

Constituent Assembly Debate on Right to Equality and Prohibition of Discrimination

Constituent Assembly debates are very important sources of material for the UPSC exam. In this article, we bring you the highlights of the Constituent Assembly debates on the topic of the right to equality for the [IAS exam](#) polity, governance, and social issues segments.

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CA Debate on Right to Equality & Prohibition of Discrimination

The then Article 9 is the Article 14 as well as Article 15 of the present [Constitution](#). Article 14 of the Constitution of India, 1950 was not a standalone provision in the Draft Constitution, 1948. It was initially included in Draft Article 15 which read:

'Protection of life and liberty and equality before law - No person shall be deprived of his life or liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the law within the territory of India.'

Article 14 of the Indian Constitution is - equality before law and Article 15 is - prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. **Read more on [Articles 14 to 18 \(right to equality\) in the linked article.](#)**

Article 9 further states that -

In particular, no citizen shall, on grounds only of religion, race, caste, sex or any of them, be subjected to any disability, liability, restriction or condition with regard to - access to shops, public restaurants, hotels and places of public entertainments.

For this purpose, **Mr. C. Subramaniam** suggested that the State has no power to discriminate in the above-mentioned matters.

- He proposed to remove the words "In particular" and also suggested using a separate clause i.e. 9(1a). It must be read as, "No citizen shall, on grounds only of religion, race, caste, sex or any of them be subjected to any disability."

Thereafter **Mr. Syed Abdur Rouf** suggested inserting the words "place of birth" instead of the word "sex".

- He was afraid that there may remain chances of discrimination to be done on the basis of place of birth.
- The said amendment was adopted. He also explained that the word "race" is used in a very comprehensive manner.
- He explained his point of view that if anybody wants to discriminate against a person belonging to a particular province then such discrimination is not done on the basis of race but it is done on the basis of place of birth and under the guise of local patriotism.

Thereafter **Prof. K.T. Shah** suggested, through an amendment, to use the word "religion" in place of the word "creed".

- He further suggested that there is no need to give or mention the list of different kinds of public places.
- He connoted the word “public place” in a wide sense.
- He admitted that in the past, discrimination was done with certain communities and castes regarding their entry at different public places.
- He admitted that the Constitution of India is based on the principle of democratic equality. So, he considered useless to mention the names of each and every public place in the said Article.
- He further admitted that due to the introduction of certain exceptions in the said Article, there are chances of the flourishing of denominational, sectarian, and communal institutions. He feared that it may finish the real democracy.
- He further specifically insisted that in order to stop sectarian or denominational exclusiveness, schools, hospitals, asylums, etc. shall not be reserved for any reason and for any given sect or community.
- All public places must be made open and accessible to all citizens of the country. This shows that he wanted to promote perfect and real equality among the citizens of India.
- He then adhered that opening up of any institution that benefits only a given community or given members or fund providers, in reality, lacks civic sense. According to him such a concept or idea is against the equality of citizenship.
- He told that the Constitution of India has expressively made clear that all citizens of India are equal. For this purpose, he gave an example that - if any institution is founded and maintained exclusively by any particular person and at the same time, it receives any public recognition, protection, safeguards, etc. from any public authority then such institutions are covered under the said article.
- He was of the view that there shall not be any sort of vested interest in application as well as in the interpretation of the said article. The said amendment was later on negated.

Mr. H.V. Kamath, proposed to substitute the words “State Funds” for the “revenues of the state”. Dr. B.R. Ambedkar agreed with it.

Thereafter, **Mr. Mohammad Tahir** proposed, through an amendment that, for the words “state or dedicated to the use of the general public”, the words “state or any legal authority or dedicated to the use of the general public and any contravention of this provision shall be an offence punishable in accordance with the law” be substituted.

- He proposed so, for the complete realization of equality of human beings. He told so because of the miserable condition of many scheduled castes and low caste groups in India. The said amendment was adopted.

For the debate regarding the use of the words “place of” before the word “birth”, **Mr. Raj Bahadur** was of the view that it gives restricted meaning to the entire amendment.

- He was of the opinion that the word “birth” is not only applied to “residence” but also to “descent”.
- According to him if the word “descent” is only taken into consideration then it may lead to more discriminations in the future.
- He wanted to remove all sorts of discrimination through the Constitution.
- He wished that not only the distinction regarding religion, caste, sex, etc. be abolished but discrimination based on the basis of family, descent, etc. must be abolished through the Constitution.
- He wished that not only distinctions should be removed but all possibilities of chances of discrimination, favouritism or nepotism on the basis of birth or descent be removed.

Shri S. Nagappa was of the opinion that it is necessary for the population of India to be politically free as well as socially free.

- According to him, freedom means political, social and economic freedom.

- He wished that social rights must be given to a particular community under the present article.
- He admitted that obtaining social rights are more expansive and explanatory.
- He wanted to focus on the issue of the economic evaluation of the downtrodden classes of Indians.
- He admitted that “Most of our courts are courts of law and not justice.”
- He meant that if economic rights are given to downtrodden people then they need not have to approach courts frequently for accessing justice.

Sardar Bhopinder Singh Man suggested that “at the time of deciding about the [fundamental rights](#), it would be incomplete if places of worship are not included in the list of such rights.”

- According to him places of worship must be kept open for all and such places must be in the custody of ultimate custodians or pujaris. He wanted that the barriers of religion must be removed permanently.

The framers of the Indian Constitution aimed at non-discrimination by the state against any citizen on grounds of race, religion, caste, sex or any of them. The said article is framed for the citizens of India. The protection of the said article is given only to the citizens. They have specifically mentioned that there must be no chances of flourishing of denominational, sectarian and communal institutions. They wanted the flourishing of real democracy. They wanted that any social institution founded by any particular community must benefit the entire society and not only the particular community. In other words, the beneficiary of the social institutions must be the society at large.

Moreover, they wanted to bring complete equality for women and children. For this, they wanted that nothing should prevent the state from making any special provisions for women and children. They wanted to promote and implement the concept of equal citizenship. They didn't want to create a special class of scheduled castes and backward tribes. They covered all under the one head i.e. citizen. They wanted the policy of the state to be non-discriminatory. They have extended the scope of the said article by non-discrimination policy. The said policy is to be adopted by hotels, dharmasalas, musafir khanas whether managed or not managed by public funds. The word *public* used in the said article is used in a generic sense i.e. it is restricted only to citizens of India. They have treated all public places uniformly including hospitals, educational institutions, etc. They wanted no special status to be accorded to any person including royal families, dynasties, rich persons, etc. They wanted the non-existence of financial inequality, social inequality, economic inequality and religious inequality. They also intended for equality before the law.

