- Justice Nariman  
“Section must be held to be a provision which is Capricious and Irrational.”

# Joseph Shine v Union of India AIR 2018 SC 4898

- Section 497 IPC- ADULTERY
- Justice Nariman

“What is clear, therefore, is that this archaic law has long outlived its purpose and does not square with today’s constitutional morality, in that the very object with which it was made has since become manifestly arbitrary, having lost its rationale long ago and having become in today’s day and age, utterly irrational”

# South Bay United Pentecostal Church v Gavin Newson 590 US

2020

May 29, 2020

- **DISTINCTION BETWEEN RELIGIOUS AND SECULAR GATHERINGS- DISCRIMINATORY**
- **25% CAP ON RELIGIOUS GATHERINGS**
- **NO DISCRIMINATION**
- **JUDICIARY CANNOT INTERFERE**

# SUMMARY so far.....

- **ARTICLE 14- PRINCIPLE OF EQUALITY**
  - Who can claim it?
  - Against whom is it available?
  - Twin Expressions.
- **DOCTRINE OF REASONABLE CLASSIFICATION**
  - Like should be treated alike*
  - Charanjit Lal's case
  - Anwar Ali Sarkar's Case
  - Kathi Ranning Rawat
- **NEW DIMENSION OF ARTICLE 14- BHAGWATI**
- **ARBITRARINESS IN STATE ACTION- VIOLATIVE OF ARTICLE 14**
  - Royappa's case
  - Maneka Gandhi's case
  - Ajay Hasia's case
  - Status of the old doctrine
  - Illustrative cases
  - Revival of Doctrine of Manifest Arbitrariness
  - Trilogy of cases

# ARTICLE 15

- 1) The State shall not discriminate against any **CITIZEN** on grounds only of **RELIGION, RACE, CASTE, SEX, PLACE OF BIRTH** or any of them.
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- (2) No **CITIZEN** shall, on grounds only of **RELIGION, RACE, CASTE, SEX, PLACE OF BIRTH** or any of them, be subject to any disability, liability, restriction or condition with regard to—
  - (a) access to shops, public restaurants, hotels and places of public entertainment; or
  - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
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- (3) **Nothing in this article** shall prevent the State from making any **SPECIAL PROVISION** for **WOMEN AND CHILDREN**.
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# ARTICLE 15

- (4) **Nothing in this article** or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any **SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES OF CITIZENS** or for the **Scheduled Castes And The Scheduled Tribes**.
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- (5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making **any special provision**, by law, for the advancement of any **SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES OF CITIZENS** or for the **SCHEDULED CASTES OR THE SCHEDULED TRIBES** in so far as such **special provisions** relate to their **ADMISSION TO EDUCATIONAL INSTITUTIONS INCLUDING PRIVATE EDUCATIONAL INSTITUTIONS, WHETHER AIDED OR UNAIDED BY THE STATE, OTHER THAN THE MINORITY EDUCATIONAL INSTITUTIONS** referred to in clause (1) of article 30.

CLAUSE-1 NON DISCRIMINATION ON ENUMERATED GROUNDS

CLAUSE 2 ACCESS TO PUBLIC SPACES WITHOUT ANY DISCRIMINATION

CLAUSE 3- SPECIAL PROVISION FOR WOMEN & CHILDREN

CLAUSE 4- SPECIAL PROVISIONS FOR SEBCs & SCs and STs

CLAUSE 5- RESERVATION IN ADMISSIONS FOR SEBCs, SCs and SDET  
EDUCATIONAL INSTITUTIONS-PRIVATE (AIDED AND UNAIDED) NOT  
APPLICABLE TO MINORITY INSTITUTIONS

# ARTICLE 16

- (1) There shall be EQUALITY OF OPPORTUNITY for ALL CITIZENS in matters relating to EMPLOYMENT OR APPOINTMENT TO ANY OFFICE UNDER THE STATE.
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- (2) NO CITIZEN shall, on grounds only of RELIGION, RACE, CASTE, SEX, DESCENT, PLACE OF BIRTH, RESIDENCE or any of them, be ineligible for, or discriminated against in respect of, any EMPLOYMENT OR OFFICE UNDER THE STATE.
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- (3) NOTHING IN THIS ARTICLE shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to RESIDENCE within that State or Union territory] prior to such employment or appointment.
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# ARTICLE 16

- (4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any BACKWARD CLASS OF CITIZENS which, in the opinion of the State, is not adequately represented in the services under the State.
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- (4A) Nothing in this article shall prevent the State from making any provision for RESERVATION IN MATTERS OF PROMOTION, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the **SCHEDULED CASTES AND THE SCHEDULED TRIBES** which, in the opinion of the State, are not adequately represented in the services under the State.
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- (4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.
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CLAUSE-1 EQUALITY OF OPPORTUNITY IN MATTERS OF PUBLIC EMPLOYMENT

CLAUSE 2 NON DISCRIMINATION IN MATTERS OF PUBLIC EMPLOYMENT ON ENUMERATED GROUNDS

CLAUSE 3- RESIDENCE AS A CRITERION

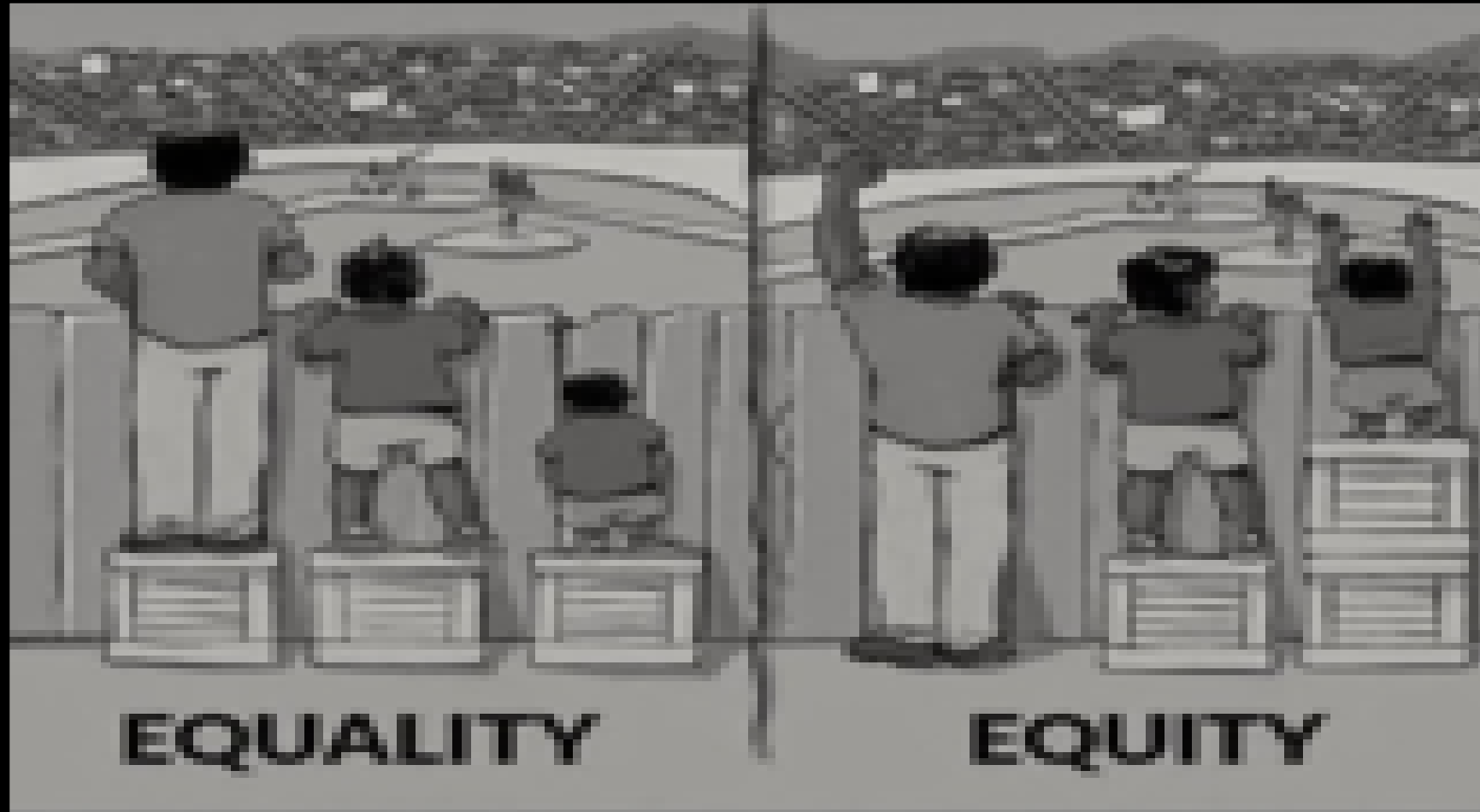
CLAUSE 4- RESERVATION FOR BACKWARD CLASS OF CITIZENS

4A- RESERVATION IN PROMOTIONS FOR SCs and STs

4B- CARRY FORWARD RULE



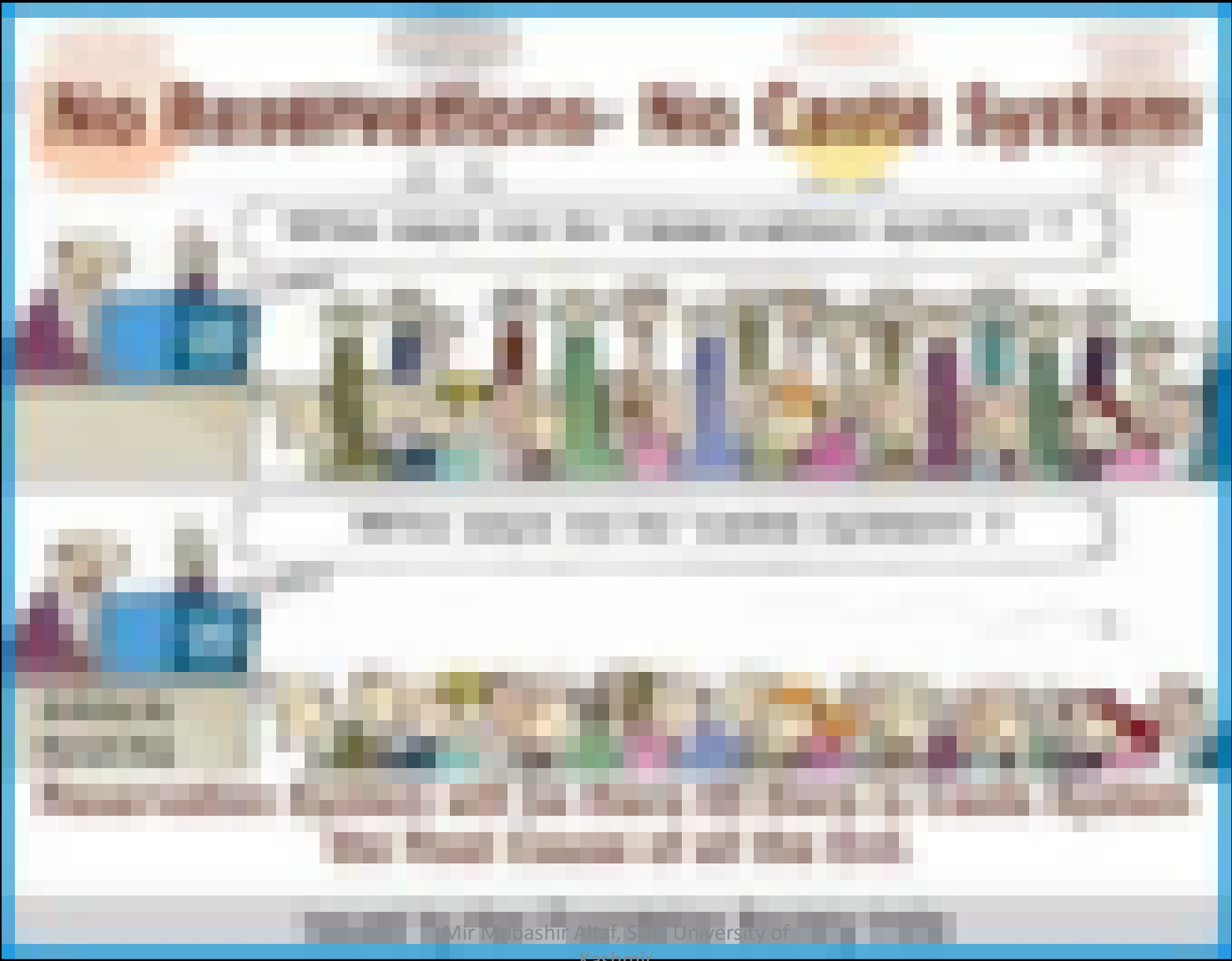
## RATIONALE OF RESERVATIONS/ SPECIAL PROVISIONS



1. Equality: is giving people the same things.

2. Equity: is fairness in every situation.

Mir Mubashir Altaf, SOL, University of  
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# 2020-US PROTESTS ON KILLING OF GEORGE FLOYD



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